**Private Letter Ruling**

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| **Ruling Number:** | **P-2010-010** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Monthly dues and assessments paid to homeowners association.** |
| **Keywords:** |  |
| **Approval Date:** | **12/03/2010** |

**Body:**

Office of Policy & Research

December 3, 2010  
  
XXXXXXXXXXX  
XXXXXXXXXXX  
XXXXXXXXXXX  
XXXXXXXXXXX  
  
XXXXXXXXXX,  
  
This letter is in response to your letter dated November 2, 2010. In your letter you request that we confirm that monthly dues & assessments paid by Foundation Members to XXXXXXXX. are in fact charges paid to a nonprofit homeowners association and are therefore exempt from Kansas Retailers’ Sales tax under K.A.R. 92-19-22a(c)(5).  
  
Upon reviewing XXXXXXX’s Articles of Incorporation and Declaration of Covenants, Conditions, Restrictions and Dedication of Easements, it has been determined that XXXXXXXX is in fact a nonprofit homeowners association with a country club as an included recreational facility. As stated in XXXXXXX’s Articles of Incorporation, the country club is an asset of XXXXXXX owned by its Foundation Members. The country club is not a separate and distinct legal entity from XXXXXXX.  
  
K.A.R. 92-19-22a(c)(5) states, “Admissions and charges that shall not be subject to sales tax shall include the following: (5) charges paid to nonprofit homeowners associations by members for use and maintenance of the association’s recreational facilities, if membership is limited to a specified development, subdivision, or area and the facility is operated for the benefit of the property owners or their tenants.”  
  
Accordingly, the dues paid by Foundation Members to XXXXXX are not subject to sales tax. However, because they are not property owners, any dues paid by Associate Members to XXXXXX for access to XXXXXXX’s recreational facilities are subject to sales tax.  
  
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 in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling.  
  
  
  
  
Sincerely,

Mark D. Ciardullo  
Designee of the Secretary of Revenue  
  
  
KAF  
  
  
**Date Composed: 12/08/2010 Date Modified: 12/08/2010**