**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-204** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **The service of cleaning above ground storage tanks and the processing of related waste into its component parts.** |
| **Keywords:** |  |
| **Approval Date:** | **09/20/1999** |

**Body:**

Office of Policy & Research

September 20, 1999

XXXXXXXXXXXXXXXX
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XXXXXXXXXXXXXX

Dear XXXXXXXXXX:

I have been asked to respond to your letter dated July 14, 1999. In it, you ask for guidance pertaining to Kansas retailers' sales tax on the service of cleaning above ground storage tanks and the processing of related waste into its component parts.

You enclosed a description of your service. Your service is the removal of sludge, the cleaning of the storage tank, the processing of the sludge and disposal of solid waste.

K.S.A. 79-3603(q) imposes a sales tax on, “the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property. . . which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property”

In Re Tax Appeal of R & R Janitor Service, 9 Kan. App. 2d 500, 505 (1984) (“Maintaining” is keeping in repair or replacing, and is not synonymous with "cleaning").

The Court stated in part:

“R & R Janitor Service performed various cleaning services such as vacuuming, dusting, cleaning bathrooms, washing windows, and emptying trash. We find that a requirement in an ordinance of a duty ‘to maintain’ does not impose a duty of keeping siphons clean, since ‘to maintain’ is to ‘keep in repair or replace.’ Janitor work is not maintenance under a statute designating a fund for ‘purchasing, constructing, repairing and maintaining buildings for public school purposes; maintenance meaning holding, keeping or preserving them in their existing state or condition.’ The Nevada court held provisions in a contract for ‘repair and maintenance’ did not require parties to keep alleys clean, but did require keeping the alley's surfaces in their original condition.
Cleaning services do not constitute ‘servicing or maintaining an item of tangible personal property which has been fastened to, connected with our built into real property’ within the meaning of that statute.”

It is the opinion of the Kansas Department Revenue that the gross receipts from following labor services are exempt from Kansas retailers’ sales tax: removal of sludge from a storage tank, the cleaning of the storage tank, the processing of the sludge and the disposal of solid waste.

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,

Mark D. Ciardullo
Tax Specialist

MDC: mdc

**Date Composed: 09/28/1999 Date Modified: 10/11/2001**