

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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June 13, 2011

RE: LR-11-047 (Sales Tax Inquiry)

Dear [REDACTED]

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

Facts:

I am a member of [REDACTED] an Oklahoma Limited Liability Company [REDACTED] [REDACTED]). [REDACTED] is in the business of designing, installing and maintaining business communications systems (primarily business phone systems).

The systems we sell typically include a mountable box, circuit cards, desk phones and cabling. When we design, install and repair these systems, we invoice our client for the labor performed by our technicians to make the system operate. This labor is separately stated and invoiced on its own line item, detailed apart from the equipment.

When we started our business in 2008, we were advised at the tax permit registration desk that we are required to collect and remit sales tax on all telecommunications systems equipment and installation labor and we have complied with that direction to date.

Since that time, it has been brought to our attention that according to the Streamlined Sales Tax Governing Board's 2010 Recertification (Section 328 Taxability Matrix) 68 O.S. 1352(12) that installation charges are not taxable if separately stated.

Question:

I am requesting an official determination as to whether or not we are required to collect and remit Oklahoma sales tax on the nonrecurring labor to install and maintain business communications systems when separately stated on our invoices.

Response:

Generally, labor charges, if separately stated, are not subject to Oklahoma Sales Tax. 68 O.S. 1352(12). However, Section 1354(5) of Title 68 specifically levies sales tax on nonrecurring charges which are defined as "an amount billed for the installation, connection, charge or initiation of telecommunications services received by a customer." Certain telecommunications nonrecurring charges which include the installation, connection, charge or initiation of telecommunication services which are not associated with a retail consumer sale are exempted from the sales tax levy pursuant to 68 O.S. § 1357(18)(g).

Therefore, any labor charges by [REDACTED] falling within Section 1354(5) which are not exempted by Section 1357(18)(g) are subject to sales tax.

This response applies only to the circumstances discussed in your written request of March 30, 2011. 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 Analyst