

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. ~~pm~~ on February 3, 1984 in room 519S of the Capitol.

All members were present except:

Representative Ken King 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:

Bill Edds, Department of Revenue  
Howard Hassler, Kansas Association of Rehabilitation Facilities

The Chairman presented the committee with information from Kansas Association of Rehabilitation Facilities which listed the KARF agency income from cash contributions for the calendar year 1983. Howard Hassler of KARF was in attendance to answer any questions the committee might have. (Exhibit I)

Representative Frey offered a conceptual motion to amend House Bill 2329 so that all organizations exempted from federal income taxation under the provisions of section 501(c)(3) of the federal internal revenue code of 1954 would be included under the provisions of House Bill 2329 up to a maximum of \$200. Representative Crowell seconded the motion. The motion carried.

Representative Crowell made a conceptual motion to amend House Bill 2329 to change the credit received under the bill from 100% to 25%. The motion was seconded by Representative Rolfs.

Representative Rolfs made a substitute conceptual motion to reduce the credit from 100% to 10% and Representative Roe seconded the motion. The motion failed.

Representative Wunsch made a substitute conceptual motion that House Bill 2329 be tabled and Representative Miller seconded the motion. The motion carried. Representatives Rolfs and Aylward voted "no".

Representative Rolfs made a motion that House Bill 2609 be removed from the table so discussion could be held. Representative Frey seconded the motion. The motion carried.

Wayne Morris of staff gave the committee some literature to review so they would be prepared to discuss House Bill 2609 at a future meeting. (Exhibit II and III)

Bill Edds of the Revenue Department gave the committee two pieces of literature for their review on House Bill 2742. (Exhibit IV and V)

DATE: Jan. 3, 1984

GUEST REGISTER  
HOUSE  
ASSESSMENT & TAXATION  
COMMITTEE

NAME	ORGANIZATION	ADDRESS
Dana Ferrell	Budget	Topeka
Chip Wheelen	R.J. Reynolds Co.	"
Pete McGill	" " "	"
Kent L. Wold	" " "	Winston-Salem, N.C.
Arnell Bogard		La Cygne, Ks
Ben Veill	" " "	Kansas City
Janice Sheets	" " "	Topeka
Gill Eds	REVERSE	"
Kory Hawes	✓	✓
George Ghik	✓	✓
Bill Harris	Salina Bicentennial Center	Salina
Chris McKenzie	League of Ks. Municipalities	Topeka
Ted Emshery	Shawnee Co	Topeka
Darold Main	" "	"
Mary Cheley	KTCRVA-	Topeka
Ken Cole	—	McPherson
Geenie Chapman	—	McPherson
Charlote Collier		McPherson
K.C. Perry	Saxowick Co.	525 N. Main St.
John Spry	"	"
Kary Austin	McPherson City	McPherson, Ks



# Kansas Association of Rehabilitation Facilities

TownCenter Building 120 West Sixth, Suite 110  
Newton, KS 67114 316-284-2330

## HOUSE ASSESSMENT AND TAXATION COMMITTEE

RE: Request of Committee, that KARF Agency Income from cash contributions for calendar year 1983, be compiled.

A telephone survey to provide the requested information was completed on February 1, 1984. It should be noted that KARF agencies receive donations from various community organizations, that have not been included in the following figures. Information was not compiled on contributions from civic organizations (United Fund, Rotary, etc.), the many community churches, non-cash contributions such as equipment and supplies, donated professional time from attorneys, accountants, etc.

In calendar year 1983 the twenty-five KARF agencies responding received \$188,133.00. The average agency income was \$7,525.00. The largest dollar amount received was \$19,000.00, while the smallest amount reported was \$186.00.

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - Statehouse

Phone 296-3181

Date February 2, 1984

TO: REPRESENTATIVE JAMES BRADEN Office No. 112-S

RE: H.B. 2609 -- OPTIONS

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This memorandum is in response to your request for options that the Committee might want to consider if H.B. 2609, which proposes a 100 percent credit against the inheritance tax for art contributions, is removed from the table and considered further.

Reduce the Percentage of Credit Allowed. As the Committee has already discussed, the bill would allow the beneficiary of an art work to donate it and receive total tax benefits that exceed the value of the gift; this is because in addition to the 100 percent credit, the donor would be eligible for a charitable deduction on both the federal and state income tax returns. Thus, one option would be to reduce the percentage of credit allowed. The highest inheritance tax rate in Kansas is 15 percent, imposed on the shares received by class C heirs (class A is children and lineal relations, class B is brothers and sisters, and class C all others) \$100,000 exceeding \$200,000; the tax rate on the first \$100,000 received by class C heirs is 10 percent.

Deny Income Tax Deduction for Gifts that Qualify for the Credit. A second option, either alone or in conjunction with a reduction in the credit percentage, would be to deny a Kansas income tax charitable deduction for donations that qualify for the inheritance tax credit. Already under current law, K.S.A. 79-1562, deductions from the inheritance tax may not also be claimed as an income tax deduction.

Convert the Inheritance Tax Credit to an Income Tax Credit. Changing the bill to an income tax credit would preserve the goal of encouraging donations of art work to publicly supported museums, and might make the bill more efficient and more effective as an incentive. Staff of the Department of Revenue have stated that few estates contain itemized gifts of art work; most art is donated and lumped together under "household goods" and is therefor, not separately valued. Because the credit is limited to \$5,000 per donor, beneficiaries of truly valuable art work might not be effectively encouraged to donate them, and beneficiaries of less valuable work might be tempted to inflate the value of such gifts. The Department of Revenue has no staff

to conduct field audits and appraisals of art work; very valuable works are usually valued by federal auditors for estate taxes, but that tax is now due on only the largest estates. The amount of incentive provided by the inheritance tax credit would vary widely according to the total value of the shares received by each beneficiary, their beneficiary class, and tax rate. Class A beneficiaries are entitled to a \$30,000 exemption and class B beneficiaries are entitled to a \$5,000 exemption. The varying value of the credit can be illustrated by the following two examples. In New Mexico, on the other hand, their credit for art donations applies against a pick-up estate tax (not an inheritance tax which taxes each beneficiary or the right to receive property).

Wayne D. Morris  
Principal Analyst

WDM/jsf

Enclosure

VALUE OF \$5,000 INHERITANCE TAX CREDIT FOR  
DONATION OF \$100,000 PAINTING

<u>Beneficiary</u>	<u>Tax on Painting</u>	<u>Tax After Credit</u>	<u>Difference</u>
Child	\$ 1,350	\$- 0 -	\$1,350
Brother	5,375	375	5,000
Friend	10,000	5,000	5,000

\* Painting assumed to be the sole bequest to each beneficiary. Each beneficiary would also be entitled to a charitable deduction if the museum is a qualified charity.

VALUE OF \$5,000 INHERITANCE TAX CREDIT FOR  
DONATION OF \$50,000 PAINTING\*

<u>Beneficiary</u>	<u>Tax on Painting</u>	<u>Tax After Credit</u>	<u>Difference</u>
Child	\$ 200	\$- 0 -	\$ 200
Brother	1,750	- 0 -	1,750
Friend	5,000	- 0 -	5,000

\* Painting assumed to be the sole bequest to each beneficiary. Each beneficiary would also be entitled to a charitable deduction if the museum is a qualified charity.

Kansas Legislative Research Department  
February 3, 1984

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Brother	1,750	- 0 -	1,750
Friend	5,000	- 0 -	5,000

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Kansas Legislative Research Department  
February 3, 1984

M E M O R A N D U M

To: House Assessment and  
Taxation Committee

Date: February 3, 1984

From: Kansas Department of Revenue

Re: Political Subdivisions - Sales  
Tax Project Exemption  
Certificates

The Committee has requested the Department to respond in writing providing criteria or guidelines relied upon in determining whether a project exemption certificate should be issued to a political subdivision for projects such as civic centers. Central to this inquiry is the wording of K.S.A. 1983 Supp. 79-3606(b) granting the exemption to political subdivisions "except when such ... political subdivision ... is engaged or proposes to engage in a business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business".

The Department utilizes a standard form (STD 76) for use by applicants in requesting project exemption certificates. That form contains the question asking whether the project is being constructed as part of a business enterprise whose sales are subject to sales tax. The Department administers the law in regard to projects such as civic centers by distinguishing between the activities that the political subdivision intends to carry on in relation to that project. If the Department determines that the only activity to be performed by the political subdivision is to rent space in such facility to other parties for their productions, the Department's position is that the political subdivision is entitled to a project exemption certificate. However, if the Department determines that the political subdivision intends to be involved in the performance of other activities such as management, promotion, production, etc. of the productions that will be presented at the facility, the Department's position is that the political subdivision should not be entitled to an exemption certificate. These determinations are factual in nature and must be made on case-by-case bases.

In addition to the foregoing, the Department would take into consideration the primary purpose for which the project is being constructed. If there is a taxable business that may be conducted within the facility, a determination is made as to whether that business is incidental in nature to the primary purpose for which the facility is being conducted. If such a determination is made, the project will still qualify for exemption. For example, a cafeteria to be located in the basement of a county courthouse will not result in the entire facility failing to qualify for tax-exempt treatment. Once again this is a factual determination that must be made on a case-by-case basis.

WLE:rab



# REQUEST FOR PROJECT EXEMPTION CERTIFICATE

Kansas Department of Revenue  
Division of Taxation  
Sales and Excise Tax Bureau  
Topeka, Kansas 66625

Date \_\_\_\_\_

It is requested that a Certificate of Exemption be issued to the Petitioning Authority for the following described project if it is determined by the Department of Revenue that the proposed project qualifies for exemption from sales tax under the provisions of K.S.A. 1980 Supp. 79-3606(d) or (e).

(A) Type of Project: \_\_\_\_\_

(B) Project Location: \_\_\_\_\_

(C) Is this project being constructed as part of a business enterprise whose sales are subject to sales tax? e.g., municipal water, electric or gas companies? Yes  No

(D) Is the Petitioning Authority authorized to levy ad valorem taxes on tangible property? If so, under what statute? \_\_\_\_\_ Yes  No

(E) A. Is this project being totally financed by industrial revenue bonds? Yes  No

B. Is this project being partially financed by industrial revenue bonds? Yes  No

Amount of bonds being issued for project: \_\_\_\_\_

If yes, A or B above, you must have the agreement on the back of this form completed and attach a copy of the letter of intent or resolution of intent to issue bonds.

If no, how is project being financed? \_\_\_\_\_  
\_\_\_\_\_ (show type of tax, bonds, etc.).

(F) Name of Claimant Owner of Project: \_\_\_\_\_

(G) Estimated Project Cost: \_\_\_\_\_ (H) Contract Date: \_\_\_\_\_

(I) Contract No. \_\_\_\_\_ (J) Project No. \_\_\_\_\_

(K) List Names and Addresses of Prime Contractors Below:

\_\_\_\_\_  
Petitioning Authority

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title Phone Number

This agreement is made and entered into between and by the \_\_\_\_\_  
\_\_\_\_\_ (name of political subdivision), hereinafter referred to as  
Exempt Entity; and \_\_\_\_\_ (name of  
beneficiary of industrial revenue bond proceeds), hereinafter referred to as Beneficiary.

It is hereby agreed by all parties to this agreement that the construction project for which the request for an exemption certificate is being made would be exempt from sales tax solely due to the fact that it is being financed by industrial revenue bonds. It shall be the duty of the Exempt Entity to notify the Department of Revenue when the industrial revenue bonds have actually been issued.

Whereas, the Department of Revenue deems it necessary to insure that sales or compensating tax is paid should the project not be financed by industrial revenue bonds, it is hereby further agreed by the Beneficiary that if the industrial revenue bonds have not been issued by the time the project is completed then the Beneficiary will remit to the Department of Revenue the sales or compensating tax, and applicable interest on tax, which is due based upon the cost of tangible personal property or services used or consumed in the construction of the project. It is agreed, that the Secretary of Revenue shall determine when the project has been completed.

The Director of Taxation shall have the right to demand from the Beneficiary payment of the sales and compensating tax and applicable interest due the State should the Department of Revenue not receive such payment within thirty (30) days after the project has been completed.

Any and all notices required herein shall be mailed and addressed as follows:

- A. Notices to the Department of Revenue shall be addressed to: Chief, Sales and Excise Tax Bureau, P. O. Box 12001, Topeka, Kansas 66612;
- B. Notices to the Exempt Entity shall be addressed to: \_\_\_\_\_  
\_\_\_\_\_ ;
- C. Notices to the Beneficiary shall be addressed to: \_\_\_\_\_  
\_\_\_\_\_ .

This agreement shall be binding upon all parties hereto and any and all their successors.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by persons authorized to do so lawfully and with full corporate authority.

<b>POLITICAL SUBDIVISION</b>	<b>BENEFICIARY OF INDUSTRIAL REVENUE BOND PROCEEDS</b>
_____ Authorized Signature	_____ Authorized Signature
_____ Type or Print Name and Title	_____ Type or Print Name and Title
DATED: _____	DATED: _____