**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-188** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Utilities for home businesses.** |
| **Keywords:** |  |
| **Approval Date:** | **11/20/1998** |

**Body:**

Office of Policy & Research

November 20, 1998

XXXXXXXXXX
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Dear XXXXXXX:

The purpose of this letter is to respond to your letter dated November 4, 1998.

Persons operating a home business present a problematic area in the taxation of utility services. Kansas law imposes state and local retailers’ sales tax on the sale of gas, water, electricity and heat to commercial consumers. The law also contains a myriad of exemptions from sales tax based on uses of utilities.

Many persons operate a business from their residence. In instances that the business use of the residence is de minimis or insubstantial the utility use should be taxed as being wholly residential. De minimis or insubstantial business use of a residence would be merely maintaining a home office for business activity such as accounting of receipts and expenses, receipt of mail, retention of records, receipt of telephone and fax communications, etc.

A person that has designated or segregated an area of their residence that is open to the walk-in public to conduct business is deemed to be commercial users of utilities. Typically, in this situation the utility is supplied by a single meter. A determination must be made as to the commercial versus residential use. The political subdivision furnishing utility service must charge their utility customers the applicable state and local sales tax unless the customer's exempt use has been documented. To obtain an exemption, the customer must complete the utility exemption form BT/st-28B and file it with the utility provider

This is a private letter ruling pursuant to Kansas Administrative Regulation 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 private letter ruling will be revoked in the future by operation of law without further
department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this ruling.

I have enclosed a copy of the exemption form and instructions. You may duplicate and use as needed.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

encl.

**Date Composed: 11/17/1998 Date Modified: 10/10/2001**