**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-118** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **How sales tax is applied to security alarms and monitoring services.** |
| **Keywords:** |  |
| **Approval Date:** | **09/02/1998** |

**Body:**

Office of Policy & Research

September 2, 1998

XXXXX
XXXXX
XXXXX
XXXXX

RE: Your letter of
December 15, 1997

Dear Mr. XXXX:

I have been asked to answer your letter of December 15, 1997. In it you ask how Kansas sales tax should be applied to the security alarm and monitoring business of XXXX.

XXXX is headquartered in California. It offers two basic types of residential security systems. These basic systems can be enhanced with various add-ons, such as smoke detectors, panic buttons, and additional motion detectors. XXXX monitors the systems from its California communications center. The XXXX security systems automatically alerts the center when an anomaly is detected. Center operators, who monitors these signals continuously, take the action that is appropriate to the alarm being generated. XXXX anticipates that they will begin operating patrol cars in Kansas at some time in the future.

XXXX provides residential customers with the security system and monitoring services for a stated lump sum monthly fee. Title to the system remains with XXXX. Customers obtain the right to use the system only for the period during which the monitoring services are being provided. The add-on items are sold outright to the customer. You ask how Kansas sales tax applies to these various services and charges.

In Kansas, service providers are generally viewed as the consumer of all the equipment and other property that they purchase for use in providing the service. *Southwestern Bell Tel. Co. v. State Commissioner of Revenue*, 168 Kan. 227, 212 P.2d 363 (1949). This general rule applies regardless of whether the service itself is taxed or is not taxed or whether tangible personal property is provided to the consumer for use as part of the service. See *In re Appeal of AT & T Technologies, Inc.*, 242 Kan. 554, 749 P.2d 1033 (1988). These rules dictate that when XXXX purchases property from Kansas vendors, it must pay sales tax. When XXXX uses equipment in Kansas that was acquired in other state, Kansas use tax is due on the cost of the equipment. The amount of use tax due Kansas is subject to a credit for sales or use tax that was properly paid to another state. K.S.A. 79-3705.

Kansas only taxes services that are enumerated in K.S.A. 79-3603. Since security monitoring services are not enumerated in K.S.A. 79-3603, they are not subject to Kansas sales tax. Accordingly, XXXX should not charge sales tax for monitoring services that are billed as line items on customer billings. The patrol services are not subject to Kansas tax. Accordingly, XXXX must pay tax when it purchases patrol cars, and other property and taxable services for use in providing this service. Customer charges for sales of the add-ons must be taxed. These transactions are taxable sales since ownership to the add-ons transfers to the customer.

Under the circumstances described in your letter, the tax base for the security system is the sum of the cost of the parts that are used in the security system and the cost of any assembly services performed by third parties. This is because Kansas use tax is imposed on the “consideration paid by the taxpayer” for the property that is subject to use tax. K.S.A. 79-79-3703. Installation services performed by XXXX at the customer residences are not subject to Kansas sales tax since installation would be considered to be an integral part of the non-taxable security monitoring service. For repairs by XXXX that are not billed to a customer, there would be no tax since XXXX would be repairing its own property. For repairs by XXXX that are billed to a customer, there would be no tax because Kansas now exempts residential remodeling and repair services. Please note that the repair services would become taxable to XXXX if they were performed by third parties who remove the equipment from the resident to repair.

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. Please call me if you have any additional questions.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 09/29/1998 Date Modified: 10/10/2001**