**Private Letter Ruling**

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| **Ruling Number:** | **P-2005-005** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Religious organization.** |
| **Keywords:** |  |
| **Approval Date:** | **04/01/2005** |

**Body:**

Office of Policy & Research

April 1, 2005

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Dear XXXXXXXXXXXXXXX

The purpose of this letter is to respond to your letter dated February 22, 2005. In your letter you formally request an exemption from Kansas retailers’ sales and or compensating taxes as a religious organization.

a) For purposes of the Kansas retailers’ sales tax act, “religious organization” shall mean 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.*
b) In order to qualify for exemption from sales tax, a religious organization must be recognized by the Internal Revenue Service (IRS) as exempt from federal income tax under I.R.C. §501(c)(3).
c) An organization that is composed of religious organizations may derive exemption from its members if all of its 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) Any organization may request a private letter ruling pursuant to K.A.R. 92-19-59 to determine whether or not it qualifies as a religious organization under K.S.A. 79-3606(aaa). Each request shall be accompanied by: (1) a letter from the IRS that recognizes the organization is exempt from federal income taxation pursuant to I.R.C. §501(c)(3); and (2) a copy of the by-laws and other documentation that establishes that it is organized and operated for religious purposes. Under Kansas law, the burden of proof that an organization is exempt lies with the organization. Any organization that erroneously claims exemption as a religious organization must be held liable for tax, penalty and interest if it is later determined that the organization does not qualify under K.S.A. 79-3606(aaa) and the organization has claimed exemption on its purchases.

Tax exemptions are narrowly construed. This means that a group that claims exemption must clearly qualify for exemption within the plain language of the statute. The Kansas sales tax act lists various groups that are exempt from tax. Some statutes identify the exempt entity by name. These include the statute that exempts the American Heart Association, Kansas Affiliate, Inc. and the American Lung Association of Kansas, Inc., among others. Other statutes extend exemption by describing the entity in general terms, such as the exemptions extended to non-profit hospitals, political subdivisions of the state, and nonprofit zoos. Some exemptions are limited to certain purchases while other exemptions extend to all purchases.

K.S.A. 79-3606 contains more than 60 additional exemptions. I have reviewed these exemptions and cannot find any that encompass your organization.

Therefore, your organization is subject to sales tax on purchases and your organization is required to register and collect Kansas retailers’ sales tax when making retail sales. Your organization may register by completing “Application to register a business” available at www.ksrevenue.org.

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: 04/06/2005 Date Modified: 04/06/2005**