**Private Letter Ruling**

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| **Ruling Number:** | **P-2000-034** |

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| **Tax Type:** | **Kansas Compensating Tax; Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Shipping and handling charges subject to Kansas sales and use tax.** |
| **Keywords:** |  |
| **Approval Date:** | **07/03/2000** |

**Body:**

Office of Policy & Research

July 3, 2000

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XXXX

RE: Your letter of June 2, 2000

Dear XXXX:

I have been asked to answer your letter that we received last month. In it, you ask if you are required to tax shipping and handling charges when you bill your Kansas customers. Please be advised that you are. Shipping and handling charges are subject to Kansas sales and use tax as a matter of statutory definition.

The Kansas retailers’ sales tax act makes shipping and handling taxable by including them in the controlling definitions for “gross receipts” and “selling price.” These terms establish the tax base for sales tax. The tax base for goods being sold is the total amount that is billed for the goods. This amount is then multiplied by the sales tax rate to yield, as the product, the sales tax that is due or owing. The terms “tax base” and “measure of tax” are often used interchangeably. In Kansas, the tax base for sales tax is “gross receipts.” see K.S.A. 79-3603(a) through (ggg)*(“there shall be collected and paid a tax at the rate of 4.9% . . . upon: (a)*the gross receipts *received from the sale of tangible personal property at retail within this state.”)*; K.S.A. 79-3602(h).

The statutes define “gross receipts” to mean: “the *total selling price* or the amount received as defined in this act, in moneys, credits, property or other consideration valued in money from sales at retail within this state. . . .” K.S.A. 79-3602(h)(emphasis provided). “Selling price” is defined as: “the total cost to the consumer exclusive of discounts allowed and credited,*but including freight and transportation charges from the retailer to the consumer*.” K.S.A. 79-3602(g)(emphasis provided). Thus, the tax base for Kansas sales tax includes: *“freight and transportation charges from the retailer to the consumer*.”

Shipping and handling charges from the retailer to the consumer are also part of the tax base for Kansas use tax. One of our use tax regulations explains: “The actual cost of transportation from the place where the article was purchased to the person using the same in this state is taxable as part of the consideration and purchase price. Transportation costs means freight, express, parcel post, or other hauling charges. It shall include charges for crating, packaging and preparing tangible personal property for shipment.” K.A.R. 92-20-4. This regulation withstood a constitutional challenge in *J.G. Masonry, Inc. v. Department of Revenue*, 235 Kansas 497, 503-8, 680 P.2d 291 (1984), and continues to explain the application of the Kansas use tax law to shipping and handling charges.

I hope that my letter adequately explains the law in this area. If you need to discuss this letter or anything else, please call me at (785) 296-3081. This is a private letter ruling and 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,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 07/24/2000 Date Modified: 10/10/2001**