**Opinion Letter**

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| **Letter Number:** | **O-2011-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax; Withholding and Declaration of Estimated Tax** |
| **Brief Description:** | **Oil well services.** |
| **Keywords:** |  |
| **Approval Date:** | **01/24/2011** |

**Body:**

Office of Policy & Research

January 24, 2011

XXXXX
XXXXX
XXXXX

RE: Your e-mail received January 18, 2011

Dear XXXXX:

I have been asked to answer your recent e-mail. Your company occasionally performs oil well services in Kansas. You ask if your company is required to register with the Kansas Department of Revenue for sales tax and withholding tax purposes. The answer is yes.

You state that your company has no physical presence in Kansas. This is incorrect. Your company sends its employees into Kansas to service oil and gas wells here. For nexus purposes, the physical presence of employees in Kansas servicing oil and gas wells shows your company is subject to the jurisdiction of the State of Kansas. *See General Trading Co. v. State Tax Commissioner of the State of Iowa, 322 US 335 (1944).* Your company must abide by Kansas tax laws when it does business here just as its employees must abide by Kansas traffic and criminal laws during their stay here. Your company has nexus with Kansas for tax purposes and must register as a retailer doing business here.

To register, please download Publication KS-1216, *Kansas Business Tax Application Booklet,* from our web site, www.ksrevenue.org. Your company must follow the booklet's instructions, complete the CT-16, *Kansas Business Tax Application Form* in the KS-1216, and submit the completed form to the department. The answers given in the application form determine the different taxes a business will be registered to report.

Kansas sales tax is imposed on labor services performed at oil or gas wells. It exempts these services when they are performed during the first or initial construction of an oil or gas well. I have enclosed a copies of Revenue Ruling 19-2002-2, *Sales taxation of drilling contractors, well service providers, and oil and gas producers,* (10/21/2002), and Questions and Answers, *Drilling contractors, well service providers, and oil and gas producers* (10/21/2002). These publications explain how Kansas sales tax applies to a business like yours.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

Enclosures

**Date Composed: 01/24/2011 Date Modified: 01/24/2011**