**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2001-095** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Labor services.** |
| **Keywords:** |  |
| **Approval Date:** | **09/06/2001** |

**Body:**

Office of Policy & Research

September 6, 2001

XXXXXXXXXXX
XXXXXXXXXXXXXX
XXXXXXXXXXXXXX

Dear XXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated July 23, 2001.

Kansas taxes labor service to install, apply, alter, maintain, service and repair tangible personal property that remains tangible personal property or has been incorporated into real property. There are exclusions to the imposition. The first or initial construction of a building or facility or the remodeling of a residence. Allow to explain in detail.

1998 Senate Bill No. 493 exempts certain construction services that were formerly subject to Kansas sales tax. Effective July 1, 1998, services performed to install or apply tangible personal property are exempt from sales tax when the services involve the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence.

K.S.A. 79-3603(p) imposes a sales tax upon: “the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement, remodeling, restoration, renovation or reconstruction, restoration, replacement or repair of a bridge or highway. . .”

The term ‘residence’ in K.S.A. 79-3603(p)(4) to include the land improvements that immediately surround the residence. This means the exemption for residential repair and remodeling services generally will be coextensive with the exemption for the original construction of the residence.

The new law does not change the taxation of sales of materials and supplies that are purchased for use in residential or commercial construction, maintenance and repair. These sales continue to be subject to state and local sales tax. Similarly, sales tax continues to apply to non-residential labor services, since the new exemption extends only to residences. Repair, maintenance, installation and application services remain subject to sales tax when done to tangible personal property.

In your letter you stated:

We recently had some work done by a construction company but when I paid the bill the total amount, including the labor and mileage, was taxed.

Your letter continues with the following questions:

Is labor taxed in this state?

Answer: Yes.

Is mileage taxed in this state?

Answer: Yes, the law taxes the gross receipt of the retailer. The gross receipt includes all charges including mileage.

Is this a Phillips County specific tax?

Answer: The State of Kansas has a retailers’ sales tax in the amount of 4.9% and Philips County does not have a county sales tax.

We thought that only product or materials used/purchased were to
be taxed. (sand, cement, etc.)

Is a service such as handyman to be taxed?

Answer: Generally yes, however if the repair is to a residence the service is exempt. Any materials or repair parts would be taxable.

Is a service such as washing the air conditioner out with a hose and charging mileage to do so, taxed?

Answer: This service would be exempt if performed at a residence.

My elderly parents have much of this work done for them and they pay taxes inclusive on all of the receipts. Thank you for any answers you may find.

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,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 09/14/2001 Date Modified: 10/11/2001**