**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-047** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Gross receipts from the providing of cleaning services.** |
| **Keywords:** |  |
| **Approval Date:** | **06/11/2002** |

**Body:**

Office of Policy & Research

June 11, 2002

XXXXXXXXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXXXXX

Dear XXXXXXXXX:

The purpose of this letter is to respond to your letter dated April 20, 2002. In it, you request advice on the application of Kansas retailers’ sales tax on the gross receipts from the providing of cleaning services.

In your letter you stated in pertinent part:

XXXXXXX is requesting a Private Letter Ruling. On April 18. 2002 XXXXX received a letter from XXXXXXXXXX. requesting a sales tax refund for the year of 1999. Enclosed is the letter

XXXXX has been doing business with XXXXXXXXXXXXXXXXXXXXX. since 1999. They are our only customer. The business is based mainly on assembling pallets XXXXXXXXXXXX. However, a small portion has been cleaning their XXXXXXXXXXXX chains.

It is only the invoices for cleaning chains which are in question.

We have been charging sales tax and remitting this same amount to the state of Kansas since we were under the assumption that we were providing a service and thus required to charge sales tax. We have never received any previous communication to the contrary. Now there is doubt and would appreciate a private letter ruling.

The XXXXXXXX chains our picked up by our truck where they are delivered to our place of business XXXXXXXXXXXX. The cheese is scraped off the chain and rubbed down before delivering to XXXXXXXXXXXXXXXXXXXXX where more chain is picked up. The amount of chain varies and also the time.

We hope that this provides you with a description of our business operation since its inception to the present and that you will respect our right to privacy for the sake of competition in the work place.

Once again we need this ruling to continue to service our only customer and still comply with the sales tax rules of Kansas.

The service described in your letter is not subject to Kansas retailers’ sales tax.

Your customer is due a refund of sales taxes paid in error. I have enclosed a form for that purpose.

The following paragraphs explain the Department’s rationale.

K.S.A. 79-3603(q) imposes a sales tax on, “the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property . . . which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property”

In Re Tax Appeal of R & R Janitor Service, 9 Kan. App. 2d 500, 505 (1984) (“Maintaining” is keeping in repair or replacing, and is not synonymous with "cleaning").

The Court stated in part:

“R & R Janitor Service performed various cleaning services such as vacuuming, dusting, cleaning bathrooms, washing windows, and emptying trash. We find that a requirement in an ordinance of a duty ‘to maintain’ does not impose a duty of keeping siphons clean, since ‘to maintain’ is to ‘keep in repair or replace.’ Janitor work is not maintenance under a statute designating a fund for ‘purchasing, constructing, repairing and maintaining buildings for public school purposes; maintenance meaning holding, keeping or preserving them in their existing state or condition.’ The Nevada court held provisions in a contract for ‘repair and maintenance’ did not require parties to keep alleys clean, but did require keeping the alley's surfaces in their original condition. Cleaning services do not constitute ‘servicing or maintaining an item of tangible personal property which has been fastened to, connected with our built into real property’ within the meaning of that statute.”

K.S.A. 79-3606(n) exempts from sales tax: "all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, irrigation and in providing such services."

The following uses of tangible personal property are not exempt from sales tax: shipping, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing.

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,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 06/18/2002 Date Modified: 06/18/2002**