**Opinion Letter**

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| **Letter Number:** | **O-2006-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales taxability of GAP (Guaranteed Auto Protection) charges.** |
| **Keywords:** |  |
| **Approval Date:** | **02/13/2006** |

**Body:**

Office of Policy & Research

February 13, 2006

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XXXX
XXXX

RE: GAP Insurance

Dear XXXX:

Thank you for your recent e-mail. You ask if receipts from charges for GAP (Guaranteed Auto Protection) insurance are taxable in Kansas. Gap insurance insures a person for the difference between what is owed on a vehicle and what an insurance company says it's worth. GAP insurance is attractive to new car buyers and lessors since a new vehicle depreciates as soon as it is driven off the dealer's lot.

In Kansas, the sale of GAP insurance is treated as the sale of insurance, which is not subject to Kansas sales tax. Therefore, a premium charge for GAP insurance is not subject to Kansas sales tax when it is a separately stated charge to the buyer or lessor. This position is consistent with the tax treatment accorded to GAP insurance by several other states. *See Florida Technical Assistance Advisement, No. 02A-044; Illinois General Information Letter ST-99-0226-GIL, July 14, 1999.*Some states do, however, include GAP insurance payments in the tax base. *See South Dakota Tax Facts #235.*

I hope that I have clearly answered your question. Please call me if you need to discuss anything further.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 02/17/2006 Date Modified: 02/17/2006**