

Notice

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Brief Description: Schedule A Deductions of Sales Tax
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Body:

Office of Policy & Research

NOTICE 05-01 Schedule A Deductions of Sales Tax March 28, 2005

Under new federal income tax enactments, individuals who itemize their deductions are now allowed to deduct state and local general sales taxes in lieu of deducting state and local income taxes. Generally, this deduction only extends to the sales taxes that the individual paid in 2004. Sales tax paid on items used in a trade or business may not be deducted. The itemized deduction is taken on Schedule A of IRS Form 1040. Individuals may not deduct both sales and income taxes. *IRS Publication 600*.

Recently, residential property owners have asked Kansas contractors to reissue their 2004 customer billings to reflect the amount of sales tax that was paid on construction materials. Under Kansas law, this tax was paid by the contractor --- not by the property owner. *K.S.A. 2003 Supp. 79-3603(l)*. Taxpayers cannot deduct sales taxes that were paid by a third party, including a contractor who did construction work for them. Accordingly, contractors should not re-bill their customers to show how much sales tax was paid on construction materials. Providing this figure would only encourage a property owner to claim a deduction that is not allowed under the Internal Revenue Code.

As a general rule, a contractor's labor services are taxed when construction work is done to existing commercial property. Residential construction services are not taxed. This means that individuals who contract for residential improvements are not charged sales tax. If an individual paid sales tax on construction services, the construction services were probably performed for the individual's trade or business. Taxes paid by a trade or business may not be deducted on Schedule A of Form 1040. Therefore, Kansas contractors should not reissue customer invoices from 2004 that were originally billed "all applicable sales tax included."

Taxpayer Assistance. If you have questions about this notice or its application, please contact the department at (785) 368-8222, or visit our web site at www.ksrevenue.org.

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