OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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

December 28, 2011

Re: Our File No. LR-11-089

Dear

This is in response to your request for a letter ruling regarding the taxability of the $25.00 maintenance and calibration charge on the rental of an ignition interlock device. Set forth verbatim are the facts presented along with the question posed and response thereto.

FACTS

Due to a recent change in the interlock laws by the Oklahoma legislature, the would appreciate some guidance. is made up of interlock providers within the State of Oklahoma, licensed by the State of Oklahoma Board of Tests for Alcohol and Drug Influence.

An ignition interlock device is utilized on the vehicle of Oklahoma drivers that have had their driver's license suspended for driving under the influence. Now and in the past, the providers have charged rent on the units and remitted sales tax on the rental amount. The providers usually charge a separately stated installation charge and a separately stated removal charge commensurate with the difficulty experienced. This is pure labor and has heretofore not been taxable.

Under the new law, due to go in effect on the 1st of November, 2011, the legislature has stated that the provider is to charge $25.00 to maintain and calibrate the equipment. It is anticipated that most providers will then charge an additional rate for rental and the separately stated labor charges.

QUESTION

Is the $25.00 maintenance and calibration charge subject to sales tax?

RESPONSE

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). Gross receipts, gross proceeds or sales price is the base upon which sales tax is calculated. The terms are synonymous and are defined as "the total amount of consideration . . . for which personal property or services are sold, leased, or rented . . . whether received in money or otherwise. . . ." 68 O.S. § 1352(12) No deduction from gross receipts is allowed for "charges by the seller for any services necessary to complete the sale, other than delivery and installation charges." 68 O.S. § 1352(12)(a)(4).

Therefore, sales tax should be calculated on the $25.00 maintenance and calibration charge.

This response applies only to the circumstances discussed in your request of August 5, 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

Brenda J. Sullivan
Tax Policy Analyst