**Private Letter Ruling**

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| **Ruling Number:** | **P-2008-006** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Dietary supplements formulated to help control blood sugar levels.** |
| **Keywords:** |  |
| **Approval Date:** | **10/16/2008** |

**Body:**

Office of Policy & Research

October 16, 2008

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Dear Sirs:

The purpose of this letter is to respond to your request dated September 12, 2008. In it you asked if the sale of your product “XXXXXXX” is subject to Kansas retailers’ sales tax. XXXXXXXXXX is a dietary supplement formulated to help control blood sugar levels.

K.S.A. 79-3606(jjj) exempts from Kansas retailers’ sales tax dietary supplements sold pursuant to a prescription order.

If you your product meets the definition of a dietary supplement and is dispensed pursuant to prescription order, then the sale is exempt for sales or compensating taxes, otherwise the sale would be taxed.

For you convenience I have copied the statute.

K.S.A. 79-3606 (jjj) . . . exempts from sales tax. . . all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

This is a private letter ruling pursuant to K.A.R. 92-19-59, based on the representations you have made. To the extent those representations are incomplete or inaccurate, this ruling is 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.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

MDC

**Date Composed: 10/17/2008 Date Modified: 10/17/2008**