

Approved: 3-26-96
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:14 a.m. on March 7, 1996 in Room 519-S of the Capitol.

All members were present except: Rep. Ed Pugh
Rep. Ed Wempe
Rep. Pat Pettey
Rep. Doug Lawrence
Rep. Doug Mays
Rep. Jo Ann Pottorff

Committee staff present: Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee:
John Petersen, Board of Kansas International Museum
Rep. Susan Wagle

Others attending: See attached list

Chair opened hearing on:
HB 2766 - Sales tax exemption for contractor purchases relating to museum projects
Proponent:
John Petersen, Board of Kansas International Museum (Attachment 1)

Chair closed public hearing on **HB 2766**.

Chair opened hearing on:
HB 2788 - Exemption of personal property used in assistance of county sheriffs
Proponent:
Rep. Susan Wagle (Attachment 2)

Chair closed public hearing on **HB 2788**.

Chair opened hearing on
HB 3069 - Sales tax exemption for fencing materials
Neutral:
Shirley Sicilian, Department of Revenue (Attachment 3)

Chair closed public hearing on **HB 3069**.

Chair opened for committee discussion on **HB 3069**. Chris Courtwright reviewed the supplemental note. (Attachment 4)

Moved by Rep. McKinney, seconded by Rep. Graeber, the committee pass **HB 3069** favorably to the consent calendar. Motion carried.

The next meeting is scheduled for March 8, 1996.

Adjournment at 9:37 a.m.

Attachments - 4

MEMORANDUM

TO: The Honorable Phill Kline, Chairman
House Taxation Committee

FROM: John D. Petersen, Board of Directors
Kansas International Museum, Inc.

DATE: March 7, 1996

RE: HB 2766

Mr. Chairman, Members of the Committee: My name is John Petersen and I am a member of the Board of Directors of the Kansas International Museum. I appreciate this opportunity to present testimony today in support of HB 2766.

K.S.A. 1994 Supp. 79-3606 (qq) provides that "all sales of tangible personal property and services purchased by a nonprofit museum" shall be exempt from sales tax. The Kansas Department of Revenue has interpreted the above exemption to apply only if the nonprofit museum has a direct relationship with the vendor of such services, such as a general contractor, but not for an indirect relationship with a vendor, such as a subcontractor working for the general contractor.

The above interpretation means that a nonprofit museum does not owe sales tax for labor provided by its general contractor but does owe sales tax for labor provided by a subcontractor under the contract/agreement between the contractor and the nonprofit museum. This is true even if the contractor and the subcontractor are working on the same nonprofit museum project and the subcontractor does the work at the direction of the general contractor.

K.S.A. 1994 Supp. 79-3606 (d) and (e) provide that no sales tax is owed on tangible

personal property or services purchased by a contractor (i.e. services of a subcontractor) when it is done for constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school, public or private nonprofit educational institution if purchased directly would be exempt from taxation, any political subdivision of the state, and the government of the United States and its agencies or instrumentalities if purchased directly would be exempt from taxation.

The exemption found in K.S.A. 1994 Supp. 79-3606 (d) and (e) by interpretation does not include a nonprofit museum even if the nonprofit museum provides educational programs and/or exhibitions. The above interpretations as employed mean that a nonprofit museum can purchase a product to be used in construction or remodeling and pay no tax, but if a contractor or a subcontractor buys the same product for the same project, sales tax is owed on the purchase. The nonprofit museum ends up paying for the sales tax on this product when the contractor or subcontractor passes the cost on to the nonprofit museum.

HB 2766 would ensure that nonprofit museums which qualify under K.S.A. 1994 Supp. 79-3606 (qq) enjoy the same relief as other nonprofit entities under K.S.A. 1994 Supp. 79-3606 (d) and (e). However, the legislative language must be retroactive to include nonprofit museum projects commenced in calendar year 1995 in order for benefit to accrue to the Kansas International Museum, Inc.

I thank you for this opportunity to testify, and I urge your favorable action on HB 2766.

Please feel free to contact me if you have any questions.

Respectfully submitted,

John D. Petersen /_{TS}

John D. Petersen

July 12, 1995

IN THE MATTER OF THE APPLICATION
OF RUBLE, GORDON & BEVERLY
FOR EXEMPTION FORM AD VALOREM
TAXATION IN SEDGWICK COUNTY, KANSAS

Docket No. 95-2231-TX

PETITION FOR RECONSIDERATION

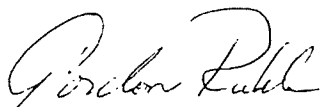
Dear Board of Tax Appeals

While I am aware of the Tax ruling as to the exemptions, I would like the board to consider the following in the refusal to grant exemption; My wife and I are commissioned Sheriff's Mounted Patrol Reserve Deputies. The Sheriff's Reserve is a voluntary organization which serves the public **without compensation** and whose law enforcement activities are in cooperation with the Sheriff of Sedgwick County, Kansas. The Sheriff's Mounted Patrol may be called upon for use in crowd control, search and rescue, patrolling, and many other activities. In addition, the Patrol works to promote communications and understanding between sheriff's officers and the people of Sedgwick County.

Note: We are not a festival parade group, we are a fully functional law enforcement organization and we are the only Sheriff's Mounted unit in Sedgwick County.

Sedgwick County does not supply any of the equipment for the service we provide to the the County or the State of Kansas. We provide our own trucks, trailers, horses, saddles, weapons, ammunition, training, and man power, **all with no charges to the State or County**. Now the State is saying you will pay us to haul your equipment to and from duty assignments in the form of personal property taxes on our trailers. Something is wrong with this picture. When private citizens are willing to volunteer their time, energy and personal resources to help improve public safety and make a difference in our communities, it seems that our governing entities would encourage that action rather than penalize it.

Please take the above statements into consideration in review of this appeal.



Gordon Ruble

9031 E. 87th St. So.

Derby, KS 67037

cc: Representative S. Wagle
Sedgwick County Appraiser office

House Taxation
3-7-96
Attachment 2-1

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION
OF RUBLE, GORDON & BEVERLY
FOR EXEMPTION FROM AD VALOREM
TAXATION IN SEDGWICK COUNTY, KANSAS

Docket No. 95-2231-TX

O R D E R

Now, on this 30th day of June, 1995, the above captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

The Board, being duly advised in the premises, finds and concludes as follows:

1. The Board has jurisdiction of the subject matter and the parties hereto, an application for exemption having been filed pursuant to K.S.A. 79-213.
2. The subject matter of this tax exemption is described as follows:

CM Trailer - 3-Horse Slant Bumper Pull
3. Applicant requests an exemption on the above described property pursuant to K.S.A. 79-201a *Second* which exempts all property owned by the state or any municipality or political subdivision of the state which is used or to be used exclusively by the state or any municipality or political subdivision of the state.
4. The Board finds from the facts as set forth in the application for exemption, the property is owned by the applicant, a private individual.
5. The Board therefore finds and concludes that the ownership requirement of K.S.A. 79-201a *Second* has not been met and the property does not qualify for exemption under this section.
6. The applicant might also qualify exemption from ad valorem taxation if said property is being used exclusively in compliance with K.S.A. 79-201j which provides an exemption for all farm machinery and equipment actually and regularly used exclusively in any farming or ranching operation. K.S.A. 79-201j states that the term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semi-trailer or pole trailer, other

than a farm trailer as defined by K.S.A. 8-126 and amendments thereto.

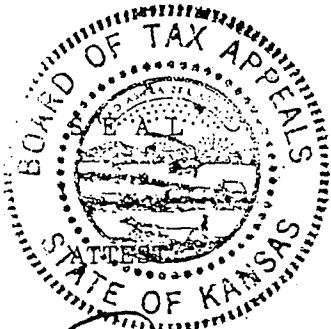
7. The Board notes that "taxation is the rule; exemption is the exception, all doubts are to be resolved against exemption and in favor of taxation", *Manhattan Masonic Temple v. Rhodes*, 132 Kan. 646, 649 (1931). Further, in *Lutheran Home, Inc. v. Board of County Commissioners*, 211 Kan. 270, 275 (1973), the court stated that "constitutional and statutory provisions exempting property from taxation are to be strictly construed."
8. The Board finds that the statute expressly excludes farm vehicles, including trucks and non-farm trailers from exemption. The Board further finds that this trailer is commercial in nature and not considered farm machinery and equipment. The Board, therefore, finds and concludes that this application for exemption should be denied.

IT IS, THEREFORE, BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that, for the reasons more fully set forth herein, the application must be, and the same is hereby, denied.

If any party to this appeal feels aggrieved by this decision, they may file a written petition for reconsideration with this Board. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. A copy of the petition, together with all documents submitted therewith, shall be mailed to the opposing party at the same time the petition is mailed to the Board. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Board within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute if the Board serves the order by mail). If at 5:00 pm on the last day of the specified period the Board has not received a written petition for reconsideration, this order will become a final order from which no further appeal is available.

IT IS SO ORDERED

THE BOARD OF TAX APPEALS



Rita Maichel
RITA MAICHEL, SECRETARY

J. F. Shriver
JACK SHRIVER, CHAIRMAN

Myra B. Gross
MYRA B. GROSS, MEMBER

Fred J. Hirsch
FRED J. HIRSCH, MEMBER

Laurence L. Tenopir
LAWRENCE L. TENOPIR, MEMBER

Perl M. Bass
PERL M. BASS, MEMBER

CERTIFICATION

I, Rita Maichel, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of the order in Docket No. 95-2231-TX, and any attachments thereto, was placed in the United States Mail, on this 7th day of July, 1995, addressed to:

Gordon and Beverly Ruble
9031 E 87th S
Derby, KS 67037

Sedgwick Co. Appraiser
525 North Main
Wichita, KS 67203

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.

Rita Maichel
Rita Maichel, Secretary

MEMORANDUM

TO: Ms. Gloria M. Timmer, Director
Division of Budget

DATE: March 6, 1996

FROM: Kansas Department of Revenue

RE: House Bill 3069
as Introduced

BRIEF OF BILL:

House Bill 5 RS 2447, as Introduced, would provide an exemption from sales tax for tangible personal property and services purchased to construct, reconstruct, repair or replace fences, damaged or destroyed by fire during 1996, the purpose of which is to enclose land devoted to agricultural use.

Sales tax paid on or after January 1, 1996 but before the effective date of this act would be refunded.

This act would be supplemental to the sales tax act and would take effect with publication in the Kansas Register.

FISCAL IMPACT:

Based on fire damage to date, this bill would reduce FY 1996 state sales tax collections by about \$143,000 and local sales taxes by about \$29,000. Additional fires and claims throughout calendar year 1996 could increase the fiscal impact for FY 1996 and, perhaps, also impact FY 1997.

The only information readily available on the February 22, 1996 brush fire losses in Meade and Barber Counties is contained in the February 29, 1996 USDA Flash Situation Reports. These reports are prepared by the Local Food and Agriculture Committee which is composed of members the Local County Extension Office, the Farm Commodity Program and the Farmers Home Administration. These reports indicate there were 440 miles of fence destroyed in Barber County at a cost of \$2,000,000. In Meade County, there were 200 miles of fence destroyed but no cost was available. Assuming the same per mile cost as in Barber county of \$4,545 per mile, the fence loss in Meade county would be \$909,090. The total loss for the two counties would be \$2,909,090 replacement cost. At a state sales tax rate of .049, the state loss would be \$142,545. Assuming local purchase of materials and services, the local sales tax rate of 1% for both Meade and Barber counties would produce a local sales tax loss of \$29,091.

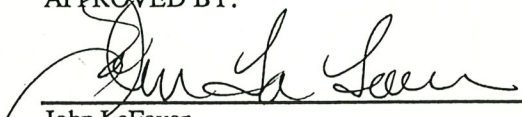
ADMINISTRATIVE IMPACT:

Some administrative work would be required to analyze purchases and provide refunds to the taxpayers but the Department can absorb this one time cost.

LEGAL IMPACT:

No significant legal effect is anticipated with this bill.

APPROVED BY:



John LaFaver
Secretary of Revenue

PARKS

House Taxation
3-7-96
Attachment 3

Supplemental Note on HB 3069 as Recommended by House Committee on Taxation

Brief

HB 3069 would exempt from the sales tax all calendar year 1996 purchases of tangible personal property and services necessary to construct, reconstruct, repair or replace fences damaged or destroyed by fires occurring during calendar year 1996, provided such fences are used to enclose land devoted to agricultural use. Refunds could be claimed for taxes previously paid on purchases of such property and services.

The bill would be effective after its publication in the *Kansas Register*.

Background

The bill was introduced at the request of Representative Alldritt.

A fiscal note from the Department of Revenue said that based upon fire damage thus far in 1996, the bill would reduce sales tax receipts by about \$143,000. Assuming that all of this fiscal impact would occur in FY 1996 and based on the current distribution of sales tax receipts (93/98 to the SGF and 5/98 to the SHF), FY 96 SGF receipts would decrease by \$135,704; and FY 96 SHF receipts would decrease by \$7,296. Both funds could experience additional decreases in receipts in FY 96 or FY 97 depending on the extent to which fires do additional damage to agricultural fences during the remainder of calendar year 1996.