

Approved 4-29-84
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at
Chairperson

11:00 a.m./~~pm~~ on February 6, 1984 in room 526-S of the Capitol.

All members were present ~~except~~

Committee staff present: Wayne Morris, Research Dept.
Tom Severn, Research Dept.
Don Hayward, Revisor's Office

Conferees appearing before the committee:

Betty McBride, President, Kansas County Treasurers' Association,
Cherokee County, Columbus
Mike Billinger, Ellis County Treasurer, Hays
William O'Brien, Johnson County Treasurer, Olathe
Larry Hapgood, Columbian National Title Insurance Co., Topeka
Kim Dewey, Sedgwick County Commissioners, Wichita
Bill Edds, Department of Revenue

The committee held a hearing on SB 582 which allows for partial payment of property taxes.

The chairman reported to the committee that Kim Dewey had talked to the Harvey County Commissioner, Mr. Brubacher. He said Mr. Brubacher spoke to Senator Harder about this partial payment which was to apply only to delinquencies but the bill as written would apply to all taxes.

The following persons appeared in opposition to SB 582:

Betty McBride, Cherokee County Treasurer, told the committee that although the intent of the bill is to provide more convenience and less financial burden to the taxpayer, in reality it would create administrative costs far in excess of any benefits received. Partial payment collections would create problems in areas of collection, redemption and foreclosure sales. (Attachment #1)

Mike Billinger, Ellis County Treasurer, stated many problems could develop out of this tax payment concept and that there is nothing presently written in law to prohibit the County Treasurer from accepting partial payments and retaining them in a suspense account until full payment is received. (Attachment #2)

Bill O'Brien, Johnson County Treasurer, seconded the remarks made by his colleagues and said he was speaking about volume since he represents a large county which sends out over 112,000 in real estate and 128,000 in personal property tax notices. He said the bookkeeping involved would be a problem and there would be no particular benefit from implementing this legislation.

Larry Hapgood, representing Columbian Title Insurance and on behalf of the Kansas Land Title Association, said he had two concerns with this bill: 1) no system of uniform implementation within the counties; and 2) at real estate closings it may be difficult to ascertain how to prorate the taxes. He said this legislation would create more work for them as they would have to break down taxes further, as either paid for a full year or partial year. They could live with the concept if a uniform system is worked out to ascertain this information.

Kim Dewey distributed a memorandum written by Jerry Threlfall, Sedgwick County Treasurer, strongly opposing SB 582 which he said would, at the very least, require more employees and equipment to process the same dollar value in smaller increments. (Attachment #3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,
room 526-S Statehouse, at 11:00 a.m. ~~p.m.~~ on February 6, 1984.

Senator Ehrlich made a motion to report SB 582 adversely. Senator Mulich seconded the motion and it was passed unanimously.

Bill Edds, Dept. of Revenue, reviewed some suggestions from the department of proposed legislative changes. (Attachment #4)

Senator Johnston made a motion to introduce the proposed legislation and have it referred back to the committee. Senator Mulich seconded the motion and the motion carried.

Senator Allen reported the sub-committee to consider SB 464 had met and could not reach agreement.

The chairman adjourned the meeting at 11:40 a.m. The committee will meet again on February 8, 11:00 a.m.

Betty McBride, Treasurer

CHEROKEE COUNTY, KANSAS

Attachment #1



COLUMBUS, KANSAS 66725

SENATOR BURKE, MEMBERS OF THE COMMITTEE:

I AM BETTY MCBRIDE CHEROKEE COUNTY TREASURER AND PRESIDENT OF THE KANSAS COUNTY TREASURERS ASSOCIATION. I WANT TO EXTEND MY APPRECIATION TO THIS COMMITTEE ON BEHALF OF MYSELF AND THE COUNTY TREASURERS ASSOCIATION FOR ALLOWING US THE PRIVILEGE TO APPEAR BEFORE YOU TO EXPRESS OUR CONCERNS WITH SENATE BILL #582.

IF PASSED SENATE BILL #582 WOULD PROVIDE TAXPAYERS THE OPPORTUNITY TO PAY REAL ESTATE AND PERSONAL PROPERTY TAXES IN PARTIAL PAYMENTS. ALTHOUGH THE INTENT OF THE BILL IS TO PROVIDE MORE CONVENIENCE AND LESS FINANCIAL BURDEN TO THE TAXPAYER, WE BELIEVE THAT IN REALITY IT COULD MEAN A LARGER TAX LIABILITY, AS SENATE BILL #582 WOULD CREATE ADMINISTRATIVE COSTS FAR IN EXCESS OF ANY BENEFITS THAT WOULD BE RECEIVED BY THE TAXPAYERS. THIS COST WOULD BE CONVEYED BY TAX INCREASES REFLECTED ON THEIR TAX STATEMENTS. PARTIAL PAYMENT COLLECTIONS WOULD CREATE PROBLEMS IN AREAS OF COLLECTION, REDEMPTION AND FORCLOSURE SALES. ABSTRACTORS WOULD HAVE DIFFICULTIES WITH CERTIFICATION OF PAID AND UNPAID TAXES WHEN MAKING ABSTRACTS.

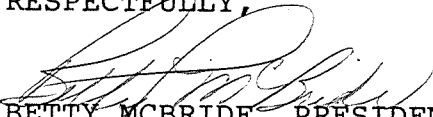
ALTHOUGH SENATE BILL #582 MAKES PARTIAL PAYMENT OPTIONAL TO COUNTIES, WE AS POLITICAL PERSONS WOULD HAVE DIFFICULTIES WHEN TAXPAYERS CROSS COUNTY LINES AND FIND THAT WHAT IS AVAILABLE TO THEM IN ONE COUNTY IS NOT IN ANOTHER.

*Atch. 1
2/6/84*

I HAVE ONLY TOUCHED LIGHTLY ON THE PROBLEMS WE FEEL SENATE
BILL #582 WOULD CREATE, AS I HAVE OTHER TREASURERS WHO ARE
PRESENT AND WOULD LIKE TO TESTIFY TO THEIR POINTS OF CONCERN
REGARDING THIS BILL. THEREFORE I WOULD NOW LIKE TO INTRODUCE
THESE TREASURERS TO THIS COMMITTEE.

THANK YOU AGAIN FOR YOUR TIME AND ATTENTION IN THIS MATTER.

RESPECTFULLY,



BETTY MCBRIDE, PRESIDENT
KANSAS COUNTY TREASURERS
ASSOCIATION

MIKE BILLINGER
COUNTY TREASURER

JERRY SCHMIDTBERGER
DEPUTY TREASURER

OFFICE OF
ELLIS COUNTY TREASURER
DRAWER 520
HAYS, KANSAS 67601

Attachment #2

Telephone 913 628-8249

Statement of Mike Billinger, Ellis County Treasurer and Chairman
of the Kansas County Treasurer's Association Legislative Committee.

Mr. Chairman and members of the Senate Assessment and Taxation Committee,
I am the Treasurer of Ellis County and Chairman of the Kansas County
Treasurer's Association Legislative Committee.

I would like to express my appreciation to the Committee for your
valuable time and your attention to our concerns about Senate Bill
582.

We, like the Legislature, are very concerned about timely tax payments
as it relates to Senate Bill 582. We feel that as public officials
we should be as accommodating as possible in helping the public
pay their taxes and try to keep the collection process as convenient
and inexpensive administratively as possible. But, if Senate Bill
582 would pass, the cost compared to the benefits could be
counter productive.

If Senate Bill 582 would become a popular method of paying taxes then
it could become necessary for many county Treasurers to hire additional
help and this of course would mean other indirect costs associated
with additional paper work, i.e. data processing, additional forms etc.

There are many other problems that could develop out of this tax
payment concept. But the overriding question here is, is this a service
that is needed? Since there is nothing presently written in law to
prohibit the discretion of the County Treasurer to accept partial
payments and retain them in a suspense account until full payment is
received, is this bill really necessary?

In conclusion I would like to reiterate that as county elected
officials our primary on-going concern is how to best serve our
constituents, and should the need arise to revise the current
method of collecting ad valorem taxes then let us explore all
the alternatives before improving something that may not need
improving. Once again, thank you for your considerations.

Thank you.

Mike Billinger
Ellis County Treasurer

Atch. 2
2/6/84

**SEDGWICK COUNTY, KANSAS****TREASURER**

Jerry Threlfall

SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS 67203-3703

TELEPHONE: PERSONAL PROPERTY TAXES
REAL ESTATE TAXES268-7651
268-7414DISTRIBUTION AND BONDS
CASHIER268-7561
268-7345

February 2, 1984


TO: Kim Dewey, Legislative Coordinator

SUBJECT: Senate Bill No. 582

S.B. 582 apparently allows partial payments on Real Estate and Personal Property Taxes to be made at the convenience of the taxpayer without regards to the costs and confusion it will create. It is, in my opinion, a very ill-conceived piece of legislation and I plan to very strongly oppose it for the following reasons:

1. First-half taxes are not due until 10 days from the end of the year for which they are incurred. The second-half payment is not due until June 20th of the following year under present law. The existing law allows a partial payment system currently.
2. A liberalizing of the current partial payment system could result in a complete disruption of distributing taxes to each taxing district as taxpayers could force cash-flow problems upon local units of government which are required to obey the cash-basis law.
3. An organized group of taxpayers could ostensibly make partial payments in small increments (such as \$1.00) as a harassment tactic for any type of tax grievance and disrupt the normal collection of taxes. It would at the very least, require more employees and equipment to process the same dollar value in smaller increments.

Therefore I strongly believe that Sedgwick County should also oppose the passage of this bill in its present form.


Jerry Threlfall
Sedgwick County Treasurer

Atch. 3

M E M O R A N D U M

To: Senate Assessment and
Taxation Committee

Date: February 6, 1984

From: Department of Revenue

Re: Requests for Legislation

The following are requests by the Kansas Department of Revenue for legislation for the 1984 session:

1. Amend K.S.A. 79-3221 and 79-3225 to provide that a taxpayer requesting a time extension be required to pay an estimated liability before such an extension can be approved by the Department of Revenue.

Background: These two statutes discuss the provision that taxpayers may be granted reasonable time extensions within which taxes must be paid. These provisions are applicable to all income taxes. Federally approved extensions, which are honored by the Department, require that an estimated liability be paid by April 15 before such an extension is approved. Kansas does not require estimated tax filers to make a pre-paid estimate prior to approval of an extension. Consequently, many estimated tax filers owing taxes on a prior year's liability receive extensions which carry into the following fiscal year thereby disrupting estimates of income tax revenues.

2. Amend K.S.A. 79-3221d to allow discretion by the Department of Revenue in the exact wording to appear on the income tax returns providing for designation of refunds for the Nongame Wildlife Improvement Program.

Background: K.S.A. 79-3221d, regarding the nongame wildlife improvement program, allows individuals to donate money to the NGWL program via additions to their tax liability, deductions from refunds due them, or additional contributed dollars. The statute prescribes the exact instruction language to be used on the face of the individual tax return.

The language inappropriately refers to a separate spousal decision on a joint return. If a spouse wishes to make separate decisions on an individual tax return, the spouse would file separately, not jointly. On a joint return, only one liability is established or one refund approved.

Space constraints on the individual income tax return (Form 40) are such that all unnecessary language should be eliminated. The language prescribed by this statute is wordy, and as explained above, needless.

3. Amend K.S.A. 79-3226 to provide for notice by first class mail to taxpayers for income tax assessments and other adjustments.

*Atch. #
(2/6/84)*

Background: K.S.A. 79-3226, regarding income tax, specifies the requirements on the state in issuing notices of tax assessments or other adjustments. Current law requires the Department to mail such notices utilizing certified or registered mail, a requirement that ostensibly assures the taxpayer's right to timely notification and the department's assurance that such mail is delivered. There are problems with this provision, including:

- (a) A taxpayer is not necessarily timely advised, especially if the postal service has difficulty finding the taxpayer, to secure a signature indicating receipt. First class mail is usually just as quickly delivered.
 - (b) In assessment situations some taxpayers with outstanding liabilities may be reluctant or may refuse to accept a letter from the Department of Revenue, in order to avoid payment. Hence, the statutory intent to assure delivery is frustrated.
 - (c) In order to process, record and monitor the sending of certified or registered mail, the Department expends several hundred hours on approximately 10,000 pieces of certified or registered mail. Mailing costs average \$2.00 per piece for expenditures totalling more than \$20,000 in Fiscal Year 1983. This process is not proving to be effective in meeting the intent of the Legislature.
4. Amend K.S.A. 79-3228 to include the following language relating to income tax penalties and interest charges:

"If any taxpayer has filed an incorrect or insufficient return, there may be added to the tax an additional amount equal to twenty-five percent (25%) of the unpaid balance of tax due plus interest at the rate per month prescribed by K.S.A. 1982 Supp. 79-2968(a) from the date the tax was due until paid."

Background: K.S.A. 79-3228 provides for penalties and interest charges, and the circumstances under which such charges may be assessed. The statute does not contain a strict negligence penalty. Hence, as an example, a corporate filer may each year file a return that willfully disregards Departmental instructions from prior years' filing experiences. Current law allows only that, after Departmental notification, such incorrect or insufficient returns be corrected within a specified time. No penalty is assessed. The Department proposes that, particularly in the case of a corporate filer who consistently files incorrect or insufficient returns, a penalty be applied to deter the recurrent filing of insufficient returns.

5. Amend K.S.A. 79-3228(b) to make it clear that a taxpayer must file and pay the tax to avoid penalties.

Background: K.S.A. 79-3228(b), regarding income tax penalties and interest, includes language that appears ambiguous as to the obligation of a taxpayer to timely file and pay tax liabilities. Current language implies that a person could avoid penalties and interest by merely filing a timely return, when in fact the tax payment must be made to avoid a penalty situation.

6. Amend 79-3230 to expand the allowable time for action from 90 to 180 days for both taxpayer reporting and state response to federal adjustments.

Background: K.S.A. 79-3230 discusses periods of limitation, extension agreements and notices of agreements with the internal revenue service. Currently, taxpayers must report federal adjustments to the state within 90 days, and the state must act within 90 days of receipt of such reports. The 90 day time requirement makes it difficult for the Department to timely receive, review and make proper assessments or refunds keyed from the federal adjustments. In some instances, the Federal report may not be received for up to nine months, making a timely state response impossible.

7. Amend 79-3230(e) to key state extension of period of time for assessment of taxes to agreements between the taxpayer and the internal revenue service. The following language would be added:

"An agreement between the taxpayer and the internal revenue service providing for the extension of the period for assessment of federal income taxes shall constitute an agreement with the director of taxation to extend the period for assessment of income taxes under the provisions of sections 79-3201 to 32,179, and 79-1103 to 79-1125. A copy of all such agreements and extensions thereof shall be filed with the director of taxation within thirty days after their execution."

Background: K.S.A. 79-3230(e) specifies the arrangements by which the taxpayer and the Department can agree to extensions of time for assessment action or refund claim filing. Current practice provides for state recognition of a federally negotiated extension. However, without statutory authorization, this practice could vary from one administration to the next, thereby creating inconsistency and taxpayer confusion.

8. Amend K.S.A. 79-3274 to include the following language relating to limitations on allocable nonbusiness income:

"Allocable nonbusiness income shall be limited to the total nonbusiness income received which is in excess of any related expenses which have been allowed as a deduction during the income year."

Background: This statute, in its discussion of nonbusiness income, fails to clarify the extent to which business expenses relate to nonbusiness earnings. The Department's current practice is to identify and take into account wherever possible such relationships. The Department wishes to establish statutory authority to continue this practice.

9. Amend K.S.A. 79-32,105 to expand the interest free period for payment by the state of interest on income tax refunds from two to four months.

Background: K.S.A. 79-32,105, regards income tax payments and refunds. Language contained therein allows the state a two-month period within which interest need not be paid on refunds. Increased demands on Department personnel without concurrent increases in staff resources have made income tax processing more difficult to accomplish within such a short time-frame. Hence, interest payments on refunds have increased from \$380,000 to \$465,000 in the last year.

10. Amend K.S.A. 79-32,107 relating to clarification of persons who may be penalized for noncompliance with the withholding and estimated payment provisions of the income tax act, by substituting "taxpayer" for "individual".

Background: K.S.A. 79-32,107 discusses employers' and fiduciaries' penalties for noncompliance with the withholding and estimated payment provisions of the income tax act. Described therein is the provision authorizing the Director of Taxation to collect amounts due for under-payment of withholding by employers or estimated taxes by individuals. By specifying individuals, it is unclear as to whether or not the director may collect from an entity (e.g. corporation, trust).

11. Amend K.S.A. 79-32,109(c) to establish that the residency of an estate or trust is determined solely by the residency of the decedent at the time of death, regardless of where administered.

Background: K.S.A. 79-32,109(c) defines a "resident estate" as an "estate of a deceased person whose domicile was in this state at the time of his or her death, which is administered in this state" (emphasis added). This language allows income from Kansas sources to escape Kansas taxation solely because such income accrues to an estate administered outside of Kansas. This problem most frequently arises in border counties, especially the Kansas City area.

12. Amend K.S.A. 79-32,139 to provide that corporations required to file tax returns in Kansas make the same election as to subchapter S election filing status with Kansas as they do with the internal revenue service.

Background: K.S.A. 79-32,139 discusses the requirement of Kansas

corporations, having elected to file with the internal revenue service as a subchapter S corporation, to file similarly in Kansas. Corporations with non-resident shareholders doing business in Kansas have an option to choose either corporate filing status or subchapter S filing status. Such corporations obviously will elect whichever option affords them the most advantageous tax position, thereby giving such corporations a decided tax advantage over comparable Kansas corporations. The Department wishes to establish a policy providing that any corporation doing business in Kansas, and filing under subchapter S with the internal revenue service, must file similarly in Kansas, regardless of the residence of the shareholders.

13. Amend K.S.A. 79-1005 to clarify how average inventory of a manufacturer is to be valued.

Background: Presently the law provides it is to be ascertained by taking the amount of such property on hand or under his control in each month of such year, by adding the same and dividing by the number of months he is engaged in such business. The Department recommends that the amount of such property be determined "on the same day of" each month in the formula.

14. Amend article 4 of chapter 77 of the Kansas Statutes Annotated to make it clear that guides devised or prescribed by the director of property valuation are not subject to the rules prescribed for promulgating administrative rules and regulations.

Background: The Department is presently involved in litigation in which the plaintiff has argued the director's guides are invalid since they were not promulgated in accordance with article 4 of chapter 77 of the Kansas Statutes Annotated. The Department feels this was obviously not the intent of the legislature that they should be so promulgated and would submit that it would not be feasible to go through the administrative rule and regulation procedure in any event.