**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2001-065** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Labor and construction services.** |
| **Keywords:** |  |
| **Approval Date:** | **06/22/2001** |

**Body:**

Office of Policy & Research

June 22, 2001

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated June 18, 2001.

In your letter you stated:

Does Kansas have either a Labor Tax or a Remodeling Tax?

If a Kansas company is billing a consumer for either of these taxes, does this violate any statute?

I would appreciate your answers being faxed to me tomorrow, Tuesday June 19.

Kansas taxes labor service to install, apply, alter, maintain, service and repair tangible personal property that remains tangible personal property or has been incorporated into real property. There are exclusions to the imposition. The first or initial construction of a building or facility or the remodeling of a residence. Allow to explain in detail.

1998 Senate Bill No. 493 exempts certain construction services that were formerly subject to Kansas sales tax. Effective July 1, 1998, services performed to install or apply tangible personal property are exempt from sales tax when the services involve the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence.

K.S.A. 79-3603(p) imposes a sales tax upon: “the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement, remodeling, restoration, renovation or reconstruction, restoration, replacement or repair of a bridge or highway. . .”

The department will construe the term ‘residence’ in K.S.A. 79-3603(p)(4) to include the land improvements that immediately surround the residence. This means the exemption for residential repair and remodeling services generally will be coextensive with the exemption for the original construction of the residence.

The new law does not change the taxation of sales of materials and supplies that are purchased for use in residential or commercial construction, maintenance and repair. These sales continue to be subject to state and local sales tax. Similarly, sales tax continues to apply to non-residential labor services, since the new exemption extends only to residences. Repair, maintenance, installation and application services remain subject to sales tax when done to tangible personal property.

This private letter ruling is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make an accurate determination by the department, this ruling is null and void. This private letter ruling will be revoked in the future by operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 06/26/2001 Date Modified: 10/11/2001**