**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-38** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Membership dues.** |
| **Keywords:** |  |
| **Approval Date:** | **02/12/1999** |

**Body:**

Office of Policy & Research

February 12, 1999

XXXXXXXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXXXXX

Dear XXXXXXXXXX:

The purpose of this letter is to respond to your letter dated November 18, 1998.

In your letter you stated:

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. The international organization is a qualified 501(c)(8) under the Internal Revenue Code.

The majority of Kansas subordinate councils operate within their XXXXXXXX, holding meetings in the XXXXXXXXXXX. These XXXXXXX do not own, directly or indirectly, any facility used for recreation or entertainment. While their members pay dues, those funds are used for administrative or charitable purposes. Some members do not pay dues because of age or disability. Less than ten percent (10%) of the Kansas XXXXXXXX indirectly oversee a facility for recreation or entertainment. Such XXXXXXX may not own such property in name of the local XXXXXX. Most have formed a separate Kansas corporation to own and operate the facility. Members of the local XXXXXXX oversee the operation of this separate corporation. Meetings and other functions are often held at those facilities.

In essence there is a dichotomy among the XXXXXXXXXXXX in the state of Kansas. While all XXXXXXcharge dues, the majority do not own a facility. Consequently, such dues should not be subject to tax since they do not meet the criteria of K.S.A. 79-3603(n).

You request a private letter ruling to confirm your interpretation of this law.

K.S.A. 79-3603(n) imposes a sales tax upon: “the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and business, payment of which entitles a member to use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon 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. . .”

It is the opinion of the Kansas Department of Revenue that dues charged to members of organizations, for which payment allows access to facility for recreation or entertain remain subject to Kansas retailers’ sales tax. XXXXXXX that maintain a facility for recreation or entertainment, whether directly or indirectly must continue to remit sales tax on membership fees. XXXXXX that do not maintain or provide a facility for recreation or entertainment are not required to remit sales tax on their dues.

I have attached an Appendix that concerns refunds and credits, for your use.

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

MDC

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