**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-134** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Maintenance contracts.** |
| **Keywords:** |  |
| **Approval Date:** | **09/23/1998** |

**Body:**

Office of Policy & Research

September 23, 1998

XXXXXXXXXXXXXXXXXXXXXX
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Dear XXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated August 18, 1998.

You stated in your letter that your company is in the business of selling building materials. Your company leases trucks, cranes, trailers, and forklifts from various financing companies for use in your business. The financing company requires you to secure a maintenance contract for this leased equipment. The maintenance contract is separate from the lease agreement. The entity that you purchase maintenance contracts from is not the company from which you lease equipment.

Companies engaged in the sale of maintenance contracts are retailers for purposes of the Kansas retailers’ sales tax act. They are required to register, collect and remit to Kansas, sales tax on their gross receipts. Accordingly, you should be paying sales tax to the maintenance company on their monthly charges to you.

If a repair is made pursuant to the maintenance contract by a third party, the sale between the maintenance contract company and the third party is a sale for resale and not subject to sales tax. See K.A.R. 92-19-62(d), per Appendix. Accordingly, the third party repairman (the “local dealer”) should not be charging sales tax to the maintenance company.

This private letter ruling is pursuant to Kansas Administrative Regulation 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 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 ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 09/23/1998 Date Modified: 10/10/2001**