OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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December 14, 2010

RE: LR-10-133; Sales taxability of software licensing

Dear

This is in response to your request regarding the sales taxability of software licensing sales. It is my understanding based on the facts presented in your correspondence of September 9, 2010 and our recent telephone conversation that:

> Your client sells software licenses enabling purchasers to access and review, through utilization of a username/password, seismic data on your client's website. In relation to the sale of the licenses, no tangible personal property is transferred from your client to its customers.

Section 1354(9) of Title 68 of the Oklahoma Statutes levies a sales tax on sales of "computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs." Sales of prewritten computer software delivered electronically, by means other than tangible storage media, are not subject to sales and use tax. 68 O.S. § 1357(32). Since the license fees at issue relate to prewritten computer software[1] accessed electronically without the transfer of tangible personal property, the fees are not subject to sales and use tax in Oklahoma.

This response applies only to the circumstances discussed in your request of September 9, 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

[1] **"Prewritten computer software"** means "computer software", including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. [68 O.S. § 1352(20)]

pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Brenda J. Sullivan

Brenda J. Sullivan
Tax Policy Analyst