**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-06** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Not-for-profit corporation.** |
| **Keywords:** |  |
| **Approval Date:** | **01/19/1999** |

**Body:**

Office of Policy & Research

January 19, 1999

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XXXX
XXXX

RE: Your Letter request of November 13, 1998

Dear XXX:

I have been asked to respond to your letter of November 13, 1998 addressed to Bob Clelland. I apologize for the delay in issuing this response.

You ask whether the XXXX Water Quality Project (the “Project”) qualifies for sales tax exemption on its purchases. The Project is a not-for-profit corporation that is organized to protect the water quality of Lake XXXX. Much of the Project’s efforts involve volunteer work to encourage sound agricultural and environmental practices in the XXXX lake watershed.

Tax exemptions are narrowly construed. This means that a group that claims exemption must clearly qualify for exemption within the plain language of the statute. The Kansas sales tax act lists various groups that are exempt from tax. Some statutes identify the exempt entity by name. These include the statute that exempts the American Heart Association, Kansas Affiliate, Inc. and the American Lung Association of Kansas, Inc., among others. Other statutes extend exemption by describing the entity in general terms, such as the exemptions extended to non-profit hospitals, political subdivisions of the state, and nonprofit zoos. Some exemptions are limited to certain purchases while other exemptions extend to all purchases.

Limited exemption is extended to “quasi-municipal corporations” for labor services expended to construct “facilities” under K.S.A. 79-3603(p)(3). Quasi-municipal corporations are government subdivisions that have the authority to receive or hold moneys or funds. Watershed districts organized under K.S.A. 24-1201 qualify as “quasi-municipal corporations,” since they are authorized by statute to receive and hold funds. K.S.A. 24-1209. *Ninth*. As noted, this exemption extends only to labor services performed to construct facilities for such quasi-municipal corporations. The term “facility” is narrowly defined at K.S.A. 79-3603(p)(3).

I have reviewed the Project’s bylaws and the other documentation that you provided. The bylaws do not reference K.S.A. 24-1201 *et seq.*, nor do they conform to the statutory requirements contained in K.S.A. 24-1201 *et seq*. The bylaws and the other materials reflect that the Project is a volunteer, non-profit corporation comprised of private citizens who are interested in improving the quality of the lake by watershed management. Because the Project is not organized under K.S.A. 24-1201 *et seq.*, it is not a “quasi-municipal corporation” within the meaning of K.S.A. 79-3602(p) and does not qualify for the limited exemption on labor services that is extended under this part of the Kansas sales tax law. K.S.A. 79-3606 contains more than 60 additional exemptions. I have reviewed these exemptions and cannot find any that encompass the Project or its purchases. Accordingly, the Project must pay sales tax to its vendors on all of its purchases of materials and taxable labor services. Please note that watershed districts organized under Kansas law are only granted a very narrow exemption for tax on certain labor services performed in connection with the construction of new facilities. These watershed districts are not accorded a general exemption for all their purchases.

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 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 effects this determination. Please call me at (785) 296-4008 if you have any additional questions.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

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