**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-1999-277** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Retailer purchases of promotional merchandise.** |
| **Keywords:** |  |
| **Approval Date:** | **02/03/2000** |

**Body:**

Office of Policy & Research

February 3, 2000

TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT
TTTTTTTTTTT

Dear Mr. TTTTTT:

We wish to acknowledge receipt of your letter dated May 20, 1999, regarding the application of Kansas Retailers’ Sales tax. Please accept my apology for the delay in responding.

K.S.A. 79-3603(a) imposes a sales tax upon: “The gross receipts received from the sale of tangible personal property at retail within this state. . .”

Based upon the information that you have supplied in the above referenced letter, it appears that retailers in the state of Kansas would be able to purchase the promotional merchandise exempt from Kansas sales/use tax, by providing you with a resale exemption certificate. The reason being that it is not known at the time of purchase whether the respective items will be sold over the counter at retail or given away. The following situations are examples of how a retailer may use the promotional items and the sales tax treatment associated therewith.

· When the retailer sells the promotional materials over the counter at retail, the retailer would collect and remit the appropriate Kansas sales tax(es).
· When a retailer making a retail sale that is subject to tax gives a premium or prize along with the item being sold, the transaction shall be regarded as the sale of both items to the purchaser, if delivery of the premium or prize does not depend on chance.
· When the award of a premium or prize by a retailer depends on chance, the retailer’s acquisition of the premium or prize shall be subject to sales tax. The retailer shall pay the tax at the time of acquisition of the premium or prize or, if the item is removed from resale inventory, shall accrue tax on the item’s cost on its sales tax return.

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 effects this private letter ruling.

If I may be of further assistance, please contact me at your earliest convenience at (785) 296-7776.

Sincerely yours,

Thomas P. Browne, Jr.
Tax Specialist

TPB

**Date Composed: 03/15/2000 Date Modified: 10/11/2001**