**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-023** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Tire repair machine; farm machinery and equipment.** |
| **Keywords:** |  |
| **Approval Date:** | **03/11/2002** |

**Body:**

Office of Policy & Research

March 11, 2002

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RE: You e-mail of March 4, 2002

Dear XXXX:

Thank you for your recent e-mail. You ask if your company's purchase of a tire repair machine is exempt from sales tax as the purchase of farm machinery and equipment. Please be advised that it is not exempt because it is repair equipment --- not farm production equipment.

Your company produces and lays sod. The Kansas Supreme Court has ruled that sod production is an agricultural pursuit. *Miami County, Kansas v. Svoboda*, 264 Kan. 204, 995 P. 2d 122 (1998). Commercial sod production in Kansas requires irrigation, which is often done by rolling pipe systems that are attached to a center pivot. You indicate that your irrigation equipment uses pneumatic tires at the center pivot.

When your company purchased a farm tire repair machine, the vendor refused to honor your claim that the purchase qualified for exemption as the purchase of farm machinery and equipment. You use the tire repair machine to repair and replace tires on the center pivots of the irrigation equipment and on farm tractors used in the sod operations.

The exemption in question is for machinery and equipment used "only in farming, ranching, or agricultural production." This exemption does not exempt everything a farmer or rancher buys. For example, farmers and ranchers are required to pay sales tax on purchases of construction materials. This includes materials used to build fences, barns, roads, grain storage bins, corn cribs, silos, drainage-tile systems, confinement buildings, storage buildings, and other buildings and structures. Similarly, farmer and rancher must pay sales tax on repair equipment and tools they purchase even when such equipment is used to services exempt production farm machinery and equipment.

The equipment in question is used to repair damaged tires on farm machinery and equipment. This equipment is not exempt. What is exempt is equipment used in the field to till the soil, plant and harvest crops, spread fertilizer and pesticides, and non-field equipment that is used dry grain , handle grain, produce feed and handle feed for cattle operations. The exemption does not extend to equipment and tools that farmers buy and use to accomplish repairs or clean farm machinery and equipment. This includes tools, welding equipment, high pressure washers, and similar equipment. This type of equipment may be used to maintain and service production agricultural equipment but is not equipment that is used "only in farming, ranching, or agricultural production."

I hope that I have adequately answered your questions. If you have any additional questions, please call me at 785-296-3081. 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: 03/18/2002 Date Modified: 03/18/2002**