**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-036** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Destination-based sourcing rules.** |
| **Keywords:** |  |
| **Approval Date:** | **07/11/2003** |

**Body:**

Office of Policy & Research

July 11, 2003

XXXX
XXXX
XXXX

Re: Your Correspondence dated June 20, 2003

Dear Mr. XXXX:

You have requested a private letter ruling concerning the new destination sourcing rules, based on the following facts:

On occasion, we have sales staff that will take possession of product for a customer and personally deliver it to them. In these circumstances, the salesperson signs for and becomes personally liable for the product (i.e. if the customer does not pay, the salesperson will have to). Under these circumstances, should the sales tax being charged to the customer be the rate for our location (XXXX, KS), or the customer’s location? It is our feeling that as the salesperson is liable for payment, they have become an agent for the customer and we should charge the rate for our location, as this is where the sale takes place.

In general, the new destination sourcing rules enacted in 2003 House Bill 2005 provide that the retail sale should be sourced to the location where the customer receives the product, for purposes of determining the local sales tax rate that applies to the transaction. If the customer receives the product at the seller’s business location, the local sales tax rate at that location applies. If seller delivers the product to the customer at the customer’s location, then the local sales tax rate in effect at the customer’s location would apply. You indicated that the sales staff delivering product to customers are employees of XXX. Because XXX employees are delivering the product to the customer’s location, the local sales tax rate in effect at the customer’s location should apply. However, if the product in possession of the sales staff is refused by the customer and the sales staff becomes personally responsible to pay for the product, the sales staff could be regarded by XXX as the “purchaser.” If the sales staff took possession of the refused product at XXX’s business location, then the local sales tax rate in effect at that location should apply.

This is a private letter ruling and 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.

Very truly yours,

Richard L. Cram

**Date Composed: 07/14/2003 Date Modified: 07/24/2003**