**Opinion Letter**

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| **Letter Number:** | **O-2005-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Infrared thermographic scanning services.** |
| **Keywords:** |  |
| **Approval Date:** | **08/17/2005** |

**Body:**

Office of Policy & Research

August 17, 2005

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RE: Your e-mail received August 11, 2005

Dear XXXX:

Thank you for your recent e-mail Your Kentucky company provides infrared thermographic scanning services. These services are used for a variety of things, including: (1) scanning electrical systems for hot spots caused by loose or poor connections, load imbalances, or other problems; (2) checking bearing on motors; (3) detecting wet insulation under flat roofs; (4) checking hydraulic systems and boiler systems; and (5) performing energy audits on buildings to detect poor insulation and air leakage, among other things. A infrared camera captures still or video images, which are incorporated into a report that is given to the customer. You ask if these services are subject to Kansas sales tax. The answer is no. Kansas sales tax does not apply to these services.

The Kansas sales tax act imposes sales tax on sales of tangible personal property, admission and membership charges, and other services that are enumerated or listed in K.S.A. 79-3603. The infrared thermographic scanning services that you provide are not enumerated in the act and, therefore, are not subject to Kansas sales tax. The reports that you provide to customers are an incidental part of the non-taxable infrared scanning service. The paper used to produce the reports is treated the same way as the paper that a lawyer uses to produce a will or an accountant uses to produce an audit report. The sale of the paper is taxable. This means that while you should not collect sales tax on customer charges for your services, you must pay sales tax on everything you buy to provide your service, including cameras, film, paper, and other supplies. You may not claim resale exemption on any of these purchases since Kansas law treats you as providing a non-taxable services rather than selling reports at retail.

There are two caveats to this discussion. The first is that Kansas taxes installation, repair, and maintenance services, whether the services are performed to tangible personal property or to real property that was once tangible personal property. *K.S.A. 2004 Supp. 79-3603(p) (q) & (r).* If you provide construction services in addition to your infrared scanning services, you would be required to charge and collect sales tax on your entire customer charge, including the infrared thermographic scanning services. *See K.S.A. 2004 Supp. 79-3602(ll), definition of "sales or selling price."* The second caveat is that the Kansas sales act law treats photographers as making retail sales of the photographs that they are commissioned to take. This means that if you want to retain your non-retail status, you should always provide a written summary or report with your infrared photographs that explains how the photographs should be interpreted.

I hope that I have adequately explained how your business is treated under the Kansas retailers' sales tax act. If you need to discuss this matter further, please call me at 785-296-3081.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 08/18/2005 Date Modified: 08/18/2005**