

# OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION  
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September 22, 2006

Re: Our File Number LR-06-040; Sales Tax on maintenance contract transactions

Dear

This is in response to your inquiry concerning the sales taxability of the various transactions into which your company will be entering. Your business will offer maintenance contracts to both taxable and tax-exempt entities covering both telecommunications and non-telecommunications equipment. The customers will have the option of using a preferred vendor where the invoice will go directly to your company or paying the invoice themselves, sending a copy of the invoice to you and being reimbursed.

Before I set out and answer your specific questions below, the following should be kept in mind concerning this area of the administration of the Oklahoma Sales Tax code:

- Separately stated charges for labor services performed on office machines including separately stated charges for "extended warranties", with the exception of telecommunications equipment, are not subject to sales tax. See OAC 710:65-19-365.
- Charges for labor services to perform maintenance on telecommunications equipment and charges for extended warranties on telecommunications equipment are subject to sales tax. See OAC 710:65-19-329 and OAC 710:65-19-330.

Our responses below are based on the facts as presented in your letter and are in reply to your questions as they are also set out below:

1. Does \_\_\_\_\_ need to charge sales tax on this type of maintenance contract if sold to a taxable entity?

Response : A maintenance contract on office machinery, other than telecommunications equipment, where the maintenance contract is sold separate from the sale of any tangible

personal property, is not subject to sales tax in Oklahoma. The sale of a maintenance agreement on telecommunications equipment is subject to sales tax in Oklahoma. Please refer to the rules referenced above.

2. If the answer to #1 is yes, when equipment is repaired at the taxable entity by a preferred vendor the invoice will come directly to \_\_\_\_\_ and we will pay the vendor directly. Are the repair parts and/or labor taxable? If not, and the vendor bills tax, may we provide the vendor with a resale certificate since we charged tax on the contract?

Response: For the telecommunications maintenance contracts, \_\_\_\_\_ should obtain an Oklahoma Sales Tax Permit and provide the vendor with the information required by OAC 710:65-7-8 in order to not be charged sales tax since sales tax was charged when the agreement was sold. For the contracts on office equipment, since there is no tax due at the time the contract was sold, the tax that is due is the tax on the repair parts used to make the repair by the party responsible for paying for the repair, i.e., \_\_\_\_\_ owes the sales tax due, to the company that made the repair.

3. If the answer to #1 is yes, when equipment is repaired at the taxable entity by a vendor of choice the invoice will go to our customer for payment and \_\_\_\_\_ will reimburse the customer. Are the repair parts and/or labor taxable? If not, and the vendor bills tax, may the customer provide the vendor with a resale certificate since tax was charged on the contract?

Response: Since tax was not charged except on contracts for telecommunications equipment, the repair parts are taxable when billed to the customer. \_\_\_\_\_ will simply reimburse the customer for the customer's cost. If the customer contracts for repair of telecommunications equipments and instead of having \_\_\_\_\_ send a service person to make the repair, opts to select a vendor of choice, since \_\_\_\_\_ is not making the purchase, the purchase being made is subject to sales tax and sales tax is due. There is no provision for the customer to provide the vendor that did the service work with a resale certificate. \_\_\_\_\_ should reimburse the customer for the cost of the work including the sales tax which was due on the sale between the customer and the vendor.

4. If the answer to #1 is no, when equipment is repaired at the taxable entity by a preferred vendor the invoice will come directly to \_\_\_\_\_ and we will pay the vendor directly. Are the repair parts and/or labor taxable?

Response: When the invoice comes directly from the vendor who made a sale of the service to \_\_\_\_\_ for those contracts on office equipment which were not subject to sales tax when they were sold, the sales of the repair parts are subject to sales tax. If the charges for the labor services are separately stated from the charges for the repair parts, the charges for the labor services are not taxable. For those contracts on telecommunications equipment where sales tax was charged by \_\_\_\_\_ when the contract was sold, \_\_\_\_\_ should forward a copy of its Oklahoma Sales Tax Permit to the vendor and claim exemption as a purchase for resale pursuant to OAC 710:65-7-8.

5. If the answer to #1 is no, when equipment is repaired at the taxable entity by a vendor of choice invoice will go to our customer for payment and \_\_\_\_\_ will reimburse the customer. Are the repair parts and/or labor taxable?

Response: The repair parts are taxable. The separately stated labor charges for the repair of office machinery is not taxable. All charges for the repair of telecommunications equipment is taxable.

6. Does \_\_\_\_\_ need to charge sales tax on this type of maintenance contract if sold to a tax-exempt entity?

Response: No.

7. If the answer to #6 is yes, when equipment is repaired at the tax-exempt entity by a preferred vendor the invoice will come directly to \_\_\_\_\_ and we will pay the vendor directly. Are the repair parts and/or labor taxable? If not, and the vendor bills tax, may we provide the vendor with a resale certificate since we charged tax on the contract?

Response: Not Applicable since the answer to question # 6 was no.

8. If the answer to #6 is yes, when equipment is repaired at the tax-exempt entity by a vendor of choice the invoice will go to our customer for payment and \_\_\_\_\_ will reimburse the customer. Are the repair parts and/or labor taxable? If not, and the vendor bills tax, may the customer provide the vendor with a resale certificate since tax was charged on the contract?

Response: Not applicable since the answer to question # 6 was no.

9. If the answer to #6 is no, when equipment is repaired at the tax-exempt entity by a preferred vendor the invoice will come directly to \_\_\_\_\_ and we will pay the vendor directly. Are the repair parts and/or labor taxable? If not, and the vendor bills tax, may we provide the vendor with the tax-exempt entities exemption certificate since we are merely acting as a third party payer for services provided to the tax-exempt entity?

Response: Since in accordance with OAC 710:65-19-365, the taxable event in the performance of the repair is a sale to \_\_\_\_\_, and \_\_\_\_\_ does not share the tax exempt entity's tax exemption, the preferred vendor is required to charge sales tax on the repair parts used on the repairs of office equipment.

However, since the sale of the contract for telecommunications maintenance repair service is taxed separately, \_\_\_\_\_ can supply the preferred vendor with a copy of \_\_\_\_\_ Oklahoma Sales Tax permit and claim an exemption on the purchase of the repair parts used in the telecommunications maintenance contract as a "purchase for resale."

10. If the answer to # 6 is no, when equipment is repaired at the tax-exempt entity by a vendor of choice the invoice will go to our customer for payment and \_\_\_\_\_ will reimburse the customer. Are the repair parts and/or labor taxable?

Response: No.

11. We intend to register \_\_\_\_\_ in your state with the Secretary of State. We also intend to register for a Sales and Use Tax Certificate if applicable. Are there any other State departments that we need to register with to conduct this type of business?

Response: There are none of which I am aware, however, I am not required to have that information. I would suggest you contact the Oklahoma Department of Commerce. Their website is:

[www.okcommerce.gov](http://www.okcommerce.gov)

Their Business Solution Division can help answer questions about business registrations required in Oklahoma. The number to call is 800-879-6552.

This response applies only to the circumstances set out in your request of February 23, 2006. Pursuant to Commission Rule 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 that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,  
OKLAHOMA TAX COMMISSION



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