**Private Letter Ruling**

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| **Ruling Number:** | **P-2010-009** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Various revenue streams and the applicability of Kansas sales tax to each.** |
| **Keywords:** |  |

**Body:**

Office of Policy & Research

November 16, 2010

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The purpose of this letter is to respond to your letter dated December 21, 2009.

You requested an assessment of whether a variety of revenue streams were subject to Kansas Retailer’s Sales Tax. Below is the assessment on each of the revenue streams you requested:

On the matter of whether article sales from scientific, technical and medical journals to researchers, whereby your clients earns a transaction fee and may earn additional fees, such as a copyright fee and referencing or customization fees:
K.S.A. 79-3603(a) states, “gross receipts received from the sale of tangible, personal property within the State of Kansas at retail is taxable.” K.S.A. 79-3602(o) defines “gross receipts,” in pertinent part, as “the total selling price.” Thus, any additional fees charged in the sale of the articles would be taxable. Furthermore, K.A.R. 92-19-12(a) states, “newspapers, magazines, periodicals, trade journals, publications and other printed matter are tangible, personal property and the receipts from retail sale of these items are taxable.” Thus, the transaction fee from the article sale would also be taxable.

On the matter of whether document delivery via Regular Mail, Courier, Facsimile or Electronic Delivery would exempt the sale of the article:
K.S.A. 79-3602(ll) defines “selling price,” in pertinent part, as “the total amount of consideration . . . for which property are sold . . . without any deduction for the following: (D) delivery charges.” However, if the article sales are arranged and delivered over the internet, Kansas sales tax does not apply. Except for canned software, Kansas does not tax sales of electronically-downloadable digitized products or information. Charges for electronic downloads are not subject to Kansas sales or use tax because they are not tangible personal property.

On the matter of whether reprint sales are taxable:
K.A.R. 92-19-12(a) states, in pertinent part, “publications and other printed matter are tangible, personal property and the receipts from the retail sale of these items are taxable.” Thus, any gross receipts received from the article sales, including reprint sales, are taxable.

On the matter of whether software that turns the customer’s computer, printer and scanner into a document transmission station on the internet is taxable, whether the software is electronically downloaded by computer or a CD containing the software is delivered to the customer, or both:
In general, Kansas sales tax is applied to the sale of prewritten computer software. K.S.A. 79-3603(s) states, “on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave.” K.S.A. 79-3602(cc) defines “prewritten computer software” as “computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser.” Thus, the document transmission software would be prewritten computer software because it is not designed to the specifications of a specific customer, the sale of which would be taxable.

On the matter of whether software licensing fees paid by customers so they can remotely use software residing on client’s server is taxable:
Kansas does not tax provider’s charges that allow a customer to electronically access info on provider’s remote server located outside Kansas. Therefore the monthly fee charged to access prewritten computer software located . . . [outside Kansas] . . . is not subject to Kansas sale or use tax.”

On the matter of whether a staffing service providing highly skilled professionals (in which all staffing personnel are employees of your client) to provide expertise in all aspects of information center management is taxable:
Generally, with services, tax is imposed only on transactions enumerated in the Kansas Sales Tax Act. It has been determined that your client’s staffing service is not taxable.

On the matter of whether a management fee for service allowing customers to outsource the management of their information center to client is taxable:
A document management service is not an enumerated service under the Kansas Sales Tax Act. Thus, the service would not be taxable.

On the matter of whether a maintenance fee for storage, maintenance, and retrieval service whereby customer’s physical print is stored off-site at client’s facility and maintained by client’s personnel:
A document management service is not an enumerated service under the sales tax act. However, if your client does provide it’s customer with a reproduction of the customer’s document, and a fee is charged for the reproduction, then that fee is taxable.

This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to an accurate determination by the department, this ruling is null and void. This ruling will be revoked in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Designee of the Secretary of Revenue

DCF

**Date Composed: 11/30/2010 Date Modified: 11/30/2010**