

# **Kansas Administrative Regulations**

## **Kansas Department of Revenue**

### **Article 19.—Kansas Retailers' Sales Tax**

#### **92-19-54. Ingredient or component part.**

(a) For purchases of tangible personal property to qualify for exemption under K.S.A. 1986 Supp. 79-3606(m) as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1 and amendments, the following requirements must be met:

(1) The tangible personal property shall be essential or necessary to the tangible personal property or service produced, manufactured or compounded;

(2) the tangible personal property shall be actually used in or on the tangible personal property or service produced, manufactured or compounded;

(3) the tangible personal property shall become an integral and material part of the tangible personal property or service produced, manufactured or compounded; and

(4) the tangible personal property must become an ingredient or compound part of tangible personal property or service for ultimate sale at retail.

The identity of the buyer, seller or the item is immaterial. Whether the purchase qualifies for exemption shall be determined by how the item is used in the production or processing activity. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each transaction shall be separately measured against the statutes and regulations to determine the taxability of the transaction.

(b) For the purpose of determining whether tangible personal property is an ingredient or component part of a service, the term "service" refers only to taxable services enumerated under the sales tax act. Each person providing a nontaxable service shall pay sales tax on all articles of tangible personal property and services purchased to provide the nontaxable service, and may not claim an exemption from sales tax.

(c) "Integral and material" means:

(1) The physical incorporation of two or more parts or elements by chemical or mechanical process in a manufacturing, production or compounding process, the result of which renders a third item or product separate and distinct from the constituent parts or elements; or

(2) an attachment or part that is so necessary and essential to the final product that, if omitted, would render the final product valueless for its intended purpose.

Except as provided in paragraph (d), tangible personal property that is important to the production process but does not become an integral and material or physical part of the tangible personal property for sale at retail is not exempt from sales tax.

(d) Each container, wrapper or other shipping or handling material actually accompanying the product sold is not subject to sales tax.

(e) Each retailer purchasing a container or other shipping or handling material for consumption which is not for resale as described in paragraph (d) is subject to sales tax. Each purchase by a retailer of a container or other shipping or handling material in which title remains with the retailer when the tangible personal property contained therein is sold by the retailer, or where the container or other shipping or handling materials are to be returned to the retailer by the consumer of the tangible personal property, is subject to sales tax.

(f) Each purchase of a container, wrapper or other shipping or handling material by a retailer using the container, wrapper or other handling material to provide nontaxable services is deemed to be consumed by the service provider and is subject to tax.

(Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

\*\*\*\*\* Authenticated Kansas Administrative Regulation \*\*\*\*\*