OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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December 3, 2012

RE: LR-12-037 (Sales Tax Inquiry)

Dear

This letter is in response to your request regarding Oklahoma sales tax. Set forth verbatim are the facts presented along with the response thereto.

Facts:

We purchased several hundred feet of Cable from this month for use in one or our wells. While reviewing invoice numbers and we noticed that below each line that detailed the Sales Price, Quantity, and Unit Price for the Cable, there was another line that said "Copper Surcharge" that billed us an additional $1.08 per ft for the Cable. charged sales tax on the cost of the Cable and sales tax on the Copper Surcharge.

It is my understanding that a surcharge that is separately stated on an invoice is not a taxable item. Would you please review the enclosed invoices and give me an opinion as to whether or not the copper Surcharge is a taxable item? Please provide the number of the Oklahoma Tax Commission Rule that would cover this question so that we can provide our vendor with the information.

Response:

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 . . . whether received in money or otherwise. . . ." 68 O.S. § 1352(12)(a). No deduction from gross receipts is allowed for "the seller's cost of the property

sold." 68 O.S. § 1352(12)(a)(1). The separately stated copper surcharges listed on invoice numbers and with unit prices of $1.08 and $1.00, respectively constitute a product cost of the seller which may not be deducted from gross receipts for sales tax computation purchases. Therefore, the referenced copper surcharges are subject to sales tax.

This response applies only to the circumstances discussed in your written request of April 25, 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