**Opinion Letter**

|  |  |
| --- | --- |
| **Letter Number:** | **O-1999-027** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Religious organizations.** |
| **Keywords:** |  |
| **Approval Date:** | **10/07/1999** |

**Body:**

Office of Policy & Research

October 7, 1999

XXXX
XXXX
XXXX

RE: Your letter of September 23, 1999

Dear XXXX:

Thank you for your letter. You state that the AAA Center is involved in a number of construction projects. A contractor on one of the projects recently informed you that the center would be entitled to exemption from Kansas sales tax if you secured a “special exemption” from the department. You ask if the center is entitled to such a special exemption, and, if it is, for the paper work needed to claim it.

Please be advised that the exemption in question does not apply to your community center. It only applies to “religious organizations” that use the exempt purchases “exclusively for religious purposes.” 1999 Kan. Sess. Laws Chap. 154 Sec. 6 (aaa). The following discussion sets forth the department’s position on what is a “religious organization.”

I. What is an exempt religious organization?

a) For purposes of the Kansas retailers’ sales tax act, “religious organization” shall mean 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. *See K.S.A. 79-4701(e); K.S.A. 8-1730a.*
b) In order to qualify for exemption from sales tax, a religious organization must be recognized by the Internal Revenue Service (IRS) as exempt from federal income tax under I.R.C. §501(c)(3).
c) 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. §501(c)(3). *See Trustees of The United Methodist Church v. Cogswell, 205 Kan. 847 (1970).*

The AAAA Center is not a church, nor is it an organization composed exclusively of churches. Accordingly, the center is not exempt under this provision. It also is not exempt under any other theory of sales tax exemption that I am aware of.

I have enclosed a copy of Notice 98-05 that explains the department’s position on religious organizations. I hope that this clarifies the scope of the exemption and shows you the center is not exempt. If the notice and my letter do not adequately answer all of your questions, please call me at (785) 296-3081 and we can discuss this matter further.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

Enclosure

**Date Composed: 03/28/2000 Date Modified: 10/10/2001**