**Private Letter Ruling**

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| **Ruling Number:** | **P-2010-008** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Retail sale of racing tires.** |
| **Keywords:** |  |
| **Approval Date:** | **11/09/2010** |

**Body:**

Office of Policy & Research

November 9, 2010

XXXXXXXXXXXXXXXX
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XXXXXXXXXXX

Dear XXXXXXXX:

We wish to acknowledge receipt of your recent inquiry regarding the application of Kansas Retailers’ Sales tax. You inquired whether the retail sale of racing tires taking place in Kansas as described in you r inquiry is exempt from the Kansas Tire Excise tax.
You stated the facts as follows:

1) The taxpayer is an Illinois corporation having no Kansas physical location. The taxpayer is primarily a wholesaler of automobile racing tires. In addition to their wholesale business, they sell some racing tires directly to the end user. Many of their retail sales occur at tracks located across the Midwest and are made under contractual arrangements with race promoters who require participating drivers to use the taxpayer’s brand of race tire. It is in fulfilling these contracts that the taxpayer comes into Kansas to make sales. The taxpayer brings a truck with racing tires specially eligible for the scheduled race(s) to participating race tracks located in Kansas for the purpose of selling and mounting tires for race teams.

2) When at a Kansas track, the taxpayer collects Kansas sales tax on sales made at retail. The taxpayer files Kansas sales tax return and remits payment for Kansas sales taxes collected.

3) The tires sold by the taxpayer are tires suitable only for either oval track racing or drag racing. The tires are all designated as “Not Intended for Highway Use” and are not street legal due to their size, lack of tread or both.

Kansas notice on Tire Excise Tax, dated 6/12/1991 contains the following statement.

“By adopting the definition of "vehicle" set forth in K.S.A. 8-1485, the legislature significantly broadened the category of tire sales that are subject to the tire excise tax. K.S.A. 8-1485 defines "vehicle" to mean "every device on, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks." Because of the new definition, the tire tax now applies to the sale of new tires for use on automobiles, buses, trucks, truck tractors, trailers, farm machinery, construction equipment and motorcycles. The tax does not apply to the sale of new tires for use on vehicles not authorized or allowed to operate on public streets and highway.”

The last sentence in this statement indicates that the tire tax would not apply to those vehicles not authorized or allowed on public roadway. A race car used exclusively on the oval tracks and drag raceway that you described would meet this provision. Therefore it is the Department of Revenue’s determination that the tire tax would not apply to the tire sales defined in your inquiry.

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.

Sincerely,

Jack Smith
Policy and Research

**Date Composed: 11/16/2010 Date Modified: 11/16/2010**