**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-037** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Destination-based sourcing rules - gifts.** |
| **Keywords:** |  |
| **Approval Date:** | **07/23/2003** |

**Body:**

Office of Policy & Research

July 23, 2003

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Re: Your Letter to Secretary Wagnon dated July 16, 2003

Dear XXXX:

Secretary Wagnon has forwarded to me your letter for response. You have requested a private letter ruling concerning how the new destination-based sourcing rules would apply to a situation in which someone orders a gift basket from your business and requests that you mail or deliver it to someone else at a different location as a gift. You indicated that you had contacted the Wyoming Department of Revenue (Wyoming being a destination-based sourcing state), and they advised that under their interpretation, the state and local sales tax in effect at your business location should apply to the transaction.

The new destination-based sourcing rules effective beginning July 1, 2003 in Kansas are contained in Section 16 of House Bill 2005. The relevant statutory language provides:

(a) the retail sale . . . of a product shall be sourced as follows: (1) When the product is received by the purchaser at the business location of the seller, the sale is sourced to that business location; (2) when the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, *or the purchaser’s donee*, [italics added] designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, know to the seller. . . .

Based on the above language, if a customer enters your business premises and purchases a gift basket from you, taking possession of the product at your location, the state and local sales tax in effect at that location applies. If a customer orders a gift basket from your business and, instead of entering your business premises and taking possession of the gift basket, instructs you to mail or deliver the gift basket to someone else at a different location, then the state and local sales tax in effect at that shipping or delivery address applies to the transaction.

I have not reviewed the Wyoming destination-based sourcing statute, which could differ from the above language. However, in order for Kansas (or any other state) to be eligible to join the Streamlined Sales Tax Agreement, the above language must be adopted. Please let me know if you have additional questions.

Very truly yours,

Richard L. Cram

cc: Joan Wagnon

**Date Composed: 07/24/2003 Date Modified: 07/24/2003**