**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2001-136** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Revenue generated by the operations of a church affiliated camp.** |
| **Keywords:** |  |
| **Approval Date:** | **12/17/2001** |

**Body:**

Office of Policy & Research

December 17, 2001

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXX

Dear XXXXXXXXX:

The purpose of this letter is to respond to your letter dated November 16, 2001.

In your letter you stated:

I am writing to request a ruling as to the applicability of sales tax to the revenue generated XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX A statement of purpose and a description of the various types of activities are separately enclosed.

Description XXXXXXXXXX Program and Activities:

XXXXXXXXXXX Mission Statement

XXXXXXXXXXXXXXXXXXXXXXXXX whose mission is to provide an atmosphere in a simple outdoor setting where individuals can: experience the presence of God in nature; form a relationship with Jesus Christ and others; nurture one's journey as a disciple of our Lord and Savior; and experience spiritual and personal growth and renewal.

All activities for the summer camp program are designed to reinforce the basic philosophy that God cares for each one of us, and the natural world that we live in; and that we are called as Christians to show that same love and care for one another and the world.
Activities include: Archery, Horseback riding, Low Ropes Elements, Swimming, Canoeing, Fishing (some camps), Field Sports (volleyball, kickball, softball), and Hiking.

Archery is led by a National Archery Association Level I Certified Instructor; Low Ropes Elements is led by an Adventure Experiences, Inc. Certified Facilitator; Horseback riding is led by an American Association for Horsemanship Safety, Inc. Certified Riding Instructor Basic.

Archery, Horseback riding, Canoeing, and Low Ropes Elements are not just activities, but educational instructions. We teach not just the skill development, but self confidence, safety, horse care, and working together. In addition to the above, Low Ropes Elements are specifically for group development.

The same activities are available for User Groups; however, not all user groups choose to participate in these activities. Some User Groups come to XXXXXXXXX for a retreat or training session. User groups are almost exclusively (99%) churches, schools and school groups, XXXXXXXXXXXX, etc.

Charges for the activities, if used by a group are Archery - $3.00 per person; Swimming, Canoeing and Low Ropes - $2.25 per person; Fishing, Field Sports, and Hiking - $0; Horseback riding - $12.00 per person.

Per our telephone conversation it was determined that the activities of Archery, Swimming, Canoeing, Low Ropes and Horseback riding are instructional classes.

K.S.A. 79-3603(m) imposes Kansas retailers’ sales tax on:

the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph Ninth of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e).

Your letter contains the following questions:

Are the fees paid for summer camps and similar activities subject to sales tax?

Answer: The fees paid to attend your summer camp are not subject to sales tax. The fees paid for instructional classes of Archery, Swimming, Canoeing, Low Ropes and Horseback riding are not subject to sales tax.

Are the fees paid by "user groups" (next to last paragraph of attached description) subject to sales tax?

Answer: The fees paid by user groups for the use of the summer camp are not subject to sales tax. The fees paid by user groups for instructional classes of Archery, Swimming, Canoeing, Low Ropes and Horseback riding are not subject to sales tax.

In the event that you determine these items not to be taxable, may we apply for a refund for taxes paid previously?

Answer: Each claim for refund, credit or amended return resulting in a refund or credit shall not be allowed if filed after three years from the date the payment of the tax was due.

Sales tax refund requests should be submitted along with proof of payment of sales tax. Proof of payment may consist of the following:

1) Cancelled paid invoices,
2) Contracts,
3) Bills,
4) Documentation showing that the seller billed the consumer the tax, received payment from said consumer and that the tax was remitted to the state of Kansas, and
5) Proof of refund paid to the consumer by the seller.

The seller may request that the state of Kansas make a sales tax refund in the names of both the consumer and the seller, if said seller does not issue the refund directly to the consumer. Then the seller should submit the above information under a cover letter to this department. However, if the seller is unable or unwilling to submit a refund claim, the consumers may submit the claim on their own behalf.

The claim for a sales tax refund should be sent to the following location:

Kansas Department of Revenue
Business Tax Bureau
Robert B. Docking State Office Building
Topeka, Kansas 66625

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,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 12/18/2001 Date Modified: 12/28/2001**