

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
RICK MILLER, DIRECTOR

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April 1, 2013

Re: Our File No. LR-11-108

Dear

This is in response to your inquiry regarding the taxability of layaway service fees and layaway cancellation fees. Set forth verbatim are the facts presented along with the question posed and the response thereto.

## FACTS

will be resuming its layaway service for general merchandise. will be collecting a \$5.00 layaway service fee when the layaway service is initiated along with a 10% down payment. Should a customer cancel the layaway, the customer will be refunded the down payment and any subsequent payments made. However, will retain the layaway service fee and charge the customer a \$10 layaway cancellation fee.

## QUESTION

Please advise if either the layaway service fee or layaway cancellation fee are subject to sales, excise, or gross receipts tax in your state.

## RESPONSE

For layaway transactions, sales tax is to be collected, reported and remitted at the time the sale is complete i.e., when the customer makes final payment taking title and possession of the item purchased. Under the described facts, since the sale is not completed and is cancelled, neither the service nor cancellation fee is subject to sales tax.

However, a fee charged a customer for the privilege of putting merchandise in layaway is subject to sales tax when the layaway transaction is completed. Oklahoma Administrative Code 710:65-19-193

This response applies only to the circumstances discussed in your request of August 15, 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

A handwritten signature in cursive script that reads "Brenda J. Sullivan".

Brenda J. Sullivan  
Tax Policy Analyst