

March 19, 1987

Approved _____

Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at _____
Chairperson

11:00 a.m./~~p.m.~~ on March 18, 1987 in room 519-S of the Capitol.

All members were present except:

Senator Mulich

Committee staff present:

Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Mark Burghart, Ks. Department of Revenue Legal Service
T.C. Anderson, Society of C.P.A.'s
Dave Litwin, KCCI
Roland Smith, Wichita Independent Business Assoc.
Rep. Eugene Shore
Joe Aubert
Kelly Viets, Experimental Aircraft
George Boyd, KDOT Div. of Aviation

Chairman Kerr called the meeting to order and said that the agenda for the day was to have hearings on House Bills 2209, 2168 and 2169.

HOUSE BILL 2209

Mark Burghart explained H.B. 2209. (Attachment 1) He said that the bill was requested by the Department of Revenue. He stated that the sampling language will not significantly change the way the Department audits. He stated that they currently use and will continue to use sampling. He said that sometimes the taxpayer's business activity is so extensive that it is impractical for the department or the taxpayer to examine all the records of transactions.

He said that the sampling language addition is to protect the Department from the small number of taxpayers who will protest audits based solely upon the fact that not all records were examined. He stated that the language added by the House Committee at the request of Kansas Society of C.P.A.'s requires that the Department notify the taxpayer of the sampling technique to be utilized. If sampling is used and the taxpayer does not agree with the Department's findings, the taxpayer can conduct his own audit based on a documented sampling method, to show different results. In this case, the Department would be glad to work with the taxpayer, and they would have the right to appeal the audit.

T.C. Anderson testified in support of H.B. 2209. (Attachment 2&3) He said that the use of sampling techniques can be a cost-effective way of examining large volumes of accounting data for determining sales tax deficiencies. He said he felt the amendment requested by Kansas Society of C.P.A.'s asking for the Department to notify the taxpayer in writing when sampling procedures are to be used is very important. He said seasonal fluctuations is an example of an issue in which it is in the taxpayers interest to have accepted sampling procedures utilized.

He also asked that the words "If the taxpayer demonstrates that any sampling method used by the Department of Revenue was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method and a new audit may be performed" be added to the bill.

Dave Litwin testified in support of H.B. 2209, stating that he supported testimony of the Society of C.P.A.'s.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m.^{XX} p.m. on March 18, 19 87

Roland Smith testified in opposition to H.B. 2209. (Attachments 4, 5 & 6)
He stated that he felt it would be a mistake to give the Department of Revenue more authority concerning taxation techniques. He said he felt the Department has expanded their interpretation of the law to increase revenues. He stated that he felt the current practice, if continued, will put many small businesses in jeopardy and some out of business.

He stated he felt the bill should be amended to force the Revenue Department to establish guidelines for sales tax audits in all areas and publicize them. Audits should be limited by statute to protect the business that has made attempts to comply and request all decisions by the Department be in writing to avoid confusion in the case of a staff change.

HOUSE BILLS 2168 and 2169

Rep. Eugene Shore testified in favor of H.B. 2168 and 2169. (Attachment 7)
He stated that Kansas has long been recognized as a leader in production of general aviation aircraft. Current tax policy discourages the restoration and preservation of Kansas aviation by assessing a tax on the possible sale value of aircraft which is restored for display and recreational purposes. This practice is contrary to practice followed concerning antique automobiles.

He stated that H.B. 2169 provides that aircraft thirty years old and older, be exempted from the tax roll. House Bill 2168 provides for registration with the Department of Revenue. A registration fee of \$50.00 per year would be collected with \$35.00 to be returned to the county where the aircraft is located and \$15.00 deposited in the state general fund.

Rep. Ramirez testified in support of H.B. 2168 and 2169.

Joe Aubert (Attachment 8) stated that he was a private citizen owning antique aircraft. He said he felt that older aircraft is being unjustly taxed by virtue of their antique status. Any other motorized piece of equipment depreciates as it becomes older, except in the case of airplanes.

He said he did not favor the idea of a state registration system, but would prefer the planes be depreciated according to age.

Kelly Vietz testified in support of H.B. 2168 and 2169. (Attachment 9)
He stated that these bills would place Kansas on a tax base similar to the surrounding states. He also stated that it is an incorrect impression to assume that this hobby is only for the wealthy. Many have found that the only way to be able to afford to fly is to find and restore an older airplane. He said that correction in this tax situation for antique airplanes is greatly needed.

George Boyd testified on H.B. 2168 and 2169 stating that he agreed with the requirements of these bills as long as the state receives appropriate sales tax income when an antique aircraft is sold in the commercial market for profit. He also requested the following amendments be adopted:

1. Registration of antique aircraft be made a function of the Vehicle Registration Division, Department of Revenue.
2. Antique aircraft sold for profit be subject to state sales tax.
3. Presentation of an FAA registration certificate be considered as proof of ownership.
4. Annual registration fee for antique aircraft be no higher than \$50.00.

(Att. 10)

Senator Hayden made the motion to accept the minutes of March 17, 1987 meeting. Senator Karr seconded. Motion carried.

Meeting adjourned.

Senate

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
3/18/87	M.C. "Kelly" Viets	Rt. 2 Box 128 Lyndon Ks	Antique Aircraft
"	Elna Viets	" "	"
"	Barbara Aubert	1800 High - Topeka	"
"	Joe Aubert	" "	"
"	James L. Smith	manhattan, KS. 3999 Smith Hills Lane	"
"	Frances Smith	"	"
"	DALE M THOMPSON	BASEHOR KS. 66009 R 2-3202 N HWY TERR.	"
"	Charles U. Adams	R2 Box 47-R BASEHOR, KANSAS	"
"	G.W. HEFFLINGER	3510 N 99 TH K.R. KAS 66109	"
"	R.W. SHANE	9000 HORTON DV. PK. 66207	"
"	Herbert Whitlow	5035 SE 3rd TOUR TECUMSEH, KS	KS pkg - HTR cooling contractor's
"	WALTER BOSTON	6020 ALDEN SHANNON, KS. 66201	MINI QUIP AIRCRAFT
"	Cecil F Steal	1126 S. 45 TH TERR. K.C. - KS - 66106	"
"	PHIL LANGE	9120 SW 45 TH / Topeka / 66610	Aircraft Owner
"	GEORGE R. BRUCE	3335 SE PERK RD Topeka 66605	ANTIQUA AIRCRAFT
"	GEORGE M. BOYD	1007 TOPEKA	"
"	Ray Arvin	1 Citizen	Topeka
"	Chester B. Peckover	Box 362 Butler, KS.	Close Up, KS.
"	Robert Atwater	687 E 8 TH	Close Up, KS.
"	Bruce Duggan Hester	1007 E. 8 TH Goodland, KS	"
"	Marty Horn	119 Walnut	"
"	Jan Vach	Topeka	KSCPA
"	J. C. Anderson	"	"



KANSAS DEPARTMENT OF REVENUE
Office of the Secretary
Robert B. Docking State Office Building
Topeka, Kansas 66612-1588

To: The Honorable Fred Kerr, Chairman
Senate Committee on Assessment and Taxation

From: Harley T. Duncan
Secretary of Revenue

Re: House Bill 2209, As Amended

Date: March 18, 1987

Thank you for the opportunity to appear before you on House Bill 2209. The Department encourages enactment of this bill.

The sampling language in K.S.A. 79-3610 will not change the way the Department audits. We currently use and will continue to use sampling. Occasionally, a taxpayer's business activity is so extensive (several thousands of transactions each month) that it is impractical to examine all the records. Under these circumstances we look at a reasonable number of the taxpayer's records to determine an error rate. We then make the statistical assumption that the same amount of errors occurred with all transactions during the audit period. The majority of large companies prefer that sales and use tax audits be based on sampling. An audit is disruptive to their business and they want to keep it as short as possible. Sometimes it takes an auditor several weeks to examine one month of transactions.

This sampling language addition is to protect the Department from the small number of taxpayers who will protest our audits based solely upon the fact that not all records were examined. In the past, the Department has been put in the position of either having an auditor spend months examining additional records, or abating most of the audit. We do not believe that taxpayers should have the opportunity to avoid an audit just because they know that the Department does not have the manpower or funds to conduct a complete audit of all their records.

Language added by the House Committee at the request of the Kansas Society of C.P.A.'s requires that the Department notify the taxpayer of the sampling technique to be utilized. If the taxpayer can show that the technique was not used in accordance with generally recognized sampling techniques, the portion of the audit based on that technique would be dismissed, and a new audit would be performed.

If sampling is used and the taxpayer does not agree with our finding, the taxpayer can always conduct his own audit based upon a documented sampling method, to show different results. Certainly, the Department will work with the taxpayer to determine if our sample is not representative of the whole. Lastly, the taxpayer does retain the right to appeal our audit.

The Honorable Fred Kerr, Chairman
Senate Committee on Assessment and Taxation
March 18, 1987

Over the years, the accounting profession has shown that sampling can give highly reliable results within a given precision range. The accounting profession uses sampling methods on many of their audit engagements.

Many states, such as Missouri, have adopted similar sampling language in their sales and use tax laws and regulations. As businesses grow, so does the need for audit sampling.

Thank you for the opportunity to appear on this matter. Again, we encourage your passage of this bill. I will be glad to answer any questions.

STATISTICAL INFERENCE AND THE IRS

Trying to avoid an IRS checkmate: probability techniques.

by William L. Felix, Jr., and
Robert S. Roussey

We're all familiar with election and opinion polls, consumer preferences and television ratings. Each is an example of a statistical inference—drawing a conclusion or making a judgment on the basis of a sample. Less familiar, but also illustrative of this mathematical technique, are uses of it in quality control, auditing and accounting estimates.

In each case a sample provides an image or a model of a population that is used as a basis for making an inference about that population as a whole. When used in conjunction with statistical probability theory, the sample provides a means of estimating the risk of sampling error in making the inference.

In recent years companies have been increasing their use of statistical inference in filings with the Internal Revenue Service. And the IRS itself is more frequently employing statistical inference in examining the contents of tax returns.

Given this trend, managements and practitioners should be aware of the potential benefits in using—or, in some cases, the pitfalls in not using—statistical inference in returns. In addition, they should be cognizant of the fact that, in its examinations, the IRS can employ statistical inference to develop disallowances

of claimed deductions or estimates of proper income reporting.

The IRS has determined that using statistical sampling techniques can be a cost-effective way of examining large volumes of accounting data for determining tax deficiencies and, moreover, that its use enhances the quality of these examinations. The objectives of the IRS program in this area are to maximize the effectiveness of statistical sampling, to make sure that any resulting adjustments are statistically sound, and to provide for fair, equitable treatment of taxpayers by using these statistical techniques.

The IRS has reported that it is employing statistical sampling with increasing frequency, especially in connection with audits of large corporations. Some data will illustrate the extent: In 1982 IRS statistical sampling led to audit adjustments of \$52 million and, in 1983, to adjustments of \$101 million. The IRS has stated that in 1982 sampling was used in 480 cases.

The statistical sampling method the IRS employs is one of the types of survey sampling methods that accountants use in their audits of financial statements. The taxpayer, therefore, generally has business consultants—the auditor and the tax adviser—to help apply and interpret the use of statistical inference when dealing with the IRS.

The purpose of this article is to explain and illustrate taxpayer use of statistical inference and IRS statistical methods in examining filings and to discuss our understanding of the current state of the service's requirements. In addition, some avenues for developing strategies for negotiating with the IRS are explored.

Taxpayer Use of Statistical Inference

Although the IRS can freely use statistical sampling in examining a tax return, the IRS doesn't freely allow a taxpayer to employ it in preparing a return. There are, nevertheless, a number of situations in which the taxpayer can effectively use these techniques. These uses include

- Estimates in preparing tax returns.
- Negotiations vis-à-vis proposed IRS audit

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adjustments of income, deductions and credits.

Areas explicitly described in IRS rules and regulations.

Estimates in Tax Returns

One of the most interesting and potentially advantageous areas for employing statistical inference is the use of estimates in preparing tax returns.

According to the American Institute of CPAs Statement on Responsibilities in Tax Practice no. 5, *Use of Estimates*, tax returns may involve "the use of estimates if such use is generally acceptable or, under the circumstances, it is impracticable to obtain exact data." An example might be an estimate of a repair allowance.

Although a sample may be an expedient way to make such an estimate, it may be challenged by the IRS if it doesn't meet certain criteria.

We have seen situations in which the IRS has disallowed estimates made from samples because the taxpayer didn't use statistical techniques in estimating a sample size or in calculating the resulting estimate.

In one case the IRS reviewed estimates of \$9.8 million in deductions and, using the taxpayer's own nonstatistical sample, applied a statistical inference and ultimately disallowed \$3.4 million of those deductions. But if the taxpayer had employed statistical sampling in its estimation process, a larger sample might have been selected and a greater deduction realized than the IRS finally allowed. (See "The Case of the Nonstatistical Sample," the sidebar on page 40.)

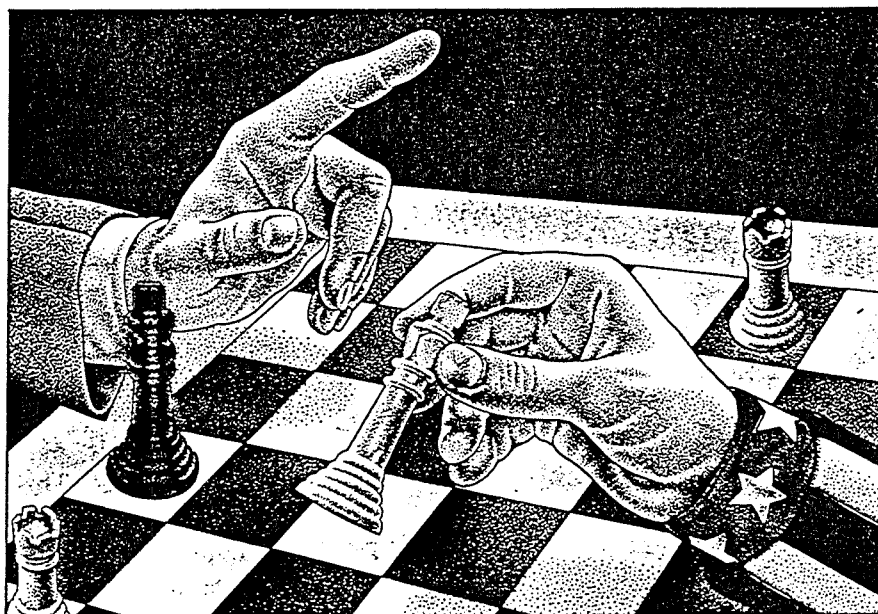
The moral of the story is that if a 100 percent census isn't used in making an estimate, there is a potential for an IRS disallowance unless an acceptable statistical inference was

employed to make the estimate. On the other hand, the use of a statistical sample can be an effective and a defensible means to develop estimates, when permitted, and can also save valuable time and resources.

Negotiations with the IRS

Another intriguing use of statistical inference is in negotiations about proposed IRS audit adjustments.

In one recent case, for example, a revenue agent proposed an adverse adjustment of \$6 million relating to a Lifo inventory calculation on the grounds that the index used for current costs didn't reflect latest costs. But the agent agreed to reconsider the adjustment if a statistically valid sample indicated that the taxpay-



er's index adequately reflected current costs.

The sampling was done using statistical parameters that the agent agreed to in advance, and the resulting statistical inference supported the indexes used. Accordingly, the agent dropped the proposed disallowance.

Explicitly Described Uses

Statistical inference may also be used in areas explicitly described in IRS rules and regulations. These areas include

- Lifo inventory calculations.
- Revenue recognition for the installment component of revolving credit sales.
- Sales and expense recognition for redemptions of trading stamps.
- The tax basis of stock in a reorganization.
- Investment tax credit recapture for mass assets.

The case of the nonstatistical sample

Company Y claimed \$6 million in one year and \$3.8 million in the next year for repair expense replacement and modification sample work orders, a total of \$9.8 million. The claimed deduction was calculated using the average (mean) value of the sample items selected by a random sampling technique. There were 350 sample items selected in the first year and 520 in the second year.

The IRS didn't dispute the use of sampling, the number of items in the sample or how the sample was selected. It did, however, argue that Company Y didn't calculate a sample error, nor did it present numerical limits based on the sample.

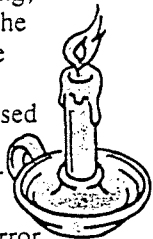
The IRS referred to written standards for statistical sampling that would allow a mathematical expression of the margin of error associated with a sample (the calculation of a sample error). This would enable a user to calculate an upper and a lower limit (a range or interval of precision around the estimate that one may accept with a stated probability).

Accordingly, the IRS took the position that Company Y could and should have applied the sample error to calculate a lower limit of allowable repair allowance, so that management could have said, for example, "We are 95 percent certain that the allowable repair allowance is at least X dollars."

Furthermore, after the IRS ran Company Y's sample through a statistical computer program to calculate the sample error and the lower limit of the estimate, the service disallowed \$2.5 million in the first year (a 42 percent disallowance) and \$900,000 in the second year (a 24 percent disallowance), a total disallowance of \$3.4 million.

This large sample error indicates that the nonstatistical sampling plan may not have been structured properly to provide for a reasonable sample error. In other words, the sample size may have been too small or the sample should have been stratified into groups of similar size. (This appears to have been the case especially in the first year.)

If Company Y had realized that the IRS was going to apply statistical concepts to management's nonstatistical sample, it might have considered statistical sampling right from the start, had better support for its claimed deduction and avoided such a large disallowance.



□ Arm's-length prices for multiple sales of tangible property between related taxpayers.

Lifo inventory calculations. The use of statistical methods for Lifo inventory calculations mainly relates to computing the Lifo value of a dollar-value inventory pool. Generally a taxpayer may use only the so-called double-extension method when computing the base-year and current-year costs of a pool.

In certain situations, however, it is impractical to use this method. For example, a company may encounter technological changes, may have an extensive variety of inventory items, or may have extreme fluctuations in the variety of items in a dollar-value pool. In these circumstances, according to IRS regulation 1.472-8(e)(1), the taxpayer may calculate an index "by double-extending a representative portion of the inventory in a pool or by the use of other sound and consistent statistical methods."

Installment sales calculations. Although the regulations don't specify any standards or specific sampling methods for Lifo, they are much more specific for installment sales calculations for revolving credit plans.

To treat a percentage of charges under a revolving credit plan as installment sales, the percentage, according to IRS regulation 1.453-2(d)(2)(i), "shall be computed by making an actual segregation of charges in a probability sample of the revolving credit accounts. . . ." This regulation further states that "to obtain a probability sample, the accounts shall be selected in accordance with generally accepted probability sampling techniques."

If the taxpayer elects to use sampling techniques, they should be documented and made available, on request, to the IRS district director. In applying these techniques, the taxpayer must satisfy certain requirements under an IRS procedure that establishes reasonable general standards for using statistical inference. Alternatively, a taxpayer can elect to use other IRS-specified sampling procedures.

Redemptions of trading stamps. The regulations specifically allow using statistical sampling techniques for estimating future redemptions of trading stamps. Here, too, if the taxpayer employs a probability sampling technique, the accuracy and reliability of the results must be demonstrated to the district director if that information is requested.

Tax basis of stock. Statistical sampling can be used in a tax-free stock-for-stock exchange to estimate the tax basis of stock in a reorgani-

zation. Because of the many shareholders and shareholder groups involved in a major share exchange, it would be extremely time consuming, costly and perhaps difficult to determine the actual tax basis of the shares.

A valuation based on statistical inference, however, provides an unbiased and a defensible alternative. At the same time, its use will minimally inconvenience the shareholders involved in the exchange.

ITC recapture. Another area in which the regulations expressly allow the use of statistical sampling techniques is in determining investment tax credit (ITC) recapture when a taxpayer has mass assets. In general, the law requires a taxpayer that claims an ITC on an asset to pay back, or recapture, some or all of the ITC claimed if the property is disposed of before the end of the useful life that was employed in computing the ITC for that property.

When an ITC is claimed on numerous assets of small value for which separate identification is impracticable—the so-called mass assets—the taxpayer is allowed to determine asset dispositions, and thus ITC recapture, by referring to a table (mortality dispersion) that is based on an “acceptable statistical” technique.

Arm's-length prices. It appears that the regulations also allow the use of statistical sampling techniques in determining arm's-length prices for multiple sales of tangible property between related taxpayers when it is impracticable to determine the arm's-length price for each individual sale.

Acceptable Techniques

It isn't always possible to predict which generally accepted statistical techniques will be acceptable to the IRS. But appropriate methods described in recognized statistical reference works or in publications of professional organizations, such as the AICPA, are likely to be accepted by the IRS as long as the sample results are developed using these methods.

The IRS provides little guidance in establishing acceptable statistical parameters. If the taxpayer uses reasonable limits, however, they would probably be acceptable. For example, the IRS probably would look favorably on a 95 percent confidence level with a precision interval of plus or minus 4 percent of the amount being estimated.

We suggest that this is the case because these parameters are suggested in IRS litera-

ture and have been accepted in practice. For instance, the 95 percent confidence level is specified in an IRS manual (discussed below), and the precision interval of plus or minus 4 percent is suggested by the relative amount specified in the regulations for revolving credit plans.

We understand, however, that in a recent case involving the tax basis of stock, the IRS indicated that a precision interval of up to plus or minus 10 percent would be acceptable. This doesn't necessarily mean that the IRS would accept this interval in other cases. But it does suggest that, in certain circumstances, the IRS might accept an interval of more than plus or minus 4 percent.

IRS Use of Statistical Inference

In recent years the IRS has been placing greater emphasis on statistical sampling in its examinations. The service has developed policy materials, training courses and software to support the use by revenue agents of a sam-

It isn't always possible to predict which generally accepted statistical techniques will be acceptable to the IRS.

pling method called difference estimation. This method is explained in IRS manual 42(18), *Statistical Sampling Examination Program*.

Difference estimation is one of the general statistical methods employed in auditing, and it is used, for example, by some accounting firms to estimate audit adjustments. In a recent manual supplement, *Statistical Sampling Procedures in the Examination of Accounting Records*, the IRS sets out general policies and instructions for using statistical inference. These general instructions encourage revenue agents to consider statistical sampling when it appears in a given case that there is sufficient potential for adjustment but that it isn't feasible to examine all transactions.

The specific objectives of the IRS's sampling policies are also important in evaluating the agent's approach in specific areas. Some of the key areas are

- The level of confidence and the precision interval.
- Related adjustments.
- The use of difference estimation.

□ The number of differences in a sample.
Confidence level and precision interval.
 The IRS manual, as indicated, requires the use of a 95 percent confidence level but doesn't specify a precision interval. The confidence level can be thought of as an index of the reliability of the sample results. The precision interval can be thought of as a degree of accuracy, in the form of a range of values (for example, plus or minus 4 percent) around the estimated value of the population, based on the projections from the sample.

Instead of setting a precision requirement,

the IRS uses a standard sample size of 500, which, in effect, sets the parameters of the precision interval. Apparently the IRS has done this to simplify the sampling process and to set a sample size large enough to obtain reasonable precision parameters in most sampling situations.

In the more traditional use of statistical sampling in accounting and auditing, the confidence level and the precision interval are set in order to determine the sample size. Because using a set sample size can have an impact on the precision of the sample, the taxpayer should consider this factor in reviewing the application results.

The IRS takes the position, generally favorable to the taxpayer, that any proposed adjustment is to be based on the lower precision limit. Hence, if an IRS agent makes a projection of an estimate from a sample—say, an overstatement of an expense—a calculation of the range of precision around that estimate can be made.

Although a two-sided range could be calculated (that is, an upper and a lower range), generally the agent will calculate only a lower limit. For example, if the estimate of overstatement is \$800,000, a two-sided range of precision might be an upper limit of \$880,000 and a lower limit of \$720,000. In such a situation the agent would use the lower precision limit of \$720,000 as the proposed adjustment for the overstatement of expense.

This example shows how the IRS policy biases the method in the taxpayer's favor and therefore must be carefully considered in any negotiation strategy. When the estimate favors the taxpayer, the IRS will also compute the adjustment based on the lower precision amount, a decision that favors the IRS.

Related adjustments. IRS use of statistical inference in examinations affects the service's treatment of related adjustments. A disallowance of maintenance expenses, for example, may result in an adjustment to treat them as property additions, for which depreciation may be claimed. (See the sidebar at left, "The Case of the Related Adjustment.")

Difference estimation. The IRS has selected difference estimation as its statistical sampling method. The term reflects how the esti-

The case of the related adjustment

Assume that an IRS agent statistically samples maintenance expense and finds the following:

	<u>Sampled items</u>	<u>Property—projected estimate</u>	<u>Property—lower precision limit</u>
Property items	\$7,000	\$400,000	\$350,000

In this case the agent would first propose to disallow \$350,000 of maintenance expense. The agent would then propose to record in the property accounts the total estimated property items of \$350,000. Next the agent should propose an adjustment to allow depreciation on the \$350,000 of property items.

The IRS manual *Statistical Sampling Examination Program* states that, for this adjustment, "the ratio of the lower confidence (precision) limit to the amount of the adjustment in the sample (before projection) is to be used to derive the projected value of the associated characteristic." This means that a ratio is to be used to calculate the depreciation adjustment.

Here is a simple illustration:



	<u>Sampled items</u>	<u>Property—lower precision limit</u>
Property items	\$7,000	\$350,000
Depreciation on sampled items	<u>\$1,050</u> ($1,050 \times \frac{350,000}{7,000}$)	<u>\$52,500</u>

mate is made from a sample. The audited value of each sample item is compared with its book value, and any difference is computed. This difference then becomes the basis for subsequent calculations in determining the estimate of the total differences in the population.

To make this method easier to use, the IRS has developed software to assist application by revenue agents. This software requires that the items to be sampled should be classified into five groups and that a sample of 100 items should be selected from each group. The top group consists of the 100 largest book value items, and the lowest group is to include all negative items.

The software provides histograms, or population distributions, to assist the agent in judg-

Especially when there has been a significant disallowance, a review of an IRS statistical sampling application should always be done.

mentally locating the other group boundaries. But the IRS materials don't say how the agent could use mathematical means to locate these group boundaries.

Except for the use of a fixed sample size, the IRS method is consistent with the descriptions and analyses of difference estimation included in the professional accounting and auditing literature. Thus, the accountant and auditor skilled in statistical analysis should be in a good position to assist the tax specialist in evaluating the applications of the IRS's method.

Number of sample differences. A major concern about difference estimation is the number of differences in a given sample and in the individual groups. If a sample doesn't result in a certain minimum number of differences, the standard error in the statistical difference estimator is likely to be underestimated.

Most statistical reference works indicate a need for extreme caution if fewer than 10 differences are found in a group, or stratum, and most accounting and auditing firms that use this method require or strongly prefer more than 10 differences. Under the IRS's method, the lower precision limit could be misstated if there aren't enough differences in a sample. Therefore, if an IRS application results in only a few differences, it can be argued that

the projection may be unreliable and shouldn't be used.

Application of the IRS Method

An actual application of the IRS method spotlights some additional issues. Consider the case of the ITC claimed by a large manufacturing company. After examining two years of ITC, the IRS proposed adjustments to the credit and to depreciation expense.

Some of the specific problems identified in this application follow:

For the purpose of sample selection, the revenue agent treated the two years' credits as one population and then projected each year's adjustment as if the whole two-year sample size and population applied to that year's adjustment. (The error didn't have a significant effect in this case, but it could in others.)

The requirement to separate the sample and the projection for depreciable asset adjustments wasn't followed. Correcting for this difference didn't materially change the proposed ITC adjustment, but it did increase the depreciation expense. In addition, the number of differences that remained after the separation was insufficient to permit reliable projections about the other adjustments.

Selecting the sample from a population consisting only of claimed items clearly reflected a bias against finding errors in the taxpayer's favor. Using an alternative population, such as all expenditures for maintenance, repairs and capital items, might have produced different results. (In this case, however, such a population wasn't easily available.)

Reviewing an IRS Application

It's clear that, especially when there has been a significant disallowance, a review of an IRS statistical sampling application should always be done. Below are some key questions to consider:

1 Was the sampling objective and the resulting physical population used for selection proper and equitable?

If not, the biases that may have been introduced should be explored, with alternative statistical inferences and identified biases used in arguing the taxpayer's case.

2 Were the plans and the resulting proposed adjustment constructed in conformity with IRS policies and in an equitable manner?

If not, appropriate revisions should be computed and considered.

3 Were the statistical issues in the application handled properly? That is, were definitions of populations and samples consistent, and were computations—especially those made outside the software—accurate?

Here are some examples:

- Has the use of the set sample size of 500 resulted in a reasonable precision interval?
- Has the revenue agent used the lower precision limit in calculating the adjustment?
- Has the agent considered related adjustments?
- Does the stratification of the population appear reasonable?
- Were the number of differences found in the sample sufficient to make appropriate projections?

Strategies After the Review

When questions about the sampled items arise in the course of reviewing an IRS application, any adjustments to those sampled items should be scheduled and new projection esti-

mates made. Any negotiating strategy normally is based on comparisons of the newly projected amounts to the IRS projections, not on the individual sample items themselves.

The difference-estimation method should be used in making the new projections to facilitate comparisons with IRS data. Alternative methods should be considered, however, when the IRS sample results suggest that difference estimation isn't appropriate in a given situation.

Because of the increased emphasis on statistical sampling by the IRS, it behooves taxpayers and tax advisers to become more familiar with these probability techniques. It is important to understand how the IRS may use sampling in an examination, how the results of the application may affect a tax return, and how to deal with these results in negotiations with the service in a tax controversy.

It should also be emphasized that the taxpayer, when permitted, has an excellent opportunity to use statistical inference in tax return preparation and in other tax-related areas. Employing statistical inference is both economical and efficient, and, when applied properly, the technique provides a supportable basis for negotiations with the IRS. ■

Accounting systems: too inflexible?

One might assume that a primary objective of information systems in modern business organizations is to contribute to greater efficiency in achieving organizational goals. Yet it is important to understand that, historically, accounting systems, the major determinants of information flow in business organizations, reflected the separation of management from ownership. Accountancy thus assumed a custodial role, and its objective was more to keep tabs on assets than to contribute to organizational efficiency as such.

Accountancy systems have gradually changed and become more concerned with efficiency. In fact, the basis of today's accounting model aims "to get more with less"; this is a powerful tool within the parameters of the model. Yet the ability of the accounting model to change is limited by its fundamental principles: it is a closed system model, it balances perfectly and in this sense is totally mechanistic, and it exerts enormous pressures for standardization through measurement demands.

The problem in applying such systems to maximize organizational efficiency is that organizations operate in open systems with uncertain environments—they are organic rather than mechanistic because the whole is sometimes greater than the sum of its parts. Pressures for standardization often stifle initiative and discourage risk.

From "Target Information for
Competitive Performance"
by Robert E. Cole
Harvard Business Review
May-June 1985.



Kansas Society of Certified Public Accountants

FOUNDED OCTOBER 17, 1932

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HOUSE BILL 2209

SENATE ASSESSMENT AND TAXATION COMMITTEE

March 18, 1987

Mr. Chairman, members of the Committee: My name is T. C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants.

The Kansas Society supports HB 2209 as amended. We believe that the use of statistical sampling techniques can be a cost-effective way of examining large volumes of accounting data for determining sales tax deficiencies and, moreover, that its use will enhance the quality of these examinations.

The objectives of such a program should be to maximize the effectiveness of statistical sampling, to make sure that any resulting adjustments to tax liability are statistically sound, and to provide for fair, equitable treatment of taxpayers by using these statistical techniques.

To this end, the Kansas Society asked the House Taxation Committee to amend HB 2209 so that the Department of Revenue notify the taxpayer in writing when sampling procedures are to be used and that the notification include the design of the sample, its population and other data necessary to permit the taxpayer to determine if the procedure was proper and equitable.

This amendment is important inasmuch as the design of the sample may not have considered adequately the effects of seasonal fluctuation in the

Sen. A & T
— 3/18/87

Att. 3

HB 2209
March 18, 1987
Page 2

taxpayer's business, a change in lines of business or merchandise, the opening or closing of new stores or locations. The sample may just not be representative or the sample may not have been large enough to ensure reliable results.

Secondly, we asked that the wordage "If the taxpayer demonstrates that any sampling method used by the Department of Revenue was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method and a new audit may be performed" be added to the bill.

This language should protect the taxpayer in the event the Department makes an honest mistake in developing a sampling program for the taxpayer's business.

Thank you, Mr. Chairman. I will be happy to stand for questions.



WICHITA INDEPENDENT BUSINESS ASSOCIATION

Riverview Plaza • Bldg. 200 • Suite 5 • 2604 W. 9th St. at McLean Blvd. • Wichita, Kansas 67203
(316) 943-2565

TESTIMONY ON HB NO. 2209

SENATE COMMITTEE ON ASSESSMENT AND TAXATION, MARCH 18, 1987

By Roland E. Smith, Wichita Independent Business Association Executive Director

The Wichita Independent Business Association is an association of over 1300 locally owned small businesses in the Wichita trade area employing over 15,000 employees.

We are appearing today in opposition to HB-2209 as it relates to sales tax audits only. Giving the taxation department more authority at this time, when they are abusing the powers they have, we believe would be a serious mistake.

Currently, they are auditing many small businesses that have been told verbally in the past by the department directly or through their CPA and/or attorney that their services were not taxable. They have expanded their interpretation of the law..... we believe to increase revenues. It amounts to "financial rape" of many small businesses that can not afford to fight back. Audits should be to determine where sales tax is to be collected and not past tax assessments, unless fraud is proven in a court of law, then back taxes and penalties and/or fines are in order. The current practice, if continued, will put many small businesses in jeopardy and some out of business. The "zip" word today is "Economic Development" which we hear at the front door with a lot of fanfare when in fact, coming in the back door is the tax department committing what we believe to be "financial rape."

TESTIMONY ON HB-2209

There have been little or no written sales tax guidelines for many of the types of businesses being audited. Auditors don't even agree on where sales tax is to be collected. Inconsistent rulings and lack of access to these rulings by other like kind businesses are causing even more frustration and non-competitive situations. Delays, inconsistent audits and other activities of the department is taking the direct appearance of harassment and what some businesses are also calling "gestapo" tactics.

We believe this bill should be amended to force the Revenue Department to establish guidelines for sales tax audits in all areas and be forced to publicize them. Audits should be limited by statute to protect the business that has made attempts to comply and force all decisions by the department be detailed in writing so when different auditors are involved, a business is not penalized for the changing of staff or state administrations.

Our association sponsored a public meeting with over 60 businesses attending in Wichita on January 12, 1987, with representatives of the Kansas Sales Tax Department. I have with me a complete transcript of that meeting and will supply you a copy if you wish to read it. It was taken by a court reporter and is over 90 pages. It reveals some of the problems in the advertising and graphic professions and disturbing statements that were made by the Tax Department. The Secretary of Revenue has now agreed to compile guidelines in this professional service area. This, however, is only the tip of the iceberg. The problem is wide-spread in other professions and if allowed to grow under the present interpretation, shall include all professions that produce or alter a tangible piece of property that can be detected by any of the five senses. By that interpretation, it could reasonably include doctors, architects, engineers, CPA's, attorneys and many others.

TESTIMONY ON HB-2209

We realize you have many problems to solve in this session, however, we urge you to look very seriously to amending this bill to help alleviate the problems that have been forced upon small businesses across the State of Kansas. We are working with the Governor on the issue and trusting that administratively some of the problems will be resolved.

We do have documentation to substantiate this testimony, however, we shall not release it to anyone until there is written assurance these businesses will not be retaliated on by the Department of Revenue.

The passage of recent legislation forcing incorporated small businesses to post a bond for six month sales tax liability or a \$1,000 bond whichever is greater has back-fired and caused many to un-incorporate in order to stay in business. No insurance company wants to write these small bonds and the businesses can not afford to use their working capital to do this. We would like to see an amendment on HB-2209 to rescind that legislation and require the corporate officers be responsible as they are for withholding taxes.

Please don't choke small business by allowing the Department of Revenue to continue its present course.

I would be happy to answer any questions you might have.



WICHITA INDEPENDENT BUSINESS ASSOCIATION

Riverview Plaza • Bldg. 200 • Suite 5 • 2604 W. 9th St. at McLean Blvd. • Wichita, Kansas 67203
(316) 943-2565

March 17, 1987

Mike Hayden, Governor
State of Kansas
2nd Floor, State Capitol
Topeka, KS 66612-1590

Dear Mike:

Something has to be done to correct the current policy of sales tax audits. We constantly hear the cry for economic development at the front door and at the same time the state is coming in the back door of small businesses with audits that resemble "financial rapes."

We discussed last month with you the situation among the graphic's industry. Yesterday, I sat in on an audit of a computer service. They have been under audit since last October. One auditor cleared them and the second auditor comes in and says, "no, the first auditor was wrong." Yesterday afternoon, they called back and said everything was on hold. This is harassment. They will not issue any letter of determination or anything in writing. To add to it, the problem which might appear to be collusion, is that today they are being audited by the Human Resources Department for unemployment compensation. These people have done everything they know to follow the law by using a CPA firm, etc., and are being jeopardised by persons responsible to you as Governor.

The same problem as the computer service exists in many of the professional service areas. Most small businesses are trying to follow the law and can ill afford the time it takes to fight their cases or hire attorneys to represent them. It has become a "push and shove" situation. We know the State of Kansas needs more revenue, but this is not the honorable way for the Department of Revenue to react to the problem.

Ed Flentje has talked to Harley Duncan about the graphics area and some progress is being made, however, that is only the tip of the iceberg.

Somehow, audits ought to be for the purpose of determining where sales tax is to be collected and be consistent within the profession or industry. When fraud can be proven in a court of law, then back tax assessments and penalties should apply. When a victim is raped, they stand to ridicule, ruin of reputation and physical damage.

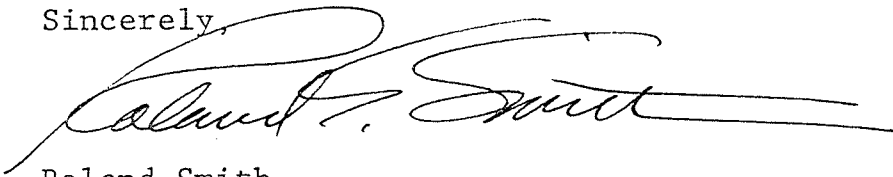
Mike Hayden, Governor
State of Kansas
2nd Floor, State Capitol
Topeka, KS 66612-1590

If they prosecute the "raper," their chances are very small in winning the case. If they do win, they also lose with all the damage from the proceedings. This is a very close parallel to what is happening today to small business in Kansas without the resources to defend themselves against very vague and wide open sales tax laws and regulations that are not uniformly and fairly enforced.

The sales tax statutes are in real need of re-working, but first, we trust that you will bring immediate relief through the administrative process.

I will look forward to hearing from you soon as to what action you are willing to take.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland Smith", with a long horizontal flourish extending to the right.

Roland Smith
Executive Director

RES:mp

cc: Ed Flentje, Secretary of Administration
Harlan Prittle, Secretary of Commerce
Senator Fred Kerr, Chairman Senate Assessment and Taxation Committee
Representative Ed Rolfs, Chairman of House Taxation Committee
Representative Jo Ann Pottorff, Sedgwick County Delegation
Chairperson and all members.

CALENDAR OF EVENTS

TUES: March 10 - 12 Noon

WIBA Luncheon
Angel's Restaurant
345 Riverview

TUES: April 14 - 12 Noon

WIBA Luncheon
Angel's Restaurant
345 Riverview

TUES: May 12 - 6:30 p.m.

Dinner and Tour
Wichita School Service Center
3850 N. Hydraulic

WIBA NEWS

WICHITA INDEPENDENT BUSINESS ASSOCIATION

Vol. 49 No. 2

(USPS 879-100)

March 1987

KANSAS SALES TAX ISSUE

The problem with the Kansas Department of Revenue continues for many small businesses that in the past have been told they did not have to collect Kansas sales tax on their services. Many were audited and assessed back taxes, interest and penalties. The Secretary of Revenue, Harley Duncan, in a meeting with Roland Smith, WIBA Executive Director and Ray Hinderliter, Chairman of the WIBA Government Affairs Committee on February 11th in Topeka stated WIBA was "Blowing Smoke" and these things reported in the news were not happening. However, after being told there was documentation to the contrary, he had a different attitude towards the discussion. There was a firm denial that there had been any changes in the Sales Tax Departments policy. However two employees in that department had stated otherwise, one to a news reporter and another to a local business person. He was also asked if any business that applied for a sales tax number now would the business automatically be subject to a sales tax audit. He said it was not the policy to do that, but an audit was possible. Later in the discussion he agreed to send WIBA a letter to the effect a business applying for a sales tax number would not be audited except where fraud was suspected. To this date the letter has not been received. He also stated his department was working on a set of guidelines for the businesses under discussion as the department has for other business areas. No time table for completing it was mentioned. It was suggested that he consult some business persons that are active within the specific area of businesses they were writing guidelines to better insure proper trade or professional definitions. There was no response to the suggestion.

Mr. Duncan had requested on February 10th, meetings on February 11th with the Sedgwick County Delegation at 10:00 a.m. and 3:00 p.m. to explain his position in the matter. WIBA representatives were excluded from either meeting. A special meeting with Mr. Duncan was arranged for WIBA representatives at 2:00 p.m. on the 11th with the assistance of Rep. Jo Ann Pottoroff. Rep. Henry Helgerson from our delegation reported he did meet with Mr. Duncan and two of his staff that afternoon and presented them a sales tax example and asked the staff members how they would rule on who collected sales tax and

Continued page two column one

GEORGE ABLAH SPEAKER FOR MARCH 10TH WIBA LUNCHEON

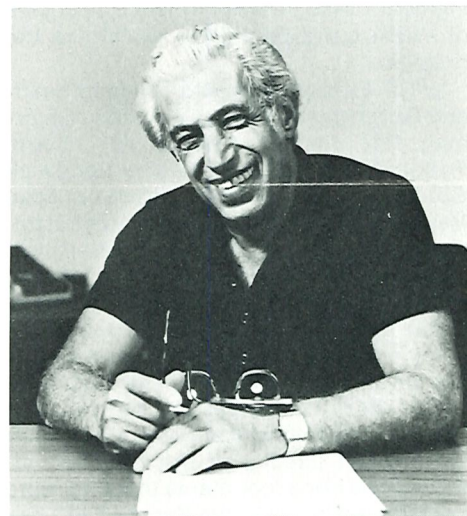
An entrepreneur with major interests in oil and real estate, George Ablah was born in Wichita, Kansas in 1929. He and his wife, Virginia, have five children and five grandchildren.

George is a national real estate developer, building, leasing, and developing shopping centers, office buildings, apartments and hotels. In late 1979, he acquired Chrysler Realty Corporation, in partnership with Koch Industries. They sold most of the assets back to Chrysler in late 1982.

During the early 1980's, George acquired the largest collection in the world of sculptures by Henry Moore, and he loaned portions of this collection for exhibits in various cities throughout the nation.

George is currently active in oil investments in Kansas and in real estate ventures in the Midwest, notably Chicago, Dallas and Wichita, where he is the driving force in the development of Comotara in Northeast Wichita.

Even with all of his success George remains a very humble person and relates a very down to earth philosophy in his talks. We are sure you will want to come and hear



him. He truly is an inspiration for the independent business person.

The luncheon will be at Angel's, 345 Riverview on Tuesday, March 10th at noon. The cost is \$5.00 and reservations need to be made by noon on Monday, March 9th by calling the WIBA office at 943-2565.

CALL 943-2565 FOR RESERVATIONS TODAY!

JOINT MEETING WITH WAHBA FOR CITY COUNCIL CANDIDATE FORUM

The Wichita Area Home Builders Association and the Wichita Independent Business Association will co-sponsor a forum for the Wichita City Council candidates on Thursday evening March 19, 1987 at the new Century II Expo Hall room number 210.

The WAHBA has invited WIBA members to the cocktail hour at 6:30 p.m. and the dinner meeting at 7:30 p.m. The cost for this is \$13.00 per person. If you wish to attend please call the WIBA office at 943-2565 before noon on Monday, March 15th and make your reservations. Checks are to be made out to WIBA for your reservations. You do not have to have reservations for attending the forum only, starting at 8:30 p.m. There will be additional seating available for those coming to the forum only.

This is the first joint function with WAHBA and we hope there will be good turn out of WIBA members. There are usually 300 or

more WAHBA members and spouses that attend their dinner meetings and with the addition of WIBA members it should be a sizable group. Bring your spouse, guests and enjoy the evening as well as meeting the candidates and being informed.

MANY OTHER LEGISLATIVE ISSUES NOT HIGHLIGHTED!

Time and space in the WIBA newsletter limits the amount of information the WIBA Staff can relay on to the membership. There are numerous pieces of legislation before this session of the state legislature and congress that will have direct effects on independent businesses in Wichita and throughout the state and nation. As WIBA grows and more members get involved more can be accomplished in these areas.

DENTAL/VISION PLAN

The Dental/Vision Plan proposal from Combined Insurance Company was approved by the WIBA Board of Directors at their February meeting subject to two

continued page two column two

KANSAS SALES TAX *Continued*

received two different answers. Mr. Duncan told Rep. Helgerson he would have a set of guidelines prepared by March 1st dealing with the areas of Graphic Artists, Commercial Artists, Photo Retouch Artists, Photographers, Advertising Agencies, and related businesses. Since that date, a staff member told a Wichita newspaper reporter it would be April 1st.

An appointment was arranged for a meeting with Gov. Hayden on February 19th to discuss the problem. He had been given a transcript the week before of the January 12th public meeting with the Department of Taxation's attorney Mike Hale and two staff members. Also he was furnished all copies of WIBA correspondence relating to the problem.

WIBA Executive Director, Roland Smith and Government Affairs Committee Chairman, Ray Hinderliter along with Jo Ann Pottoroff, Chairperson of the Sedgwick County Delegation met with Gov. Mike Hayden and the Secretary of Administration, Ed Flentje to discuss the problem with the sales tax as now being applied to some professional services and the results of audits that had taken place. It could mean many small independent businesses closing up or being damaged severely financially. These businesses had been told by the local sales tax office, Topeka Sales Tax Department directly or through their attorneys and/or accountants that they were not required to collect the Kansas Sales Tax on their professional services. It is not occurring in just one area of business, but several unrelated businesses that were members of WIBA. The Governor asked what did WIBA want him to do and these were the four requests made: (1) Sales tax audits would determine where sales tax is to be collected and a written statement would be provided by the Sales Tax Department with detailed instructions on exactly where in that business sales tax was to be collected and insist they be consistent within that business category for competitive reasons. A 30 or 60 day period would then be given to comply or be assessed a penalty. (2) Unless fraud or intent to defraud can be proven in a court of law from the sales tax audit there would be no back

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Roland E. Smith *Executive Director & Editor*

assessments, penalties or interest charged. (3) The definition of professional services needs to be defined. In the context of the present interpretation of the law it would easily be applied to all professional services that produce or alter any tangible property (defined by the Sale Tax Department attorney, Mike Hale, as any result that can be identified by any of the five senses) as a result. By that definition it could conceivably include attorneys, accountants, engineers, architects, writers, doctors, consultants, etc. that provide any document or computer record. (4) Equal and fair treatment under the law.

The Governor was very receptive and promised to meet with the Secretary of Revenue and see what could be done as soon as possible.

One fact has been made clear so far is... "GET IT IN WRITING!" if it is to hold water when dealing with the Kansas Sales Tax Department.

If you have been audited by the Kansas Sales Tax Department after being told you didn't need to collect sales tax in that area of your business or inconsistent rulings from one audit to another, etc., please call the WIBA office.

Another interesting note is that in the sales tax statutes it defines the sales tax as a "Privilege Tax." And according to that, you don't have the right to do business in Kansas... it's a privilege granted by the State of Kansas. It would appear the business community has been asleep for years to let this concept prevail.

WIBA will continue working on the sales tax problem until there is a reasonable solution. Be it in regulations being clarified and enforced fairly and/or corrective legislation passed.

DENTAL/VISION PLAN *continued*

changes in the qualifying of WIBA members for the plan. (1) Adding those with less than two employees. (2) Adding those who have 50% or more of the employees related, providing they are full time employees and proof is supplied upon request to the insurance company. These changes were granted by Combined Insurance Co. Printed materials are being prepared by the Combined Insurance Co. and the anticipated schedule for mailing the information and starting enrollment is expected to be during May and/or June. More details will be in the April WIBA newsletter.

SEMINAR WITH USD 259 WELL ATTENDED

The attendance at the seminar on "How To Do Business With The Wichita School District" on February 17th was well attended. The massive amount of products and services purchased by the school district is almost indescribable. There are over 55,000 in-stock items at the service center warehouse alone. The overall view of all areas and the process needed to participate was presented. It by no means covered all the possibilities, but did give those in attendance an insight on the magnitude of what is purchased by the school district.

Further study, we hope, can be made in the areas of specific interest to WIBA members and the small business community and then concentrate on those areas in future seminars or workshops. It is important to keep as much of the dollars at home whenever and wherever possible. This is a mutual concern expressed by individual School Board Members and several of the Administrators to the WIBA Executive Director. Jack Jones, President of the School Board, wrote a letter to the Executive Director recently encouraging WIBA to have seminars with the district.

We are very appreciative of Mary Matley and her staff in the purchasing department and the various other staff people that contributed to the seminar. A special thanks to Darrel Thorp, Director of Plant Facilities, for arranging the classroom space, refreshments and valuable assistance.

"IT'S YOUR BUSINESS" PROGRAM

Starting in January KTVH Channel 12 has been broadcasting on Sunday mornings at 6:30 a.m. the excellent program produced by the United States Chamber of Commerce. It is very informative and would suggest all business persons that are early risers to take advantage of it. Hopefully it will be moved to a better time period as interest grows in the program in this area and the time becomes available. WIBA was instrumental in bringing this program to the Wichita area.

HEALTH INSURANCE DEDUCTIONS FOR SELF-EMPLOYED

Greg Sevier, C.P.A.
Partner with Peterson, Peterson & Goss

The Tax Reform Act of 1986 entitles self-employed persons to deduct 25 percent (25%) of the amount paid for health insurance for themselves, their spouses and their dependents against their trade or business income. The deduction will be allowed only if the self-employed person also provides health insurance for all employees in unincorporated trades or businesses of which he is a five percent owner. The health insurance for employees must be provided employees in a nondiscriminatory manner.

The deduction will not be permitted if the self-employed person or spouse is also



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eligible to participate in any subsidized health plan of another employee. In addition, any allowed deduction may not exceed the individual's net earnings from self-employment.

It is important to note that the amount of health insurance payments deducted from trade or business income is deductible for income tax purposes *only* and, therefore, does not reduce the income base for computation of the self-employed individual's social security tax.

This provision is effective for tax years 1987, 1988, 1989.

BLUE CROSS/BLUE SHIELD SEMI-ANNUAL ENROLLMENT

March is the scheduled semi-annual enrollment period for the WIBA BC/BS Health Care Plan for an effective date of April 1, 1987. The enrollment period, however has been extended for another month, through April, this year to allow more time to consider the BC/BS Choice Care option. The WIBA Board of Directors have approved adding the BC/BS Choice Care option for the WIBA members enrolled in the BC/BS plan. This could mean a savings of 10% on the current BC/BS premiums for those who choose the BC/BS Choice Care option. There are some stipulations in this plan that need to be carefully considered and understood before signing up for it, as it is in considering any new option. The coverage in Wichita under the BC/BS Choice Care option is restricted to two hospitals, Riverside Hospital and Wesley Hospital. There are other conditions that will be explained in the materials that will be mailed to all WIBA members with BC/BS. Other WIBA members and prospective WIBA members inquiring about BC/BS Choice Care should contact the local BC/BS Marketing Dept. at 269-3670 or the WIBA office at 943-2565 and information will be mailed to them.

Employees within a business are not restricted to the same BC/BS option which means they can select either the current plan or the Choice Care option of that plan. The WIBA contract only covers member businesses with five or less employees and 75% of the employees must be in a BC/BS plan. Employees in an HMO (Health Care Plus) are excluded from the employee count by federal law. It is possible to have BC/BS and Health Care Plus within a business as the health maintenance organization or HMO (Health Care Plus) as an option to a major insurance carrier which is BC/BS for WIBA.

ELECTION CANDIDATES

Information on the candidates for the Wichita City Council and the Wichita School Board has been mailed to all WIBA members. This information was based for the most part on the answers received back to a questionnaire mailed to them by WIBA. Not all responded. We hope this information was helpful before going to the polls March 3rd to vote in the primary election.

HAYDEN ESTABLISHES BUSINESS ACTION GROUP

A Governor's Business Action Group designed to assist small business in the state and attract new companies was announced by Governor Hayden Jan. 29.

"I want to emphasize that this is not just another ad hoc group interested in business," Hayden said. "We have set a goal of placing two companies each month for the next two years.

"While the work of this group of volunteer business leaders will be experimental, this type of hands-on, results-oriented approach is exactly what the small towns and communities in Kansas need."

Hayden said Fred Braun, a Kansas City, Kan. businessman, had volunteered to serve as chairman of the action group and would donate 30 hours each week for the next two years to the project.

"Kansas is an overwhelming small business state," Hayden said. "While other groups will focus on attracting foreign business and large-scale operations to Kansas, this entity will dedicate its attention to small business."

Hayden said small business demands attention because 78 percent of the state's businesses have fewer than 10 employees. In fact, 97 percent have fewer than 50 people on the payroll, and he said the small firms "in the long run, create more jobs in small towns and communities than large businesses.

"They form the backbone of our work to revitalize the Kansas economy," Hayden said.

Hayden said he picked Braun because of his successes: first as founder of TecTank, a small manufacturing company in Parsons; then as president of Zephyr Products in Leavenworth, a sheet metal products manufacturing company which uses 100 percent inmate labor from the state prison in Lansing; and finally, as owner of Heatron in Leavenworth, which manufactures electric heating elements.

"We need to nurture existing Kansas companies and encourage companies

outside the state to come to Kansas," Braun said.

Braun said he will encourage small business owners to move into small towns where 10 jobs "can really be a big factor and have an impact."

"We can be a catalyst for helping small businesses, whether they need equity money, training funds or management help," Braun said.

Braun also said he and his action group, about eight volunteers from various fields, may get involved financially if they see an opportunity to invest.

"PARENTAL LEAVE" BILL IS BACK!

This bill has been reintroduced in Congress and with the Democratic controlled congress it is going to be harder to defeat. Please write to the Kansas delegation and express your position. There was a good response last year from WIBA members and it is needed again NOW! Please send copies of your letters and the responses to the WIBA office, as it will help the WIBA Government Affairs Committee in dealing with the issue.

For details on the bill, please call the WIBA office and it will be mailed to you as soon as possible.

KANSAS U.S.

CONGRESSIONAL DELEGATION

Senators: (located in Washington, D.C.)

Robert Dole, SH141 Hart Senate Office Bldg., 20510. (202) 224-6521

Nancy L. Kassebaum, 302 Russell Senate Office Bldg., 20510. (202) 224-4774

Representatives: (located in Washington, D.C.)

1. Pat Roberts, 1314 Longworth House Office Bldg., 20515. (202) 225-2715

2. Jim Slattery, 1421 Longworth House Office Bldg., 20515. (202) 225-6601

3. Jan Meyers, 1407 Longworth House Office Bldg., 20515. (202) 225-2865

4. Dan Glickman, 1212 Longworth House Office Bldg., 20515. (202) 225-6216

5. Robert Whittaker, 332 Cannon House Office Bldg., 20515. (202) 225-3911



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Carmen G. Young 681-0887

McGee-Meyer Insurance Agency
564 S. Oliver, Wichita 67218-2324
Nathan Meyer 681-0374

Individuals of Wichita
1024 E. 1st St., Wichita 67214-3903
Mark Thompson 684-4194

Mid Western Mirror and Glass
712 E. 15th St., Wichita 67214-1306
Kathy Safford 267-0394

Oeding Financial Management Co.
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Lawrence I. Oeding 264-9129

Lane & Leslie Advertising Agency, Inc.
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Karen Lane 265-0882

Larry W. Byers Drywall
1901 Everett, Wichita 67213
Larry W. Byers 943-8567

Blades
650 N. Carriage Pkwy., Suite 90, Wichita 67208
Mary Stech 687-2755

Caster Plumbing Company
1556 Pattie, Wichita 67211
Eric Castor 264-1752

Mary MacBain and Company
142 N. Dellrose, Wichita 67208
Mary MacBain 682-3016

Sutch-A-Burger
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Jerry Sutch 686-1962

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Doug Harris 755-2575

Communication Disorder Specialists
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Kathy Steiner 684-2424

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Howard Burnison 522-8072

Lloyd Sharp Farm
R.R. #1, Box 88, Douglass 67039
Lloyd Sharp 746-2366

Bill Fry Auto Repair
1057 N. Ridgewood, Wichita 67208
Bill Fry 682-6473

TAX QUESTIONS AND ANSWERS FOR THE SMALL BUSINESS OWNER SEMINAR

The Small Business Development Center and The I.R.S. Community Outreach Tax Assistance Program is co-sponsoring a seminar Wednesday, March 11, 1987 from 7-10 p.m. at the WSU Marcus Center, Room 207 located at 4201 E. 21st Street. The fee is \$10.00 per person. These are some of the questions that will be answered:

1. How does the new tax law affect my small business?
2. How do I complete Schedule C (profit and loss from a business) and schedule SE (self employment income) form?
3. What records do I need to maintain regarding depreciation, a home office, business deductions, etc.?
4. How do I prepare quarterly reports?
5. In what type of pension plan can I participate?
6. What are the effects of tax deductions and taxable income on personal and business taxes?

Debbie DeBolt, Taxpayers Service Specialist, I.R.S. will be the instructor.

For more information and registration, please contact the Small Business Development Center at 689-3193.

TARGET \$50,000 FOR JOB TRAINING

Action to set aside \$50,000 in Job Training Partnership Act (JTPA) funds as an incentive for the attraction of new industry or the expansion of existing industry was taken February 4, by the Private Industry Council (PIC), according to Jim Grier III, PIC president and president of Utility Contractors, Inc., in Wichita.

"The Title IIA money can be utilized anywhere in a six county south central Kansas area which includes Butler, Cowley, Harper, Kingman, Sedgwick and Sumner Counties," explained Grier.

The \$50,000 must be utilized to offset training expenses, for new employees who

have been certified as JTPA eligible for whom contracts have been written between the employer and JTPA staff before employment. A popular training option is On-the-Job Training (OJT) where 50% of wages paid during the training process is reimbursed to the employer.

"The PIC's action was intended to more closely align PIC JTPA funds with other state and local incentives encouraging business growth. The funds will be available July 1, 1987."

Interested economic development organizations and businesses in the six counties mentioned above should write The Chamber, 350 West Douglas, Wichita, KS 67202 or call (316) 265-7771.

VENTURE CAPITAL FORUM and TECHNOLOGY EXPO APRIL 2-3

The Kansas Technology Enterprise Corp. will sponsor a venture capital conference in conjunction with the annual Kansas Technology Expo April 2nd and 3rd at the Wichita Airport Hilton. Investors and entrepreneurs will both pay fees to attend the conference and will sign non-disclosure agreements to protect the confidentiality of business information shared at the conference.

The Technology Expo will be a public exhibition featuring programs describing state initiatives to develop business in Kansas.

For more information, contact Kansas Technology Enterprise Corp. at 400 W. 8th, 5th Floor, Topeka, KS 66603 or phone (913) 296-5272.

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EUGENE L. SHORE

SENATE ASSESSMENT & TAXATION COMMITTEE: Testimony for March 18, 1987

Proponent for HB 2168 and HB 2169.

Kansas has long been recognized as the leader in production of general aviation aircraft. Not only are the industry giants such as Cessna, Beech, and Learjet located in Wichita, but a great deal of aviation history has occurred in other Kansas cities. Liberal, Newton, McPherson, Winfield, Coffeyville, and Salina also share aviation history. Aviation names such as Stearman, Bede, Ercoupe, Rowden, Funk, Stinson, Waco, as well as Beech, Cessna, Boeing, and Learjet are aviation pioneers with roots in Kansas.

Current Kansas tax policy discourages the restoration and preservation of Kansas aviation history by assessing a tax on the possible sale value of aircraft which is restored for display and recreational purposes. This tax policy is contrary to the practice we follow with antique autos. In visiting with the Department of Revenue I find a restored 1954 Corvette with a possible sale value of fifteen to twenty-five thousand dollars pays a tax of \$12 plus current registration, or a total of \$25 per year. In contrast a restored 1955 Cessna 170-B in Shawnee County with a sale value of ten to fifteen thousand dollars pays an annual tax of \$490.

Surrounding states recognize the historical value of restored aircraft by assessing a lower tax or registration fee. Fees for the same 170-B are:

Colorado	\$ 35	Oklahoma	\$ 8
Nebraska	\$170	Iowa	\$15
Missouri	\$155	Texas	\$100

Exhibit A attached to my testimony is a chart furnished to me by Lloyd J. Albert Jr., of Topeka, Kansas which shows the contrast in annual fees for eighteen different states. Of the eighteen states, Kansas is the highest by more than double the amount in any other state.

House Bill 2169 provides that aircraft thirty years old, or older, be exempted from the tax roll. House Bill 2168 provides for registration with the Department of Revenue - the same Department who registers antique autos. A registration fee of \$50 per year would be collected with \$35 to be returned to the county where the aircraft is located and \$15 deposited in the state general fund. Another House Bill introduced this session provides the aircraft be registered with the Department of Aviation and a fee of \$25 be collected and deposited in the state general fund.

Page 2

Testimony for 2/4/87

Eugene L. Shore

In visiting with the Director of Aviation in KDOT I find the Department of Aviation does not register aircraft so I believe it appropriate to register with the Department of Revenue. The registration fee of \$50 per year is about average for surrounding states. There are currently about 500 aircraft which fall in the antique aircraft category of 30 years or older and used for display and recreational purposes.

I believe passage of House Bills 2168 and 2169 would be fair legislation which would recognize the historic value of Kansas' past and hope for its aviation future.

1-5-87

TAXES PAID ON AIRCRAFT-
CESSNA-N-9465-A. THIS IS A
CESSNA 140-A MANUFACTURED IN
1949. 2-SEATS-GROSS WEIGHT
1500 POUNDS, -OWNED BY-

1978 - 47.24

1979 - 47.84

1980 - 51.96

1981 - 77.20

1982 - 227.82

1983 - 246.62

1984 - 250.74

1985 - 259.06

1986 - 326.86

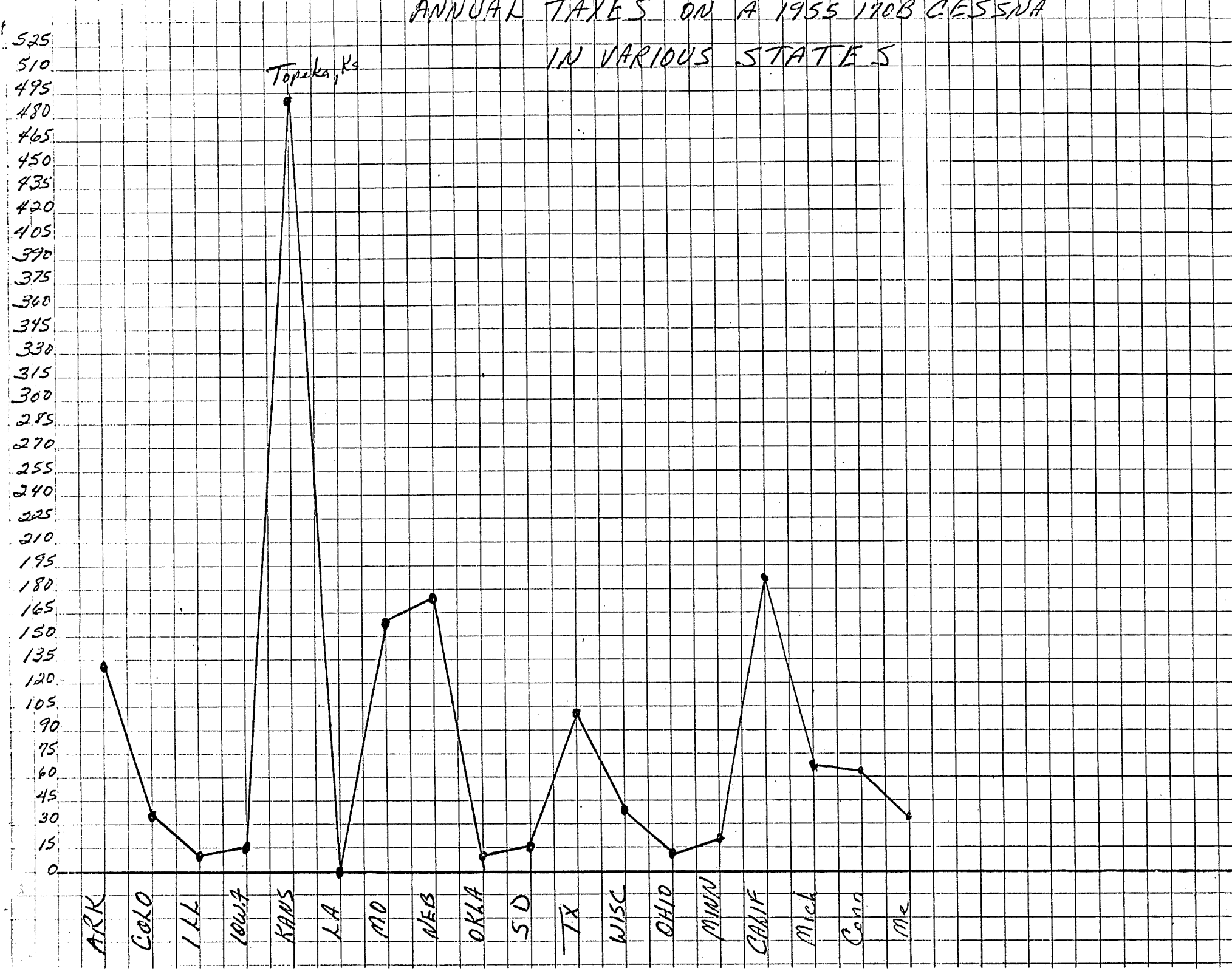
1535.34

Cecil Neal

CECIL L. NEAL
112650.45TH TERR.
K.C. - KS. - 66106
913-831-1465

NOTE:
N-9465-A -
C-140-A -
RETAIL COST
NEW LESS
THAN \$4000⁰⁰

ANNUAL TAXES ON A 1955 170B CESSNA IN VARIOUS STATES



TO: Senate Assessment and Taxation Committee

FROM: Lloyd J. Aubert, Jr. (Joe)
1800 High
Topeka, Kansas 66604
(913) 354-1331

DATE: March 18, 1987

RE: CURRENT LEGISLATION CONCERNING TAXATION ON ANTIQUE AIRCRAFT

I own a 1955 Cessna 170B airplane. When I received my last personal property tax statement I was shocked. The 1986 taxes on this 32 year old plane were \$490.93!

Inquiries to 170 owners in several surrounding states revealed that no state taxes private aircraft as heavily as Kansas does. Some states have personal property taxes, but they appear to be less than half of what mine are.

Many states have a minimal state registration fee of \$10 to \$15 in lieu of property taxes. Some states tax their aircraft on weight or a diminishing amount based on the purchase price of the aircraft. All of these amounts are very equitable and minimal. Wisconsin, Iowa and Oklahoma, being aviation minded states, have a special category and a flat registration fee for "antique aircraft." Colorado has two aircraft taxes. One is figured on the retail price, the other on gross weight of the plane. If I lived in Colorado my total annual tax bill would be in the neighborhood of \$40. Copies of the laws in these states are attached, as well as a graph showing the comparative taxes on a 1955 Cessna 170B in various states. As you can see, Kansas taxes are ridiculously high.

In Kansas mil levies vary from county to county, as do the city levies. Consequently, under the present system of aircraft taxing, tax bills vary -- the taxing rates being higher in the more populated counties; much higher, in fact, than the taxing rate on a comparable aircraft in any state I have contacted. Admittedly mine are probably as high or higher than any in the state on a Cessna 170B because of the mil levy in Topeka. Taxes on the many Aeroncas, T-Crafts, Ercoupes, etc. are probably in the \$100 to \$150 range. Apparently some counties have different "books" of aircraft values resulting in higher or lower taxes, depending on where one lives.

The older aircraft are being unjustly taxed by virtue of their antique or classic status. Any other motorized piece of equipment depreciates as it becomes older. A road vehicle 30 years old is taxed at a minimum. Such is not the case with our airplanes. For the last 15 years or so their values have increased due to their diminishing numbers. A plane that sold for \$8600 new in 1955 is now said to have a current retail value of \$13,000, although 15 years ago the same plane had a value of \$5000. One man has had his 1949 Cessna 140A model since 1961. It sold new for \$4000. He gave \$3000 for it in 1961. Having been owned by an oil company, the plane had 8800 hours on it -- or the equivalent of almost a million miles. That same plane has now increased in so-called book value to almost \$9000. Consequently, his taxes have risen from a modest \$47 in 1978 to \$326 in 1986 -- an 800% increase in eight years.

Under the present system of taxing aircraft, how does one arrive at a value on a Waco, Ryan, Fleet, Stinson, Inland, Monocoupe, Aeronca, Cessna, Piper, Beechcraft, Stearman, Luscombe, or any other type built before World War II? The market book Kansas uses does not list any planes built prior to 1946. Thus, some taxes are estimated. This is a very haphazard method indeed.

Wisconsin, home of the Experimental Aircraft Association and their Antique/Classic Division, and Iowa, home of the Antique Airplane Association of America, have deemed it fitting and proper to set aside a special flat tax rate for the "antiques." Oklahoma, having two large Antique Airplane Association chapters in Oklahoma City and Tulsa, has followed suit and established an antique category with the subsequent flat tax rate of \$10 per year. (See attached copies.)

Kansans are proud of the rich aviation history made by Walter Beech, Clyde Cessna, Lloyd Stearman, Matty Laird and others. Yet Kansas remains the highest aircraft taxing state in the nation as it applies to private aircraft.

Most of the older planes are bought or sold from one person to another. Dealers are rarely involved. So how can you say what an airplane is worth? Many older planes are purchased in what we call "basket cases." They are simply a trailer load of parts and pieces. After someone spends years lovingly bringing an old plane back from the dead and restoring it to new condition, why must he then be taxed so heavily for his dedication?

If I keep my 1955 170B eight more years it will be 40 years old. At the present taxing rate, I will pay almost \$5000 taxes on it. What would the limit be?

The motto of the Antique Airplane Association is "Keep the Antiques Flying." The objective of the Antique/Classic Division of the EAA, which has over 8000 members nation wide, is to "encourage and aid the restoration and flying of antique and classic aircraft." Because of our method of taxing old planes, members of these organizations who live in Kansas certainly have a burden placed on them unknown in other states, unless they have a business to hide them in.

Inside the front cover of the Kansas Airport Directory are seven points on the policy statement on aviation requested of the Secretary of Transportation. One of these points is "Programs to promote aviation in Kansas." I would like to believe that a more realistic and equitable tax on our old planes would have some bearing on promoting aviation in Kansas. One man in Wichita wrote and told me that he had sold his plane because the taxes made it too expensive to own.

There are 5680 aircraft registered with the FAA as of October 1986. This includes over 2300 corporation planes (which are not taxed as we are), all government and individual planes. Of this number, 781 are 30 years old or older. Taking into consideration as many as 200-300 of these are nothing but a collection of parts used to supply others who are rebuilding or restoring their planes or planes they wish to restore someday, only 500 or so are in flying condition, and some of these are business aircraft. Thus, state wide we are not talking about much of a loss of revenue. In Shawnee County where I live, there are 218 aircraft, according to FAA records. Twenty-eight of these are 30 years old or older, eight are dismantled--at least no one has ever seen them, three or four are in a museum, and at least three are in various stages of being rebuilt. This leaves 13 or 14 in flying condition. The loss of revenue to Topeka and Shawnee County would be less than \$3000. Actually, with a state registration system and subsequent \$50 fee, the state would realize a gain. The state's share of my current \$490.93 tax bill is only \$4.19. Plane owners near our borders have an advantage. A few of them base their planes in neighboring states where taxes are cheaper. Kansas should not have taxes so high that this situation is encouraged.

Senate Assessment and Taxation Committee
March 18, 1987
Page Three

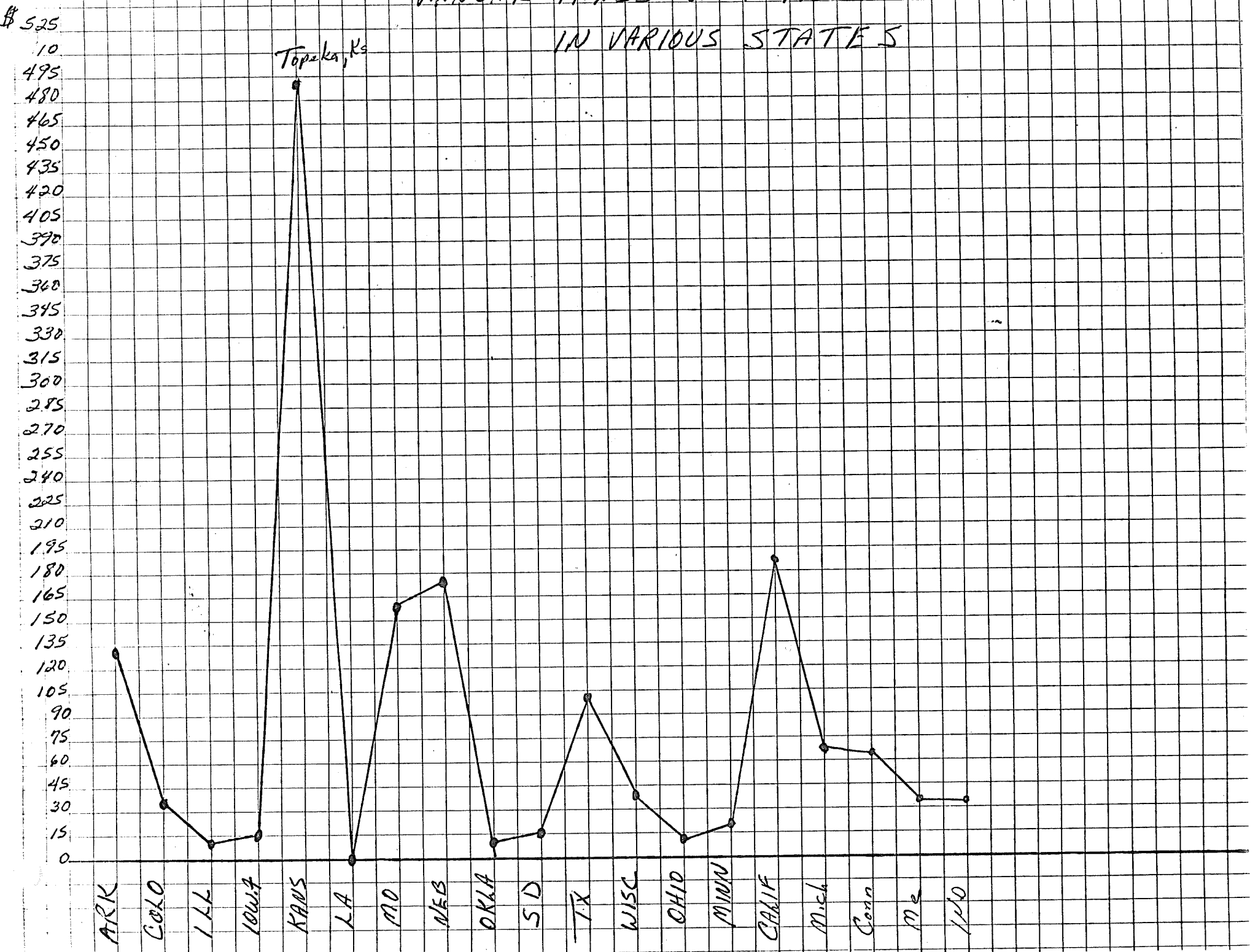
I do not have the resources to conduct a complete financial impact study, but as far as the financial impact -- what impact did the state incur when the legislature exempted business aircraft? Am I to believe the various cities and counties' financial stability rests on the shoulders of antique airplane owners? Do you believe if we plane owners in Shawnee, Johnson, Sedgwick, Wyandotte and other counties were to sell our planes out of state that those counties would have to shut down? Possibly we should do a study on how these other states operate. If they do alright with a fair taxing rate on aircraft, why can't Kansas?

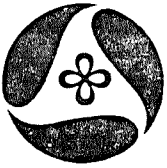
I do not like the idea of a state registration system. I would prefer that our old planes be depreciated out over a period of 15 to 20 years such as cars, trucks, boats, etc. and we pay our taxes accordingly or even exempt them totally after 30 years; however this seems to be the only way out of this unfair taxing situation.

Many of us have complained to our county assessors and have been told to go see the legislature. That is what we have done and why we are here today. We ask your help in supporting H.B. 2168 and H.B. 2169 concerning taxation on antique aircraft so that owners of antique and classic airplanes can be proud that Kansas is known as the "Air Capitol of the World" rather than having it said that Kansas is the "Aircraft Tax Capitol of the World."

Thank you.

ANNUAL TAXES ON A 1955 170B CESSNA IN VARIOUS STATES





Iowa Department of Transportation

State Capitol, Des Moines, Iowa 50319

515/281-4280

December 2, 1986

Lloyd J. Aubert Jr.
1800 High
Topeka, KS 66604

Dear Mr. Aubert:

Per your request for information on aircraft registration in Iowa, I am enclosing a copy of "Iowa Laws Pertaining to Aeronautics." Pages 4 through 8 contain our laws on aircraft registration.

Any aircraft thirty years old, or older, is registered as an antique. Registration fees for all other civil aircraft are based on the manufacturer's list price as described in 328.21.

If you have further questions on our aircraft registration procedures, please do not hesitate to call me.

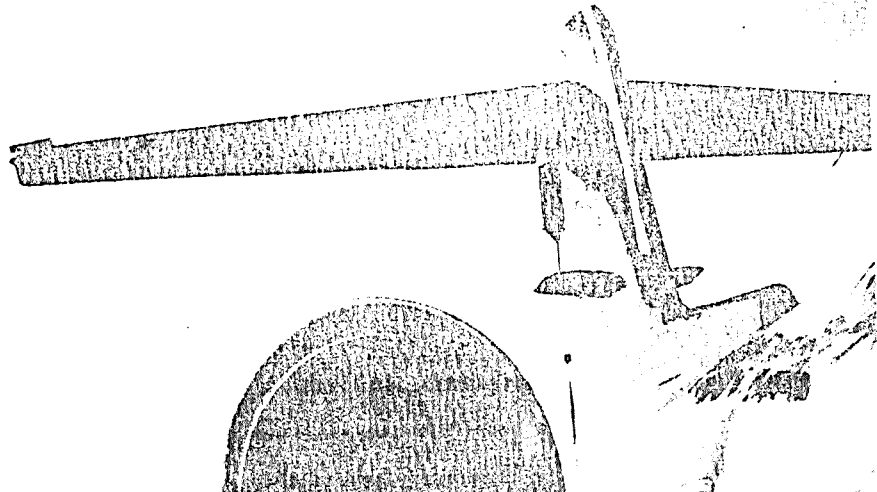
Sincerely,

A handwritten signature in cursive script that reads "Kathleen Robinson".

Kathleen Robinson
Program Administrator
Air and Transit Division

KR:tmw

Enclosure



Iowa Lewis Penalties to
Aeronautics



Iowa Department
of Transportation
www.aeronautics.iowa.gov

§328.21. AERONAUTICS

1. Unless otherwise provided in this section, for the first registration, a sum equal to one and one-half percent of the manufacturer's list price of the aircraft.

2. After said aircraft has been registered once the registration fee shall be seventy-five percent of the rate as fixed for the first registration; after two times fifty percent; and after three times twenty-five percent; provided, however, that no aircraft shall be registered for a registration fee of less than fifteen dollars.

3. Where there is no delinquency and the registration is made in August or succeeding months to and including May, the fee shall be computed on the basis of one-twelfth of the annual registration fee multiplied by the number of the unexpired months of the year and said amount shall be the fee collected. No fee shall be required for the month of June for a new aircraft, in good faith delivered in that month, providing said aircraft is registered at the time of purchase for the following year.

4. The registration fee for an aircraft operated in scheduled interstate airline operation, owned by an Iowa person and operated part-time within this state shall be a fee of thirty-five dollars. The application for registration shall be supported by such records as the department shall prescribe.

5. Should the department find and determine that no established manufacturer's list price exists for any such aircraft the department is hereby authorized and empowered to determine and fix the fair value of such aircraft which fair value shall be used in lieu of a manufacturers' list price in computing the registration fee for each such aircraft as otherwise provided by this section.

When the fee as so computed results in a fractional part of a dollar, it shall be computed to the nearest quarter of a dollar.

6. Any aircraft thirty years old, or older, which is used exclusively for noncommercial purposes shall be registered as an antique aircraft for a registration fee of fifteen dollars. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.21]

Referred to in §328.26

328.22 Used aircraft. When an aircraft other than new is registered in Iowa the age of the aircraft in years calculated to the nearest anniversary of the date of manufacture shall be construed as the number of times previously registered, and reduction of the registration fee computed accordingly. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.22]

Referred to in §328.25

328.23 Credit on registration fees. There shall be credited upon the registration fee due for the registration of any aircraft pursuant to the provisions of this chapter, except aircraft used for the application of herbicides and pesticides, any tax, registration fee, or license fee levied upon or charged for said aircraft and paid to any other state, and the registration fee due and to be collected pursuant to the provisions of this chapter, shall be reduced by the amount of said tax, registration fee or license fee, upon the presentation of the official receipt therefor with the application for registration. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.23]

328.24 Refunds of fees. If, during the year for which an aircraft, except nonresident aircraft used for the application of herbicides and pesticides, was registered and the required fee paid the aircraft is destroyed by fire or accident or junked, and its identity as an aircraft entirely eliminated, or it is removed and continuously used beyond the boundaries of the state, then the owner in whose name it was registered at the time of destruction, dismantling, or removal from the state shall return the certificate of registration to the department within ten days and make affidavit of such destruction, dismantling, or removal and make claim for the refund. The refund shall be paid from the state aviation fund.

The registration fee for the unexpired portion of the year shall be refunded pro rata to the nearest full calendar month. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.24]

328.25 Fees in lieu of taxes. The registration fees imposed by this chapter upon aircraft shall be in lieu of all taxes, general or local, except state sales or use tax, to which aircraft might otherwise be subject. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.25]

328.26 Application for registration. Every application for registration pursuant to sections 328.19 to 328.22 shall be made upon such forms, and shall contain such information, as the department may prescribe, and every application shall be accompanied by the full amount of the registration fee. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.26]

328.27 Issuance of certificates. The department shall forthwith cause to be issued, upon receipt of proper application and fee for registration, a certificate of registration which shall be numbered and recorded by the department, shall state the name and address of the person to whom it is issued, shall be entitled with the designation of the class of registrant covered thereby and shall contain such other information as the department may prescribe including, in the case of aircraft, a description thereof. Every certificate of registration or special certificate issued hereunder shall expire at midnight on the thirtieth day of June of each year. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §328.27]

328.28 Operation under special certificate. A manufacturer or dealer owning any aircraft otherwise required to be registered hereunder may operate the same for purposes of transporting, testing, demonstrating, or selling the same without registering each such aircraft, upon condition that any such aircraft display therein a special certificate issued to such owner as provided in this section and sections 328.29 to 328.33.

A transporter may operate any such aircraft solely for the purpose of delivery upon likewise displaying therein, a special certificate issued to him as provided in these sections.

The provisions of this section and sections 328.29 to 328.33 shall not apply to aircraft owned by manufacturer, transporter, or dealer, which are used for hire or principally for transportation of persons and property, aside from the transporting of the aircraft itself.

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December 3, 1986

Lloyd J. Aubert, Jr.
1800 High Street
Topeka, Kansas 66604

Dear Mr. Aubert:

In response to your question regarding the taxation of private aircraft, section 41-2-106, Colorado Revised Statutes (see attached), imposes a specific ownership tax based on a percentage of the average retail price of an aircraft or on a percentage of its annual registration fee.

The county clerk and recorder of a county (or, if based in Denver, the manager of revenue of the City and County of Denver) in which the aircraft has its fixed base determines the aircraft ownership tax based on its years of service and the aircraft's average retail price (the latest aircraft bluebook price).

- First year. There is a tax of three percent of four percent of the current average retail price.
- Second year. There is a tax of three percent of three and one-half percent of its average retail price.
- Third year. There is a tax of three percent of three percent of the average retail price.
- Fourth year. A tax of three percent of two and one-half percent of the average retail price is collected.
- Fifth year. A tax of three percent of two percent of the average retail price is collected.
- Sixth year. A tax of three percent of one and one half percent of the average retail price is collected.
- Seventh and successive years. There is a tax of three percent of one percent of the average retail price, but a tax of not less three dollars.

For aircraft that are not listed in the aircraft bluebook publication the specific ownership tax is based on a percentage of its registration fee. The registration fee is based upon the maximum certified takeoff weight of an aircraft from the FAA type certificate data sheet or supplement type certificate data sheet as follows: 1) for aircraft less than three thousand pounds the fee is five dollars per five hundred pounds; 2) for aircraft weighing between three thousand and six thousand pounds the fee is eight dollars per five hundred pounds; 3) for aircraft between six thousand and twelve thousand pounds the fee is twenty dollars per five hundred pounds; and 4) for aircraft that is twelve thousand pounds or more a fee of forty dollars per five hundred pounds must be paid.

The method for determining the specific ownership tax for aircraft that do not have published average retail prices is set forth below.

--For an aircraft's first year of service the tax is twenty-five percent of the annual registration fee.

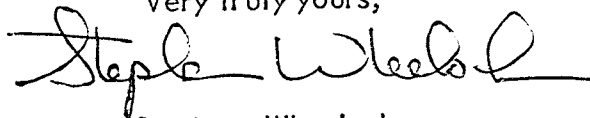
--For the second year the tax is twenty percent of such fee.

--For the third year the tax is fifteen percent of such fee.

--For the fourth year and the successive years thereafter the tax is ten percent of such fee.

I hope this information is helpful to you. If you need additional information you should contact a local county clerk and recorder.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen Wheelock". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen Wheelock
Sr. Research Assistant



U.S. Department
of Transportation
**Federal Aviation
Administration**

Flight Standards District Office
FAA Building, Room 103
1801 Airport Road
Wichita, Kansas 67209

NOVEMBER 18, 1986

Lloyd J. Aubert, Jr.
1800 High
Topeka, Kansas 66604

Dear Mr. Aubert;

This letter concerns your inquiry dated November 13, 1986 in regards to antique aircraft.

I have enclosed that portion of the regulation that speaks to antique aircraft, it is found in Federal Aviation Regulation 45 subpart 45.22 (3) (b).

If I can be of further help please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Noel J. Gary".

Noel J. Gary
Supervisor (Airworthiness)

Enclosure



50 Years of Air Traffic Control Excellence
A Standard for the World

fied in the Airworthiness Limitations section of a Manufacturer's Maintenance Manual or Instructions for Continued Airworthiness shall mark that component with a part number (or equivalent) and serial number (or equivalent).

[Amdt. 45-12, 45 FR 60183, Sept. 11, 1980]

§ 45.15 Replacement and modification parts.

(a) Except as provided in paragraph (b) of this section, each person who produces a replacement or modification part under a Parts Manufacturer Approval issued under § 21.303 of this chapter shall permanently and legibly mark the part with—

- (1) The letters "FAA-PMA";
- (2) The name, trademark, or symbol of the holder of the Parts Manufacturer Approval;
- (3) The part number; and
- (4) The name and model designation of each type certificated product on which the part is eligible for installation.

(b) If the Administrator finds that a part is too small or that it is otherwise impractical to mark a part with any of the information required by paragraph (a) of this section, a tag attached to the part or its container must include the information that could not be marked on the part. If the marking required by paragraph (a)(4) of this section is so extensive that to mark it on a tag is impractical, the tag attached to the part or the container may refer to a specific readily available manual or catalog for part eligibility information.

[Amdt. 45-8, 37 FR 10660, May 26, 1972, as amended by Amdt. 45-14, 47 FR 13315, Mar. 29, 1982]

Subpart C—Nationality and Registration Marks

§ 45.21 General.

(a) Except as provided in § 45.22, no person may operate a U.S.-registered aircraft unless that aircraft displays nationality and registration marks in accordance with the requirements of this section and §§ 45.23 through 45.33.

(b) Unless otherwise authorized by the Administrator, no person may place on any aircraft a design, mark, or symbol that modifies or confuses the nationality and registration marks.

(c) Aircraft nationality and registration marks must—

- (1) Except as provided in paragraph (d) of this section, be painted on the aircraft or affixed by any other means insuring a similar degree of permanence;
- (2) Have no ornamentation;
- (3) Contrast in color with the background; and
- (4) Be legible.

(d) The aircraft nationality and registration marks may be affixed to an aircraft with readily removable material if—

- (1) It is intended for immediate delivery to a foreign purchaser;
- (2) It is bearing a temporary registration number; or
- (3) It is marked temporarily to meet the requirements of § 45.22(c)(1).

(Sec. 1202, 72 Stat. 749, 49 U.S.C. 1522)
[Doc. No. 8093, Amdt. 45-5, 33 FR 450, Jan 12, 1968]

§ 45.22 Exhibition, antique, and other aircraft: Special rules.

(a) When display of aircraft nationality and registration marks in accordance with §§ 45.21 and 45.23 through 45.33 would be inconsistent with exhibition of that aircraft, a U.S.-registered aircraft may be operated without displaying those marks anywhere on the aircraft if:

- (1) It is operated for the purpose of exhibition, including a motion picture or television production, or an airshow;
- (2) Except for practice and test flights necessary for exhibition purposes, it is operated only at the location of the exhibition, between the exhibition locations, and between those locations and the base of operations of the aircraft; and
- (3) For each flight in the United States:
 - (i) It is operated with the prior approval of the General Aviation District Office, in the case of a flight within the designated airport control zone of the takeoff airport, or within 5 miles

of that airport if it has no designated control zone; or

(ii) It is operated under a flight plan filed under § 91.83 of this chapter describing the marks it displays, in the case of any other flight.

(b) A small U.S.-registered aircraft built at least 30 years ago or a U.S.-registered aircraft for which an experimental certificate has been issued under § 21.191(d) or 21.191(g) for operation as an exhibition aircraft or as an amateur-built aircraft and which has the same external configuration as an aircraft built at least 30 years ago may be operated without displaying marks in accordance with §§ 45.21 and 45.23 through 45.33 if:

(1) It displays in accordance with § 45.21(c) marks at least 2 inches high on each side of the fuselage or vertical tail surface consisting of the Roman capital letter "N" followed by:

- (i) The U.S. registration number of the aircraft; or
- (ii) The symbol appropriate to the airworthiness certificate of the aircraft ("C", standard; "R", restricted; "L", limited; or "X", experimental) followed by the U.S. registration number of the aircraft; and

(2) It displays no other mark that begins with the letter "N" anywhere on the aircraft, unless it is the same mark that is displayed under paragraph (b)(1) of this section.

(c) No person may operate an aircraft under paragraph (a) or (b) of this section—

- (1) In an ADIZ or DEWIZ described in Part 99 of this chapter unless it temporarily bears marks in accordance with §§ 45.21 and 45.23 through 45.33;
- (2) In a foreign country unless that country consents to that operation; or
- (3) In any operation conducted under Part 121, 127, 133, 135, or 137 of this chapter.

(d) If, due to the configuration of an aircraft, it is impossible for a person to mark it in accordance with §§ 45.21 and 45.23 through 45.33, he may apply to the Administrator for a different marking procedure.

(Sec. 1202, 72 Stat. 749, 49 U.S.C. 1522)
[Doc. No. 8093, Amdt. 45-5, 33 FR 450, Jan. 12, 1968, as amended by Amdt. 45-13, 46 FR 48603, Oct. 1, 1981]



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unit of the Civil Air Patrol;

5. Aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft; and

6. Aircraft not currently licensed or holding a current airworthiness certificate by the Federal Aviation Administration.

Added by Laws 1976, c. 258, § 3.

1 Section 254 of this title.

Notes of Decisions

1. Construction and application

The provisions of this Act are prospective only and, therefore, aircraft purchased after the effective

date of the act are subject to the registration fees and taxes provided in § 255 of this act on a prorated basis. Op.Atty.Gen. No. 76-372 (Dec 6, 1976).

§ 254. Application for registration

A. Except as otherwise provided in this act, every owner or person in charge of an aircraft which shall be operated on or from any airport of any type in this state shall for each such aircraft cause to be filed by mail or otherwise with the Oklahoma Tax Commission a certified application for registration of same, on a form to be furnished for that purpose, containing:

1. A description of each aircraft to be registered including the name of the manufacturer, aircraft registration number, type and gross weight; and

2. The name and address of the owner of such aircraft and the county where aircraft is based. The legal basis for determining the county where said aircraft is based shall be the location and/or address on the Federal Aviation Administration Certificate of Registration for said aircraft.

B. Registration requirements shall not apply to aircraft based or operated in the state for less than thirty (30) days.

C. 1. All dealers in the sale of aircraft shall be exempt from registration requirements upon purchase of an "exemption license" from the Oklahoma Tax Commission, cost of which shall be Two Hundred Fifty Dollars (\$250.00). This exemption shall not apply to dealers' personal aircraft.

2. Dealers' "sales aircraft" shall be exempt from payment of ad valorem tax and registration fees and taxes as provided in Section 256 of this title upon certification to the Oklahoma Tax Commission that each particular aircraft is used for delivery and demonstration purposes only.

D. All manufacturers of aircraft shall be exempt from registration requirements upon purchase of an "exemption license" from the Oklahoma Tax Commission, cost of which shall be Two Hundred Fifty Dollars (\$250.00).

E. Registrants not having purchased registration certificates in January will be penalized at the rate of twenty cents (\$0.20) per day in February and doubled on the first day of March.

Added by Laws 1976, c. 258, § 4. Amended by Laws 1985, c. 341, § 4, eff. Jan. 1, 1986.

Notes of Decisions

1. Construction and application

Under this section providing that registrants not having purchased aircraft registration certificates in January "will be penalized at the rate of twenty cents (\$0.20) per day in February and doubled on the first day of March," the registration fee for aircraft doubled on the first day in March, rather than the penalty increasing to 40¢ per day on that date. Cimarron Industries, Inc. v. Oklahoma Tax Commission, Okl., 621 P.2d 539 (1980).

Where title 68, § 226 provided that it should be construed to provide a remedy where taxes complained of were unlawful burden on interstate commerce or violative of acts of Congress or the United States Constitution, or in cases where jurisdiction was vested in any of the courts of the United States, and none of those criteria were raised or present in case concerning penalties due for late registration of aircraft, the judicial remedy was not available and taxpayer should have been compelled to exhaust administrative remedies otherwise provided. Id.

A. Upon receipt of an application for the registration of an aircraft, as herein provided, the Oklahoma Tax Commission shall file such application and register such aircraft with the name and address of the owner, manufacturer or dealer, as the case may be, together with facts stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such aircraft, which book or index shall be open for the inspection of the public during business hours.

B. Upon the filing of such application and the payment of the fee herein provided for, the Oklahoma Tax Commission shall assign to that aircraft the distinctive license number used by the federal government to identify that aircraft, and issue and deliver to the owner certificates of registration number to be posted in a conspicuous place at the discretion of the owner of such aircraft. Such certificates shall display the outline of the State of Oklahoma imprinted thereupon. Such certificates shall be subject to inspection by the Oklahoma Tax Commission.

C. In the event of loss, mutilation or destruction of a certificate of registration, the owner of a registered aircraft may obtain from the Oklahoma Tax Commission a duplicate thereof upon filing with the Oklahoma Tax Commission an affidavit showing the facts and upon the payment of a service charge of One Dollar (\$1.00) for each duplicate.

D. Such registration shall be renewed annually, as in the registration of automobiles, and in the same manner and upon payment of the same fee as provided for the original aircraft registration.

E. The sale of registration certificates for aircraft shall be by the Oklahoma Tax Commission and its agents. Provided, that monies to be paid for processing or services for the sale of registration certificates shall be deducted from the fees provided by the scheduled rates.

F. Registration of aircraft may be transferred upon payment of a fee of Ten Dollars (\$10.00).

Added by Laws 1976, c. 258, § 5. Amended by Laws 1985, c. 341, § 5, eff. Jan. 1, 1986.

Notes of Decisions

1. Construction and application

Under § 254 of this title providing that registrants not having purchased aircraft registration certificates in January "will be penalized at the rate of twenty cents (\$0.20) per day in February and doubled on the first day of March," the registration fee for aircraft doubled on the first day in March, rather than the penalty increasing

to 40¢ per day on that date. Cimarron Industries, Inc. v. Oklahoma Tax Commission, Okl., 621 P.2d 539 (1980).

The provisions of this act are prospective only and, therefore, aircraft purchased after the effective date of the act are subject to the registration fees and taxes provided in § 255 of this act on a prorated basis. Op.Atty.Gen. No. 76-372 (Dec. 6, 1976).

§ 256. Registration fees—Schedule and rates

A. Registration fees and taxes on aircraft shall be paid to and collected by the Oklahoma Tax Commission and its agents in the same manner as registration fees and taxes are paid and collected on automobiles.

The registration and reregistration of aircraft shall be subject to the following schedule and rates:

1. Single-engine piston aircraft shall be taxed according to the following Schedule "A":

SCHEDULE "A"	
WEIGHT IN POUNDS	FEE
Less than 1,750	\$ 20.00
1,751 through 2,500	\$ 35.00
2,501 through 3,500	\$ 55.00
3,501 through 4,500	\$ 75.00
4,501 through 5,500	\$ 95.00
5,501 through 6,500	\$ 115.00
6,501 through 8,500	\$ 135.00

WEIGHT IN POUNDS

- 8,501 through 10,000
- 10,001 through 13,000
- 13,001 through 17,000
- 17,001 through 20,000
- 20,001 through 25,000
- 25,001 through 30,000
- 30,001 through 40,000
- 40,001 through 50,000
- 50,001 through 75,000
- 75,001 through 100,000
- 100,001 and over

FEE

- \$ 185.00
- \$ 230.00
- \$ 265.00
- \$ 300.00
- \$ 375.00
- \$ 500.00
- \$ 625.00
- \$ 750.00
- \$1,000.00
- \$1,250.00
- \$1,500.00

Approved June 9, 1986. Emergency.
 Section 60 of Laws 1986, c. 223 provides for an operative date.
 Section 4 of Laws 1984, c. 221 provides for an operative date.

tive date of the act are subject to the registration fees and taxes provided in § 255 of this act on a prorated basis. Op.Atty.Gen. No. 76-372 (Dec. 6, 1976).

Notes of Decisions

1. Construction and application
 The provisions of this act are prospective only and, therefore, aircraft purchased after the effective date of the act are subject to the registration fees and taxes provided in § 255 of this act on a prorated basis. Op.Atty.Gen. No. 76-372 (Dec. 6, 1976).

§ 256.1. Lien filing fee—Agency special account

2. Rotary-wing aircraft shall be taxed at two times the Schedule "A" fee, based on the same weight classifications.

3. Multiengine piston aircraft shall be taxed at three times the Schedule "A" fee based on the same weight classifications.

4. Turbo-prop aircraft shall be taxed at six times the Schedule "A" fee, based on the same weight classifications.

5. Turbo-jet aircraft shall be taxed at ten times the Schedule "A" fee, based on the same weight classifications.

6. Antique aircraft as defined by the Federal Aviation Administration, sailplane balloons, and home-built aircraft shall be subject to a flat-rate fee of Ten Dollars (\$10.00).

7. The fees of this subsection, except those in paragraph 6 of this subsection shall be reduced at a rate of ten percent (10%) each year following the date of manufacture until the fee is equal to fifty percent (50%) of the original fee, which shall then be the fee for each year thereafter.

8. Every aircraft owner shall have the right to appeal the assessment of the fee as provided for in this subsection, and the Oklahoma Tax Commission shall appraise the aircraft and its avionics as personal property at the fair market value thereof and shall apply a twelve-percent assessment rate which shall be levied at the appropriate county millage rate.

B. Aircraft purchased after January 1 of each year and subject to registration a provided for in this section shall be registered and taxed on a prorated basis. Registration fees and taxes shall be in lieu of all aircraft ad valorem taxes. All such monies collected shall be paid to the Oklahoma Tax Commission and disbursed as follows:

1. Three percent (3%) of all such funds shall be paid to the State Treasurer for deposit to the credit of the General Revenue Fund of the State Treasury; and

2. Ninety-seven percent (97%) of said registration fees and taxes except as provided for in paragraph 3 of this subsection shall be apportioned to the counties in the following manner:

The Oklahoma Tax Commission shall determine for each county the proportion thereof which equals ninety-seven percent (97%) of such registration fees and taxes collected on aircraft in each county, and the amount so determined for each county shall be transmitted monthly to the county treasurer of said county and allocated to functions within the county in the same manner and proportion as is revenue from ad valorem taxes within said county; and

3. Beginning on and after July 1, 1984, through December 31, 1984, the disbursement of funds to each county as provided for in paragraph 2 of this subsection shall be reduced by one and one-half percent (1½%) of said fees and taxes. Said one and one-half percent (1½%) of said fees and taxes shall be deposited by the Tax Commission into an agency special account to be created by the Special Agency Account Board. On and after January 1, 1985, said one and one-half percent (1½%) of said fees and taxes shall be disbursed to the counties as provided for in paragraph 2 of this subsection.

A. The Oklahoma Tax Commission is hereby authorized to require the owner of each aircraft to pay a filing fee for the purpose of filing necessary liens with the Federal Aviation Administration when any registration fees required to be paid by said owner pursuant to the provisions of Section 256 of Title 3 of the Oklahoma Statutes, or taxes levied pursuant to the provisions of Title 68 of the Oklahoma Statutes shall become delinquent. Said fee shall not exceed the actual cost of filing said liens with the Federal Aviation Administration and shall be collected in the same manner as said liens are collected.

B. The Special Agency Account Board is hereby directed to create an agency special account in which shall be deposited all monies derived pursuant to the provisions of paragraph 3 of subsection B of Section 256 of Title 3 of the Oklahoma Statutes and all monies derived pursuant to the provisions of this section. All monies accruing to the credit of said account may be budgeted and expended by the Oklahoma Tax Commission for the purpose of paying for filing all necessary liens with the Federal Aviation Administration.

The amount of any balance of said agency special account in excess of Four Thousand Dollars (\$4,000.00) at the close of each fiscal year shall revert to the General Revenue Fund of this state to be paid out pursuant to direct appropriation by the Legislature.

Added by Laws 1984, c. 221, § 2, operative July 1, 1984.

Library References
 Aviation 10.

C.J.S. Aeronautics and Aerospace §§ 31 to 41, 52 to 55.

§ 257. Rules and regulations

Authority is hereby given to the Oklahoma Tax Commission and the Department of Public Safety to promulgate rules and regulations for the purpose of regulating and enforcing this act.

Added by Laws 1976, c. 258, § 7.

30 yrs old as per FAA

CHAPTER 114

AERONAUTICS

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114.002	Definitions.	114.151	Union airports.
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114.001 Definitions. In this chapter:

(1) "Department" means the department of transportation.

(3) "Secretary" means the secretary of transportation.

History: 1977 c. 29.

114.002 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft: the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics; but excludes any instructor in a public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, only in the performance of his duties at such school, university or institution.

(3) "Aircraft" means any contrivance invented, used or designed for navigation of or flight in the air.

(4) "Aircraft dealer" means any person who has an established place of business on an airport located in this state which is open to the public and listed in the airport directory in the federal airman's information manual, and who is engaged in:

(a) The manufacture of aircraft.

(b) The distribution or sale of new aircraft under authority of a franchise, license, letter of authority, agreement or other arrangement from the manufacturer or the authorized agent of the manufacturer.

(c) The sale of used aircraft to ultimate purchasers through ordinary trade channels.

(5) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control-tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers or appliances to perform duties as inspector or mechanic in connection therewith, or any individual per-

forming inspection with

(6) "Air n... other th... United State... designed for... any struc... markers, co... strumentalit... aid, or con... nience to t... landing of a... operation of... any combine

(7) "Airp... water which... landing and... tenant areas... for airport t... or rights-of-v... ings and faci

(8) "Airp... object of nat... obstructs the... aircraft in lai... is otherwise... ing off.

(9) "Air s... structor who... as giving or c... or ground s... and any per... holds out as... tion in flying... aeronautics... reward; but... university, or... accredited a... legiate work

(10) "Am... craft the m... fabricated a... undertook t... education or

(11) "Ant... more than 3... date of manu... recreational

(12) "Dea... as business ir... demonstratic

(13) "Est... permanent... books and r... aircraft deal... written lease... aircraft deal... that location

forming inspection or mechanical duties in connection with aircraft owned or operated by him.

(6) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(7) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(8) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(9) "Air school" means any aeronautics instructor who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics; and any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, or university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(10) "Amateur built aircraft" means an aircraft the major portion of which has been fabricated and assembled by a person who undertook the construction project solely for education or recreation.

(11) "Antique aircraft" means an aircraft more than 35 years old as determined by the date of manufacture and which is used solely for recreational or display purposes.

(12) "Dealer aircraft" means an aircraft held as business inventory for sale and used only for demonstration purposes.

(13) "Established place of business" means a permanent office facility where dealership books and records are maintained which the aircraft dealer either owns or occupies under a written lease with the airport owner giving the aircraft dealer the privilege of selling aircraft at that location.

(14) "Gross weight" means the gross or maximum takeoff weight for an aircraft make and model as designated by the manufacturer.

(15) "Municipality" means any county, city, town or village of this state.

(16) "Museum aircraft" means an aircraft designated under s. 114.20 (4) and which is owned or held by a museum owned or operated by an organization qualified as a tax exempt organization under section 501 of the internal revenue code.

(17) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(18) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

(18m) "Public-use airport" means any of the following as provided in 49 USC 2202:

- (a) Any public airport.
- (b) Any privately owned reliever airport.
- (c) Any privately owned airport used for public purposes and determined by the secretary of the U.S. department of transportation to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(19) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation.

(20) "Unairworthy aircraft" means an aircraft that is in a severely damaged condition or in a state of major deterioration as determined under s. 114.20 (5).

History: 1971 c. 164 s. 34; 1977 c. 29 s. 1654 (5); 1981 c. 20; 1983 a. 159.

114.01 State airport system. The department is directed to cooperate with and assist any federal aeronautical agency in the preparation and annual revision of the national airport plan and to lay out a comprehensive state system of airports adequate to provide for the aeronautical needs of the people of all parts of the state. Such state system shall include every airport on the national system and such additional airports as may be deemed necessary. In selecting the general location of the airports on the system and determining their capacity, due regard shall be given to aeronautical necessity as evidenced by the population of the locality to be served, its commerce and industry and such other factors as the department deems pertinent. In selecting the specific sites, due regard shall be given to general suitability for service and economy of development as evidenced by convenience of access, adequacy of available

ment covering the operations of such licensed aircraft, or to a nonpassenger-carrying flight solely for inspection or test purposes authorized by the United States to be made without such license.

114.19 Display of licenses. The certificate of the license or permit respectively required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when he is operating an aircraft within this state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted therein in clear view of passengers. Such certificate of pilot's license, student's permit or aircraft license shall be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official, or any official, manager or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this chapter, a defendant who relies upon a license or permit of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license or permit was issued.

114.195 Ultralight identification. (1) In this section, "ultralight aircraft" means an aircraft which meets all of the following requirements:

- (a) Is used or intended to be used for manned operation in the air by a single occupant.
- (b) Is used or intended to be used for recreation or sport purposes only.
- (c) Does not have any U.S. or foreign airworthiness certificate.

(d) If unpowered weighs less than 155 pounds or if powered weighs less than 254 pounds empty weight excluding floats and safety devices which are intended for use in catastrophic situation, has a fuel capacity not exceeding 5 gallons, is not capable of more than 55 knots calibrated air speed at full power in level flight and has a power-off stall-speed which does not exceed 24 knots calibrated air speed.

(2) No person may operate an ultralight aircraft within this state unless the aircraft displays an identification number assigned by an organization, approved by the department, which issues identification numbers for ultralight aircraft. The department shall maintain

a list of organizations which qualify under this subsection. Any industry registration program approved by the federal aviation administration shall be approved by the department.

(3) Any person violating sub. (2) shall be required to forfeit not more than \$500.

History: 1983 a. 151.

114.20 Aircraft registration. (1) ANNUAL REGISTRATION REQUIRED. (a) Except as provided under sub. (2), all aircraft based in this state shall be registered by the owner of the aircraft with the department on or before November 1, 1981, and annually thereafter on or before November 1. Annual registration fees shall be determined in accordance with sub. (9) or (10).

(b) Aircraft determined by the department to be based in this state shall be subject to the annual registration fees under sub. (9). Aircraft which are determined to be not based in this state shall be exempt from the annual registration fees.

(c) An aircraft is presumed to be based in this state if it is kept in the state for a period of 30 consecutive days or for a cumulative period of 60 days in any calendar year. An aircraft is not based in this state if it is brought into the state solely for the purpose of repair, maintenance or restoration.

(2) EXCEPTIONS TO ANNUAL REGISTRATION REQUIREMENTS. The annual registration requirements under sub. (1) do not apply to aircraft based in this state that are:

- (a) Aircraft included within s. 76.02 (5a);
- (b) Antique aircraft registered under sub. (6);
- (c) Dealer aircraft subject to sub. (7);
- (d) Museum aircraft designated under sub. (4);
- (e) Unairworthy aircraft designated under sub. (5);
- (f) Amateur built aircraft registered under sub. (8); or
- (g) Ultralight aircraft as defined in s. 114.195 (1).

(3) FEES IN LIEU OF PROPERTY TAXES. Fees paid on aircraft under this section are in lieu of general property taxes.

(4) MUSEUM AIRCRAFT. Any museum desiring to designate aircraft as museum aircraft shall, on or before November 1 of each year, submit to the department an inventory of all aircraft held by the museum for display or other museum purposes. The inventory shall identify the owner of the aircraft and whether it is being held by the museum under loan or other arrangements. The aircraft designated as museum aircraft are exempt from registration under this section during the time they are owned or held by the museum for display or other museum purposes and are not flown for

any purpose except to and from displays. The museum shall promptly notify the department of any additions or deletions to the annual inventory of designated museum aircraft.

(5) **UNAIRWORTHY AIRCRAFT.** Any person desiring to have an aircraft designated as an unairworthy aircraft may apply to the department in the manner the department prescribes. No application may be acted upon unless all information requested is supplied. Upon receipt of an application and a registration fee of \$5 and after determining from the facts submitted and investigation that the aircraft qualifies as an unairworthy aircraft, the department shall issue an unairworthy aircraft certificate. The certificate shall expire upon transfer of ownership or restoration. An aircraft is presumed restored if it is capable of operation. The annual registration fee is due on the date of restoration. Operation of the aircraft is conclusive evidence of restoration. An additional administrative fee of \$5 shall be charged on all applications filed later than 30 days after the date of restoration.

(6) **ANTIQUE AIRCRAFT.** Any antique aircraft may be registered upon receipt of the proper application and payment of a \$50 registration fee. The registration remains effective without payment of an additional fee while the aircraft is owned by the registrant.

(7) **DEALER AIRCRAFT.** (a) Aircraft shall be exempt from registration under sub. (1) for a period of one year from the date of exemption or until sold, whichever occurs first. Such exemptions will be granted only to aircraft dealers as defined in s. 114.002 (4) upon proper application and receipt of a \$5 administrative fee for each such aircraft.

(b) At the time of sale or expiration of the exemption period, the aircraft dealer shall submit to the department the application and registration fee as required in sub. (9), (10) or (12). Failure to do so will, at the discretion of the department, forfeit the privilege of future exemptions in addition to other penalties and remedies provided herein.

(8) **AMATEUR BUILT AIRCRAFT.** Any amateur built aircraft may be registered upon receipt of the proper application and payment of a \$50 registration fee. The registration remains effective without payment of an additional fee while the aircraft is owned by the registrant.

(9) **ANNUAL REGISTRATION FEES.** Except as provided in sub. (10), the owner of an aircraft subject to the annual registration requirements under sub. (1) shall pay an annual registration fee established in accordance with the following gross weight schedule:

[Maximum gross weight in pounds]	[Annual fee]
(a) Not more than 2,000	\$ 30
(b) Not more than 2,500	39
(c) Not more than 3,000	50
(d) Not more than 3,500	70
(e) Not more than 4,000	95
(f) Not more than 5,000	135
(g) Not more than 6,000	190
(h) Not more than 7,000	240
(i) Not more than 8,000	300
(j) Not more than 9,000	375
(k) Not more than 10,000	525
(l) Not more than 11,000	690
(m) Not more than 12,500	940
(n) Not more than 15,000	1,125
(o) Not more than 20,000	1,310
(p) Not more than 25,000	1,500
(q) Not more than 30,000	1,690
(r) Not more than 35,000	1,875
(s) Not more than 40,000	2,190
(t) Not more than 100,000	2,500
(u) More than 100,000	3,125

(10) **MUNICIPAL AND CIVIL AIR PATROL AIRCRAFT.** Aircraft owned and operated exclusively in the public service by this state, by any county or municipality or by the civil air patrol shall be registered on or before November 1, 1981, and annually thereafter on or before November 1, by the department upon receipt of the proper application accompanied by payment of \$5 for each aircraft.

(11) **ISSUANCE OF CERTIFICATE OF REGISTRATION; DISPLAY OF CERTIFICATE; REFUNDS.** Upon payment of a registration fee or transfer of registration fee, the department shall issue evidence of registration which shall be displayed at all times in the manner prescribed by the department. A refund may be made for aircraft registration fees paid in error as determined by the department. Refunds under this section shall be paid out of the appropriation under s. 20.395 (5) (aq).

(12) **INITIAL ANNUAL REGISTRATION.** For new aircraft, aircraft not previously registered in this state or unregistered aircraft for which annual registration is required under sub. (9), the fee for the initial year of registration shall be computed from the date of purchase, restoration, completed construction or entry of the aircraft into this state on the basis of one-twelfth of the registration fee specified in sub. (9) multiplied by the remaining number of months in the current registration year which are not fully expired. Application for registration shall be filed within 30 days from the date of purchase, restoration, completed construction or entry of the aircraft into this state and if filed after that date an additional administrative fee of \$5 shall



WITTMAN AIRFIELD
OSHKOSH, WI 54903-2591
414-426-4800

December 4, 1986

Mr. Lloyd J. Aubert, Jr.
1800 High
Topeka, KS. 66604

Dear Mr. Aubert:

Thank you for your letter of November 13 and please pardon the delay in answering as it was necessary that this be forwarded to me here in Florida.

I agree with you that \$490.93 tax called personal property taxes on your aircraft is ridiculous. Frankly, I have never heard of anything like this before.

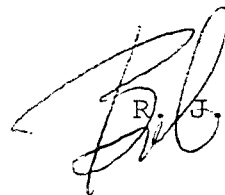
For your information, in Minnesota we have theoretically no personal property taxes. However when we did have them, they did not apply to personal airplanes. At the present time we have a state registration program which requires an annual license or sticker but in the case of most antique classic aircraft, it is very reasonable at \$10 per year.

I am not aware of the other states programs in connection with personal property and/or aircraft taxes. However I will do the best I can the next time I am in Oshkosh to get you some information.

In the meantime, I would like to refer you to Mr. Kelly Viets, Vice President of the Antique/Classic Division at R. R. 2, Box 128, Lyndon, Kansas 66451, who I am sure can help you organize for your battle with the state legislature.

Please keep me posted on the outcome, and I wish you the best of luck.

Sincerely yours,


R. J. Lickteig

RJL/c

cc: Mr. Kelly Viets



March 18, 1987

Re: Bills #2168 & #2169
Concerning Registration of Antique Aircraft.

Mr. Chairman and Honorable Senators:

The State of Kansas has contributed much to the nations history of aviation.

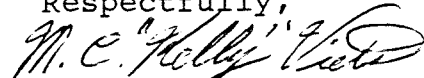
With men like Phillip Billard and Albin K. Longren of Topeka and Clyde and Eldon Cessna, Walter Beech and Lloyd Stearman of Wichita all contributing to make this State truly the Aviation Capital of the world.

Those of us who restore, maintain and fly the planes from the so called "Golden Age of Aviation" feel indebted to these people. We, who are involved in this educational, interesting, sometimes exciting, but never dull hobby, appreciate your affirmative consideration of these two bills.

The bills place Kansas on a tax base similar to the surrounding States across the Nation. Therefore, they will encourage us to do more to keep alive the history of aviation.

To correct the impression that this hobby is for the wealthy, it is truly far from it. Many of us have found that the only way we can afford to fly is to find and restore an old airplane. This makes the hobby doubly rewarding. First, we are keeping alive a bit of history and secondly providing an economical way to enjoy flight. Therefore your help to correct our tax situation is doubly appreciated.

Respectfully,



M. C. "Kelly" Viets
Vice President
Antique/Classic Division
Experimental Aircraft
Association

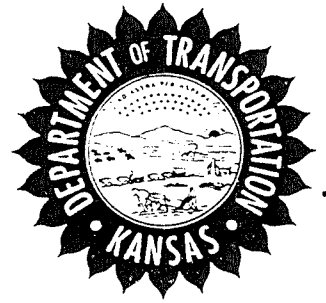
P.S. If I can answer any questions or help in any way with problems or concerns of sport or recreational aviation, please feel free to call me anytime. Phone 913-828-3518. Address: R. R. #2, Box 128, Pomona Lake Airport, Lyndon, Kansas 66451.

Sen. A & T
3/18/87

Att. 9

KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING—TOPEKA, KANSAS 66612—1568



KANSAS AVIATION CONFERENCE 10, 11, 12 APRIL 1987

March 18, 1987

Memorandum To: The Honorable Fred Kerr, Chairman
Senate Committee on Assessment and Taxation

From: George M. Boyd, Director
KDOT Division of Aviation

Regarding: House Bills Nos. 2168 and 2169

Mr. Chairman, members of the Committee, thank you for the opportunity to appear before you this morning to comment on House Bills Nos. 2168 and 2169.

As the Director of Aviation, Kansas Department of Transportation, I would like to present the following remarks and recommendations concerning the referenced bills. The Kansas Legislature has determined that there is a place in our heritage for antique vehicles. I refer you to K.S.A. 8-166 et al. The aviation community has the same concerns regarding aircraft that fall into the antique category. It is noted in House Bill No. 2169 that antique aircraft will be exempt from all property or ad valorem taxes levied under the State of Kansas. We agree with this requirement so long as the State receives appropriate sales tax income when an antique aircraft is sold in the commercial market for the purpose of profit.

The owners of antique aircraft have a unique role in our society, especially as it pertains to aviation in Kansas. These owners have made a considerable investment in time and labor during restoration, especially if they bring their aircraft to airworthy standards and are in compliance with FAA regulations. In addition, their aircraft help preserve Kansas aviation history and promote aviation in Kansas.

We believe the registration of antique aircraft and other vehicles should be equitable and managed at the least cost to the taxpayers; therefore, we support House Bills Nos. 2168 and 2169 as amended and it is recommended:

- a. that registration of antique aircraft be made a function of the Vehicle Registration Division, Department of Revenue.



ONE EXPOCENTRE DRIVE TOPEKA, KS 66604



— Sen. A & T
3/18/87

Att. 10

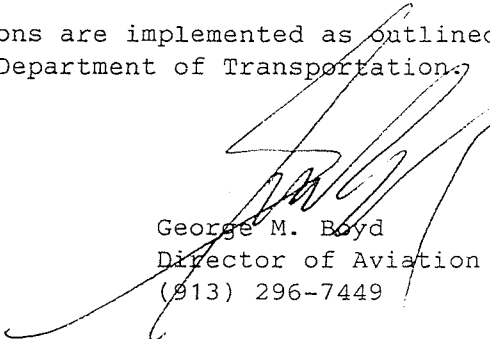
Memorandum to Honorable Fred Kerr

March 18, 1987

Page Two

- b. that antique aircraft, which are restored and sold for profit, be subject to State sales tax in accordance with the actual selling price at the time of the sale;
- c. that presentation of an FAA registration certificate be considered as proof of ownership for the purpose of Kansas antique aircraft registration; and
- d. that the annual registration fee for antique aircraft be no higher than fifty dollars (\$50.00).

If the recommendations are implemented as outlined, there will be no fiscal impact on the Department of Transportation.



George M. Boyd
Director of Aviation
(913) 296-7449

GMB:jkr

cc: Horace B. Edwards
Secretary of Transportation