**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-082** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Applicability of sales tax exemption to public wholesale water supply districts.** |
| **Keywords:** |  |
| **Approval Date:** | **10/02/2002** |

**Body:**

Office of Policy & Research

October 2, 2002

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XXXX
XXXX

Re: Ruling Request on Applicability Sales Tax Exemption to Public Wholesale Water Supply Districts

Dear XXXX:

This responds to your correspondence dated September 5, 2002 on behalf of XXXX, in which you request a ruling as to whether public wholesale water supply districts (PWWSD’s) organized and operating under K.S.A. 19-3545 are exempt from sales tax on their purchases, pursuant to K.S.A. 2001 Supp. 79-3606(s).

K.S.A. 2001 Supp. 82a-2101 imposes a Clean Water Drinking Fee of 3 cents per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes. That statute also gave public water supply systems an irrevocable right to “opt out” from paying the fee, if such “opt out” was exercised in writing before October 1, 2001. If a public water supply system has timely “opted out” from the fee, then its purchases remain subject to all applicable sales taxes in effect prior to January 1, 2002. If a public water supply system has not “opted out” from paying the fee, then its retail sales of water are subject to the Clean Drinking Water Fee, and the public water supply system qualifies for the sales tax exemption on its purchases, which went into effect on and after January 1, 2002.

You indicate that to your knowledge, none of the PWWSD’s you represent have “opted out” from paying the Clean Drinking Water Fee, imposed pursuant to K.S.A. 2001 Supp. 82a-2101. You also indicate that none of the PWWSD’s you represent make any retail sales of water, selling only at wholesale to other public water suppliers.

It appears that PWWSD’s fit within the definition of “public water supply system” at K.S.A. 65-162a. However, if the PWWSD makes only wholesale water sales and has not “opted out” from paying the Clean Drinking Water Fee, then the PWWSD’s qualifying purchases would be subject to the sales tax exemption at K.S.A. 2001 Supp. 79-3603(s) (effective on and after January 1, 2002), assuming the PWWSD is organized or operating under K.S.A. 19-3545. It also appears that so long as the PWWSD is selling water only at wholesale to other suppliers, the PWWSD is not subject to the Clean Drinking Water Fee.

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 affects this private letter ruling.

Very truly yours,

Richard L. Cram

**Date Composed: 10/09/2002 Date Modified: 10/17/2002**