**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1999-09** |

|  |  |
| --- | --- |
| **Tax Type:** | **Corporate Income Tax; Individual Income Tax** |
| **Brief Description:** | **Qualified Business Facility Employee** |
| **Keywords:** |  |
| **Approval Date:** | **01/25/1999** |

**Body:**

Office of Policy & Research

January 25, 1999  
  
TTTTTTTTTTT  
TTTTTTTTTTT  
TTTTTTTTTTT  
TTTTTTTTTTT  
  
Dear Mr. TTTTTT:  
  
We wish to acknowledge receipt of your letter dated December 15, 1998, regarding the definition of a “qualified business facility employee” for purposes of tax credits allowed by K.S.A. 74-50,113-119; K.S.A. 79-32,153-180, and the amendments thereto.  
  
K.S.A. 79-32,154(d) states in part: “. . . Qualified business facility employee shall mean a person employed by the taxpayer in the operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. A person shall be deemed to be engaged if such person performs duties in connection with the operation of the qualified business facility on: (1) A regular, full-time basis; (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (3) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. . .”  
  
Please be advised that it is the position of this office that the “leased employees” that you have described in the above referenced letter would not meet the definition of a “qualified business facility employee” for purposes of tax credits allowed by K.S.A. 74-50,113-119; K.S.A. 79-32,153-180, and the amendments thereto. The reasons for this position is that the “leased employees” are not considered employees of the TTTTTTTTTTTTTTTTTTTT, by the federal government, and in fact are issued a W-2 from a company, other than TTTTTTTTTTTTTTTTTTTTTT. Further, the TTTTTTTTT TTTTTTTTTTT does not provide health and welfare benefits, or a retirement plan for the “leased employees”. Nor, is the workman’s compensation premium for the “leased employees” TTTTTTTTTTTTTTTTTTTTTTTTTTTTT.  
  
This is a private letter ruling pursuant to K.A.R. 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 ruling will be revoked in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling. If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.  
  
Sincerely yours,  
  
  
Thomas P. Browne, Jr.  
Tax Specialist  
  
TPB  
  
  
**Date Composed: 01/26/1999 Date Modified: 10/10/2001**