**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-056** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Labor services for the installation of landscape materials and the construction of ponds that are in connection with the original construction of a building or facility.** |
| **Keywords:** |  |
| **Approval Date:** | **06/25/2002** |

**Body:**

Office of Policy & Research

June 25, 2002

XXXXXXXXXXXXXX
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XXXXXXXXXXXXXXXXX

Dear XXXXXXXXXX:

The purpose of this letter is to respond to your letter dated May 30, 2002.

The labor services for the installation of landscape materials and the construction of ponds, that are “in connection” with the original construction of a building or facility are exempt from sales tax.

Allow me to explain the departments rationale:

K.S.A. 79-3603(p) imposes a sales tax upon: “the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement, remodeling, restoration, renovation or reconstruction, restoration, replacement or repair of a bridge or highway. . .”

Materials are taxable. When a contractor purchases materials and supplies from an in-state retailer, the contractor must pay the retailer the appropriate Kansas state and local sales tax. When a contractor purchases materials and supplies from an out-of-state retailer who is registered to collect the compensating (use) tax for the state of Kansas, the contractor must pay the retailer the compensating (use) tax. If the out-of-state retailer is not registered with Kansas for compensating (use) tax purposes, the contractor must remit the compensating (use) tax directly to the state of Kansas.

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,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 07/09/2002 Date Modified: 07/09/2002**