**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2004-042** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Isolated or occasional motor vehicle sales.** |
| **Keywords:** |  |
| **Approval Date:** | **07/28/2004** |

**Body:**

Office of Policy & Research

July 28, 2004

XXXX
XXXX
XXXX

Re: Private Letter Ruling Request Dated July 21, 2004

Dear XXXX:

You indicate that Company A and Company B will be transferring vehicles to LLC C, a joint venture between these two entities. The vehicles will be titled in the name of LLC C. It appears that both of these entities will be transferring part, but not all, of their assets to LLC C. You ask whether the above transfers would be considered isolated or occasional motor vehicle sales subject to sales tax.

Pursuant to K.S.A. 2003 Supp. 79-3603(o), the isolated or occasional sale of a motor vehicle is subject to sales tax. This statute contains the following two exceptions:

(1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company.

The definition of “persons” at K.S.A. 2003 Supp. 79-3602(z) includes any individual, firm, copartnership, association, or corporation (among other types of entities).

Your letter does not indicate what Company A and Company B will be receiving from LLC C in exchange for the motor vehicle transfers. Without that information, we cannot determine for certain whether the first exception in K.S.A. 2003 Supp. 79-3603(o) would apply. Under that exception, if Company A and Company B, each being corporations, transferred motor vehicles to LLC C, a limited liability company, solely in exchange for membership interests in such limited liability company, such transfers would not be subject to sales tax. However, if Company A and Company B are receiving something other than membership interests in LLC C, the transfer would not fit within that first exception. Given that neither Company A nor Company B are transferring all of their assets to LLC C, the second exception does not apply.

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 to you, please contact me at (785) 296-8042.

Very truly yours,

Richard L. Cram

**Date Composed: 07/30/2004 Date Modified: 07/30/2004**