

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2328

By Committee on Taxation

2-11

12 AN ACT concerning sales taxation; relating to exemptions; certain sales
13 of school supplies, computers and clothing during sales tax holiday;
14 **[Kansas Wildscape Foundation, Inc.;** amending K.S.A. 2008 Supp.
15 79-3606 and repealing the existing section.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 2008 Supp. 79-3606 is hereby amended to read as
19 follows: 79-3606. The following shall be exempt from the tax imposed by
20 this act:

21 (a) All sales of motor-vehicle fuel or other articles upon which a sales
22 or excise tax has been paid, not subject to refund, under the laws of this
23 state except cigarettes as defined by K.S.A. 79-3301 and amendments
24 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
25 3817 and amendments thereto, including wort, liquid malt, malt syrup
26 and malt extract, which is not subject to taxation under the provisions of
27 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
28 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
29 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
30 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
31 gross receipts from regulated sports contests taxed pursuant to the Kansas
32 professional regulated sports act, and amendments thereto;

33 (b) all sales of tangible personal property or service, including the
34 renting and leasing of tangible personal property, purchased directly by
35 the state of Kansas, a political subdivision thereof, other than a school or
36 educational institution, or purchased by a public or private nonprofit hos-
37 pital or public hospital authority or nonprofit blood, tissue or organ bank
38 and used exclusively for state, political subdivision, hospital or public hos-
39 pital authority or nonprofit blood, tissue or organ bank purposes, except
40 when: (1) Such state, hospital or public hospital authority is engaged or
41 proposes to engage in any business specifically taxable under the provi-
42 sions of this act and such items of tangible personal property or service
43 are used or proposed to be used in such business, or (2) such political

1 subdivision is engaged or proposes to engage in the business of furnishing
2 gas, electricity or heat to others and such items of personal property or
3 service are used or proposed to be used in such business;

4 (c) all sales of tangible personal property or services, including the
5 renting and leasing of tangible personal property, purchased directly by
6 a public or private elementary or secondary school or public or private
7 nonprofit educational institution and used primarily by such school or
8 institution for nonsectarian programs and activities provided or sponsored
9 by such school or institution or in the erection, repair or enlargement of
10 buildings to be used for such purposes. The exemption herein provided
11 shall not apply to erection, construction, repair, enlargement or equip-
12 ment of buildings used primarily for human habitation;

13 (d) all sales of tangible personal property or services purchased by a
14 contractor for the purpose of constructing, equipping, reconstructing,
15 maintaining, repairing, enlarging, furnishing or remodeling facilities for
16 any public or private nonprofit hospital or public hospital authority, public
17 or private elementary or secondary school, a public or private nonprofit
18 educational institution, state correctional institution including a privately
19 constructed correctional institution contracted for state use and owner-
20 ship, which would be exempt from taxation under the provisions of this
21 act if purchased directly by such hospital or public hospital authority,
22 school, educational institution or a state correctional institution; and all
23 sales of tangible personal property or services purchased by a contractor
24 for the purpose of constructing, equipping, reconstructing, maintaining,
25 repairing, enlarging, furnishing or remodeling facilities for any political
26 subdivision of the state or district described in subsection (s), the total
27 cost of which is paid from funds of such political subdivision or district
28 and which would be exempt from taxation under the provisions of this
29 act if purchased directly by such political subdivision or district. Nothing
30 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
31 thereto, shall be deemed to exempt the purchase of any construction
32 machinery, equipment or tools used in the constructing, equipping, re-
33 constructing, maintaining, repairing, enlarging, furnishing or remodeling
34 facilities for any political subdivision of the state or any such district. As
35 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
36 thereto, “funds of a political subdivision” shall mean general tax revenues,
37 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean
38 funds used for the purpose of constructing, equipping, reconstructing,
39 repairing, enlarging, furnishing or remodeling facilities which are to be
40 leased to the donor. When any political subdivision of the state, district
41 described in subsection (s), public or private nonprofit hospital or public
42 hospital authority, public or private elementary or secondary school, pub-
43 lic or private nonprofit educational institution, state correctional institu-

1 tion including a privately constructed correctional institution contracted
2 for state use and ownership shall contract for the purpose of constructing,
3 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
4 or remodeling facilities, it shall obtain from the state and furnish to the
5 contractor an exemption certificate for the project involved, and the con-
6 tractor may purchase materials for incorporation in such project. The
7 contractor shall furnish the number of such certificate to all suppliers
8 from whom such purchases are made, and such suppliers shall execute
9 invoices covering the same bearing the number of such certificate. Upon
10 completion of the project the contractor shall furnish to the political sub-
11 division, district described in subsection (s), hospital or public hospital
12 authority, school, educational institution or department of corrections
13 concerned a sworn statement, on a form to be provided by the director
14 of taxation, that all purchases so made were entitled to exemption under
15 this subsection. As an alternative to the foregoing procedure, any such
16 contracting entity may apply to the secretary of revenue for agent status
17 for the sole purpose of issuing and furnishing project exemption certifi-
18 cates to contractors pursuant to rules and regulations adopted by the
19 secretary establishing conditions and standards for the granting and main-
20 taining of such status. All invoices shall be held by the contractor for a
21 period of five years and shall be subject to audit by the director of taxation.
22 If any materials purchased under such a certificate are found not to have
23 been incorporated in the building or other project or not to have been
24 returned for credit or the sales or compensating tax otherwise imposed
25 upon such materials which will not be so incorporated in the building or
26 other project reported and paid by such contractor to the director of
27 taxation not later than the 20th day of the month following the close of
28 the month in which it shall be determined that such materials will not be
29 used for the purpose for which such certificate was issued, the political
30 subdivision, district described in subsection (s), hospital or public hospital
31 authority, school, educational institution or the contractor contracting
32 with the department of corrections for a correctional institution con-
33 cerned shall be liable for tax on all materials purchased for the project,
34 and upon payment thereof it may recover the same from the contractor
35 together with reasonable attorney fees. Any contractor or any agent, em-
36 ployee or subcontractor thereof, who shall use or otherwise dispose of
37 any materials purchased under such a certificate for any purpose other
38 than that for which such a certificate is issued without the payment of
39 the sales or compensating tax otherwise imposed upon such materials,
40 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
41 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
42 and amendments thereto;
43 (e) all sales of tangible personal property or services purchased by a

1 contractor for the erection, repair or enlargement of buildings or other
2 projects for the government of the United States, its agencies or instru-
3 mentalities, which would be exempt from taxation if purchased directly
4 by the government of the United States, its agencies or instrumentalities.
5 When the government of the United States, its agencies or instrumen-
6 talities shall contract for the erection, repair, or enlargement of any build-
7 ing or other project, it shall obtain from the state and furnish to the
8 contractor an exemption certificate for the project involved, and the con-
9 tractor may purchase materials for incorporation in such project. The
10 contractor shall furnish the number of such certificates to all suppliers
11 from whom such purchases are made, and such suppliers shall execute
12 invoices covering the same bearing the number of such certificate. Upon
13 completion of the project the contractor shall furnish to the government
14 of the United States, its agencies or instrumentalities concerned a sworn
15 statement, on a form to be provided by the director of taxation, that all
16 purchases so made were entitled to exemption under this subsection. As
17 an alternative to the foregoing procedure, any such contracting entity may
18 apply to the secretary of revenue for agent status for the sole purpose of
19 issuing and furnishing project exemption certificates to contractors pur-
20 suant to rules and regulations adopted by the secretary establishing con-
21 ditions and standards for the granting and maintaining of such status. All
22 invoices shall be held by the contractor for a period of five years and shall
23 be subject to audit by the director of taxation. Any contractor or any agent,
24 employee or subcontractor thereof, who shall use or otherwise dispose of
25 any materials purchased under such a certificate for any purpose other
26 than that for which such a certificate is issued without the payment of
27 the sales or compensating tax otherwise imposed upon such materials,
28 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
29 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
30 and amendments thereto;

31 (f) tangible personal property purchased by a railroad or public utility
32 for consumption or movement directly and immediately in interstate
33 commerce;

34 (g) sales of aircraft including remanufactured and modified aircraft
35 sold to persons using directly or through an authorized agent such aircraft
36 as certified or licensed carriers of persons or property in interstate or
37 foreign commerce under authority of the laws of the United States or any
38 foreign government or sold to any foreign government or agency or in-
39 strumentality of such foreign government and all sales of aircraft for use
40 outside of the United States and sales of aircraft repair, modification and
41 replacement parts and sales of services employed in the remanufacture,
42 modification and repair of aircraft;

43 (h) all rentals of nonsectarian textbooks by public or private elemen-

- 1 tary or secondary schools;
- 2 (i) the lease or rental of all films, records, tapes, or any type of sound
3 or picture transcriptions used by motion picture exhibitors;
- 4 (j) meals served without charge or food used in the preparation of
5 such meals to employees of any restaurant, eating house, dining car, hotel,
6 drugstore or other place where meals or drinks are regularly sold to the
7 public if such employees' duties are related to the furnishing or sale of
8 such meals or drinks;
- 9 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
10 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
11 delivered in this state to a bona fide resident of another state, which motor
12 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
13 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
14 remain in this state more than 10 days;
- 15 (l) all isolated or occasional sales of tangible personal property, serv-
16 ices, substances or things, except isolated or occasional sale of motor
17 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
18 79-3603 and amendments thereto;
- 19 (m) all sales of tangible personal property which become an ingre-
20 dient or component part of tangible personal property or services pro-
21 duced, manufactured or compounded for ultimate sale at retail within or
22 without the state of Kansas; and any such producer, manufacturer or
23 compounder may obtain from the director of taxation and furnish to the
24 supplier an exemption certificate number for tangible personal property
25 for use as an ingredient or component part of the property or services
26 produced, manufactured or compounded;
- 27 (n) all sales of tangible personal property which is consumed in the
28 production, manufacture, processing, mining, drilling, refining or com-
29 pounding of tangible personal property, the treating of by-products or
30 wastes derived from any such production process, the providing of serv-
31 ices or the irrigation of crops for ultimate sale at retail within or without
32 the state of Kansas; and any purchaser of such property may obtain from
33 the director of taxation and furnish to the supplier an exemption certifi-
34 cate number for tangible personal property for consumption in such pro-
35 duction, manufacture, processing, mining, drilling, refining, compound-
36 ing, treating, irrigation and in providing such services;
- 37 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
38 mary purpose of which is use in agriculture or aquaculture, as defined in
39 K.S.A. 47-1901, and amendments thereto, the production of food for
40 human consumption, the production of animal, dairy, poultry or aquatic
41 plant and animal products, fiber or fur, or the production of offspring for
42 use for any such purpose or purposes;
- 43 (p) all sales of drugs dispensed pursuant to a prescription order by a

1 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
2 1626, and amendments thereto. As used in this subsection, “drug” means
3 a compound, substance or preparation and any component of a com-
4 pound, substance or preparation, other than food and food ingredients,
5 dietary supplements or alcoholic beverages, recognized in the official
6 United States pharmacopoeia, official homeopathic pharmacopoeia of the
7 United States or official national formulary, and supplement to any of
8 them, intended for use in the diagnosis, cure, mitigation, treatment or
9 prevention of disease or intended to affect the structure or any function
10 of the body;

11 (q) all sales of insulin dispensed by a person licensed by the state
12 board of pharmacy to a person for treatment of diabetes at the direction
13 of a person licensed to practice medicine by the board of healing arts;

14 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
15 enteral feeding systems, prosthetic devices and mobility enhancing equip-
16 ment prescribed in writing by a person licensed to practice the healing
17 arts, dentistry or optometry, and in addition to such sales, all sales of
18 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
19 ments thereto, and repair and replacement parts therefor, including bat-
20 teries, by a person licensed in the practice of dispensing and fitting hear-
21 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
22 thereto. For the purposes of this subsection: (1) “Mobility enhancing
23 equipment” means equipment including repair and replacement parts to
24 same, but does not include durable medical equipment, which is primarily
25 and customarily used to provide or increase the ability to move from one
26 place to another and which is appropriate for use either in a home or a
27 motor vehicle; is not generally used by persons with normal mobility; and
28 does not include any motor vehicle or equipment on a motor vehicle
29 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
30 device” means a replacement, corrective or supportive device including
31 repair and replacement parts for same worn on or in the body to artificially
32 replace a missing portion of the body, prevent or correct physical deform-
33 ity or malfunction or support a weak or deformed portion of the body;

34 (s) except as provided in K.S.A. 2008 Supp. 82a-2101, and amend-
35 ments thereto, all sales of tangible personal property or services pur-
36 chased directly or indirectly by a groundwater management district or-
37 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
38 amendments thereto, by a rural water district organized or operating un-
39 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
40 water supply district organized or operating under the authority of K.S.A.
41 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
42 which property or services are used in the construction activities, opera-
43 tion or maintenance of the district;

- 1 (t) all sales of farm machinery and equipment or aquaculture ma-
2 chinery and equipment, repair and replacement parts therefor and serv-
3 ices performed in the repair and maintenance of such machinery and
4 equipment. For the purposes of this subsection the term “farm machinery
5 and equipment or aquaculture machinery and equipment” shall include
6 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
7 thereto, and is equipped with a bed or cargo box for hauling materials,
8 and shall also include machinery and equipment used in the operation of
9 Christmas tree farming but shall not include any passenger vehicle, truck,
10 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
11 as such terms are defined by K.S.A. 8-126 and amendments thereto.
12 “Farm machinery and equipment” includes precision farming equipment
13 that is portable or is installed or purchased to be installed on farm ma-
14 chinery and equipment. “Precision farming equipment” includes the fol-
15 lowing items used only in computer-assisted farming, ranching or aqua-
16 culture production operations: Soil testing sensors, yield monitors,
17 computers, monitors, software, global positioning and mapping systems,
18 guiding systems, modems, data communications equipment and any nec-
19 cessary mounting hardware, wiring and antennas. Each purchaser of farm
20 machinery and equipment or aquaculture machinery and equipment ex-
21 empted herein must certify in writing on the copy of the invoice or sales
22 ticket to be retained by the seller that the farm machinery and equipment
23 or aquaculture machinery and equipment purchased will be used only in
24 farming, ranching or aquaculture production. Farming or ranching shall
25 include the operation of a feedlot and farm and ranch work for hire and
26 the operation of a nursery;
- 27 (u) all leases or rentals of tangible personal property used as a dwell-
28 ing if such tangible personal property is leased or rented for a period of
29 more than 28 consecutive days;
- 30 (v) all sales of tangible personal property to any contractor for use in
31 preparing meals for delivery to homebound elderly persons over 60 years
32 of age and to homebound disabled persons or to be served at a group-
33 sitting at a location outside of the home to otherwise homebound elderly
34 persons over 60 years of age and to otherwise homebound disabled per-
35 sons, as all or part of any food service project funded in whole or in part
36 by government or as part of a private nonprofit food service project avail-
37 able to all such elderly or disabled persons residing within an area of
38 service designated by the private nonprofit organization, and all sales of
39 tangible personal property for use in preparing meals for consumption by
40 indigent or homeless individuals whether or not such meals are consumed
41 at a place designated for such purpose, and all sales of food products by
42 or on behalf of any such contractor or organization for any such purpose;
- 43 (w) all sales of natural gas, electricity, heat and water delivered

1 through mains, lines or pipes: (1) To residential premises for noncom-
2 mercial use by the occupant of such premises; (2) for agricultural use and
3 also, for such use, all sales of propane gas; (3) for use in the severing of
4 oil; and (4) to any property which is exempt from property taxation pur-
5 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
6 “severing” shall have the meaning ascribed thereto by subsection (k) of
7 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
8 electricity and heat delivered through mains, lines or pipes pursuant to
9 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
10 section shall expire on December 31, 2005;

11 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
12 for the production of heat or lighting for noncommercial use of an oc-
13 cupant of residential premises occurring prior to January 1, 2006;

14 (y) all sales of materials and services used in the repairing, servicing,
15 altering, maintaining, manufacturing, remanufacturing, or modification of
16 railroad rolling stock for use in interstate or foreign commerce under
17 authority of the laws of the United States;

18 (z) all sales of tangible personal property and services purchased di-
19 rectly by a port authority or by a contractor therefor as provided by the
20 provisions of K.S.A. 12-3418 and amendments thereto;

21 (aa) all sales of materials and services applied to equipment which is
22 transported into the state from without the state for repair, service, al-
23 teration, maintenance, remanufacture or modification and which is sub-
24 sequently transported outside the state for use in the transmission of
25 liquids or natural gas by means of pipeline in interstate or foreign com-
26 merce under authority of the laws of the United States;

27 (bb) all sales of used mobile homes or manufactured homes. As used
28 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
29 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
30 thereto; and (2) “sales of used mobile homes or manufactured homes”
31 means sales other than the original retail sale thereof;

32 (cc) all sales of tangible personal property or services purchased for
33 the purpose of and in conjunction with constructing, reconstructing, en-
34 larging or remodeling a business or retail business which meets the
35 requirements established in K.S.A. 74-50,115 and amendments thereto,
36 and the sale and installation of machinery and equipment purchased for
37 installation at any such business or retail business. When a person shall
38 contract for the construction, reconstruction, enlargement or remodeling
39 of any such business or retail business, such person shall obtain from the
40 state and furnish to the contractor an exemption certificate for the project
41 involved, and the contractor may purchase materials, machinery and
42 equipment for incorporation in such project. The contractor shall furnish
43 the number of such certificates to all suppliers from whom such purchases

1 are made, and such suppliers shall execute invoices covering the same
2 bearing the number of such certificate. Upon completion of the project
3 the contractor shall furnish to the owner of the business or retail business
4 a sworn statement, on a form to be provided by the director of taxation,
5 that all purchases so made were entitled to exemption under this subsec-
6 tion. All invoices shall be held by the contractor for a period of five years
7 and shall be subject to audit by the director of taxation. Any contractor
8 or any agent, employee or subcontractor thereof, who shall use or oth-
9 erwise dispose of any materials, machinery or equipment purchased un-
10 der such a certificate for any purpose other than that for which such a
11 certificate is issued without the payment of the sales or compensating tax
12 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
13 conviction therefor, shall be subject to the penalties provided for in sub-
14 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
15 subsection, “business” and “retail business” have the meanings respec-
16 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

17 (dd) all sales of tangible personal property purchased with food
18 stamps issued by the United States department of agriculture;

19 (ee) all sales of lottery tickets and shares made as part of a lottery
20 operated by the state of Kansas;

21 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
22 ufactured homes to the extent of 40% of the gross receipts, determined
23 without regard to any trade-in allowance, received from such sale. As used
24 in this subsection, “mobile homes” and “manufactured homes” shall have
25 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
26 thereto;

27 (gg) all sales of tangible personal property purchased in accordance
28 with vouchers issued pursuant to the federal special supplemental food
29 program for women, infants and children;

30 (hh) all sales of medical supplies and equipment, including durable
31 medical equipment, purchased directly by a nonprofit skilled nursing
32 home or nonprofit intermediate nursing care home, as defined by K.S.A.
33 39-923, and amendments thereto, for the purpose of providing medical
34 services to residents thereof. This exemption shall not apply to tangible
35 personal property customarily used for human habitation purposes. As
36 used in this subsection, “durable medical equipment” means equipment
37 including repair and replacement parts for such equipment, which can
38 withstand repeated use, is primarily and customarily used to serve a med-
39 ical purpose, generally is not useful to a person in the absence of illness
40 or injury and is not worn in or on the body, but does not include mobility
41 enhancing equipment as defined in subsection (r), oxygen delivery equip-
42 ment, kidney dialysis equipment or enteral feeding systems;

43 (ii) all sales of tangible personal property purchased directly by a non-

1 profit organization for nonsectarian comprehensive multidiscipline youth
2 development programs and activities provided or sponsored by such or-
3 ganization, and all sales of tangible personal property by or on behalf of
4 any such organization. This exemption shall not apply to tangible personal
5 property customarily used for human habitation purposes;

6 (jj) all sales of tangible personal property or services, including the
7 renting and leasing of tangible personal property, purchased directly on
8 behalf of a community-based mental retardation facility or mental health
9 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
10 thereto, and licensed in accordance with the provisions of K.S.A. 75-
11 3307b and amendments thereto and all sales of tangible personal property
12 or services purchased by contractors during the time period from July,
13 2003, through June, 2006, for the purpose of constructing, equipping,
14 maintaining or furnishing a new facility for a community-based mental
15 retardation facility or mental health center located in Riverton, Cherokee
16 County, Kansas, which would have been eligible for sales tax exemption
17 pursuant to this subsection if purchased directly by such facility or center.
18 This exemption shall not apply to tangible personal property customarily
19 used for human habitation purposes;

20 (kk) (1) (A) all sales of machinery and equipment which are used in
21 this state as an integral or essential part of an integrated production op-
22 eration by a manufacturing or processing plant or facility;

23 (B) all sales of installation, repair and maintenance services per-
24 formed on such machinery and equipment; and

25 (C) all sales of repair and replacement parts and accessories pur-
26 chased for such machinery and equipment.

27 (2) For purposes of this subsection:

28 (A) “Integrated production operation” means an integrated series of
29 operations engaged in at a manufacturing or processing plant or facility
30 to process, transform or convert tangible personal property by physical,
31 chemical or other means into a different form, composition or character
32 from that in which it originally existed. Integrated production operations
33 shall include: (i) Production line operations, including packaging opera-
34 tions; (ii) preproduction operations to handle, store and treat raw mate-
35 rials; (iii) post production handling, storage, warehousing and distribution
36 operations; and (iv) waste, pollution and environmental control opera-
37 tions, if any;

38 (B) “production line” means the assemblage of machinery and equip-
39 ment at a manufacturing or processing plant or facility where the actual
40 transformation or processing of tangible personal property occurs;

41 (C) “manufacturing or processing plant or facility” means a single,
42 fixed location owned or controlled by a manufacturing or processing busi-
43 ness that consists of one or more structures or buildings in a contiguous

1 area where integrated production operations are conducted to manufac-
2 ture or process tangible personal property to be ultimately sold at retail.
3 Such term shall not include any facility primarily operated for the purpose
4 of conveying or assisting in the conveyance of natural gas, electricity, oil
5 or water. A business may operate one or more manufacturing or proc-
6 essing plants or facilities at different locations to manufacture or process
7 a single product of tangible personal property to be ultimately sold at
8 retail;

9 (D) “manufacturing or processing business” means a business that
10 utilizes an integrated production operation to manufacture, process, fab-
11 ricate, finish, or assemble items for wholesale and retail distribution as
12 part of what is commonly regarded by the general public as an industrial
13 manufacturing or processing operation or an agricultural commodity
14 processing operation. (i) Industrial manufacturing or processing opera-
15 tions include, by way of illustration but not of limitation, the fabrication
16 of automobiles, airplanes, machinery or transportation equipment, the
17 fabrication of metal, plastic, wood, or paper products, electricity power
18 generation, water treatment, petroleum refining, chemical production,
19 wholesale bottling, newspaper printing, ready mixed concrete production,
20 and the remanufacturing of used parts for wholesale or retail sale. Such
21 processing operations shall include operations at an oil well, gas well, mine
22 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
23 or gravel that has been extracted from the earth is cleaned, separated,
24 crushed, ground, milled, screened, washed, or otherwise treated or pre-
25 pared before its transmission to a refinery or before any other wholesale
26 or retail distribution. (ii) Agricultural commodity processing operations
27 include, by way of illustration but not of limitation, meat packing, poultry
28 slaughtering and dressing, processing and packaging farm and dairy prod-
29 ucts in sealed containers for wholesale and retail distribution, feed grind-
30 ing, grain milling, frozen food processing, and grain handling, cleaning,
31 blending, fumigation, drying and aeration operations engaged in by grain
32 elevators or other grain storage facilities. (iii) Manufacturing or processing
33 businesses do not include, by way of illustration but not of limitation,
34 nonindustrial businesses whose operations are primarily retail and that
35 produce or process tangible personal property as an incidental part of
36 conducting the retail business, such as retailers who bake, cook or prepare
37 food products in the regular course of their retail trade, grocery stores,
38 meat lockers and meat markets that butcher or dress livestock or poultry
39 in the regular course of their retail trade, contractors who alter, service,
40 repair or improve real property, and retail businesses that clean, service
41 or refurbish and repair tangible personal property for its owner;

42 (E) “repair and replacement parts and accessories” means all parts
43 and accessories for exempt machinery and equipment, including, but not

- 1 limited to, dies, jigs, molds, patterns and safety devices that are attached
2 to exempt machinery or that are otherwise used in production, and parts
3 and accessories that require periodic replacement such as belts, drill bits,
4 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
5 other refractory items for exempt kiln equipment used in production
6 operations;
- 7 (F) “primary” or “primarily” mean more than 50% of the time.
- 8 (3) For purposes of this subsection, machinery and equipment shall
9 be deemed to be used as an integral or essential part of an integrated
10 production operation when used:
- 11 (A) To receive, transport, convey, handle, treat or store raw materials
12 in preparation of its placement on the production line;
- 13 (B) to transport, convey, handle or store the property undergoing
14 manufacturing or processing at any point from the beginning of the pro-
15 duction line through any warehousing or distribution operation of the
16 final product that occurs at the plant or facility;
- 17 (C) to act upon, effect, promote or otherwise facilitate a physical
18 change to the property undergoing manufacturing or processing;
- 19 (D) to guide, control or direct the movement of property undergoing
20 manufacturing or processing;
- 21 (E) to test or measure raw materials, the property undergoing man-
22 ufacturing or processing or the finished product, as a necessary part of
23 the manufacturer’s integrated production operations;
- 24 (F) to plan, manage, control or record the receipt and flow of inven-
25 tories of raw materials, consumables and component parts, the flow of
26 the property undergoing manufacturing or processing and the manage-
27 ment of inventories of the finished product;
- 28 (G) to produce energy for, lubricate, control the operating of or oth-
29 erwise enable the functioning of other production machinery and equip-
30 ment and the continuation of production operations;
- 31 (H) to package the property being manufactured or processed in a
32 container or wrapping in which such property is normally sold or
33 transported;
- 34 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
35 ilar substances used in production operations from the point of genera-
36 tion, if produced by the manufacturer or processor at the plant site, to
37 that manufacturer’s production operation; or, if purchased or delivered
38 from offsite, from the point where the substance enters the site of the
39 plant or facility to that manufacturer’s production operations;
- 40 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
41 oil, solvents or other substances that are used in production operations;
- 42 (K) to provide and control an environment required to maintain cer-
43 tain levels of air quality, humidity or temperature in special and limited

- 1 areas of the plant or facility, where such regulation of temperature or
2 humidity is part of and essential to the production process;
- 3 (L) to treat, transport or store waste or other byproducts of produc-
4 tion operations at the plant or facility; or
- 5 (M) to control pollution at the plant or facility where the pollution is
6 produced by the manufacturing or processing operation.
- 7 (4) The following machinery, equipment and materials shall be
8 deemed to be exempt even though it may not otherwise qualify as ma-
9 chinery and equipment used as an integral or essential part of an inte-
10 grated production operation: (A) Computers and related peripheral
11 equipment that are utilized by a manufacturing or processing business
12 for engineering of the finished product or for research and development
13 or product design; (B) machinery and equipment that is utilized by a
14 manufacturing or processing business to manufacture or rebuild tangible
15 personal property that is used in manufacturing or processing operations,
16 including tools, dies, molds, forms and other parts of qualifying machinery
17 and equipment; (C) portable plants for aggregate concrete, bulk cement
18 and asphalt including cement mixing drums to be attached to a motor
19 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
20 dations necessary for manufacturing and production operations, and ma-
21 terials and other tangible personal property sold for the purpose of fab-
22 ricating such fixtures, devices, facilities and foundations. An exemption
23 certificate for such purchases shall be signed by the manufacturer or
24 processor. If the fabricator purchases such material, the fabricator shall
25 also sign the exemption certificate; and (E) a manufacturing or processing
26 business' laboratory equipment that is not located at the plant or facility,
27 but that would otherwise qualify for exemption under subsection (3)(E).
- 28 (5) "Machinery and equipment used as an integral or essential part
29 of an integrated production operation" shall not include:
- 30 (A) Machinery and equipment used for nonproduction purposes, in-
31 cluding, but not limited to, machinery and equipment used for plant se-
32 curity, fire prevention, first aid, accounting, administration, record keep-
33 ing, advertising, marketing, sales or other related activities, plant cleaning,
34 plant communications, and employee work scheduling;
- 35 (B) machinery, equipment and tools used primarily in maintaining
36 and repairing any type of machinery and equipment or the building and
37 plant;
- 38 (C) transportation, transmission and distribution equipment not pri-
39 marily used in a production, warehousing or material handling operation
40 at the plant or facility, including the means of conveyance of natural gas,
41 electricity, oil or water, and equipment related thereto, located outside
42 the plant or facility;
- 43 (D) office machines and equipment including computers and related

- 1 peripheral equipment not used directly and primarily to control or mea-
2 sure the manufacturing process;
- 3 (E) furniture and other furnishings;
- 4 (F) buildings, other than exempt machinery and equipment that is
5 permanently affixed to or becomes a physical part of the building, and
6 any other part of real estate that is not otherwise exempt;
- 7 (G) building fixtures that are not integral to the manufacturing op-
8 eration, such as utility systems for heating, ventilation, air conditioning,
9 communications, plumbing or electrical;
- 10 (H) machinery and equipment used for general plant heating, cooling
11 and lighting;
- 12 (I) motor vehicles that are registered for operation on public high-
13 ways; or
- 14 (J) employee apparel, except safety and protective apparel that is pur-
15 chased by an employer and furnished gratuitously to employees who are
16 involved in production or research activities.
- 17 (6) Subsections (3) and (5) shall not be construed as exclusive listings
18 of the machinery and equipment that qualify or do not qualify as an
19 integral or essential part of an integrated production operation. When
20 machinery or equipment is used as an integral or essential part of pro-
21 duction operations part of the time and for nonproduction purpose at
22 other times, the primary use of the machinery or equipment shall deter-
23 mine whether or not such machinery or equipment qualifies for
24 exemption.
- 25 (7) The secretary of revenue shall adopt rules and regulations nec-
26 essary to administer the provisions of this subsection;
- 27 (ll) all sales of educational materials purchased for distribution to the
28 public at no charge by a nonprofit corporation organized for the purpose
29 of encouraging, fostering and conducting programs for the improvement
30 of public health;
- 31 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
32 herbicides, germicides, pesticides and fungicides; and services, purchased
33 and used for the purpose of producing plants in order to prevent soil
34 erosion on land devoted to agricultural use;
- 35 (nn) except as otherwise provided in this act, all sales of services ren-
36 dered by an advertising agency or licensed broadcast station or any mem-
37 ber, agent or employee thereof;
- 38 (oo) all sales of tangible personal property purchased by a community
39 action group or agency for the exclusive purpose of repairing or weath-
40 erizing housing occupied by low income individuals;
- 41 (pp) all sales of drill bits and explosives actually utilized in the explo-
42 ration and production of oil or gas;
- 43 (qq) all sales of tangible personal property and services purchased by

- 1 a nonprofit museum or historical society or any combination thereof, in-
2 cluding a nonprofit organization which is organized for the purpose of
3 stimulating public interest in the exploration of space by providing edu-
4 cational information, exhibits and experiences, which is exempt from fed-
5 eral income taxation pursuant to section 501(c)(3) of the federal internal
6 revenue code of 1986;
- 7 (rr) all sales of tangible personal property which will admit the pur-
8 chaser thereof to any annual event sponsored by a nonprofit organization
9 which is exempt from federal income taxation pursuant to section
10 501(c)(3) of the federal internal revenue code of 1986;
- 11 (ss) all sales of tangible personal property and services purchased by
12 a public broadcasting station licensed by the federal communications
13 commission as a noncommercial educational television or radio station;
- 14 (tt) all sales of tangible personal property and services purchased by
15 or on behalf of a not-for-profit corporation which is exempt from federal
16 income taxation pursuant to section 501(c)(3) of the federal internal rev-
17 enue code of 1986, for the sole purpose of constructing a Kansas Korean
18 War memorial;
- 19 (uu) all sales of tangible personal property and services purchased by
20 or on behalf of any rural volunteer fire-fighting organization for use ex-
21 clusively in the performance of its duties and functions;
- 22 (vv) all sales of tangible personal property purchased by any of the
23 following organizations which are exempt from federal income taxation
24 pursuant to section 501 (c)(3) of the federal internal revenue code of
25 1986, for the following purposes, and all sales of any such property by or
26 on behalf of any such organization for any such purpose:
- 27 (1) The American Heart Association, Kansas Affiliate, Inc. for the
28 purposes of providing education, training, certification in emergency car-
29 diac care, research and other related services to reduce disability and
30 death from cardiovascular diseases and stroke;
- 31 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
32 advocacy for persons with mental illness and to education, research and
33 support for their families;
- 34 (3) the Kansas Mental Illness Awareness Council for the purposes of
35 advocacy for persons who are mentally ill and to education, research and
36 support for them and their families;
- 37 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
38 purpose of eliminating diabetes through medical research, public edu-
39 cation focusing on disease prevention and education, patient education
40 including information on coping with diabetes, and professional education
41 and training;
- 42 (5) the American Lung Association of Kansas, Inc. for the purpose of
43 eliminating all lung diseases through medical research, public education

- 1 including information on coping with lung diseases, professional educa-
2 tion and training related to lung disease and other related services to
3 reduce the incidence of disability and death due to lung disease;
- 4 (6) the Kansas chapters of the Alzheimer’s Disease and Related Dis-
5 orders Association, Inc. for the purpose of providing assistance and sup-
6 port to persons in Kansas with Alzheimer’s disease, and their families and
7 caregivers;
- 8 (7) the Kansas chapters of the Parkinson’s disease association for the
9 purpose of eliminating Parkinson’s disease through medical research and
10 public and professional education related to such disease;
- 11 (8) the National Kidney Foundation of Kansas and Western Missouri
12 for the purpose of eliminating kidney disease through medical research
13 and public and private education related to such disease;
- 14 (9) the heartstrings community foundation for the purpose of provid-
15 ing training, employment and activities for adults with developmental
16 disabilities;
- 17 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
18 the purposes of assuring the development of the means to cure and con-
19 trol cystic fibrosis and improving the quality of life for those with the
20 disease;
- 21 (11) the spina bifida association of Kansas for the purpose of provid-
22 ing financial, educational and practical aid to families and individuals with
23 spina bifida. Such aid includes, but is not limited to, funding for medical
24 devices, counseling and medical educational opportunities;
- 25 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
26 borhoods through the construction of new homes, acquiring and reno-
27 vating existing homes and other related activities, and promoting eco-
28 nomic development in such neighborhoods;
- 29 (13) the cross-lines cooperative council for the purpose of providing
30 social services to low income individuals and families;
- 31 (14) the Dreams Work, Inc., for the purpose of providing young adult
32 day services to individuals with developmental disabilities and assisting
33 families in avoiding institutional or nursing home care for a developmen-
34 tally disabled member of their family;
- 35 (15) the KSDS, Inc., for the purpose of promoting the independence
36 and inclusion of people with disabilities as fully participating and contrib-
37 uting members of their communities and society through the training and
38 providing of guide and service dogs to people with disabilities, and pro-
39 viding disability education and awareness to the general public;
- 40 (16) the lyme association of greater Kansas City, Inc., for the purpose
41 of providing support to persons with lyme disease and public education
42 relating to the prevention, treatment and cure of lyme disease;
- 43 (17) the Dream Factory, Inc., for the purpose of granting the dreams

1 of children with critical and chronic illnesses;

2 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
3 students and families with education and resources necessary to enable
4 each child to develop fine character and musical ability to the fullest
5 potential;

6 (19) the International Association of Lions Clubs for the purpose of
7 creating and fostering a spirit of understanding among all people for hu-
8 manitarian needs by providing voluntary services through community in-
9 volvement and international cooperation;

10 (20) the Johnson county young matrons, inc., for the purpose of pro-
11 moting a positive future for members of the community through volun-
12 teerism, financial support and education through the efforts of an all
13 volunteer organization;

14 (21) the American Cancer Society, Inc., for the purpose of eliminat-
15 ing cancer as a major health problem by preventing cancer, saving lives
16 and diminishing suffering from cancer, through research, education, ad-
17 vocacy and service;

18 (22) the community services of Shawnee, inc., for the purpose of
19 providing food and clothing to those in need; and

20 (23) the angel babies association, for the purpose of providing assis-
21 tance, support and items of necessity to teenage mothers and their babies;

22 (ww) all sales of tangible personal property purchased by the Habitat
23 for Humanity for the exclusive use of being incorporated within a housing
24 project constructed by such organization;

25 (xx) all sales of tangible personal property and services purchased by
26 a nonprofit zoo which is exempt from federal income taxation pursuant
27 to section 501(c)(3) of the federal internal revenue code of 1986, or on
28 behalf of such zoo by an entity itself exempt from federal income taxation
29 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
30 contracted with to operate such zoo and all sales of tangible personal
31 property or services purchased by a contractor for the purpose of con-
32 structing, equipping, reconstructing, maintaining, repairing, enlarging,
33 furnishing or remodeling facilities for any nonprofit zoo which would be
34 exempt from taxation under the provisions of this section if purchased
35 directly by such nonprofit zoo or the entity operating such zoo. Nothing
36 in this subsection shall be deemed to exempt the purchase of any con-
37 struction machinery, equipment or tools used in the constructing, equip-
38 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
39 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
40 contract for the purpose of constructing, equipping, reconstructing, main-
41 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
42 obtain from the state and furnish to the contractor an exemption certifi-
43 cate for the project involved, and the contractor may purchase materials

1 for incorporation in such project. The contractor shall furnish the number
2 of such certificate to all suppliers from whom such purchases are made,
3 and such suppliers shall execute invoices covering the same bearing the
4 number of such certificate. Upon completion of the project the contractor
5 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
6 to be provided by the director of taxation, that all purchases so made were
7 entitled to exemption under this subsection. All invoices shall be held by
8 the contractor for a period of five years and shall be subject to audit by
9 the director of taxation. If any materials purchased under such a certifi-
10 cate are found not to have been incorporated in the building or other
11 project or not to have been returned for credit or the sales or compen-
12 sating tax otherwise imposed upon such materials which will not be so
13 incorporated in the building or other project reported and paid by such
14 contractor to the director of taxation not later than the 20th day of the
15 month following the close of the month in which it shall be determined
16 that such materials will not be used for the purpose for which such cer-
17 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
18 all materials purchased for the project, and upon payment thereof it may
19 recover the same from the contractor together with reasonable attorney
20 fees. Any contractor or any agent, employee or subcontractor thereof,
21 who shall use or otherwise dispose of any materials purchased under such
22 a certificate for any purpose other than that for which such a certificate
23 is issued without the payment of the sales or compensating tax otherwise
24 imposed upon such materials, shall be guilty of a misdemeanor and, upon
25 conviction therefor, shall be subject to the penalties provided for in sub-
26 section (g) of K.S.A. 79-3615, and amendments thereto;

27 (yy) all sales of tangible personal property and services purchased by
28 a parent-teacher association or organization, and all sales of tangible per-
29 sonal property by or on behalf of such association or organization;

30 (zz) all sales of machinery and equipment purchased by over-the-air,
31 free access radio or television station which is used directly and primarily
32 for the purpose of producing a broadcast signal or is such that the failure
33 of the machinery or equipment to operate would cause broadcasting to
34 cease. For purposes of this subsection, machinery and equipment shall
35 include, but not be limited to, that required by rules and regulations of
36 the federal communications commission, and all sales of electricity which
37 are essential or necessary for the purpose of producing a broadcast signal
38 or is such that the failure of the electricity would cause broadcasting to
39 cease;

40 (aaa) all sales of tangible personal property and services purchased
41 by a religious organization which is exempt from federal income taxation
42 pursuant to section 501(c)(3) of the federal internal revenue code, and
43 used exclusively for religious purposes, and all sales of tangible personal

1 property or services purchased by a contractor for the purpose of con-
2 structing, equipping, reconstructing, maintaining, repairing, enlarging,
3 furnishing or remodeling facilities for any such organization which would
4 be exempt from taxation under the provisions of this section if purchased
5 directly by such organization. Nothing in this subsection shall be deemed
6 to exempt the purchase of any construction machinery, equipment or
7 tools used in the constructing, equipping, reconstructing, maintaining,
8 repairing, enlarging, furnishing or remodeling facilities for any such or-
9 ganization. When any such organization shall contract for the purpose of
10 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
11 ing, furnishing or remodeling facilities, it shall obtain from the state and
12 furnish to the contractor an exemption certificate for the project involved,
13 and the contractor may purchase materials for incorporation in such pro-
14 ject. The contractor shall furnish the number of such certificate to all
15 suppliers from whom such purchases are made, and such suppliers shall
16 execute invoices covering the same bearing the number of such certifi-
17 cate. Upon completion of the project the contractor shall furnish to such
18 organization concerned a sworn statement, on a form to be provided by
19 the director of taxation, that all purchases so made were entitled to ex-
20 emption under this subsection. All invoices shall be held by the contractor
21 for a period of five years and shall be subject to audit by the director of
22 taxation. If any materials purchased under such a certificate are found
23 not to have been incorporated in the building or other project or not to
24 have been returned for credit or the sales or compensating tax otherwise
25 imposed upon such materials which will not be so incorporated in the
26 building or other project reported and paid by such contractor to the
27 director of taxation not later than the 20th day of the month following
28 the close of the month in which it shall be determined that such materials
29 will not be used for the purpose for which such certificate was issued,
30 such organization concerned shall be liable for tax on all materials pur-
31 chased for the project, and upon payment thereof it may recover the same
32 from the contractor together with reasonable attorney fees. Any contrac-
33 tor or any agent, employee or subcontractor thereof, who shall use or
34 otherwise dispose of any materials purchased under such a certificate for
35 any purpose other than that for which such a certificate is issued without
36 the payment of the sales or compensating tax otherwise imposed upon
37 such materials, shall be guilty of a misdemeanor and, upon conviction
38 therefor, shall be subject to the penalties provided for in subsection (g)
39 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
40 July 1, 1998, but prior to the effective date of this act upon the gross
41 receipts received from any sale exempted by the amendatory provisions
42 of this subsection shall be refunded. Each claim for a sales tax refund
43 shall be verified and submitted to the director of taxation upon forms

1 furnished by the director and shall be accompanied by any additional
2 documentation required by the director. The director shall review each
3 claim and shall refund that amount of sales tax paid as determined under
4 the provisions of this subsection. All refunds shall be paid from the sales
5 tax refund fund upon warrants of the director of accounts and reports
6 pursuant to vouchers approved by the director or the director's designee;
7 (bbb) all sales of food for human consumption by an organization
8 which is exempt from federal income taxation pursuant to section 501
9 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
10 distribution program which offers such food at a price below cost in
11 exchange for the performance of community service by the purchaser
12 thereof;

13 (ccc) on and after July 1, 1999, all sales of tangible personal property
14 and services purchased by a primary care clinic or health center the pri-
15 mary purpose of which is to provide services to medically underserved
16 individuals and families, and which is exempt from federal income taxa-
17 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
18 and all sales of tangible personal property or services purchased by a
19 contractor for the purpose of constructing, equipping, reconstructing,
20 maintaining, repairing, enlarging, furnishing or remodeling facilities for
21 any such clinic or center which would be exempt from taxation under the
22 provisions of this section if purchased directly by such clinic or center.
23 Nothing in this subsection shall be deemed to exempt the purchase of
24 any construction machinery, equipment or tools used in the constructing,
25 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
26 or remodeling facilities for any such clinic or center. When any such clinic
27 or center shall contract for the purpose of constructing, equipping, re-
28 constructing, maintaining, repairing, enlarging, furnishing or remodeling
29 facilities, it shall obtain from the state and furnish to the contractor an
30 exemption certificate for the project involved, and the contractor may
31 purchase materials for incorporation in such project. The contractor shall
32 furnish the number of such certificate to all suppliers from whom such
33 purchases are made, and such suppliers shall execute invoices covering
34 the same bearing the number of such certificate. Upon completion of the
35 project the contractor shall furnish to such clinic or center concerned a
36 sworn statement, on a form to be provided by the director of taxation,
37 that all purchases so made were entitled to exemption under this subsec-
38 tion. All invoices shall be held by the contractor for a period of five years
39 and shall be subject to audit by the director of taxation. If any materials
40 purchased under such a certificate are found not to have been incorpo-
41 rated in the building or other project or not to have been returned for
42 credit or the sales or compensating tax otherwise imposed upon such
43 materials which will not be so incorporated in the building or other pro-

1 ject reported and paid by such contractor to the director of taxation not
2 later than the 20th day of the month following the close of the month in
3 which it shall be determined that such materials will not be used for the
4 purpose for which such certificate was issued, such clinic or center con-
5 cerned shall be liable for tax on all materials purchased for the project,
6 and upon payment thereof it may recover the same from the contractor
7 together with reasonable attorney fees. Any contractor or any agent, em-
8 ployee or subcontractor thereof, who shall use or otherwise dispose of
9 any materials purchased under such a certificate for any purpose other
10 than that for which such a certificate is issued without the payment of
11 the sales or compensating tax otherwise imposed upon such materials,
12 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
13 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
14 and amendments thereto;

15 (ddd) on and after January 1, 1999, and before January 1, 2000, all
16 sales of materials and services purchased by any class II or III railroad as
17 classified by the federal surface transportation board for the construction,
18 renovation, repair or replacement of class II or III railroad track and
19 facilities used directly in interstate commerce. In the event any such track
20 or facility for which materials and services were purchased sales tax ex-
21 empt is not operational for five years succeeding the allowance of such
22 exemption, the total amount of sales tax which would have been payable
23 except for the operation of this subsection shall be recouped in accord-
24 ance with rules and regulations adopted for such purpose by the secretary
25 of revenue;

26 (eee) on and after January 1, 1999, and before January 1, 2001, all
27 sales of materials and services purchased for the original construction,
28 reconstruction, repair or replacement of grain storage facilities, including
29 railroad sidings providing access thereto;

30 (fff) all sales of material handling equipment, racking systems and
31 other related machinery and equipment that is used for the handling,
32 movement or storage of tangible personal property in a warehouse or
33 distribution facility in this state; all sales of installation, repair and main-
34 tenance services performed on such machinery and equipment; and all
35 sales of repair and replacement parts for such machinery and equipment.
36 For purposes of this subsection, a warehouse or distribution facility means
37 a single, fixed location that consists of buildings or structures in a contig-
38 uous area where storage or distribution operations are conducted that are
39 separate and apart from the business' retail operations, if any, and which
40 do not otherwise qualify for exemption as occurring at a manufacturing
41 or processing plant or facility. Material handling and storage equipment
42 shall include aeration, dust control, cleaning, handling and other such
43 equipment that is used in a public grain warehouse or other commercial

1 grain storage facility, whether used for grain handling, grain storage, grain
2 refining or processing, or other grain treatment operation;

3 (ggg) all sales of tangible personal property and services purchased
4 by or on behalf of the Kansas Academy of Science which is exempt from
5 federal income taxation pursuant to section 501(c)(3) of the federal in-
6 ternal revenue code of 1986, and used solely by such academy for the
7 preparation, publication and dissemination of education materials;

8 (hhh) all sales of tangible personal property and services purchased
9 by or on behalf of all domestic violence shelters that are member agencies
10 of the Kansas coalition against sexual and domestic violence;

11 (iii) all sales of personal property and services purchased by an or-
12 ganization which is exempt from federal income taxation pursuant to sec-
13 tion 501(c)(3) of the federal internal revenue code of 1986, and which
14 such personal property and services are used by any such organization in
15 the collection, storage and distribution of food products to nonprofit or-
16 ganizations which distribute such food products to persons pursuant to a
17 food distribution program on a charitable basis without fee or charge, and
18 all sales of tangible personal property or services purchased by a contrac-
19 tor for the purpose of constructing, equipping, reconstructing, maintain-
20 ing, repairing, enlarging, furnishing or remodeling facilities used for the
21 collection and storage of such food products for any such organization
22 which is exempt from federal income taxation pursuant to section
23 501(c)(3) of the federal internal revenue code of 1986, which would be
24 exempt from taxation under the provisions of this section if purchased
25 directly by such organization. Nothing in this subsection shall be deemed
26 to exempt the purchase of any construction machinery, equipment or
27 tools used in the constructing, equipping, reconstructing, maintaining,
28 repairing, enlarging, furnishing or remodeling facilities for any such or-
29 ganization. When any such organization shall contract for the purpose of
30 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
31 ing, furnishing or remodeling facilities, it shall obtain from the state and
32 furnish to the contractor an exemption certificate for the project involved,
33 and the contractor may purchase materials for incorporation in such pro-
34 ject. The contractor shall furnish the number of such certificate to all
35 suppliers from whom such purchases are made, and such suppliers shall
36 execute invoices covering the same bearing the number of such certifi-
37 cate. Upon completion of the project the contractor shall furnish to such
38 organization concerned a sworn statement, on a form to be provided by
39 the director of taxation, that all purchases so made were entitled to ex-
40 emption under this subsection. All invoices shall be held by the contractor
41 for a period of five years and shall be subject to audit by the director of
42 taxation. If any materials purchased under such a certificate are found
43 not to have been incorporated in such facilities or not to have been re-

1 turned for credit or the sales or compensating tax otherwise imposed upon
2 such materials which will not be so incorporated in such facilities reported
3 and paid by such contractor to the director of taxation not later than the
4 20th day of the month following the close of the month in which it shall
5 be determined that such materials will not be used for the purpose for
6 which such certificate was issued, such organization concerned shall be
7 liable for tax on all materials purchased for the project, and upon payment
8 thereof it may recover the same from the contractor together with rea-
9 sonable attorney fees. Any contractor or any agent, employee or subcon-
10 tractor thereof, who shall use or otherwise dispose of any materials pur-
11 chased under such a certificate for any purpose other than that for which
12 such a certificate is issued without the payment of the sales or compen-
13 sating tax otherwise imposed upon such materials, shall be guilty of a
14 misdemeanor and, upon conviction therefor, shall be subject to the pen-
15 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
16 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
17 date of this act upon the gross receipts received from any sale exempted
18 by the amendatory provisions of this subsection shall be refunded. Each
19 claim for a sales tax refund shall be verified and submitted to the director
20 of taxation upon forms furnished by the director and shall be accompanied
21 by any additional documentation required by the director. The director
22 shall review each claim and shall refund that amount of sales tax paid as
23 determined under the provisions of this subsection. All refunds shall be
24 paid from the sales tax refund fund upon warrants of the director of
25 accounts and reports pursuant to vouchers approved by the director or
26 the director's designee;

27 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
28 tion order by a licensed practitioner or a mid-level practitioner as defined
29 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
30 "dietary supplement" means any product, other than tobacco, intended
31 to supplement the diet that: (1) Contains one or more of the following
32 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
33 amino acid, a dietary substance for use by humans to supplement the diet
34 by increasing the total dietary intake or a concentrate, metabolite, con-
35 stituent, extract or combination of any such ingredient; (2) is intended
36 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
37 if not intended for ingestion, in such a form, is not represented as con-
38 ventional food and is not represented for use as a sole item of a meal or
39 of the diet; and (3) is required to be labeled as a dietary supplement,
40 identifiable by the supplemental facts box found on the label and as re-
41 quired pursuant to 21 C.F.R. § 101.36;

42 (III) all sales of tangible personal property and services purchased by
43 special olympics Kansas, inc. for the purpose of providing year-round

1 sports training and athletic competition in a variety of olympic-type sports
2 for individuals with intellectual disabilities by giving them continuing op-
3 portunities to develop physical fitness, demonstrate courage, experience
4 joy and participate in a sharing of gifts, skills and friendship with their
5 families, other special olympics athletes and the community, and activities
6 provided or sponsored by such organization, and all sales of tangible per-
7 sonal property by or on behalf of any such organization;

8 (mmm) all sales of tangible personal property purchased by or on
9 behalf of the Marillac Center, Inc., which is exempt from federal income
10 taxation pursuant to section 501(c)(3) of the federal internal revenue
11 code, for the purpose of providing psycho-social-biological and special
12 education services to children, and all sales of any such property by or on
13 behalf of such organization for such purpose;

14 (nnn) all sales of tangible personal property and services purchased
15 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
16 itable Fund for the purpose of constructing a boundless playground which
17 is an integrated, barrier free and developmentally advantageous play en-
18 vironment for children of all abilities and disabilities;

19 (ooo) all sales of tangible personal property by or on behalf of a public
20 library serving the general public and supported in whole or in part with
21 tax money or a not-for-profit organization whose purpose is to raise funds
22 for or provide services or other benefits to any such public library;

23 (ppp) all sales of tangible personal property and services purchased
24 by or on behalf of a homeless shelter which is exempt from federal income
25 taxation pursuant to section 501(c)(3) of the federal income tax code of
26 1986, and used by any such homeless shelter to provide emergency and
27 transitional housing for individuals and families experiencing homeless-
28 ness, and all sales of any such property by or on behalf of any such home-
29 less shelter for any such purpose;

30 (qqq) all sales of tangible personal property and services purchased
31 by TLC for children and families, inc., hereinafter referred to as TLC,
32 which is exempt from federal income taxation pursuant to section
33 501(c)(3) of the federal internal revenue code of 1986, and which such
34 property and services are used for the purpose of providing emergency
35 shelter and treatment for abused and neglected children as well as meet-
36 ing additional critical needs for children, juveniles and family, and all sales
37 of any such property by or on behalf of TLC for any such purpose; and
38 all sales of tangible personal property or services purchased by a contrac-
39 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
40 nishing or remodeling facilities for the operation of services for TLC for
41 any such purpose which would be exempt from taxation under the pro-
42 visions of this section if purchased directly by TLC. Nothing in this sub-
43 section shall be deemed to exempt the purchase of any construction ma-

1 chinery, equipment or tools used in the constructing, maintaining,
2 repairing, enlarging, furnishing or remodeling such facilities for TLC.
3 When TLC contracts for the purpose of constructing, maintaining, re-
4 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
5 from the state and furnish to the contractor an exemption certificate for
6 the project involved, and the contractor may purchase materials for in-
7 corporation in such project. The contractor shall furnish the number of
8 such certificate to all suppliers from whom such purchases are made, and
9 such suppliers shall execute invoices covering the same bearing the num-
10 ber of such certificate. Upon completion of the project the contractor
11 shall furnish to TLC a sworn statement, on a form to be provided by the
12 director of taxation, that all purchases so made were entitled to exemption
13 under this subsection. All invoices shall be held by the contractor for a
14 period of five years and shall be subject to audit by the director of taxation.
15 If any materials purchased under such a certificate are found not to have
16 been incorporated in the building or other project or not to have been
17 returned for credit or the sales or compensating tax otherwise imposed
18 upon such materials which will not be so incorporated in the building or
19 other project reported and paid by such contractor to the director of
20 taxation not later than the 20th day of the month following the close of
21 the month in which it shall be determined that such materials will not be
22 used for the purpose for which such certificate was issued, TLC shall be
23 liable for tax on all materials purchased for the project, and upon payment
24 thereof it may recover the same from the contractor together with rea-
25 sonable attorney fees. Any contractor or any agent, employee or subcon-
26 tractor thereof, who shall use or otherwise dispose of any materials pur-
27 chased under such a certificate for any purpose other than that for which
28 such a certificate is issued without the payment of the sales or compen-
29 sating tax otherwise imposed upon such materials, shall be guilty of a
30 misdemeanor and, upon conviction therefor, shall be subject to the pen-
31 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
32 thereto;

33 (rrr) all sales of tangible personal property and services purchased by
34 any county law library maintained pursuant to law and sales of tangible
35 personal property and services purchased by an organization which would
36 have been exempt from taxation under the provisions of this subsection
37 if purchased directly by the county law library for the purpose of providing
38 legal resources to attorneys, judges, students and the general public, and
39 all sales of any such property by or on behalf of any such county law
40 library;

41 (sss) all sales of tangible personal property and services purchased by
42 catholic charities or youthville, hereinafter referred to as charitable family
43 providers, which is exempt from federal income taxation pursuant to sec-

1 tion 501(c)(3) of the federal internal revenue code of 1986, and which
2 such property and services are used for the purpose of providing emer-
3 gency shelter and treatment for abused and neglected children as well as
4 meeting additional critical needs for children, juveniles and family, and
5 all sales of any such property by or on behalf of charitable family providers
6 for any such purpose; and all sales of tangible personal property or serv-
7 ices purchased by a contractor for the purpose of constructing, maintain-
8 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
9 eration of services for charitable family providers for any such purpose
10 which would be exempt from taxation under the provisions of this section
11 if purchased directly by charitable family providers. Nothing in this sub-
12 section shall be deemed to exempt the purchase of any construction ma-
13 chinery, equipment or tools used in the constructing, maintaining, re-
14 pairing, enlarging, furnishing or remodeling such facilities for charitable
15 family providers. When charitable family providers contracts for the pur-
16 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
17 modeling such facilities, it shall obtain from the state and furnish to the
18 contractor an exemption certificate for the project involved, and the con-
19 tractor may purchase materials for incorporation in such project. The
20 contractor shall furnish the number of such certificate to all suppliers
21 from whom such purchases are made, and such suppliers shall execute
22 invoices covering the same bearing the number of such certificate. Upon
23 completion of the project the contractor shall furnish to charitable family
24 providers a sworn statement, on a form to be provided by the director of
25 taxation, that all purchases so made were entitled to exemption under
26 this subsection. All invoices shall be held by the contractor for a period
27 of five years and shall be subject to audit by the director of taxation. If
28 any materials purchased under such a certificate are found not to have
29 been incorporated in the building or other project or not to have been
30 returned for credit or the sales or compensating tax otherwise imposed
31 upon such materials which will not be so incorporated in the building or
32 other project reported and paid by such contractor to the director of
33 taxation not later than the 20th day of the month following the close of
34 the month in which it shall be determined that such materials will not be
35 used for the purpose for which such certificate was issued, charitable
36 family providers shall be liable for tax on all materials purchased for the
37 project, and upon payment thereof it may recover the same from the
38 contractor together with reasonable attorney fees. Any contractor or any
39 agent, employee or subcontractor thereof, who shall use or otherwise
40 dispose of any materials purchased under such a certificate for any pur-
41 pose other than that for which such a certificate is issued without the
42 payment of the sales or compensating tax otherwise imposed upon such
43 materials, shall be guilty of a misdemeanor and, upon conviction therefor,

1 shall be subject to the penalties provided for in subsection (g) of K.S.A.
2 79-3615, and amendments thereto;

3 (ttt) all sales of tangible personal property or services purchased by
4 a contractor for a project for the purpose of restoring, constructing, equip-
5 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
6 modeling a home or facility owned by a nonprofit museum which has
7 been granted an exemption pursuant to subsection (qq), which such home
8 or facility is located in a city which has been designated as a qualified
9 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
10 amendments thereto, and which such project is related to the purposes
11 of K.S.A. 75-5071 et seq., and amendments thereto, and which would be
12 exempt from taxation under the provisions of this section if purchased
13 directly by such nonprofit museum. Nothing in this subsection shall be
14 deemed to exempt the purchase of any construction machinery, equip-
15 ment or tools used in the restoring, constructing, equipping, reconstruct-
16 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
17 or facility for any such nonprofit museum. When any such nonprofit mu-
18 seum shall contract for the purpose of restoring, constructing, equipping,
19 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
20 ing a home or facility, it shall obtain from the state and furnish to the
21 contractor an exemption certificate for the project involved, and the con-
22 tractor may purchase materials for incorporation in such project. The
23 contractor shall furnish the number of such certificates to all suppliers
24 from whom such purchases are made, and such suppliers shall execute
25 invoices covering the same bearing the number of such certificate. Upon
26 completion of the project, the contractor shall furnish to such nonprofit
27 museum a sworn statement on a form to be provided by the director of
28 taxation that all purchases so made were entitled to exemption under this
29 subsection. All invoices shall be held by the contractor for a period of five
30 years and shall be subject to audit by the director of taxation. If any
31 materials purchased under such a certificate are found not to have been
32 incorporated in the building or other project or not to have been returned
33 for credit or the sales or compensating tax otherwise imposed upon such
34 materials which will not be so incorporated in a home or facility or other
35 project reported and paid by such contractor to the director of taxation
36 not later than the 20th day of the month following the close of the month
37 in which it shall be determined that such materials will not be used for
38 the purpose for which such certificate was issued, such nonprofit museum
39 shall be liable for tax on all materials purchased for the project, and upon
40 payment thereof it may recover the same from the contractor together
41 with reasonable attorney fees. Any contractor or any agent, employee or
42 subcontractor thereof, who shall use or otherwise dispose of any materials
43 purchased under such a certificate for any purpose other than that for

1 which such a certificate is issued without the payment of the sales or
2 compensating tax otherwise imposed upon such materials, shall be guilty
3 of a misdemeanor and, upon conviction therefor, shall be subject to the
4 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
5 ments thereto;

6 (uuu) all sales of tangible personal property and services purchased
7 by Kansas children's service league, hereinafter referred to as KCSL,
8 which is exempt from federal income taxation pursuant to section
9 501(c)(3) of the federal internal revenue code of 1986, and which such
10 property and services are used for the purpose of providing for the pre-
11 vention and treatment of child abuse and maltreatment as well as meeting
12 additional critical needs for children, juveniles and family, and all sales of
13 any such property by or on behalf of KCSL for any such purpose; and all
14 sales of tangible personal property or services purchased by a contractor
15 for the purpose of constructing, maintaining, repairing, enlarging, fur-
16 nishing or remodeling facilities for the operation of services for KCSL
17 for any such purpose which would be exempt from taxation under the
18 provisions of this section if purchased directly by KCSL. Nothing in this
19 subsection shall be deemed to exempt the purchase of any construction
20 machinery, equipment or tools used in the constructing, maintaining, re-
21 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
22 When KCSL contracts for the purpose of constructing, maintaining, re-
23 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
24 from the state and furnish to the contractor an exemption certificate for
25 the project involved, and the contractor may purchase materials for in-
26 corporation in such project. The contractor shall furnish the number of
27 such certificate to all suppliers from whom such purchases are made, and
28 such suppliers shall execute invoices covering the same bearing the num-
29 ber of such certificate. Upon completion of the project the contractor
30 shall furnish to KCSL a sworn statement, on a form to be provided by
31 the director of taxation, that all purchases so made were entitled to ex-
32 emption under this subsection. All invoices shall be held by the contractor
33 for a period of five years and shall be subject to audit by the director of
34 taxation. If any materials purchased under such a certificate are found
35 not to have been incorporated in the building or other project or not to
36 have been returned for credit or the sales or compensating tax otherwise
37 imposed upon such materials which will not be so incorporated in the
38 building or other project reported and paid by such contractor to the
39 director of taxation not later than the 20th day of the month following
40 the close of the month in which it shall be determined that such materials
41 will not be used for the purpose for which such certificate was issued,
42 KCSL shall be liable for tax on all materials purchased for the project,
43 and upon payment thereof it may recover the same from the contractor

1 together with reasonable attorney fees. Any contractor or any agent, em-
2 ployee or subcontractor thereof, who shall use or otherwise dispose of
3 any materials purchased under such a certificate for any purpose other
4 than that for which such a certificate is issued without the payment of
5 the sales or compensating tax otherwise imposed upon such materials,
6 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
7 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
8 and amendments thereto;

9 (vvv) all sales of tangible personal property or services, including the
10 renting and leasing of tangible personal property or services, purchased
11 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
12 federal income taxation pursuant to section 501 (c)(3) of the federal in-
13 ternal revenue code, for the purpose of providing Jazz in the Woods, an
14 event benefiting children-in-need and other nonprofit charities assisting
15 such children, and all sales of any such property by or on behalf of such
16 organization for such purpose;

17 (www) all sales of tangible personal property purchased by or on be-
18 half of the Frontenac Education Foundation, which is exempt from fed-
19 eral income taxation pursuant to section 501 (c)(3) of the federal internal
20 revenue code, for the purpose of providing education support for stu-
21 dents, and all sales of any such property by or on behalf of such organi-
22 zation for such purpose;

23 (xxx) all sales of personal property and services purchased by the
24 booth theatre foundation, inc., an organization which is exempt from fed-
25 eral income taxation pursuant to section 501(c)(3) of the federal internal
26 revenue code of 1986, and which such personal property and services are
27 used by any such organization in the constructing, equipping, recon-
28 structing, maintaining, repairing, enlarging, furnishing or remodeling of
29 the booth theatre, and all sales of tangible personal property or services
30 purchased by a contractor for the purpose of constructing, equipping,
31 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
32 ing the booth theatre for such organization, which would be exempt from
33 taxation under the provisions of this section if purchased directly by such
34 organization. Nothing in this subsection shall be deemed to exempt the
35 purchase of any construction machinery, equipment or tools used in the
36 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
37 ing, furnishing or remodeling facilities for any such organization. When
38 any such organization shall contract for the purpose of constructing,
39 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
40 or remodeling facilities, it shall obtain from the state and furnish to the
41 contractor an exemption certificate for the project involved, and the con-
42 tractor may purchase materials for incorporation in such project. The
43 contractor shall furnish the number of such certificate to all suppliers

1 from whom such purchases are made, and such suppliers shall execute
2 invoices covering the same bearing the number of such certificate. Upon
3 completion of the project the contractor shall furnish to such organization
4 concerned a sworn statement, on a form to be provided by the director
5 of taxation, that all purchases so made were entitled to exemption under
6 this subsection. All invoices shall be held by the contractor for a period
7 of five years and shall be subject to audit by the director of taxation. If
8 any materials purchased under such a certificate are found not to have
9 been incorporated in such facilities or not to have been returned for credit
10 or the sales or compensating tax otherwise imposed upon such materials
11 which will not be so incorporated in such facilities reported and paid by
12 such contractor to the director of taxation not later than the 20th day of
13 the month following the close of the month in which it shall be deter-
14 mined that such materials will not be used for the purpose for which such
15 certificate was issued, such organization concerned shall be liable for tax
16 on all materials purchased for the project, and upon payment thereof it
17 may recover the same from the contractor together with reasonable at-
18 torney fees. Any contractor or any agent, employee or subcontractor
19 thereof, who shall use or otherwise dispose of any materials purchased
20 under such a certificate for any purpose other than that for which such a
21 certificate is issued without the payment of the sales or compensating tax
22 otherwise imposed upon such materials, shall be guilty of a misdemeanor
23 and, upon conviction therefor, shall be subject to the penalties provided
24 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
25 tax paid on and after January 1, 2007, but prior to the effective date of
26 this act upon the gross receipts received from any sale which would have
27 been exempted by the provisions of this subsection had such sale occurred
28 after the effective date of this act shall be refunded. Each claim for a
29 sales tax refund shall be verified and submitted to the director of taxation
30 upon forms furnished by the director and shall be accompanied by any
31 additional documentation required by the director. The director shall
32 review each claim and shall refund that amount of sales tax paid as de-
33 termined under the provisions of this subsection. All refunds shall be paid
34 from the sales tax refund fund upon warrants of the director of accounts
35 and reports pursuant to vouchers approved by the director or the direc-
36 tor's designee;

37 (yyy) all sales of tangible personal property and services purchased
38 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
39 ties, which is exempt from federal income taxation pursuant to section
40 501(c)(3) of the federal internal revenue code of 1986, and which such
41 property and services are used for the purpose of encouraging private
42 philanthropy to further the vision, values, and goals of TLC for children
43 and families, inc.; and all sales of such property and services by or on

1 behalf of TLC charities for any such purpose and all sales of tangible
2 personal property or services purchased by a contractor for the purpose
3 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
4 ing facilities for the operation of services for TLC charities for any such
5 purpose which would be exempt from taxation under the provisions of
6 this section if purchased directly by TLC charities. Nothing in this sub-
7 section shall be deemed to exempt the purchase of any construction ma-
8 chinery, equipment or tools used in the constructing, maintaining, re-
9 pairing, enlarging, furnishing or remodeling such facilities for TLC
10 charities. When TLC charities contracts for the purpose of constructing,
11 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
12 it shall obtain from the state and furnish to the contractor an exemption
13 certificate for the project involved, and the contractor may purchase ma-
14 terials for incorporation in such project. The contractor shall furnish the
15 number of such certificate to all suppliers from whom such purchases are
16 made, and such suppliers shall execute invoices covering the same bearing
17 the number of such certificate. Upon completion of the project the con-
18 tractor shall furnish to TLC charities a sworn statement, on a form to be
19 provided by the director of taxation, that all purchases so made were
20 entitled to exemption under this subsection. All invoices shall be held by
21 the contractor for a period of five years and shall be subject to audit by
22 the director of taxation. If any materials purchased under such a certifi-
23 cate are found not to have been incorporated in the building or other
24 project or not to have been returned for credit or the sales or compen-
25 sating tax otherwise imposed upon such materials which will not be in-
26 corporated into the building or other project reported and paid by such
27 contractor to the director of taxation not later than the 20th day of the
28 month following the close of the month in which it shall be determined
29 that such materials will not be used for the purpose for which such cer-
30 tificate was issued, TLC charities shall be liable for tax on all materials
31 purchased for the project, and upon payment thereof it may recover the
32 same from the contractor together with reasonable attorney fees. Any
33 contractor or any agent, employee or subcontractor thereof, who shall use
34 or otherwise dispose of any materials purchased under such a certificate
35 for any purpose other than that for which such a certificate is issued
36 without the payment of the sales or compensating tax otherwise imposed
37 upon such materials, shall be guilty of a misdemeanor and, upon convic-
38 tion therefor, shall be subject to the penalties provided for in subsection
39 (g) of K.S.A. 79-3615, and amendments thereto;

40 (zzz) all sales of tangible personal property purchased by the rotary
41 club of shawnee foundation which is exempt from federal income taxation
42 pursuant to section 501 (c)(3) of the federal internal revenue code of
43 1986, as amended, used for the purpose of providing contributions to

1 community service organizations and scholarships;
2 (aaaa) all sales of personal property and services purchased by or on
3 behalf of victory in the valley, inc., which is exempt from federal income
4 taxation pursuant to section 501 (c)(3) of the federal internal revenue
5 code, for the purpose of providing a cancer support group and services
6 for persons with cancer, and all sales of any such property by or on behalf
7 of any such organization for any such purpose;
8 (bbbb) all sales of entry or participation fees, charges or tickets by
9 Guadalupe health foundation, which is exempt from federal income tax-
10 ation pursuant to section 501(c)(3) of the federal internal revenue code,
11 for such organization's annual fundraising event which purpose is to pro-
12 vide health care services for uninsured workers; ~~and~~
13 (cccc) all sales of tangible personal property or services purchased by
14 or on behalf of wayside waifs, inc., which is exempt from federal income
15 taxation pursuant to section 501(c)(3) of the federal internal revenue
16 code, for the purpose of providing such organization's annual fundraiser,
17 an event whose purpose is to support the care of homeless and abandoned
18 animals, animal adoption efforts, education programs for children and
19 efforts to reduce animal over-population and animal welfare services, and
20 all sales of any such property, including entry or participation fees or
21 charges, by or on behalf of such organization for such purpose; ~~and~~
22 (dddd) *on and after July 1, 2009 2011, all back-to-school related sales*
23 *of clothing or clothing accessories or equipment having a taxable value of*
24 *\$300 or less, school supplies, school instructional materials or school art*
25 *supplies not to exceed \$100 per purchase, prewritten computer software*
26 *with a taxable value of \$300 or less and personal computers or school*
27 *computer supplies not to exceed \$2,000, during the period beginning at*
28 *12:01 a.m. on the first Thursday in August and ending at midnight on the*
29 *Sunday following. Only items priced below the price threshold established*
30 *in this subsection shall be exempt from taxation pursuant to this subsec-*
31 *tion. The seller of items specified in this subsection is not required to*
32 *obtain an exemption certificate from the purchaser of such items as pro-*
33 *vided pursuant to K.S.A. 79-3692, and amendments thereto, during the*
34 *period of time specified in this subsection. There shall be no exemption*
35 *pursuant to this subsection for only a portion of the price of an individual*
36 *item. The provisions of section 2, and amendments thereto, shall apply to*
37 *the exemption contained in this subsection*]; **and**
38 [(eeee) **all sales of tangible personal property and services purch-**
39 **ased by or on behalf of Kansas Wildscape Foundation, Inc.,**
40 **which is exempt from federal income taxation pursuant to section**
41 **501(c)(3) of the federal internal revenue code, for the purpose of**
42 **providing management and administrative oversight and the costs**
43 **of construction and placement of cabins for lodging at Kansas state**

1 **parks and state lands pursuant to the cabins project for Kansas**
2 **state parks and public lands].**

3 New Sec. 2. (a) As used in this section and subsection (dddd) of
4 K.S.A. 79-3606, and amendments thereto:

5 (1) “Clothing” means all human wearing apparel suitable for general
6 use. Clothing includes, but is not limited to: Aprons, household and shop;
7 athletic supporters; baby receiving blankets; bathing suits and caps; beach
8 capes and coats; belts and suspenders; boots; coats and jackets; costumes;
9 diapers, children and adult, including disposable diapers; ear muffs; foot-
10 lets; formal wear; garters and garter belts; girdles; gloves and mittens for
11 general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties;
12 overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and
13 shoe laces; slippers; sneakers; socks and stockings; steel toed shoes; un-
14 derwear; uniforms, athletic and non-athletic; and wedding apparel. Cloth-
15 ing shall not include: Belt buckles sold separately; costume masks sold
16 separately; patches and emblems sold separately; sewing equipment and
17 supplies including, but not limited to, knitting needles, patterns, pins,
18 scissors, sewing machines, sewing needles, tape measures, and thimbles;
19 and sewing materials that become part of clothing including, but not
20 limited to, buttons, fabric, lace, thread, yarn, and zippers;

21 (2) “clothing accessories or equipment” means incidental items worn
22 on the person or in conjunction with clothing. Clothing accessories or
23 equipment includes, but is not limited to: Briefcases; cosmetics; hair no-
24 tions, including, but not limited to, barrettes, hair bows, and hair nets;
25 handbags; handkerchiefs; jewelry; sun glasses, non-prescription; umbrel-
26 las; wallets; watches and wigs and hair pieces;

27 (3) “eligible property” means an item of a type, such as clothing, that
28 qualifies for the sales tax exemption as provided in subsection (dddd) of
29 K.S.A. 79-3606, and amendments thereto;

30 (4) “layaway sale” means a transaction in which property is set aside
31 for future delivery to a customer who makes a deposit, agrees to pay the
32 balance of the purchase price over a period of time and, at the end of the
33 payment period, receives the property. An order is accepted for layaway
34 by the seller, when the seller removes the property from normal inventory
35 or clearly identifies the property as sold to the purchaser;

36 (5) “rain check” means the seller allows a customer to purchase an
37 item at a certain price at a later time because the particular item was out
38 of stock;

39 (6) “school art supply” means an item commonly used by a student
40 in a course of study for artwork. The following is an all-inclusive list: Clay
41 and glazes; paints, acrylic, tempora and oil; paintbrushes for artwork;
42 sketch and drawing pads; and watercolors;

43 (7) “school computer supply” means an item commonly used by a

1 student in a course of study in which a computer is used. The following
2 is an all-inclusive list: Computer storage media, diskettes, compact disks;
3 handheld electronic schedulers, except devices that are cellular phones;
4 personal digital assistants, except devices that are cellular phones; com-
5 puter printers; and printer supplies for computers, printer paper and
6 printer ink;

7 (8) “school instructional material” means written material commonly
8 used by a student in a course of study as a reference and to learn the
9 subject being taught. The following is an all-inclusive list: Reference
10 books; reference maps and globes; textbooks; and workbooks; and

11 (9) “school supply” means an item commonly used by a student in a
12 course of study. The following is an all-inclusive list: Binders; book bags;
13 calculators; cellophane tape; blackboard chalk; compasses; composition
14 books; crayons; erasers; folders, expandable, pocket, plastic and manila;
15 glue, paste and paste sticks; highlighters; index cards; index card boxes;
16 legal pads; lunch boxes; markers; notebooks; paper; loose leaf ruled note-
17 book paper, copy paper, graph paper, tracing paper, manila paper, colored
18 paper, poster board, and construction paper; pencil boxes and other
19 school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers;
20 scissors; and writing tablets.

21 (b) The secretary shall provide notice of the exemption period to
22 retailers at least 60 days prior to the first day of the calendar quarter in
23 which the exemption period established in subsection (dddd) of K.S.A.
24 79-3606, and amendments thereto, commences.

25 (c) The following procedures are to be used in administering the ex-
26 emption as provided in subsection (dddd) of K.S.A. 79-3606, and amend-
27 ments thereto:

28 (1) A sale of eligible property under a layaway sale qualifies for the
29 exemption if:

30 (A) Final payment on a layaway order is made by, and the property
31 is given to, the purchaser during the exemption period; or

32 (B) the purchaser selects the property and the retailer accepts the
33 order for the item during the exemption period, for immediate delivery
34 upon full payment, even if delivery is made after the exemption period;

35 (2) there shall be no change during the period of exemption for the
36 handling of a bundled sale as treated for sales tax purposes at times other
37 than the exemption period;

38 (3) a discount by the seller reduces the sales price of the property
39 and the discounted sales price determines whether the sales price is
40 within the price threshold provided in subsection (dddd) of K.S.A. 79-
41 3606, and amendments thereto. A coupon that reduces the sales price is
42 treated as a discount if the seller is not reimbursed for the coupon amount
43 by a third party. If a discount applies to the total amount paid by a pur-

1 chaser rather than to the sales price of a particular item and the purchaser
2 has purchased both eligible property and taxable property, the seller
3 should allocate the discount based on the total sales prices of the taxable
4 property compared to the total sales prices of all property sold in that
5 same transaction;

6 (4) articles that are normally sold as a single unit must continue to be
7 sold in that manner. Such articles cannot be priced separately and sold
8 as individual items in order to obtain the exemption;

9 (5) a rain check allows a customer to purchase an item at a certain
10 price at a later time because the particular item was out of stock. Eligible
11 property that customers purchase during the exemption period with use
12 of a rain check will qualify for the exemption regardless of when the rain
13 check was issued. Issuance of a rain check during the exemption period
14 shall not qualify eligible property for the exemption if the property is
15 actually purchased after the exemption period;

16 (6) the procedure for an exchange in regards to an exemption is as
17 follows:

18 (A) If a customer purchases an item of eligible property during the
19 exemption period, but later exchanges the item for a similar eligible item,
20 even if a different size, different color or other feature, no additional tax
21 is due even if the exchange is made after the exemption period;

22 (B) if a customer purchases an item of eligible property during the
23 exemption period, but after the exemption period has ended, the cus-
24 tomer returns the item and receives credit on the purchase of a different
25 item, the appropriate sales tax is due on the sale of the newly purchased
26 item; and

27 (C) if a customer purchases an item of eligible property before the
28 exemption period, but during the exemption period the customer returns
29 the item and receives credit on the purchase of a different item of eligible
30 property, no sales tax is due on the sale of the new item if the new item
31 is purchased during the exemption period;

32 (7) delivery charges, including shipping, handling and service
33 charges, are part of the sales price of eligible property. For the purpose
34 of determining the price threshold, if all the property in a shipment qual-
35 ifies as eligible property and the sales price for each item in the shipment
36 is within the price threshold, then the seller does not have to allocate the
37 delivery, handling or service charge to determine if the price threshold
38 is exceeded. The shipment will be considered a sale of eligible products.
39 If the shipment includes eligible property and taxable property, including
40 an eligible item with a sales price in excess of the price threshold, the
41 seller should allocate the delivery charge by using:

42 (A) A percentage based on the total sales prices of the taxable prop-
43 erty compared to the total sales prices of all property in the shipment; or

1 (B) a percentage based on the total weight of the taxable property
2 compared to the total weight of all property in the shipment; and

3 (C) the seller must tax the percentage of the delivery charge allocated
4 to the taxable property but does not have to tax the percentage allocated
5 to the eligible property;

6 (8) for the purpose of an exemption, eligible property qualifies for
7 the exemption if:

8 (A) The item is both delivered to and paid for by the customer during
9 the exemption period; or

10 (B) the customer orders and pays for the item and the seller accepts
11 the order during the exemption period for immediate shipment, even if
12 delivery is made after the exemption period. The seller accepts an order
13 when the seller has taken action to fill the order for immediate shipment.
14 Actions to fill an order include placement of an in date stamp on a mail
15 order or assignment of an order number to a telephone order. An order
16 is for immediate shipment when the customer does not request delayed
17 shipment. An order is for immediate shipment notwithstanding that the
18 shipment may be delayed because of a backlog of orders or because stock
19 is currently unavailable to, or on back order by, the seller;

20 (9) for a 60-day period immediately after the exemption period, when
21 a customer returns an item that would qualify for the exemption, no credit
22 for or refund of sales tax shall be given unless the customer provides a
23 receipt or invoice that shows tax was paid, or the seller has sufficient
24 documentation to show that tax was paid on the specific item. This 60-
25 day period is set solely for the purpose of designating a time period during
26 which the customer must provide documentation that shows that sales
27 tax was paid on returned merchandise. The 60-day period is not intended
28 to change a seller's policy on the time period during which the seller will
29 accept returns; and

30 (10) the time zone of the seller's location determines the authorized
31 time period for a sales tax holiday when the purchaser is located in one
32 time zone and a seller is located in another.

33 Sec. 3. K.S.A. 2008 Supp. 79-3606 is hereby repealed.

34 Sec. 4. This act shall take effect and be in force from and after its
35 publication in the statute book.