**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-239** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Transfer of a motor vehicle to a corporation.** |
| **Keywords:** |  |
| **Approval Date:** | **10/28/1999** |

**Body:**

Office of Policy & Research

October 28, 1999

XXXXXXXXXX
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Re: Kansas Sales Tax

Dear XXXXX:

Your correspondence of October 21, 1999, has been referred to me for response. Thank you for your inquiry.

By your letter you inquire whether the transfer of a motor vehicle to a corporation is subject to sales tax. Your letter states, in pertinent part:

XXXXX XXXXX XXXXX purchased a 1994 Chevrolet pickup truck in February 1994 and licensed it as:

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX

The individuals were corporate officers using there [sic] name and credit to finance the vehicle as the company had no credit history at that time. The initial down payment, all monthly payments and all license and insurance expenses have been paid by the company. Further, the vehicle has been depreciated by the company.

We would like to remove the individual names from the title to eliminate their personal liability exposure above the limits of our insurance. In the process, no stock will be issued or transferred, nor other compensation paid to anyone.

In response to your inquiry, please be advised the transaction described in your letter is subject to Kansas sales tax. The transfer of a vehicle from an individual, sole proprietorship or partnership to a corporation is considered to be an “isolated or occasional sale.” Kansas law, [K.S.A. 79-3603(o)] imposes sales tax on:

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation solely in exchange for stock or securities in such corporation; or (2) the transfer of motor vehicles or trailers by one corporation to another when all of the assets of such corporation are transferred to such other corporation; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For purposes of clause (3), immediate family members means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

Assuming you do not wish to pay the tax which would be due on this transaction there are two alternatives you may wish to pursue. First, you will note the statute makes an exception from taxation for, “(1) The transfer of motor vehicles or trailers by a person to a corporation solely in exchange for stock or securities in such corporation.” If the corporation holds a meeting and votes to issue stock to the individuals whose name appears on the title, the transaction would not be subject to sales tax.

Second, you can pay the tax and then request a refund on grounds that the manner in which the vehicle was originally titled was in error. If, as part of the refund process, you are able to document the assertions made in your letter about the manner in which the vehicle was purchased and how expenses, insurance and depreciation were handled it is possible the Department could determine the vehicle was, in fact, the property of the company from the time it was purchased. In that case, no tax would be due and any tax paid could be refunded.

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: 11/01/1999 Date Modified: 10/11/2001**