**Opinion Letter**

|  |  |
| --- | --- |
| **Letter Number:** | **O-2002-006** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Admission tickets to promote live entertainment.** |
| **Keywords:** |  |
| **Approval Date:** | **03/07/2002** |

**Body:**

Office of Policy & Research  
  
  
March 7, 2002

XXXX  
XXXX  
XXXX

RE: Your February letter.

Dear Gentlemen:  
  
Thank you for recent letter. Your company is in the entertainment business. Some of its subsidiaries promote live entertainment such as concerts and theater. They provides admission tickets to different people under a variety of scenarios. You ask if these tickets are subject to Kansas sales tax. Your questions require a review of some of the basic tenets of Kansas sales tax law.  
  
Kansas taxes "the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services. . . ." K.S.A. 79-3603(e). The term "sale" is defined by statute:

"Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days. *K.S.A. 79-3602(c).*

You list a number of different transactions. In most of them, your company contracts with another party. Under these contracts, the party that you contract with receives money and the tickets or the tickets as consideration for something they provide you in return. This is a "sale" under the Kansas definition. For example, your contract with a band may provide that the band receives money plus a fixed number of tickets. Your contract for advertising services may provides that the advertising service receives money plus a fixed number of tickets. Your contract with the venue owner may provide that you pay over a percentage of receipts and provide them with a set number of tickets. Your contract with the sponsor may provide that you pay them part of the concert receipts and provide them with tickets in exchange for advertisements and signage at the concert. Your contract with a radio station may secure air time for tickets only. These contracts may be oral or written.  
  
In these situations, you are providing the tickets as a requirement of the contract and receiving something of value in exchange. On transactions where you provide tickets under a contractual agreement and receive something of value in exchange (a consideration), you should self accrue and remit state and local sales tax on the face value of the tickets. Under the Kansas definition, these are taxable sales of admission tickets where the consideration is the benefits you receive under the contract. You are not giving these tickets away.  
  
Rather than contracting to provide tickets, you sometimes give tickets to media critics who cover concerts and other events. You occasionally "paper the house" by giving away tickets to the general public. Arguably, neither of these transactions is be subject to sales tax since you do not receive something of value in exchange for the ticket. You also provide tickets to employees. Kansas does not have a regulation that addresses this type of transaction. Generally, employers who give employees something from their resale inventory are required to accrue sales tax on the cost of item. Admission tickets are different from resale inventory. Accordingly, if your employment contracts provide that employees will receive tickets in addition to their normal pay, such tickets should be taxed at face value. If not, the tickets should be considered to be gifts and not taxed. Please note that this determination may change if a regulation or other policy determination is published concerning the issue. Giving tickets away generate good will and possibly other tangible benefits.  
  
I believe I have answered your questions. If you wish to discuss anything, please call me at 785-296-3081.

Sincerely,  
  
  
  
Thomas E. Hatten  
Attorney/Policy & Research

**Date Composed: 03/18/2002 Date Modified: 03/18/2002**