**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-034** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Repairs, installations, improvements, materials purchased for a grain storage facility or a grain milling operation adjacent or connected to a grain storage facility.** |
| **Keywords:** |  |
| **Approval Date:** | **04/12/2001** |

**Body:**

Office of Policy & Research

April 12, 2001

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Re: Kansas Sales Tax

Dear XXXXX:

Your correspondence of January 15, 2001 has been referred to me for response. Thank you for your inquiry.

Your letter is submitted on behalf of your client, XXXXX, of XXXXXX. By your letter you inquire as to how certain repairs, installations, improvements, materials, etc., purchased for a grain storage facility or a grain milling operation adjacent or connected to a grain storage facility are treated for purposes of the Kansas sales tax.

The Kansas sales tax is imposed by K.S.A. 79-3603. Exemptions from tax are found in K.S.A. 79-3606. Subsection (kk)(4)(D) of the statute provides:

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: . . . . . . . . . . . . . (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; . . . .

The terms “industrial fixtures”, “[industrial] devises”, “support facilities”, and “special foundations” are not defined in the statute.

Your letter lists thirteen examples of “industrial fixtures”, “[industrial] devises”, “support facilities”, and “special foundations”, and provides a sketch showing each situation. You note that in each situation the described item is a necessary and integrated part of the machinery and/or storage facility and processing plants. The examples you list, and our response as to their tax treatment is set forth below:

*Diagram 1. Concrete dump pits/boot pits.*

Description: This diagram shows a dump pit which pours over into a boot pit. The boot pit has an elevator leg in it. An elevator leg is essentially a bucket lift. A bucket lift is a series of buckets mounted on a chain that runs from the pit, where grain is received or transferred, to the top of the elevator, where the grain is dumped from the buckets and distributed into the bins, often by means of a conveyor belt that runs the length of the elevator.

Sales tax treatment: **Exempt.** The dump pit, boot pit, and the elevator leg diagrammed would be exempt from sales tax.

*Diagram 2. Foundation slabs for grain dryers or other exempt machines.*

Description: This diagram shows a grain dryer on a poured concrete slab.

Sales tax treatment: **Exempt.** As depicted, the poured concrete slab would be exempt from sales tax.

*Diagram 3. Leg and machinery support towers, including foundations.*

Description: This diagram shows a machinery support tower, an elevator leg supported by the tower, and a guy-wire extending from the top of the tower to a poured concrete deadman anchor (see #4, below). From the diagram, it is not clear where this support tower is supposed to be or what the elevator leg intended to service. For the purpose of this discussion, we assume the support tower is located between, and that the leg serves, several corrugated steel bins.

Sales tax treatment: **Exempt.** The elevator leg, the support tower and the foundation of the tower shown in the diagram would be exempt from sales tax.

*Diagram 4. Concrete for deadman anchors.*

Description: See #3, above.

Sales tax treatment: **Exempt.** The deadman anchor shown in the diagram would be exempt from sales tax.

*Diagram 5. Distributor support towers.*

Description: This diagram says, “Same as 4 except for distribution system.” Since a leg is part of a distribution system, the distinction here is unclear.

Sales tax treatment: **Uncertain**.

*Diagram 6. Support frame for manlift.*

Description: This diagram shows a manlift on the side of an elevator. A manlift is an elevator that is similar to a bucket lift. Essentially, a worker grabs a rung on a continuous chain or ladder and is carried to the top of the elevator like buckets would be on a bucket lift.

Sales tax treatment: **Exempt.** The frame that ties the manlift to the elevator bin shown in the diagram would be exempt from sales tax.

*Diagram 7. Sheeting on manlift support frame.*

Description: See Description #6. The diagram also shows sheeting that covers the manlift and support frame to protect the lift occupants from weather, and to reduce falls.

Sales tax treatment: **Exempt.** The sheeting that covers the manlift and support frame shown in the diagram would be exempt from sales tax.

*Diagram 8. Support frames for conveyors, cleaners, and any other exempt machinery.*

Description: This diagram shows a conveyor on top of an elevator that runs the length of the elevator. Conveyor belts of this type are frequently used in older elevators to carry grain to the bins after the grain has been lifted by the bucket lifts in the legs. They may also be used in connection with cleaning of the elevator.

Sales tax treatment: **Exempt.** The support frames for conveyors, cleaners, and other exempt machinery shown in the diagram would be exempt from sales tax.

*Diagram 9. Sheeting for above support frames.*

Description: See Description #8. The diagram also shows sheeting that covers the conveyors, cleaners, and any other exempt machinery and their support frames to protect them from weather.

Sales tax treatment: **Exempt.** The sheeting that covers the conveyors, cleaners, and any other exempt machinery and the support frames shown in the diagram would be exempt from sales tax.

*Diagram 10. Weather enclosures around machinery on grain elevators.*

Description: This diagram shows a machine identified as a cleaner on top of an elevator under what is called a “weather enclosure around machinery.” The enclosure protects the machinery from weather.

Sales tax treatment: **Exempt.** The “weather enclosure” shown in the diagram would be exempt from sales tax.

*Diagram 11. Concrete water run off valleys between grain bins.*

Description: This diagram shows two grain bins standing close to, but apart from, each other. Between the bins is an area called “concrete water run off valleys.” The diagram notes with regard to the valleys that “if not installed bins would lean towards each other after time.”

Sales tax treatment: **Taxable.** The concrete water run off valleys shown in the diagram would be subject to sales tax.

*Diagram 12. Foundations, pits and decks for truck scales, rail scales and bulk weigher scale load out systems.*

Description: This diagram shows a weighing scale. It shows “approach slabs”, foundations for scales”, a “scale pit” and a “scale deck”. The basic procedure for receiving grain at an elevator is to drive a truck filed with grain onto the scale, weigh it, dump the grain from the truck, reweigh the empty truck, and figure bushels based on the weight of the grain.

Sales tax treatment: **Exempt.** The foundations, pits and decks for truck scales, rail scales and bulk weigher scale load out systems shown in the diagram would be exempt from sales tax.

*Diagram 13. Overhead load-out bins, including foundations and support frames.*

Description: This diagram shows overhead load-out bins and the support frames and foundations on which they rest.

Sales tax treatment: **Exempt.** The overhead load-out bins and the support frames and foundations on which they rest shown in the diagram would be exempt from sales tax.

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.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Jim Weisgerber
Attorney
Tax Specialist

JW:jw

**Date Composed: 04/12/2001 Date Modified: 10/11/2001**