**Private Letter Ruling**

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| **Ruling Number:** | **P-2001-037** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Museum qualifications and purchases.** |
| **Keywords:** |  |
| **Approval Date:** | **04/26/2001** |

**Body:**

Office of Policy & Research  
  
  
April 26, 2001

XXXXXXXXXXXX  
XXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
  
The purpose of this letter is to respond to your letter dated March 29, 2001. In it, you request a private letter ruling on behalf XXXXXXXXXXXXX.  
  
In your letter you stated:

As indicated above, the Organization is a non-profit organization organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) and is owned by various churches throughout the state, all of which are also organized under Section 501(c)(3) of the Code. One of the members of the Organization, XXXXXXXXXXXXXXX (the “Mission”), has entered a contract with XXXXXXXXXXXX. for he purchase of a building that the Organization intends to develop into the XXXXXXXXXXXX (the “Museum”). The building was placed on the National historic Register in XXXX and, under the terms of the agreement with XXXXXXXXXXXXX., the Organization is paying all renovations to the building. Upon completion of the renovations, title to the building will pass to the Mission, which will then transfer title to the Organization. The renovations will be made to an existing building and will not involve the addition of any rooms or a new floor. Nor will the renovations involve the completion of unfinished space in the building.  
  
The Organization has been established to promote the XXXXXXX faith, to educated the public regarding the XXXXXX religion, and XXXXXXXXXchurches together to conduct activities which will promote the faith. One such activity will be the establishment and operation of the Museum. The Museum will feature art, photographs, and artifacts of the XXXXXXXXXfrom the XXXXXXXX and, through these items, will tell the story of the XXXXXXXXXXX who came to Kansas and the Midwest from XXXXXXXXX century. The Organization will not charge an admission fee for tours of the Museum, but will have a place at the entrance of Museum for donations.  
  
The museum will have a small gift shop which will XXXXXXXXXX of the XXXXXXX communities, along with books on church historyXXXXXXXX. The gift shop will be operated by the Organization, which will obtain a sales tax certificate and will collect sales tax on sales made form the gift shop. The building in which the Museum is located will also contain an office which will serve as head quarters for the Organization. The Office will be used by the Executive Director of the Organization one to two days per week to carry out the administration of the Organization.  
  
Your letter continues will a series of issues:

1. Are the tangible personal property and services purchased by the Organization for the renovations to the building exempt from sales tax as purchases by a religious organization under K.S.A. 79-3606(aaa) or, in the alternative, as purchases by a non-profit museum pursuant to K.S.A. 79-3606(qq)?  
  
2. If the tangible personal property and services purchased by the Organization for renovation relating to the gift shop are not exempt from sales tax, can the Organization prorate such purchase, paying sales tax on the tangible personal property and services that relate to the gift shop while claiming exemption for the tangible personal property and services relating to the remainder of the museum?  
  
3. Are the donations made by individuals who tour the museum subject to sales tax as admissions?

4. If the donations are subject to sales tax as admission, is the entire amount of such donations subject to sales tax or only the portion that represents fair market value of the tour?  
  
5. If the donations are subject to sales tax as admissions, how would the State propose that the Organization distinguish between donations made by individuals touring the museum and individuals who simply donate money without touring the museum (which presumably would not be subject to sales tax)?  
  
  
It is the opinion of the Kansas Department of Revenue that:  
  
The organization qualifies as a museum pursuant to K.S.A. 79-3606(qq).  
  
The direct purchase by the organization of tangible personal property and services utilized for the renovation of the building for a museum, including the proposed gift shop are exempt from sales tax.  
  
Donations are exempt from sales tax.  
  
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.  
  
  
Sincerely,  
  
  
Mark D. Ciardullo  
Tax Specialist  
  
MDC  
  
  
**Date Composed: 04/27/2001 Date Modified: 10/11/2001**