**Private Letter Ruling**

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| **Ruling Number:** | **P-2003-004** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Non-profit fundraising events.** |
| **Keywords:** |  |
| **Approval Date:** | **01/28/2003** |

**Body:**

Office of Policy & Research

January 28, 2003

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RE: Your letter dated January 16, 2003

Dear XXXX:

Thank you for your recent letter. You represent the XXXX Chapter of XXXX ("the chapter"). The chapter is a non-profit entity that holds an annual fundraising event. Part of the fundraising event is an auction. The chapter buys guns, which are then sold at the auction. You how Kansas sales tax applies to these activities.

Most Kansas non-profit organizations, including the chapter, are not exempt from the requirements of the Kansas retailers' sales tax act. This means that most of these organizations, including the chapter, must pay sales tax on its purchases and charge sales tax on its taxable sales. Generally, if an organization holds a recurring annual fundraising event, the organization must register and collect sales tax on the taxable sales made at the event. Accordingly, since the chapter holds an annual fundraising banquet, it is considered to be making recurring sales and must register for and collect sales tax on the sales of admission tickets to the banquet and on any customer charges for food and sales-taxable drinks.

Sales made at the auction that is held during the banquet are also subject to sales tax. The fact that these auction sales are taxable is found under the definition of "isolated or occasional sale," which is set forth at K.S.A. 79-3602(j):

(j) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: . . . (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property. *(emphasis added).*

Here, the chapter is engaging in what is considered to be recurring sales, because it holds an annual fundraiser. In addition, the guns are being acquired for the purpose of resale. Therefore, the underlined portion of K.S.A. 79-3602(j) means that the exception for isolated or occasional sales does not apply to the auction sales since the sale is not "nonrecurring." In addition, the chapter is engaging at the time of the sale in the business of selling tangible personal property, and the guns are being acquired with the intent of reselling them.

What this means on a practical basis is that the chapter may claim a resale exemption when it buys the guns that will be auctioned off at the fundraiser. Sales tax must be collected when the guns are sold at the fundraising auction. The chapter may also claim resale exemption when it buys food that is prepared for banquet meals if sales tax is being charged and collected on sales of the banquet tickets.

I hope that I have answered all of your questions. If you have any more, please call me at 785-296-3081. 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,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 02/10/2003 Date Modified: 02/10/2003**