**Private Letter Ruling**

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| **Ruling Number:** | **P-2004-023** |

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| **Tax Type:** | **Kansas Compensating Tax; Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Call center located out side the State of Kansas.** |
| **Keywords:** |  |
| **Approval Date:** | **06/18/2004** |

**Body:**

Office of Policy and Research

June 18, 2004

XXXXXXXXXX
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XXXXXXXXXX

Dear XXXXXXXXXX,

This is a formal response to your letter dated December 24, 2003, regarding the application of the Kansas Retailer’s Sales and Compensating Use taxes.

In your letter, you stated:

Our company works essentially as a call center located in Texas. Our customers located in your state would call us in Texas for electrical work needing to be done at their location within your state. We would then contact an electrical subcontractor located in proximity of our customer to furnish electrical work involving labor and materials. This work would be repair and remodel and none of it would be new construction.

We would have NO physical locations, employees, inventory, or fixed assets in your state. We would be administrating the call only and not providing any labor or services ourselves.

We would be submitting one (1) single bill to our customers for the work performed which would include the cost we incurred from our subcontractor’s work and our markup. The billing to our customers would be primarily on a time and material basis with labor and materials being separately stated or quoted amounts with labor and material being given in a lump sum fashion.

The service you provide would fall outside both the Kansas Retailer’s Sales Tax and the Kansas Compensating Use Tax. Your company has neither a physical presence nor a “nexus” in Kansas.

However, be certain that any subcontractor you employ charges and collects from you sales tax when necessary. Such a charge would not be necessary when the service is done on a residence or original construction of a commercial building. See K.S.A. 79-3603(p). Moreover, any materials the subcontractor uses would be taxable when he or she purchases them. See K.S.A. 79-3603(l)(1).

In conclusion, you do not need to charge an additional sales tax for the service you provide. The compensating use tax does not need to be collected either. The subcontractor who provides the service in Kansas, however, needs to charge sales tax for labor services when appropriate. The materials used are always taxable at time of purchase.

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 in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling. If I may be of further assistance to you, please contact me at your earliest convenience at (785) 296-5330.

Sincerely,

Mark D. Ciardullo
Tax Specialist

**Date Composed: 06/28/2004 Date Modified: 06/29/2004**