**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-060** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Charges for monogramming and business logos.** |
| **Keywords:** |  |
| **Approval Date:** | **12/15/2003** |

**Body:**

Office of Policy & Research

December 15, 2003

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XXXX

RE: Your letter dated December 5, 2003

Dear XXXX:

Thank your letter your that we received earlier this month. You ask whether certain charges for monogramming and business logos are taxable or exempt under Kansas sales tax law. The monograms and logos are typically sewn on clothing being sold, such as shirts, caps, jackets, and so forth. You also ask about taxability of a certain shipping and handling charges.

As a general rule, fees charged for the creation and designof alogo, business trademark, letterhead, or similar design service are charges for a sale of nontaxable services provided the transaction does not involve the transfer of tangible personal property beyond that required to convey the design to the customer. However, if the design fees are based on services agreed to be rendered as a part of the sale of tangible personal property, sales tax applies.

Currently, computer aided manufacturing software programs are widely available for machines that sew monograms and logos on clothing. Exempt services that involve the "creation and design of a logo" or similar design services do not include simply selecting a monogram design and the appropriate letters from such a software menu. With these considerations in mind, I will answer your questions.

1. **Set-up fees:** These are one-time charges to design or adopt a logo/monogram. Such charges vary with the nature of customization involved. These lump-sum fees are payable even if a customer decides not to order merchandise. Set-up fees are a one time charge and are not applicable to subsequent merchandise orders using the same logo/monogram.
**Answer:** Exempt with certain qualifications. Fees charged for the creation and designof alogo**,** business trademark, letterhead, or similar item are sales of nontaxable services, provided the fees do not pay for the transfer of tangible personal property beyond that required to convey the design to the customer. Creation and designof amonogram must involve more than simply selecting a monogram design and the appropriate letters from a software menu.

2. **Application Fees:** These fees are for application of the customized logo/monograms to the merchandise. Application fees are charged per item of merchandise.
**Answer:** Taxable. Kansas sales tax is imposed on "sales or selling price" which means the total amount of consideration . . . for which personal property or services are sold. . . ." *2003 HB 2005(Sec. 5(ll)(1).* Here, the total amount of consideration includes the fees charged to apply the customized logo/monograms on the clothing or other items. Thus, the application fees are part of the measure of tax and are taxable.

3. **Rush Fees:** These are lump-sum fees for a rush order. A rush order is when a customer want to receive the merchandise sooner than it would under the normal shipping procedure. For a fee, XXXX will move the rush order ahead of other orders.
**Answer:** Taxable. Unlike some states, Kansas taxes delivery and shipping charges. The definition of "selling price" includes "delivery charges." *2003 HB 2005(Sec. 5(ll)(1)(D).* "Delivery charges" are defined to mean: "charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packaging." *2003 HB 2005(Sec. (5)(i).* Rush fees are taxable payments by the purchaser to obtain a different shipping or delivery procedure than the normal one.

4. **Gift Boxing:** A gift boxing service is available to all XXXX customers for a per item charge. The cost of materials for such service is minimal compared to the total charge to the customer. Unlike gift-wrap, the customer receives a box that could be re-used.
**Answer:** Taxable. The definition of "sales or selling price" provides there is no deduction for "the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller. . . ." Therefore, charges for the gift-boxing materials and services are included in the measure of tax.

5. **Minimum Charges:** These are lump-sum charges applied to a customer whose order is below a minimum quantity of merchandise.
**Answer:** Taxable. An up-charge such as this become the "sales or selling price" to the customer since it supersedes the stated retail price and become "the total amount of consideration . . . for which personal property or services are sold. . . ." *2003 HB 2005(Sec. 5(ll)(1).*

I hope that I have clearly answered all of your questions. If you have addition questions, please call me. 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 in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 12/19/2003 Date Modified: 12/19/2003**