**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2001-018** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Rail spur from main track; relation to exemption for manufacturing machinery and equipment.** |
| **Keywords:** |  |
| **Approval Date:** | **03/07/2001** |

**Body:**

Office of Policy & Research

March 7, 2001

XXXX
XXXX
XXXX

RE: Your e-mail request

Dear XXXX:

Thank you for your e-mail. You ask if a rail spur from the main track to your plant is exempt under the expanded exemption for manufacturing machinery and equipment. The new exemption is found at K.S.A. 2000 Supp. 79-3606(kk) and is explained in Notice 00-08. I will assume that your plant qualifies as a “manufacturing or processing business,” as that term is used in the statute.

Generally speaking, the new exemption is for manufacturing machinery and equipment. Such machinery and equipment is, and generally remains, tangible personal property or becomes an industrial fixture. A rail spur, by contrast, is generally regarded as an improvement to real property that is not as machinery and equipment.

As Notice 00-08 points out, production machinery and equipment does not include “buildings and other parts of real estate that are not otherwise exempt.” The term “other parts of real estate that are not otherwise exempt” describes a railroad spur, pavement needed for truck movement in and out of a plant, a airplane runway that services the plant, and docks or other facilities needed to tie-up river barges. A rail spur also would not qualify as an “industrial fixture” in the sense that the term is used in the statute. Accordingly, the materials being purchased for the rail spur are subject to Kansas sales tax. Similarly, the services to install the spur are also taxable if the spur has no connection with other construction.

I am forwarding your e-mail about economic development law exemption to Kathleen Smith with a request that she contact you. She will advise you if your company may qualify for any potential economic development benefits.

This is a private letter ruling and is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make an accurate determination by the department, this ruling is null and void. This private letter ruling will be revoked in the future by operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 03/21/2001 Date Modified: 10/11/2001**