**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-41** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Freight and installation charges when separately stated.** |
| **Keywords:** |  |
| **Approval Date:** | **03/04/1999** |

**Body:**

Office of Policy & Research

March 4, 1999

XXXXXXXXXX
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XXXXXXXXXX

Re: Kansas Sales Tax

Dear Mr. XXXXX

Your correspondence of February 5, 1999, has been referred to my attention. Its contents are duly noted. Your letter states, in pertinent part, as follows:

Please review the following scenario and provide for us some guidance in the closing question.

We are an out-of-state equipment broker with no employees, agents or equipment in your state. Our customers purchase equipment from us by making phone orders. Once the order has been placed, we contract with a totally independent third party to purchase, transport and install the equipment at the customers place of business. The third party ships via common carrier or their own company vehicles and also provide warranty and maintenance of the equipment. Installation is performed by employees of the third party.

The third party invoices us for all equipment, shipping and installation. We, in turn, invoice our customer for the same. The equipment, freight and installation charges are separately stated on the invoice to our customer.

Please provide guidance as to the taxation of freight and installation in this scenario provided that the charges are separately stated.

Three Kansas statutes address the area of the taxation of freight charges. K.S.A. 79-3603(a) imposes a sales tax: "upon the gross receipts received from the sale of tangible personal property at retail within this state".

K.S.A. 79-3602(h) provides, in pertinent part, that: “’Gross receipts’ means the total selling price or the amount received as defined in the [Kansas Retailers' Sales Tax Act], in money, credits, property or other consideration valued in money from sales at retail within this state; . . .”

K.S.A. 79-3602(g) provides: “’Selling price’ means the total cost to the consumer exclusive of discounts allowed and credited, but including freight and transportation charges from the retailer to the consumer.”

Based on the statutory provisions noted above, if the item being sold is subject to tax, shipping and freight charges imposed by the retailer are also subject to tax. This is true whether the freight charge is included in the total product price on the purchase order or separately stated.

The tax treatment of the service of installing tangible personal property is controlled by K.S.A. 79-3603. The statute provides, in pertinent part, for tax on:

(p) 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 . .

Because the service of installing tangible personal property is specifically enumerated as a service which is subject to tax, the tax will apply regardless of whether the charge for the service is separately stated.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Jim Weisgerber
Attorney
Tax Specialist

JW:jw

**Date Composed: 03/09/1999 Date Modified: 10/11/2001**