OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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November 16, 2010

Re: LR-10-098; Sales Tax Inquiry

Dear

I am writing this letter in response to your request regarding sales tax. Set forth verbatim are the facts presented and the responses thereto.

Facts:

We are requesting a ruling on whether this is taxable or not. We have taxed the client but they are maintaining it is non-taxable as this is "delivered electronically".

A template of our standard contract is included to show what we are invoicing for. Our data is for producing and non-producing wells nationwide. The data is delivered either on a cd, dvd, hard copy map or electronically. Our software is billed separately from the data. If the client only takes delivery electronically, would that be non-taxable? If the client takes delivery by a combination of tangible and electronic media and it is not broken out on the invoice, is the entire amount taxable?

Response:

Sales of prewritten software that is delivered electronically by means other than tangible storage media is not subject to Oklahoma sales and use tax. 68 O.S. § 1357(32). Data that is sold in a tangible format, cd, dvd, or hard copy, is subject to Oklahoma sales and use tax. The described combination sales of tangible and electronic media appear to be bundled transactions defined in pertinent part to mean "the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price." OAC 710:65-1-2, copy enclosed. As such, the lump sum charge is subject to sales/use tax in Oklahoma.

This response applies only to the circumstances discussed in your written request of June 09, 2010. Pursuant to Oklahoma Administrative Code 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 Analyst