**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-030** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Purchases of weed barrier fabric.** |
| **Keywords:** |  |
| **Approval Date:** | **05/27/2003** |

**Body:**

Office of Policy & Research

May 27, 2003

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RE: Your letter dated May 9, 2003

Dear XXXX:

Thank you for your recent letter. In it, you ask if purchases of weed barrier fabric are subject to Kansas sales tax. Please be advised that the sales are subject to Kansas sales tax.

According to a publication by Kansas State University entitled "Weed Barrier Fabric Mulch for Tree & Shrub Planting," weed barrier fabric is a polypropylene geotextile product with a texture similar to burlap. The barrier is laid over areas where trees and shrubs are planted, with slits cut in the barrier to allow the trees and scrubs to penetrate it. The woven fabric resists deterioration from exposure to sunlight and will not biodegrade. Weed barrier fabric eliminates vegetative competition with newly planted trees and scrubs by acting as a mulch. It conserves soil moisture by reducing evaporation. Water can penetrate the fabric but sunlight cannot, so vegetation will not grow through it. The product is guaranteed for five years, and provides effective control of weed and grasses until trees and shrubs are established. Weed barrier fabric comes in 300-foot to 750-feet rolls that range from 4 to 10 feet wide. It also is available in squares ranging from 3 to 6 feet across. You indicate that most, but not all of the fabric, is used to plant windbreaks that are funded though the federal Conservation Reserve program.

The Kansas sales tax act currently exempts certain purchases that are used to prevent soil erosion on agricultural land. The exemption extends to:

all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use. . . . *K.S.A. 79-3606(mm).*

While this exemption is broad, it is not all inclusive. It is limited to seeds and seedlings, fertilizers, and pest control chemicals. The exemption does not cover mulch, weed fabric barriers, or similar tangible personal property that covers the soil to protect seedlings or plants. The sale of weed fabric barriers is not exempt under this exemption.

Kansas also extends a sales tax exemption to farm machinery and equipment. For the purpose of this exemption, farm machinery and equipment is defined as all machinery and equipment that is ordinary and necessary for the growing or raising of agricultural products. This definition includes implements of husbandry and other production farm equipment. This generally includes field equipment, grain drying and handling equipment, and similar equipment that is directly used in farm production operations. Weed fabric barriers are not used as production equipment, and probably is not equipment at all. While the fabric protects the soil, which allow trees and scrubs to grow, which protects Kansas farmland from erosion, which allows crops to grow, this relationship is too remote to qualify for exemption under the current definitions of farm machinery and equipment. The Kansas farm machinery and equipment exemption does not extend to purchases of weed fabric barriers.

I know of no other Kansas sales tax exemption that would apply to sales of weed fabric barriers used to protect seeds and tree seedling planted for soil conservation purposes. Accordingly, Kansas sales tax should be collected on sales of the fabric to farmers and ranchers who use the fabric in their soil conservation efforts.

I hope that my letter adequately answers all of your questions. If you have any more, please call me at 785-296-3081. 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.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 05/29/2003 Date Modified: 11/10/2004**