**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-008** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Health cards that allow the holder to receive discounts from medical care providers and retailers.** |
| **Keywords:** |  |
| **Approval Date:** | **02/07/2003** |

**Body:**

Office of Policy & Research

February 7, 2003

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XXXX

RE: Your letter of January 29, 2003

Dear XXXX:

Thank you for your recent letter. You work for a multi-level marketing company that sells heath products in Kansas through independent contractors. Your company currently collects and remits Kansas sales tax on behalf of the independent contractors, under an agreement with the department of revenue.

Your company is considering selling heath cards that allow the holder to receive discounts from medical care providers and retailers. Currently, more than 300,000 heath care providers and retailers participate in the plan. There is a single, initial sign-up fee for the card, plus recurring monthly charges. You ask if these customer charges are subject to Kansas sales tax.
Please be advised that the charges for the health cards are not subject to Kansas sales tax. This includes all customer charges, including both the sign up fee and the recurring monthly charges.

Kansas retailers' sales tax is imposed on sales of tangible personal property and on sales of certain enumerated services, which include dues, admission charges, fees for participation in sports and recreation, and so forth. Payment for the heath card is not a payment for any of these taxable services. In addition, while some of the discounts that the card provides may be for sales of tangible personal property, the heath cards is more than simply a means to discount sales of tangible personal property. If the card's purpose were only to discount retail sales, it would be subject to the rules set forth in K.A.R. 92-19-16a(g), and sales of the card could be presumed to be taxable. This regulation provides:

(g) Sales of coupon books and similar materials that entitle the holder to a discount or other price advantage on the purchase of goods or services shall be presumed to have value in addition to the coupons or discounts contained in them and shall be taxable as sales of tangible personal property, except when sales of such a book is by a nonprofit organization that treats the receipts from the sales as a donation. If a coupon is redeemed from a coupon book or other material sold at retail, the retailer who redeems the coupon shall charge sales tax in accordance with the requirements for sales made with coupons that are set forth in subsection (d).

I hope that I have clearly answered your questions. If you need to discuss anything further, please call me at 785-296-3081. This private letter ruling is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make 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 private letter ruling.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 03/05/2003 Date Modified: 03/05/2003**