

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at
Chairperson

9:00 a.m./~~p.m.~~ on February 1, 1984 in room 519S of the Capitol.

All members were present except: Representative Kent Ott who was excused.

Committee staff present: Tom Severn, Legislative Research Department
Wayne Morris, Legislative Research Department
Don Hayward, Revisor of Statutes' Office
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

Kim Dewey, Sedgwick County, Kansas
Bill Edds, Department of Revenue

Hearings were held on House Bill 2742 which would eliminate all provisos associated with sales tax exemptions for the state of Kansas, political subdivision, public or private nonprofit hospitals and nonprofit blood banks when purchases of tangible personal property or service are made for exclusive use by these units. Kim Dewey representing Sedgwick County testified in support of the proposed legislation. (Exhibit I)

Bill Edds, Department of Revenue, gave testimony with regard to House Bill 2742. He stated that the exemption previously granted to the Wichita Coliseum was granted due to an oversight on the part of the Department.

The Chairman requested that Mr. Edds research the matter and return to the committee on Friday, February 3 with additional information.

The subcommittee that has been researching House Bill 2611 relating to K.S.A. 79-32,138 and 32,140 to repeal the special modification for gain from corporate liquidations after January 1, 1983 and allow the credit for liquidations between 1980-1982 to be carried forward, rendered their report. They recommended amending House Bill 2611 on page 3, in line 114, by striking "and before"; and in line 115, by striking all before "such" Representative Rolfs made a motion that this amendment be adopted and Representative Erne seconded the motion. The motion carried.

Representative Rolfs made a motion that House Bill 2611 be reported favorable for passage as amended and Representative Erne seconded the motion. The motion carried.

The meeting was adjourned.



SEDGWICK COUNTY, KANSAS

DEPARTMENT OF ADMINISTRATION

FOREST TIM WITSMAN
COUNTY ADMINISTRATOR

COUNTY COURTHOUSE, • 525 N. MAIN, • WICHITA, KANSAS 67203-3703 • TELEPHONE 268-7575

TESTIMONY OF KIM C. DEWEY
HOUSE ASSESSMENT & TAXATION COMMITTEE
HOUSE BILL 2742

FEBRUARY 1, 1984

Sedgwick County recently applied to the State Department of Revenue for a project exemption certificate for a paving project at the Livestock Facility of the Kansas Coliseum. The Department of Revenue, in a letter dated September 20, 1983, denied the exemption on the grounds that the County was engaged in activities specifically taxable under the Retailers Sales Tax Act at the Kansas Coliseum (i.e. sales of admissions, concessions, etc.). This language is found in K.S.A. 79-3606(b).

Although this provision has existed in the law since the enactment of the Retailers Sales Tax Act in 1937, it has not previously been enforced by the Department of Revenue, at least not in the experience of Sedgwick County. The logic and reason behind this provision is not apparent.

The existence of taxable activities within a public facility does not change the fact that the facility was constructed with public funds and the fact that any improvements, renovation or repairs are financed with public funds. Charging sales tax on materials purchased for improvements results in a situation where the public is paying taxes to pay taxes. It is at best a very inefficient treatment of tax revenue. The County assumes the expense of collecting the property tax dollar and then the State assumes the expense of collecting 3% of it. Many improvements at the Kansas Coliseum are financed through Federal Revenue Sharing and the situation is similar. The Federal Government assumes the tremendous expense of collecting the tax dollar through income taxes excise taxes, etc., assumes the expense of paying back a portion to the County, and then the State assumes the expense of collecting 3% when the dollar is spent by the County.

The logic and reason becomes even dimmer when consideration is given to the fact that the existence of taxable activities in a public facility increase the revenue flowing into the State General Fund. The Kansas Coliseum has cooperated fully with the State Department of Revenue to collect and remit sales tax on the many activities which take place in the facility (i.e. admissions, concessions, rentals, etc.). The following table shows the sales tax collected at the Kansas Coliseum and remitted to the State of Kansas during 1983:

EXHIBIT I

2/1/84

Sales Tax Collection - Kansas Coliseum

Sports	\$ 40,949.00
Concerts	\$ 54,944.00
Ag Shows	\$ 1,845.00
Other	<u>\$ 10,382.00</u>
Total	\$108,120.00

As was noted earlier, the enforcement of this provision is new in the experience of Sedgwick County. If, in fact, the Department of Revenue intends to begin to strictly enforce this provision, the ramifications will range far beyond the Kansas Coliseum.

If one is to strictly interpret that the existence of taxable activities (i.e. retail sales) in a public facility disqualifies the facility for sales tax project exemptions, then many public facilities will be affected. There are retail sales in the Sedgwick County Courthouse, and virtually every courthouse in Kansas. There are retail sales taking place in the State Capitol Building.

The 1970 session of the Kansas Legislature amended this portion of the act, adding the language "or proposes to engage in." It would appear that this would mean that a planned public facility which would house retail sales activities would not be eligible for sales tax exemption for the construction materials.

We urge the Committee to remove this provision from the Retailers Sales Act and leave no doubt.



Kansas
DEPARTMENT OF REVENUE

State Office Building
TOPEKA, KANSAS 66625

September 20, 1983

Claud S. Shelor, P.E.
Director of Public Works
1250 So. Seneca
Wichita, KS 67213

Dear Mr. Shelor:

We acknowledge receipt of your request for a Project Exemption Certificate for your "Concrete Paving (Livestock Facility) Kansas Coliseum" project.

K.S.A. 79-3606(b), which provides exemption to political subdivisions from the sales tax, also states "except when such state, political subdivision, or hospital is engaged or proposes to engage in a business specifically taxable under the provisions proposed to be used in such business..."

K.S.A. 79-3606(d), which authorizes Project Exemption Certificates, limits the issuance only when such purchases "would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision."

Since the county is involved in the sale of admissions and property at the Kansas Coliseum which are specifically taxable under the Retailers' Sales Tax Act, purchases for this building by the county or its contractors would be subject to the tax. Therefore, we must respectfully deny your request for a Project Exemption Certificate.

If we may be of further service to you in this or any other matter, please advise.

Very truly yours,

SALES AND EXCISE TAX BUREAU

BY: Roy W. Haines, Assistant Chief

FOR THE DIRECTOR OF TAXATION

RWH:mig

CC: Bill Anderson, Purchasing Director
Sedgwick County
Room 343, Courthouse
Wichita, KS 67203

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DEPARTMENT

Proposed amendment to HB 2611

On page 3, in line 114, by striking "and before"; in line 115, by striking all before "such"