**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-101** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Dental laboratory metal alloy sales.** |
| **Keywords:** |  |
| **Approval Date:** | **12/15/2002** |

**Body:**

Office of Policy & Research

December 15, 2002

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RE: Your letter of November 14, 2002

Dear XXXX:

Thank you for your recent letter. In it you ask if metal alloy sold as ingots to a dental laboratory is exempt from sales tax. The alloy is used exclusively to fabricate crowns and bridges that dentists purchase for patients under prescription orders. You also ask that, if the sale of the ingot is exempt, which exemption certificate should a dental labs use. The answer to your question is that these ingots may be purchased exempt from sales and use tax by a dental lab. If the dental lab is registered to report Kansas sales tax, the lab should provide the ingot vendor with a resale exemption certificate, form ST-28A. If the dental lab is not registered to collect Kansas sales tax, it should use a Form ST-28, "Designated or Generic Exemption Certificate," to claim exemption.

Generally, dental labs are viewed as fabricators under Kansas law. They produce a single product for a single customer rather than operating an integrated manufacturing line that manufactures products that are packaged, warehoused, and held for wholesale or retail distribution. As a fabrication businesses, a dental lab may buy the materials that will become a component part of the fabricated item exempt from sales tax. Sales tax is then due on the total selling price for taxable sales. For example, a seamstress who fabricates curtains to the special order of a homeowner should buy the materials and thread exempt and charge the homeowner sales tax on the selling price of the curtain. In the case of a dental lab, the lab may purchase items that make up a bridge or crown, such as the alloys, plastics, and, pins, exempt from sales tax and charge tax on their taxable retail sales. In this case, a retail sale to a dentist under a prescription order is not a taxable sale because of the exemption found at K.S.A. 2001 Supp. 79-3606(r) for sales of prosthetic devices.

Some dental labs are registered retailers because they sell dental supplies and other items to dentists. These labs should be registered to collect and remit sales tax on their taxable retail sales to dentists and others. Labs that are registered Kansas retailers should use Form ST-28A or Form ST-28D, Ingredient or Component Part Exemption Certificate," to claim exemption on their purchases of alloys and other components that become part of the bridges and crowns that they fabricate for sale.

Other labs only sell crowns and bridges to dentists under a prescription order. These labs are not required to be registered to report sales tax since they are not engaged in making taxable retail sales. These labs should use Form ST-28, the Designated or Generic Exemption Certificate. They should indicate that the alloy, plastic, pins and other items that exemption is being claimed for are used exclusively to fabricate into prosthetic devices that are sold pursuant to a prescription order. AS an alternative, the lab could apply to the department for a Manufacturers or Processors' exemption number and, once received, use form ST-28D, Ingredient or Component Part Exemption Certificate.

Please note that a dental labs purchases of machinery and equipment are subject to sales tax, as are purchases of tools and other items that are for use by dental labs. Dental labs do not qualify for the integrated production exemption found at K.S.A. 2001 Supp. 79-3606(kk). Dental laboratories are not what is "commonly regarded by the general public as an industrial manufacturing or processing operation." Similarly, dental labs do not operate an integrated manufacturing operation that fabricates standard products for resale that are packaged, warehoused, and held for resale.

I hope that I have answered all of your questions. If you need to discuss anything further, please call me at 785-296-3081. This private letter ruling 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, case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 12/27/2002 Date Modified: 12/27/2002**