**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-097** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **City purchases of building materials and supplies used to construct the building and/or facility for generating electricity.** |
| **Keywords:** |  |
| **Approval Date:** | **08/27/2001** |

**Body:**

Office of Policy & Research

August 27, 2001

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RE: City of TTTTTTT

Dear Ms. TTTTTTTT:

We wish to acknowledge receipt of your letter dated August 23, 2001, regarding the application of Kansas Retailers’ Sales tax.

Among other things, K.S.A. 79-3606(kk) exempts from sales tax, all sales of machinery and equipment used directly and primarily for the purposes of manufacturing of electricity intended for resale by a political subdivision of the state of Kansas.

It is the understanding of this department that the City of TTTTTTT is in fact constructing a new building and/or facility, which will house machinery and equipment used directly and primarily for the purposes of manufacturing of electricity. This machinery and equipment would come within the scope of the sales tax exemption in K.S.A. 79-3606(kk). Additionally, the labor services to install the exempt machinery and equipment would also be exempt from Kansas sales tax(es). It should be noted that equipment used to transmit electrical power (i.e., transmission lines, substations, and line transformers) would not be considered manufacturing machinery and equipment.

K.S.A. 79-3603(l) imposes a sales tax upon: “the gross receipts received from the sales of tangible personal property to all contractors. . . of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real or personal property for others. . .”

The City of TTTTTTT purchases of building materials and supplies, which are used to construct the building and/or facility for generating electricity would be subject to the appropriate Kansas sales/use tax(es). The city would not be able to secure a project exemption certificate for these purchases.

In closing, you have asked the department to review the exemption certificate that the City of TTTTTTT proposes to issue to its contractors/vendors. I would change the reference to K.S.A. 79-3606(b) to read as follows: K.S.A. 79-3606(b) exempts from sales tax all sales of tangible personal property and services, including the renting or leasing of tangible personal property, purchased **directly** by a political subdivision thereof, and used **exclusively** for political subdivision purposes. **EXCEPTION**: When a political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others, the sale of tangible personal property or services used or proposed to be used in such business are taxable. The only purchases which would be exempt from sales tax when purchased for use by city utility departments would be those items which are immediately consumed in providing the taxable utility services (i.e., chemicals used to clean and purify water) and equipment that qualifies as processing equipment under K.S.A. 79-3606(kk).

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, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 09/14/2001 Date Modified: 10/11/2001**