**Private Letter Ruling**

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| **Ruling Number:** | **P-2005-020** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Electrical work; work done on main breaker; exemption for manufacturing machinery and equipment.** |
| **Keywords:** |  |
| **Approval Date:** | **07/12/2005** |

**Body:**

Office of Policy & Research

July 12, 2005

*(Redacted)*

RE: Your letter dated June 21, 2005

Dear *(Redacted)*:

Thank you for your recent letter. You work for an electric company and ask: "Would a company be able to use this exemption certificate (manufacturing machinery and equipment) for work done on a main breaker that would supply power to a piece of machinery used in production?" The answer to your question is yes, with one exception. That exception occurs if the main breaker supplies power to both exempt production equipment and taxable lighting, heating, etc. and more than 50% of the electricity is for the taxable use. Provisions in K.S.A. 2004 Supp. 79-3606(kk) supports this answer.

Subsection (3)(I) of K.S.A. 2004 Supp. 79-3606(kk) provides:

*(3) For purposes of this subsection, machinery and equipment shall* *be deemed to be used as an integral or essential part of an integrated* *production operation when used: . . .*
*(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation,* *if produced by the manufacturer or processor at the plant site, to that* *manufacturer's production operation; or, if purchased or delivered from* *offsite, from the point where the substance enters the site of the plant or* *facility to that manufacturer's production operations. . . .*

Subsection (5)(c) provides:

*(5) "Machinery and equipment used as an integral or essential part* *of an integrated production operation" shall not include: . . .*
*(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation* *at the plant or facility, including the means of conveyance of natural gas,* *electricity, oil or water, and equipment related thereto, located outside* *the plant or facility. . . .*

Subsection (6) and (2)(F) provide:

*(6) . . . When* *machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at* *other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.*

*(F) "primary" or "primarily" mean more than 50% of the time.*

I believe that these statutory provisions clearly answer your question. 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. Please let me know if you have additional questions.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 07/12/2005 Date Modified: 07/12/2005**