**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-072** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Repair and maintenance services and parts.** |
| **Keywords:** |  |
| **Approval Date:** | **07/17/2001** |

**Body:**

Office of Policy & Research

July 17, 2001

XXXX
XXXX
XXXX

RE: You letter of May 18, 2001

Dear XXXX:

Thank you for your letter and follow-up letter. You describe the business practices for XXXX, and ask for a private letter ruling. Your initial concern was over tax service materials that suggested that, in Kansas, resale exemption certificates may not be issued for services. This rule is correct for contractors who do work to improve real property. However, it does not apply to businesses that charge customers for repair to tangible personal property.

K.A.R. 92-19-66b(a) states the rule for real property construction services:

Each contractor, subcontractor, and repairman shall be responsible for collecting and remitting sales tax on taxable services performed for others, including taxable services performed for other contractors. A contractor, subcontractor, or repairman shall not issue or accept a resale exemption certificate that claims an exemption from sales tax for services being purchased from or sold to another contractor, subcontractor, or repairman.”

Under this regulation, contractors, subcontractors and repairmen are each responsible for reporting sales tax on their services. They may not accept a resale exemption certificate from a general contractor to exempt their services from sales tax.

The rule for contractors does not apply when services are performed on tangible personal property. For example, an automobile dealership with a repair shop may give a resale certificate to a specialty shop, such as a frame straightening business or wheel shop, and then bill their customer for the work done by the frame or wheel shop. Similarly, a furniture refinishing business may provide a resale exemption certificate to a cane weaver, and then charge the customer sales tax on the total billing for a repaired chair or other piece of furniture.

XXXX is a retailer/wholesaler of surveying, measuring, engineering, and construction instruments and supplies. It performs calibration, repair, and maintenance services on the equipment that it sells at retail. XXXX typically charges sales tax on both parts and services when equipment is serviced and repaired. XXXX provides the same calibration, repair, and maintenance services to other retailers and dealers. This equipment is all tangible personal property.

You ask if XXXX may accept a resale exemption certificate when it sells repair and maintenance services and parts to other retailers. The answer is yes. In the case of out-of-state retailers, XXXX should require the retailer to provide a multi-state sales tax exemption certificate. In the case of in-state retailers, XXXX should require the retailer to provide a Kansas resale exemption certificate. When another retailer provides an exemption certificate, that retailer becomes responsible for collecting and remitting the appropriate sales tax from its customers.

In addition to servicing equipment for other retailers, XXXX services equipment for exempt governmental entities such as the federal government. In such cases, XXXX should require the governmental entity to provide an exemption certificate. When this is done, the sale or services and parts is exempt. Please note that to be exempt such sales must be paid for by check of voucher of the government entity.

I hope that this answers all of your questions. If my letter raised any new ones, please call me at 785-296-3081. 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,

Thomas E. Hatten

Attorney/Tax Specialist

**Date Composed: 07/18/2001 Date Modified: 10/11/2001**