**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1999-160** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales of foodservice products to restaurants, schools and nursing homes.** |
| **Keywords:** |  |
| **Approval Date:** | **07/20/1999** |

**Body:**

Office of Policy and Research

July 20, 1999

TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT

Dear Ms. TTTTTT:

We wish to acknowledge receipt of your letter dated May 6, 1999, regarding the application of Kansas Retailers’ Sales tax.

K.S.A. 79-3606(m) exempts from sales tax: “all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas. . .”

The following purchases of tangible personal property by restaurants are generally exempt under K.S.A. 79-3606(m):

+ wetnaps + ice cube bags for carryout
+ paper doilies + coffee stirrers
+ straws + disposable silverware
+ toothpicks + stir sticks
+ wrapped toothpicks + portion cups (disposable)
+ doggie bags + plastic plates
+ paper napkins + plastic steak markers
+ disposable placemats + plastic table covers (disposable)
+ carryout containers + paper table covers
+ carryout bags + paper liners for pizza boxes
+ disposable drinking cups + paper liners for serving baskets
+ paper placemats

Please be advised that the restaurant would be the ultimate consumer on purchases of reusable plastic table covers and ice, and therefore would be obligated to pay the appropriate Kansas sales/use tax(es) on the respective purchases.

Senate Bill 309, enacted by the 1987 Kansas Legislature, provided that all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, for the purpose of providing medical services to residents thereof, shall be exempt from sales tax in the state of Kansas. However, this exemption does not apply to tangible personal property customarily used for human habitation purposes. Thus, purchases of such items as food, food preparation supplies and similar type items would be subject to sales/use tax when purchased by a nursing home for consumption in the state of Kansas.

Schools and educational institutions are exempt from paying sales tax on their purchases. The 1998 legislature defined an "educational institution" to mean a nonprofit school, college, or university that offers educational courses at a level above the twelfth grade and meets certain requirements fixed by the statute. This new definition also includes:

Nonprofit endowment associations and foundations that operate exclusively for the support and benefit of an educational institution;

Nonprofit entities whose principal purpose is to hold receipts from intercollegiate sporting events and to disburse these receipts, as well as grants and gifts, for the sole benefit of the athletic programs of an educational institution;

Nonprofit research organizations whose primary purpose is to pursue scholarly investigation and research for the sole benefit of an educational institution; and

A group of educational institutions that operate exclusively for an educational purpose***,***suchas the NCAA.

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. If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 08/03/1999 Date Modified: 10/11/2001**