**Opinion Letter**

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| **Letter Number:** | **O-1999-06** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Transfer of tangible personal property from one company to another.** |
| **Keywords:** |  |
| **Approval Date:** | **03/02/1999** |

**Body:**

Office of Policy & Research  
  
  
March 2, 1999

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Dear Ms. TTTTTT:  
  
  
We wish to acknowledge receipt of your letter dated November 5, 1998, regarding the application of Kansas Retailers’ Sales tax.  
  
This is an informational letter only and not a private letter ruling pursuant to K.A.R. 92-19-59.  
  
K.A.R. 92-19-72(b) states in part: “Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, even though the entities:  
(1) Share common principals or ownership and operations;  
(2) share the same business location;  
(3) file consolidated income tax returns for federal and state income purposes; or  
(4) do not enjoy a profit or expense as a result of the transaction. . .”  
  
Please be advised that in both Scenario I and II, your company would be obligated to collect Kansas sales tax, since these transactions would be considered subject to Kansas sales tax, pursuant to K.A.R. 92-19-72(b). The Supreme Court of Kansas, in a decision dated December 8, 1995, held that this regulation was valid. See PEMCO, INC. V. KANSAS DEPARTMENT OF REVENUE 907 P. 2d 863, 258 Kan. 717 (Kan. 1995).  
  
If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.  
  
Sincerely yours,  
  
  
  
Thomas P. Browne, Jr.  
Tax Specialist  
  
TPB  
  
  
**Date Composed: 03/22/1999 Date Modified: 10/10/2001**