**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-163** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Application of Kansas sales tax to the boar stud business.** |
| **Keywords:** |  |
| **Approval Date:** | **07/26/1999** |

**Body:**

Office of Policy and Research

July 26, 1999

XXXXXXXXXX
XXXXXXXXXXXXXX
XXXXXXXXXXXX

Dear XXXXXXXXXXX:

I have been asked to respond to your letter dated June 29, 1999. In it, you ask how Kansas sales tax should be applied to the boar stud business of XXXXXXXX.

In your letter you stated:

XXXXXXXXXXXXXXXXXXXXXX is involved in a boar stud operation XXXXXX. requests a private letter ruling on the appropriate sales and use tax due to the State of Kansas as the result of the following activities:

1. XXXXXXXXXX sells and delivers dosages of semen to sow farm operations within the State of Kansas. The customer is billed separately for the semen and for the delivery.

Question: Is the semen dosage taxable? Is the delivery charge taxable? If the answer is no, not taxable, what type of exemption certificate must XXXXXXX obtain from each farm customer?

2. XXXXXXX sells and delivers dosages of semen to sow farm operations within the States of Nebraska, Oklahoma, Colorado and Missouri. Customers are billed separately for the semen and for the delivery.

Question: Is the semen dosage taxable to Kansas? Is the delivery charge taxable to Kansas?

3. Same facts #1 and #2 above.

Question: If UPS, Pony Express, or U.S. Mail made the deliveries, would your sales tax answers differ?

4. XXXXXXXX purchases lapels, containers, couchette bags, reusable Styrofoam coolers, paks, etc., in which to store, handle and deliver semen. Customers are not charged separately for these items. The sales prices of the semen and delivery charge include a markup for these costs.

Questions: Can XXXXXXXX., purchase these items tax-free? If yes, what type of exemption certificate must be filed with the various vendors?

5. XXXXXXXXXX purchases supplies such as gloves, needles, syringes, extender tubing, etc., which are expended in their boar stud operation.

Questions: Are these supplies eligible to be purchased tax-free? If the answer is yes, what type of exemption certificate must be filled with the various vendors?

6. XXXXXXX purchases supplies such as gloves, insemination rods, storage units, lubricant gel, etc., to resell to their customers. The customers use these supplies in their sow farm operation.

Question: Are these purchases by XXXXXXX tax-free? Are these sales to farm customers taxable?

Kansas retailers’ sales tax law exempts all sales of tangible personal property and services that are and ingredient or component part of tangible personal or services for ultimate resale. K.S.A. 79-3606(m). The law also exempts tangible personal property and services that are consumed in the process of producing of tangible personal property or services. K.S.A. 79-3606(n).

In answer to your specific questions:

Answer to question 1. The sale of semen is exempt if the purchaser provides you with an exemption certificate. The purchase of semen by persons engaged in the business of breeding and raising hogs for ultimate resale is exempt. The delivery charge is exempt if the item purchased is exempt.

Answer to question 2. The sale and delivery of tangible personal property to an out of state customer, is not subject Kansas sales tax. This type of sale and delivery is subject to the jurisdiction of the purchaser. You should contact the state in which delivery occurs for advice as the taxability of this particular transaction. Given the facts of this transaction, in most jurisdictions, the sale of the semen would not be subject to tax.

Answer to questions 3 and 4. No, answers to questions 1 or 2 would not change if delivery is made by a third party shipper.

Answer to question 4. These items as described and used by your business are “ingredient or component parts” and are exempt from Kansas sales and compensating tax. You should issue to your vendors an exemption certificate designating these items as ingredient or component parts, etc.

Answer to question 5. These items as described and used by your business are “consumed in the production” and are exempt from Kansas sales and compensating tax. You should issue to your vendors an exemption certificate designating these items as consumed in the production, etc.

Answer to question 6. Your purchase of items intended for resale are not taxable. You should issue your vendor a resale exemption certificate. The sale of these items are exempt if the purchaser provides you with an exemption certificate. The purchase of these items by persons engaged in the business of breeding and raising hogs for ultimate resale is exempt. The delivery charge is exempt if the item purchased is exempt.

I have enclosed a booklet that contains the appropriate exemption certificates and instructions

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 affects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 08/04/1999 Date Modified: 10/11/2001**