**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2000-021** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Water delivery surcharges subject to Kansas sales tax.** |
| **Keywords:** |  |
| **Approval Date:** | **05/08/2000** |

**Body:**

Office of Policy & Research

May 8, 2000

XXXXX
XXXXX
XXXXX

RE: Your e-mail of April 20, 2000

Dear Mr. XXXX:

I have been asked to answer your e-mail that we received last month. In it, you ask if a surcharge for water delivery is subject to Kansas sales tax. Please be advised that the surcharge is subject to Kansas sales or use tax. This is shown by K.S.A. 79-3602(g), which provides:

"Selling price" means the total cost to the consumer exclusive of discounts allowed and credited, but including freight and transportation charges from retailer to consumer. (emphasis provided)

The fact that you call the delivery charge a surcharge does not affect the imposition of tax on the charge. Kansas Administrative Regulation 92-19-46 provides in relevant part:

Selling price is the total consideration given in each transaction, whether in the form of money, rights, property, promise or anything of value, or by exchange or barter. . . . The term selling price includes the following:

(2) the total cost to the consumer without any deduction or exclusion for the cost of the property or service sold, labor or service used or expended, materials used, losses, overhead or any other costs or expenses, or profit, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately billed or segregated on the same bill. . . . (emphasis added).

For these reasons, the tax base, which is the amount that is subject to Kansas tax on your billing, should include the sum of the surcharge and the line item amount that you charge for water. This assumes that these are your only customer charges. If you have other charges, they would be governed by the quoted regulation. I hope that this adequately explains why you should charge tax on these fees. If you have any additional questions, please call me and we can discuss this matter further.

This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to an accurate determination by the department, this ruling is null and void. This ruling will be revoked by operation of law without further department action if there is a change in the controlling statutes, administrative regulations, revenue rulings or case law that materially effects this determination.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 06/07/2000 Date Modified: 10/11/2001**