



March 18, 2011

Revenue Ruling No. 19-2011-01

**Sales Tax Treatment of Charges for Participation in Guided and Non-guided
Hunting and Certain Sales of Game Birds**

This revenue ruling provides the Department's interpretation on the sales tax treatment of charges for guided and non-guided hunts, and certain sales of game birds. Effective May 7, 2008, the Department had suspending enforcement of collection of sales tax on charges for participation in guided or non-guided hunts, and on the retail sale of game birds, pending review of its prior interpretation that such charges were subject to sales tax. Effective as of the date of this revenue ruling, the Department is reversing that prior determination and has now determined that the gross receipts from participation in guided and non-guided hunting are not subject to Kansas retailers' sales tax and do not fall within any current sales tax imposition statute.

K.S.A. 79-3603(m) imposes sales tax on the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities. K.A.R. 92-19-22b(a)(1) contains the following definition:

“Sports, games, and other recreational activities” shall mean diversions that restore or refresh strength and spirits by means of pastime, exercise, or similar activities that involve strength, speed, dexterity, stamina, or training. These activities shall include golf, pool, billiards, skating, bowling, swimming, skiing, baseball, softball, basketball, volleyball, racquetball, handball, squash, tennis, carnival rides, motor sports, batting practice, skeet, trap, target shooting, horse riding, pinball, darts, electronic games, physical fitness services, and all other similar activities.

“Hunting” does not fall within the definition of “sports, games, and other recreational activities” contained in K.A.R. 92-19-22b(a)(1).

If game birds are purchased by a controlled shooting area operator from a bird breeder for release at a controlled shooting area, such a transaction shall be considered a retail sale of tangible personal property subject to sales tax. Any charges for hunters later shooting and taking any such game birds released at the controlled shooting area will not be considered a transaction subject to sales tax.

Taxable sales of meals, tangible personal property and lodging are subject to sales tax. Collection and remittance of applicable sales tax on those items should continue. In order not to be considered taxable as part of the sales meals, tangible personal property and lodging, charges for participation in guided and non-guided hunting should be billed separately from charges for taxable sales of meals, tangible personal property, and lodging.

Section 15 of 2011 Senate Bill 193 amended K.S.A. 79-3606 to provide a new sales tax exemption at (gggg) for: “all sales of game birds for which the primary purpose is use in hunting.” This law is effective on July 1, 2011. As of that date, the sale of game birds for which the primary purpose is use in hunting shall be exempt from sales tax, effective July 1, 2011.

This revenue ruling replaces and supersedes all prior advice, revenue rulings and rulings that have been issued regarding this issue. Questions concerning this revenue ruling should be directed to the Office of Policy and Research, telephone no. 785-296-3081.

Secretary of Revenue

Nick Jordan