**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-112** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Labor and subcontracted labor services.** |
| **Keywords:** |  |
| **Approval Date:** | **08/28/1998** |

**Body:**

Office of Policy & Research

August 28, 1998

XXXXXXXXXXXXXXXXXXXXXXXXXXX
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Dear XXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated June 18, 1998. This is a private letter ruling pursuant to Kansas Administrative Regulation 92-19-59.

You generally stated in your letter that XXXXXXXXXXXXXXXXXXXXXXXXXX
operates a joint interest salt water disposal system and also performs geological consulting services. Among your customers there is confusion determining which services are taxable.

You stated that your company does not own any tank trucks, backhoes, trenchers, doziers, work over units, acid trucks and winch trucks necessary to complete listed services. Contracts for services performed that require heavy equipment are subcontracted out from numerous vendors and service companies. XXXXXXX provides an employee to oversee and supervise the jobs which require a contractor. This accounts for approximately 85 percent of the jobs. The remaining 15 percent is actually physically performed by your employees.

K.S.A. 79-3603 subsection (p) imposes tax on gross receipts received for the service “of repairing, servicing, altering or maintaining tangible personal property. . .which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this section shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property.”

No Kansas retailers’ sales tax would be imposed on the gross receipts received by XXXXXX for contracts for which XXXXXXXXX merely provides an employee to supervise the work performed by subcontractors. The subcontractors performing taxable services in this scenario would be required to charge and collect sales tax from XXXXXX.

On contracts for which XXXXXXXXXXX employees physically perform taxable labor services, XXXXX would be required to collect and remit sales tax on their gross receipts. The subcontractors performing taxable services in this scenario would be required to charge and collect sales tax from XXXXXXXXX. XXXXXXXXXXX would take a deduction on their sales tax return for these already taxed services.

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 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 effects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 09/14/1998 Date Modified: 10/10/2001**