**Private Letter Ruling**

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| **Ruling Number:** | **P-2010-007** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Taxability on labor services for the construction of new range land fencing.** |
| **Keywords:** |  |
| **Approval Date:** | **09/13/2010** |

**Body:**

Office of Policy & Research

September 13, 2010

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Dear Mr. XXXXXX:

We wish to acknowledge receipt of your recent inquiry regarding the application of Kansas Retailers’ Sales tax. You inquired regarding the taxability on labor services for the construction of new range land fencing.

Your question relates to the installation of new fencing (either brand new or where the old fence has been destroyed). You indicated the Department of Revenue publication titled, Sales and Use Tax for the Agricultural Industry, KS-1550 states the labor service to install fencing for new feedlots is not taxable. The question asked was if labor for the construction of new range land fencing requires the payment of sales tax.

The tax exemption for labor services involving the installation or application of tangible personal property is found in K.S.A. 79-3603(p). This statute defines labor services performed in connection with the “original construction” of a building or facility as exempt from sales tax. Section (3) of K.S.A. 79-3603(p) defines a facility as a mill, plant, refinery, oil well, gas well, water well, feedlot or any transmission of distribution line of an cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation.

The labor service to install fencing as a new feedlot is not taxable as a feedlot is specifically included under the definition of a facility for the purposes of exempting the labor services for “original construction”. Range land is not listed as either a building, 79-3603(p)(2) or a facility, 79-3603(p)(3). Therefore the labor services to install new range fencing is taxable for sales tax.

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,

Jack Smith
Policy and Research

**Date Composed: 09/13/2010 Date Modified: 09/13/2010**