**Private Letter Ruling**

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| **Ruling Number:** | **P-2000-056** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Leases of suites and hospitality chalets at sporting events.** |
| **Keywords:** |  |
| **Approval Date:** | **11/07/2000** |

**Body:**

Office of Policy & Research

November 7, 2000

XXXXXXXXXXX
XXXXXXXXX
XXXXXXXXXX

The purpose of this letter is to respond to your letters dated November 8, 1999 and January 12, 2000. In your letters, you ask for guidance on the taxability of the leases of suites, hospitality XXXXand XXXXXX membership fees. Your letter states in pertinent part:

[This letter] is regarding the sale tax status of our suites and hospitality chalets. These are hospitality areas that companies and organizations have leased for multiple years for use XXXXXXXXXXX weekends. The suite payments are broken into a one-time administrative fee and yearly rental, starting in XXXXX. The XXXXX payment will work similarly to the suite program. Are these areas taxable?

Per my telephone conversation with XXXXX, I was provided addition information pertaining to the leasing of suites and XXXXXX. The suites are real property. The suites are leased to a various companies and individuals for viewing sporting events and entertaining their guests.

The XXXXXXX are tents and other ancillary items that are rented to users, usually, for a periods of less than a week. Your company rents the tents from local rental retailers. The rental retailer pitches the tents on your property. Other items such as tables and chairs are included pursuant to the specifications of the lessee.

XXXXXXX offers individuals and entities the opportunity to enter into a XXXXXX Agreement. Under the XX XXX, a "XXXXXX" is granted seat rights with respect to a number of seats located in a specific area of the facility. The founding fan pays an upfront fee ranging XXXXXXX per seat for the seat rights. Season tickets are purchased separately.

In deciding whether a particular transaction is subject to sales tax, a two step analysis is generally necessary. The first step is to determine whether the sales tax act generally imposes tax on the type of transaction in question. The second step is to determine whether the act provides an exemption for the particular type of transaction.

As a rule, sales tax is imposed on all transactions involving the transfer or use of tangible personal property. With services, however, tax is imposed only on those transactions, which are specifically enumerated in the sales tax act. Exemptions for transactions involving either tangible personal property or services are allowed as specifically enumerated.

**Suites**

The lease of a suite is seen as being part of the total charge that a person pays for admission to a "place providing amusement." In this case, the total charge should be seen as the charge for the admission ticket, plus the lease payment for the suite.

**XXXXXXX**

After reviewing the information provided in your letter and telephone conversation, we have concluded that the XXXX rentals are a service. This service is not subject to the Kansas state sales tax or local sales taxes. This determination is based on our belief that the type of service you describe has not been enumerated in the sales tax act as a service which is subject to tax. You should be aware, however, that they must pay sales tax on all articles of tangible personal property and all services purchased by you in Kansas which enable them to provide the nontaxable service.

**XXXXXXX Membership**

The department asserts that charges for XXXX Membership are taxable as part of the charge for "admission to a place providing entertainment."

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

**Date Composed: 11/07/2000 Date Modified: 10/11/2001**