**Private Letter Ruling**

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| **Ruling Number:** | **P-2004-027** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Contract earth mover; rock quarries.** |
| **Keywords:** |  |
| **Approval Date:** | **06/24/2004** |

**Body:**

Office of Policy & Research

June 24, 2004

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Dear XXXXXXXXXX,

This is a formal response to your letter dated March 10, 2004. In your letter you stated:

We are requesting a private letter ruling for one of our customers, XXXXXXXXXX, a contract earth mover. He operates in rock quarries located in Marion and Dickinson Counties, exposing the rock ledge by removing the soil and shale overburden from the rock ledge. Scrapers, bulldozers and front-end loaders are utilized and all consume dyed diesel fuel.

Pursuant to Docket No. 91-44-DT we feel that our customer should be exempt from sales tax.

You are correct. K.S.A. 79-3606(n) provides for tax exemption which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property for ultimate sale at retail within or without the state of Kansas. "Property which is consumed" includes tangible personal property which is essential or necessary to and which is used in the actual process of and consumed, depleted or dissipated within one year in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, which is not reusable for such purpose. K.S.A. 79-3602(dd). Thus, the diesel fuel consumed by your customer would be exempt from Kansas retailer’s sales tax.

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 to you, please contact me at your earliest convenience at (785) 296-5330.

Sincerely,

Mark Ciardullo
Tax Specialist

**Date Composed: 06/28/2004 Date Modified: 06/29/2004**