**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-42** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Day care provider/center.** |
| **Keywords:** |  |
| **Approval Date:** | **02/26/1999** |

**Body:**

Office of Policy & Research  
  
February 26, 1999

XXXX  
XXXX  
XXXX

RE: Your letter dated November 21, 1998

Dear XXXX:  
  
I have been asked to answer your letter received in November. You state that your church is starting a day care center and ask whether its purchases of water from the City of ZZZ are subject to Kansas sales tax.  
  
The department recently determined that sales to non-profit, nonsectarian day care providers, which the department previously exempted as sales to “educational institutions” under K.S.A. 79-3606(c), will continue to be exempt under K.S.A. 79-3606(ii) as sales to non-profit organizations that provide nonsectarian comprehensive multidiscipline youth development programs and activities. This means that all purchases by a day care provider are exempt if the provider qualifies as a nonsectarian comprehensive multidiscipline youth development program. To qualify for exemption your day care must be a non-profit entity and be nonsectarian. You letter does not mention whether your day care is organized as a non-profit enterprise or is organized for profit. Accordingly, I need more information about your day care’s legal structure to answer to your question.  
  
Your letter also does not state where the day care center is housed. If the day care is held within the church or in one of its administration buildings and the church pays for the water utilities, the purchase may be exempt. Such use is exempt if it is minimal in scope, insubstantial in nature, and incidental to the church’s exempt use. If the day care operates in a separate facility, the day care would have to qualify for exemption in its own right to be able to exempt its purchases, which would include purchase of the water utilities.  
  
Please resubmit your request along with information that describes how your day care center is organized and where it is located. Please describe the daily activities scheduled for the preschoolers. This information is probably contained in brochures or other information that you give to parents. Once I receive the information, I will answer your questions.

Sincerely,  
  
  
Thomas E. Hatten

Attorney/Policy & Research  
  
  
**Date Composed: 03/16/1999 Date Modified: 10/11/2001**