**Opinion Letter**

|  |  |
| --- | --- |
| **Letter Number:** | **O-1999-06** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Transfer of tangible personal property from one company to another.** |
| **Keywords:** |  |
| **Approval Date:** | **03/02/1999** |

**Body:**

Office of Policy & Research

March 2, 1999

TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT

Dear Ms. TTTTTT:

We wish to acknowledge receipt of your letter dated November 5, 1998, regarding the application of Kansas Retailers’ Sales tax.

This is an informational letter only and not a private letter ruling pursuant to K.A.R. 92-19-59.

K.A.R. 92-19-72(b) states in part: “Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, even though the entities:
(1) Share common principals or ownership and operations;
(2) share the same business location;
(3) file consolidated income tax returns for federal and state income purposes; or
(4) do not enjoy a profit or expense as a result of the transaction. . .”

Please be advised that in both Scenario I and II, your company would be obligated to collect Kansas sales tax, since these transactions would be considered subject to Kansas sales tax, pursuant to K.A.R. 92-19-72(b). The Supreme Court of Kansas, in a decision dated December 8, 1995, held that this regulation was valid. See PEMCO, INC. V. KANSAS DEPARTMENT OF REVENUE 907 P. 2d 863, 258 Kan. 717 (Kan. 1995).

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: 03/22/1999 Date Modified: 10/10/2001**