**Opinion Letter**

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| **Letter Number:** | **O-2009-006** |

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| **Tax Type:** | **Withholding and Declaration of Estimated Tax** |
| **Brief Description:** | **Employee wages for a 501(c)(3) organization.** |
| **Keywords:** |  |
| **Approval Date:** | **04/07/2009** |

**Body:**

Office of Policy & Research

April 7, 2009

XXXXX
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Re: Kansas Income Tax

Dear XXXXX:

Your correspondence of March 17, 2009 has been referred to me for response. Thank you for your inquiry.

Your letter notes you are requesting “a letter of determination from your agency regarding the IRS letter of 1982 enclosed.” A handwritten note on my copy of the letter indicates you want to know whether employee wages are taxable.

The IRS letter of 1982 indicates the IRS has determined your organization is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The state of Kansas conforms to IRS determination such as this and, accordingly, finds your organization to be exempt from Kansas income tax.

As a rule the fact that an organization is exempt from paying income tax does not mean it is exempt from withholding income on employee wages. In this regard, Kansas law follows federal law. If federal withholding is required on employee wages, Kansas withholding is also required. If federal withholding is permissive (or not required) Kansas withholding is also permissive.

Wages received by an employee will be subject to Kansas income tax if the wages are included as part of the employee’s federal adjusted gross income.

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

*NOTE: This opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.*

**Date Composed: 04/08/2009 Date Modified: 04/08/2009**