**Opinion Letter**

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| **Letter Number:** | **O-2000-022** |

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| **Tax Type:** | **Kansas Compensating Tax** |
| **Brief Description:** | **Shipping charges for items purchased by a Kansas customer from an out-of-state vendor.** |
| **Keywords:** |  |
| **Approval Date:** | **10/03/2000** |

**Body:**

Office of Policy & Research

October 3, 2000

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XXXX

RE: Your e-mail received October 2, 2000

Dear XXXX:

I have been asked to answer your e-mail. In it, you ask whether you are required to accrue use tax on shipping charges for items purchased by a Kansas customer from an out-of-state vendor who does not collect retailers’ compensating tax on the sale. Please be advised that freight charges are part of the selling price and are subject to Kansas consumers’ use tax. Kansas sales tax and Kansas use tax both include shipping and handling charges in the tax base that is subject to tax.

The Kansas sales tax is a tax that is levied on a retailer’s gross receipts. *See K.S.A. 79-3603.*The act provides the following two definitions in K.S.A. 79-3602:

(h) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property. . . .

(g) "Selling price" means the total cost to the consumer exclusive of discounts allowed and credited, but including freight and transportation charges from retailer to consumer.

The underlined provisions show that shipping and handling charges are required to be included in the tax base for Kansas sales tax. These charges are, by definition, made part of the selling price and gross receipts.

The same rule applies for Kansas use tax. In *J.G. Masonry, Inc. v. Department of Revenue*, 235 Kan. 497, 680 P.2d 291 (1984), the Supreme Court of Kansas upheld the law when a taxpayer challenged the law’s constitutionality “because the tax must be paid not only on the sale price of the item purchased but also upon the freight charges from the place of purchase to the person using the property in this state.” This case makes clear that shipping and freight charges are part of the tax base for both Kansas sales tax and Kansas use tax and that tax should be figured on a total amount that includes the shipping and handling charges.

I hope that this answers all of your questions. If not, please call me and we can discuss them.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 10/09/2000 Date Modified: 10/10/2001**