**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-012** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Leases; financing transactions** |
| **Keywords:** |  |
| **Approval Date:** | **02/26/2003** |

**Body:**

Office of Policy & Research

February 26, 2003

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Dear Ms. TTTTTT:

We wish to acknowledge receipt of your letter dated October 7, 2002, regarding the application of Kansas Retailers’ Sales tax.

K.S.A. 79-3603(h) imposes a sales tax upon: “the gross receipts from the service of renting or leasing tangible personal property. . .”

In your letter you have raised the question as to whether certain transactions referred to as “leases” but in fact are in the nature of financing transactions, should be subject to the tax imposed by K.S.A. 79-3603(h).

On this regard, the Department of Revenue has ruled that K.S.A. 79-3603(h) does not apply to any transaction which is required to be reported as a sale and purchase by the lessor and lessee respectively for federal income tax purposes. However, if the subject of such transaction is tangible personal property, the transaction would be considered a sale of such property, subject to the tax imposed by K.S.A. 79-3603(a).

In the case of a transaction which is referred to as a “lease” but which constitutes a “sale” for sales tax purposes, the gross receipts upon which any Kansas sales or use tax may be due must equal to whichever of the following situations is applicable:

1) When reporting sales or use tax on an accrual basis, gross receipts are defined as the sales price, as determined for federal income tax purposes.

2) When reporting sales or use tax on a cash basis, gross receipts are the amount of each lease payment, minus interest or other charges, as determined for federal income tax purposes.

The department has determined that the lease with a nominal purchase price at the end of the lease would actually be a sale and the above reporting requirements should be followed. If the lease has a buy-out clause at a fair market value, then it would be considered a true lease, and sales tax would be due on each lease payment, as well as the buy-out clause, if it is exercised.

Kansas sales tax shall be imposed on the total amount of each lease payment which the lessee is obligated under contract to pay the lessor.

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: 03/12/2003 Date Modified: 03/12/2003**