**Opinion Letter**

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| **Letter Number:** | **O-2003-007** |

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| **Tax Type:** | **Kansas Compensating Tax** |
| **Brief Description:** | **Kansas local compensating use tax on equipment leased to franchisees.** |
| **Keywords:** |  |
| **Approval Date:** | **10/29/2003** |

**Body:**

Office of Policy & Research

October 29, 2003

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XXXX
XXXX

RE: Your fax received on September 11, 2003

Dear XXXX:

I have been asked to answer your fax that we received last month. You work for a corporation that has franchises across the country. You collect retailers' compensating (use) tax on equipment leased to Kansas franchisees. You ask how the new Kansas local use tax that took effect on July 1, 2003 effects these exiting leases. Please be advised that both state and local sales tax use tax has applied to these lease receipts for all reporting periods after July 1, 2003.

The new imposition of local use tax is found at 2003 HB 2005, Sec. 3. The new Kansas law does not contain a grandfather clause to allow existing lease contracts to continue to be taxed at only the state use tax rate.

As a lessee who does business in Kansas, I must assume that you always have added Kansas use tax to the lease charges billed to your Kansas franchisees. The new tax requires you to collect the state use tax, as you did in the past, plus the local use tax in place at the franchisee's place of business. Since the tax base is the total amount of each lease payment, your Kansas franchisees should have no complaint with you since the new local tax was imposed by the Kansas legislature. By adding the state and local use tax to each lease charge, you are simply doing what Kansas law requires you to do. While the taxes have increased, the underlying lease amount that you receive in lease payments was not changed.

I hope that my answer to your question is clear. If you need to discuss this matter further, please call me at 785-296-3081.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 10/29/2003 Date Modified: 10/29/2003**