

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
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June 10, 2013

Re: LR-11-068

Dear

This is in response to your request for a letter ruling regarding the applicability of Oklahoma sales and use tax on new service offering. Set forth verbatim are the facts presented and questions along with the response thereto.

Facts

is a Delaware corporation registered to do business in the State of Oklahoma. possesses a permit to collect Oklahoma sales and use tax for goods sold. corporate headquarters and principal executive offices are located at is engaged in the business of providing commercial information about the financial condition of businesses to its customers located throughout the US and abroad. This information is provided through database. This database enables customers to access select firmographic and financial information to mitigate credit and supplier risk, increase cash flow and drive increased profitability. Information gathering, analysis, formatting/explanation, and dissemination are conducted at locations in either New Jersey or Pennsylvania.

Core Service Offerings

For a subscription fee, customers will be able to access business information about potential or existing customers and suppliers through service offering. is an interactive, customizable web-based application that will offer users real-time access to complete and up-to-date global database of more than 110 million businesses for a subscription fee. core service offering will allow customers to run searches and create customizable reports containing summary trade data, basic credit scores, legal filings, and general company information. For an additional fee, customers will be able to purchase upgraded data packages and workflow add-ons that provide additional data beyond that included with the base core service offering. The additional fees relating to the upgraded data packages will not be separately invoiced if purchased simultaneously with the core service offering, but rather included in the total annual subscription fee as a premium package. This is in contrast to the workflow

add-ons which will be separately invoiced and discussed in further detail below. The customer will have the option of purchasing the upgraded data packages at a later date, in which case they will receive a separate invoice for the upgraded data packages. These upgraded data packages will come in the form of additional data that will be added to customized user reports. These upgraded data packages will include the following:

Upgraded Data Packages

Enhanced Data Package

The Enhanced Data Package will include access to data in the form of corporate linkage, visual family tree, and public filing information. Corporate linkage will be additional data in a generated report that displays other related companies to the subject entity. The visual family tree will be a summary of the corporate linkage shown in the form of a graphic or chart. Public filing information will be provided in the form of a summary and history of public filings and financial statements for the subject entity.

Enhanced Analytics Package

The Enhanced Analytics Package will include access to data in the form of monitoring/alerts, credit limit recommendation, predictive scores, comprehensive credit scores, and fraud scores. Monitoring/alerts will be additional data which shows key company information that has changed since the last time the customer has viewed the report. The customer will have the ability to receive email notifications of these changes as part of this feature. Credit limit recommendation will be additional data displaying recommendation of a conservative and aggressive credit limit based on scoring methodology. Predictive scores will be additional data measuring a company's likelihood for future success. Comprehensive credit scores will be additional data showing details supporting predictive scores. Fraud scores will be additional data which assesses the likelihood that the company making a request for credit is fraudulent.

Enhanced Trade Package

The Enhanced Trade Package will include and detailed payment data. will be additional data which will provide the weighted average of past trade payments. Detailed payment data will provide historical payment data including the number of delinquent payments and average high credit. This will be displayed as a section of a generated report displaying trade data by industry and time period reported.

Small Business Risk Insight ("SBRI")

This will be additional data within that will enable a customer to view data from participating financial institutions on small business lending performance across the banking, credit card, and leasing industries. SBRI will combine the financial performance data with D&B's trade data to create decision-ready insight that can be used across the customer lifecycle for targeting, underwriting, and portfolio management/marketing. SBRI will be available to customers who participate in the SBRI program and purchase the Enhanced Trade Package.

International Data

Customers will be allocated an amount of data that they will be able to access for international entities as part of the core service offering. Once the allocated amount of international data has been exceeded, customers will be charged an additional fee for access to that data.

Unlimited Data Package

The Unlimited Data Package will allow customers to generate reports with a mix of the above data service options and will allow an unlimited quantity of inquiries into the system.

Workflow Add-ons

In addition to upgraded data packages, users will be able to add to their service offering by purchasing workflow add-ons for an additional fee. Workflow add-ons will be separately invoiced from the core service offering and upgraded data packages. Workflow add-ons will include the following:

Decision Making Tool

This will be a customizable web-based tool within that will enable a customer to establish rules and approval limits to automate credit decisions. The decision making tool will allow companies to make immediate credit decisions on new customers. It will provide access to Equifax bureau and will have the ability to input trade and bank references. The decision making tool will be hosted on the servers customer will not receive software to install. The tool will be sold as an optional add-on to someone purchasing

Account Manager

This will be an automated feature that will manage the risk of a customer's entire customer base by blending the customer's credit policy, the customer's accounts receivable data, and the latest and most complete business information. A user will be able to load in a set of accounts and rules to trigger labeling for existing accounts (i.e., a credit indicator drops below a certain level the account gets flagged for review). The Account Manager will be hosted on the servers customer will not receive software to install. The tool will be sold as an optional add-on to someone purchasing

Collection Tool

The Collection Tool will be an on-demand tool to help manage overall risk exposure. The tool will enable a user to load in invoice level trade details. The Collection Tool will then provide workflow information related to collection activities. The Collection Tool will be hosted on a 3rd party server customer will not receive software to install. The tool will be sold as an optional add-on to someone purchasing

Online Credit Application

The Online Credit Application will allow the user to create customizable credit application to meet their business needs. The application will be displayed on the internet through servers. The data entered into the application will then be fed into for the user to act on.

will provide internal automatic alerts when an application is submitted. The Online Credit Application will be sold as an optional add-on to someone purchasing

Web Services

This will be a web-based tool within that will allow for data, decisions, or other account information to be passed back and forth between and customer systems. Web Services will allow for the integration of the Decision Making Tool and Account Manager. Web Services will be hosted on the servers customer will not receive software to install. The tool will be sold as an optional add-on to someone purchasing core service offering.

Ruling Requested

Please respond to the following questions:

1. Will core service offering and upgraded data packages be considered electronic data processing services and therefore not subject to Oklahoma sales and use tax, will they be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will they be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?
2. Will Decision Making Tool, which will be an add-on to core service offering, be considered electronic data processing services and therefore exempt from Oklahoma sales and use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?
3. Will Account Manager, which will be an add-on to core service offering, be considered electronic data processing services and therefore exempt from Oklahoma sales and use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?
4. Will Collection Tool, which will be an add-on to core service offering, be considered electronic data processing services and therefore exempt from Oklahoma sales and use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?
5. Will SBRI, which will be an add-on to core service offering when purchased with the Enhanced Trade Package, be considered electronic data processing services and therefore exempt from Oklahoma sales and use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?
6. Will Online Credit Application, which will be an add-on to core service offering, be considered electronic data processing services and therefore exempt from Oklahoma sales and use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered

electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?

7. Will Web Services, which will be an add-on to core services offering, be use tax, will it be considered prewritten computer software delivered through a tangible medium and therefore subject to Oklahoma sales and use tax, or will it be considered electronically delivered prewritten computer software and therefore not subject to Oklahoma sales and use tax?

RESPONSE

In Oklahoma, sales tax is levied on the gross receipts from the sale of tangible personal property, certain services and other transactions as specified in Section 1354 of Title 68 of the Oklahoma Sales Tax Code. Tangible personal property is defined to mean "personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses . . . [and] includes electricity, water, gas, steam and prewritten computer software". Fees charged for prewritten computer software¹ delivered in a tangible media format or delivered by means of load and leave², are subject to sales and use tax. Conversely, sales of prewritten computer software, delivered electronically are not subject to sales and use tax. 68 O.S. Supp. 2003, § 1357(32).

The described services do not constitute the sale of tangible personal property, prewritten software delivered in a tangible format, nor do they fall within one of the other enumerated transactions subject to sales tax pursuant to Section 1354 of Title 68 of the Oklahoma Statutes. Therefore, charges for these services are not subject to sales tax in Oklahoma. However, purchases in Oklahoma of taxable services and tangible personal property to provide the nontaxable services are subject to sales tax.³ Likewise, use tax is due on tangible personal property when purchased out-of-state and brought into Oklahoma for use or consumption.

This response applies only to the circumstances discussed in your request of December 6, 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



Brenda J. Sullivan
Tax Policy Analyst

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)]

² "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

³ Oklahoma Administrative Code 710:65-1-7 and 710:65-19-309