**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-074** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Fulfillment center operations.** |
| **Keywords:** |  |
| **Approval Date:** | **08/19/2002** |

**Body:**

Office of Policy & Research

August 19, 2002

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XXXX

RE: Your letter dated June 25, 2002

Dear XXXX:

Thank you for your recent letter. You are the president of a fulfillment corporation that owns and operates a warehouse in Kansas. The business warehouses books and other materials that are owned by publishers. Currently, you do business with more than one-hundred publisher-clients. You bill each of them a monthly storage charge. An important part of your business is to ship books to retailers and consumers as directed by the publisher. Several of the publishers have offices or plants in Kansas. Most of them have no buildings or offices here. Your business does not own any of the published materials that you warehouse.

You are expanding your business. You want to provide new clients with an accurate description about how Kansas sales tax applies to the transaction when you ship their books to purchasers. Answering your question is relatively simple and straightforward. Explaining why the answer is correct is more involved.

As a fulfillment center in Kansas, your business is not a "retailer" and is not required to collect Kansas sales or use tax on items that you ship for publishers. The publishers are "retailers" and are required to collect Kansas sales and use tax on a taxable sale if delivery is made to a consumer in Kansas. This includes the shipments made from your warehouse here as well as the shipments that the publisher makes from locations outside Kansas to Kansas addresses. For Kansas publishers, which are publishers with offices or other real property in Kansas, local sales tax should be collected based on their business location or as otherwise fixed by K.A.R. 92-21-6. For non-resident publishers local sales tax should be collected based on the business address of your warehouse, since their property is located in Kansas and is being shipped to another address in Kansas.

The publishers that warehouse books in Kansas for retail sale and delivery to Kansas addresses are "retailers" for purposes of the Kansas retailers' sales tax act. Under the sales tax act, such a publisher is, by definition, a Kansas retailer since the publisher is "a person regularly engaged in selling tangible personal property" within Kansas. *K.S.A. 79-3602(d)*. The fact that interstate commerce may have been used to arrange the sale does not alter the fact that delivery is from a Kansas warehouse to a Kansas customer. See e.g *Montgomery Ward & Company, Inc. v. Commission of Revenue and Taxation*, 156 Kan. 408, 133 P.2d 1008 (1943). As such, the transfer of property takes place wholly within Kansas. See *K.S.A. 79-3602(e)*. Since the publisher owns and maintains property within Kansas in order to make retail sales here, the publisher also has nexus for compensating tax purposes and is "a retailer doing business in this state" for purposes of the Kansas compensating tax act. *K.S.A. 79-3702(h)*.

I believe that I have answered all of your questions. If you have more, please call me at 785-296-3081 and we will discuss them. 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,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 08/26/2002 Date Modified: 08/26/2002**