**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-16** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Not-for-profit organizations.** |
| **Keywords:** |  |
| **Approval Date:** | **02/05/1999** |

**Body:**

Office of Policy & Research

February 5, 1999

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Dear XXXXXXXXXXX:

The purpose of this letter is to respond to your letter dated January 13, 1999.

The statute that imposes the tax on memberships is K.S.A. 79-3603(n), the statute states:

" the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs Eighth and Ninth of K.S.A. 79-201, and amendments thereto,; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;"

As stated the law broadly imposes sales tax on dues charges. The only requirement is that the payment of the due grants the payee access to a facility for recreation or entertainment. Your letter does not contain any information regarding if your club maintains a facility for use by members for the purpose of entertainment or recreation. Therefore, I am unable to advise you on the taxability of your membership sales.

Any Not-for-Profit entity (unless specially exempt by statute) engaged in the business of selling tangible personal property at retail or furnishing services or entertainment to the ultimate user or consumer, and not for resale, shall be a retailer as defined in K.S.A. 79-3602(d).

If your organization engages in fund raising activities, such as carnivals, bake sales, etc., it is required to collect and remit sales tax on the gross receipts from all retail transactions subject to tax under the Retailers' Sales Tax Act. The ultimate use of the funds is not determinative of whether the gross
receipts from such sales are subject to sales tax. See K.A.R. 92-19-67 in attached Appendix. The sales tax is imposed only on retail sales (sales to the final user or consumer) items that are purchased for a fund raising event are purchases for resale and may be purchased by the retailer exempt from sales tax. To purchase these items without sales tax, the retailer must hold a valid Kansas retailers' sales tax registration number and must provide the retailer with a valid resale exemption certificate.

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

**Date Composed: 02/16/1999 Date Modified: 10/11/2001**