**Private Letter Ruling**

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| **Ruling Number:** | **P-2000-055** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Diesel fuel consumed in various quarry operations.** |
| **Keywords:** |  |
| **Approval Date:** | **10/30/2000** |

**Body:**

Office of Policy & Research

October 30, 2000

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated June 23, 2000. In it, you ask if diesel consumed in certain quarry operations are “consumed in production” and therefore exempt from Kansas sales and compensating taxes.

Your customer operates a sandpit. 1.) Sand is pumped from the pit via a diesel-powered pump on a floating barge. 2.) The sand is screened and separated. 3.) The sand is then moved by diesel powered front-end loader from the screens to a stockpile. 4.) Sold sand is loaded into trucks by diesel powered front-end loader. You ask if diesel used in any of these processes are exempt from Kansas sales tax.

The applicable statutes are K.S.A. 79-3606(n), which provides for tax exemption for sales of tangible personal property (in this case diesel fuel) which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property. . . for ultimate sale at retail within or without the State of Kansas. In addition, K.S.A. 79-3602(m) defines "property which is consumed" as tangible personal property which is essential or necessary to and which is used in the actual process of and immediately consumed or dissipated in the production, manufacture, processing, mining, drilling, refining, or compounding of tangible personal property for sale in the regular course of business and which is not reusable for such purposes.

It is the opinion of the Kansas Department of Revenue:

The diesel fuel used or consumed in process 1. and 2. is exempt.

Processes 3. and 4. do not qualify for the exemption as “consumed in production”. Diesel used in these activities is not exempt from Kansas sales or compensating taxes.

This is a private letter ruling pursuant to K.A.R. 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 ruling will be revoked by operation of law without further department action if there is a change in the controlling statutes, administrative regulations, revenue rulings or case law that materially effects this determination. Please call me at (785) 296-5330 if you need to discuss this matter further.

Sincerely,

Mark D. Ciardullo
Tax Specialist

**Date Composed: 10/30/2000 Date Modified: 10/11/2001**