**Private Letter Ruling**

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| **Ruling Number:** | **P-2012-007** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Bad check fees and insufficient check charges.** |
| **Keywords:** |  |
| **Approval Date:** | **10/02/2012** |

**Body:**

Office of Policy & Research

October 2, 2012

XXXXXXX
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XXXXXXXXX
XXXXX, XX XXXXX

Dear XXXXXX;

Your letter dated September 20, 2012, has been referred to me for response. Your letters state, in pertinent part, as follows:

XXXXX, supplies tax compliance software to utility (gas and electric) industries. We are currently researching the taxability of bad check fees, or insufficient check charges.

Per Publication 1527: Sales tax is collected on the sale or furnishing of electricity, gas, water or heat. Therefore the tax is due on the total amount charged for furnishing the customer these utilities. If the charge must be paid by the customer in order to receive gas, water, electricity or heat, the charge is taxable at the same state and local rate applicable to the utility itself. See exception below. A customer is late paying his gas bill, so a late charge or fee is added. This fee is subject to the same rates of state and local sales tax as the utility. Conversely, if you off a discount to customers who pay within a prescribed period of time, the sales tax attaches to the discounted amount actually paid by the customer. Other taxable fees include connect/reconnect fees and debt reduction charges (minimum usage charges) on gas, electrical and heat utilities. A refundable utility deposit is an example of a fee that is not subject to sales tax.

Would a fee or charge for a returned check for insufficient funds on a utility bill be subject to sales tax?

**Please note that Publication 1527 applies differently to water utilities. This letter is limited to utilities for gas, electric, and heat.** K.A.R. 92-19-3a exempts from Kansas Retailers’ Sales Tax, “charges to customers for insufficient funds checks or closed-account checks.” Therefore, although Kansas Retailers’ Sales Tax is imposed on late fees on utilities for gas, electric, and heat, the fees related to insufficient funds / bad checks are not subject to the tax.

This 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 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,

Mark D. Ciardullo
Tax Specialist

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**Date Composed: 10/02/2012 Date Modified: 10/02/2012**