**Private Letter Ruling**

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| **Ruling Number:** | **P-2010-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Engineering services.** |
| **Keywords:** |  |
| **Approval Date:** | **05/20/2010** |

**Body:**

Office of Policy & Research

May 20, 2010

XXXXXXXXXXXXX
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Dear XXXXXXXX:

We wish to acknowledge receipt of your recent inquiry regarding the application of Kansas Retailers’ Sales tax. You inquired regarding several scenarios dealing with materials you provide and maintenance services performed for Kansas entities.

Generally the taxable base for all contracts involving the application or installation of tangible personal property shall be the difference between the contract price and the cost of materials and payments to subcontractors, including sales or compensating tax paid by the contractor on the materials and subcontractor charges purchased by the contractor to complete the contract. Therefore all overhead costs and profits figured into the total charged the customer are subject to sales tax. A contractor may not deduct overhead expenses such as employee labor costs, travel, per diem, etc. when figuring the taxable amount of a given contract that would be subject to Kansas sales tax.

Situation #1
You provide engineering services from your office in Missouri. You could study drawings, provide technical support or trouble-shoot problems.

You invoice for labor provided in office.

**Answer:**
Engineering services that do not include the installation or application of tangible personal property are not taxable. The studying of drawing and providing technical support would not be taxable in Kansas.

Situation #2
You travel to the customer’s jobsite to provide annual testing of protective relays (calibration) and preventative maintenance in generation plants and utility substations. Testing would involve removing cables from equipment and performing the test. If they pass then reconnect cables. Maintenance could include cleaning and lubricating. Only minor repairs (no parts required) would be done. Major repairs would be done by customer or third party. After repairs have been made the equipment must be retested before being put back in service. Supplies for cleaning and lubricating are purchased with taxes paid or use tax by you.

You invoice for labor, mileage, meals, motel and equipment used for testing.

**Answer:**
Inspection work is taxable when done in connection with taxable service or sales. Any inspection work done that results in maintenance or servicing of the item by the same party that performed the inspection should be taxed since it is an integral part of the charge for maintenance and service. If the only service being provided is testing no sales tax would be charged. However if any cleaning, lubricating, minor repair or other maintenance type of function is performed during the inspection sales tax should be charged on the total amount billed to the customer including labor, mileage, meals, motels and equipment used for testing. Inspection work is exempt only when the service is performed by someone who does not service or repair the equipment being inspected.

Situation #3
You travel to the customer’s jobsite to commission equipment installed by a third party or we are to oversee a repair or replacement of equipment by a third party.

You invoice for labor, mileage, meals, motel and equipment used for testing.

**Answer:**
The description does not provide any details on what may be involved to “commission equipment installed by a third party”. In Kansas, services performed to install or apply tangible personal property are taxable. However no Kansas retailers’ sales tax would be imposed on the gross receipts received when a contractor merely provides an employee to supervise the work performed by a third party. If your employee(s) merely oversees the work being done and performs no installation functions the gross receipts for such service would not be taxable. If your employee(s) physically performs any taxable labor installation or application services as part of this commission of equipment you would be required to collect and remit sales tax on the gross receipts charged to the customer.

Situation #4
You are hired to do a power study. You spend 120 hours in the office evaluating protective device settings and discover you can improve them. You spend 40 hours at the customer’s jobsite changing settings on the relays. You spend 20 hours in the office on the report for the customer.

You invoice for labor, mileage, meals, motel and equipment used for testing.

**Answer:**
The overhead costs and profits figured into the total charged the customer are subject to sales tax. A contractor may not deduct overhead expenses such as employee labor costs, travel, per diem, etc. when figuring the taxable amount of a given contract that would be subject to Kansas sales tax.

The preparation of the report does not involve the installation, application or maintenance of tangible personal property. If billed separately the labor to prepare a report for the customer would not be taxable.

Situation #5
You sell a customer a protective relay and install the settings in the office then ship it to the customer and they install.

You invoice for labor provided in office, protective relay.

**Answer:**
Selling price for tangible personal property is defined as the total cost to the consumer without any deduction or exclusion for the cost of the property or service sold, labor or service used or expended, materials used, losses, overhead or any other costs or expenses, or profit. Therefore the gross receipts invoiced to the customer for this transaction would be taxable. Based on the information provided that you are a Missouri company you should collect Kansas Retailers’ Compensating Use tax on this transaction.

Situation #6
The customer has a failed protective device. You travel to the customer’s jobsite to remove the device to send to manufacture for repair. After repair has been made you reinstall and test the device for the customer

You invoice for labor, mileage, meals, motel and equipment used for testing.

**Answer:**
The overhead costs and profits figured into the total charged the customer are subject to sales tax. A contractor may not deduct overhead expenses such as employee labor costs, travel, per diem, etc. when figuring the taxable amount of a given contract that would be subject to Kansas sales tax.

Situation #7
You are hired by Company A to install equipment at Company B. Company A supplies the protective relay and test jacks. You are to provide and install wire and terminals, cut holes in panels and install and commission equipment. Supplies for wire and terminals are purchased with taxes paid or use tax by you.

You invoice for labor, mileage, meals, motel and equipment used for testing.

**Answer:**
The overhead costs and profits figured into the total charged the customer are subject to sales tax. A contractor may not deduct overhead expenses such as employee labor costs, travel, per diem, etc. when figuring the taxable amount of a given contract that would be subject to Kansas sales tax.

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,

Jack Smith
Policy and Research

**Date Composed: 05/24/2010 Date Modified: 05/24/2010**