**Opinion Letter**

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| **Letter Number:** | **O-2011-011** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Pet food pallets and shrink wrap.** |
| **Keywords:** |  |
| **Approval Date:** | **11/17/2011** |

**Body:**

Office of Policy & Research

November 17, 2011

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XXXX

RE: Your letter dated November 7, 2011

Dear XXXX:

Thank you for your recent letter. One of your clients manufacturers pet food in Kansas. The pet food is bagged and placed on wood pallets. The bags and pallets are then wrapped in shrink wrap, which is a plastic film that shrinks tightly over the bags and pallet when heat is applied. This allows the pet food to be easily handled at the manufacturing plant and during subsequent shipment and storage.

The manufacturer does not have an ownership interest in the pallets or shrink wrap that is separate or apart from its ownership interest in the pet food. The wholesale or retail buyer that unwraps the shrink-wrapped pet food bags for sale or distribution has no obligation whatsoever to return the pallets or shrink wrap to the manufacturer or to anyone else.

You ask if the pallets or shrink wrap are subject to Kansas sales tax when purchased by the manufacturer. The answer is no. This is because of the definition of "ingredient or component part" in K.S.A. 79-3602(p) and the exemption for such parts in K.S.A. 79-3606(m).

The definitions provides in parts relevant here:

(p) "Ingredient or component part" means tangible personal property which is necessary or essential to, and which is actually used in and becomes an integral and material part of tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:
(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale **which are not to be returned to the producer, manufacturer or compounder for reuse**.
(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and **which is not to be returned to such wholesaler or retailer for reuse**. . . .

In the example you provide, the wholesale or retail buyer that unwraps the shrink-wrapped pet food bags for sale or distribution has no obligation whatsoever to return the pallets or shrink wrap to the manufacturer or to anyone else for reuse. Because of this, the pallets are treated as ingredient or component of the manufacturer products. This means the manufacturer can claim a resale exemption when it buys the shrink wrap and pallets or when it buys wood that it fabricates into the pallets.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 11/17/2011 Date Modified: 11/17/2011**