



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

February 9, 1977

ATTORNEY GENERAL OPINION NO. 77- 46

The Honorable Kenneth Francisco  
State Representative  
3rd Floor - State Capitol Building  
Topeka, Kansas 66612

Re: Taxation--Sales Tax--Contractors

Synopsis: Persons engaged in remodeling businesses are required to pay the retailers' sales tax upon the gross receipts from such services. Persons who, in addition to engaging in a remodeling business, are also engaged in the sale at retail of materials which are used by others, such as homeowners, in remodeling projects are required to collect and remit the retailers' sales tax on such transactions.

\* \* \*

Dear Representative Francisco:

You inquire whether under K.S.A. 1976 Supp. 79-3603(p), home or other remodeling work is subject to the retailers' sales tax imposed by that section. Under subparagraph (p), that tax is imposed upon

"the gross receipts received from the installation, maintenance, servicing and repairing of tangible personal property not held for sale in the regular course of business, whether or not any tangible personal property is transferred in conjunction therewith, except services rendered in installing property in connection

The Honorable Kenneth Francisco  
Page Two  
February 9, 1977

with the original construction of a building or structure, which when installed will become a part of such building or structure.  
. . ."

Under this section, remodeling services are a taxable transaction.

K.S.A. 1976 Supp. 79-3602 defines the term "retailer" as

"a person regularly engaged in the business of selling tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale." [Emphasis supplied.]

The term "retail sale" or "sale at retail" is defined as including

"all sales made with the state of tangible personal property or electrical energy, gas, water, services or entertainment for use or consumption and not for resale." [Emphasis supplied.]

The term "services" is defined to mean

"those services described in and taxed under the provisions of K.S.A. 79-3603 and amendments thereto."

Persons who render remodeling services are required to pay the retailer's sales tax upon the gross receipts derived from and in compensation for those services, for they fall clearly within the scope of the cited statutes. Those persons who are engaged, in addition to remodeling work, in the sale at retail of materials which are purchased by others for remodeling and not for resale, are also engaged in the sale of goods which are also subject to the retailer's sales tax. Such persons are required to collect the retailer's sales tax on these transactions, and to remit them to the Department of Revenue.

The Honorable Kenneth Francisco  
Page Three  
February 9, 1977

You ask, lastly, whether the Department of Revenue is in violation of the cited statutes by not requiring such contractors to obtain sales tax certificates of registration. I am advised by counsel for the Department that contractors are required to obtain the necessary certificates in accordance with the foregoing when and as unregistered contractors come to their attention through the regular auditing procedures of the Department.

If further questions remain concerning this matter, please do not hesitate to contact this office.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: Mr. Ben Neill  
Chief Attorney  
Department of Revenue  
2nd Floor - State Office Building  
Topeka, Kansas 66612