**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-31** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Rental of medical equipment.** |
| **Keywords:** |  |
| **Approval Date:** | **02/18/1999** |

**Body:**

Office of Policy & Research

February 18, 1999

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Dear Ms. TTTTTTT:

We wish to acknowledge receipt of your letter dated January 21, 1999, regarding the application of Kansas Retailers’ Sales tax.

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. [See K.S.A. 79-3606(hh)].

Equipment which qualifies as “medical equipment” would be: wheelchairs, shower/commode chairs and walkers. It would be the position of this department that hospital beds, patient lift systems, continuous air flow mattresses, as well as a bod trapeze would not be “medical equipment”, and therefore would be subject to the appropriate Kansas sales/use tax on the gross rental receipts, including any delivery fees thereon.

K.S.A. 79-3606(r) exempts from sales tax: “all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person’s mobility; such term shall include accessories to be attached to motor vehicles, but term shall not include motor vehicles or personal property which when installed becomes a fixture to real property. . ."

In order for an individual to purchase/lease a prosthetic or orthopedic appliance, a person licensed to practice healing arts, dentistry or optometry must write a prescription for said purchase/lease. From the list that you have provided, only wheelchairs, shower/commode chairs and walkers would qualify for the sales tax exemption in K.S.A. 79-3606(r). This is assuming that a prescription order accompanied the purchase/lease request.

K.S.A. 79-3606(b) exempts from sales tax: "all sales of tangible personal property or service, including the renting and leasing of tangible personal property purchased directly by......a public or private nonprofit hospital...and used exclusively for...hospital...purposes, except when: (1) Such...hospital is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business,..."

Please be advised that purchases made directly by a non-profit hospital, that are not going to be used in carrying out a taxable business, would be exempt from Kansas state and local sales tax(es).

In closing, the delivery fees would be subject to sales tax, only when the purchase/lease of tangible personal property is subject to sales tax in the state of Kansas.

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.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 03/01/1999 Date Modified: 10/11/2001**