**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2001-091** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Towing and winching services, unlocking vehicles, changing tires and jump starts.** |
| **Keywords:** |  |
| **Approval Date:** | **09/06/2001** |

**Body:**

Office of Policy & Research

September 6, 2001

TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT

Dear Mr. TTTTTTTT:

We wish to acknowledge receipt of your letter dated May 21, 2001, regarding the application of Kansas Retailers’ Sales tax.

By your letter you make inquiry with regard to K.S.A. 79-3603. Specifically, you ask whether towing and winching services, unlocking vehicles, changing tires and jump starts would be subject to sales tax in the state of Kansas.

In deciding whether a particular transaction is subject to sales tax, a two step analysis is generally necessary. The first step is to determine whether the sales tax act generally imposes tax on the type of transaction in question. The second step is to determine whether the act provides an exemption for the particular type of transaction.

As a rule, sales tax is imposed on all transactions involving the transfer of tangible personal property. With services, however, tax is imposed only on those transactions which are specifically enumerated in the sales tax act. Exemptions for transactions involving either tangible personal property or services are allowed as specifically enumerated.

Towing, winching, the unlocking and jump-starting of vehicles, and the delivery of fuel are not specifically enumerated as taxable services in the sales tax act. Therefore, these services are not subject to Kansas sales tax. However, you must pay sales tax on all articles of tangible personal property and all taxable services to provide the nontaxable services.

The changing of tires, the sale of keys and the delivery of air would be subject to the appropriate Kansas sales tax(es), pursuant to K.S.A. 79-3603(q).

The removal of trees from a residence would not be subject to sales tax in the state of Kansas.

In closing, if you paid the tax directly to the department and you did not indicate on your sales invoices that the tax was included in the selling price, then you would be able to seek a refund of said sales tax(es) for the last thirty-six months. If you do not collect and remit the appropriate Kansas sales tax(es), then you would be subject to the tax, along with penalty and interest.

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 effects this private letter ruling. If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

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