**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1999-59** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Home furnishings delivered out of state.** |
| **Keywords:** |  |
| **Approval Date:** | **02/22/1999** |

**Body:**

Office of Policy & Research  
  
February 22, 1999

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
  
Re: Kansas Sales Tax  
  
Dear Mr. XXXXX  
  
Your correspondence of January 26, 1999, has been referred to my attention. Its contents are duly noted. Your letter states, in pertinent part, as follows:

Request for Written Opinion On Sales Tax Rules  
  
Name of Business: XXXXXXXXXX  
  
Type of Product: Retail Sales of Home Furnishings From Shopping Center Location  
  
Customers: General Public, Interior Decorators  
  
Location of Seller: XXXXXXXXXX Overland Park, KS XXXXX  
  
Location of Buyers: Most Buyers Are Kansas residents  
Substantial Number of Buyers Are From Missouri  
  
Shipping Method: XXXXXXXXXX owns a truck and has employees who deliver furniture to customers.  
  
Our Question:  
  
We have a number of Missouri Resident customers who come into our store (Located in Kansas) and purchase furniture. We then deliver the furniture to their residence in Missouri using our own truck and employees. Should we charge Kansas sales tax on this sale? Or should Missouri USE Tax Apply? We have no store location in Missouri.

The question you have raised is addressed by Kansas Administrative Regulation (K.A.R.) 92-19-29. The regulation provides:

**92-19-29. Sales in interstate commerce.**When tangible personal property is sold within the state and the seller is obligated to deliver it to a point outside the state or to deliver it to a carrier or to the mails for transportation to a point without the state, the retail sales tax does not apply: *Provided*, The property is not returned to a point within this state. The most acceptable proof of transportation outside the state will be:  
(a) A waybill or bill of lading made out to the seller’s order calling for delivery; or  
(b) An insurance or registry receipt issued by the United States postal department, or a post office department’s receipt; or  
(c) A trip sheet signed by the seller’s delivery agent and showing the signature and address of the person outside the state who received the delivered goods.  
However, where tangible personal property pursuant to a sale is delivered in this state to the buyer or his agent other than a common carrier, the sales tax applies, notwithstanding that the buyer may subsequently transport the property out of this state.

Based on the regulation, the transaction you describe would not be subject to Kansas sales tax. Questions regarding any tax due to the state of Missouri should be presented to the Missouri Department of Revenue.  
  
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: 03/09/1999 Date Modified: 10/11/2001**