

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. ~~xxx~~ on Tuesday, March 27, 1990 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

NONE APPEARING

Chairman Dan Thiessen called the meeting to order at 11:12 a.m. and told the members they have minutes dated February 27 and February 28, and he would ask for a motion later in the meeting, he turned attention to SB414, which was re-referred to committee, and deals with the sales tax exemptions for work on extruders used by the rubber industry, and he recognized Senator Petty.

Senator Petty reminded the committee members, this is an industry located in North Topeka, Midwest Machine Works Inc., which we heard testimony at a previous meeting. She passed a handout to the members, Consumers's Compensating Use Tax Audit Work Papers by the KS Department of Revenue, for the period April 1, 1983 to March 31, 1986, inclusive.

She said, they did find that the report by the Department of Revenue, verified May 22, 1986 that the audit was done and they were found to be in compliance, with no problem, as it was reported to the Company. She said she would like to propose a substitute bill for SB414. (ATTACHMENT 1a and 1b)

Senator Petty proposed to report substitute bill for SB414 favorably from the committee, 2nd by Senator Karr. The motion carried.

Senator Petty moved to report SB414 favorably as amended, 2nd by Senator Lee. The motion carried.

Chairman Thiessen turned attention to SB423 and said, this bill has been re-referred and he recognized Senator Oleen.

Senator Oleen moved to amend SB423, by deleting "1989" and inserting "1991", and be sent back to Ways and Means Committee, 2nd by Senator Langworthy. The motion carried.

Senator Oleen moved to report SB423 favorably as amended, 2nd by Senator Francisco. The motion carried.

The Chairman turned attention to HB2621, requested by the Department of Revenue and deals with sales tax remittance.

Senator Audrey Langworthy moved to favorably pass HB2621, 2nd by Senator Montgomery. The motion carried.

Chairman Thiessen turned attention to HB2765 this is the bill to avoid double taxes.

Senator Fred Kerr moved to amend HB2765 from the Register to the Statute Book and favorably pass as amended, 2nd by Senator Frahm. The motion carried.

Chairman Thiessen turned attention to SB783.

Tom Severn said the state's permanent mill levy is authorized by 2 sections of the constitution, K.S.A. Chapter 76, Article 6b, and currently totals 1½ mills. The state, because of Article 11, section 4, of the constitution, generally, the legislators thought it was prohibited from levying permanent property tax levy statutorily, other

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CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Tuesday, March 27, 1990.

than, it is authorized in 2 other sections, Article 6, Section 10 and Article 6, Section 6. Those authorize permanent levies for 2 purposes, the state building fund and the state institutions building fund.

Dr. Severn said although state's do not have authority to make permanent levy, it does have the authority to make the annual levy, and perhaps the authority to make the bi-annual levy. From time to time the Legislature has modified the state's building fund levies for one year to provide funds for the Correctional Institutions Building Fund or to provide additional funds for the EBF. (See page 2 of his handout).

What SB783 does, is to re-establish the policy (that you see in the hand-out) for 1986 and 1987. (ATTACHMENT 2)

After committee discussion and concerns with the bill, The Chairman said we will have the Chairman, of the Ways and Means Committee come and review the bill.

Senator Montgomery moved to adopt the minutes of February 27 and February 28, 2nd by Senator Langworthy. The motion to adopt the minutes, carried.

The Chairman adjourned the meeting at 11:45 a.m.

GUEST LIST

COMMITTEE: SENATE ASSESSMENT & TAXATION

DATE: Tuesday, 3-27-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Woody Woodman	WCNO	WCPL
Harold Pitts	Topeka	KCOA
John D McNeal	Topeka	self
Harriet Lange	Topeka	KAB
George Barbee	Topeka	Ks Lodging Assn.
Jerry Counsel	WINDSORE	KGE
Mike Beam	Topeka	Ks. Luth. Assn.
Gene Shind	Topeka	KPOLA
Marshall Clark	Topeka	KEC
CHUCK STUART	Topeka	United School Adm's
Leroy Jones	Osawatimie	BLE
Jim Gartner	Topeka	SUBT
Jim Ludwig	TOPEKA	KPL
Ed WALKER	Topeka	WASHBURN U
TREVA POTTER	TOPEKA	PEOPLES NAT. GAS
MARK Beshears	Topeka	Midwest
John Ensky	Topeka	Midwest
Don Lindsey	OSAWATOMIE	UTU
Linton Banfill	Kansas City, KS	City of KCK
ALAN Steppat	Topeka	McGill & Associates
JOHN TORBERT	"	KAC
Richard	Topeka	Legion
Timothy	Topeka	Revenue
MARK A. BARAKAT	"	"
Kenneth Kelly	OP	SUN

SUBSTITUTE FOR SENATE BILL NO. 414

By Committee on Assessment & Taxation

AN ACT exempting certain sales of materials and services associated with the repair and remanufacture of certain equipment from taxation under the Kansas retailers' sales tax act; and abating certain taxes assessed thereon.

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

Section 1. All sales of materials, components and services applied to a mixer or an extruder used by the rubber and plastics industry which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification, and which is subsequently transported out of the state in interstate or foreign commerce, shall be exempt from all taxes imposed under K.S.A. 79-3603 and amendments thereto for the period commencing on April 1, 1986 and ending on June 30, 1989. To the extent such taxes have been assessed, the same are hereby abated together with any penalties and interest thereon.

Section 2. This act shall take effect and be in force from and after its publication in the Kansas register.

Midwest Machine Works T. Co.

ATT 1-B

Box 8250

Topeka, Kansas 66608

Consumer's Compensating Use Tax Audit Work Papers

By

Kansas Department of Revenue

For the Period

April 1, 1983 to March 31, 1986, Inclusive

Bryce Haverkamp

Revenue Auditor

May 22, 1986

Midwest Machine Works Inc.

Auditor Comments

1. Penalty

10% Penalty For Not Reporting Sales Tax.

2. Waiver

None

3. Interest Date

June 30, 1986

4. Auditor Comments

Taxpayer works on rubber mixing machines for the rubber industry. Up to this point he has been including his use tax on his sales tax return and not paying local tax on the use tax amount on the sales tax return.

On the last item on Schedule I, this item was on the depreciation schedule but the invoice on it was not found. Mr. Wheeler stated that sales tax was not paid on it.

AUDIT SERVICES BUREAU

AUDIT PROGRAM REPORT

Name of Company Midwest Machine Works Inc.

Address 1701 N. Topeka KS 66601
(Street) (City) (State)

Type of Audit CCIT Reg. No. 3-C202

Personnel contacted: Name John Wheeler Title Acct. Manager 235-2336

Audit Period April 1, 1983 to March 31, 1986

Records examined:

Sales or purchase invoices X
Vouchers _____
Sales or purchase journals X
General ledger accounts X
Job Cost ledgers _____
Depreciation schedules X
Income tax returns X
Purchase orders _____
Exemption certificates _____
Other _____

Was tax accrual account reconciled with the amount of tax remitted? Yes

Name of Bank Merchants & Topeka

Current Accounts Receivable (Large) None

Were audit results reviewed with the taxpayer? Yes

Attitude of taxpayer Cooperative

Additional remarks (if more space is needed, use reverse side).

Byron Haverkamp
Revenue Auditor

AUDIT SERVICES BUREAUSales and Use Tax Audit Guide

Audit Steps	Comments	W.P. Ref.
A. Preliminary Action		
1. Review all information furnished with the audit assignment.	Done	
2. Review prior audit reports and working papers if available.	N/A	
3. Obtain printout of all sales and/or use accounts.	Done	
4. If the taxpayer has a bingo, transient guest, motor fuel refund account, or other excise tax, secure printout.	N/A	
5. Ascertain correct name and address of record of the taxpayer.	Midwest Machine Works Inc. 1615 N. Topoka Topoka, KS	
6. Contact taxpayer and arrange a mutually acceptable time to begin fieldwork of the audit and confirm location of the records.	Done	
7. Inform taxpayer of the period to be covered by the audit, type of taxes to be audited, and records to be required.	4-1-83 To 3-31-86	
8. Inform taxpayer of names of auditors assigned to the audit.	Done	
9. Determine company office hours.	8-5	

Audit Steps	Comments	W.P. Ref.
B. Pre-Audit Conference		
1. Arrive promptly at the appointed time.	Done	
2. Present identification and business card.	Done	
3. If taxpayer should question why he has been selected for audit, inform him that the account was selected through the bureau's routine audit selection process. (Any referral information is confidential.)	N/A	
4. Discuss the nature of the company's operations. Have operations changed significantly during the audit period? What are the Kansas operations?	Done	
5. Secure a list of subsidiaries, affiliates and divisions and discuss each to determine which, if any, of these should be audited concurrently.	Done	
6. Obtain a chart of accounts. Ascertain whether any account numbers have been changed during the audit period. If so, obtain the previous charts of accounts.	Done	
7. Verify correct legal name of entity. If a sole proprietorship, obtain name of owner. If a partnership, obtain names of all partners. If a corporation, obtain names of chief corporate officers.	Midwest Machine Works Inc. Corp.	
8. Verify that registration numbers are correct and current.	Done	
9. Ascertain proper personnel with whom to work during the audit and request introduction to them.	John Wheeler, Acct. Manager	
10. Request necessary records - sales and purchase invoices, sales and purchase journals, general and subsidiary ledgers, depreciation schedules, exemption certificates, notes payable files, tax procedural manual, etc.	Done	
11. Discuss internal control procedures and determine adequacy.	Done	
12. Request a brief tour of the manufacturing facilities, if permissible.	N/A	

Audit Steps	Comments	W.P. Ref.
C. Audit Procedure		
1. Retailer Sales or Retailers Compensating (Use) Tax		
a. Date and initial all workpapers.	Done	
b. If a retailers' use tax assessment is to be made against a nonregistered retailer, fully document the company's activities in Kansas which would bring it within the scope of K.S.A. 79-3702(g) and (h).	N/A	
c. Examination of salesmen's expense accounts will often substantiate that salesmen are operating in Kansas though not based in Kansas.	N/A	
d. Reconcile tax accrual account with remittances.	Done	
e. Trace entries in the accrual account back through appropriate ledgers and journals. Watch for large debits and examine detail causing the debit (other than entry reflecting payment of liability).	Done	
f. Test check column footings in journals and ledgers.	Done	
g. Examine sales invoices for proper application of the tax and test check entry of invoices in the sales journal for correct posting.	Done	
h. List any questionable ex-tax sales on workpapers. Workpapers should include date of invoice, invoice number, vendor, brief description of item sold, and amount subject to tax.	N/A	
i. Footnote any unusual circumstances in connection with sales scheduled or comment beneath the entry.	N/A	
j. Examine credit memos if filed separately for discounts, allowances, and returned goods. Verify that credit memos on tax exempt sales have not been taken as a deduction on sales tax returns resulting in a double deduction.	Done	
k. If it is found during the preliminary stages of the audit that a test check of sales for a given period and a projection of any discrepancies found over the entire audit period would result in a substantial savings of field time and would yield an accurate basis of unreported taxable sales, discuss the possibility of completing the audit on this basis with the taxpayer and, if he concurs, determine mutually acceptable test periods (fully document method).	N/A	
l. Any rare or unusual sales disclosed in a test period, due to the size of the sale, type of goods sold, or frequency of that type of sale, should be treated separately and not included in the projection.	N/A	
m. Furnish taxpayer a copy of proposed adjustments.	N/A	

Audit Steps	Comments	W.P. Ref.
C. Audit Procedure (cont.)		
2. Consumer's Use Tax Audits.		
a. Review chart of accounts. Especially watch for expense items which may, as a matter of practice, have been charged to inventory classification accounts.	Done	
b. Examine depreciation schedules and note large purchases to be sure invoices in support of these purchases have been examined. It should be noted that many companies will maintain a separate file for capital asset purchases.	Done	
c. Purchases subject to use tax - fixed assets, expense purchases, advertising and promotional material (samples), stationery and supplies from home office.	Done	
d. Reconcile tax accrual account with remittances.	Done	
e. Trace entries in tax accrual accounts back through appropriate ledgers and journals.	Done	
f. Test check column footings in journal and ledgers.	Done	
g. Examine purchase invoices for taxable ex-tax purchases and test check entry of purchases in purchase journal.	Done	
h. List questioned ex-tax purchases on which tax has not been accrued. Workpapers should include date of invoice, invoice number (or check or voucher reference), vendor, a brief description of the items purchased and amount subject to tax.	Done	
i. Footnote unusual circumstances in connection with purchases scheduled or comment directly beneath the entry on your worksheet.	Done	
j. Furnish taxpayer a copy of proposed adjustments.	Done	
3. Liquor.		
If the taxpayer has a retail liquor excise tax license, get a printout and compare to taxpayer returns. Do they agree? Complete retail liquor excise tax audit guide.	N/A	
4. Bingo.		
If the taxpayer has a bingo license, get a printout and compare to taxpayer returns filed. Do they agree? Complete bingo tax audit guide.	N/A	
5. Transient guest.		
If the taxpayer has a transient guest account, get printout and compare to taxpayer returns filed. Do they agree? Complete transient guest tax audit guide.	N/A	

Audit Steps	Comments	W.P. Ref.
C. Audit Procedure (cont.)		
6. Motor Fuel Refunds.		
<p>Does the taxpayer have any motor fuel refunds? Are these appropriate? Has Retailers' Sales Tax been paid thereon?</p>	N/A	
7. Referral.		
<p>Complete audit prospect referral (AUD 21) on ex-tax sales.</p>	Done	
8. Miscellaneous.		
<p>Use good judgement. Complete an appropriate number of audits. Maintain appropriate field time -office time blend of work time.</p>	Done	
D. Post-Audit Conference		
<p>1. Exit interview - Document date, who was present what was discussed, and taxpayer response. Discuss any adjustments and explain your position. If able, furnish taxpayer with a copy of proposed adjustments. Inform taxpayer of legal and administrative remedies available to him if he disagrees with your findings. Do not argue with the taxpayer.</p>	<p>5/12/86, John Wheeler, Acct. Manager by Telephone</p>	
<p>2. If the taxpayer is not in agreement with the audit findings, his area of disagreement and reasons therefor should be documented in the working papers.</p>	N/A	
<p>3. Allow adequate time for the conference so taxpayer may explain his reasons for any exceptions taken and present any relevant information he may have.</p>	Done	
<p>4. If taxpayer requests more time to review the audit and to secure additional information, a reasonable period should be allowed. If this period would result in the outlawing of any additional liability during the early part of the audit period, a consent fixing the period of limitations is required. If the taxpayer declines to execute a waiver, then no additional time may be allowed.</p>	N/A	
<p>5. Complete necessary forms for registration of unregistered taxpayers and forms cancelling registration numbers no longer required.</p>	N/A	
	Registered	

Audit Steps	Comments	W.P. Ref.
E. Audit Report Write-up & Workpapers Assemblage		
1. Writing or printing must be legible.	Done	
2. Workpapers should contain adequate comments by the auditor. Workpapers should include a description of procedures followed and, if there is a variation from normal procedure, a full explanation should be made.	Done	
3. Complete audit program report (AUD 2) and audit guide (AUD 23) and attach to workpapers.	Done	
4. On workpaper cover, show total time by type of tax assessed.	Done	
5. Exercise professional care in preparing workpapers with mathematical accuracy. The workpapers should contain no material math errors. Numbers should be accurately carried from the workpapers to the report. The workpapers should be neat and well organized.	Done	
6. Workpapers should be indexed in logical order.	Done	
7. Registration numbers should be examined for correctness and current status.	Done	
8. Follow prescribed format in detail so that Bureau uniformity is maintained. Reports should not require format corrections such as underlining, exact descriptions, interest presentation, etc. Reports should be submitted containing no math errors. Adequately cross-reference when applicable. No adjustments will be made without proper support in the workpapers. Audit reports should not require any changes in explanations. Prepare neat and legible audit reports so the report can be clearly reproduced.	Done	
9. Adjustments should be self-explanatory or should be supported by footnotes or comments on the exhibits and schedules.	Done	
10. Complete field audit summary sheet (AUD 1) and attach to audit report as cover page to audit report.	Done	
11. Attach field audit report checklist (AUD 18) to cover the audit report.	N/A	
12. Submit audit to manager for review.	Done	

MEMORANDUM

Kansas Legislative Research Department

Room 545-N - Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

Revised January 8, 1990

STATE PROPERTY TAXES

Statewide Levies Other Than for Building Funds

General Purpose Levies. From 1861 through 1942 a state property tax levy was made for operating purposes. No such levy was made from 1943 through 1946. A general levy was made again from 1947 through 1952, but no such levy was made in 1953 and 1954. The last state general purpose levy of 1.99 mills was made in 1955. The 1921 levy of 2.23 mills is the highest general purpose levy made after 1907, when the state assessed value increased from \$425 million to nearly \$2.5 billion.

WWI Soldier's Bonus. From 1923 through 1954, a property tax was levied to retire bonds issued to pay the World War I soldier's bonus.

State Building Fund Levies

Authority. Article 11, Section 4 of the Kansas Constitution generally is interpreted as prohibiting the Legislature from making a permanent mill levy. However, Article 6, Section 10, approved in 1918 (since reorganized as Article 6, Section 6 by an amendment approved in 1966) authorized a permanent levy for the Educational Building Fund (EBF). The permanent levy for the State Institutions Building Fund (SIBF) (formerly the Charitable-Hospital Building Fund) was authorized by Article 7, Section 6, approved in 1952.

First Levies. The first levy for the EBF of 0.25 mill was made in 1942. The first levy for the SIBF was 0.50 mill, in 1953.

Permanent Levies. The permanent levies are contained in K.S.A. Chapter 76, Article 6b. Currently, those permanent levies are 1.00 mill for the EBF and 0.50 mill for the SIBF. A history of these permanent levies is shown below:

<u>Year</u>	<u>Educational Building Fund</u>	<u>State Institutions Building Fund</u>
1942	0.25 mill	
1949	0.50 mill	
1953		0.50 mill
1955	1.00 mill	0.75 mill
1965	1.00 mill	0.50 mill*

- * Companion bills enacted in 1965 lowered the SIBF levy by one-fourth mill and authorized counties with approved community mental health centers to levy a like amount for construction of such centers.

Temporary Rates. From time to time the Legislature has modified the state's building fund levies for one year to provide funds for the Correctional Institutions Building Fund (CIBF) or to provide additional funds for the EBF. A history of these temporary rates is shown below.

<u>Year</u>	<u>EBF</u>	<u>SIBF</u>	<u>CIBF</u>
1976	1.00 mill	0.25 mill	0.25 mill
1977	1.00 mill	0.40 mill	0.10 mill
1983	1.10 mill	0.40 mill	--
1986	1.00 mill	0.25 mill	0.25 mill
1987	1.00 mill	0.25 mill	0.25 mill

Disposition of Funds. All of the EBF levy currently is earmarked for the erection, equipment, and repair of buildings at the educational institutions under the State Board of Regents. From 1955 through 1968, one-fourth of the EBF was earmarked for the State Dormitory Fund.

All of the SIBF levy is earmarked for the erection, equipment, and repair of buildings at the various state institutions for the mentally ill and retarded and for the rehabilitation of youth and physically handicapped.

All of the CIBF was earmarked for the use and benefit of state correctional institutions.

Taxes Levied Upon Tangible Property for Collection. Taxes levied for the state building funds for collection in selected state fiscal years are as follows:

<u>Fiscal Year</u>	<u>EBF⁽¹⁾</u>	<u>SIBF⁽¹⁾</u>	<u>CIBF⁽¹⁾</u>	<u>Total^(1,2)</u>
1990 (estimated) ⁽³⁾	\$ 14,105,000	\$ 7,053,000	\$ --	\$ 21,158,000
1989	11,352,000	5,676,000		17,029,000
1988	11,260,000	2,815,000	2,815,000	16,890,000
1987	11,202,000	2,800,000	2,800,000	16,803,000
1986	11,438,000	5,719,000	--	17,158,000
1985	11,208,000	5,604,000	--	16,811,000
1978	9,082,000	3,633,000	908,000	13,624,000
1977	8,330,000	2,083,000	2,083,000	12,495,000

- 1) Beginning in FY 1985, these data exclude minor amounts from certain in-lieu tax levies.
- 2) Detail may not add to total due to rounding.
- 3) Current estimate of Kansas Legislative Research Department.

Motor Vehicle Taxes Collected. The motor vehicle tax took effect on January 1, 1981. Amounts collected under this "tax and tag" law, imposed in lieu of the general property tax, are in addition to the amounts shown above. Total state collections from this source in selected years have been as follows:

<u>Fiscal Year</u>	<u>Collections</u>
1990 (estimated) ⁽¹⁾	\$ 2,900,000
1989	2,769,000
1988	2,527,000
1987	2,410,000
1986	2,251,000

- 1) Current estimate of Kansas Legislative Research Department.

Motor Carrier Property Tax

The Motor Carrier Property Tax, enacted in 1929, applies to over-the-road motor vehicles and rolling equipment owned, used, or operated by motor carriers in nonlocal intrastate or interstate business who haul for hire and are subject to the authority of the State Corporation Commission. The property is assessed by the Division of Property Valuation, Motor Carrier Bureau, based on reports filed by the motor carriers. Taxes are computed on the basis of the statewide average mill levy for the previous year. Taxes are due on December 20 and June 20 and are deposited in the State General Fund. An amount equal to the tax is transferred to the Special City and County Highway Fund.

Collections from the tax in recent years have been as follows:

<u>Fiscal Year</u>	<u>Collections</u>
1990	\$ 10,100,000 ⁽¹⁾
1989	10,726,000
1988	9,897,000
1987	10,946,000 ⁽²⁾
1986	8,060,000
1985	6,643,000

- 1) Consensus Estimate as of November 15, 1989.
- 2) About \$1.3 million, collected in previous fiscal years, was released from a tax protest account to the State General Fund.