**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-91** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales tax on underground irrigation pipe.** |
| **Keywords:** |  |
| **Approval Date:** | **08/17/1998** |

**Body:**

Office of Policy & Research

August 17, 1998

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RE: Sales tax on underground irrigation pipe

Dear Mr. TTTTT:

We wish to acknowledge receipt of your letter which was received by this office on May 27, 1998, regarding the application of Kansas Retailers’ Sales tax.

K.S.A. 79-3606(t) exempts from sales tax: “all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such equipment. For purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. . .”

K.A.R. 92-12-32(b)(1) states in part: "Farm machinery and equipment" shall mean machinery and equipment purchased by a farmer or rancher. . . which is ordinary and necessary for the growing or raising of agricultural products. Farm machinery and equipment shall not include disposable supplies, buildings, building materials, silos, fence, fencing materials, land, all terrain vehicles, passenger motor vehicles, trucks, truck tractors, trailers, semitrailers, and pole trailers, other than a farm trailer. . ."

It is the opinion of this department that the pivot system, heat exchanger, flowmeter, gear drive, bowl units, column pipe, tubing and shaft assembly, check valve, and the discharge head, as well as submersible pumps and motors, gate and check valves and drop pipe, would constitute farm machinery and equipment, if none of the water pumped was used for human consumption and/or sanitation, and therefore could be purchased exempt from sales tax under K.S.A. 79-3606(t). However, the cement base, the underground discharge pipe, and the underground plastic PVC irrigation pipe, along with the pressure tank, galvanized nipples and fittings, well pits and lids, well seals, and pitless units and/or adapters are not farm machinery and equipment, but in fact are a part of real property, as is any other permanently attached item.

Any service performed in or on irrigation wells shall be subject to sales tax, unless the service of installing or applying tangible personal property is in connection with original construction, that is the first or initial construction of the respective irrigation well.

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: 09/01/1998 Date Modified: 10/11/2001**