**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-156** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Exemption for prosthetic and orthopedic appliances.** |
| **Keywords:** |  |
| **Approval Date:** | **10/09/1998** |

**Body:**

Office of Policy & Research

October 9, 1998

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated September 14, 1998.

Your company sells a product called XXXXXXXXXXXXXXXXXXXXXXX.

XXXXXXXXX is a device that can enable a man with impotence to obtain and sustain a satisfactory erection to complete intercourse.

K.S.A. 79-3606(r) exempts from Kansas retailers’ sales tax:

all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

It is the opinion of the Kansas Department of Revenue that XXXXXXXXX qualifies under the state’s definition of prosthetic and orthopedic appliances, since it is “used to alleviate the malfunction of any part of the body.” The department would agree that XXXXXXXX, when sold pursuant to a prescription order would qualify as a prosthetic device exempt from Kansas retailers’ sales tax.

This is a private letter ruling 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: 10/12/1998 Date Modified: 10/10/2001**