**Opinion Letter**

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| **Letter Number:** | **O-2001-016** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Carpet shipped to a Kansas retailer.** |
| **Keywords:** |  |
| **Approval Date:** | **04/23/2001** |

**Body:**

Office of Policy & Research

April 23, 2001

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XXXX
XXXX

RE: You fax of April 16, 2001

Dear XXXX:

Thank you for your recent fax. You question whether or not you can accept a Missouri exemption certificate for carpet that you are shipping to a Kansas retailer. Please be advised that you should not accept an exemption certificate from another state for sales made and shipped to a Kansas resident.

While you should not accept the Missouri exemption certificate, the sale in question does appear to be exempt from Kansas taxes. Kansas has a temporary storage exemption for property that is shipped to Kansas for the purpose of subsequently transporting the property outside the state for use outside the state. The Missouri exemption certificate that you faxed suggests that this is the Kansas exemption that the retailer is actually claiming. Accordingly, this is apparently a case where the Kansas retailer has asserted the wrong theory of exemption for a sale that is exempt from Kansas use tax.

To correct this error in your records, you must ask the Kansas retailer to complete the correct Kansas exemption form and return it to you. In this case, the correct form to use is a Designate or Generic exemption certificate. The Missouri exemption certificate indicates the retailer’s intention to install the carpeting in the state of Missouri on an exempt Missouri job. Thus, the exemption being claimed is the temporary storage exemption found in K.S.A. 79-3702(e). You and your customer should note that such sales and shipments to Kansas would be exempt even if the job were taxable in Missouri. In such a case, Missouri --- not Kansas --- is entitled to the use tax that is due.

The Designated or Generic Exemption Certificate (Form ST-28) can be found on our web site, www.ink.org/public/kdor/ . To locate it, simply enter the site, access “2000 Forms,” and then access “Sales and Compensating Use Tax.” Next, scroll down to Kansas Sales Tax Exemption Certificates and open “KS-1520.” Once this is open, Form ST-28 can be located. It is listed alphabetically as the “Designated or Generic Exemption Certificate.” Your Kansas customer should open this form, copy it, complete it, and send it to you. The statutes that your customer should cite when completing the form are set out above in this letter. You should attach the Missouri certificates to the Kansas claim since the Missouri certificates help to document what the claim is for.

I hope that I have answered all of your questions. If not, please e-mail me or call me at (785) 296-3081.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 05/02/2001 Date Modified: 10/10/2001**