OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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October 3, 2012

Re: LR-12-003; Sales Tax Inquiry

Dear

This is in response to your request regarding the tax treatment of hosted software and training services. Set forth are the facts presented along with the response thereto.

FACTS

The client sells a hosted software product to physician practices across the country. The software is located on servers outside this state and accessed by its customers via the Internet. There is no software downloaded or delivered to the customer; title or possession of the software never passes to the customer.

Training services are provided to the customer either by the client's personnel on-site at the customer's location or via web-based programming. Training is optional to the customer and there is a separate charge to the customer for the training services.

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". Prewritten computer software and other digital products that are delivered electronically through the internet are not subject to Oklahoma sales or use tax. 68 O.S. § 1357(32).

Software delivered electronically or accessed via the internet does not constitute tangible personal property nor does it fall within the enumerated transactions subject to sales tax

pursuant to Section 1354 of Title 68 of the Oklahoma Statutes. Therefore, the amounts charged by your client for the hosted software product are not subject to sales and use tax.

Additionally, the described training services are not subject to tax; however, charges for training materials provided in a tangible format are subject to sales and use tax. OAC 710:65-19-52(e).

This response applies only to the circumstances discussed in your written request of January 5, 2012. 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

Marc Morrison
Tax Policy Analyst