**Private Letter Ruling**

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| **Ruling Number:** | **P-1998-174** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Educational Institution Exemption Definition** |
| **Keywords:** |  |
| **Approval Date:** | **10/14/1998** |

**Body:**

Office of Policy & Research

October 14, 1998

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RE: Your Letter of August 31, 1998

Dear XXXX:

I have been asked to respond to your letter of August 31, 1998. You request a private letter ruling that determines whether the XXXX qualifies for exemption from Kansas sales tax. The XXXX is a nonprofit organization that is exempt from federal income tax pursuant to IRC Sec. 501(c)(3). It is organized to promote education and interest in science. You letter is accompanied by history of the XXXX, which shows a close association between the State of Kansas and the XXXX since its inception in 1867. Many of its officers and editors are science professors at state universities.

I have reviewed the materials that you provided in light of the sales tax exemptions extended in K.S.A. 79-3606. I could find no subsection in K.S.A. 79-3606 that could be read as exempting the XXXX’s purchases. Under Kansas law, sales tax exemption statutes are strictly construed in favor of imposing tax and against exemption. *In re Atchison, Topeka & Santa Fe Ry Co.*, 17 Kan. App. 2d 794 (1993). It is a fundamental rule of statutory construction that sales tax exemption statutes will not be extended by implication and should not be read to include things that are not readily found within their plain terms. *Director of Taxation v. Kansas Krude Oil Reclaiming Co.*, 236 Kan. 450, 454 (1984).

In addition to my review, several bills have been introduced before the Kansas legislature to exempt the XXXX from sales tax. These include 1993 Senate Bill No. 385, which would have exempted all sales of subscriptions to publications of organizations that are exempt under IRC Sec. 501(c)(3), and 1997 House Bill No.2107, which would have specifically exempted sales to the XXXX. Neither of these bills was enacted into law.

Because of the legislature’s rejection of these bills it would be inappropriate for the department to create an exemption by administrative regulation or by administrative fiat. Whether exemption should be extended to the XXXX is political decision for the Kansas legislature. I recommend that if you do seek exemption from the legislature, that you use the language contained in 1997 HB 2107, since it is more appropriate for the XXXX’s needs. It provides exemption for purchases of publications materials rather than exemption for sales to members. This is appropriate since the XXXX provides the publications to its members as part of their membership.

Please note that XXXX has been very helpful to me in reviewing this matter. I hope that the XXXX is helped by this determination that any exemption for the XXXX lies with the Kansas legislature and that you can channel your efforts to that end.

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 by operation of law without further department action if there is a change in the controlling statutes, administrative regulations, revenue rulings or case law that materially effects this determination. Please call me if you have any additional questions. My number is (785) 296-4008.

Sincerely,

Thomas E. Hatten

Attorney/Policy & Research

**Date Composed: 11/04/1998 Date Modified: 10/10/2001**