**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-39** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Rental of portable toilets.** |
| **Keywords:** |  |
| **Approval Date:** | **03/01/1999** |

**Body:**

Office of Policy & Research

March 1, 1999

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XXXX
XXXX

RE: Your letter of January 12, 1999

Dear XXXX:

I have been asked to answer your letter received in January. You ask whether the rental of portable toilets is subject to Kansas sales tax. In Kansas, the sale of tangible personal property is subject to sales tax. Under Kansas sales tax law, sales of property includes the rental of property. In the case of portable toilets, the furnishing of the toilet is viewed as a taxable rental. The delivery and waste disposal are seen as an incidental part of that rental.

The question of whether charges for the furnishing of portable toilets should be taxed as a rental of property or exempted, because it is a service that is not enumerated as being taxable, has been litigated or considered in a number of states. While there is some disagreement from state to state, most states side with the Kansas view that furnishing a portable toilet is a taxable rental. See e.g. *Weiss v. Best Enterprises, Inc.*, Docket No. 95-527 (Ark. Sup. Ct. 1966); *Kentucky*, Reg. 103, K.A.R. 28.051; *Tennessee*, Rev Ruling 93-05 (1993); *Texas*, Decision of the Comptroller of Public Accounts, Hearing No. 24,641 (1989).

This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided with 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 by operation of law without further department action if there is a change in the controlling statutes, administrative regulations, revenue rulings or case law that materially affects this determination. Please call me if you have any additional questions.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 03/16/1999 Date Modified: 10/11/2001**