

OKLAHOMA'S RESPONSE TO CERTIFICATION REVIEW (9/22/11)

The taxability matrix shows dental prosthesis sold with and sold without a prescription as taxable. The statute exempts "sales of prosthetic devices to an individual for use by such individual. The definition in the statute excludes eyeglasses, contact lenses and hearing aids, but not dental prosthesis. This was an issue last year and the state corrected the taxability matrix.

Oklahoma agrees and has corrected its taxability matrix.

The following citations are needed on the taxability matrix: Value of trade-in – 68 O.S. 1352(12); Prewritten computer software delivered via load and leave – 68 O.S. 1354(1), 1352(24); Non-prewritten computer software delivered electronically or via load and leave – Rule 710:65-19-52.

Oklahoma has made the suggested changes to its taxability matrix.

The following citations are needed or need to be changed on the certificate of compliance: Section 302 – 68 O.S.1370, 2701; Section 305, paragraph E – 68 O.S. 1354.32; Section 314, paragraph E – delete statute and add Rule 710:65-18-5; Section 317, paragraphs A.1 and 6 – 68 O.S. 1365(G), Rule 710:65-3-33; Section 318, paragraph C.3 – 68 O.S. 1365.1; Section 330, paragraph A – 68 O.S. 1354.35; paragraph C.1 – change 1354.30 to 1354(4)(e) and delete rule; Section 502, paragraphs B and E – 68 O.S. 1354.32.

Section 302 The current sections listed are correct, no change is necessary.
Section 305 Oklahoma has made the suggested change to its certificate.
Section 314 Oklahoma has made the suggested change to its certificate.
Section 317 Oklahoma has made the suggested change to its certificate.
Section 318 Oklahoma has made the suggested change to its certificate.
Section 330 Oklahoma has made the suggested change to its certificate.
Section 502 Oklahoma has made the suggested change to its certificate.

With respect to sourcing leases or rentals in Section 310, the statute is correct. However, Rule 710:65-18-4 sources the first periodic payment for leases or rentals of motor vehicles, trailers, semi-trailers or aircraft under the rules for retail sale instead of to the primary property location.

There is a scrivener's error in the rule. A comma was inappropriately placed in the opening sentence within the rule. The intent was to exclude motor vehicles, trailers, semi-trailers and aircraft from the provisions of the rule NOT include them. The error will be corrected.

The state answered the question in paragraph D of Section 318 "NO" which would mean that a return is required from a seller that is registered under the Agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the Agreement. No citation is given.

The response was changed to “Yes”. The Oklahoma Tax Commission does not require the filing of a return as required under the Agreement. No citation is currently available. A rule will be promulgated to evidence this policy.

The citation given for paragraph F of Section 318 does not address giving 30 days notice to a seller registered under the Agreement before establishing liability for taxes solely due to a seller’s failure to timely file a return. Is this documented elsewhere?

The citation provided is correct. Section 221 of Title 68 provides that the Commission may determine an amount of tax due in the case of a failure to timely file a return. Section C specifically provides that no liability is established until after the taxpayer has been provided notice and given 60 days to respond.

The state’s rounding rule requires that state and local taxes be aggregated. The Agreement provides that the state “shall allow” the rounding rule to be applied to aggregated state and local taxes.

Oklahoma disagrees that its rounding rule requires state and local taxes to be aggregated. The Rule reads as follows:

710:65-1-3. Computation of sales and use taxes to be collected and remitted

(a) Determination of tax rate. To determine the amount of tax to be collected and remitted, the gross receipts or gross proceeds of each sale is to be multiplied by the applicable percentage. The applicable percentage shall equal the combination of the state and any applicable municipal and county sales tax rates.

(b) Computation of tax. In computing the tax to be collected or remitted as the result of any transaction, the tax amount must be carried to the third decimal place when the tax amount is expressed in dollars. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. The vendor or direct payment permit holder may elect to compute the tax due on transactions on an item or invoice basis.

However, we will review to determine if the rule can be clarified that Oklahoma does not require state and local taxes to be aggregated.

In Section 330, paragraph C.2, change the “Yes” to “N/A” and delete the citations.

Oklahoma has made the suggested change to its certificate.