

Approved February 25, 1991  
Date

MINUTES OF THE House COMMITTEE ON Taxation

The meeting was called to order by Joan Wagnon at  
Chairperson

9:10 a.m./~~p.m.~~ on Tuesday, February 19, 1991 in room 519 of the Capitol.

All members were present except:  
Representative Bill Roy, excused

Committee staff present:  
Tom Severn & Chris Courtwright, Legislative Research;  
Douglas Johnston, aide

Conferees appearing before the committee:

Vice Chairman Bruce Larkin called the committee to order at 9:10 a.m.

Mark Burghart from the Department of Revenue testified on judicial issues associated with HB 2164 (attachment 1). Burghart stated that to the best of his knowledge many states negotiate with Indian Nations. State sales taxes are levied on Indian territories and collected by the tribe. The revenues are then remitted to the state government which then returns a percentage of the revenues to the reservation government. Burghart stated that this was the case in South Dakota.

There were questions as to what benefits Indians in Kansas received from the state government.

Burghart stated that Indians were required to collect federal gasoline taxes and to pay state income taxes on income earned off the reservations. In response to a question, Burghart said Indian lands could not be expanded without congressional approval.

The Chair distributed some information on broadening the sales tax alternatives base which had been reviewed by the Interim Committee on Assessment and Taxation. (attachment 2)

The committee adjourned at 9:45 so that Subcommittee II could continue meeting.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

GUEST LIST

COMMITTEE:

Separation

DATE:

2/19/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
J.P. Small	Topeka	KOCH, Learjet
MARK A. BURGHART	"	REVENUE
Kirby H. Stegman	Topeka	DDR
Julie Hein	Topeka	Hein + Ebert
Terry Guy	Topeka	DDR
ARMIN SAMUELSON	HESETON	SELF
SUSAN SOMERS	Topeka	KSCPA
T.C. ANDERSON	TOPEKA	KSCPA
JEFF POSSELL	TOPEKA	UNITED TEL
Jack Loves	Wichita	KS ASSOCIATION FOR SMALL BUSINESS
LISA Getz	Wichita	Governors Leg. Affairs
Kristy Rosciejny	Topeka	K-NEA
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Jack Wemge	Linn River	Representative
Art BROWN	KCMO	KS USBR Dealers
Greg Tugman	Topeka	Budget
Don Schugge	Topeka	ILIOGA
KEVIN ROBERTSON	TOPEKA	KA CONSULTING ENGRS
Shelley Sutton	Topeka	KES
Judy Blum	"	AIA Kansas
Ken Baker	Topeka	Beech Aircraft Corp.
FRANCES KASTNER	Topeka	KS Food Dealers Assn
Bob Corkins	Topeka	KCCI



GUEST LIST

COMMITTEE: Inspiration

DATE: 2/19/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
KAREN FRANCE	TOPEKA	KAR
W S DEINERZ	MERIDIAN	KFFT
Rob Hodges	Topeka	Ks Telecom Assn
JANET STUBBS	Topeka	H B A K
Bernie Koch	Wichita	Wichita Area Chamber
Lee Tuben	Topeka	KLA
Harriet Lanza	Topeka	Ks Assn Broadcasters
AUSTIN NOTHERN	TOPEKA	MARTIN TRACTOR
James 1703 mi	Topeka	Observer
Christy Young	Topeka	The Topeka Chamber of Comm
Dan Haas	Overland Park	KCPH
Paul E. Fleenor	Manhattan	Kansas Farm Bureau
Patrick Sherley	Topeka	CESMA
Patrick R. Hubbell	Topeka	Kansas Railroad Association
Wendell STROM	Topeka	AARP - CCTF
George Goebel	Topeka	AARP - CCTF - SLC
HAROLD PITTS	Topeka	AARP - CCTF
ROBERT ANDERSON	OTTAWA	MID CONT OF Pa
James Naffly	Topeka	Revue



## KANSAS DEPARTMENT OF REVENUE

*Office of the Secretary*  
Robert B Docking State Office Building  
915 SW Harrison St  
Topeka Kansas 66612-1588

### MEMORANDUM

To: The Honorable Joan Wagnon, Chairperson  
House Committee on Taxation

From: Mark A. Burghart, General Counsel  
Kansas Department of Revenue

Date: February 13, 1991

Subject: House Bill No. 2164

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Thank you for the opportunity to appear and comment on H.B. 2164 and the jurisdictional issues associated with the bill. The bill provides that sales of motor fuel and special fuel by retailers on reservations to non-tribal members is not exempt from the state motor fuel and special fuel tax. The questions surrounding the state's ability to impose tax on transactions occurring on federally-recognized reservations are complex and long-standing. The law is relatively clear that the state does have criminal jurisdiction over all Indians in Kansas. Unfortunately, the law is much less clear whether the state has jurisdiction to enforce the regulatory provisions of the state tax acts on such reservations. The four recognized tribes in Kansas are: Iowa, Kickapoo, Sac and Fox and Potawatomi.

Both the Organic Act (Sec 19) and the Act for Admission of Kansas into the Union provide in part:

" . . . nothing contained in this act [constitution] shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with an Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Kansas".

In 1953, Congress enacted Public Law 83-280. The federal statute provided that states that had disclaimed jurisdiction over Indian lands in their constitutions as a condition of admission to statehood were authorized to amend their constitutions or statutes to remove legal impediments to such jurisdiction. Kansas has never taken "positive action" to assume jurisdiction under Public Law 280. An amendment to Public Law 280 in 1968 made subsequent

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*Administrative Services Bureau (913) 296-2331 • Personnel Services Bureau (913) 296-3077*

HOUSE TAXATION  
Attachment #1  
02/19/91

The Honorable Joa. Wagnon, Chairperson  
January 18, 1991  
Page 2

assumptions of jurisdiction subject to Indian consent in a special election. Only Utah has assumed jurisdiction with tribal consent since 1968.

The jurisdictional issues confronting the State of Kansas today are similar to those which were addressed by the State of Oklahoma in a recent 10th Circuit Court of Appeals decision. In Citizen Band Potawatomi Indian Tribe of Oklahoma v. Oklahoma Tax Commission, 888 F.2d 1303 (10th Cir. 1989) the State of Oklahoma was seeking to tax cigarettes sold by the Potawatomis in a convenience store. The U.S. Court of Appeals stated that because the convenience store was located in Indian Country, the Potawatomis possessed sovereign powers with respect to the land and the store. Oklahoma had no authority to tax the store's transactions unless Oklahoma had received an independent jurisdictional grant of authority from Congress. Oklahoma could cite no federal law granting such jurisdiction. Furthermore, Oklahoma had disclaimed jurisdiction over Indian lands upon entering the Union, did not assert jurisdiction under Public Law 280, and could point to no voluntary grant of jurisdiction by the Potawatomis. The Court enjoined the state from collecting state tax on the sales of cigarettes by the Potawatomis.

The U.S. Supreme Court has accepted the Oklahoma case for review. A decision from the U.S. Supreme Court hopefully will resolve the jurisdictional uncertainty under which the Department of Revenue is currently forced to operate.

I would be happy to respond to any questions you may have.

**Kansas Legislature**  
**Interim Committee on Assessment and Taxation**

**Broadening the Kansas Sales Tax Base:**  
**What are the Issues?**

**Notes and Tables**  
**To Accompany the Remarks of**

**Harley T. Duncan**  
**Executive Director**  
**Federation of Tax Administrators**  
**Washington, D.C.**

**August 17, 1990**

HOUSE TAXATION  
Attachment #2  
02/19/91

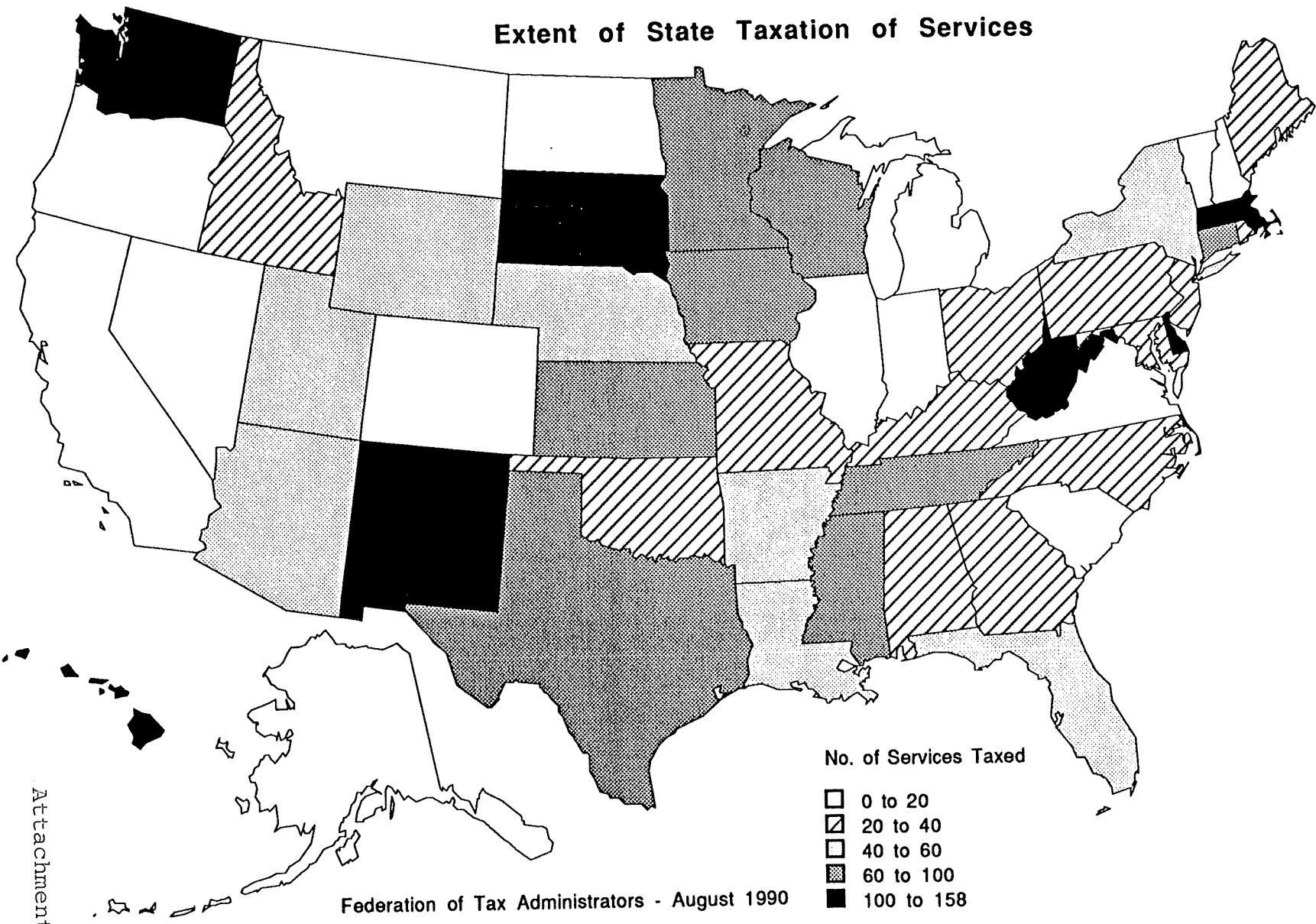
## **Purpose of Remarks**

- A. Place Kansas in perspective of other state with respect to the issue of imposing the sales tax on various services
- B. Identify potential opportunities for expanding the Kansas sales tax to encompass a broader range of services
- C. Evaluate the options available against standard tax policy criteria
- D. Identify certain administrative and policy issues that must be considered in designing an expansion of the sales tax base
- E. Look at the degree of balance in the Kansas state-local tax structure

**How does Kansas Compare  
to Other States?**



# Extent of State Taxation of Services



Federation of Tax Administrators - August 1990

Attachment 2-4

**EXTENT OF STATE TAXATION OF SERVICES  
1990**

Rank	State	Points	Rank	State	Points	Rank	State	Points
1	Delaware*	158	18	Florida	53	34	Kentucky	23
2	Hawaii	154	19	Louisiana	48	34	Maine	23
2	New Mexico	154	20	Arkansas	47	36	North Dakota	19
4	Washington*	151	20	Utah	47	36	Vermont	19
5	South Dakota	131	22	Nebraska	40	38	Michigan	18
6	West Virginia*	111	23	Pennsylvania	37	39	Indiana	17
7	Iowa	83	24	New Jersey	35	40	South Carolina	16
8	Connecticut	76	25	Ohio	34	41	California	15
8	Texas	76	26	Idaho	33	41	Illinois	15
10	Mississippi	67	26	Oklahoma	33	41	Oregon	15
11	Tennessee	66	28	Alabama	31	41	Virginia	15
11	Wisconsin	66	28	Georgia	31	45	Montana	14
13	Kansas	64	30	North Carolina	26	46	Colorado	12
14	Minnesota	60	31	Maryland	25	46	Nevada	12
15	New York	58	32	Missouri	24	48	New Hampshire	11
16	Wyoming	56	32	Rhode Island	24	49	Massachusetts**	4
17	Arizona	54				50	Alaska	2

Note: Table denotes the number of services taxed (from a listing of about 170 separate services) under the general retail sales and use tax, a special excise levy based on value of the service performed or a broad-based gross receipts tax.

\* Inclusion of gross receipts taxes significantly influences ranking.

\* \* Survey conducted prior to passage of 1990 legislation expanding sales taxation to broad range of business services. Likely number of services from the listing taxed under new statute would exceed 100.

Source: Federation of Tax Administrators, *Survey of the States' Sales Taxation of Services*, Washington, D.C., July 1990.

**Number of Services Taxed by Category and State**

	Total Number in Category	Kansas	Colorado	Iowa	Missouri	Nebraska	Oklahoma	Texas	Connecticut	Hawaii	New Mexico	South Dakota
Ag Services	5	0	0	2	0	0	0	2	1	5	4	2
Industrial and mining services	4	1	0	0	0	0	0	2	1	4	4	4
Construction	4	0	0	3	0	0	0	3	3	4	4	4
Utilities	14	6	2	10	6	12	7	8	7	12	14	9
Transportation	9	2	0	3	2	0	2	0	0	8	7	3
Storage	6	0	0	2	0	0	1	3	0	6	5	4
F.I.R.E.	8	0	0	2	0	0	0	2	0	7	8	7
Personal services	20	11	0	14	0	2	1	12	7	20	20	19
Business services	34	7	2	15	1	5	4	13	21	34	33	29
Computer services	6	2	1	0	1	3	2	6	6	6	6	6
Automotive services	5	4	0	5	0	0	1	2	3	5	5	5
Admissions and amusements	14	13	2	11	10	11	13	10	10	13	13	13
Professional services	8	0	0	0	0	0	0	1	1	8	8	4
Leases	4	1	3	2	4	3	2	1	2	4	4	2
Fabrication, repair and installation	19	16	2	13	0	3	0	11	14	18	18	18
Miscellaneous	1	1	0	1	0	1	0	0	0	0	1	2
<b>Total</b>	<b>161</b>	<b>64</b>	<b>12</b>	<b>83</b>	<b>24</b>	<b>40</b>	<b>33</b>	<b>76</b>	<b>76</b>	<b>154</b>	<b>154</b>	<b>131</b>

Source: Federation of Tax Administrators, Survey of the States Sales Taxation of Services.

	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD											
Degree of Service Taxation (Due & Mikesell)		3	3	5	5	2	2	5	5	5	5	5	5	3	3	3	3	1	1	1	1	1	1
Alternative Definition		3	3	5	5	2	2	5	5	5	5	5	5	3	3	3	3	1	1	1	1	1	1
Basic Sales Tax Rate		4.25		3		4	*	4.23	*	4	*	4.5	*	6		8		4		5	*	4	*
<b>Agricultural Services</b>																							
Soil prep., custom baling, other ag. services	1	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	4	E	E				
Veterinary services (both large and small animal)	2	E	E	E	*	E	E	E	E	E	E	E	E	E	E	4	*	5	E				
Horse boarding and training (not race horses)	3	E	E	E	E	E	E	E	E	E	E	E	E	E	E	4		5	E				
Pet grooming	4	E	E	4	E	E	E	E	6	*	E	4	5	4									
Landscaping services (including lawn care)	5	E	E	4	*	E	E	E	6	*	8	4	5	4									
<b>Industrial and Mining Services</b>																							
Metal, non-metal and coal mining services	6	E	E	E	E	E	E	E	E	E	E	4	5	*	5								
Seismograph & Geophysical Services	7	E	E	E	E	E	E	E	E	E	E	4	5	4									
Oil Field Services	8	4.25	*	E	E	E	E	E	E	6	*	E	4	5	2								
Typesetting service; platemaking for the print trade	9	E	E	E	E	E	E	E	6	*	8	*	4	5	4								
<b>Construction</b>																							
Gross Income of Construction Contractors	10	E	E	E	E	E	E	E	6	*	8	*	4	5	4	*							
Carpentry, painting, plumbing and similar trades.	11	E	E	4	*	E	E	E	6	*	8	*	4	5	4								
Construction service (grading, excavating, etc.)	12	E	E	4	*	E	E	E	6	*	8	*	4	5	4								
Water well drilling	13	E	E	4	*	E	E	E	E	*	E	*	4	5	4								
<b>Utility &amp; Transportation Services</b>																							
Income from intrastate transportation of persons	14	E	E	E	4.23	E	4.5	*	E	E	4	*	5	*	E								
Local transit (intra-city) buses	15	E	E	E	E	E	E	E	E	E	*	4	*	5	*	E							
Income from taxi operations	16	E	E	E	E	E	4.5	E	E	E	4	5	*	E									
Intrastate courier service	17	E	E	E	E	E	E	E	E	E	4	5	E										
Interstate air courier (billed in-state)	18	E	E	E	E	E	E	E	E	E	4	*	E	E									
<b>Storage</b>																							
Automotive storage	19	E	E	E	E	E	4.5	6	E	4	5	*	4										
Food storage	20	E	E	4	*	E	E	E	E	E	4	E	*	4	*								
Fur storage	21	E	E	4	E	E	E	6	*	E	4	5	4										
Household goods storage	22	E	E	E	E	E	E	6	*	E	4	5	E										

	#	KS		CO		IA		MO		NE		OK		TX		CT		HI		NM		SD	
Mini -storage	23	E		E		E		E		E		E		E		E		4		5		E	
Cold storage	24	E		E		E	*	E		E		E		E		E		4		5		4	
Marina Service (docking, storage, cleaning, repair)	25	4.25	*	E		4		4.23		E		E	*	E		E		4	*	5		4	
Marine towing service (incl. tugboats)	26	E	*	E		4		E		E		E		E		E		E	*	5		4	
Travel agent services	27	E		E		E		E		E		E		E		E		4	*	E	*	E	
Packing and crating	28	4.25		E		4		E		E		E		E		E		4	*	5		4	
Utility Service - Industrial Use																							
Intrastate telephone & telegraph	29	4.25		3		4		4.23		4		4.5		6		8		4	*	5		4	
Interstate telephone & telegraph	30	E		E		E		E		E		4.5		6	*	8	*	4	*	5	*	E	
Electricity	31	4.25	*	E	*	4	*	4.23	*	4	*	4.5	*	6	*	8	*	4	*	5		4	*
Water	32	4.25	*	E	*	4	*	4.23		4	*	E		E		E		4	*	5		4	
Natural gas	33	4.25	*	E	*	4	*	4.23	*	4	*	4.5	*	6	*	8	*	E	*	5		4	
Other fuel (including heating oil)	34	4.25	*	E		4	*	4.23		4	*	4.5	*	E		8	*	4		5		4	*
Sewer and refuse, industrial	35	E		E		E		E		4	*	E		6	*	E		4	*	5	*	E	
Utility Service - Residential Use																							
Intrastate telephone & telegraph	36	4.25	*	3		4		4.23		4		4.5		6		8		4	*	5		4	
Interstate telephone & telegraph	37	E		E		E		E		E		4.5		6	*	8	*	4	*	5	*	E	
Electricity	38	E	*	E	*	4		E		4		E	*	E	*	E		4	*	5		4	*
Water	39	E	*	E	*	4		E		4		E		E		E		4	*	5		E	*
Natural gas	40	E	*	E	*	4		E		4		E	*	E	*	E		E	*	5		4	
Other fuel (including heating oil)	41	E	*	E		4		E		4		E	*	E		E		4		5		4	
Sewer and refuse, residential	42	E		E		E		E		4	*	E		6	*	E		4	*	5	*	E	
Finance, Insurance and Real Estate																							
Service charges of banking institutions	43	E		E		4	*	E		E		E		E	*	E		E	*	5		E	*
Insurance services	44	E		E		E		E		E		E		6	*	E		4	*	5		4	
Investment counseling	45	E		E		4		E		E		E		E		E		4		5		4	
Loan broker fees	46	E		E		E		E		E		E		E		E		4		5		4	*
Property sales agents (real estate or personal)	47	E		E		E		E		E		E		E		E		4		5		4	
Real estate management fees (rental agents)	48	E		E		E		E		E		E		E		E		4		5		4	
Real estate title abstract services	49	E		E		E		E		E		E		E		E		4		5		4	
Tickertape reporting (financial reporting)	50	E		E		E		E		E		E		6	*	E		4		5		4	
Services																							
Personal services																							



	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD				
Barber shops and beauty parlors	51	E	E	4	E	E	E	E	E	4	5	4				
Carpet and upholstery cleaning	52	E	E	4	E	E	E	6	8	4	5	4				
Dating services	53	E	E	E	E	E	E	6	*	E	4	5	4			
Debt counseling	54	E	E	E	E	E	E	E	E	4	5	*	4			
Diaper service	55	4.25	E	4	E	4	E	6	E	4	5	4				
Income from funeral services	56	4.25	*	E	*	4	*	E	*	E	*	4	5	4		
Fishing and hunting guide services	57	E	E	E	E	E	E	E	E	4	5	4				
Garment services (altering & repairing)	58	4.25	E	4	E	E	*	E	6	*	8	*	4	5	4	
Gift and package wrapping service	59	4.25	E	4	E	E	E	6	E	4	5	4				
Health clubs, tanning parlors, reducing salons	60	4.25	*	E	4	*	E	E	6	*	8	4	5	4		
Laundry and dry cleaning services, coin-op	61	E	*	E	4	E	E	E	E	4	5	E	*			
Laundry and dry cleaning services, non-coin op	62	4.25	*	E	4	E	E	E	6	E	4	5	4			
Massage services	63	E	E	4	*	E	E	E	6	*	8	*	4	5	4	
900 Number services	64	4.25	E	4	E	E	E	6	*	E	4	*	5	*	4	*
Personal instruction (dance,golf, tennis, etc.)	65	E	E	E	*	E	E	E	E	4	5	4	*			
Shoe repair	66	4.25	E	4	E	E	E	6	8	4	5	4				
Swimming pool cleaning & maintenance	67	4.25	*	E	E	E	E	6	8	4	5	4				
Tax return preparation	68	E	E	E	E	E	E	E	E	4	5	4				
Tuxedo rental	69	4.25	E	4	E	*	4	4.5	6	8	4	5	4			
Water softening and conditioning	70	4.25	E	4	E	E	E	E	*	E	4	5	4			
Business services																
Sales of advertising time or space:																
Billboards	71	E	E	E	E	E	*	E	E	4	5	E	*			
Radio & television, national advertising	72	E	E	E	E	E	E	E	*	E	4	E	*	E		
Radio & television, local advertising	73	E	E	E	E	E	E	E	*	E	4	5	E			
Newspaper	74	E	E	E	E	E	E	E	E	4	5	E				
Magazine	75	E	E	E	E	E	E	E	E	4	5	4				
Advertising agency fees (not ad placement) .	76	E	E	E	E	E	E	E	*	8	4	5	4			
Armored car services	77	E	E	4	E	E	E	6	8	4	5	4				
Bail bond fees	78	E	E	E	E	E	E	E	E	4	5	*	E	*		
Check & debt collection	79	E	E	E	E	E	E	6	E	4	5	4				
Commercial art and graphic design.	80	E	E	E	E	4	*	E	6	8	4	5	4			
Commercial linen supply	81	4.25	E	4	E	4	4.5	6	E	4	*	5	4			
Credit information, credit bureaus	82	E	E	E	E	E	E	6	8	4	5	4				

	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD
Employment agencies	83	E	E	4	E	E	E	E	8	4	5	4
Interior design and decorating	84	E	E	E	E	E	E	E	8	4	5	4 *
Maintenance and janitorial services	85	E	E	4	E	E	E	6	8	4	5	4
Lobbying and consulting	86	E	E	E	E	E	E	E	8	4	5	4
Marketing	87	E	E	E	E	E	E	E	E	4	5	4
Packing and crating	88	4.25	E	4	E	E	E	E	E	4	5	4
Exterminating (includes termite seivces)	89	4.25	E	4	E	E	E	6	8	4 *	5	4
Photocopying services	90	4.25	E	4	E	4 *	4.5	6	8	4	5	4
Photo finishing	91	4.25	3 *	4	4.23 *	4 *	4.5	6	8	4	5	4
Printing	92	4.25	3 *	4	E	4 *	4.5	6	8	1.5 *	5	4
Private investigation (detective) services	93	E	E	4	E	E	E	6 *	8	4	5	4
Process server fees	94	E	E	E	E	E	E	E	E	4	5	4
Public relations, management consulting	95	E	E	E	E	E	E	E	8	4	5	4
Secretarial and court reporting services	96	E	E	E	E	E	E	E	8	4	5	4
Security services	97	E	E	4	E	E	E	6 *	8	4	5	4
Sign construction and installation	98	E	E	E	E	E	E	E	8	4	5	4
Telemarketing services on contract	99	E	E	E	E	E	E	E	E	4	5	4
Telephone answering service	100	4.25	E	4	E	E	E	E *	8	4	5	4
Temporary help agencies	101	E	E	4	E	E	E	E	8	4	5	4
Test laboratories (excluding medical)	102	E	E	4 *	E	E	E	E	E	4	5	4
Tire recapping and repairing	103	E	E	E	E	E	E	E	8	4	5	4
Window cleaning	104	E	E	4 *	E	E	E	6 *	8	4	5	4
Computer:												
Software - package or canned program	105	4.25	3 *	4	4.23	4	4.5	6	8	4	5	4
Software - modifications to canned program	106	4.25	3 *	E	4.23	4	4.5	6 *	8	4 *	5	4
Software - custom programs - material	107	4.25	E	E	E	4	4.5	6	8	4	5	4
Software - custom programs - professional serv.	108	E	E	E	E	4 *	E	6 *	8	4 *	5	4
Information services	109	E	E	E	E	E	E	6 *	8	4	5	4
Data processing services	110	E	E	E	E	E	E	6 *	8	4	5	4
Mainframe computer access and processing serv.	111	E	E	E		E	E	6	8	4	5	4
Automotive services												
Automotive washing and waxing.	112	4.25	E	4	E	E	E	E	8	4	5	4
Automotive road service and towing services	113	4.25 *	E	4	E	E	E	E	E	4	5	4

	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD
Auto serv. except repairs, incl. painting & lube	114	4.25	E	4	E	E	E	E *	8 *	4	5	4
Parking lots & garages	115	E	E	4	E	E	4.5	6	E *	4 *	5 *	4
Automotive rustproofing & undercoating.	116	4.25	E	4	E	E	E	6 *	8 *	4	5	4
<b>Admissions &amp; amusements</b>												
Pari-mutuel racing events.	117	4.25	E	4	4.23	4	14.5 *	6	10	N/A	5 *	4 *
Amusement park admission & rides	118	4.25	E	4	4.23	4 *	4.5	6 *	10 *	4	5	4
Billiard parlors	119	4.25	E	E	4.23	4	4.5	6 *	E	4	5	4
Bowling alleys	120	4.25	E	E	4.23	4	4.5	6	E	4	5	4
Cable TV services	121	4.25	E	4	E	4	E	6	8	4	5	4
Circuses and fairs -- admission and games	122	4.25	E	4	4.23	4 *	4.5	6 *	10 *	4	5	4 *
Coin operated video games	123	4.25	E	4	4.23	E *	4.5	E	E	4	5	4
Admission to school and college sports events	124	4.25	E	4 *	4.23	4 *	4.5	E	10 *	4	5 *	4
Membership fees in private clubs.	125	4.25	E	4	E	4	4.5	6 *	10	4	5	4
Admission to cultural events	126	4.25	E	4	4.23	4 *	4.5	6	10 *	4	5 *	4
Pinball and other mechanical amusements	127	4.25	E	4	4.23	E *	4.5	E *	E	4	5	4
Admission to professional sports events	128	4.25	E	4	4.23	4 *	4.5	6	10 *	4	5 *	4
Rental of films and tapes by theaters	129	E	3	E	E	E	4.5	E *	8	4 *	E *	E
Rental of video tapes for home viewing	130	4.25	3	4	E *	4	4.5	6	8	4 *	5	4
<b>Professional services</b>												
Accounting and bookkeeping	131	E	E	E	E	E	E	E	E	4	5	4
Attorneys	132	E	E	E	E	E	E	E	E	4	5	4
Dentists	133	E	E	E	E	E	E	E	E	4	5	E
Engineers	134	E	E	E	E	E	E	E	E *	4 *	5	4
Land surveying	135	E	E	E	E	E	E	6	8	4 *	5	4
Medical test laboratories	136	E	E	E *	E	E	E	E	E	4	5	E *
Nursing services out-of-hospital	137	E	E	E	E	E	E	E	E	4	5	E
Physicians	138	E	E	E	E	E	E	E	E	4	5	E
<b>Leases and Rentals</b>												
Personal property, short term (generally)	139	4.25	3 *	4	4.23 *	4	4.5	6	8	4	5 *	4
Personal property, long term (generally)	140	4.25	3 *	4	4.23 *	4	4.5	6	8	4	5 *	4
Bulldozers, draglines and const. mach., short term	141	4.25	3	4 *	4.23	4	4.5	6 *	8	4	5	4 *
Bulldozers, draglines and const. mach., long term	142	4.25	3	4 *	4.23	4	4.5	6 *	8	4	5	4 *

	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD
Rental of hand tools to licensed contractors.	143	4.25	3	4 *	4.23	4	4.5	6	8	4	5	4
Short term automobile rental	144	4.25	3 *	4 *	4.23	4 *	4.5 *	6 *	8	4	5	4 *
Long term automobile lease	145	4.25	3 *	E	4.23	4 *	E *	E *	8	4	5	E *
Limousine service (with driver)	146	E	3	E	4.23	4 *	4.5	E	8	4	5	E
Aircraft rental to individual pilots, short term	147	4.25	3	E *	4.23	4	4.5	6	8	4	5	4
Aircraft rental to individual pilots, long term	148	4.25	3	E *	4.23	4	4.5	6	8	4	5	4
Chartered flights (with pilot)	149	E	E	E	4.23	E	E	E	E	4 *	5	E
Hotels, motels, lodging houses	150	4.25	3	4 *	4.23	5 *	4.5	6 *	8 *	4	5 *	4
Trailer parks - overnight	151	E	3	4 *	4.23	5 *	E	E	E	4	5	4
<b>Fabrication, Installation and Repair Services</b>												
Custom fabrication labor	152	4.25	E	4 *	E	4 *	E	6	E	4	5	4
Repair material, generally	153	4.25	3	4	4.23	4	4.5	6 *	8	4	5	4
Repair labor, generally	154	4.25	E *	4 *	E *	E *	E *	6 *	8	4	5	4
Labor charges on repair of aircraft	155	4.25	E	4	E	E	E	E	8	4	5	4
Labor charges - repairs to interstate vessels	156	E *	E	4 *	E	E *	E	E *	8	E	5 *	4
Labor charges - repairs to intrastate vessels	157	4.25	E	4	E	E	E	E *	8	4	5 *	4
Labor - repairs to commercial fishing vessels	158	4.25 *	E	4	E	E	E	E	8	4	5	4
Labor charges on repairs to railroad rolling stock	159	E	E	4	E	E	E	E	8	4	5	4 *
Labor charges on repairs to motor vehicles	160	4.25	E *	4	E	E	E	E *	8 *	4	5	4
Labor on radio/TV repairs; other electronic equip.	161	4.25	E	4	E	E	E	6	8	4	5	4
Labor charges - repairs other tangible property	162	4.25	E	4	E	E	E	6	8	4	5	4
Labor - repairs or remodeling of real property	163	4.25	E	4 *	E	E	E	6 *	8 *	4 *	5	2 *
Labor charges on repairs delivered under warranty	164	E	E	E	E	E *	E	6 *	8 *	4	E *	E *
Service contracts sold at the time of sale of TPP.	165	4.25	E	4	E	4 *	E	6	8	4	5	4
Installation charges by persons selling property	166	4.25 *	3 *	E *	E *	E *	E *	6 *	E *	4	5	4 *
Installation charges - other than seller of goods	167	4.25 *	E	E *	E	E	E	E *	E	4	5	4 *
Custom processing (on customer's property)	168	4.25	E	E *	E	E	E	6	8 *	4	5	4
Custom meat slaughtering, cutting and wrapping	169	4.25	E	E	E	E *	E	E	E	4	5	4
Taxidermy	170	4.25	E	E	E	E	E	6	E	4	5	4
Welding labor (fabrication and repair)	171	4.25	3	4	E	4 *	E	6	8	4	5	4
<b>OTHER TAXED SERVICES</b>												
Do you impose sales tax on other services not listed	172	4.25 *		4 *		4 *		*			5 *	4 *
	173											4

	#	KS	CO	IA	MO	NE	OK	TX	CT	HI	NM	SD
	174											
<b>USE TAX ON SERVICES</b>												
Do you tax the use of services in the state?	175	No		Yes	No *	Yes	No	Yes	Yes	No	E *	Yes
If yes, at what rate?	176			4		4		6	* 8		5	4
Who is legally liable for use tax payment?	177			*		*			*	*	*	*
Rules for determining the location of services?	178	*		*	*	*			*	*	* C*	*
Exempt sales of services sold to government entities?	179	Yes		Yes	Yes		*	Yes	Yes	No	No *	Yes
Exempt sales of services sold to nonprofit entities?	180	No		*	Yes		*	Yes	* Yes	No	No *	Yes *
Exempt sales of services sold to fed. chartered banks	181	Yes		*	Yes			Yes	No	No	No	No
Is the tax on services imposed on seller or buyer?	182		* Buyer or c	Both	Seller	No			* Burden	* Seller	* Seller	* Seller
<b>Totals</b>												
Ag Services	5	0	0	2	0	0	0	2	1	5	4	2
Industrial and mining services	4	1	0	0	0	0	0	2	1	4	4	4
Construction	4	0	0	3	0	0	0	3	3	4	4	4
Utilities	14	6	2	10	6	12	7	8	7	12	14	9
Transportation	9	2	0	3	2	0	2	0	0	8	7	3
Storage	6	0	0	2	0	0	1	3	0	6	5	4
F.I.R.E.	8	0	0	2	0	0	0	2	0	7	8	7
Personal services	20	11	0	14	0	2	1	12	7	20	20	19
Business services	34	7	2	15	1	5	4	13	21	34	33	29
Computer services	6	2	1	0	1	3	2	6	6	6	6	6
Automotive services	5	4	0	5	0	0	1	2	3	5	5	5
Admissions and amusements	14	13	2	11	10	11	13	10	10	13	13	13
Professional services	8	0	0	0	0	0	0	1	1	8	8	4
Leases	4	1	3	2	4	3	2	1	2	4	4	2
Fabrication, repair and installation	19	16	2	13	0	3	0	11	14	18	18	18
Miscellaneous	1	1	0	1	0	1	0	0	0	0	1	2
Non-exempt entries		64 #	12 #	83 #	24 #	40 #	33 #	76 #	76 #	154 #	154 #	131 #
Repair labor, generally		4	E *	4 *	E *	E *	E *	6 *	8	4	4.75	4
Short Form Rating, high repair		17 #	4 4	23 #	4 4	7 7	6 6	18 #	18 #	27 #	27 #	26 #



**What are the Opportunities  
for Broadening the Base?**

<u>SERVICE</u>	<u>SIC Code</u>	<u># of States Taxing Service</u>	<u>Kansas</u>
<b>Agricultural Services</b>			
Soil prep., custom baling, other ag. services	071,072,	4	E
Veterinary services (both large and small animal)	074	4	E
Horse boarding and training (not race horses)	075	8	E
Pet grooming	0752	12	E
Landscaping services (including lawn care)	078	14	E
<b>Industrial and Mining Services</b>			
Metal, non-metal and coal mining services	10,12,148	6	E
Seismograph & Geophysical Services	1382,	7	E
Oil Field Services	138	10	4.25 *
Typesetting service; platemaking for the print trade	279	16	E
<b>Construction</b>			
Gross Income of Construction Contractors	15	10	E
Carpentry, painting, plumbing and similar trades.	17	12	E
Construction service (grading, excavating, etc.)	179	10	E
Water well drilling	178	9	E
<b>Utility &amp; Transportation Services</b>			
Income from intrastate transportation of persons	41	11	E
Local transit (intra-city) buses	411	8	E
Income from taxi operations	412	7	E
Intrastate courier service	421	4	E
Interstate air courier (billed in-state)	4513	1	E
<b>Storage</b>			
Automotive storage		17	E
Food storage	4221	11	E
Fur storage	4226	13	E
Household goods storage	4225	11	E
Mini -storage	4225	8	E
Cold storage	4222	13	E
Marina Service (docking, storage, cleaning, repair)	4493	22	4.25 *
Marine towing service (incl. tugboats)	4492	8	E *
Travel agent services	4724	4	E
Packing and crating	4783	7	4.25
<b>Utility Service - Industrial Use</b>			
Intrastate telephone & telegraph	4811	42	4.25
Interstate telephone & telegraph	4811	18	E
Electricity	491	38	4.25 *
Water	494	22	4.25 *
Natural gas	492	38	4.25 *
Other fuel (including heating oil)		38	4.25 *
Sewer and refuse, industrial	495	9	E
<b>Utility Service - Residential Use</b>			
Intrastate telephone & telegraph	4811	39	4.25 *
Interstate telephone & telegraph	4811	17	E
Electricity	491	25	E *
Water	494	12	E *
Natural gas	492	24	E *
Other fuel (including heating oil)		24	E *
Sewer and refuse, residential	495	9	E
<b>Finance, Insurance and Real Estate</b>			
Service charges of banking institutions	61	3	E

SERVICE	SIC Code	# of States	
		Taxing Service	Kansas
Insurance services	64	6	E
Investment counseling	6282	6	E
Loan broker fees	6163	6	E
Property sales agents (real estate or personal)	653	5	E
Real estate management fees (rental agents)	653	5	E
Real estate title abstract services	654	5	E
Tickertape reporting (financial reporting)	6289	7	E
Services			
Personal services			
Barber shops and beauty parlors	723 724	6	E
Carpet and upholstery cleaning	7217	12	E
Dating services	7299	7	E
Debt counseling	7299	6	E
Diaper service	7219	23	4.25
Income from funeral services	726	15	4.25 *
Fishing and hunting guide services	7999	9	E
Garment services (altering & repairing)	7219	20	4.25
Gift and package wrapping service	7389	10	4.25
Health clubs, tanning parlors, reducing salons	7299	12	4.25 *
Laundry and dry cleaning services, coin-op	7215	10	E *
Laundry and dry cleaning services, non-coin op	7211	20	4.25 *
Massage services	7299	10	E
900 Number services	4811	10	4.25
Personal instruction (dance, golf, tennis, etc.)	7999	6	E
Shoe repair	725	19	4.25
Swimming pool cleaning & maintenance	7389	14	4.25 *
Tax return preparation	7291	6	E
Tuxedo rental	7299	33	4.25
Water softening and conditioning		11	4.25
Business services			
Sales of advertising time or space:			
Billboards	7312	4	E
Radio & television, national advertising	7319	3	E
Radio & television, local advertising	7319	4	E
Newspaper		4	E
Magazine		5	E
Advertising agency fees (not ad placement)	7311	6	E
Armored car services	7381	10	E
Bail bond fees		5	E
Check & debt collection	7322	7	E
Commercial art and graphic design.	7336	13	E
Commercial linen supply	7218	31	4.25
Credit information, credit bureaus	7323	8	E
Employment agencies	7361	8	E
Interior design and decorating	7389	8	E
Maintenance and janitorial services	7349	13	E
Lobbying and consulting		7	E
Marketing		6	E
Packing and crating		8	4.25
Exterminating (includes termite services)	7342	13	4.25
Photocopying services	7334	39	4.25
Photo finishing	7384	42	4.25
Printing		39	4.25

SERVICE	SIC Code	# of States Taxing Service	
		Service	Kansas
Private investigation (detective) services		9	E
Process server fees		6	E
Public relations, management consulting	874	7	E
Secretarial and court reporting services	7338	8	E
Security services	7382	10	E
Sign construction and installation	7389	9	E
Telemarketing services on contract	7389	6	E
Telephone answering service	7389	10	4.25
Temporary help agencies	7363	8	E
Test laboratories (excluding medical)	8734	7	E
Tire recapping and repairing	7534	8	E
Window cleaning	7349	10	E
<b>Computer:</b>			
Software - package or canned program	7372	46	4.25
Software - modifications to canned program	7371	34	4.25
Software - custom programs - material		27	4.25
Software - custom programs - professional serv.	7371	15	E
Information services	7375	13	E
Data processing services	7374	11	E
Mainframe computer access and processing serv.	7374	10	E
<b>Automotive services</b>			
Automotive washing and waxing.	7542	22	4.25
Automotive road service and towing services	7549	13	4.25 *
Auto serv. except repairs, incl. painting & lube	7549	23	4.25
Parking lots & garages	752	18	E
Automotive rustproofing & undercoating.	7549	26	4.25
<b>Admissions &amp; amusements</b>			
Pari-mutuel racing events.	7948	26	4.25
Amusement park admission & rides	7996	35	4.25
Billiard parlors	7999	21	4.25
Bowling alleys	793	23	4.25
Cable TV services		22	4.25
Circuses and fairs -- admission and games	7999	34	4.25
Coin operated video games	7993	20	4.25
Admission to school and college sports events	821 822	27	4.25
Membership fees in private clubs.	7997	20	4.25
Admission to cultural events	792	30	4.25
Pinball and other mechanical amusements	7993	20	4.25
Admission to professional sports events	7941	35	4.25
Rental of films and tapes by theaters	783	11	E
Rental of video tapes for home viewing	784	44	4.25
<b>Professional services</b>			
Accounting and bookkeeping	872	5	E
Attorneys	81	5	E
Dentists	802	4	E
Engineers	8711	5	E
Land surveying	8713	8	E
Medical test laboratories	807	4	E
Nursing services out-of-hospital	8059	4	E
Physicians	801	4	E

<u>SERVICE</u>	<u>SIC Code</u>	<u># of States Taxing Service</u>	<u>Kansas</u>
<b>Leases and Rentals</b>			
Personal property, short term (generally)	7359	44	4.25
Personal property, long term (generally)	7359	44	4.25
Bulldozers, draglines and const. mach., short term	7359	44	4.25
Bulldozers, draglines and const. mach., long term	7359	44	4.25
Rental of hand tools to licensed contractors.	7353	44	4.25
Short term automobile rental	751	43	4.25
Long term automobile lease	751	33	4.25
Limousine service (with driver)		25	E
Aircraft rental to individual pilots, short term	7359	41	4.25
Aircraft rental to individual pilots, long term	7359	41	4.25
Chartered flights (with pilot)		10	E
Hotels, motels, lodging houses	701	49	4.25
Trailer parks - overnight	703	28	E
<b>Fabrication, Installation and Repair Services</b>			
Custom fabrication labor		35	4.25
Repair material, generally		46	4.25
Repair labor, generally	769	23	4.25
Labor charges on repair of aircraft		20	4.25
Labor charges - repairs to interstate vessels		11	E *
Labor charges - repairs to intrastate vessels		18	4.25
Labor - repairs to commercial fishing vessels		12	4.25 *
Labor charges on repairs to railroad rolling stock		14	E
Labor charges on repairs to motor vehicles	7539	22	4.25
Labor on radio/TV repairs; other electronic equip.	7622	23	4.25
Labor charges - repairs other tangible property		23	4.25
Labor - repairs or remodeling of real property		14	4.25
Labor charges on repairs delivered under warranty		12	E
Service contracts sold at the time of sale of TPP.		27	4.25
Installation charges by persons selling property		20	4.25 *
Installation charges - other than seller of goods		17	4.25 *
Custom processing (on customer's property)		26	4.25
Custom meat slaughtering, cutting and wrapping		13	4.25
Taxidermy		24	4.25
Welding labor (fabrication and repair)		30	4.25
<b>OTHER TAXED SERVICES</b>			
One item not listed		12	4.25 *
Two items not listed		2	

Source: *Federation of Tax Administrators, Survey of the States Sales Taxation of Services.*



**Services Taxed in Iowa but Exempt in Kansas**

**Agricultural Services**

- Pet grooming
- Landscaping services (including lawn care)

**Construction**

- Carpentry, painting, plumbing and similar trades.
- Construction service (grading, excavating, etc.)
- Water well drilling

**Utility & Transportation Services**

- Food storage
- Fur storage
- Marine towing service (incl. tugboats)
- Electricity
- Water
- Natural gas
- Other fuel (including heating oil)

**Finance, Insurance and Real Estate**

- Service charges of banking institutions
- Investment counseling

**Personal services**

- Barber shops and beauty parlors
- Carpet and upholstery cleaning
- Laundry and dry cleaning services, coin-op
- Massage services

**Business services**

- Armored car services
- Employment agencies
- Maintenance and janitorial services
- Private investigation (detective) services
- Security services
- Temporary help agencies
- Test laboratories (excluding medical)
- Window cleaning

**Automotive services**

- Parking lots & garages

**Leases and Rentals**

- Trailer parks - overnight

**Fabrication, Installation and Repair Services**

- Labor charges - repairs to interstate vessels
- Labor charges on repairs to railroad rolling stock

**Services Taxed in Texas but Exempt in Kansas**

**Agricultural Services**

- Pet grooming
- Landscaping services (including lawn care)

**Industrial and Mining Services**

- Typesetting service; platemaking for the print trade

**Construction**

- Gross Income of Construction Contractors
- Carpentry, painting, plumbing and similar trades.
- Construction service (grading, excavating, etc.)

**Utility & Transportation Services**

- Automotive storage
- Fur storage
- Household goods storage
- Interstate telephone & telegraph
- Sewer and refuse, industrial
- Interstate telephone & telegraph
- Sewer and refuse, residential

**Finance, Insurance and Real Estate**

- Insurance services
- Tickertape reporting (financial reporting)

**Personal services**

- Carpet and upholstery cleaning
- Dating services
- Massage services

**Business services**

- Armored car services
- Check & debt collection
- Commercial art and graphic design.
- Credit information, credit bureaus
- Maintenance and janitorial services
- Private investigation (detective) services
- Security services
- Window cleaning

**Computer Services**

- Software - custom programs - professional serv.
- Information services
- Data processing services
- Mainframe computer access and processing serv.

**Automotive services**

- Parking lots & garages

**Professional services**

- Land surveying
- Labor charges on repairs delivered under warranty

## Services Taxed in Connecticut but Exempt in Kansas

### **Agricultural Services**

Landscaping services (including lawn care)

### **Industrial and Mining Services**

Typesetting service; platemaking for the print trade

### **Construction**

Gross Income of Construction Contractors

Carpentry, painting, plumbing and similar trades.

Construction service (grading, excavating, etc.)

### **Utility & Transportation Services**

Interstate telephone & telegraph/Industrial

Interstate telephone & telegraph/Residential

### **Personal services**

Carpet and upholstery cleaning

Massage services

### **Computer Services**

Software - custom programs - professional serv.

Information services

Data processing services

Mainframe computer access and processing serv.

### **Leases and Rentals**

Limousine service (with driver)

### **Business services**

Advertising agency fees (not ad placement) .

Armored car services

Commercial art and graphic design.

Credit information, credit bureaus

Employment agencies

Interior design and decorating

Maintenance and janitorial services

Lobbying and consulting

Private investigation (detective) services

Public relations, management consulting

Secretarial and court reporting services

Security services

Sign construction and installation

Temporary help agencies

Tire recapping and repairing

Window cleaning

### **Admissions & amusements**

Rental of films and tapes by theaters

### **Professional services**

Land surveying

### **Fabrication, Installation and Repair Services**

Labor charges - repairs to interstate vessels

Labor charges on repairs to railroad rolling stock

Labor charges on repairs delivered under warranty

Labor charges - repairs to interstate vessels

Labor charges on repairs to railroad rolling stock

Labor charges on repairs delivered under warranty

Source: Federation of Tax Administrators, Survey of the States Sales Taxation of Services.

**STATES TAXING INTERSTATE/BUSINESS TELEPHONE**

Arkansas	Illinois	Ohio	Tennessee
Connecticut	Minnesota	Oklahoma	Texas
District of Columbia	Montana	Oregon	Washington
Florida	New Hampshire	Rhode Island	Wisconsin
Hawaii	New Mexico		

**STATES TAXING INTERSTATE/RESIDENTIAL TELEPHONE**

Arkansas	Minnesota	Ohio	Tennessee
Connecticut	Montana	Oklahoma	Texas
District of Columbia	New Hampshire	Oregon	Washington
Hawaii	New Mexico	Rhode Island	Wisconsin
Illinois			

**STATES TAXING CUSTOM SOFTWARE**

Connecticut	Maine	South Carolina	Washington
Delaware	Mississippi	South Dakota	West Virginia
District of Columbia	Nebraska	Tennessee	Wyoming
Hawaii	New Mexico	Texas	

**STATES TAXING INFORMATION SERVICES**

Arizona	Florida	New York	Texas
Connecticut	Hawaii	South Carolina	Washington
Delaware	New Mexico	South Dakota	West Virginia
District of Columbia			

**STATES TAXING DATA PROCESSING SERVICES**

Arizona	District of Columbia	New York	Texas
Connecticut	Hawaii	Ohio	Washington
Delaware	New Mexico	South Dakota	

**STATES TAXING MAINFRAME COMPUTER ACCESS SERVICES**

Connecticut	Florida	Rhode Island	Texas
Delaware	Hawaii	South Dakota	Washington
District of Columbia	New Mexico		

**STATES TAXING REPAIR SERVICES TO INTERSTATE VESSELS**

Arkansas	District of Columbia	Mississippi	South Dakota
Connecticut	Florida	New Mexico	Tennessee
Delaware	Iowa	Pennsylvania	

**STATES TAXING REPAIR SERVICES TO RAILROAD ROLLING STOCK**

Arkansas	Hawaii	New Mexico	South Dakota
Connecticut	Iowa	New York	Tennessee
Delaware	Louisiana	North Dakota	Utah
Florida	New Jersey		

*Source: Federation of Tax Administrators, Survey of the States Sales Taxation of Services.*

## **Evaluating the Alternatives**

## **Tax Policy Evaluation Criteria**

### **A. Reliability**

- Revenue Stability
- Income Elasticity

### **B. Equity**

- Vertical Equity
- Horizontal Equity
- Low Income Treatment

### **C. Efficiency**

- Resource Distortion
- Pyramiding
- Effect on Corporate Form

### **D. Interstate Tax Competition**

- "Convoy" Test/Balanced Revenue Structure
- Competitive Disadvantage

### **E. Administration/Compliance**

- Efficient and effective administration
- Understandable so as to promote voluntary compliance

**EVALUATION OF SALES TAX ALTERNATIVES**

<b>Criteria</b>	<b>Sales Tax Increase</b>	<b>Sales Tax on Services - Selected</b>	<b>Sales Tax on Services - General</b>
<b>RELIABILITY</b>			
Stability	Moderate to Good - Concern with untaxed services and certain exemptions will lead to some instability	Improvement over current because of broader base, assuming additions are not terribly cyclical, e.g., construction	Improvement over current and selected services because of broader base
Elasticity	Moderate - Less than 1.0 given exemptions and limited services - Historical decline will continue	Improvement over current - Brings it closer to 1	Improvement over current - Brings it closer to 1
<b>EQUITY</b>			
Vertical	Regressive even with utilities and rebate - Untaxed expenditures	Improvement over current is likely, depending on list - Tax still likely regressive	Improvement over current - with broad inclusion - Tax still likely to be regressive
Horizontal	Can be some problems given base - Not large	Improved over current-Base broadened, but corp. form may become important	Improved over current-Base broadened, but corp. form is important
Low Income	Utilities exemption and rebate mitigate concern - Expansion of rebate should be considered	Depending on breadth may require "large" low income offset	May require "large" low income offset
<b>EFFICIENCY</b>			
Resource distortion	Favors untaxed goods and services	Reduces discrimination in current tax	Reduces discrimination in current tax
Pyramiding	Modest pyramiding in current structure	Depends on list of services	More of a problem than under other alternatives
Effect on corporate form	Little effect	Increased effect depending on services included	More of an issue than with other alternatives

<b>Criteria</b>	<b>Sales Tax Increase</b>	<b>Sales Tax on Services - Selected</b>	<b>Sales Tax on Services - General</b>
<b>INTERSTATE TAX COMPETITION</b>			
Convoy Test	Moderate concern- Current maximum state-local of 6.25% is near upper tier	Can be seen as negative Depends on coverage, tradeoffs, and debate	Can be seen as negative Depends on tradeoffs and debate
Competitive disadvantage	No change from current	Use tax required	Use tax required
<b>ADMINISTRATION/ COMPLIANCE</b>	Rate increase does not alter current situation radically	Initial definition, education burden can be substantial	Initial education burden can be substantial

**Administrative and Other Policy  
Considerations**



**ADMINISTRATIVE AND POLICY ISSUES**

**I. Use Tax on Services**

**A. Issue is "level playing field" for Kansas service providers**

- - Do not want to disadvantage in-state provider in competing for out-of-state business
- - Do not want to create an incentive to purchase services out-of-state
- - Not unlike the need to impose a compensating use tax on the interstate purchase of tangible personal property. Somewhat more complex because of intangible nature of service.
- - Must develop a blend of situs rules which recognize where service is performed and where service is used or "benefit is enjoyed."

**B. Two Basic Approaches -- Florida and Other States**

- - Distinction tends to be between relative reliance on point of performance (i.e., where did service take place) vs. enjoyment of the benefit of the service (i.e., where was service used.) Florida relied more extensively on beneficial use, while others (SD,NM,HI, MA) rely most extensively on the point of performance.
- - To some considerable degree (with possible exception of Mass.) this choice has been straightforward because of the relatively "closed" nature of the economy in SD, NM, HI, i.e., they are relatively self-contained and do not have large border metropolitan areas. The Kansas City area, in my mind, makes a substantive difference in this regard.
- - Florida had a more open, interstate economy and was more concerned with theoretical purity. Lead to apportionment and charges of overreaching by some.

**C. Point of Performance**

- - Situs is where service is performed or where majority of performance (as determined by proportionate cost) occurs
- - Where service is to real estate or to tangible personal property, performance or situs is where the property is located
- - For non-property services (i.e., primarily a small category of professional services), situs is at point of performance
- - HI, NM and SD allow exemption for "services delivered out of state"

- - SD also has a use tax on services purchased out-of-state, but used in the state. Trying to treat it like tangible personal property. Have also gotten into some apportionment where "mixed" use occurs
- - NM and HI not have use tax (other than for Research and Development in New Mexico) on services performed out of state, but first or beneficial use enjoyed in state
- - Is rough justice which may favor out-of-state purchases, but relatively closed economy allows it.
- - Some special rules for certain types of services, e.g., interstate telephone services.

#### **D. Florida Approach**

- - Greater reliance on enjoyment or use of the service and the concept of apportionment
- - For majority of services (property (real or personal) related) situs was essentially same as outlined above. Only with respect to that category of professional services not related to real or personal property were the rules significantly different.
- - General rules for business purchases: (a) if service related directly to realty, personal property or a local market of the purchaser, then situs was in the state where the realty, personal property or local market was; (b) if service did not relate to a particular location, situs was determined to be where the purchaser was doing business; (c) for a multi-state business, Florida required the apportionment of the cost of the services purchased by the standard three-factor corporate apportionment formula. The effect is to say that non-geographic specific services are enjoyed in Florida to the extent that the company is doing business in Florida as defined by corporate income tax formula. Gets away from the difficulty of trying to identify the location of use
- - This apportionment rule was also applied to all "overhead", non-geographic services purchased by a multistate business doing business, regardless of whether there is a "connection" to Florida. This to the mind of many was seen as overreaching by Florida
- - A concern of multistate businesses with the apportionment was the record-keeping. Florida allowed a multistate business to apportion all service purchases, but this was also not satisfactory because it made it impossible to qualify for certain exemptions.
- - Special rules governed transportation - 50/50 between state of origin and state of destination; advertising - in proportion to market or audience in the state; and services to estates of decedents - where person last resided.
- - For individual purchases of services, situs was where property was located, where any tangible personal property resulting from service

(e.g., legal documents) was delivered or if no tangible personal property (e.g., haircut) where service was performed.

### **E. Summary**

- - Real issue is that use tax must be in place in area such as Kansas to avoid competitive disadvantage.
- - Current or prior states offer two models which are very much alike
- - Where service is property (real or personal) related, situs is where property is located
- - For non-property related services, need to look to point of use or enjoyment. Much the same as tangible personal property. Florida tried to simplify and avoid difficulty by apportionment.
- - Is really a "transition" problem. As more states adopt sales tax on services, the incentive to purchase out-of-state is reduced, much the same as is the case with tangible personal property.
- - Is really an issue affecting a relatively small set of services which cannot be geographically "situated" by their relationship to property.

## **II. Other Issues**

### **A. Sale for Resale**

- - Needs to be a "sale for resale" provision to reduce pyramiding and to parallel the tax on tangible personal property
- - Still needs to recognize that businesses in many cases will be the final consumer of many services in order to provide their service to their customers. Must be carefully and narrowly drawn or considerable administrative and compliance difficulty for the taxpayers (service providers) and the Department of Revenue will occur.
- - Most states have looked to such circumstances as whether the procurement of a particular service is separately stated in the final bill to a client (with tax computed), whether the provider simply acted as a broker for the purchaser and what was the object of the final purchaser in procuring the service.
- - Florida provided five rules for determining sale for resale
  - Purchaser does not consume or use service, but acts as a broker;
  - Purchase is pursuant to a written contract with the seller;
  - Value of service is separately stated on final invoice
  - Service will be taxed on final invoice
  - Resale certificate executed

**B. Local Use Tax**

- - Kansas will also need to consider the issue of a local use tax and situs rules on services purchased from out-of-state providers and from providers in other parts of the state
- - A persuasive argument could be made that the same rules as apply to the local use tax on tangible personal property should apply to sales of services as well, i.e., no use tax applies except to selected transactions. Similarly with respect to situs rules for services currently taxed.
- - This would generally mean the point of performance or where the property is located for property-related services and the point of performance or domicile of the provider for instances when the service cannot be "situated" by the location of the property.

**C. Information and Education**

- - Sufficient lead time and staffing must be allowed. The task of implementing a tax on services is not impossible or inordinately complex. It is, however, a major undertaking that will require many new activities by the Department of Revenue and involve many new taxpayers not now involved extensively in the administration of the sales tax.
- - Activities required include registration of the taxpayers, increased return processing (minimal), drafting guidance to taxpayers on how to handle various transactions, and educating taxpayers on their obligations.
- - Particularly if it is decided to impose the tax on a selected set of services, considerable time must be allowed for developing rules to define the types of transactions subject to tax. This will require close consultation with the affected to industry to understand how it operates. Will require cooperative attitude on the part of all.
- - Some lead time necessary to adjust to additional complexity which will be present at the outset.

**Balance in the Kansas**

**State-Local Tax Structure**

DISTRIBUTION OF STATE REVENUE  
BY TAX, 1989

State	Property Taxes	Sales & Gross Receipts *	Income	Other
Alabama	2%	52%	35%	10%
Alaska	6	6	33	55
Arizona	5	61	27	7
Arkansas	0	54	37	9
California	5	39	51	5
Colorado	0	43	50	7
Connecticut	0	64	26	10
Delaware	0	14	52	34
Florida	2	79	6	13
Georgia	0	44	51	4
Hawaii	0	59	39	2
Idaho	0	51	41	7
Illinois	2	51	39	8
Indiana	0	57	38	5
Iowa	0	46	44	11
Kansas	1	46	42	11
Kentucky	7	45	35	13
Louisiana	1	52	26	21
Maine	2	49	42	8
Maryland	3	43	48	7
Massachusetts	0	33	60	6
Michigan	3	39	51	7
Minnesota	0	46	47	7
Mississippi	1	65	24	10
Missouri	0	50	41	8
Montana	5	25	44	26
Nebraska	0	54	38	8
Nevada	1	87	0	12
New Hampshire	2	44	31	24
New Jersey	0	51	40	9
New Mexico	0	57	23	21
New York	0	33	60	8
North Carolina	1	40	52	7
North Dakota	0	57	22	21
Ohio	0	50	42	8
Oklahoma	0	45	32	23
Oregon	0	14	73	13
Pennsylvania	1	50	33	15
Rhode Island	1	50	43	6
South Carolina	0	54	40	6
South Dakota	0	81	6	13
Tennessee	0	76	11	13
Texas	0	78	0	22
Utah	0	57	35	8
Vermont	0	49	40	11
Virginia	0	39	52	8
Washington	15	75	0	9
West Virginia	0	51	35	14
Wisconsin	2	44	47	7
Wyoming	14	35	0	51
Dist. of Columbia	32	29	34	6
U. S.	2%	49%	40%	10%

Source: Calculated from Census Data.

\* Includes selective excise taxes.

DISTRIBUTION OF STATE & LOCAL  
REVENUES BY TAX, 1988

2

State	Property Taxes	Sales & Gross Receipts *	Income	Other
Alabama	12%	52%	25%	11%
Alaska	35	8	10	48
Arizona	31	46	17	6
Arkansas	18	49	27	6
California	28	34	32	6
Colorado	36	36	23	5
Connecticut	40	39	13	8
Delaware	14	12	42	32
Florida	33	55	3	9
Georgia	27	39	30	4
Hawaii	14	54	28	3
Idaho	28	38	27	6
Illinois	35	38	20	6
Indiana	31	38	28	3
Iowa	39	28	26	7
Kansas	35	34	24	7
Kentucky	17	38	33	12
Louisiana	16	54	14	16
Maine	32	33	29	6
Maryland	24	28	40	8
Massachusetts	32	23	40	5
Michigan	38	24	33	5
Minnesota	30	31	34	5
Mississippi	25	50	16	10
Missouri	22	45	27	7
Montana	44	15	23	18
Nebraska	41	33	20	6
Nevada	23	62	0	15
New Hampshire	64	16	11	9
New Jersey	42	30	22	6
New Mexico	11	53	16	20
New York	29	27	38	6
North Carolina	21	37	36	6
North Dakota	30	36	17	17
Ohio	28	33	32	6
Oklahoma	19	43	20	17
Oregon	47	9	33	11
Pennsylvania	27	31	28	14
Rhode Island	38	32	26	4
South Carolina	24	41	29	6
South Dakota	41	49	3	8
Tennessee	22	61	7	10
Texas	39	48	0	14
Utah	27	39	29	5
Vermont	40	29	24	7
Virginia	28	32	30	9
Washington	29	62	0	9
West Virginia	19	41	25	15
Wisconsin	35	29	30	5
Wyoming	45	25	0	30
Dist. of Columbia	30	28	36	7
U. S.	30%	36%	26%	8%

Source: Calculated from Census data.  
\* Includes selective excise taxes.

Attachment 2-33

## STATE TAXING EFFORT INDEX, 1988

State	Total Taxes	Sales Taxes	Pers. Income	Property Taxes
Alabama	84	107	101	35
Alaska	127	22	0	193
Arizona	96	128	80	89
Arkansas	84	108	121	53
California	94	103	109	76
Colorado	89	99	100	89
Connecticut	90	112	18	106
Delaware	84	1	146	35
Florida	82	108	0	93
Georgia	89	94	119	83
Hawaii	112	166	161	42
Idaho	93	101	138	80
Illinois	102	104	68	129
Indiana	93	105	121	103
Iowa	113	80	140	152
Kansas	104	104	107	125
Kentucky	88	78	147	57
Louisiana	90	141	59	51
Maine	105	83	160	106
Maryland	108	82	165	88
Massachusetts	94	65	131	89
Michigan	112	76	115	157
Minnesota	112	95	169	104
Mississippi	94	124	80	85
Missouri	86	105	101	71
Montana	102	1	136	145
Nebraska	98	82	98	127
Nevada	69	58	0	66
New Hampshire	66	11	7	127
New Jersey	101	78	66	136
New Mexico	99	170	89	40
New York	152	127	177	151
North Carolina	93	90	147	63
North Dakota	91	75	73	105
Ohio	97	85	138	95
Oklahoma	89	108	104	56
Oregon	99	0	153	152
Pennsylvania	97	76	109	89
Rhode Island	104	85	107	131
South Carolina	96	99	139	79
South Dakota	95	127	0	129
Tennessee	83	146	6	65
Texas	88	121	0	118
Utah	106	123	170	89
Vermont	100	64	118	130
Virginia	91	66	117	84
Washington	102	206	0	89
West Virginia	88	87	101	59
Wisconsin	119	88	157	147
Wyoming	94	103	0	147
Dist. of Columbia	154	146	180	155
U. S.				

Source: Unpublished ACIR data.



## STATE SALES TAX RATES AND LOCAL OPTION SALES TAXES

State	General Sales		Local Option Sales		State	General Sales		Local Option Sales	
	Tax Rates (percent)	Rank.	Taxes Permitted			Tax Rates (percent)	Rank.	Taxes Permitted	
Alabama	4	33	yes		Montana	---	---	yes	
Alaska	---	---	yes		Nebraska	5	16	yes	
Arizona	5	16	yes		Nevada	5.75 (c)	14	yes	
Arkansas	4	33	yes		New Hampshire	---	---		
California	5 (a)	16	yes		New Jersey	7	2	yes	
Colorado	3	44	yes		New Mexico	5	29	yes	
Connecticut	8	1			New York	4	33	yes	
Delaware	---	---			North Carolina	3	44	yes	
Florida	6	7	yes		North Dakota	5	16	yes	
Georgia	4	33	yes		Ohio	5	16	yes	
Hawaii	4	33			Oklahoma	4.5	30	yes	
Idaho	5	16			Oregon	---	---		
Illinois	6.25 (b)	5			Pennsylvania	6	7		
Indiana	5	16			Rhode Island	7	2		
Iowa	4	33	yes		South Carolina	5	16	yes	
Kansas	4.25	31	yes		South Dakota	4	33	yes	
Kentucky	6	7			Tennessee	5.5	15	yes	
Louisiana	4	33	yes		Texas	6.25	5	yes	
Maine	5	16			Utah	5	16	yes	
Maryland	5	16			Vermont	4	33		
Massachusetts	5	16			Virginia	3.5	43	yes	
Michigan	4	33			Washington	6.5	4	yes	
Minnesota	6	7	yes		West Virginia	6	7		
Mississippi	6	7	yes		Wisconsin	5	16	yes	
Missouri	4.225	32	yes		Wyoming	3	44	yes	
					Dist. of Columbia	6	7	n.a.	
					U.S. Median	5			

Source: Compiled by FTA from various sources.

(a) Includes a temporary 0.25% tax increase earmarked to earthquake relief (expires December 31, 1990).

(b) The state receives revenue from the first 5%, with the remainder being distributed to various local governments.

(c) Includes mandatory, statewide, state-collected 3.75% county and school sales tax.



**FEDERATION OF TAX ADMINISTRATORS**

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**Availability of Material**

**Sales Taxation of Services**

The Federation of Tax Administrators has recently completed a significant amount of work on the sales taxation of services. The work was performed by Mr. Laird Graeser, Director of Tax Research and Statistics for the New Mexico Department of Taxation during his tenure in the summer of 1990 as an FTA Research Associate. The work completed consists of four documents or papers, including

**Survey of States Sales Taxation of Services** detailing the responses of the fifty states and the District of Columbia to the taxation of a list of some 170+ types of services.

**Sales Tax on Services: An Idea Whose Time Has Come?** a paper presented by Mr. Graeser at the FTA Annual Meeting in Charleston, SC, in June 1990. The paper reviews recent state legislative efforts to extend the sales tax to services as well as discussing certain of the issues to be considered in such an effort.

**Sales Taxation of Services: A Taxonomy and Ranking of the States**, a paper presented by Mr. Graeser at the FTA Annual Meeting in Charleston, SC, in June 1990. This paper uses the results of the above survey to compare the degree of service taxation among the states and to compare the results of the survey to selected other work attempting to compare the degree of service taxation across states.

**Sales Taxation of Services: A Review of the Issues**, a paper which reviews the major economic and administrative issues involved in considering and designing the imposition of a sales tax on service transactions. The paper also compares alternative sales tax designs against certain standard criteria for evaluating tax policy.

Copies of these papers are available from the Federation of Tax Administrators for \$25 per set. To order, please complete the information requested below and mail it along with a check to the Federation of Tax Administrators, 444 North Capitol St., NW, Suite 334, Washington, DC 20001.

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Please send \_\_\_ set(s) (at \$25 per set) of the papers on the sales taxation of services to the address shown below. My check in the amount of \$ \_\_\_\_\_ is enclosed.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip \_\_\_\_\_