**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-062** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Service of cleaning a storage tank.** |
| **Keywords:** |  |
| **Approval Date:** | **06/22/2001** |

**Body:**

Office of Policy & Research

June 22, 2001

XXXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

Dear XXXXXXXXXX:

The purpose of this letter is to respond to your letter dated May 31, 2001. In it, you ask if the service of cleaning a storage tank is exempt from Kansas retailers’ sales tax.

In your letter you stated:

We would like to request a private letter ruling pertaining to the taxability of cleaning storage tanks in a chemical manufacturing facility.

An outside vendor would bring in equipment to clean and/or waterblast the inside of a storage tank used to hold either finished product or raw materials. If this activity is tax exempt, which exemption certificate should be provided to the vendor?

Please advise the statute that covers the ruling. Thank you very much for your consideration of this matter.

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 of Revenue the gross receipts from the service of cleaning storage tanks is exempt from Kansas retailers’ sales tax. Since this is a non-taxable service, no exemption certificate is needed. If your service provider will not exempt his service please have him contact me at 785-296-5330.

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

**Date Composed: 06/26/2001 Date Modified: 10/11/2001**