

Approved: 3-26-96
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 12:35 p.m. on March 21, 1996 in Room 519-S of the Capitol.

All members were present except: Rep. Donovan
Rep. Pugh
Rep. Goodwin
Rep. Whelshimer
Rep. Mays
Rep. Ott
Rep. Graeber

Committee staff present: Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Dept. Of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee:
None

Others attending: See attached list

Chair called for report from the chairpersons of the subcommittees on:

HB 2999 - Sales tax payment responsibilities

Rep. Shore, chairperson, reported on the changes recommended by the subcommittee and presented a copy of the bill showing the proposed language. Considerable discussion on deleting the word "valid" in paragraph (c) subparagraph (1). (Attachment 1)

HB 2998 - Sales tax compliance investigation practices and procedures (SBARA) Small Business Audit Relief Act

Rep. Franklin, chairperson, gave a brief explanation of the subcommittee's recommendations and provided a revised copy of the bill. Committee discussed adding language to provide clarification in subsection (a) at the end of the first sentence "..... investigation, *except those containing confidential information of another taxpayer not necessary to support the claim.*" In subsection (b) to read "...taxpayer and/or". (Attachment 2)

Chair Kline reported on the possible agenda for the week of March 25. Meetings will be on call of the chair.

Adjournment 1:00 p.m.

Attachments - 2

TAXATION COMMITTEE GUEST LIST

DATE: March 21, 1996

NAME	REPRESENTING
Anne Spiess	Ks. Assoc of Counties
Julia Hein	Hein, Ebert and Weir
Bob Corkins	KCCI
Dot Brown	Mid-America Lumbermen
Dale Holtzhaus	Western Resources
Harriet Lange	Ks Assn of Broadcasters
DONALD SWODRASS	KANSAS FOOD DEALERS ASSN

MEMORANDUM

TO: Rep Cliff Franklin

March 13, 1996

FROM: Chris W. Courtwright

RE: Subcommittee Report on HB 2998

This memorandum is in response to your request for a brief explanation of the subcommittee's recommendations regarding HB 2998.

* Subsection (a) -- The subcommittee recommended changes to this language to allow a taxpayer, *after* the completion of a sales tax compliance investigation, the opportunity to review *only* those documents and papers supportive of the conclusions, findings, and assessments relating to the investigation. The original language would have allowed taxpayers to review *all* documents and papers compiled as a result of such investigation *at any time during or after* completion of the investigation. The Department of Revenue expressed concern that the original provision could have required them to divulge confidential information regarding another taxpayer. The Department also said that taxpayers currently receive a written explanation of the finished product after the completion of an investigation.

* Subsection (b) -- The subcommittee recommended changes to allow a taxpayer the right, within a reasonable time after completion of an investigation, to have a personal or telephonic conference conducted by the Director of Taxation or the director's staff with the taxpayer or the taxpayer's designated representative. The original bill would have required the participation of both the taxpayer *and* a representative, and the conference would have to have been held "immediately" after the completion of the investigation.

* Subsection © -- The subcommittee struck this language from the bill. The

subcommittee discussed the advisability of attempting legislatively to micromanage the affairs of an administrative agency. The Department of Revenue had testified that if an artificial limit were to be placed on the amount of time auditors can discuss issues with a taxpayer, the lack of a complete and thorough investigation could end up being more burdensome if it led to incorrect findings.

HOUSE BILL No. 2998

By Committee on Taxation

2-12

9 AN ACT relating to sales taxation; concerning compliance investigation
10 practices and procedures.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. In addition to any other rights and privileges provided by
14 law regarding investigations of compliance with the provisions of the Kan-
15 sas retailers' sales tax and Kansas compensating tax acts by a taxpayer, an
16 investigated taxpayer shall be afforded the following rights and privileges:

17 (a) The opportunity to review documents and any other papers of the
18 director of taxation or the authorized agents and employees of the director
19 compiled ~~as a result of~~ any investigation into compliance with such acts
20 ~~at any time during or~~ after completion of such investigation;

and supportive of the conclusions, findings, and
any assessment resulting from

21 (b) the provision of a conference conducted by the director or agent
22 of the director with the taxpayer ~~and~~ a representative of the taxpayer ~~at~~
23 ~~the time immediately~~ after completion of an investigation of compliance
24 with such acts; ~~and~~

and
personal or telephonic
or

25 (c) ~~if the convenience of the taxpayer so dictates and upon request~~
26 ~~of the taxpayer, the investigation of compliance with such acts shall be~~
27 ~~conducted outside normal business hours, and in no event shall any such~~
28 ~~investigation conducted during normal business hours require the utili-~~
29 ~~zation of the time of the taxpayer and employees of the taxpayer in excess~~
30 ~~of 25% of such business hours corresponding with the duration of such~~
31 ~~investigation.~~

within a reasonable time

32 Sec. 2. This act shall take effect and be in force from and after its
33 publication in the statute book.

HOUSE BILL No. 2999

By Committee on Taxation

2-12

9 AN ACT relating to sales taxation; concerning the payment thereof.

10

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

12 Section 1. (a) Unless a person provides, at the time of sale, an ex-
13 emption certificate to a retailer certifying that tangible personal property
14 or services being purchased are entitled to exemption from taxation pur-
15 suant to the Kansas retailers' sales tax act, it shall be the duty of such
16 person to pay the full amount of tax lawfully due to the retailer making
17 the sale, whether at the time of such sale or at the time of receipt of a
18 billing statement. Any person who willfully and intentionally refuses to
19 pay such tax shall be guilty of a misdemeanor and upon conviction there-
20 for, shall be subject to the penalties provided for in subsection (g) of
21 K.S.A. 79-3615, and amendments thereto.

has provided prior to the time of sale, or
a valid

22 (b) Any person required to pay tax to the retailer pursuant to sub-
23 section (a) may apply for the refund thereof by submitting a claim to the
24 director of taxation. Each claim for a sales tax refund shall be verified and
25 submitted to the director of taxation upon forms furnished by the director
26 and shall be accompanied by any additional documentation required by
27 the director. The director shall review each claim and shall refund that
28 amount of sales tax paid as determined under the provisions of the Kansas
29 retailers' sales tax act. All refunds shall be paid from the sales tax refund
30 fund upon warrants of the director of accounts and reports pursuant to
31 vouchers approved by the director or the director's designee.

or an affidavit, in the case where an
exemption is claimed pursuant to subsection
(t) of K.S.A. 79-3606, and amendments
thereto,

32 Sec. 2. This act shall take effect and be in force from and after its
33 publication in the statute book.

because of the failure to provide a valid
exemption certificate or affidavit, as the
case requires,

(c) A retailer shall be presumed to have
accepted an exemption certificate or
affidavit in good faith. Such presumption
shall not be overcome if the retailer: (1)
Maintains a valid exemption certificate or
affidavit, as the case requires; (2) has
ascertained the identity of the person or
entity who presented the exemption
certificate or affidavit; and (3) has not
been shown by a preponderance of evidence to
have accepted the exemption certificate or
affidavit with the intent to allow an
unlawful evasion of payment of tax by any
person.