

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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December 9, 2010

Re: LR-10-150 (Sales Tax Inquiry)

Dear

I am writing this letter in response to your request regarding the sales tax treatment of charges for digital music. Set forth verbatim are the facts presented along with the questions posed and the response thereto.

Facts:

I have a client based in Springfield, Missouri that does business in the State of Oklahoma. Specifically, the portion of my client's business in the State of Oklahoma that we have a question about is a music delivery service in which my client installs receiving equipment at the customer's location, and music is thereafter streamed via satellite to that receiving equipment for play in the customer's place of business. This is the type of music you may hear walking down a shopping mall or within any number of restaurants or other retail shops.

My client seeks a written determination from the Oklahoma Tax commission answering the question of whether the ongoing monthly charges to Oklahoma customers for delivery of this digital music is subject to the Oklahoma Sales and Use Tax. It is my understanding that under OAC 710:65-19-156(b)(6), that these charges are not subject to the Oklahoma Sales & Use Tax as digitally-delivered music. We would appreciate receiving a written letter of determination on this issue.

Response:

Charges associated with the delivery of digital music that is separately stated from the sale or lease of tangible personal property are not subject to Oklahoma sales and use tax. However, any sale or rental fees associated with the receiving equipment or any other type of tangible personal property that you client installs at customer locations are subject to Oklahoma sales tax.

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IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION

This response applies only to the circumstances discussed in your written request of July 26, 2010. 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

A handwritten signature in cursive script that reads "Marc Morrison".

Marc Morrison
Tax Policy Analyst