

Approved Wednesday, February 28, 1990
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m./~~p.m.~~ on Thursday, February 15, 1990 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Department
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Senator LeRoy Hayden
Tim Hageman-Department of Revenue
Mark Burghart-Department of Revenue
Bob Corkins-KS Chamber of Commerce and Industry

Chairman Thiessen called the meeting to order at 11:04 a.m. and said next week the time will run out to introduce bills and he recognized Senator Leroy Hayden.

Senator Hayden said he has read the content of the two bills being proposed and he said he understands the basic thrust and both are good ideas to be presented to the legislature, there are so few sales and determinations of value out there. He said, his house for example the way they arrived at the value of his house, was they had to bring in 2 houses from the town of Ulysses 30 miles away to apply some value to, because of so few sales and we have also heard of mineral sales, but he was not involved in any of them. We hear massive amounts of money being changed of hands, and there is no way the appraiser can track those values. This bill gives more latitude to do that.

Tim Hageman, Department of Revenue said he is requesting that the committee consider the introduction of a committee bill. 79-1436b to be amended which calls for a 20% deviation of properties, and some jurisdictions we have very few sales i.e. vacant lots and that is not enough to determine value. We would like to see this committee study this situation. (ATTACHMENT 1a).

He said, their 2nd request would amend K.S.A. 2223a the certificates of value section. There are three items we would like covered, 1. contract for sales 2. certificates of value on mineral rights and the last would be leasehold interest. (ATTACHMENT 1b).

Senator Martin moved to introduce the bills, 2nd by Senator Oleen. The motion carried.

The Chairman turned attention to SB491 and said there are several bills the committee has heard that were requested by the Department of Revenue and he asked Mark Burghart to brief the committee on the bills.

Mark Burghart said SB491 takes care of a couple of inequities that we have in our system, based on the fact that we start with the federal adjusted gross income, in our tax computation based on the fact that we start with Federal Adjusted Gross Income to get our tax computation. Municipal bond interest which is not taxed federally, and they don't give a deduction for that, and we do tax that sort of income and because we appear to federal adjusted gross income, we don't allow a deduction for any expenses contributed to the deduction of that income, this would remedy that situation and allow the taxpayer to deduct the related expenses, those being council fees, or studing fees, whatever would be incurred to carry that obligation. The 2nd scenario is a situation involving federal obligations, and those are taxed federally and there is a deduction allowed federally for Kansas purposes, if we don't tax federal obligations, we are giving them a deduction on income that we don't even tax, so that would reverse that situation.

Senator Fred Kerr made a conceptual motion to insert on page 2 line 19 and 20, language

CONTINUATION SHEET

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room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, February 15, 1990

somewhat like "directly related to purchase", 2nd by Senator Petty. The motion to amend SB491 carried.

Senator Karr moved to favorably pass SB491 as amended, 2nd by Senator Langworthy. The motion carried.

The Chairman turned attention to SB492.

Mark Burghart said SB492 basically gives the Secretary of Revenue the authority to require payment of taxes through electronic funds transfer.

Bob Corkins, KCCI said they had previously in committee recommended an amendment for SB492 to set thresholds of \$32,000. on sales tax liability and \$8,000. on withholding tax liability in any calendar year. (ATTACHMENT 2)

Senator Francisco moved to adopt the KCCI amendment regarding the "threshold only" into SB492, 2nd by Senator Kerr. The motion to amend carried.

Senator Montgomery moved to favorably pass SB492 as amended, 2nd by Senator Francisco. The motion carried.

The Chairman turned attention to SB493.

Mark Burghart said SB493 specifies the tax situs for telephone answering services. We passed a law last year basically making telephone answering services taxable statewide, and the bill basically specifies that the tax will be imposed at the local level at the situs of the subscriber and eliminates the confusion between local units where the provider and subscriber may be due to different taxing units.

Senator Lee moved to favorably pass SB493, 2nd by Senator Langworthy. The motion carried.

The Chairman turned attention to SB494.

Mark Burghart said SB494 moves the filing date for homestead property tax refund claims, circuit breaker from October 15th back to April 15th. He said the Department of Revenue also proposed an amendment to change the deadline for food sales refund claims back to the 15th to make everything consistent.

Senator Francisco said he was concerned about the 10% and thought the committee should maybe give some warning before it goes into effect. Mr. Burghart said the bill specifies 1991, so it would not affect 1990.

Senator Fred Kerr moved to amend SB494 to include the food sales tax refund date to April 15, 1991, 2nd by Senator Oleen. The motion carried.

Senator Montgomery moved to favorably pass SB494 as amended, 2nd by Senator Francisco. The motion carried.

The Chairman turned attention to SB495.

Mark Burghart said SB495 is a recommendation made to the department by law enforcement agencies, dealing with drug tax. He said they have to go out and strip fields of marijuana before they can make an assessment to determine what the assessable amount is.

Senator Fred Kerr moved to favorably pass SB495, 2nd by Senator Karr. The motion carried.

The Chairman turned attention to SB496.

Mark Burhart said SB496 changes the filing date of the transient guest tax from the last day of the month to the 25th day of the month, which is basically the same date we would have for local sales tax.

Senator Langworthy moved to favorably pass SB496, 2nd by Senator Francisco. The motion carried.

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Chairman Thiessen turned attention to SB572.

Senator Frahm, sponsor of SB572 said the bill for all taxable years commencing after 12-31-1989, all land devoted to agricultural use which is subject to the federal conservation reserve program shall be classified as dryland for the purpose of valuation for property tax purposes.

Senator Frahm moved to favorably pass SB572, 2nd by Senator Montgomery. The motion carried.

Senator Petty said she has a request regarding the lessee and lessor relationship, where sometimes the lessor has not appealed their claims and the lessee is caught in a bind because the increase in taxes is spread among the lessee. The proposal would look at the lessee to be able to request a remedy or arrange values.

Senator Petty made a conceptual motion to introduce the bill, 2nd by Senator Francisco. The motion carried.

Chairman Thiessen adjourned the meeting at 11:55 a.m..

79-1436b. Same; deviation of classification property; director authorized to order reappraisal. In taxable years commencing after December 31, 1980, the director of property valuation shall determine the coefficient of deviation for classes or subclasses of property in a county. The director is hereby authorized to order the reappraisal of all property within the classification or subclassification within such county if the coefficient of deviation as shown from the ratio studies is greater than:

(1) 30 for properties in the residential subclass within counties reporting less than 15,000 parcels.

(2) 20 for properties in the residential subclass within counties reporting 15,000 or more parcels.

(3) 50 for properties in the vacant lot subclass within counties reporting less than 15,000 parcels.

(4) 40 for properties in the vacant lot subclass within counties reporting 15,000 or more parcels.

(5) 40 for properties in the other subclass within counties reporting less than 15,000 parcels.

(6) 30 for properties in the other subclass within counties reporting 15,000 or more parcels.

REQUEST FOR INTRODUCTION OF A COMMITTEE BILL
SENATE TAXATION COMMITTEE
REQUIRING CERTIFICATES OF VALUE FOR MINERAL PROPERTIES

I am Timothy Hagemann, County Appraiser for Haskell, Stevens and Morton Counties.

(1) Require a Certificate of Value on both producing and non-producing mineral rights.

Reasoning: At present KSA 79-420 requires the county appraiser to value those separated rights if they have value - "Such mineral interest shall be listed and the market value, if any, determined separately from the fee of such land."

At present many counties do not appraise separated mineral rights because they either cannot determine the value due to lack of sales data to be used as indicators or because they cannot determine the ownership of fractional interests. At present the State Board of Tax Appeals (SBOTA) has serious concerns relating to equalization of mineral rights, not only within a county but also between various counties and joint taxing districts that cross county lines. At present no reasonable determination can be made. Therefore, many counties use the "if any" clause in 79-420 to not value and tax the separated mineral rights.

(2) Require Certificates of Value for sales of producing leasehold interests.

Reasoning: At present oil and gas and other leasehold mineral properties are assumed to be appraised and assessed at 30%. However, in actuality no one knows at what rate these properties are assessed. We do hear from industry sources that they are assessed at or over 30% of market value. I agree that poor quality properties are at or near 30%; however, we have no idea where good properties are appraised. We do, however, have some indicators that they are grossly under appraised.

The industry has always opposed inclusion of mineral leaseholds in the State Sales Ratio Study-----Not from the standpoint of wanting a Sales Ratio Study to support their claims of being assessed at or above 30% of market value-----but to try to confuse the issue by saying that leasehold sales include (but are not limited to) pipelines, undeveloped acres, proven but not produced reserves behind the pipe, equipment, ect.-----However, we believe that any prudent buyer of mineral leases assigns a portion of the purchase price to each component, if for no other reason than record keeping for income tax requirements.

What we are asking today is that those values be filed on a Certificate of Value where the amount paid for an oil, gas or other mineral extraction can be compared against the value placed on the assessment rolls.

Thank you for your consideration. I will be happy to respond to your questions.

58-2223a. Certificates of value upon transfer of title to real estate; use of information. No deed, contract for sale or instrument providing for the transfer of title to real estate, shall be recorded in the office of the register of deeds unless such deed, contract for sale, or instrument shall be accompanied by a certificate of value by the grantor, grantee or his agent concerning the property transferred. The register of deeds shall in conjunction with the county clerk use the information derived from said certificate in preparing the report to the director of property valuation as provided for in K.S.A. 1976 Supp. 79-1436.

the name of the owner of the said goods or merchandise shall affect the right to recover such penalty.

History: L. 1915, ch. 367, § 1; R.S. 1923, 79-1434; L. 1959, ch. 365, § 27; June 30.

Cross References to Related Sections:

Merchants and manufacturers, see ch. 79, art. 10.

Research and Practice Aids:

Taxation—350.

C.J.S. Taxation § 412.

CASE ANNOTATIONS

1. Cited in upholding validity of 79-306c. State, ex rel., v. Dwyer, 204 K. 3, 7, 460 P.2d 507.

79-1435. Assessment-sales ratio study; definitions. As used in this act: (1) The words "real estate" shall include lands and the improvements and structures thereon which are appraised as real property; (2) the word "director" means the director of property valuation; and (3) the words "sale" or "sold" shall include all sales which shall be found by the director to be valid for the purposes of the assessment-sales ratio study.

History: L. 1949, ch. 224, § 1; L. 1965, ch. 516, § 1; L. 1967, ch. 489, § 1; L. 1972, ch. 362, § 1; Jan. 1, 1973.

Research and Practice Aids:

Taxation—348.

C.J.S. Taxation § 411.

CASE ANNOTATIONS

1. Petition to recover protested taxes sufficiently alleged fraud in making unequal assessments. Kansas City Southern Rly. Co. v. Board of County Comm'rs, 183 K. 675, 677, 678, 683, 331 P.2d 899.

2. Ratio study reflects relationship of assessed value to sale price, not assessed value to "justifiable value" for ad valorem tax purposes. Northern Natural Gas Co. v. Williams, 208 K. 407, 413, 417, 419, 426, 493 P.2d 568.

79-1436. Same; listing of real estate sold or transferred; monthly report by county officials; collection and verification or supplementation by agents of director; information required in report; right of access to county records by director and agents. It shall be the duty of the director of property valuation, with the cooperation and assistance of registers of deeds, county appraisers or county clerks acting in the capacity of appraisers, and their deputies and clerks, to prepare and compile a listing of every tract or piece of real estate which has been or shall be either sold, transferred or contracted to be sold, or transferred in each county and school district of the state,

the conveyance or agreement evidencing the same having been recorded in the office of the register of deeds of such county. On forms provided by the director, such county officials shall monthly record the required information for collection by agents of the director who shall check to see that all transferred properties are included and shall make such further investigations as may be necessary to verify or supplement the information provided on the certificates of value and the reports prepared by the county officials. Such reports shall show:

(1) The date of the sale, transfer or agreement as evidenced by the date of the execution of the instrument;

(2) the purchase price of the particular tract or piece of real estate as shown by the instrument;

(3) the value of such tract or piece of real estate as reflected by the certificate of value;

(4) the amount of any mortgage on such tract or piece of real estate assumed by the purchaser, including any purchase money mortgage, executed by the purchaser;

(5) the assessed valuation of such tract or piece of real estate as of the date the instrument was executed as shown by the county assessment roll;

(6) the classification and subclassification, if any, of the property sold, transferred or contracted for sale; and

(7) such other information as the director deems necessary to carry out the purposes of this act. The director and the director's agents shall have the right of access to the assessment rolls and other records in the offices of the county clerks, county appraisers and registers of deeds for the purpose of securing information required by this act.

History: L. 1949, ch. 224, § 2; L. 1965, ch. 516, § 2; L. 1967, ch. 489, § 2; L. 1972, ch. 362, § 2; L. 1974, ch. 428, § 1; L. 1982, ch. 397, § 1; July 1.

CASE ANNOTATIONS

1. Ratio studies may be considered in determining necessity for a reappraisal of property. Board of County Commissioners v. Brookover 198 K. 70, 71, 77, 422 P.2d 906.

2. Assessment and valuation of property are administrative in character; absent evidence that assessment was arrived at fraudulently, arbitrarily or capriciously, a difference of opinion as to value doesn't warrant judicial interference. Cities Service Co. v. Murphy, 202 K. 282, 291, 295, 447 P.2d 76.

3. Ratio study held not conclusive in con-

sidering valuation of distribution property. No. 208 K. 337, 339, 492.
4. Referred to; assessed market value arbitrary. 214 K. 690, 692, 522.

79-1436a.

property by director or county clerk to reclassify property sold. The director, in carrying out his duties under the provisions of this act is amended. This classification of property transferred or sold shall be as prescribed by K.S.A. 79-1436a thereto. The director shall require the county clerk acting in the capacity of director to show on the certificate of classification of the property sold the subclassification effected.

History: L. 1972, ch. 435, § 1; L. 1973.

79-1436b.

Reappraisal of property in order to reappraise property after the direct order of the director determine that for any one county the ratio study is greater than 20, the director shall order all property or subclassification to be reappraised.

History: L. 1972, ch. 363, § 1; L. 1973, ch. 423, § 1; L. 1973.

79-1437.

to be computed and published by the board of county commissioners. Upon securing sales from the county determine, a price of each tract and the ratio of the average ratio of rural real

SENATE BILL No. 492

By Committee on Assessment and Taxation

1-17

*Bob C. ...
9-15-90*

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AN ACT concerning the payment of taxes; authorizing the use of electronic funds transfer for such purpose.

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

Section 1. The secretary of revenue may require, consistent with sound cash management policies, that any ~~person owing any taxes or fees in connection with any return, report or other document to be filed with the department of revenue shall pay any such tax liability to the state no later than the date such payment is required by law to be made in funds which are immediately available to the state on the date of payment. Payment in immediately available funds may be made by wire transfers of funds through the federal reserve system or by any other means established by the secretary, with the approval of the state treasurer, which insures the availability of such funds to the state on the date of payment.~~ Evidence of such payment shall be furnished to the secretary on or before the due date of the tax as established by law. Failure to timely make such payment in immediately available funds or failure to provide such evidence of payment in a timely manner shall subject the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments.

taxpayer whose total sales tax liability exceeds \$32,000 in any calendar year, any taxpayer whose total withholding tax liability exceeds \$8,000 in any calendar year, and any person owing any taxes or fees in connection with any return, report or document other than for sales tax or withholding tax liability, shall remit their tax liability by electronic funds transfer no later than the date required for such remittance. The following methods of electronic funds transfer messages shall be available to the taxpayer: (1) Automated clearing house debit; (2) automated clearing house credit; (3) wire transfers through the federal reserve system; and (4) certified check received by the department no later than the date required for the remittance.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

and