**Opinion Letter**

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| **Letter Number:** | **O-2001-007** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Equipment rental company servicing the construction industry.** |
| **Keywords:** |  |
| **Approval Date:** | **01/31/2001** |

**Body:**

Office of Policy & Research

January 31, 2001

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XXXX

RE: Your letter dated January 5, 2001

Dear XXXX:

I have been asked to answer your letter that we received earlier this month. In it you state that you intend to open an equipment rental company to service the construction industry. You ask if certain customer charges should be taxed.

In Kansas, rental companies are considered to be retailers. Rental companies must register as retailers and collect sales tax on their rental charges. Such companies may claim sales tax exemption when they buy the equipment that they will rent exclusively to others.

Rentals to contractors are taxable rentals unless the contractor can provide the rental company with a project exemption certificate. A project exemption certificate is a special kind of exemption certificate that is issued by the State of Kansas to certain qualifying entities, such as schools and hospitals. A project exemption is of limited duration and is intended to allow contractors who do work for the entity to purchase materials exempt from sales tax. This exemption scheme is intended to reduce construction costs for a given construction project, such as a new school or addition to a hospital. A rental company that honors a project exemption certificate must maintain a copy of the certificate and record the certificate number on each billing in lieu of sales tax.

Under Kansas law, the tax base for rental charges is the total amount billed to the customer for the rental. This means that a rental company’s charges to a customer for: (1) damage waiver fees, (2) delivery, (3) pick-up, (4) labor, and (5) fuel are subject to Kansas sales tax. You should be aware that if the rental company takes damage rental property to a repair shop, the rental company may claim exemption for resale. However, when the rental company re-bills the customer who damaged the property, sales tax must be billed on the customer charge.

I believe that I have answered all of your questions. If you have any additional questions, please visit our web sit at www.ink.org/public/kdor/ or call me at (785) 296-3081.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 02/01/2001 Date Modified: 10/10/2001**