**Private Letter Ruling**

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| **Ruling Number:** | **P-1999-269** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Religious organization sales tax exemption.** |
| **Keywords:** |  |
| **Approval Date:** | **12/20/1999** |

**Body:**

Office of Policy & Research

December 20, 1999

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Re: Kansas Sales Tax

Dear XXXXX:

Your correspondence of November 23, 1999 has been referred to me for response. Thank you for your inquiry.

Your letter indicates your organization, the XX XXXX XXXXXXXX XXXXXX, XXX (XXXX) is a “faith-based” not-for-profit Community Development Corporation. It has a separate 501(c)(3) certification from your sponsoring partner, the XX XXXX XXXXX X XX X XXXX, which also has its own 501(c)(3) certification. You note XXXX was created to carry out the redevelopment master plan of the XX XXXX XXXX, which involves the construction of 48 new single family homes, a 60 unit Senior Housing & Activities Center, a Community Education & Activity Center and an Education Building.

By your letter you ask whether XXXX is exempt from sales tax pursuant to K.S.A. 79-3606(aaa) which provides an exemption for 501(c)(3) religious organizations. In our opinion, XXXX does not qualify for the exemption. Our rational is set forth below.

The Kansas retailers sales tax is imposed by K.S.A. 79-3603. Exemptions from sales tax are found in K.S.A. 79-3606. Subsection (aaa) of the statute provides an exemption for:

(aaa) 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, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under this provisions of this section if purchased directly by such organization. . . .

The statute establishes three requirements that must be met prior to qualifying for the exemption: (1) the purchase must be made by a religious organization; (2) the religious organization must be exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code; and (3) the goods or services purchased must be used exclusively for a religious purpose.

The purpose of your organization is set forth in Article II, Sec. 1 of its bylaws. This Section states:

Sec. 1. This Corporation is organized NOT FOR PROFIT, and is organized to accomplish the XX XXXX Redevelopment Plan and may transact, promote and carry on the affairs of the Corporation including:

a. To engage in economic and community development efforts in low to moderate income areas of XXXX XXX, Kansas, building capacity in the neighborhoods for redevelopment, job training and development, and providing human services;
b. To sponsor development of subsidiary organizations that will promote economic and community development for citizens of XXXX XXX, Kansas;
c. To contract with public and private entities to further economic and community development in low to moderate income areas of XXXX XXX, Kansas;
d. To develop, improve and restore real property for sale and resale as a real estate developer;
e. To purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated, and to sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge or otherwise encumber, all or any of its property and assets, or any interest therein, wherever situated;
f. To appoint or hire such officers, agents, and employees as the business of the Corporation requires and to pay or otherwise provide for them suitable compensation;
g. To apply to federal, state, local governmental agencies and private agencies for grants or other assistance in repairing, improving, developing, and restoring real property, or to further other purposes of the Corporation, or for training and educational purposes, or otherwise creating economic opportunity for citizens in XXXX XXX, Kansas.

Nothing in the bylaws makes any reference, either direct or indirect, to your organization being a “religious organization.” Similarly, there is nothing in the bylaws which indicates the organization will use the goods and services purchased for a religious purpose. Instead, while the purpose to be served is undoubtedly charitable, it appears to be more commercial then religious. As a result, your organization fails to meet the statutory requirements to qualify for exemption, and your request for exemption must be denied.

This private letter ruling 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 private letter ruling.

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

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**Date Composed: 12/20/1999 Date Modified: 10/11/2001**