**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2006-003** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Compacting and bailing equipment.** |
| **Keywords:** |  |
| **Approval Date:** | **02/15/2006** |

**Body:**

Office of Policy & Research

February 15, 2006

XXXX
XXXX
XXXX

RE: Your letter dated December 8, 2006

Dear XXXX:

Thank you for your recent letter. You work for a large retailer that is buying compacting and baling equipment. This equipment will be used to compress, bale, and band the cardboard boxes that your retail store receives from manufacturers and distributors. Your business will sell the baled cardboard to a recycler. You ask if a retail store's purchase of this equipment for use in Kansas is subject to Kansas sales tax. Please be advised that these purchases are taxable.

Under Kansas law, a retail store cannot qualify as an industrial processor or manufacturer. Retail stores do not operate integrated production operations and cannot qualify for the integrated plant exemption under K.S.A.79-3606(kk). To qualify for this exemption a business must operate what is "commonly regarded by the general public as an industrial production operation to manufacture, process, fabricate, finish, or assemble items for wholesale or retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or operation." *K.S.A. 79-3606(kk)(2)(D).* "[M]anufacturing or processing businesses do not include, by way of illustration by not of limitation, nonindustrial businesses that whose operation is primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business." *K.S.A. 79-3606(kk)(2)(D)(i).*An industrial business is one that employs large numbers of personnel and makes large capital expenditures to create something of value.

The fact that your retail store buys equipment to compress and bale the large number of boxes it receives does not transform the retail business into an industrial manufacturing or processing operation. You are baling the cardboard as a incidental part of your retail operations. Accordingly, the exemption that is extended at K.S.A. 79-3606(kk) does not exempt your purchase of compacting and baling equipment. This answer is consistent with the holdings of tax authorities in other states. *See e.g. In re Petition of Lowe's Home Centers, Inc.* New York Division of Tax Appeals, Determination DTA No. 819043 (March 11, 2004); *Illinois General Information Letter*ST 99-0111-GIL (March 25, 1999).

I hope that this answers your questions clearly. If you need to discuss this matter further, please call me at 785-295-3081. This is private letter ruling. It 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 ruling.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 02/17/2006 Date Modified: 02/17/2006**