**Opinion Letter**

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| **Letter Number:** | **O-1999-20** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales and installation of residential and business security alarm systems.** |
| **Keywords:** |  |
| **Approval Date:** | **01/24/2000** |

**Body:**

Office of Policy & Research

January 24, 2000

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RE: Your letter of November 30, 1999

Dear XXX:

I have been asked to answer your letter that we received last month. In it you ask how Kansas sales tax should be applied to your security alarm business.

ABC SECURITY sells and installs residential and business security alarm systems. At the time of sale, the customer signs a 24 month installment contract and agrees to pay a specific amount per month in exchange for the equipment, its installation, and the monitoring service. You ask how Kansas sales tax applies to these services and charges.

Kansas sales taxation of security system providers is complicated because of the variety of ways that the equipment and monitoring services are sold and billed. In some instances, title to the equipment remains with the security system provider and the provider will retake possession when the customer no longer buys the monitoring services from them. At other times, charges for the monitoring service and the equipment are bundled together. At the end of the period, the customer may or may not gain ownership of the equipment. Sometimes a customer pays a monthly bill for the equipment and may contract with any monitoring service that is available. There are a variety of other ways the equipment and services are provides.

In Kansas, service providers are generally viewed as the consumer of all the equipment and other property that they purchase for use in providing the service. *Southwestern Bell Tel. Co. v. State Commissioner of Revenue*, 168 Kan. 227, 212 P.2d 363 (1949). This general rule applies regardless of whether the service itself is taxed or is not taxed or whether tangible personal property is placed with the consumer for use as part of the service. See *In re Appeal of AT & T Technologies, Inc.*, 242 Kan. 554, 749 P.2d 1033 (1988). Kansas only taxes services that are enumerated in K.S.A. 79-3603. Since security monitoring services are not enumerated in K.S.A. 79-3603, they are not subject to Kansas sales tax.

How security systems are taxed in Kansas is normally controlled by the terms in the contract for providing the security system and monitoring services. Some companies bill customers a line item rental change for the equipment and a line item charge for the monitoring service. In this case, the company could claim a resale exemption when they buy equipment and charge sales tax on the line item charge for equipment rental. The monitoring services would not be subject to tax. Many companies install a system, and then remove it when the customer no longer pays for its monitoring services. In these cases, the company should pay tax on its purchases and not charge tax on the customer billings, since these services are not taxed. In addition to these practices, there are others contractual arrangements that security companies use. The different approaches can result in different taxing consequences.

In your case, it appears that you are billing customers a lump sum for the monitoring service, installation, and equipment. You then sell this contract to a third party, VVV Monitoring. Since the customer billing is in a lump sum, you may treat your business as being the final consumer of the equipment and pay tax on the purchase price. These tax costs can then be recouped when you sell these contracts to VVV Monitoring. There would be no tax on the billing to the customer since it would be viewed as the providing of a non-taxable monitoring service. Please note that the tax consequences would be different if you bill customers line item charges for the equipment, installation, and monitoring service.

I hope that I have adequately answered your letter. If not, please call me and we can discuss any additional questions that you have.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 02/15/2000 Date Modified: 10/10/2001**