**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1999-114** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales of gopher bait used exclusively on land for agricultural production.** |
| **Keywords:** |  |
| **Approval Date:** | **05/11/1999** |

**Body:**

Office of Policy & Research  
  
May 11, 1999

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
  
Re: Kansas Sales Tax  
  
Dear XXXXXXXXXX:  
  
I am in receipt of your correspondence of April 21, 1999. Thank you for your inquiry.  
  
By your letter you ask whether sales of gopher bait used exclusively on land for agricultural production are exempt from Kansas sales tax. As you know, the Kansas sales tax is imposed by K.S.A. 79-3603. Subsection (a) of the statute imposes sales tax on:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

Exemptions from sales tax are found in K.S.A. 79-3606. Subsection (n) of the statute provides an exemption for:

(n) all sales or tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

The phrase “property which is consumed” is defined in K.S.A. 79-3602(m). The subsection provides:

(m) “Property which is consumed” means tangible personal property which is essential or necessary to and which is used in the actual process of and immediately consumed or dissipated in (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services or (3) the irrigation of crops, for sale in the regular course of business, and which is not reusable for such purpose. The following items of tangible personal property are hereby declared to be “consumed” but the listing of such property shall not be “consumed” but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon or an indication of, the type or types of property to be included within the definition of “property which is consumed” as herein set forth:  
(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used; and  
(B) electricity, gas and water.

Based on the statutes cited above, we are of the opinion gopher bait used exclusively on land for agricultural production meets the definition of “property which is consumed”, and that it falls within the exemption provided by K.S.A. 79-3603(n). As a result, the gopher bait would be exempt from Kansas sales tax.  
  
I trust this information is of assistance. If I can be of further service, please feel free to contact me.  
  
Sincerely,  
  
  
  
Jim Weisgerber  
Attorney  
Tax Specialist  
  
JW:jw  
  
  
**Date Composed: 05/13/1999 Date Modified: 10/11/2001**