Approved: 3-31-95
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 24, 1995 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: none

Others attending: See attached list

Chair opened floor for further action on :

SB 150 - Motor vehicle tax reduction; assessment and tax rates

Moved by Lawrence, seconded by Hayzlett, committee reconsider amendments to **SB 150.** Motion carried. (Attachment 1)

Moved by Lawrence, seconded by Edmonds, amend SB 150 to return the annual depreciation rate to 16% from 15%. Motion carried.

Moved by Lawrence, seconded by Powell, that the original language of **SB 150** be used regarding 3% reduction per year for period of five years. Motion carried.

Moved by Lawrence, seconded by Edmonds, recommend SB 150 for passage as amended. Motion carried.

Action on:
HB 2150 - Inheritance tax deduction amounts increased.

Moved by Shore, seconded by Powell, language from **HB 2171 - Kansas Estate Tax Act,** be merged into **HB 2150**. Motion carried.

Moved by Shore, seconded by Powell, **HB 2150** be passed as amended, Motion carried.

Report of Subcommittee on Study of **HB 2108 and HB 2167**

Chair Kline commended Chairperson Graeber, Members Edmonds, McKinney and Wempe for their efforts in studying these two bills. Chair Graeber noted the Property Valuation Division ands the Appraisers had been most helpful in the subcommittee's deliberations and reported on the proposed changes in **HB 2108.** (Attachment 2). Chair Graeber will coninue his report on **HB 2167** at the next meeting.

Chair noted action would be taken on **HB 2108 and HB 2167** on March 6 as the committee would not hold any meetings from February 27 thru March 3 during the turnaround.

Adjournment.

The next meeting is scheduled for March 6, 1995.

TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 24, 1995

NAME	REPRESENTING
Mary Jane Stattelman	KS Farm Bureau
Janet Stubbs	KBIA
Jenny [illegible]	Overland Park Chamber
Frances Kastner	Ks Food Dealer Assn
Donald Snodgrass	Ks Food Dealers Assn.
Chris McKenzie	League of Ks. Municips.
John D'Aloia Jr.	Self
Reed W. Davis	KDOT
Greg Lawson	Rep Pettey - Intern
Larry Clark	Ks. County Appraisers
Matthew Martin	KAR
Lee Eisenhauer	Propane Marketers Assn of KS
John Peterson	Ks Governmental Consulting
Rich Strickley	Intern
Michelle Peterson	Ks. Governmental Consulting
Steve Neske	KDOR

SESSION OF 1995

SUPPLEMENTAL NOTE ON SENATE BILL NO. 150

As Amended by House Committee on Taxation

Brief*

S.B. 150 would make a number of changes in the motor vehicle tax beginning in 1996:

1. The definition of the "county average tax rate" and the distribution formula would be amended such that the assumed levy applicable to distributions to school district general funds would be reduced from 35 mills to 17.5 mills in 1996 and would be eliminated altogether starting in 1997. The assumed levy applicable to distributions to state building funds would be reduced from 1.5 mills to 0.75 mills in 1996 and would be eliminated altogether starting in 1997.

2. The county average tax rate used for 1997 and all future years also would be "capped" at the lesser of: (a) the rate determined as of November 1, 1994 without regard to school district general fund or state building fund levies; or (b) the rate similarly determined as of any subsequent November 1. An adjustment to the rate determined by this cap computation would be provided whenever a taxing subdivision ceases to exist or comes into existence.

3. The motor vehicle tax assessment rate would be reduced from 30 percent to 28 percent in 1996; to 26 percent in 1997; to 24 percent in 1998; to 22 percent in 1999; and to 20 percent for 2000 and all future years.

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* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

0013239.01/cc

4. Motorcycles which are model year 1981 or newer with a 1995 tax of $12 or more and all other vehicles which are model year 1981 or newer with a 1995 tax of $24 or more would continue to pay taxes in 1996 based on a depreciated-valuation-times-levy computation and would NOT be eligible for minimum tax levels based solely on the age of the vehicles. Moreover, the minimum tax levels would be raised from $6 to $12 for such motorcycles and from $12 to $24 for all other such motor vehicles.

5. The annual depreciation rate for motor vehicles would be decelerated from 16 percent to 15 percent for 1996 and all future years.

6. An amnesty clause would provide that any person who has not paid tax on a vehicle for any tax year or registration period prior to the effective date of the bill (July 1, 1995) would not be liable for back taxes, penalty, or interest due if such person pays on schedule for the appropriate registration period commencing in 1996.

7. A new penalty provision would provide that any taxpayer who with "fraudulent intent" fails to pay any tax due at the appropriate time and appropriate place would be subject to a penalty equal to the amount of tax due. Any such penalty collected would be forwarded to the governmental unit operating the law enforcement agency responsible for determining that the taxpayer was in noncompliance.

Background

S.B. 150 was introduced at the request of the Governor.

The original bill would have amended the distribution formula such that the assumed levy applicable to school district general funds would have been reduced (but not eliminated) and did not deal with the assumed levy applicable to state building funds. The original bill also would have reduced the assessment rate (except for school district general funds) by 1.5 percent a year for ten years until the rate was 15 percent. Finally, the original bill would have created a "bifurcated" assessment rate under which the assessment rate applicable for that portion of the tax earmarked for distribution to school district general funds would have remained at 30 percent.

The House Tax Committee amended the bill to change the definition of "county average tax rate" and the distribution formula as described in Number 1 above; to accelerate the assessment rate reduction from a 1.5 percent to a 2 percent reduction per year; to change the number of years the assessment rate would be reduced from ten to five years; to change the final assessment rate when fully phased-in from 15 to 20 percent; to eliminate the bifurcated assessment rate feature; and to make all other amendments hereinbefore described.

Fiscal Impact. The amount of increased general state aid that would be needed to offset the reduction in motor vehicle tax receipts to school district general funds -- a reduction in "local effort" -- is estimated to be $11.9 million in FY 1996, $59.3 million in FY 1997, and $94.9 million in FY 1998. The original bill would have required the following amounts of increased general state aid: $5.9 million in FY 1996; $30 million in FY 1997; and $49.5 million in FY 1998.

Printouts prepared by the Department of Revenue suggested that the reduction in motor vehicle tax receipts during calendar year 1996 for all taxing subdivisions (including school districts) would be $51.3 million under the House Committee on Taxation version and $31.2 million under the original version.

HOUSE BILL No. 2108

By Committee on Taxation

1-18

AN ACT relating to property taxation; exempting certain business machinery and equipment therefrom; amending K.S.A. 1994 Supp. 79-213 and repealing the existing section.

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

New Section 1. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) Any item of machinery, equipment, materials and supplies used exclusively for business purposes whose original retail cost when new is $2,500 or less.

actually and regularly

or in the conduct of activities by an entity not subject to Kansas income taxation pursuant to K.S.A. 79-32,113, and amendments thereto,

$500

~~(b) As used in this section and for the purposes of class 2(E) of subsection (b) of section 1 of article 11 of the Kansas constitution, "retail cost when new" shall mean the total cost to the consumer less the amount of any transactional taxes, installation costs and freight or transportation charges included in such cost.~~

~~(c)~~ The provisions of this section shall apply to all taxable years commencing after December 31, 1994.

(b)

Sec. 2. K.S.A. 1994 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommenda-

House Taxation
2-24-95
Attachment 2-1

rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; ~~and~~ (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes; *and (13) business machinery and equipment exempted from ad valorem taxation by section 1, and amendments thereto.* The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired.

,

, materials and supplies

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

Sec. 3. K.S.A. 1994 Supp. 79-213 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

2-2

STATE OF KANSAS

John LaFaver, Secretary
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585

(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

MEMORANDUM

TO: Representative Clyde Graeber, Chairman
Subcommittee, House Taxation

FROM: Laura Johnson, Division of Property Valuation

DATE: February 21, 1995

RE: House Bill 2108

In January, we asked counties to submit information regarding how much of the commercial and industrial machinery and equipment reported to them had a cost of $5,000 or less. We received a response from roughly 60 of the 105 counties. Some counties have their personal property rendition information computerized, some do not. Many of those counties that do have the information computerized must pay their computer vendor for computer queries that can answer our questions, because they do not have the human resource staff to develop the query themselves. Because it takes time to send questionnaires to the county, collect responses and analyze the data, we have not had time to ask many counties specifically about the results of exempting commercial and industrial machinery and equipment that has a retail cost when new of $2,500 or less. Thus, our estimates of the shift in the tax base from the commercial and industrial subclass to other classes of property is based upon the information received from the January questionnaire ($5,000) and follow-up phone calls.

Many counties have warned us that the information we received has some shortfalls. For example, some taxpayers report certain assets on a lump-sum basis, and it is not possible to determine how much of the lump sum constitutes items with a retail cost when new of $5,000 or less. Thus, the estimated value associated with items costing $5,000 or less may be somewhat lower than actuality. In addition, it is not possible to determine what assets currently reported would have a retail cost when new for $5,000 or less under the new definition of retail cost when new that is also set forth in HB 2108. This also results in the estimated values associated with the exemption being somewhat less than actuality.

The information below estimates only what shift in the property tax burden there would be if what is currently reported separately as costing $5,000 ($2,500 or $1,000) or less was exempted. **It does not estimate**:

1. The impact of redefining retail cost when new to exclude sales tax, freight and installation;
2. The impact of personal property items that cost $5,000 or less when reported as a lump sum; or
3. The impact of exempting supplies and materials.

Based upon the less than ideal information submitted regarding the shift in revenue caused by items of $5,000 or less, we have made rough estimates of the shift in revenue that would be caused by items costing $2,500 or less, or $1,000 or less:

Results of $5,000 or less Sample:	
Sampled Assessed Amount of C & I $5,000 or less:	$ 190,786,603
Sampled Assessed Amount of C & I :	720,191,944
Estimated Percent:	26.49%
Apply to Total Assessed C & I for State:	$ 1,144,116,552
Estimated C & I $5,000 or less for State	$ 303,088,797
Apply Average Urban Personal Property Tax Levy:	.135999
Estimated Tax Shift:	$ 41,219,773

Sampled approximately 53% of the counties, and 63% of the total assessed C & I personal property in Kansas.

Estimated Assessed Amount of C & I $2,500 or less:	
Sampled Assessed Amount of C & I $5,000 or less X 67%	$ 127,827,024
Sampled Assessed Amount of C & I	720,191,944
Estimated Percent:	17.75%
Apply to Total Assessed C & I for State:	$ 1,144,116,552
Estimated C & I $5,000 or less for State	$ 203,069,494
Apply Average Urban Personal Property Tax Levy:	.135999
Estimated Tax Shift:	$ 27,617,248

Estimated Assessed Amount of C & I $1,000 or less:	
Sampled Assessed Amount of C & I $5,000 or less X 33%	$ 62,959,579
Sampled Assessed Amount of C & I	720,191,944
Estimated Percent:	8.74%
Apply to Total Assessed C & I for State:	$ 1,144,116,552
Estimated C & I $5,000 or less for State	$ 100,019,303
Apply Average Urban Personal Property Tax Levy:	.135999
Estimated Tax Shift:	$ 13,602,525

KEY: C & I = Commercial and Industrial Machinery and Equipment

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MEMORANDUM

Kansas Legislative Research Department

300 S.W. 10th Avenue
Room 545-N -- Statehouse
Topeka, Kansas 66612-1504
Telephone (913) 296-3181 FAX (913) 296-3824

February 20, 1995

To: Representative Phill Kline, Representative Bruce Larkin, Representative Clyde Graeber

From: Chris W. Courtwright, Principal Analyst

Re: Personal Property Taxation of Commercial and Industrial Machinery and Equipment

This memo is in response to your request to list some of the questions which may need to be addressed regarding H.B. 2108 and H.B. 2167 regarding the property taxation of personal property.

H.B. 2108

As you know, H.B. 2108 would exempt any "item" of machinery, equipment, materials, and supplies used exclusively for business purposes whose retail cost when new is $2,500 or less. "Retail cost when new" for purposes of the bill AND FOR PURPOSES OF THE SUBCLASS OF COMMERCIAL AND INDUSTRIAL MACHINERY AND EQUIPMENT IN THE *KANSAS CONSTITUTION* (emphasis added) would be defined to exclude from the total cost to the consumer, transactional taxes, installation costs, and freight or transportation chargers.

H.B. 2167

H.B. 2167, on the other hand, would exempt all commercial and industrial machinery and equipment which is not classified within the commercial and industrial machinery subclass of the *Kansas Constitution* and which is not being used for the production of income by the owner.

The *Kansas Constitution*

Article 11, Section 1 of the *Kansas Constitution* provides that "tangible personal property shall be . . . assessed uniformly as to subclass at the following percentages of value: [. . .]

> (5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding

its economic life and as long as such property is being used, shall not be less than 20 percent of the retail cost when new of such property . . . 25 percent

(6) All other tangible personal property not otherwise specifically classified . . . 30 percent"

Questions Regarding H.B. 2108

What is an "item" of machinery, equipment, materials, and supplies and does the term need to be defined?

Depending on the meaning of the term, would there by an opportunity for individuals to avoid taxation by obtaining a $4,000 personal computer system by purchasing each of its components -- which cost less than $2,500 apiece -- separately?

Since the bill would define "retail cost when new" to exclude transactional taxes, installation costs, and freight or transportation charges for purposes of the bill AND FOR PURPOSES OF THE SUBCLASS OF COMMERCIAL AND INDUSTRIAL MACHINERY AND EQUIPMENT IN THE *KANSAS CONSTITUTION*, is it appropriate for the Legislature to attempt to define "retail cost when new" for purposes of the *Kansas Constitution* when a court might find that the people of Kansas thought the term meant something different when the classification amendment was adopted?

How might a court interpret what the people of Kansas thought the term meant, since -- according to testimony from appraisers -- the IRS and IAAO both include the taxes, installation, and transportation costs in their definitions?

Since the bill seeks to impose the new definition of "retail cost when new" on ALL commercial and industrial machinery and equipment, the valuation of property whose retail cost when new was ABOVE $2,500 also would be reduced. Is it the intent of the bill to provide such a valuation reduction for ALL business machinery and equipment (as well as the outright exemption for the lower-cost items)?

If the current definition is to be continued to be used for purposes of property which is to remain on the tax rolls, would using a different definition for purposes of determining the exemption level create additional administrative complexity for county appraisers?

Since property tax exemptions for one class of property causes a shift to all other classes, should the subcommittee consider a lower exemption threshold than $2,500?

What sort of statutory change or administrative policy change by PVD would be necessary to implement Mr. Welcome's suggestions regarding the filing of "consolidated" renditions by taxpayers, who would be required to maintain the more complete documentation in case of audit?

Questions Regarding H.B. 2167

If property is no longer being used for the production of income by the owner, should it still be classified as commercial and industrial machinery and equipment?

If not, could not PVD simply instruct county appraisers to classify all such property as "all other" and assess it at 30 percent of market value -- which might be as little as $1?

If a 50-year-old machine not being cannibalized for parts (or a trophy) is sitting in the basement of a business and is in no way associated with the production of income by that business, is it not true that the use of the property has changed and it should be market valued at $1 and have no tax liability?

Since the *Kansas Constitution* says that the "floor" (appraised) valuation of 20 percent of retail cost when new is to apply "as long as such property is being used", is it not fair to suggest that the floor valuation would no longer apply when the property is no longer in use?

How is the machinery and equipment owned by not-for-profit organizations classified by county appraisers under current law? Is it classified as "all other" or is it classified as commercial and industrial machinery and equipment?

If it is classified in some instances as commercial and industrial machinery and equipment, is it not true that H.B. 2167 would exempt all such property?

Relative to the wording of the bill, how can commercial and industrial machinery and equipment NOT be classified as such under the *Kansas Constitution*? In other words, once machinery and equipment is no longer used for the production of income by the owner, does it not by definition cease being commercial and industrial?

Is a machine being cannibalized for parts being used for the production of income?

Taxation of Used Machinery and Equipment

Since the *Kansas Constitution* says that commercial and industrial machinery and equipment SHALL be valued based on retail cost when new, depreciated, is it possible that the method under which the market value of used machinery and equipment is sometimes used as a proxy to "back into" retail cost when new is unconstitutional?

Or can such a methodology be defended under certain circumstances when the retail cost when new of used machinery cannot otherwise be determined?

Example

Representative Edmonds purchases four computers for $10,000. Assume that computers fully depreciate over five years (rather than seven years). In the fifth year, each computer would be valued at $2,000 and would be assessed at 25 percent of that amount, or $500. If the mill levy is 100 mills, the tax on each computer would be $50, and his total tax bill on the computers would be $200.

Say that instead, in the fifth year (or any subsequent year) he sells one of the computers to Representative McKinney (who owns a business and also happens to be Representative Edmonds' brother-in-law) for $300; sells another one of the computers to Representative Graeber (a business competitor) for $1,000; and sells another one of the computers to a not-for-profit entity managed be Representative Wempe for $700.

If the county appraiser cannot determine the retail cost when new of the sold computers but still is able to determine that they are fully depreciated, the price at which they were sold could enter into the determination of retail cost when new. In other words based on the fact that Representative Graeber bought a fully-depreciated computer of five years old for $1,000, it might be determined that the retail cost when new must have been $5,000. The assessed valuation would be 25 percent of the $1,000, or $250, and the tax due if the mill levy is 100 would be $25. But if Representative Edmonds had retained that same computer, the tax would have been $50.

Since the notion of "arms-length transactions" does not necessarily have to come into play, it is possible that the assumption would be made that the retail cost when new of Representative McKinney's computer was only $1,500. With an assessed valuation of $75 (25 percent of the $300), the tax would be $7.50. But if Representative Edmonds had retained that same computer, the tax would have been $50.

Under such circumstances, is commercial and industrial machinery and equipment being "assessed uniformly as to subclass" as required in Article 11, Section 1?

If the computer sold to the not-for-profit entity managed by Representative Wempe is to be taxed as "all other" and market valued, would the tax be based on an assessed value equal to 30 percent of $700, or $210? In our example and under such circumstances, the tax on that computer would be $21. If on the other hand, the computer is still valued as commercial and industrial machinery and equipment and its sales price is adopted as a proxy for its fully depreciated retail-cost-when-new value, the tax would be calculated based on an assessed valuation of $175 (25 percent of $700), and would be $17.50.

STATE OF KANSAS

John LaFaver, Secretary
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585

(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

FACSIMILE TRANSMITTAL SHEET

DATE: February 21, 1995 **TIME:** 3:00

NUMBER OF PAGES INCLUDING TRANSMITTAL SHEET:

TO: Chris Courtwright, Principal Analyst
Kansas Legislative Research Dept.
Statehouse, Room 545-N

RE: Your Memorandum re HB 2108 and HB 2167

TELEPHONE:	(913) 296-3181
FAX NO.	(913) 296-3824

9 pages

FROM:
Laura E. Johnson

MESSAGE:

Your memorandum is very impressive! Regarding the top of page 3, we currently do the very things you mention. I'm attaching copies of our personal property guide, etc.

1995 PP Guide
(see pg. 52)
1994 PP Manual (excerpts)
1995 Rendition (excerpts)

2-9

DIVISION OF PROPERTY VALUATION

1995

DEPARTMENT OF REVENUE
STATE OF KANSAS

PERSONAL PROPERTY GUIDE

Formerly the
Motor Vehicle Reference Guide
(Sections I.A., B., C., D. & E.)

and the

Miscellaneous Property Guide
(Sections I.B. & F. and Sections II & III)

For purposes of Directive 92-005, Page 2, No. 6., this guide should be provided the same authority as what was formerly referred to therein as the Miscellaneous Property (guide) and the Motor Vehicle Reference (guide)

SECTION II. Commercial & Industrial Machinery & Equipment

Kansas has a self-reporting system of personal property taxation. Pursuant to K.S.A. 79-301, all tangible personal property subject to taxation must be listed in the name of the owner. The rendition, or "Tangible Personal Property Ad Valorem Tax Return" issued by the Division of Property Valuation was designed for that purpose. The rendition has a special section for commercial and industrial machinery and equipment (Schedule 5).

The rendition is designed to allow the commercial or industrial taxpayer to provide information about all the tangible personal property under the taxpayer's control, and in the taxpayer's possession or custody. For example, the taxpayer lists commercial and industrial machinery and equipment on Schedule 5. The taxpayer lists each item, and provides a description, a purchase date, whether the item was new or used when it was purchased, its age at purchase, its current age, and its purchase price. This information allows the county appraiser to determine the value of the property in accordance with the Kansas Constitution.

Second, if a taxpayer has commercial and industrial machinery and equipment on the premises that is no longer used nor will it be used in its original form, the taxpayer should list such personal property as "Other" property on Schedule 6. (*See* the Personal Property Manual, "Commercial and Industrial Machinery and Equipment" section for guidelines for determining when an item may be considered no longer used for commercial and industrial purposes).

Third, the commercial and industrial taxpayer lists their supplies as a lump sum on Schedule 6. Spare parts are listed in the same manner. Finally, on Schedule 7 the taxpayer lists, in the name of the owner, any tangible personal property under their control, possession or custody (e.g., any property they lease).

When the county appraiser's office receives the rendition, it should be reviewed for completeness and accuracy. A follow-up with the taxpayer may be necessary to resolve questions or inadequacies.

Below is a more in-depth discussion of how the valuation of commercial and industrial machinery and equipment reported on Schedule 5 should be determined in accordance with the Kansas Constitution.

Schedule 5
Commercial and Industrial Machinery and Equipment

The Constitution requires that the value of commercial and industrial machinery and equipment be determined by applying straight-line depreciation over an item's economic life; however, the Constitution sets forth a maximum depreciation period of seven years when the economic life exceeds seven years. In addition, the Constitution requires that an item be valued at a residual of 20% of its retail cost when new, so long as the item is used for commercial and industrial purposes. *(See Article 11, Section 1 of the Kansas Constitution)*.

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SECTION II. Commercial & Industrial Machinery & Equipment, *Cont.*

Schedule 5
Retail Cost When New

Once the final information for schedule 5 is obtained, the county appraiser must determine the retail cost when new of each item. For items that are purchased used, this may entail estimating the retail cost when new by applying the "used factor" to the used purchase price. *(See page 65 herein for the "Used Factor" schedule, Table II).* However, if the actual retail cost when new of an item can be obtained from a reliable source (e.g., a copy of the original invoice from the seller), that figure should be used instead of estimating the retail cost when new by applying the used factor. The county appraiser may also find better estimates of the retail cost when new than the used factor provides. For example, an estimate of the retail cost when new of construction equipment is available from the *Dataquest* Green Guide.

Retail cost when new means the dollar amount an item would cost a consumer when the item is purchased new at the retail level of trade. It is not the used sales price and it is not a wholesale or manufacturer's cost. It is the total amount a purchaser would pay to acquire new property in order to use it to produce income over a period of years in a commercial or industrial setting.

For purposes of personal property taxation, the depreciable "retail cost when new" includes the cost of sales tax, freight and installation. The inclusion of these costs is consistent with widely recognized, uniform practices: (1) generally accepted accounting principles; (2) I.R.S. Publication 551; and (3) the cost approach to valuing commercial and industrial machinery and equipment. Generally, it can be assumed that sales tax, freight and installation costs are included in the "retail cost when new" figure reported by taxpayers because these uniform and widely used standards exist. In order to assure uniform and equal treatment of personal property within the Commercial and Industrial Machinery and Equipment subclass that is set forth in the Kansas Constitution, this guide recommends adhering to these general standards.

To determine the estimated retail cost when new of an item using Table II on page 65, select the proper multiplier and apply it to the used purchase price.* To select the proper multiplier, locate the *row* for the age of the item when it was purchased used (from the far left vertical line) and the *column* indicating the item's total economic life (from the top horizontal line). The proper multiplier is located where the row and column meet. For example, an item with an economic life of 5 years which was purchased when it was one year old would have a multiplier of .1250 or 125%. The 125% multiplier applied to a used purchase price of $1,000 would yield $1,250. Thus, it is estimated that one year ago, the item's retail cost when it was new was $1,250.
** Do not apply the used factor to installation costs. Do not apply the used factor to the cost of freight unless there is proof that the cost of freight increased with the value of the item.*

Schedule 5
Economic Life

The county appraiser must also determine the economic life of commercial and industrial machinery and equipment in order to determine the value. The economic life is used for depreciation purposes if the item has a seven year life or less. It is also *always* used to determine the proper "used factor" that is applied to the used purchase price in order to estimate the "retail cost when new." *(See "Retail Cost When New" discussion immediately preceding).* To determine the economic life of an item, the county appraiser should refer to the "Commercial and Industrial Machinery and Equipment Economic Lives" section herein. *(See Table I, pages 55-64).*

2-12

Commercial and Industrial Machinery & Equipment

Used vs. Not Used

See also A.G. opinion 94-52

The Kansas Constitution provides that: commercial and industrial property will be taxed based upon its retail cost when new less straight-line depreciation over a seven year period if the economic life of the equipment is seven years or more, or over its economic life if its economic life is less than seven years. However, the value so obtained, notwithstanding the item's economic life and as long as the property is "being used," shall not be less than 20% of the retail cost when new of such property.

Question 1: What happens if property formerly used as commercial and industrial machinery and equipment is no longer being used?

Because exemptions must be express and cannot be implied (K.S.A. 79-101), such property is not exempt from taxation. Rather, it is taxed under a constitutional subclass other than "commercial and industrial machinery and equipment." In most cases, that subclass would be "all other tangible personal property not otherwise specifically classified." The property would be valued based upon its fair market value on January 1st, and would be assessed at the rate of 30%.

Question 2: What constitutes commercial and industrial machinery and equipment that is "being used?"

The Director has not yet issued any formal guidelines on this issue. However, for administrative efficiency for both the taxpayer and the county, and in order to make a determination predictable for both the taxpayer and the county, it is beneficial to carefully and objectively construe what constitutes used versus <u>not</u> used.

Commercial and industrial property should be considered as being "used" until its condition and other objective evidence clearly indicate that the property is no longer being used. A careful construction based upon objective evidence provides a consistent basis for valuing property. It would prevent property from being considered "used" for one tax year, "not used" for a subsequent tax year, then "used" again at some future point in time, etc. If a construction is made which allows property to easily change its classification from year to year, it becomes difficult for both the taxpayer and the county to predict how property should be reported and taxed. Records may be lost or misplaced in the interim which would make the property difficult to value. More errors would result from applying one valuation method one year, and another a following year, etc. In addition, a too lenient or subjective construction of what constitutes "not being used" may invite taxpayers to manipulate the use of property on January 1st, the assessment date, in order to evade taxes. Taxpayers who would not attempt to manipulate the apparent use of their property would not be uniformly and equally treated.

In order to determine whether machinery and equipment formerly used for commercial and industrial purposes is not longer being used, the county appraiser may want to ask the following questions:

See Following Page

EXCERPT FROM PERSONAL PROPERTY MANUAL

Commercial and Industrial Machinery & Equipment

Used vs. Not Used

(Caveat: this is not an all-inclusive list of questions and facts to consider in order to make the determination of whether commercial and industrial machinery and equipment is being used)

1. Is the economic life of the asset over?

   If so, there is a greater possibility that the property is no longer being used.

2. Has the property item been replaced?

   If so, there is a greater possibility that the property is no longer being used, nor will it be used in the future.

3. Is the property item being held for back-up, or for future used in its present form in case the business' demands should change?

   If so, there is a greater possibility that the property should be considered still used for commercial and industrial purposes, because it is in "limbo" and may be pulled for further use at the discretion of the owner or management.

4. Is the item being held for parts, and have some parts already been removed?

   If so, there is a greater possibility that the item is no longer used in its original, intended state. Valuing the item based upon 20% of its retail cost when new no longer seems logical.

5. What is the condition of the property?

   Does it appear unused (dusty, etc.) and unusable (poor condition, parts missing, etc.)? Does it appear to have had no maintenance? If so, there is a greater possibility that the item is no longer used nor will it be used in the future.

6. Is there a service agreement currently in effect for the property?

   If so, it is probably still being used, or will be in the near future.

7. Would it be more expensive to remove the item than to leave it in place?

   If so, there is a greater possibility that the property is no longer being used; rather, the property would have been disposed of except that it is more cost effective to simply keep it on the premises. This situation would be rare.

Prepared by Laura Johnson, Div. of Prop. Val. 6/94

EXCERPT FROM PERSONAL PROPERTY MANUAL

19____ TAX YEAR, ______________________ COUNTY, KANSAS
TANGIBLE PERSONAL PROPERTY AD VALOREM TAX RETURN

COUNTY USE
County Code ____
Tax Unit ____
Land Use Code
City/Twp. code:
Review
Review date ____
Reviewed by ____

K.S.A. 79-303 Every person who owns or holds tangible personal property shall list said property for assessment. Property held, and taxable to others, shall be listed with the appraiser in the name of the owner thereof on schedule 7.
K.S.A. 79-306 Filing Deadline: On or before March 15th.
K.S.A. 79-1422 Penalty for late filing: Within 15 days, 10%. Within 16-30 days, 20%; 31 to 45 days, 30%; 46 to 60 days, 40%; more than 60 days but less than one year, 50%.

Taxpayer(if different)	Owner
Parcel ID Number	
Location of Property	Address
Sec./Twp./Range	
Daytime telephone number ______________	Date Business Started

Notice: Pursuant to K.S.A. 79-306, and amendments thereto, this statement must be signed by the personal property owner, or the person who is required by K.S.A. 79-303, and amendments thereto, to list personal property on behalf of the owner. In addition, if prepared by a tax rendition form preparer, this statement must be certified as true and correct by such preparer's signature. Check one and sign below:

If this is for a business, please enter your Standardized Industrial Code from your Federal Income Tax Return ________ (SIC Code)

☐ I DO HEREBY CERTIFY that this summary and the attached schedules contain a true and correct list of all personal property owned or held by me subject to personal property taxation under the laws of the State of Kansas.

By: Owner (See 79-306) Date

☐ I DO HEREBY CERTIFY THAT I DID NOT OWN or control any property subject to personal property taxation on the first day of January.

By: Other (See 79-303) Relationship to Owner Date

By: Tax Rendition Preparer (See 79-306) Date

SUMMARY

SCHEDULE DESCRIPTION	APPRAISED VALUE (1)	ASSESSED VALUE (2)	PENALTY (3)	TOTAL TAXABLE VALUE (4)
SCHEDULE 1 (Class 2.01) MOBILE HOMES USED FOR RESIDENTIAL HOUSING				
SCHEDULE 2 (Class 2.02) MINERAL LEASEHOLD INTEREST				
WORKING INTEREST				
ROYALTY INTEREST				
ITEMIZED EQUIPMENT			XXXXXXXXXXX	
SCHEDULE 3 (Class 2.03) PUBLIC UTILITY PERSONAL PROPERTY (LOCALLY APPRAISED)				
SCHEDULE 4 (Class 2.04)				
MOTOR VEHICLES: 2.04a				
MOTOR HOMES: 2.04b				
SCHEDULE 5 (Class 2.05) COMMERCIAL & INDUSTRIAL MACHINERY & EQUIPMENT				
SCHEDULE 6 (Class 2.06)				
RECREATIONAL VEHICLES: (2.06a)				
MISCELLANEOUS: (2.06b)				
GRAND TOTALS THIS RETURN				

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SCHEDULE 5: CLASS 2.05: COMMERCIAL/INDUSTRIAL MACHINERY AND EQUIPMENT
SHALL BE FILED WITH COUNTY APPRAISER BY MARCH 15TH

Name: ______________________________

Address: ______________________________ Parcel or ID Number: ______________

NOTE: If additional lines are needed, attach supplemental schedules or computer printout with same format.

NOTE: Taxpayer complete columns 1 to 5 and 7. County Appraiser complete columns 6 and 8 to 10.

Item (1)	Purchase Date (2)	Purchased New/Used (3)	Age at Purchase (4)	Current Age (5)	Econ Life (6)	Purchase Price (7)	X Used Factor (8)	X Tax Factor (9)	= Value (10)
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
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38.									
39.									
40.									

Transfer to Summary: Schedule 5. Remember to list supplies and spare parts on Sched. 6 TOTAL

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2.16

INSTRUCTIONS

Article 11, Section 1 of the Kansas Constitution requires commercial and industrial machinery and equipment to be valued and assessed in a particular manner for property tax purposes. Commercial and industrial machinery and equipment is valued based upon its "retail cost when new" less straight-line depreciation for a specified period. The Constitution states that if an item has a seven year economic life or more, it is depreciated over a seven year period. If an item has less than a seven year life, it is depreciated over its economic life. In addition, the Constitution states that so long as commercial and industrial machinery and equipment is used for such purposes, it shall be valued at no less than 20% of its retail cost when new, regardless of its economic life.

"Retail cost when new" means the dollar amount an item would cost when new to a purchaser at the retail level of trade. It is not a used sales price, and it is not a wholesale or manufacturer's cost. It is the amount a purchaser would pay to acquire new property in order to use it to produce income over a period of years in a commercial or industrial setting. Retail cost when new includes the cost of sales tax, freight and installation. If a taxpayer cannot determine the retail cost when new of an item from a reliable source, the county appraiser will estimate the retail cost when new using the used sales price of the item.

The taxpayer should list all commercial and industrial machinery and equipment in the following manner:

1. The taxpayer should provide a description of the property, the date it was purchased, whether the item was purchased new or used, the age of the item at its purchase, the current age of the item, and the purchase price of the item.

2. All property should be listed and itemized by equipment type and by year of acquisition. It is not acceptable to lump sum items, because it is difficult for the taxpayer and the county appraiser to account for items that have been traded, discarded or sold and replaced.

3. Most property will have an economic life of seven years or greater. If an item has an economic life of six years or less, the taxpayer must be certain to separately list the item and assure that its description is sufficient to support the shorter life.

4. If property was purchased used, and the "retail cost when new" cannot be determined from a reliable source, it is especially important for the taxpayer to indicate that the item was used when purchased in column 3, and indicate the age of the item when it was purchased in column 4.

5. All property used for commercial and industrial purposes must be listed for property tax purposes, even if the item has been fully depreciated for income tax or accounting record purposes. If a taxpayer has property on business premises that is old, and its condition indicates that it will not and cannot be used for commercial or industrial purposes in the future, the item should be listed on Schedule 6, as "Other Property."

6. Supplies and spare parts for machinery on hand as of January 1st should be listed as a lump sum on Schedule 6, as "Other Property."

7. This form must be filed with the county appraiser by March 15th. If a taxpayer needs an extension, a written request must be made to the county appraiser setting forth the reason for the extention prior to the March 15th due date. A timely filing of this form must be made, either by March 15th or by the extension date approved by the county appraiser, in order to avoid significant penalties which the county appraiser is obligated to apply under Kansas law. If a taxpayer does receive a penalty for untimely filing, they should contact the county appraiser's office for assistance as to what procedures must be followed by law in order to seek relief.

NOTE: All filings are subject to review by the county appraiser for completeness and accuracy.

SCHEDULE 6: CLASS 2.06: ALL OTHER PERSONAL PROPERTY
SHALL BE FILED WITH COUNTY APPRAISER BY MARCH 15TH

Name: ______________________

Address: ______________________ Parcel or ID Number: ______________________

NOTE: If additional lines are needed, attach supplemental schedules or computer printout with same format.

RECREATIONAL VEHICLES (EXCEPT MOTOR HOMES) List Travel Trailers, Camping Trailers, P.U. Campers here

(1)	Make (2)	Year (3)	Model (4)	Type (5)	Length (6)	Weight (7)	No. of Axles (8)	Volts (9)	Plumb (10)	County Use
1.										
2.										
3.										
4.										

TOTAL RECREATIONAL VEHICLES: Transfer to Summary: Schedule 2.06a TOTAL

MISCELLANEOUS PROPERTY

Boats & Misc. Marine (1)	Make (2)	Year (3)	Model (4)	Type (5)	Length (6)	Rigging (7)	Beam & Hull Mtl. (8)	HP (9)	CC (10)	County Use
1.										
2.										
3.										
4.										

NOTE: Type (column 5) refers to Inboard, sailboat, jet ski, boat motor, etc. SUBTOTAL

Aircraft (1)	Make (2)	Year (3)	Model (4)	Type (5)	No. of Eng. (6)	HP (7)	Eng. Hours * (8)	Rated Seats (9)	County Use
1.									
2.									
3.									

NOTE: Type (column 5) refers to Airplane, Helicopter, etc. * (Since Major Overhaul, owner must provide documentation) SUBTOTAL

Misc. Vehicles (1)	Make (2)	Year (3)	Model (4)	Type (5)	Length (6)	Cost New (7)	Buy Date (8)	HC or CC (9)	County Use
1.									
2.									
3.									

NOTE: Misc. Vehicles (column 1) refers to Dune Buggy, Golf Car, Snowmobile, ATV, Mopeds etc. SUBTOTAL

Misc. Trailers (1)	Make (2)	Year (3)	Model (4)	Type (5)	Length (6)	Cost New (7)	Buy Date (8)	(9)	(10)	County Use
1.										
2.										
3.										

NOTE: Boat, Horse, Stock, Utility trailers etc. not specifically exempt. SUBTOTAL

Other Property Item Name (1)	Mfg. & Model (2)	Model Year (3)	Purchase Year (4)	New/ Used (5)	Cost (6)			COUNTY USE (7)
1.								
2.								
3.								

SUBTOTAL

TOTAL MISCELLANEOUS: Transfer to Summary: Schedule 2.06b TOTAL

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