

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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November 09, 2010

RE: LR-09-187
Sales Tax Inquiry

Dear [REDACTED]

I am writing this letter in response to your request regarding sales tax that is charged to a hospice. Set forth verbatim are the facts presented along with the questions posed and the response thereto.

Facts:

We are a durable medical equipment provider and we provide medical equipment to hospice companies in which most cases we have a per diem contract in place. I have questions regarding how and when to apply tax to certain invoices. I hope to get answers that are clear and leave no room for error.

Your Questions:

1. Should we charge sales tax to our hospice companies? Hospice company is not tax exempt.

Our Response:

Yes, you should charge and collect sales tax from the hospice companies.

2. If a patient is on hospice and they are receiving equipment from us on a daily rental basis but, the equipment has been ordered by a physician and the patient has a Medicare or Medicaid should we charge taxes?

Our Response:

Yes, you should charge and collect sales tax from the hospice, however should these items ultimately qualify for exemption pursuant to 1357.6 of Title 68 , a refund of the sales or use taxes may be claimed.

3. If we have wrongly charged sales tax to our hospice companies can we or they receive a refund for the wrongly charged sales tax from the Oklahoma State Tax Commission?

Our Response:

Without additional information, the Tax Policy Division is unable to provide a definitive answer as to whether medical equipment provided pursuant to a per diem contract arrangement to hospices may be done so exempt from sales and use tax. Therefore, please provide information regarding whether the equipment is specifically ordered pursuant to a prescription or work order of a practitioner for the Medicare/Medicaid patient and is used only by that patient along with a sample per diem contract and invoices or other billing documents which outlines the arrangement between Quality Home Medical Equipment and its hospice customers.

This response applies only to the circumstances discussed in your written request of October 19, 2009. Pursuant to Commission Rule 710:1-3-73(e), this Letter ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

Sincerely,



Oklahoma Tax Commission
Marc Morrison
Tax Policy & Research Division