**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-37** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Fund raisers.** |
| **Keywords:** |  |
| **Approval Date:** | **02/19/1999** |

**Body:**

Office of Policy & Research

February 19, 1999

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Dear Sirs:

The purpose of this letter is to respond to your letter dated November 12, 1998.

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 is a private letter ruling pursuant to Kansas Administrative Regulation 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 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 ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

Appendix

92-19-67 Sales by corporations, businesses, organizations and associations organized not-for-profit. (a) Each not-for-profit corporation, business, organization or association regularly 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. 1986 Supp. 79-3602(d). Each retailer shall collect and remit sales tax on the total gross receipts received from all taxable retail sales of tangible personal property, services or entertainment.
(b) The principal line of business, activity, intention or function of the corporation, business, organization or association is not determinative of whether a person is a retailer. The ultimate use of funds is not determinative of whether the gross receipts received from retail sales of tangible personal property or services are subject to sales tax.
(c) ``Regularly engaged in the business'' means the periodic, habitual or recurring sale of tangible personal property or a taxable service at retail. A person is a retailer under the act if the person sells tangible personal property at retail or provides a taxable service in the normal course of its business operations, notwithstanding the fact that the sales may be few or infrequent, or that retail sales may comprise a small portion of the total gross income. When a person acquires tangible personal property for the purpose of resale, the person is a retailer and shall collect sales tax on the retail sale of the property, regardless of whether the person's principal line of business, function or intention involves retail sales of tangible personal property.
(d) Non-recurring retail sales of tangible personal property or taxable services by a religious organization are not subject to sales tax, whether or not any property sold was acquired for resale purposes. ``Nonrecurring'' means there must not be more than one sale of tangible personal property or taxable services within a twelve month period. ``Religious organization'' means a structured, nonprofit, collective association or society of individuals relating to or manifesting devotion to an acknowledged ultimate deity. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**Date Composed: 03/02/1999 Date Modified: 10/11/2001**