**Private Letter Ruling**

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| **Ruling Number:** | **P-2008-003** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Special events rentals and services.** |
| **Keywords:** |  |
| **Approval Date:** | **03/19/2008** |

**Body:**

Office of Policy & Research

March 19, 2008

XXXX
XXXX
XXXX

RE: Your letter dated January 8, 2008

Dear XXXX:

Thank you for your recent letter. Your client, XXXX, (XXXX) operates a farm near Dogjaw, Kansas. The farm serves as the location for XXXX's special-events business that hosts weddings, anniversaries, banquets, and other events. You provide the following description of the facilities and services that XXXX offers and ask how Kansas sales tax applies to them:

1. A barn is rented out for use at wedding, anniversaries and other celebrations.
2. Tables and chairs are provided for these events, but there is no separate billing.
3. Food and drink is provided by a separate caterer and is billed separately by that individual.
4. Horse-drawn carriage, wagon and stage-coach rides are available at the events at the customer's request. There is no separate billing or charges for providing this service.
5. Horse-drawn carriage, wagon and stage-coach rides are sometimes provided at events away from the farm. For liability reasons, XXXX is always the one who provides the rides. The houses and equipment are not rented out separately.

Kansas sales tax is not imposed on rentals of banquet rooms, ballrooms, reception rooms, and other meeting rooms. *See K.A.R. 92-19-24.* XXXX's charges to her special-events customers for the use of the barn are not subject to Kansas sales tax.

XXXX provides chairs and tables as part of the barn rental and she does not bill the customer for their use. Accordingly, the tables and chairs are treated as an incidental part of the barn rental, which is not taxed. *See Pub. KS-1540, Kansas Business Taxes for Hotels, Motels, and Restaurants, pp. 10, 16.*XXXX is treated as the final user or consumer of the chairs and tables. She must pay sales tax as a consumer whenever she buys or rents additional chairs and tables. These rules apply even if XXXX occasionally needs to rent additional chairs and tables from a third-party rental company and recovers her rental expenses by charging her customer an additional fee. If she stops providing chairs and tables as part of the facility rental and starts to charge a separate fee for them or if she to regularly needs to rent additional chairs or tables that she rebills to the her customers, she should register as a retailer and start collecting tax on the rental charges.

Charges for food catering services are taxable in Kansas. *K.A.R. 92-19-69.* From your description, it appears that XXXX's customers contract directly with the caterer for their services. In such cases, the caterer is required to charge sales to XXXX's customers and remit it to the department. XXXX would have no sales tax obligations vis-a-vis the catered food and meals.

However, if XXXX contracts with a caterer for the catering services on her own account and then rebills the customer, XXXX is required to collect sales tax on the total amount that she rebills to the customer for the catered food and services. If XXXX adopts this practice in the future, she will be required to collect tax on the total amount that is billed to the customer for the food services. This would allow her to give the caterer a resale exemption certificate.

XXXX also provides rides on horse-drawn carriages, wagons and stage couches away from her farm. These services are taxable. Kansas sales tax is imposed on: "the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services." *K.S.A. 79-3603(e).* K.A.R 92-19-22a implements this statute. It provides in parts relevant here:

(b) Admission charges that shall be subject to sales tax shall include charges for the following:. . . (6) sightseeing rides or tours on buses, aircraft, boats, trains, or other forms of transportation. If a ride or tour is advertised or otherwise held out as being primarily for sightseeing or entertainment, the charge shall be considered to be for a recreational activity rather than for a transportation service. *K.A.R 92-19-22a(b)(6).*

This Kansas regulation is consistent with *Surrey's on the Plaza, Inc. v. Director of Revenue*, 128 SW 3rd 508 (Mo. 2004) which held that horse-drawn carriages at Kansas City's Country Club Plaza are places of amusement for purposes of a similar Missouri sales tax statute and that the charges for the rides were taxable charges for admissions to a place of amusement or entertainment.

Because these charges are taxable, XXXX is required to register for sales tax purposes and collect sales tax when she charges customers for rides on the horse-drawn carriage, wagon or stage coach. Her charges are taxable whether she bills an event planner or the individual riders.

XXXX also provides rides on horse-drawn carriages, wagons and stage couches on her farm. You state: "*Horse-drawn carriage, wagon and stage-coach rides are available at the events at the customer's request. There is no separate billing or charges for providing this service."* From this description, XXXX appears to offer these services to customers on a take it or leave it basis. In addition, the prices for the event planning service or barn rental do not vary depending on whether or not the customer asks for the rides to be provided. Because of this arrangement, XXXX does not owe Kansas sales or use tax when a customer elects to have a ride at a special event. *See e.g. Appendix C, Library of Definition, Part I, "bundled transaction," (A)(2), Streamlined Sales and Use Tax Agreement.*Please note, these charges would become taxable if she began to separately charge for the rides or begins to offer hay rides or similar rides on her farm that are unrelated to her special-events business.

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

**Date Composed: 03/19/2008 Date Modified: 03/19/2008**