**Opinion Letter**

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| **Letter Number:** | **O-2000-016** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Purchases of items for meal preparation for senior citizen sites by an organization that is exempt from federal tax.** |
| **Keywords:** |  |
| **Approval Date:** | **09/20/2000** |

**Body:**

Office of Policy & Research

September 20, 2000

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Re: Kansas Sales Tax

Dear XXXXX:

Your correspondence of September 14, 2000 has been referred to me for response. Thank you for your inquiry.

Your letter indicates your organization is exempt from federal tax under 501(c)(3), and that part of your service is the preparation of meals for senior citizen sites throughout northwest Kansas. You note that in the past you have purchased items for meal preparation from businesses which have accepted a sales tax exemption certificate from you, but that now some of these businesses have requested a sales tax number and refuse to honor the exemption certificate. By your letter you request our opinion as to whether your organization is exempt from sales tax on its purchases for meal preparation.

The Kansas sales tax is imposed by K.S.A. 79-3603. Exemptions from sales tax are found in K.S.A. 79-3606. Subsection (v) of the statute provides an exemption for:

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

To claim the exemption, a qualified purchaser should furnish a Food For Homebound Elderly And Disabled Exemption Certificate to the retailer. In accordance with Kansas Administrative Regulation (K.A.R.) 92-19-25, the retailer should accept the certificate in good faith. Subsection (d) of the regulation further provides that when dealing with a nonprofit entity:

(d) Each exemption certificate issued by a nonprofit entity claiming an exemption shall contain the name and address of the entity; identify the subsection of K.S.A. 79-3606, and amendments thereto, under which the exemption is claimed; be signed by an officer, office manager, or other administrator of the entity; and contain the drivers license number of the signer. As a condition of honoring these exemption claims, a vendor may require that payment be made on the entity’s check, warrant, or voucher, or be charged to the entity’s account.

Based on the information contained in your letter, it appears your organization falls within the statutory exemption and is therefore entitled to claim the exemption. And, as suggested in your letter, you are correct in asserting the exemption by offering the appropriate exemption certificate to the retailer. As long as the conditions of K.A.R. 92-19-25(d) are satisfied, the retailer should accept the exemption certificate in good faith and make the sale to you without charging sales tax.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Jim Weisgerber
Attorney
Tax Specialist

JW:jw

**Date Composed: 09/20/2000 Date Modified: 10/10/2001**

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