**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2003-032** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Publication of community information magazines; advertising in same.** |
| **Keywords:** |  |
| **Approval Date:** | **05/28/2003** |

**Body:**

Office of Policy & Research  
  
  
May 28, 2003

XXXX  
XXXX  
XXXX

RE: Your letter dated May 13, 2003

Dear XXXX:  
  
Thank you for your recent letter. Your company contracts with the local business organizations in Kansas to publish magazines that contain information about the community. Your company generates revenue from selling advertising in the magazines to the organization's members. The various organizations do not reimburse your company for any of the publication's costs. You ask how these transactions should be taxed under the Kansas retailers' sales tax act.  
  
Taxation of free publications, such as the ones you describe, is controlled by paragraph (d) of K.A.R. 92-19-12:

(d) Each person who prints or produces and distributes publications, free of charge, is regarded as the final user or consumer of all materials used to print or produce the publication. For tax purposes, the printer or publisher shall pay sales tax on all purchases of materials used to print or produce the publication.  
If a person prints or publishes tangible personal property for sale to consumers, and also prints or publishes publications which are distributed free of charge, a person may purchase all materials used in the printing and publishing process exempt from sales tax. When a person prints or publishes the publication for distribution free of charge, that person shall include the cost of all exempt materials purchased for use in printing or producing that publication on the sales tax return and impose sales tax on that amount.

This provision requires your company to pay Kansas sales tax to the printer of the magazine, if the magazine is printed in Kansas. If the magazines are printed outside Kansas, you should remit use tax to the department based on the printing cost of the magazines that are shipped to the various Kansas organizations. Shipping charges should also be included as part of the cost that is subject to use tax. *See K.S.A. 79-3702(a). ("Purchase price" includes "the actual cost of transportation.")*Your company is allowed a use tax credit for the any other state's sales taxes that was properly paid to the out-of-state printer. *See K.S.A. 79-3704(c) ("The provisions of this act shall not apply: . . . (c) In respect to the use, storage or consumption of any article of tangible personal property the sale of use of which has already been subjected to a tax equal to or in excess of that imposed by the act whether under the laws of this state or of some other state of the United States. . . .")* Please note that because your sales agents operate in Kansas, your company is required to register for compensating use tax purposes. *See K.S.A. 79-3702(h).*  
  
You indicate that company sales agents occasionally barter advertising space for hotel room rentals and for car rentals. These transactions are subject to sales tax. Under Kansas law, "gross receipts" is defined as the total selling price "in money, credits, property or other consideration valued in money. . . ." *K.S.A. 79-3602(h).*The tax base should be the fair rental value of the room or vehicle.  
  
I hope that I have answered all of your questions clearly. If you have any addition questions, please call me at 785-296-3081 and we can discuss them. This is private letter ruling. It 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 ruling.

Sincerely,  
  
  
  
Thomas E. Hatten

Attorney/Policy & Research  
  
  
**Date Composed: 05/29/2003 Date Modified: 05/29/2003**