**Opinion Letter**

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| **Letter Number:** | **O-2003-009** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Short and extended-stay living accommodations.** |
| **Keywords:** |  |
| **Approval Date:** | **12/17/2003** |

**Body:**

Office of Policy & Research

December 17, 2003

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XXXX

RE: Your e-mail received on December 15, 2003

Dear XXXX:

I have been asked to answer your recent e-mail. In it, you state that your company provides short and extended-stay living accommodations. You do this by subleasing apartments that you rent. This means your company is an "accommodation broker" under Kansas law, if it subleases more than two sleeping rooms:

(f) "Accommodations broker" means any business which maintains an inventory of two or more rooms in one or more locations which are offered for pay to a person or persons for not more than 28 consecutive days. *K.S.A. 12-1692(f).*

Sales tax is imposed "on the gross receipt from the service of renting rooms . . . by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto." *K.S.A. 2002 Supp. 79-3603(g).* In addition to sales tax, accommodation brokers must collect and remit transient guest tax on its room rentals. *K.S.A. 2002 Supp. 12-1693; K.S.A. 2002 Supp. 12-1697(a)*. Tax is figured on the accommodation brokers "gross receipts," and there is no "minimum stay" provision in Kansas law.

An accommodation broker's receipts are subject to *sales tax* regardless of the length of stay. Unlike sales tax, *transient guest tax* is not collect on rooms rented for more than 28 consecutive days to the same person or entity. This is because the law defines "transient guest" as a person who occupies a room for not more than 28 consecutive days. Accounting for the 28 day provision is straightforward, as is demonstrated by the example contained in Publication KS-1540, an Information Guide for Kansas Business Taxes for Hotels, Motels & Restaurants:

You rent a room to a guest for $50 per night, billed on a weekly basis of $350, plus 6.3% Sales and 6% Transient Guest Tax. On the 29th rental day (beginning of the 5th week), you will credit the guest's account for the previously paid Transient Guest Tax of 6%.

Publication KS-1540 is available on our web site, www.ksrevenue.org. Also available is the Kansas Business Tax Application Booklet, Publication KS-1216. You will need to complete the Registration Schedule in KS-1216 as an accommodation broker and submit the completed schedule to the department to register your business for tax purposes. You can order printed copies of these documents by calling our forms request line at 785-296-4937.

I believe that the two publications will answer any additional questions that you may have. If they don't, please call our Taxpayer Assistance Center at its toll free number, 1-877-526-7738, if you are outside Topeka, or 368-8222 for local calls.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 12/19/2003 Date Modified: 12/19/2003**