**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1998-149** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Service of renting or leasing tangible personal property.** |
| **Keywords:** |  |
| **Approval Date:** | **09/04/1998** |

**Body:**

Office of Policy & Research

September 4, 1998

TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT

Dear Ms. TTTTTTTT:

We wish to acknowledge receipt of your letter dated April 28, 1998, regarding the application of Kansas Retailers’ Sales tax.

K.S.A. 79-3603(h) imposes a sales tax upon: “the gross receipts from the service of renting or leasing of tangible personal property. . .”

Please be advised that sales tax is imposed on the total amount of each lease payment which the lessee is obligated under the contract to pay to the lessor for continued use of the tangible personal property. However, the Kansas Department of Revenue has ruled that K.S.A. 79-3603(h) does not apply to any transaction which is required under the federal income tax law to be reported as a sale and purchase by the lessor and lessee. In this case, if the subject of the transaction is tangible personal property, the transaction would be considered a sale of such property, subject to the tax imposed by K.S.A. 79-3603(a), with the total amount of the tax due at the point of sale. Further, the sales and use tax statutes in the state of Kansas do not contain a provision that would allow the lessor to make an election to remit the appropriate Kansas sales/use tax upfront on true lease transactions.

In either of the situations that you have described in the above referenced letter, the newly formed subsidiary would be required to be registered, collect and remit the Kansas sales/use tax, since the tangible personal property transferred is inventory held for resale. The newly formed subsidiary would be obligated to collect and remit the appropriate Kansas sales/use tax(es) on any operating leases, where the vehicles are garaged in the state of Kansas.

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

**Date Composed: 10/05/1998 Date Modified: 10/10/2001**