**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2002-037** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Educational institutions related exemption.** |
| **Keywords:** |  |
| **Approval Date:** | **04/24/2002** |

**Body:**

Office of Policy & Research

April 24, 2002

XXXXXXXXXXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXXXXX

Dear XXXXXXXXXXXXXX:

I have been asked to respond to your letter of April 10, 2002. You request a private letter ruling that determines whether XXXXXXXXXXXX qualifies for exemption from Kansas sales tax.

In your letter you stated:

The XXXXXXXXXXXXXXXXXXX programs that supported the objectives of an educational organization, is being spun off as a separate not for profit organization which will operate as a school under IRC Sections 509(a)(1) and 170(b)(1)(A)(ii). The new organization is called the XXXXXXXXXXXXXXXXX and will soon be headquartered in Kansas. Would you please review the attached information regarding the Institute's objectives and determine whether it may receive sales tax exemption in Kansas? The Institute received status as a not for profit corporation in Kansas on XXXXXXXXXXXX, I look forward to hearing from you.

1998 Senate Bill 493 defined “educational institutions,” which have been exempt on their purchases for some time, as colleges, universities, and other nonprofit post secondary schools. The bill broadened the definition to include certain trusts and foundations that are operated for the benefit of educational institutions, and purchases by groups of educational institutions. The law provides:

Such phrase [“education institution”] shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) non-profit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

Your organization does not meet the qualification requirement of subsections (1) through (3). It is not a group of education institutions, such as the NCAA, nor is it an endowment association. Endowment associations are chartered to own, control, or otherwise administer funds that are bequeathed, donated, or held in trust for the benefit of a college or university.

Your organization also does not qualify under subsections (4). State universities have established separately incorporated nonprofit foundations that engage in research and development for the benefit of the university. This provision exempts purchases by such organizations, which include non-profit corporations that perform medical and industrial research that were incorporated by the University of Kansas, and other such organizations. This exemption was not intended to exempt groups such as engineering societies, nursing groups, medical, law, or honorary fraternities, associations of professors, or other college or university associations that are not primarily organized to engage in research and development for the benefit of a college or university. Your organization is an association of teaching physicians, rather than an organization “whose primary purpose [is] encouraging, fostering and conducting scholarly investigations and . . . research for the support and sole benefit of an educational institution.” Accordingly, the XXXX is not exempt from paying sales tax on its purchases.

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 by operation of law without further department action if there is a change in the controlling statutes, administrative regulations, revenue rulings or case law that materially effects this determination.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC

**Date Composed: 04/25/2002 Date Modified: 04/25/2002**