**Opinion Letter**

|  |  |
| --- | --- |
| **Letter Number:** | **O-2001-002** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Explanation of "notices" issued by the department.** |
| **Keywords:** |  |
| **Approval Date:** | **01/03/2001** |

**Body:**

Office of Policy & Research

January 3, 2001

XXXX
XXXX
XXXX

RE: Your e-mail of December 20, 2000

Dear XXXX:

I have been asked to answer the questions raised in your e-mail that we received last month. K.S.A. 79-3618 grants the secretary of revenue authority to administer and enforce the Kansas sales and use tax acts. Implicit in this grant to the secretary is the authority to issue guidelines, instructions, memorandum, instruction booklets, information guides, notices, revenue rulings, letters, and other publications to advise taxpayers and tax practitioners how Kansas tax laws are expected to be implemented. See KA.R. 92-19-58; K.A.R. 92-19-59; K.S.A. 79-3646.

Guidelines, instructions, memorandum, instruction booklets, information guides, notices, revenue rulings, and letters are generally regarded as merely informational and instructive in nature, and do not rise to the level of rules and regulations. See K.S.A. 77-415. While not considered to be law as regulations are, the department has issued these public advisories, instructions, and notices since at least 1938, and has found them to be an indispensable means of administering tax laws.

The department publishes its notices in the Kansas register. Notices provide information of use to the general public and to tax practitioners. Notices and revenue rulings provide a means to rescind past opinions issued by the department that may inconsistent with the statements in the notice. See K.A.R. 92-19-59(c)(4). Notices are sometimes used to instruct the public and practitioners about how tax forms should be completed, filing dates, and other things of interest to them. In addition, notices often contain guidelines that establish how the department expects to implement new statutes. It is a common departmental practice to publish a notice and then later, once experience has been gained implementing a new law, to use the notice as an outline for an administrative regulation. Once a directive from a notice is published in an administrative regulation, it is considered to be the law of Kansas and compliance with it is mandatory.

I believe that this answers all of your questions. If not, please visit our web sit at <http://www.ink.org/public/kdor/>.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 01/10/2001 Date Modified: 10/10/2001**