**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-026** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Personal shopper; buy and deliver groceries, gifts, restaurant food, flowers, and toys.** |
| **Keywords:** |  |
| **Approval Date:** | **03/18/2002** |

**Body:**

Office of Policy & Research

March 18, 2002

XXXX
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XXXX

RE: Your letter of March 13, 2002

Dear XXXX:

Thank your for your letter. You are starting a business in Wichita and ask whether or not you are required to collect sales tax on charges to your customers. You will act as a personal shopper. This means that you will buy and delivery groceries, gifts, restaurant food, flowers, toys, and other items according to the directions of the person who hires you. Normally you would deliver the items to that person. You only contract with the buyer --- not with any of the retailers that you buy from. You add a fee to the selling price of the items that you buy and deliver. These services are not subject to sales tax. Accordingly, you do not need to register as a retailer and collect sales tax. You simply need to pay sales tax on all of your purchases.

The Kansas retailers' sales tax act applies to sales of tangible personal property and to certain enumerated services. Personal shopping services are not services that are enumerated as being taxable. This means that you should not charge sales tax on the fee that you charge customers for the service. When you purchase items from Kansas retailers, sales tax does apply on the sale from the retailer to you. You then re-bill the purchase amount including the tax to your customers and add a service charge on top of purchase amount including taxes.

Please note that this opinion only controls when you are acting for the buyer. If you change your business practices and begin to deliver items at the retailer's request, the retailer must include the delivery charges in the tax base on which sales tax is charged to the customer. This is because the Kansas definition of "selling price" includes transportation from the retailer to the customer. Thus, if a restaurant charges a customer for a pizza and its delivery, the delivery charges are part of the pizza's selling price and are subject to Kansas sales tax.

Under your current business practice, the retailer sells to you and you charge the customer for the service. There is no agreement between you and the retailer. As long as this is practice continues, you should not collect sales tax on the delivery charges. However, if you begin to provide deliver services for retailers, the services will become taxable and the retailer should include your charges in their customer's billing as a taxable charge.

I hope that I have answered you questions. If you need to discuss anything further, 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/Policy & Research

**Date Composed: 03/29/2002 Date Modified: 03/29/2002**