**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-62** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales in interstate commerce.** |
| **Keywords:** |  |
| **Effective Date:** | **07/24/1998** |

**Body:**

Office of Policy & Research

July 24, 1998

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

Dear XXXXXXXXXX:

The purpose of this letter is to respond to your letter dated May 14, 1998.

You generally stated in your letter:

XXXXXXXXXXXXXXXXXXXXX. is a manufacturer of XXXXXXXXXXXXXX and is located in XXXXXXXXXXX, Kansas. You receive and process orders for a number of major common carriers whose headquarters are in other states. The orders are received via the mail, phone, fax or EDI(electronic data exchange). The goods are for use by the common carriers at terminal locations throughout the United States. The buyer will specify the orders are to be shipped out of state via deadhead company business on their own trucks. Your bill of lading will specify the out of state destination. Since these companies operate as common carriers with terminal locations in XXXXXXX, Kansas they send their own trucks to pickup and deliver the merchandise out of state. If your customer was anyone other than a common carrier, and the goods were shipped out of state there would not be any question that sales tax does not apply. In addition, it does not make economic sense for your customer to hire another common carrier to avoid the taxability issue of picking up the goods in their own trucks.

In essence you are seeking guidance regarding Kansas retailers’ sales tax in the following scenario:

A member (“Corporation A”) of an “affiliated group” as defined by Internal Revenue Code, orders property from you company (“Retailer”). Corporation A is not a Common Carrier. Another member (“Corporation B”) of the “affiliated group” is a common carrier.

Corporation A, directs the retailer to ship the property to a location outside the state of Kansas via Corporation B. If this transaction meets the conditions of Kansas Administrative Regulation 92-19-29, then the sale would not be subject to Kansas retailers’ sales tax

K.S.A. 92-19-29 states:

Sales in interstate commerce.
When tangible personal property is sold within the
state and the seller is obligated to deliver it to a point
outside the state or to deliver it to a carrier
or to the mails for transportation to a point with-
out the state, the retail sales tax does not apply:
Provided, The property is not returned to a point
within this state. The most acceptable proof of
transportation outside the state will be:
(a) A waybill or bill of lading made out to the
seller's order calling for delivery; or
(b) An insurance or registry receipt issued by
the United States postal department, or a post of-
fice department's receipt; or
(c) A trip sheet signed by the seller's delivery
agent and showing the signature and address of
the person outside the state who received the de-
livered goods.
However, where tangible personal property
pursuant to a sale is delivered in this state to the
buyer or his agent other than a common carrier,
the sales tax applies, notwithstanding that the
buyer may subsequently transport the property
out of this state. (Authorized by K.S.A. 79-3618,
K.S.A. 1971 Supp. 79-3602, 79-3606; effective, E-
70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971;
effective Jan. 1, 1972.)

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 07/27/1998 Date Modified: 10/10/2001**