**Opinion Letter**

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| **Letter Number:** | **O-2009-002** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Association sponsoring educational seminars for members and non-members.** |
| **Keywords:** |  |
| **Approval Date:** | **03/02/2009** |

**Body:**

Office of Policy & Research

March 2, 2009

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RE: Your e-mails received on January 26, 2009 and February 19, 2009

Dear XXXXX:

Thank you for your recent e-mails. You work for a bankers association that sponsors educational seminars for members and non-members. While you sponsor the seminar, a for-profit business produces the seminar, the seminar materials, and a CD-Rom recording of the live seminar . You split your receipts from the seminar charges with this business.

Participants are offered several choices for how they "attend" a seminar. One choice is to listen to the live seminar by telephone. A second is to listen to the live seminar by telephone while receiving a live webcast to watch. These participants also receive training materials. Participants can choose either of these two live options and, in addition, pay to receive the CD-Rom recording a few weeks after the seminar is held. The CD-Rom contains electronic copies of both the seminar and the training materials.

For each of the options, non-members are charged higher fees than members. The charges for the different seminar options range from $175 to $340. Your list of the different options is followed by the following statement:

CD-Rom's are complete with the audio and visual presentation from the original webcast plus participant handouts that can be viewed onscreen and/or printed. The CD-Rom is playable on a computer only. It is not an audio format that can be played on a standard CD player such as in a car.

The fifth option, which will be discusses separately, allows a bank to buy a copy of the CD-Rom recording after the seminar is held. Under this option, bank employees do not listen into the live seminar or view it during the live webcast.

Kansas sales tax is levied on all sales of tangible personal property, and on sales of certain enumerated services. Taxable sales of tangible personal property include sales of educational CDs, DVDs, books, and similar material.

Taxable "enumerated services" include only those services that are identified in the act as being subject to sales tax. The taxable services listed in the act do not include the providing of continuing educational seminars for professionals, such as doctors, lawyers, nurses, and accountants. Kansas does tax sales of admissions to places that provide amusement or entertainment. This imposition can apply to charges for admission to "educational" lectures or seminars given by travel guides, politicians, diplomats, sports figurers, judges, and others. The department will determine the taxability of these events on a case-by-case basis since taxes on "admission charges" do not extend to charges for admission to political rallies.

When a continuing educational seminar is held and materials provided to the attendees, sales tax is not charged on the amount that the seminar sponsor bills to a seminar participant. The business that conducts the seminar, however, is responsible for paying tax when it buys printed seminar materials from a printer, or buys material to print in-house and then distribute to the seminar participants. These same rules apply when a professional organization, such as the Kansas Bar Association, televises a seminar that was previously recorded which allows those in attendance to receive continuing education credits for having attended the televised seminar. These rules also apply for webcasts that are credited.

If the business that conducts a professional continuing education seminar later sells the printed materials to someone who did not attend the seminar, the charge for the material is subject to sales tax. This last requirement assumes that the materials are being purchased without the benefit of receiving continuing education credits.

In your case, four of the options include listening to the live seminar or listening while watching the seminar live on the web. In these cases, the seminar participant is paying to "attend" the professional educational seminar when it is given. The participants receive continuing education credits. As noted, your charges to these seminar participants are not subject to sales tax.

The fifth option allows a bank to purchase a CD-Rom of the live lecture a few weeks after it is held. A bank that buys the CD-Rom will use it to provide the continuing education seminar to their employees. Your letter indicates that bank regulators require bank employees to satisfy certain educational requirements. Your letter also indicates that these continuing educational requirements can be satisfied by having the employee attend a class conducted in-house by a bank where the bank plays the CD-Rom for employees.

In cases like this, the bank is acting as the seminar provider and is entitled to purchase the CD-Rom exempt from sales tax. Since the bank is using the CD-Roms to conduct seminars that meet the educational requirements that regulators impose on bank employees, the bank should be treated in the same way as other seminar sponsors. Because of this, these sales to banks should be treated as the non-taxable sale of a continuing education seminar . The "true object" of the purchase is the bank's acquisition of a recorded lecture that allows the bank conduct a continuing professional education seminar for employees that allows them to secure continuing education credits.

Please note that if a bank buys the CD-Rom with the intention of using it to train employees who are not required to obtain continuing education credits that are mandated by a bank regulatory agency, the bank's purchase would be subject to sales tax. In this case, the purchase is not for the purpose of allowing bank employees to secure continuing educational credits. The sales would be taxed like the purchase of any training or educational materials, whether it was on a CDs, DVDs, books, and similar material.

Your letter also states that you provide two hard copy booklets with another type of telephone seminar. You offer additional booklets to those who attend the telephone seminar for $15 per copy. I assume that these booklets are sold with the expectation that additional employees in the same organization will monitor the telephone seminar for continuing education credit. If this is the case, these charges are exempt since the additional materials appear to allow additional participants to receive credit for attending continuing education classes. If not, these charges are taxable.

You offer additional booklets to members and non members who do not attend the seminar for $40 and $60 respectively. These charges are taxable since it doesn't appear that these sales allow the employee to either listen into a seminar or watch a recorded seminar in order to receive continuing education credits. Please give me a call at 296-3081 if you need to discuss this matter further.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 03/03/2009 Date Modified: 03/03/2009**