**Private Letter Ruling**

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| **Ruling Number:** | **P-2011-010** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax; Kansas Compensating Tax** |
| **Brief Description:** | **Purchases of software licenses and support services.** |
| **Keywords:** |  |
| **Approval Date:** | **12/27/2011** |

**Body:**

Office of Policy & Research

December 27, 2011

XXXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXXX

Dear XXXXXXXXXX,

This letter is in response to your letter whereby you inquire whether the purchases by XXXX XXXCompany of software licenses and support services from XXXX are subject to Kansas Retailers’ Sales Tax or Kansas Consumers’ Compensating Use Tax.

Kansas does not tax a license to use software when the software is not delivered to the Kansas user. The transaction as stated in your letter is not subject to Kansas sales or compensating tax. The reason no tax is due is the fact that the software was not delivered to you in Kansas. The software resides on your software provider server.

In your letter, you state:

Please consider the following statement below regarding our taxable status for software for XXXX Company. We received a Private Letter Ruling from you dated XXX regarding the software purchases for XXXX Corporation and both of the companies (XXXXXX) have the exact same conditions. In other words, when we sign into our XXX software we are automatically signed in for both companies and we do the exact same work for both companies. The same conditions apply and nothing at all is different.

We have been working with XXX in an effort to get these taxable issues resolved with the letter you issued on XXXXXXXX. It would be extremely helpful to resolve our issues with XXX regarding the taxable status of our software forXXXXXXXXX with another letter issued since it is the same exact software and all of the same conditions exist.

XX purchases software licenses and support services from XXXXX. The licenses that XXXX purchases from XXX allow XXX to access software located on XXXXX servers located outside the state of Kansas. XXXX does not receive software from XXX in any form or manner (i.e., physical or electronic). The licenses are not for prewritten software or for a package of prewritten software for XXXXX to use to retrieve information from XXXX database. The licenses are solely remote access licenses.

XXXXX reading of K.S.A. 79-3603, K.S.A. 79-3602, K.S.A. 79-3606, EDU-71R (July 23,2010) leads us to the conclusion that these purchases are not subject to Kansas Retailers’ Sales Tax or Kansas Consumers’ Compensating Use Tax. XXXXX analysis is that these purchases are for nontaxable services consisting of access to software, records and/or data stored on a remote computer server system.

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.

Sincerely,

Mark D. Ciardullo
Tax Specialist

**Date Composed: 01/10/2012 Date Modified: 01/10/2012**