**Private Letter Ruling**

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| **Ruling Number:** | **P-2011-008** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Customer lawaway service for general merchandise.** |
| **Keywords:** |  |
| **Approval Date:** | **09/22/2011** |

**Body:**

Office of Policy & Research

September 22, 2011

XXXXXXXXXXXXXXXXXXX
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XXXXXXXXX
XXXXXXXXXX

Dear XXXXXXXXXX:

We wish to acknowledge receipt of your recent inquiry regarding the application of Kansas Retailers’ Sales tax. You inquired regarding customer layaway service for general merchandise. XXXXXX will be collecting a $XX layaway service fee when the layaway is initiated with a 10% down payment. Should a customer cancel the layaway fee the customer will be returned the down payment and any subsequent payments made. However, XXXXXX will retain the layaway fee and charge the customer a $XX layaway cancellation fee. You ask if either the layaway service fee or layaway cancellation fee are subject to Kansas sales tax.

The retailer is required to collect and remit sales tax on the receipts only after the selling price for the item and associated sales tax is deducted from the total receipts that the customer paid over time. Tax is not owed on the payments the buyer makes to the seller until the seller delivers an item to the buyer. If the buyer chooses to discontinue making periodic payments, any payment proceeds that are returned to the buyer by the seller are not taxable. As with layaway sales, a non-refundable fee retained by the seller is not subject to Kansas sales tax.

Therefore a non-refundable layaway fee or a layaway cancellation fee is not subject to Kansas sales tax because a retail sale has not been made. Since tax is due on a layaway when the final payment is made, the retailer would not have reported tax on its earlier layaway receipts. Tax would not be due on the non-refundable charge or cancellation fee retained by the retailer since there has not been a retail sale.

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,

Jack Smith
Policy and Research
Kansas Department of Revenue

**Date Composed: 09/30/2011 Date Modified: 09/30/2011**