**Private Letter Ruling**

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| **Ruling Number:** | **P-2005-009** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales tax on receipts of a YMCA facility.** |
| **Keywords:** |  |
| **Approval Date:** | **05/31/2005** |

**Body:**

Office of Policy & Research  
  
  
May 31, 2005

XXXXX  
XXXXX  
XXXXX  
XXXXX  
  
Dear XXXXX:  
  
I have been asked to respond to your letter received by this office on December 20, 2004. In it, you ask for guidance on the application of Kansas retailers’ sales tax on receipts of the XXXXX YMCA.  
  
There is no imposition of Kansas retailers’ sales tax on the following gross receipts:  
  
Donations, interest on Trust assets, interest on money market accounts, farm income, United Way receipts, personal trainer, massage therapy, child watch, locker rentals, rent paid for use of facilities, vending machine commissions.  
  
The YMCA’s are exempted by K.S.A. 79-3606 from the duty to collect tax on the receipts from:  
  
Swimming programs, gymnastic programs, K-3rd basketball programs, K-3rd indoor and outdoor soccer, youth fitness, women’s and coed volleyball, children's birthday parties and retail sales of goggles, racket balls, etc.  
  
Allow me to explain our rationale:  
  
The 1998 legislature exempted membership dues and recreational activity fees that are paid to certain nonprofit community service organizations. For this exemption to apply, the organization must qualify for exemption from property tax under the Ninth paragraph of K.S.A. 79-201. Examples of Organizations that may qualify are the American Red Cross, Big Brothers & Big Sisters, Boy Scouts, Girl Scouts, YMCA, YWCA, community health centers, local community organizations, and social services organizations. K.S.A. 79-3603(m).

(m) 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, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph Ninth of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

This means that all nonprofit organizations that qualify for this exemption may purchase tangible personal property exempt from sales or compensating tax; and sell tangible personal property with no duty to register, collect and remit sales tax. Please note that this exemption does not exempt the nonprofit organization from sales tax when purchasing of a taxable service; nor the duty to register, collect and remit sales tax on the gross receipts from the providing of a taxable service.  
  
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  
  
  
DVL  
  
  
**Date Composed: 06/01/2005 Date Modified: 06/01/2005**