**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-139** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Temporary storage of materials.** |
| **Keywords:** |  |
| **Approval Date:** | **12/27/2001** |

**Body:**

Office of Policy & Research

December 27, 2001

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Dear Ms. TTTTTT:

We wish to acknowledge receipt of your letter dated November 6, 2001, which was received by this office on December 21, 2001, regarding the application of Kansas Retailers’ Sales tax.

Generally, the answer to your question depends on how and where the items are purchased. If the items are purchased from an out-of-state vendor for a specific job that is outside Kansas and shipped to the contractor’s business location in Kansas, the contractor may claim exemption under the temporary storage provisions of K.S.A. 79-3702(e). To take advantage of this exemption, the contractor must: (1) purchase the items from an out-of-state vendor; (2) earmark the items for use outside Kansas; and (3) actually use the items out-of-state. This requires maintaining the items in an area segregated from the contractor’s normal inventory, if he or she maintains one, and being able to document that the items were purchased specifically for the out-of-state construction project. This exemption does not apply to purchases from Kansas vendors. If the Kansas contractor wants to be subject to tax in the other state where the construction is being performed and to buy materials from a Kansas vendor, the contractor would have to have the vendor deliver the items to the project site in the state where the construction is being performed.

If you can provide this department with the above information, we will be able to provide a definitive answer to your question.

If the contractor withdraws items from his or her Kansas inventory, the withdrawal is considered to be a taxable event that occurs in Kansas. This is because items in inventory have come to rest in Kansas and because the withdrawal for use occurs entirely within this state. The fact that contractor intends to remove the item from Kansas for use in another state does not exempt the transaction anymore than any other purchaser’s act of buying something from a Kansas retailer with the intention of taking it from Kansas for consumption in another state.

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. If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

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**Date Composed: 01/07/2002 Date Modified: 01/07/2002**