**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-048** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Destination-based sourcing - glass tinting at new residential and commercial construction sites.** |
| **Keywords:** |  |
| **Approval Date:** | **10/24/2003** |

**Body:**

Office of Policy & Research

October 24, 2003

XXXX
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Re: Private Letter Ruling

Dear XXXX:

You indicate that your business, XXXX, performs work as a contractor in tinting glass primarily at new residential and commercial construction sites. This work involves installing adhesive film on the glass. Your business generally purchases the adhesive film on an as needed basis from an out-of-state vendor who ships the adhesive film to your business location at XXXX, Kansas. The out-of-state vendor does not collect sales or use tax on such sales. Your business performs glass tinting both in Kansas and Missouri. You have requested guidance on how the Kansas sales tax laws apply to your business, particularly with the new destination-based sourcing rules.

Under the new destination-based sourcing rules, the sales tax in effect at the location where the purchaser receives the product applies. Under Kansas law, the contractor is deemed to be the consumer of the materials installed at the construction project site. Because XXXX is the contractor and receives the adhesive film materials at its business location in XXXX, XXXX will be considered the purchaser and consumer of those items. The Kansas state and local sales or use tax in effect at the XXXX business location will apply to those material purchases. If XXXX’s vendor is not collecting Kansas sales or use tax on the sales of adhesive film to XXXX, then XXXX should self-accrue Kansas state and local use tax (which would be the same rate as the Kansas state and local sales tax) in effect at the XXXX business location on the purchased materials. XXXX should report and remit the accrued use tax to the department, using the Consumers Compensating Use Tax form CT-10U (form and instructions downloadable from the department’s website at www.ksrevenue.org).

When XXXX performs taxable labor services (such as glass tinting work at a commercial remodeling project), the sales tax in effect at the location where the adhesive film is installed will apply to those services. The sales tax base for the taxable labor services would be the difference between the total amount charged to the customer less the tax-paid materials costs. Assuming that XXXX would be performing taxable services at different locations outside of [its business location taxing jurisdiction], XXXX should report and remit the sales tax on its taxable services using form ST-36 (for reporting sales in more than one taxing jurisdiction). If XXXX performs taxable services during the reporting period only in XXXX, the taxing jurisdiction of its business location, then form ST-16 (for reporting sales only to the taxing jurisdiction in which the business is located) can be used. These forms, and instructions, can be downloaded from the department’s website, www.ksrevenue.org. General guidance on Kansas sales tax laws is also available in Publication 1510, also downloadable from the department’s website.

If XXXX orders materials from an out-of-state vendor, which are shipped or delivered to XXXX and are earmarked at the time of ordering for use in a specific out-of-state project and not kept in inventory at the business premises, then pursuant to K.S.A. 79-3702(e), such materials used at an out-of-state project (such as in Missouri) would not be subject to Kansas use tax. Missouri sales tax laws apply to projects done in Missouri.

This is a private letter ruling pursuant to K.A.R. 92-19-59, based on the representations you have made. To the extent those representations are incomplete or inaccurate, this ruling is 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.

Enclosed please find copies of Notices 03-01 and 03-02 explaining the new destination-based sourcing rules and forms ST-36 and CT-10U. If you have additional questions, please let me know.

Very truly yours,

Richard L. Cram

**Date Composed: 10/24/2003 Date Modified: 10/24/2003**