**Private Letter Ruling**

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| **Ruling Number:** | **P-2002-083** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Religious organizations.** |
| **Keywords:** |  |
| **Approval Date:** | **10/07/2002** |

**Body:**

Office of Policy & Research

October 7, 2002

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Dear Sirs:

The purpose of this letter is to respond to your letter dated August 20, 2002.

Based solely on the facts of your letter and documents submitted, the Kansas Department of Revenue has determined that XXXXXXXXXXXXXXXXXXXX is a religious organization for purposes of the Kansas Retailers’ Sales Tax Act.

Kansas sales tax law exempts “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. . .” K.S.A. 79-3606(aaa).

For purposes of the Kansas retailers’ sales tax act, the term “religious organization” means any organization, church, body of communicants, or other group that gathers in common membership for mutual support and edification, in piety, worship, and religious observance, at an established place of worship which the organization maintains for the purpose of conducting regularly scheduled religious services or meetings, and of which no part of the net earnings of such organization inures to the benefit of any private shareholder or individual member. *Notice 98-05; See K.S.A. 79-4701(e); K.S.A. 8-1730a.* An organization that is composed of religious organizations may derive exemption from its members if all of its members are themselves exempt religious organizations and the derivative organization is organized and operated exclusively to assist its member organizations in carrying out their religious purpose. Such an organization must itself be exempt from tax under I.R.C. §501(c)(3). *Notice 98-05; See Trustees of The United Methodist Church v. Cogswell, 205 Kan. 847 (1970).*

Charitable organizations that are composed of churches, businesses, and lay persons are separately incorporated organizations that are not composed exclusively of churches or other religious organizations, but include lay people and businesses. Therefore, these groups do not qualify as a religious organization for purposes of the exemption extended at K.S.A. 1998 Supp.79-3606(aaa).

Therefore, direct purchases, that are used exclusively for religious purposes are exempt from Kansas retailers’ sales tax. When making an exempt purchase you should provide to the retailer a copy of this letter and an exemption certificate. I have enclosed a copy of the exemption certificate, you may duplicate and issue as needed. The 1998 Kansas Legislature exempted sales of property and services to religious organizations, when such purchases are used exclusively for religious purposes. In 1999 legislature expanded this exemption to include sales of tangible property and services to contractors who use such purchases to construct buildings or make other improvements to real property owned by a religious organization and used exclusively for religious purposes. This does not exempt the purchase of any construction machinery, equipment or tools. In addition to enacting this exemption, the 1999 legislature directed the Department to implement refund procedures to refund the sales tax religious organizations paid indirectly through their contractors on or after July 1, 1998. See Notice 99-05, that I have enclosed

Tangible personal property and services that are considered to be used exclusively for religious purposes include, but are not limited to, personal property and services:

· used exclusively in, or to facilitate, religious ceremonies.

· used exclusively in, or to facilitate, carrying out the religious work of the organization.

· used to construct, furnish, equip, remodel, or maintain a facility used exclusively for religious objectives including, but not limited to, a church, church grounds, a church administration building, a church camp, a parsonage, rectory, or convent. Such property must be purchased directly by the religious organization and not through a contractor. *See Kansas City Dist. Advisory Bd. v. Board of Johnson Country Comm’rs,*5 Kan App. 2d 538, 542 (1980).

· used exclusively to administer, manage, or operate religious facilities or to administer religious activities.

Tangible personal property and services will be considered to be "used exclusively" for a religious purpose as long as any other use of the item or service is minimal in scope, insubstantial in nature, and incidental to the exempt purpose. *See Midwest Presbytery v. Jefferson County Appraiser*, 17 Kan. App. 2d 676, 679 (1992).

Tangible personal property and services that are not exempt include: (1) personal property and services that are purchased by a religious organization for use in undertaking business activities, even though the profits from such enterprises may be used exclusively for religious purposes*(See Sunday School Bd. v. McCue*, 179 Kan. 1 (1956)); and (2) personal property and services, such as food, clothing, personal items, meals, drinks, motor vehicles, admission charges, and membership dues, that are for the personal use of ministers, priests, and other employees, rather than a use that is exclusively for a religious purpose.

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 affects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 10/17/2002 Date Modified: 10/17/2002**