**Opinion Letter**

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| **Letter Number:** | **O-1998-23** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Project exemption certificates for religious organizations.** |
| **Keywords:** |  |
| **Approval Date:** | **12/10/1998** |

**Body:**

Office of Policy & Research

December 10, 1998

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Dear Mr. TTTTTT:

We wish to acknowledge receipt of your letter dated October 2, 1998, regarding the application of Kansas Retailers’ Sales tax.

This is an informational letter only and not a private letter ruling pursuant to K.A.R. 92-19-59.

K.S.A. 79-3606(aaa) exempts from sales tax: “all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes.”

Services purchased directly by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, are exempt from Kansas sales tax. This means that a contractor who contracts directly with the religious and receives payment directly from the religious organization should not charge sales tax on the labor services, that are purchased exclusively for religious purposes. Contractors performing these contracts with the religious organizations should continue to pay sales tax on their purchases of construction materials and supplies and on their payments to subcontractors. Services provided by subcontractors on contracts with religious organizations are not direct purchases by the respective religious organization.

Historically, the department has held to a literal interpretation of sales tax exemptions. Therefore, if a traditional construction contract between a general contractor and the religious organization is utilized, only the labor services provided by the general contractor will be eligible for exemption, and all labor services provided by subcontractors, unless the services are rendered in connection with original construction of a building or a facility, would be taxable.

The law does not allow for project exemption certificates to be issued for contracts with religious organizations. Project exemption certificates may be issued to the U. S. Government, political subdivisions of the state of Kansas, non-profit hospitals and zoos and non-profit educational institutions. In this last legislative session, the sales tax exemption that was granted to the non-profit zoos, contained specific language authorizing the issuance of project exemption certificates to the respective zoos.

Under the current sales tax exemption for religious organizations, a contractor would be able to assist the organization in ordering and taking delivery of the materials and supplies from the vendor, but the invoice needs to be made out in the name of and paid for directly by the exempt entity. Payment can not flow back to the supplier through the contracting chain. However, a contractor may be authorized to write checks on a churches checking account, as an authorized signature.

For your convenience, I have enclosed a copy of Revenue Notice 98-05, “Sales Taxation of Purchases by Religious organizations”.

If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 12/23/1998 Date Modified: 10/10/2001**