**Opinion Letter**

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| **Letter Number:** | **O-2002-016** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax; Vehicles Rental Excise Tax** |
| **Brief Description:** | **Sales tax and vehicle rental excise tax application to a truck rental company's billings.** |
| **Keywords:** |  |
| **Approval Date:** | **08/19/2002** |

**Body:**

Office of Policy & Research

August 19, 2002

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RE: Your letter of June 4, 2002

Dear XXXX:

Thank you for your recent letter on truck rentals. You ask a series of questions about how sales tax and the vehicle rental excise tax apply to a truck rental company's billings. The vehicle rental excise tax imposition is found at K.S.A. 79-5117(a):

(a) In addition to the tax imposed pursuant to the Kansas retailers' sales tax act, there is hereby imposed an excise tax at the rate of 3 1/2% upon the gross receipts received from the rental or lease for a period of time not exceeding 28 days of motor vehicles which except for the operation of K.S.A. 79-5101, and amendments thereto, would be subject to taxation pursuant to K.S.A. 79-5101 et seq., and amendments thereto.

K.S.A. 79-5101 excludes vehicles that are subject to tax under K.S.A. 79-5117(a) from property tax. However, the 3.5% tax is figured on the same tax base as sales tax and is in addition to the state and local tax rates that the rental agency should be charging on its vehicle rentals. The local sales tax that should be charged is the local tax that is in place at the location of the business.

Both the retailers' sales tax and the motor vehicle excise tax are levied on "gross receipts." This means that the tax base for sales tax and the tax base for vehicle excise tax are identical. This was discussed in the original notice issued in 1991 to implement the law:

The vehicle rental excise tax is imposed on the same tax base as the Kansas retailers' sales tax. Accordingly, the tax should be calculated on the total amount of the rental fee with no deduction or exclusion from the fee for insurance, taxes, service or maintenance contracts, handling charges, administrative charges, late fees, repair service charges or any other charges. For the excise tax to be exempt from Kansas retailers' sales tax, the vehicle rental excise tax must be separately stated on the invoice, sales ticket or billing document. Vehicle rental excise taxes that are absorbed or included in the retailer's selling price and not separately identified on the billing document will be subject to the Kansas retailers' sales tax. *Notice, Motor Vehicle Rental Companies, May 24, 1991.*

The vehicle excise tax is imposed by adding the 3.5% tax rate to the rate that is in effect for state and local sales tax. Please note that the motor vehicle excise tax is imposed only on vehicle rentals. It does not apply to rentals of other tangible personal property. These rentals are only subject to state and local sales tax.

As noted the tax base for both taxes is identical. The state sales tax base for rentals is discussed in K.A.R. 92-19-55a(b)(3):

(3) Computation of the tax. Sales tax shall be computed on the total amount of each lease payment charged to the lessee without any allowance for insurance, damage waiver fees, property taxes, maintenance, service, repair, pickup, delivery, and other handling charges, administrative charges, late fees, fuel charges, or other charges or expenses whether paid by the lessor or lessee. Any such charges or expenses shall be considered to be part of each lease payment regardless of whether the charges are segregated on the same bill or whether separate contracts are entered into for the lease or rental of the property and for the payment of these charges or expenses. Any payment for the cancellation of the lease shall be taxable as part of the final lease payment under the lease contract.

Under this regulation, the tax base for both taxes include any charges by a rental company for fuel, personal liability insurance, damage waiver fees, permit charges, post-use cleaning, and IFTA charges, since the IFTA charges are part of the fuel cost. This regulation provides the answer to all or part of your numbered questions, one through eight.

Your other questions concerns rentals of dollies and pads. As noted, these charges are subject to Kansas state and local sales tax act, but not to the vehicle rental excise tax. Accordingly, only state and local sale tax is due on these charges if they are separately stated as line items on the billing. As discussed, state and local sales tax and the motor vehicle excise tax is due on the rental charges for the trucks.

I believe that, as discussed, K.A.R. 92-19-55a(b)(3) answers all of your questions. If you have any additional questions, please call me at 785-296-3081.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 08/26/2002 Date Modified: 08/26/2002**