

August 8, 2012

Office of the Secretary

Revised REVENUE RULING 19-2004-1

TO: Resident and nonresident manufacturers and dealers of modular homes

SUBJECT: Application of Kansas retailers' sales and compensating use tax to sales and delivery of modular homes in Kansas

Modular home manufacturers are required to remit retailers' sales or compensating use taxes to the Kansas Department of Revenue on sales of modular homes to modular home dealers and consumers

DATE: February 4, 2004; Amended effective January 1, 2012

The effective date of this amended Revenue Ruling is January 1, 2012. On and after April 1, 2004, sales and deliveries of modular homes to Kansas are subject to the provisions of this Revenue Ruling.

The Secretary of Revenue has authorized this revenue ruling pursuant to K.S.A. 79-3619. The purpose of this revenue ruling is to present modular home dealers, modular home manufacturers and the Kansas Department of Revenue ("Department") with a practical approach to the application, collection, and payment of sales and compensating use tax on the gross receipts from the sales of modular homes.

Definitions

The following terms, when used in this revenue ruling, shall have the following meanings:

"Modular home" means a structure which is: (1) Transportable in one or more sections; (2) designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and (3) certified by its manufacturer as being constructed in accordance with a nationally recognized building code.

"Manufacturer" means a person that assembles modular home modules or modular components at a fixed location other than the home site.

“Dealer” means a person who acts as a retailer, agent or broker for a modular home in the dealers' own capacity or as a representative of a manufacturer.

“Total Selling Price” means the total cost to the dealer or consumer exclusive of discounts allowed and credited, but including freight and transportation charges from manufacturer to dealer.

Taxable Sales

Modular home manufacturers are required to remit retailers' sales or compensating use tax to the Department on sales of modular homes to modular home dealers. The sale by a modular home manufacturer to a modular home dealer is deemed a retail sale for purposes of this ruling. The sale from a modular home manufacturer to a dealer of modular homes that the dealer intends to hold in inventory or display is also deemed to be a retail sale for purposes of this ruling. The subsequent sale from the dealer to an end user consumer shall not be subject to tax. Except as otherwise noted, the situs for local retailers' sales or compensating use tax is the business location of the dealer. The situs is not the location where the home is delivered to the end user consumer, unless the home is sold directly to the end user consumer by the manufacturer.

Computation of Tax

The sales and compensating use tax is calculated by applying the applicable tax rate to 60% of the total selling price. Local sales and compensating use tax are due on these sales.

Situs for Local Tax

On and after January 1, 2012, the situs for local retailers' sales and compensating use tax is the business location of the dealer, except as otherwise noted below:

1. Resident Manufacturers

The local tax situs for sales by resident manufacturers to dealers in Kansas is the business location of the dealer. The local tax situs for direct sales by resident manufacturers to final consumers in Kansas is the location of the resident manufacturer.

2. Nonresident Manufacturers (with Kansas Nexus)

Non-resident manufacturers that sell and deliver to dealers in Kansas using their own vehicles for such deliveries are required to register for, collect and remit state and local retailers' compensating use tax to the Department as a retailer. If taxes were properly paid to another state on materials removed from inventory located in such other state, the manufacturer may take a credit under K.S.A. 79-3705 for all or part of the sales tax that may have been paid to such other state. For such nonresident manufacturers, the local tax situs for the local compensating use tax is the business location of the dealer.

Non-resident manufacturers and dealers with no retail locations in Kansas that sell and deliver directly to an end user consumer in Kansas using their own vehicles are required to register for, collect, and remit state and local retailers' compensating use tax

to the Department as a retailer. For such manufacturers and dealers, the local tax situs for local compensating use tax is the delivery location of the home.

The methodology described in this revenue ruling for taxing the sale of modular homes does not apply to the sale of manufactured homes.

This revenue ruling replaces and supersedes all prior advice, revenue rulings, and rulings that have been issued regarding the taxability of sales and delivery of modular homes in Kansas.

Secretary of Revenue

Nick Jordan