**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2003-031** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Crane services.** |
| **Keywords:** |  |
| **Approval Date:** | **05/28/2003** |

**Body:**

Office of Policy & Research

May 28, 2003

XXXX
XXXX
XXXX

RE: Your letter dated May 21, 2003

Dear XXXX:

Thank you for your letter that we received earlier this week. You work for a crane service and ask which jobs are taxable and which jobs are exempt. This requires a discussion of how Kansas taxes construction services.

Kansas taxes construction services that involve the installation or application of tangible personal property. In the case of crane services, contracts between the crane operators and their customers normally only require property to be lifted and put in place. These services are not considered to be installation or application services and are not subject to Kansas sales tax.

Your contracts will determine whether a particular transaction should be taxed. If you follow the normally business practice for crane operators and do not provide taxable installation services or hook up services, your services are not subject to sales tax. However, the entire billing for your services will be subject to Kansas sales tax if you contract to move something and to install or attach it by bolting it down, wiring it, or otherwise affixing it to real property after the property is lifted and placed.

Some crane companies occasionally rent equipment without an operator. The tax treatment of crane rentals differs from the tax treatment of crane services. Kansas distinguishes between construction equipment rental and the providing of services by operators who operate such equipment on the basis of whether or not the equipment is furnished with an operator. If equipment is provided with an operator who is responsible for completion of the job, the transaction is considered to be a service and not a rental. K.A.R. 92-19-55a(b)(7). If an operator is not provided, the transaction is considered to be a rental of equipment. Crane rentals, that is providing a crane without an operator, are taxable unless the person renting the property can provide you with a project exemption certificate. If you do not rent the cranes and only furnish them with an operator, the transaction with your customer is treated as a services and is taxed as discussed above. That is, if your service only involves lifting and placing property, no tax applies. However, if you are required to bolt, wire, or otherwise attach the property being moved to real property, the entire amount of the contract is taxable.

I hope that this answers your questions clearly. If you need to discuss this further, please call me at 785-295-3081. This is private letter ruling. It 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 ruling.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 05/29/2003 Date Modified: 05/29/2003**