**Private Letter Ruling**

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| **Ruling Number:** | **P-2015-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Diesel exhaust fluid** |
| **Keywords:** |  |
| **Effective Date:** | **07/22/2015** |
| **Approval Date:** | **07/22/2015** |

**Body:**

July 22, 2015

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Dear Ms. TTTTTTT:

We wish to acknowledge receipts of your letter dated July 8, 2015, regarding the application of Kansas Retailers’ Sales tax.

K.S.A. 79-3606(f) exempts from sales tax: "tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce. . ."

K. A. R. 92-19-28, states in part: "Sales of tangible personal property or services to any motor carrier engaged in the transportation of persons or property in interstate common-carrier transportation are subject to the Kansas retailers' sales tax in the same manner as are sales to other firms, persons or corporations except as follows:

1) Sales of rolling stock, including busses and trailers to each motor carrier qualifying as a public utility and engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce, and the rolling stock are immediately and directly used in interstate commerce are exempt. The rolling stock may be temporarily stored within the state until it is directly and immediately consumed in interstate commerce. However, charges for labor services rendered to common carriers authorized to engage in interstate commerce commission for the servicing, maintenance, or repair of rolling stock including busses and trailers are taxable.

2) Sales of all repair parts and replacement materials or parts to each motor carrier qualifying as a public utility, engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce, when the repair parts and replacement materials or parts are immediately and directly used in interstate commerce are exempt. The repair parts and replacement materials or parts may be temporarily stored within the state until they are directly or immediately consumed exclusively in interstate commerce.

3) Sales of gasoline, distillate and other motor fuels to each motor carrier qualifying as a public utility, engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce when the gasoline, distillate and other petroleum products are immediately and directly used in interstate commerce are exempt. The gasoline, distillate and other motor fuels may be temporarily stored within the state until it is directly and immediately consumed in interstate commerce."

In closing, it is the opinion of this office that the diesel exhaust fluid would come within the scope of the sales tax exemption in K.S.A. 79-3606(f). Therefore the sale of the respective fluid would not be subject to Kansas sales/use tax(es) when sold to an interstate common carrier for consumption or movement in interstate commerce. Otherwise, the sale of this product is taxable.

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, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 07/29/2015 Date Modified: 07/29/2015**