

Kansas Administrative Regulations

Kansas Department of Revenue

Article 19.—Kansas Retailers' Sales Tax

92-19-59. Private letter rulings.

(a) A "private letter ruling" shall mean a statement of the secretary of revenue or the secretary's authorized agent issued to an individual retailer and shall be of limited application. A private letter ruling interprets the statute or regulation to which the ruling relates. A private letter ruling is issued in response to a retailer's written request for clarification of the tax statute or regulation relating to a specified set of circumstances affecting the retailer's collections duties as they relate to a claim of exemption from sales tax.

(b) A retailer, consumer, or other person shall not rely upon a verbal opinion from the department of revenue. Only a written private letter ruling issued to a retailer that concerns the retailer's collection duties shall bind the department. Each retailer seeking a private letter ruling from the department shall submit a written request for the ruling to the department. The written request shall identify the retailer and state with specificity the facts and circumstances relating to the issue for which the ruling is sought. If insufficient facts are presented with a retailer's request for a ruling, a private letter ruling shall not be issued by the department. If material facts are misrepresented in a retailer's request for a ruling, a private letter ruling that is issued by the department shall be of no effect and shall not be binding on the department. Department correspondence that does not state that the correspondence is a "private letter ruling" shall not be considered or otherwise treated as a private letter ruling.

(c) Nothing contained in a private letter ruling shall be construed as altering any provision of the Kansas retailers' sales tax act or any department regulation or as otherwise meeting any of the following conditions:

- (1) Having the force and effect of law;
- (2) being a notice, revenue ruling, or other tax-policy statement that has been published by the department; or

(3) being a precedent that can be cited or relied upon by any person other than the retailer to whom the ruling is issued, except to identify a ruling that is being relied upon as support for a request for the reduction or waiver of penalty or interest.

(d) If a private letter ruling erroneously instructs an individual retailer that it is not required to collect sales tax under a specific set of facts and circumstances, that retailer shall be absolved of its statutory duty to collect sales tax under a comparable set of facts and circumstances, unless the ruling has been rescinded or was based on the retailer's misrepresentation of material facts. A consumer that did not pay the tax to the retailer shall continue to be liable for the uncollected tax. However, if the consumer belatedly pays or is later assessed the tax, penalty shall be waived, and any interest on the consumer's late payment may be waived or reduced, upon the consumer's request unless the consumer misrepresented material facts to either the retailer or the department.

(e) Each private letter ruling shall cease to be valid and shall be deemed to have been rescinded when any one of the following occurs:

(1) A statute or regulation that the department relied upon as a basis for the ruling is changed in any substantive part by the Kansas legislature or department of revenue.

(2) A substantive change in the interpretation of a statute or regulation that the department relied upon as a basis for the ruling is made by a court decision.

(3) An interpretation that the department relied upon as a basis for the ruling is changed in any substantive part by a more recent department notice, guideline, revenue ruling, or other published policy directive that rescinds all prior published policy statements about issues that are discussed in the policy directive. Any policy statement that has been rescinded by the department may be cited as support for a taxpayer's request for the reduction or waiver of penalty or interest.

(Authorized by K.S.A. 2009 Supp. 75-5155 and 79-3618; implementing K.S.A. 2009 Supp. 79-3604 and K.S.A. 79-3646; effective May 1, 1988; amended April 1, 2011.)