**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-198** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Qualifications for exemption as a religious organization.** |
| **Keywords:** |  |
| **Approval Date:** | **09/03/1999** |

**Body:**

Office of Policy & Research

September 3, 1999

XXXXXXXXXXX
XXXXXXXXXXX
XXXXXXXXXXX

Dear XXXXXXXXX:

I have been asked to respond to your letter dated July 15, 1999. In it, you ask if your organization qualifies as a
religious organization for purposes of Kansas sales tax. Your related request pertaining to your preschool has been
forwarded to our Customer Relations area for processing.

Kansas sales tax law exempts "all sales of tangible personal property and services purchased by a religious
organization which is exempt from federal income taxation pursuant to section 501 (c) (3) of the federal internal
revenue code, and used exclusively for religious purposes . ." K.S.A. 79-3606(aaa).

For purposes of the Kansas retailers' sales tax act, the term "religious organization" means any organization, church,
body of communicants, or other group that gathers in common membership for mutual support and edification, in
piety, worship, and religious observance, at an established place of worship which the organization maintains for the
purpose of conducting regularly scheduled religious services or meetings, and of which no part of the net earnings of
such organization inures to the benefit of any private shareholder or individual member. *Notice 98-05; See K.S.A.*
*79-4701(e); K.S.A. 8-1730a.*An organization that is composed of religious organizations may derive exemption
from its members if all of its members are themselves exempt religious organizations and the derivative organization
is organized and operated exclusively to assist its member organizations in carrying out their religious purpose. Such
an organization must itself be exempt from tax under I.R.C. S501(c)(3). *Notice 98-05; See Trustees of The United*
*Methodist Church v. Cogswell, 205 Kan. 847 (1970).*

Charitable organizations that are composed of churches, businesses, and lay persons are separately incorporated
organizations that are not composed exclusively of churches or other religious organizations, but include lay people
and businesses. Therefore, these groups do not qualify as a religious organization for purposes of the exemption
extended as K.S.A. 1998 Supp. 79-3606(aaa).

Based solely on the facts of your letter, the Kansas Department of Revenue has determined that the
XXXXXXXXXXXXXXX is a religious organization for purposes of the Kansas Retailers' Sales Tax Act.

Tangible personal property and services that are considered to be used exclusively for religious purposes include, but
are not limited to, personal property and services:

* used exclusively in, or to facilitate, religious ceremonies
* used exclusively in, or to facilitate, carrying out the religious work of the organization
* used to construct, furnish, equip, remodel, or maintain a facility used exclusively for religious objectives including,

but not limited to, a church, church grounds, a church administration building, a church camp, a parsonage, rectory,
or convent. Such property must be purchased directly by the religious organization and not through a contractor. *See*
*Kansas City Dist Advisory Bd. v. Board of Johnson County Comm'rs*5 Kan App. 2d 538, 542 (1980).

* used exclusively to administer, manage, or operate religious facilities or to administer religious activities.

Tangible personal property and services will be considered to be "used exclusively" for a religious purpose as long
as any other use of the item or service is minimal in scope, insubstantial in nature, and incidental to the exempt
purpose. *See Midwest Presbytery v. Jefferson County Appraiser,*17 Kan. App. 2d 676, 679 (1992).

Tangible personal property and services that are not exempt include: (1) personal property and services that are
purchased by a religious organization for use in undertaking business activities, even though the profits from such
enterprises may be used exclusively for religious purposes *(See Sunday School Bd. v. McCue,*179 Kan. 1 (1956));
and (2) personal property and services, such as food, clothing, personal items, meals, drinks, motor vehicles,
admission charges, and membership dues, that are for the personal use of ministers, priests, and other employees,
rather than a use that is exclusively for a religious purpose.

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 affects this private letter ruling.

Sincerely,

Mark D. Ciardullo
Tax Specialist

MDC: mdc

**Date Composed: 09/14/1999 Date Modified: 10/11/2001**