**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-56** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Building a new residential swimming pool.** |
| **Keywords:** |  |
| **Effective Date:** | **06/23/1998** |

**Body:**

Office of Policy & Research

June 23, 1998

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Dear Mr. TTTTT:

We wish to acknowledge receipt of your letter dated June 4, 1998, regarding the application of Kansas Retailers’ Sales tax.

1998 Senate Bill No. 493 exempts certain construction services that were formerly subject to Kansas sales tax. Effective July 1, 1998, services performed to install or apply tangible personal property are exempt from sales tax when the services involve the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence.

The department has determined that it will construe and administer K.S.A. 79-3603(p)(4) as exempting the land improvements that immediately surround a residence. This means the exemption for residential repair and remodeling services generally will be coextensive with the exemption for the original construction of the residence.

The test for whether something is a “land improvement” shall be whether tangible personal property has been erected upon or affixed to the land. To qualify as residential, the land improvement must be immediately near and must principally serve the residence. This means that repairs to a yard fence are exempt but that repairs to a fence designed to corral pleasure horses are not. Barns and machine sheds for farm equipment shall not be considered to be land improvement that principally serve the residence.

Land improvements shall include, but not be limited to, sidewalks, driveways, patios, fences, sodding, tree planting, utility pipes and wires, septic tanks, swimming pools, and tool sheds. Repair services to structures such as steps, stairs, access ramps, porches, and decks shall be exempt whether they are considered to be part of the residence because they are attached to it, or a land improvement because they are immediately nearby. Installation of a new swimming pool, tool shed, or other structure near an existing residence shall qualify as residential remodeling when the pool, shed or structure is intended to serve the residence. Repairs services done to swimming pools, tools sheds, and other nearby structures that serve the residence shall qualify as the exempt repair of residential land improvements.

If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 07/01/1998 Date Modified: 10/10/2001**