**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-034** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Labor services performed to a fraternity house at a state university.** |
| **Keywords:** |  |
| **Approval Date:** | **04/09/2002** |

**Body:**

Office of Policy & Research

April 9, 2002

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XXXX

RE: Your fax received April 2, 2002

Dear XXXX:

Thank you for your recent fax. You ask if sales tax should be charged on labor services performed to a fraternity house at a state university. You correctly acknowledge that tax is due on all the materials and fixtures that you purchase to perform the work.

Notice 98-02 was issued to implement 1998 Senate Bill No. 493. This enactment provided a broad exemption for labor services that are performed on Kansas residences. The Notice discusses what enclosure qualify as residences: "Residences include single family homes, duplexes, townhouses, condominiums, rooming houses, boarding houses, apartment houses, nursing homes, retirement homes, dormitories, or any other enclosure that has been constructed for use as a place of human habitation." Fraternity and sorority houses are "enclosure[s] that has been constructed for use as a place of human habitation." Accordingly, the repair work that you are doing to the fraternity house qualifies for this exemption.

The Notice goes on: "If a building is used for both residential and commercial purposes, charges for labor services that cannot be entirely assigned to the residential or commercial portions of a building shall be allocated based on the square footage of the areas that are exclusively residential and exclusively commercial." My college experience suggests that fraternity and sorority houses in the mid-west are wholly devoted to housing the members who live in them. This includes sleeping areas, food preparation areas, lounges, bathroom facilities, study facilities, rooms for house mothers, and recreational facilities. Our telephone conversation tended to confirm this view of the house you are doing the work on. Unlike a nursing home, fraternity and sorority houses do not contain areas that are devoted to administration, nursing care, or similar use.

Accordingly, all of the work you have listed as being done to the fraternity house itself is exempt. This includes repairs and replacement of drywall, floors, ceilings, doors and hardware and broken windows. The only thing that would be taxable is work done on study desks, if they are not built into the building.

I hope that this adequately answers all of your questions. If not, please call me at 785-296-3081. This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to an accurate determination by the department, this ruling is null and void. This ruling will be revoked in the future by the operation of law without further
department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 04/17/2002 Date Modified: 04/18/2002**