OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

May 11, 2011

Re: Our File No. LR-11-025

Dear

I am writing in response to your correspondence of January 3, 2011 wherein you stated that you disagree with the identification of your business as a seller of prepaid wireless telecommunications service. Set forth verbatim is your position statement along with our response thereto.

POSITION STATEMENT

We are NOT a wireless telecommunication service provider and have no subscribers. We are a seller of international prepaid phone cards. Our phone cards are mainly used by foreign nationals and legal permanent residents and sold for a one-time use. When a customer purchase one of our phone cards, it does not provide the user access to nine-one-one emergency service, nor is it intended to.

What is a prepaid phone card and how does it work?

Prepaid phone cards are a service provided by various telecom companies that sell their service in advanced. When you buy a prepaid phone card from , you are paying for long distance connection time in advance. When you make calls using the phone card, the card's value is deducted based on connection fee, duration of connection, surcharges and any maintenance charges associated with the phone card. While its true that long distance prepaid phone cards are preloaded with a set dollar amount; minutes or units of airtime, that's where the comparison with prepaid wireless services ends. The prepaid phone cards that we sell are not reusable, are not rechargeable and are thrown away after the first use.

What's the difference between prepaid phone cards, phone cards, prepaid calling cards, calling cards, long distance phone cards?

They refer to the same thing; prepaid long distance service from telecom companies who produces these cards. You pay for your long distance service in advanced, and you do not

have to pay for any monthly fees, sign up fees or need to sign a contract. This kind of long distance service can be used from a land line or mobile phone.

Our phone cards that we sell comes in two (2) denominations:

1. $2.00 Denomination
2. $5.00 Denomination

When we sell a $2 phone card to a customer, we are already adding sales tax (8.875 percent) which comes to $2.18. Are you telling us to charge an additional .50 cents on the same $2 phone card?

When we sell a $5 phone card to a customer, we are already adding sales tax (8.875 percent) which comes to $5.44. Are you telling us to charge an additional .50 cents on the same $5 phone card?

When we sell ten each $2 phone card to a customer, we are already adding sales tax (8.875 percent) which comes to $21.76. Are you telling us to charge an additional .50 cents on each $2 phone card or additional .50 cents onto the $21.76?

The providers of our long distance prepaid phone cards are:

I.

2.

RESPONSE

A $0.50 prepaid wireless 911 fee is imposed on every retail sale of prepaid wireless telecommunications service occurring in Oklahoma. 63 O.S. § 2843.2. Prepaid wireless telecommunications service[1] means a "telecommunications wireless service that provides the right to utilize mobile wireless service as well as other non-telecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. The phone cards described in your correspondence of January 3, 2011 are for "long distance service [that] can be used from a land line or mobile phone."

Therefore, the described cards meet the definition of prepaid wireless telecommunications service since the service is paid for in advance in predetermined dollar amounts and entitle the purchaser to use mobile wireless service. The retail sale of the these cards are subject to the prepaid wireless 911 fee and as a seller[2] of these cards you must collect the $0.50 fee from your customer on every purchase of prepaid wireless telecommunications service not for resale and report and remit same to the Oklahoma Tax Commission on the 20th of the month covering sales

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[1] As defined in paragraph 12 of subsection A of Section 1354.30 of Title 68 of the Oklahoma Statutes.

[2] "Seller" means a person who sells prepaid wireless telecommunications service to another person. 63 O.S. 2843.2(5)

for the previous calendar month in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program[3] available online at www.tax.ok.gov.

Copies of the referenced statutory and administrative code provisions are enclosed.

This response applies only to the circumstances discussed in your request of January 3, 2011. 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

Christy J. Caesar

Christy J. Caesar
Tax Policy Analyst

[3] An exception to the electronic reporting requirement is contained in OAC 710:95-17-5(f).