

Kansas Administrative Regulations

Kansas Department of Revenue

Article 19.—Kansas Retailers' Sales Tax

92-19-79. Oil, gas and water wells.

(a) Sales of drilling materials or other property incorporated into an oil, gas or water well to contractors, subcontractors or repairmen for use by them in original construction projects including drilling, equipping, furnishing, repairing, servicing, altering, maintaining, enlarging or redrilling shall be subject to sales tax. Each contractor shall be considered the final user or consumer of materials used by them in the construction projects. A contractor, subcontractor or repairman shall not give, and retailers shall not accept, a resale exemption certificate to purchase the materials without sales tax.

(b) Each contractor, subcontractor or repairman shall be responsible for the payment of sales tax on all materials and supplies which are purchased for use by them in drilling, redrilling, or otherwise improving, altering or repairing oil, gas or water wells for others.

(c) Each contractor, subcontractor or repairman shall be responsible for collecting sales tax on taxable services performed for others, including taxable services performed for other contractors. A contractor, subcontractor or repairman shall not purchase or sell services exempt from sales tax under a resale exemption certificate.

(d) The taxable base for all contracts involving the application or installation of tangible personal property shall be the difference between the contract price and the cost of material, supplies and payments to subcontractors, including sales or compensating tax paid by the contractor on the materials, supplies and subcontractor charges purchased by the contractor to complete the contract.

(e) Contractors, subcontractors or repairmen who do not separately state the amount of sales tax for their services in the contract, bid estimate or customer billing shall include a statement in the document in substantially the following form: "All applicable sales taxes are included in the selling price." If the statement does not appear in the contract, bid estimate, billing or other evidence of the transaction, it shall

be presumed that the sales tax was not charged to the consumer. If a statement does not appear on the document, the retailer shall carry the burden of proving that the sales tax was charged to the consumer and properly remitted to the state.

(f) The service of installing or applying tangible personal property in connection with original construction that is the first or initial construction of a new oil, gas or water well shall not be subject to sales tax. "Original construction" of an oil, gas or water well means all services performed by a contractor through the date of completion of the well. Any service performed in or on oil, gas or water wells other than as set forth herein shall be subject to sales tax.

(Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

***** Authenticated Kansas Administrative Regulation *****