**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-034** |

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| **Tax Type:** | **Vehicles Rental Excise Tax** |
| **Brief Description:** | **Application of vehicle rental excise tax to truck rentals** |
| **Keywords:** |  |
| **Approval Date:** | **05/28/2003** |

**Body:**

Office of Policy & Research

May 28, 2003

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XXXX

RE: You letter dated May 8, 2003

Dear XXXX:

I have been asked to answer your letter that we received earlier this month. In it, you ask how the vehicle rental excise tax applies to truck rentals. Your specific concern is how the 28 day provision should be treated. The 28 day provision is part of the imposition statute, K.S.A. 79-5117(a):

(a) In addition to the tax imposed pursuant to the Kansas retailers' sales tax act, there is hereby imposed an excise tax at the rate of 3 1/2% upon the gross receipts received from the rental or lease for a period of time not exceeding 28 days of motor vehicles which except for the operation of K.S.A. 79-5101, and amendments thereto, would be subject to taxation pursuant to K.S.A. 79-5101 et seq., and amendments thereto.

The 28 day provision is similar to a provision contained in the Kansas transient guest tax act. Both provisions exempt rental charges from sales tax if the rental period is for more than 28 consecutive days.

On a practical basis, most hotels charge the transient guest tax on hotel billings to a guest until the guest has rented a hotel room for more than 28 consecutive days. Once the 28 day requirement has been met, the hotel refunds the previously collected transient guest tax to the guest on the next guest billing.

Most consecutive 28 day periods cover two monthly transient guest tax returns, with the refund to the guest occurring before the return is filed for the second month. The hotel is allowed to claim a deduction on the next transient guest tax return for the tax that was reported on the prior return as having been collected from the guest. Any transient guest tax collected during the current reporting period that is refunded to the guest is treated as a wash on the next return, since the tax payment and the tax refund occur during that reporting period for that return.

This same procedure can be used for truck rentals. Rather than relying on a customer's "intent" to rent a vehicle for twenty or thirty days, a truck rental company can charge the vehicle rental tax on leases and then refund the tax once the 28 day period passes. After the tax refund has been paid to the vehicle renter, remittances to the department made on the prior return by the rental company based on tax collected from the vehicle renter can be deducted on the next return. Any tax that is collected and refunded during the reporting for a next return is treated as a wash, since the tax payment and the tax refund occur during the reporting period for that return.

Obviously, this procedure does not need to be followed where there is no reasonable expectation that the lease will run for less than 28 days. In the exceptional cases where the "no reasonable expectation" is not met, the vehicle rental excise tax must be collected from all customers who actually lease a vehicle for twenty-eight days or less.

I hope that I have adequately answered all of your questions. If you have more, 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, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 05/29/2003 Date Modified: 05/29/2003**