

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

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

3:00 ~~xxx~~ p.m. on Thursday, April 5, 1990 in room 519-S of the Capitol.

All members were present except:

MEMBERS OF THE SUB-COMMITTEE ARE: SENATOR DAN THIESSEN, CHAIRMAN, SENATOR KARR, SENATOR LANGWORTHY, SENATOR FRED KERR, SENATOR MARTIN. ALL MEMBERS PRESENT

Committee staff present:

Bill Edds, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Don Schnacke, KS Independent Oil & Gas Association
Janet Stubbs, Home Builders Association of KS., Inc.
T.C. Anderson, Exec. Dir., KS Society of CPAs
Trudy Aron, Exec. Dir. KS Society of Architects, AIA
Lucky DeFries, KS Bar Association
Karen France, KS Realtor's Association
James Hall, Security Counsel for Security Benefit Life Insurance Co.
Ron Hein, American Advertising Agencies
Bob Corkins, KCCI
Tom Tunnel, KS Grain and Feed Dealers

Chairman Thiessen called the meeting to order at 3:16 p.m. and said, at the sub-committee meeting yesterday, some conferees did not understand that we would be hearing conferees, so if any are present today, and would like to be heard, he would be glad to give them time. He said, yesterday we took the list of exemptions that the House has passed, and he said, we do have more proposals that Senator Martin would like the committee to look at from SB692.

Senator Martin said on page 4, (c) of SB692 gross receipts from the sale or furnishing of gas, water, electricity and heat, whether furnished by municipally or privately owned utilities and all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting, which shall be taxed at the rate of 2.125%. Senator Martin said it is on the list of exemptions (ATTACHMENT 1) by the Department of Revenue, the committee received at an earlier meeting 79-3606(x) and 79-3606(y). He said, it shows the fiscal impact at \$41.0M and asked Chris Courtwright, "is this right?" as it seemed to him to be a low figure.

Chris Courtwright said that is about what they have been getting from the Department of Revenue, for the last few years.

Senator Martin said he is suggesting about \$21.5M on this exemption. He said, yesterday we did the gross receipts on the sales of meals and drinks furnished at any private club or drinking establishment, or any place where meals and drinks are sold to the public. (d) in SB692.

Chris Courtwright said that is not an exemption, in 3603 is the imposition section and that is just clarifying that tax is imposed on the sale of meals and drinks, furnished by private clubs, etc. and he said, he did not see it on the Departments list. He said SB692 does not propose to change that section at all.

Senator Martin asked if we are through SB692 on exemptions, and are we ready for the services?

Chris Courtwright said yes he thought we were through the exemptions in SB692.

Don Schnacke said under the original construction, you have not touched on that and that is the exemption that was struck out of SB692, and that was not discussed, yesterday. He said, it is on page 6 and 7 of SB692.

Chairman Thiessen asked Mr. Schnacke if he would like to speak to that.

24
49

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 3:00 ~~xxx~~/p.m. on Thursday, April 5, 1990.

Don Schnacke said he could speak, from the point of view of their industry, which is a very broad based exemption, that has a long history of background in the legislature over the years. He said, he thought the theory is the legislature intended to exempt materials and services related to original construction to encourage construction in industries and buildings throughout the State, and from there on repairs, maintenance and services become, taxable. He said, that is the way it is in their industry, the oil and gas industry. On page 7 of SB692, when you get into the wording of building and facilities, the legislature included oil and gas wells, and that is just one angle of this whole broad thing.

He said, in their industry, your talking about raising the cost of drilling a well, it's as much as \$10,000 to \$15,000, if you strike the exemption out. It is enough, to make the decision to leave KS and drill in some other State where they don't impose this kind of tax. It is a very serious move and one that we are very concerned about, and we caution you to move very carefully, in that area.

He said, KS Inc. just finished a study, and spent a \$100,000 in re-doing, just our industry. It's on the shelf now, but I think you all received the corrected summary, its declares the excessive tax rates on our industry and this was presented to the taxation committee and the interim committee. He said, they have already been hit hard with all that study and now they are here, facing another substantial increase in the area of construction and the drilling of their wells, and this will have a very serious impact on their industry.

Senator Martin asked Senator Rock "is that the services for the original construction of the building or for construction restoration of the bridge or highway, have we picked up what Mr. Schnacke is talking about?"

Senator Rock said yes, its under the definition of facilities.

Janet Stubbs, Home Builders Association of KS said she testified on SB692 before the full committee, on the effects it would have on new construction of residential property, and she said, they figured on approximately a \$70,000 house, they are not sure how you break that out in a sale of residential property. She said, for example right now they figure that approximately 40% of the cost of construction is in labor, and that is what is currently exempt, they now pay sales tax on materials and supplies. She said, if you were to purchase a new home already constructed, she assumed you would pay on the entire sale price and that, then would include land. She asked "are you then going to charge sales tax on agricultural land, for example?" She said, she thought it would be difficult to break it out, but she thought it would be possible.

She said, then you would be charging sales tax on the builder's overhead profit, you would just increase on various things, it would have a drastic affect on the amount of dollars that the potential buyer would have to make each year in order to qualify for the loan, then you get into the increase in the payment each month, that would be affected by that increase in price.

She said, she was not sure, but she thought the committee was also proposing sales tax on realtor's commission, and that of course is added onto the sales price of the home for closing costs, and she said she see's some real problems in trying to break it all out.

Senator Martin said he would go to the accounting, auditing and bookkeeping on page (9) on SB692.

T.C. Anderson Executive Director, KS Society of CPAs said in particular they are concerned with the language found on pages 9 & 10 of SB692 which would impose the tax on accounting, auditing and bookkeeping, including tax preparation, management and consulting services. He said, in 1987 only 5 state's taxed professional services, and the lastest count indicates 46 state's now have a sales tax and of those 43 now impose the levy on some services and in 1990, 4 state's tax professional services.

He said, while state legislatures across the nation have studied and continue to study expanding their services tax, they continue to stop short of taxing professional services. Imposing a sales tax on services adversely affects the economy by increasing costs, which may cause consumers to utilize out-of-state practitioners who are not subject to the tax. This could cause the exportation of service revenues to out-of-state business, thus reducing the level of employment for professionals in KS. (ATTACHMENT 2)

Senator Fred Kerr asked Mr. Anderson "what he saw coming in the next few years, as

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 3:00 ~~xxx~~ p.m. on Thursday, April 5, 1990

these sales taxes go higher and higher in all state's, trying to keep up by providing education and various other things in the state with the economy becoming more service oriented all the time and that a bigger and bigger share of the economy, so the gap just gets bigger and bigger, what do you see coming in the next 3 or 4 years in these state's"?

T.C. Anderson said he did not see the services, as being taxed at zero, because we have seen 20 state's in the last 3 years expand their sales tax base to include services, and he said, his point was with all the study of those 20 state's, not a single one has taxed professional services.

Senator Karr asked Mr. Anderson, "since you are an accountant and work with a lot of books and help people prepare taxes, how do we tax this area fairly, and get the question that Senator Kerr asked, we have a big change in the composition of the basket of what we buy, services vs. goods, so the basket is getting larger, towards the service side, are you advocating some other alternative that might resolve this"? Do you think we should look at the income tax?

Mr. Anderson said sales tax, are regressive taxes, and this particular bill, adds the tax back to utilities and it makes it very regressive. We can spend ourselves out of existence, maybe we need a summer study to look at where we can cut cost and increase the ability to pay for what services we are providing now.

Senator Karr said we lowered income tax, the last couple of years with the lowering of rates and the high income professional with over the \$100,000 even at the Federal level, and you know what happened. They don't pay as much as the people that are under the \$100,000.

Senator Rock asked Mr. Anderson "what in your opinion is a regressive tax?"

Mr. Anderson said he is not an expert, but he has been told that sales taxes is a very regressive tax, and in his hand-out on the Florida situation, they too taxed utilities and it made their tax more regressive, and that means that the people that are least able to pay, pay a higher percentage of their income for this tax.

Trudy Aron, Executive Director of KS Society of Architects, AIA said she testified on SB692 at this committee's hearing and she said they still feel the imposition of a tax on their special services would be very detrimental to the architectural firms in KS. Most of the architectural firms in KS works in more than 1 state, architectural services involve long term capital expenditures, the imposition of an additional 4.25% or more of tax on these services will force most clients, both in KS and outside of KS to hire non-KS firms to avoid the additional expenditure. (ATTACHMENT 3)

Senator Martin said the next exemption: is on banking, investment and other financials. There were no conferees appearing.

Exemption: Barber and Beauticians. No conferees appearing.

Exemption: Commercial Arts and Graphics. No conferees appearing.

Exemption: Collection agencies and credit reporting. No conferees appearing.

Exemption: Engineering. George Barbee, CAE Executive Director said his hand-out is identical to the one he passed out to the committee a few weeks ago on SB692. He said, as he reviewed the sales tax statutes it became evident that the entire retailers sales tax statutes were clearly intended for the retailer to collect from the consumer a tax on the final retail transaction. The providing of a professional service such as engineering is not a retail transaction.

The design of a project is a necessary step toward providing the builder the contract documents and plans from which the builder can determine ways, means, materials and methods to build according to the design and specifications.

Remember, the service of design is not performed on the site of construction. It is performed in the location or locations where the design team members have their offices. That very likely will not be KS if this bill passes without exemptions. (ATTACHMENT 4)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 3:00 ~~xxx~~/p.m. on Thursday, April 5, 1990
Exemption: Funeral and crematories. No conferees appearing.

Exemption: Parking facilities. No conferees appearing.

Exemption: Private employment search and personnel supplies. No conferees appearing.

Exemption: Private legal services.

Lucky DeFries, KS Bar Association said he appeared before the full committee and already submitted a hand-out before, and he wanted to emphasize what Mr. Anderson said, that only 4 state's tax services. Some state's in search of additional revenue, they are beginning to try to venture into some additional service area's, but most are still staying away from professional services. All the state's are in the same predicament, they are all looking for all the dollars they can lay their hands on, and there has to be a reason why all of these state's, in the quest for additional revenue, are continually staying away from professional services. A lot of this is because of administration problems in trying to administer this. Not only the problems the State would have, in terms of trying to determine what is and isn't taxable, when there is an audit situation, but also the problems that the individual has.

In the case of attorney's some cases are provided out of state, your talking on the phone, your taking depositions, out of state and there are all sorts of difficult problems.

We could not turn over our files for the Department of Revenue to audit, because of confidentiality. For all of these reasons, he felt this is the reason other state's have elected not to do it. (NO ATTACHMENT)

Exemption: Property appraisal and Real Estates sales and services.

Karen France, KS Realtor's Association said they feel, if the legislature is inclined to tax commissions that are earned by the salesmen that sell houses. If you are doing this in the name of property tax relief, then give them real property tax relief, because you are doing it to the very people that don't get anything in return, so if you are going to do it, make it good. As we have said all along, you have to have some kind of cap on property taxes somewhere, people are asking for a limit somewhere. She said, they would support sales tax on services, if a cap was put in the constitutional amendment. (NO ATTACHMENT)

Exemption: Security and Detectives. No conferees appearing.

Exemption: Snow Removal. No conferees appearing.

Exemption: Stenographic. No conferees appearing.

Exemption: Surveying. No conferees appearing.

Exemption: Testing Laboratories. No conferees appearing.

Exemption: Turkish Baths and Massage Parlors. No conferees appearing.

Exemption: Veterinarians. No conferees appearing.

Exemption: Warehouse Storage. No conferees appearing.

Exemption: Wrecker and Towing. Mary Turkington asked for the definition on Wrecker and Towing, and Senator Martin said we have do definition.

Exemption: Yard Maintenance and Landscaping. No conferees appearing.

Exemption: Insurance Commissions. Larry McGill, Independent Insurance Association asked, what the definition might be of investment and other financial, as sometimes the Insurance Industry is locked in financially, with certain insurance products? There was no definition.

Mr. McGill said a one of their concerns is, this is basically an inequitable approach to the property tax relief, because of the fact that the service sector of the economy was hit the hardest by the property tax reappraisal and re-classification. He said, what they hear from their members is, on newspaper articles about the possibility of service tax on insurance, or on commissions.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 3:00 ~~xxx~~/p.m. on Thursday, April 5, 1990

He said, there is already a 2% premium tax paid to the state on insurance premiums, which is essentially sales tax. He asked, where the money goes to? His answer, was to the general fund. NO ATTACHMENT

After committee discussion on the sales tax on commissions to relief property tax, Chairman Thiessen asked Senator Martin what would be affected by the Warehouse Storage exemption?

Senator Martin said it would be tax on services, not the goods.

James Hall, Security Counsel for Security Benefit Life Insurance Company, said he just wanted to verify if he understood Senator Rock correctly and asked "when you say investment and other financial" is that intended towards commissions, or the premiums? NO ATTACHMENT

Senator Rock said its the same phrase, it would be investment and state funding.

Ron Hein, American Advertising Agencies said there are graphic artists, photography, television etc. and some of these are taxed already and some services are not, so it is unclear as to whether advertising agencies services are, or not to be taxed. NO ATTACHMENT

Senator Rock said it is not the intention to tax the cost of television.

Ron Hein asked about the creation, for instance T.V. commercials, under creative services which in the past have never been taxed, but some of the services they use are taxable under current law, would this be taxed under public relations?

Senator Rock said he was not sure. Ron Hein said their attitude on the sales tax is, 2.2M Kansans pay sales tax, that is used to expand the base, and he said, as far as they know, there are no people exempted from paying sales tax.

Bob Corkins, KCCI said he would speak to services in general, and he said they believe that this peer policy is not to broaden the sales tax base, but rather new income is needed to achieve some degree of property tax relief. It is better to take an increase in the rate, which they proposed on the floor of the House. He said, KS needs to remain competitive with the surrounding state's, however the KS sales tax rates are lower and on top of that add to the fact, that the KS public supports the idea of an increase in the rate by approximately 60%, and that would cross all congressional districts in the state, and all age groups support that.

He said, he could not make a determination in broadening of the base, as any less regressive than increasing the rate. Even if the broadening of the base is less regressive, he thought the question, is not whether the tax imposed is regressive, it's whether the effect of the taxes proposed is regressive, and the how the cost of living is affected for Kansans by some of these tax policies.

He said businesses will have to pay many more new taxes, as the result of broadening the base to include all of these services being discussed. They will have to pay new taxes in the neighborhood 4¼% to 6¼%, on engineering, accounting services, attorney fees, cleaning, security services, etc., all driving up the cost of good business in Kansas. NO ATTACHMENT

Tom Tunnel, KS Grain and Feed Dealers asked about the exemption on warehouse storage, and if it included sales tax on grain and feed?

Senator Martin said there is no tax on the inventory, just the storage, which is service.

After committee discussion The Chairman reminded the members, the reason for this sub-committee was to look at sales tax exemptions, and not to get into the inventory, but he said we are trying to work out some property tax relief, and the committee is certainly willing to look at any proposals, but this meeting, we will stay with exemptions and make recommendations to the full committee tomorrow.

Senator Martin moved that the service portion of the exemptions in total, be recommended to interim study, 2nd by Senator Karr. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 3:00 ~~am~~ p.m. on Thursday, April 5, 1990

The Chairman asked for Senator Martin's version, on how he would like to get to \$180.M?

Senator Martin said he would include interstate telephone and telegraph services at \$6.5M at half rate, which would net \$3.25M.

Senator Fred Kerr said he wants to stay as accurately as we can, and he said, the Chairman and himself made a proposal and the committee adopted it, it is on the floor and has been announced far and wide, and criticized far and wide, some people like it and some don't, but it is out there and it is specific, and as far as the exemptions in here go, he said, he would be more than glad to give feed back and tell what he thinks, the one's that could be removed and the one's that couldn't be removed, and he suggested, that it be in the form of an amendment, because he felt the committee would not get near the \$100.M target, on anything that he could agree to.

He said, he is willing to say, what he thinks is good and bad, and the bill is there if someone wants to amend some package into it, and offer it to the Senator's, that is fine, but to go over the items again at half rate, he does not agree.

Senator Karr asked if he would really rather have an amendment on the floor, of some component, is this right? Senator Fred Kerr said yes. He said, we voted and he stated his vote to a 1¢ sales tax, and got criticized for it, but it is there and it's open for all Senator's, but he is not agreeing to vote for a package such as this.

After committee discussion, the feeling was to do it on the floor, and Senator Martin said they could go ahead and have this drafted.

Chairman Thiessen said we do have a recommendation for a study on services, and if there are any amendments or further recommendations, he would accept them now.

Senator Martin said he thought the only thing we should recommend to the full committee, would be that we would like to see services go to interim and just leave it at that, and if there is no agreement on the elimination of sales taxes on exemptions, leave it at that.

Senator Fred Kerr said we only covered one, and you are saying stop. He said, he does not agree with the list but he does not know how the other members feel, and there may be some other's that they agree with.

Senator Rock said he does not want the conception that he is withdrawing this from this committee, and that he is pleased. He said, he would draw up some kind of amendment and see what happens.

Senator Karr said he went through the list and prepared yesterday, that we would be doing a cross-reference, what he thought was workable and not workable. He said, he summed it up and has the figures, and he said his summary does not come up to \$100.M using this list, he came up with about \$50.M. He said he did not include items on the longer list, only the one's from yesterday and there may be some items included, in some form.

Senator Martin said if you add what is in SB692 that we did not cover yesterday, with what Senator Karr has, your up to around \$75.M to \$80.M and that puts us close to \$100.M with those exemptions.

Senator Fred Kerr said our bill is on the floor, six members of this committee voted for it. He said, he announced several times on the floor that they would welcome amendments, and he said, it is so easy to say that we should remove \$100.M in sales tax exemptions, but it is so difficult to come up with specific one's.

Senator Langworthy said she finds it difficult to come up with \$20.M

Chairman Thiessen said he would report to the committee that this sub-committee could not reach an agreement on exemptions, and that we have the recommendation on services. The Chairman adjourned the meeting at 5:17 p.m.



Memorandum

January 10, 1990

To: The Honorable Keith Roe, Chairman
House Taxation Committee

From: Ed C. Rolfs
Secretary of Revenue

Subject: Sales Tax Exemptions and Sales Tax on Services

The information presented below is a list of items that would broaden and strengthen the State General Fund revenue base. Please keep in mind that the figures below are preliminary and will need further research if selected. Some of the sales tax exemption estimates are extrapolated from 1982 Bureau of the Census statistics.

@ 4/4/90

State Sales Tax: Sales tax exclusions and exemptions.

<u>Statute</u>	<u>Exclusion/Exemption</u>	<u>Fiscal Impact</u>
79-3602 (e)	Defines retail sales which exclude wholesale sales, retail sales for resale of tangible personal property, electrical energy, gas, water, services or entertainment	\$2,000.0 m ***
79-3603 (a)	Included in 79-3602 (e)	
79-3603 (b)	Interstate receipts, telephone or telegraph	\$6.5 m ✓
79-3603 (c)	Amusements, entertainment or recreation receipts, sponsored by a political subdivision	\$4 m
79-3603 (f)	Coin-operated laundry services	\$9 m
79-3603 (g)	Hotel, motel rooms rented more than 28 days	\$6 m
79-3603 (h)	Machinery and equipment purchased by IRB's issued before 7-1-83	minimal
79-3603 (o)	Motor vehicles or trailers exchanged for stock	\$9 m
79-3603 (p)	Services for original construction of a building, or for construction, restoration, etc., of a bridge or highway	\$60.0 m
79-3606 (a)	Motor fuel and other items taxed under another sales or excise tax	\$60.0 m
79-3606 (b)	Property or services purchased by Kansas, a political subdivision or nonprofit hospital or bloodbank	\$42.0 m

		<u>Fiscal Impact</u>
79-3606 (c)	Purchase or rental of personal property by nonprofit educational institution	\$25.0 m
79-3606 (d)	Property or services purchased by a contractor for erection or repair of buildings for nonprofit hospitals, educational institutions or political subdivisions	\$23.0 m
79-3606 (e)	Property or services purchased by a contractor for erection, repair, or enlargement of buildings for the United States government, its agencies, or instrumentalities	\$3.0 m
79-3606 (f)	Property purchased by a railroad or public utility for use or movement in interstate commerce	\$35.0 - \$45.0 m
79-3606 (g)	Sales or repair, modification of aircraft sold and used in interstate commerce	\$10.0 - \$15.0 m
79-3606 (h)	Rentals of nonsectarian texts by elementary and secondary schools	\$.3 m
79-3606 (i)	Receipts from lease or rental of films, records tapes, etc., used by motion picture exhibitors	\$1.2 m
79-3606 (j)	Free meals to restaurant employees	\$.6 m
79-3606 (k)	Sales of any motor vehicle, semi-trailer, pole trailer, or aircraft which is purchased by and delivered to a non-resident in the state of Kansas	\$30.0 - \$40.0 m ✓
79-3606 (l)	Isolated or occasional sales	\$5.2 m
79-3606 (m)	Tangible personal property used as a component part of tangible personal property or services produced, manufactured, or compounded for sale at retail within or without the state of Kansas	\$450.0 m
79-3606 (n)	Tangible personal property consumed in the production, manufacture, processing, mining, drilling, refining, or irrigation of crops for ultimate sale at retail	\$350.0 m
79-3606 (o)	Sales of animals, fowl, and fish to be used in agriculture, food, animal, fowl, and fish products or for production of offspring	\$150.0 m
79-3606 (p)	Trade fixtures and equipment already installed in a business when sold	\$1.2 m
79-3606 (q)	Prescription drugs	\$21.0 m
79-3606 (r)	Insulin	\$.2 m
79-3606 (s)	Prosthetic devices	\$.3 m

		<u>Fiscal Impact</u>
79-3606 (t)	Property or services purchased by a groundwater management district	\$.1 m
79-3606 (u)	Used farm machinery and equipment	\$15.0 m
79-3606 (v)	Lease or rental of mobile homes for more than 28 consecutive days	\$1.2 m
79-3606 (w)	Food products purchased for meals served to disabled or homebound elderly	\$.1 m
79-3606 (x)	Sale of natural gas, electricity and water for residential or agricultural use	\$41.0 m
79-3606 (y)	Sale of propane, L-P gas, coal, wood, etc., for heating residences	\$1.6 m
79-3606 (z)	Residential intrastate local telephone and telegraph services	\$7.0 m
79-3606 (aa)	Sales of material or services used to repair, service, alter, etc., railroad rolling stock used in interstate or foreign commerce	\$5.0 - \$7.0 m
79-3606 (bb)	Property or services purchased by a port authority	\$.6 m
79-3606 (cc)	Materials and services for repair, service, maintenance, of equipment used outside Kansas for transmission of natural gas	\$.9 m
79-3606 (dd)	Used mobile homes for dwelling	\$.6 m
79-3606 (ee)	New and used machinery and equipment for qualified facility located within enterprise zone	\$1.0 m
79-3606 (ff)	Commodity purchases using USDA food stamps	\$3.3 m
79-3606 (gg)	Sales of lottery tickets	\$2.0 m
79-3606 (hh)	Sales of new mobile homes (40% of gross receipts exempt)	\$.7 m
79-3606 (ii)	Tangible personal property purchased using vouchers issued to the federal special supplemental food program	minimal
79-3606 (jj)	Medical supplies and equipment purchased by non-profit skilled or intermediate nursing homes	\$.6 m
79-3606 (kk)	Tangible personal property purchased by a nonprofit organization for youth development programs	minimal
79-3606 (ll)	Tangible personal property sold, rented, or leased by a community-based mental retardation facility or mental health center	\$1.4 m

		<u>Fiscal Impact</u>
79-3606 (mm)	Machinery and equipment used in all stages of the production process of tangible personal property intended for resale	\$15.0 m
79-3606 (nn)	Educational materials purchased by a nonprofit corporation for distribution to the public to improve public health	minimal
79-3606 (oo)	Seeds and tree seedlings, fertilizers, insecticides, herbicides, germicides, pesticides and fungicides used to produce plants to prevent soil erosion on agricultural land	\$.4 m
79-3606 (pp)	Services rendered by an advertising agency or licensed broadcast station	\$.0 - \$.5 m
79-3606 (qq)	Tangible personal property purchased by a community action group or agency to repair or weatherize housing occupied by low-income individuals	\$.1 m
79-3606 (rr)	Drill bits and explosives used in oil and gas exploration and production	\$.3 m
79-3606 (ss)	Tangible personal property and services purchased by a nonprofit museum or historical society or by a nonprofit organization dedicated to stimulate public interest in space exploration	\$.2 m
79-3606 (tt)	Tangible personal property to admit purchaser to an annual event sponsored by a nonprofit organization	\$.1 m

Apply the sales and use tax to the following services:

	<u>Fiscal Impact</u>
Legal services	\$15 - \$20 m
Engineering, architectural, and surveying services	\$10 - \$15 m
Accounting, auditing, and bookkeeping services	\$10 - \$15 m

Kansas Department of Revenue

Summary: Fiscal Impact of Sales Tax Exclusions and Exemptions at 4.25% tax rate.

<u>Statute - KSA</u>	<u>Type of Exclusion/Exemption</u>	<u>Fiscal Impact</u>
79-3602 (c)	Definitional	\$2,000.0 m
79-3603 (a)	Definitional	a
79-3603 (b)	Legal/Policy	\$6.5 m
79-3603 (c)	Policy	b
79-3603 (e)	Policy	\$4 m
79-3603 (f)	Policy	\$9 m
79-3603 (g)	Definitional	\$6 m
79-3603 (h)	Policy	minimal
79-3603 (i)	Policy	c
79-3603 (e)	Definitional	\$9 m
79-3603 (p)	Policy	\$60.0 m
79-3606 (a)	Legal/Policy	\$60.0 m
79-3606 (b)	Policy	\$42.0 m
79-3606 (c)	Policy	\$25.0 m
79-3606 (d)	Policy	\$23.0 m
79-3606 (e)	Legal/Policy	\$3.0 m
79-3606 (f)	Legal/Policy	\$35.0 - \$45.0 m
79-3606 (g)	Legal/Policy	\$10.0 - \$15.0 m
79-3606 (h)	Policy	\$3 m
79-3606 (i)	Definitional	\$1.2 m
79-3606 (j)	Policy	\$6 m
79-3606 (k)	Policy	\$30.0 - \$40.0 m
79-3606 (l)	Policy	\$5.2 m
79-3606 (m)	Definitional	\$450.0 m
79-3606 (n)	Definitional	\$350.0 m
79-3606 (o)	Definitional	\$150.0 m
79-3606 (p)	Definitional	\$1.2 m
79-3606 (q)	Policy	\$21.0 m
79-3606 (r)	Policy	\$2.2 m
79-3606 (s)	Policy	\$7.3 m
79-3606 (t)	Policy	\$1 m
79-3606 (u)	Policy	\$15.0 m
79-3606 (v)	Definitional/Policy	\$1.2 m
79-3606 (w)	Policy	\$1 m
79-3606 (x)	Policy	\$41.0 m
79-3606 (y)	Policy	\$1.6 m
79-3606 (z)	Policy	\$7.0 m
79-3606 (aa)	Legal/Policy	\$5.0 - \$7.0 m
79-3606 (bb)	Policy	\$6 m
79-3606 (cc)	Policy	\$9 m
79-3606 (dd)	Policy	\$6 m
79-3606 (ee)	Policy	\$1.0 m
79-3606 (ff)	Legal/Policy	\$3.3 m
79-3606 (gg)	Policy	\$2.0 m
79-3606 (hh)	Policy	\$7 m
79-3606 (ii)	Legal/Policy	minimal
79-3606 (jj)	Policy	\$6 m
79-3606 (kk)	Policy	minimal
79-3606 (ll)	Policy	\$1.4 m
79-3606 (mm)	Policy	\$15.0 m
79-3606 (nn)	Policy	minimal
79-3603 (oo)	Policy	\$4 m
79-3606 (pp)	Policy	\$0 - \$5 m
79-3606 (qq)	Policy	\$1 m
79-3606 (rr)	Policy	\$3 m
79-3606 (ss)	Policy	\$2 m
79-3606 (tt)	Policy	\$1 m

a - Included in 79-3602 (e)
 b - Included in 79-3606 (b), (c), (d), (e), (l), (m), and (x)
 c - Included in 79-3606 (f)

Total	\$3,401.9 m
Definitional	\$2,953.9 m
Legal/Policy	\$131.3 m
Policy	\$315.5 m
Definitional/Policy	\$1.2 m



**Kansas Society of
Certified Public Accountants**

FOUNDED OCTOBER 17, 1932

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460

Testimony on SB 692

Prepared for the
Senate Committee on Assessment and Taxation

by

T. C. Anderson

Executive Director

Kansas Society of CPAs

April 5, 1990
SENATE ASSESSMENT AND TAXATION COMMITTEE
SUB COMMITTEE MEETING THURSDAY 4-5-90
ATTACHMENT 2

I appreciate the opportunity to appear before you today to address that portion of SB 692 which would impose a tax on the gross receipts received from the rendering or furnishing of services at retail in the state by certified public accountants. In particular we are concerned with the language found on pages 9 and 10 which would impose the tax on accounting, auditing and bookkeeping, including tax preparation, and management and consulting services.

When Steven Gold of NCSL addressed an interim Kansas Tax Committee in 1987 he reported 45 states have a sales tax and that about half imposed the levy on some services. In 1987 only five states -- Hawaii, Delaware, South Dakota, New Mexico and Florida taxed professional services.

My latest count indicates 46 states now have a sales tax and of those 43 now impose the levy on some services. In 1990 only four states - Hawaii, Delaware, South Dakota and New Mexico - tax professional services.

Hawaii, Delaware and New Mexico implemented their broad-based sales tax legislation in the 1930's. South Dakota implemented its in 1968. Of course, Florida both implemented and repealed its tax on services in 1987.

While state legislatures across the nation have studied and continue to study expanding their services tax, they continue to stop short of taxing professional services. And with good reason.

The major purchasers of professional services are other businesses. Generally, small and emerging businesses must purchase professional services that larger business provide internally. These include accounting, tax, legal, pension planning and management and consulting services.

SB692
April 5, 1990
Page 2

Thus a tax on services is an added tax burden on the small business.

Then there seems to be a fundamental inconsistency in enacting a tax on those professional services which are provided to comply with other laws. An example is the taxation of professional fees for tax preparation services to meet the requirement for paying income taxes. Professional advice is also needed by publicly traded companies to comply with federal and state securities requirements. Kansas might run the risk of a decrease in compliance with other tax laws and thus a loss of tax revenue if it imposes a tax which increases the cost of tax advice and preparation.

A sales tax on all services disproportionately imposes a heavier burden on low-income individuals. Attached is a table which shows the increase of sales taxes as a percentage of income as a result of Florida's major sales tax legislation of 1987. Without going through the table let me point out those in Florida with incomes of under \$7,500 saw their tax bill increase 2.48 percent while those with incomes of \$75,500-plus saw the percentage increase only .57 percent.

And finally, imposing a sales tax on services adversely affects the economy by increasing costs, which may cause consumers to utilize out-of-state practitioners who are not subject to the tax. This could cause the exportation of service revenues to out-of-state business, thus reducing the level of employment for professionals in Kansas.

FLORIDA

Taxes as a Percent of Income		
Original Income Group	Sales Tax	New Sales Tax Including Services
\$ 0 - 7,499	8.01%	10.49%
7,500 - 14,999	4.18	5.40
15,000 - 22,499	3.29	4.16
22,500 - 29,999	2.90	3.63
30,000 - 37,499	2.77	3.49
37,500 - 42,499	2.57	3.17
42,500 - 75,499	2.25	2.79
75,500 +	1.99	2.56

Source: William J. Shelley, 3/6/87, Table 2.

SB 692
April 5, 1990
Page 4

A study prepared for a consortium of Texas professional organizations by RRC, Inc., an economics consulting firm, shows the adverse effect of a services tax on the Texas economy. The study showed the Texas economy suffers a loss of 42,700 jobs due to the slower growth of output in services.

Thank you for allowing me to provide this written testimony.



THE KANSAS SOCIETY OF ARCHITECTS, AIA

A Chapter of the American Institute of Architects
The Jayhawk Tower 700 Jackson, Suite 209 Topeka, KS 66603 913•357•5308

ATT 3
4 90
OP.M.

April 5, 1990

TO: Senate Assessment and Taxation Subcommittee
FROM: Trudy Aron, Executive Director
RE: **OPPOSITION TO TAX ON ARCHITECTURAL SERVICES**

The Kansas Society of Architects **OPPOSES** any legislation which would tax architectural services or other professional services.

While taxing all services may seem like an equitable idea, it will have dire consequences for those in the design industry - architects, engineers, landscape architects, interior designers, and others. These design firms are small businesses, our biggest architectural firm has just 50 employees. These firms experienced the same increases in their property taxes as other small businesses, however, unlike some, architects and other design professionals, having no inventories, received no tax savings from this repeal.

Many architectural firms design projects in more than one state. Taxing design fees will put **Kansas firms at a competitive disadvantage with firms outside Kansas.** The tax will favor out-of-state firms which will not be subject to the tax. Since architectural services are high-cost items involving long-term capital expenditures, more clients will turn to out-of-state firms in order to avoid paying the tax. This will be particularly detrimental to small firms, which tend to rely primarily on in-state business and must already compete for in-state projects with larger out-of-state firms.

If the tax is applied so that it pyramids on the services performed by consultants (most architectural firms hire all consultants - structural, electrical and mechanical engineers, landscape architects, etc.) it will **further limit the ability of Kansas design firms to compete** outside this state, and will place small, single-discipline firms at a substantial disadvantage in competing with "full-service" design firms with their own in-house consultants. In fact, permitting the tax to pyramid on the work subcontracted to a subconsultant by a prime consultant, could spell the death of small, single-discipline design firms.

Passage of this bill will **increase the tax burdens of small businesses** more than large businesses because

PRESIDENT
Edward M. Koser, AIA
PRESIDENT-ELECT
Eugene Kremer, FAIA
SECRETARY
David G. Emig, AIA
TREASURER
Peter Gierer, AIA
DIRECTOR
John H. Brewer, AIA
DIRECTOR
Kent F. Spreckelmeyer, AIA
DIRECTOR
Vincent Mancini, AIA
DIRECTOR
Donnie D. Marrs, AIA
DIRECTOR
Skyler W. Harper, AIA
DIRECTOR
Steven A. Scannell, AIA
DIRECTOR
F. Lynn Walker, AIA
PAST-PRESIDENT
Vance W. Liston, AIA
EXECUTIVE DIRECTOR
Trudy Aron



these companies cannot provide the same services a large firm provides internally (like legal, accounting, advertising, etc.). Thus, professional service taxes hinder small business growth and expansion which is contrary to the State's programs designed to stimulate economic growth and development.

The tax will encourage large corporations and other frequent users of architectural services to locate out of state, reducing architects' business even further (in addition to revenues lost because these businesses relocate out of state). Those firms who remain in Kansas will add design professionals to their staffs and perform their own architectural and engineering services in house to avoid paying the tax to outside designer firms. This will reduce the number of design firms and accordingly, eliminate the income and sales taxes (on goods) these firms currently pay.

Professional service business should be encouraged. Kansas should be encouraging professional service business to settle in Kansas. By their nature, service business costs few tax dollars; they are clean and nonpolluting and do not require a wide array of governmental services. In addition, their employees constitute an important part of the local and state tax bases. Thus, the state should be encouraging professionals to locate and expand in Kansas.

Architects, along with other Kansans, have experienced our share of problems related to property reappraisal and classification. Taxes on professional services will only increase the problems by shifting tax burdens again.

If you have questions, I'll be glad to answer them at this time.

ATT.
H. 20



GEORGE BARBEE, EXECUTIVE DIRECTOR
810 MERCHANTS NATIONAL BANK
8TH & JACKSON
TOPEKA, KANSAS 66612
PHONE (913) 357-1824

STATEMENT

Date: March 8, 1990
TO: Senate Assessment & Taxation Committee
FROM: George Barbee, CAE
Executive Director
RE: SB-692 (Sales tax on Professional Services)

Mr. Chairman and members of the Committee, my name is George Barbee and I am Executive Director of the Kansas Consulting Engineers.

The Kansas Consulting Engineers are opposed to SB-692.

Section 5, subsection X of SB-692 would tax all services, including engineering services, under the sales tax provisions of the state statutes. Engineering services have not been taxed in the past because they are not listed as a taxable service for a very good reason.

As I reviewed the sales tax statutes it became evident that the entire retailers sales tax statutes were clearly intended for the retailer to collect from the consumer a tax on the final retail transaction. The providing of a professional service such as engineering is not a retail transaction.

The design of a project is a necessary step toward providing the builder the contract documents and plans from which the builder can determine ways, means, materials and methods to build according to the design and specifications.

Sales taxes are paid by the engineer, architect, contractor and subcontractors as they individually make final retail transactions for materials that are incorporated as components of the final constructed project.

The engineering firm pays sales tax on supplies, computers, automobiles, trucks and equipment when purchased at a final retail transaction. The contractor pays tax on construction materials and the sophisticated construction equipment of the 90's when purchased at the final retail transaction. It is not as if taxes are not being paid. They are being paid at the proper time when the final retail transaction is conducted on component parts of the project. To do otherwise that at the final retail transaction would be an administrative nightmare.

First let me share with you what a consulting engineer does.

Consulting engineering services vary in scope from short-term consultations to the development and design of large and complex projects. These professional engineering services, commonly summarized into four basic classifications, are provided directly to owner-clients or in association with architects.

The services included are widely diversified. Typical examples are:

- Collecting and interpreting data
- Engineering studies and reports
- Cost studies
- Economic comparisons
- Long-range facility planning
- Conducting public hearings
- Appraisals and evaluations
- Feasibility studies
- Investigations
- Government agency liaison
- Applications for government grants or advances

To provide any of the those often requires a coalition of professionals working together through sub-contracts.

Imagine that we are finally going to get a new major convention hotel in downtown Topeka. The owner of this new imaginary high-rise is located in Chicago. The owner has options on property, knows how many units, restaurants and meeting rooms are needed and it is time to hire an architect to coordinate with a team of design firms to design the project.

The architect will eventually hire an electrical engineering firm to design the electrical distribution system; a structural engineering firm to design the skeletal support frame; a mechanical engineering firm to design the air conditioning, heating and ventilation system, and water and fire sprinkling system; a geotechnical engineering firm to perform site investigation and many other specialists to develop the construction documents, plans and specifications.

Will the owner hire a team of Kansas designers on this project and pay a sales tax at every sub-contracting level of engineering, or will the owner simply hire a non-Kansas team to save the sales tax? What would you do?

Remember the service of design is not performed on the site of construction. It is performed in the location or locations where the design team members have their offices. That very likely will not be Kansas if this bill passes without exemptions.

Mr. Chairman, there are other problems with this concept of taxing prior to the final retail transactions, but the very fact that these services are only component parts of a project leads me to request that this committee report this bill unfavorably.

Thank you for the opportunity to speak to this issue and I would be glad to respond to questions.