**Private Letter Ruling**

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| **Ruling Number:** | **P-2006-006** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Small aircraft industry manufacturer; radial fatigue machine.** |
| **Keywords:** |  |
| **Approval Date:** | **03/27/2006** |

**Body:**

Office of Policy & Research

March 27, 2006

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RE: Your letter dated November 22, 2005

Dear XXXX:

I have been asked to answer your letter that the department received in November. I apologize for the inordinate delay in this response. XXXX manufactures cast aluminum wheels as original equipment for the small aircraft industry. Wheels are pulled from finished production and tested.

One of the tests involve mounting a radial tire on the production wheel and performing a wheel fatigue test. The tire is mounted on a wheel which, in turn, is mounted on a radial fatigue machine. The tire, lug bolts, and nuts all meet the aircraft manufacturer's specifications. After the wheel fatigue tests are completed, the tires, lug bolts, lug nuts and valve stems are disposed of. You ask if the purchase of your purchase of these items is exempt from sales tax. The answer is yes, these purchases are exempt.

K.S.A. 2004 Supp. 79-3606(kk)(3)(E) explains that your business's purchase of the radial fatigue machine is exempt. It states:

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used: . . .
(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operation . . . . *(underlining added)*.

The radial fatigue machine is being used to test and assure the quality of the finished product. Accordingly, your purchase of the radial fatigue machine qualifies for a sales tax exemption as being the purchase of integrated production equipment.

The next issue is whether or not the tires, lug bolts, lug nuts and valve stems, which are disposed of after the wheel testing, qualify as being consumed in production pursuant to K.S.A. 2004 Supp. 79-3606(n). This subsection exempts, in parts relevant here:

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process. . . .

K.S.A. 2004 Supp. 79-3602(dd) defines the term "property which is consumed," for purposes of K.S.A. 2004 Supp.79-3606(n). It reads in parts relevant here:

(dd) "Property which is consumed" means 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 (1) the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, (2) the providing of services, (3) the irrigation of crops, for sale in the regular course of business, or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable for such purpose. . . . .

Since a radial fatigue machine qualifies as equipment that is being "used as an integral or essential part of an integrated production operation," the tires, lug bolts, lug nuts and valve stems that are attached to the machine qualify as "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 [or] manufacture . . . of tangible personal property. . . . Accordingly, you can claim exemption on these purchases by providing consumed-in-production exemption certificates to the vendors who sell you the tires and other items.

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,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 03/30/2006 Date Modified: 03/31/2006**