**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-123** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Resale exemption certificates.** |
| **Keywords:** |  |
| **Approval Date:** | **09/11/1998** |

**Body:**

Office of Policy & Research

September 11, 1998  
  
  
XXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
  
  
Dear XXXXXXXXXXXXXXXXXX:  
  
The purpose of this letter is to respond to your letter dated August 18, 1998.  
  
You stated that a welding contractor rented a personnel lift from your company. The contractor is performing welding repairs for his customer and needed the lift to complete the job. The contractor issued to you a resale exemption certificate for the purpose of exempting the rental of the personnel lift from sales tax. You asked if this would be an appropriate use of a resale exemption certificate.  
  
It is not appropriate for a contractor to issue resale exemption certificates for the purchase or lease of tools or equipment.  
K.A.R. 92-19-66c states:

Purchase and lease of tools and equipment. (a) Each contractor, subcontractor and repairman shall be considered the final user or consumer of all tools, equipment and machinery purchased to perform construction services. Sales of tools, equipment and machinery to contractors, subcontractors and repairmen to perform construction services shall be subject to sales tax. With the exception of leases of equipment and machinery by a contractor under a project exemption certificate, leases of tools, machinery and equipment by a contractor to perform construction services shall be subject to sales tax.  
(b) Leases of tools, equipment and machinery by a contractor are not exempt from sales tax as an ingredient or component part of the services performed by the contractor, whether the services are taxable or exempt from the sales tax.  
(c) Leases of tools, equipment and machinery by a contractor are not exempt from sales tax as consumed in the production of the service performed by the contractor, whether the services are taxable or exempt from the sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

This is a private letter ruling pursuant to Kansas Administrative Regulation 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 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 ruling.  
  
Sincerely,  
  
  
Mark D. Ciardullo  
Tax Specialist  
  
MDC  
  
  
**Date Composed: 09/11/1998 Date Modified: 10/10/2001**