**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-166** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Billing, collection and reporting of Kansas State sales tax by an electric and natural gas energy supplier operating solely in Kansas.** |
| **Keywords:** |  |

**Body:**

Office of Policy and Research

July 28, 1999

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Re: Kansas Sales Tax

Dear XXXXX:

Your correspondence of May 26, 1999, has been referred to me for response. Thank you for your inquiry.

Your letter indicates your company is an electric and natural gas energy supplier operating solely in the State of Kansas. Due to deregulation and the unbundling of services in the utility industry, you are uncertain as to how billing, collection and reporting of Kansas state sales tax, county sales tax, and city sales tax should be accomplished. By your letter you seek our advice.

Your letter presents three billing scenarios. You indicate that in each case “commodities” refers to the energy product (electricity or natural gas) being sold by an energy provider to the consumer, and that while “commodity” can be either your company or a competitive provider, all three scenarios envision a commodity purchase from a competitive provider. “Distribution” refers to the facilities (lines, poles, pipes, transformers, meters, buildings, vehicles, etc.) and activities (operation, customer services, meter reading, billing, etc.) required to deliver the commodity, which is provided only by the regulated utility; your company. Your scenarios, and our comments concerning them, are set forth below.

**1. Our company bills and collects for both commodity and distribution:**

Our company bills both the commodity charge for the provider and the distribution charge for itself on the same bill. Is sales tax computed individually on each component and shown separately on the bill? Which entity (us or the provider) is required to collect, report and pay the taxes?

**2. Our company bills and collects for only distribution:**

Our company bills only the distribution charge to the consumer. The provider bills the commodity directly to the consumer. Our company provides the volumes (from the meter reading) to the provider for billing. Is sales tax computed and billed for the distribution charge? Is it the providers responsibility to bill, collect and pay the sales tax on the commodity?

**3. Provider bills and collects for both commodity and distribution:**

Our company calculates and supplies the provider with the distribution charge. The provider then bills the consumer for the commodity and the distribution. The consumer pays the provider for both charges and the provider in turn pays the distribution to our company. Is sales tax computed individually on each component and shown separately on the bill? Which entity, (the provider and/or our company) is required to collect, report and pay the taxes?

The three scenarios present the question of whether sales tax is computed individually on each component and shown separately on the bill. Assuming the utility services are unbundled, tax should be computed individually on each component. The manner in which charges and tax are shown on the bill to the consumer is not controlled by tax law.

The three scenarios also present the question of whether it is the commodity provider or the distributor who is responsible for collecting, reporting and paying the taxes to the state. There may be upon a specific agreement between the entities with regard to their duties to each other where one agrees to include the other’s charges on its bill. Ultimately, however, a retailer is responsible for collecting, reporting and remitting tax on their gross receipts.

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.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Jim Weisgerber
Attorney
Tax Specialist

JW:jw

**Date Composed: 08/04/1999 Date Modified: 10/11/2001**