**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-033** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Definition of religious organization.** |
| **Keywords:** |  |
| **Approval Date:** | **05/29/2003** |

**Body:**

Office of Policy & Research

May 29, 2003

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XXXX
XXXX

RE: Your letter postmarked April 21. 2003

Dear XXXX:

Thank you for providing the descriptive material about your organization, XXXX. You ask if your organization is a "religious organization" as the term is use in the Kansas sales tax act. Please be advised that it is not. The federation must continue to pay sales tax on its purchases.

For purposes of the Kansas retailers’ sales tax act, “religious organization” means any organization, church, body of communicants, or other group that gathers in common membership for mutual support and edification, in piety, worship, and religious observance, at an established place of worship which the organization maintains for the purpose of conducting regularly scheduled religious services or meetings, and of which no part of the net earnings of such organization inures to the benefit of any private shareholder or individual member. *See K.S.A. 79-4701(e); K.S.A. 8-1730a; Notice 99-14.*

The Kansas legislature enacted the current exemption for religious organizations in 1998, and broadened it to include construction projects in 1999. The department issued Notice 99-14 to implement the exemptions. I have enclosed a copy of the Notice for you to review. Subsection I(c) and I(d) explain that certain organizations are exempt, while others are not:

c) An organization that is composed of religious organizations may derive exemption from its members if all of the members are themselves exempt religious organizations and the derivative organization is organized and operated exclusively to assist its member organizations in carrying out their religious purpose. Such an organization must itself be exempt from tax under I.R.C. §501(c)(3). *See Trustees of The United Methodist Church v. Cogswell, 205 Kan. 847 (1970).*
d) An affiliated organization and affiliated corporation made up of church leaders, church supporters, and other lay persons, although operating in support of, or under the guidance of, an exempt religious organization, may not claim exemption as a religious organization. *Notice 99-14.*

The annual report that you provided contain the organization's mission statement:

To strengthen and unify the XXXX, the XXXX function as an umbrella organization to provide for the education, cultural, social, and financial needs of our community, XXXX, and the XXXX. Fund raising and allocation serve as integral parts of the XXXX activities in accomplishing these goals.

While the XXXX lists XXXX and XXXX as Ex-Official members, the officers and the board of directors appear to lay people. The XXXXs activities discussed in the annual report do not describe a "group that gathers in common membership for mutual support and edification, in piety, worship, and religious observance, at an established place of worship which the organization maintains for the purpose of conducting regularly scheduled religious services or meetings. . . ." The XXXX's activities include fundraising to send children to camp XXXX, for adult and youth education, for refugee resettlement, for a film series, and to "provide XXXX cultural experiences."

More importantly, the XXXX is not made up exclusively of synagogues, mosques, and churches or operated solely to benefit the synagogues, mosques, and churches. As Notice 99-14 discusses, the sales tax exemption for religious organizations extends to synagogues, mosques, and churches and to organizations that serve as a hierarchy for synagogues, mosques, and churches. It does not embrace affiliated organizations like the XXXX that act in support of a religion or religious objectives. Accordingly, this sales tax exemption for "religious organizations" does not apply to your organization. Please note that if any other similar organization in Kansas is claiming entitlement to this exemption as a religious organization, they likely are in violation of the law and may be subject to fines and penalties.

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

Enclosure

**Date Composed: 05/29/2003 Date Modified: 05/29/2003**