**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2003-017** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Roof repairs.** |
| **Keywords:** |  |
| **Approval Date:** | **04/14/2003** |

**Body:**

Office of Policy & Research

April 14, 2003

XXXX
XXXX
XXXX

RE: Your letter dated April 3, 2003

Dear XXXX:

Thank you for your letter. Recently, your company performed roof repairs for XXXX. The repairs involved fabricating , installing, and flashing a curb for a flue that was installed on the company's roof. You ask if this work qualifies for exemption under K.S.A. 79-3606(kk). Please be advised that the work is taxable. It does not qualify for the exemption.

K.S.A. 79-3606(kk)(5)(F) provides:

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include: . . .

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

Work done by a roofing company to fabricate and install a curb on a roof to accommodate a new flue or a new chimney is work done to the company's building. Although the work is needed because the business cut a hole in the roof to accommodate a new flue or chimney, the work is still roofing work done on the building. Installing curbing on a roof to divert water around a flue is not part of the installation of the flue itself.

Please note that when new industrial machinery is installed in a factory, modifications may be needed the building. Typically these modifications are subject to sales tax. While most of the work on a building is taxable, subsection (4) of K.S.A. 79-3606(kk) contains a list of building work that is exempt even though it does not otherwise qualify for exemption under K.S.A. 79-3606(kk). Subsection (D)(4) extends exemption to:

(D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate;

The things listed in K.S.A. 79-3606(D)(4) should be considered to be an exclusive list of services done to a manufacturer's building that qualify for exemption. Since installing curbing on a roof to diverts water around a flue is part of a building and is not something described in K.S.A. 79-3606(D), the services to fabricate and install the curbing are taxable.

I hope that I have answered all of your questions. Please call me if you have any additional questions and we can discuss them. My number is 785-296-3081. This private letter ruling is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make an accurate determination by the department, this ruling is null and void. This private letter ruling will be revoked in the future by operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 04/16/2003 Date Modified: 04/16/2003**