**Private Letter Ruling**

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| **Ruling Number:** | **P-2005-001** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Purchases of tangible personal property and services by political subdivisions.** |
| **Keywords:** |  |
| **Approval Date:** | **02/03/2005** |

**Body:**

Office of Policy & Research

February 3, 2005

TTTTTTTTTTT
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Dear Mr. TTTTTT:

We wish to acknowledge receipt of your letter dated December 13, 2004, regarding the application of Kansas Retailers’ Sales tax.

It is the understanding of this office that TTTTTTTT Construction Company, Inc. (“TTTTTTTT”) uses tangible personal property to erect structures for others or building, improving, altering, or repairing real or personal property. Further, a wholly owned limited liability company, TTTTTTT Purchasing Company, LLC (“Purchasing”) was recently formed, that purchases and resells tangible personal property. Purchasing would not be involved with any construction activities.

TTTTTTT and Purchasing have formed a joint venture. This joint venture intends to enter into a contract with a political subdivision of the State of Kansas. Both TTTTTTT and Purchasing will be named in the contract with a political subdivision as stipulated under the joint venture agreement. As part of the joint venture Purchasing will sell tangible personal property directly to the political subdivision. TTTTTTTTTT will then use that property to erect structures or build, improve, alter or repair real or personal property for the political subdivision. You have further indicated that each bill, invoice, contract or evidence of the transaction will be made out in the name of the political subdivision. Payment for this tangible personal property will be made on the check, warrant or voucher of that political subdivision.

The state of Kansas would view the substance of the above-described transaction as a construction contract between the joint venture, as the contractor and the political subdivision, as the owner. In order for the contractor to purchase the materials tax exempt, the project must qualify for a project exemption certificate. The political subdivision must apply for such a certificate from the Kansas Department of Revenue. If the application for the project exemption certificate is approved by the department, then the political subdivision should provide the approved project exemption certificate to the contractor for use in purchasing materials and services tax exempt.

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.

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Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 02/15/2005 Date Modified: 02/15/2005**