

Approved: 1-31-97

Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on January 17, 1997 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:
Secretary John LaFaver, Dept. of Revenue

Others attending: See attached list

Chairman Kline explained the purpose of this meeting was to review a matter that had just surfaced regarding the Department of Revenue and the Wichita Eagle. The issue to be discussed was a possible allegation to retaliate by a tax auditor. Copies of the E-mail correspondence regarding this issue and a copy of the newspaper articles were distributed. (Attachment 1)

Chair called on Department of Revenue Secretary John LaFaver who explained his understanding of this issue of allegation to retaliate by one of the state auditors. He explained this is a serious matter and one that would not be tolerated. The department policies do not allow this practice and it is unconstitutional. Members of the committee commented on various points and asked questions of the Secretary. He will continue to have this matter investigated and further information will be provided as available.

The next meeting is scheduled for January 21, 1996.

Adjournment.

Attachments - 1

TAXATION COMMITTEE GUEST LIST

DATE: JANUARY ¹⁷~~16~~ , 1997

NAME	REPRESENTING
Anne Spiess	Peterson Public Affairs Group
Martin Hoover	Hoover's Capital Reports
Harriet Lange	Ks Assn B'casters
George Barbee	Barbee & Assoc's
Neil Weber	KLA
RUSSELL LEWIS	KANSAS PUBLIC RADIO
MARK BURGHART	WESTERN ASSN.
Ted Meent	Capitol Press
Hal Hudson	NFIB/KS
BUN GRANT	KCCI
Bob Corkins	KCCI
Jonathan Small	Koch Industries, Inc.
DAVID B. SCHLOSSER	PETE MCGILL & ASSOC.
Pat Hubbell	Ks Railroads
Bernie Koch	Wichita Area Chamber of Commerce
Bruce Dimmitt	Independent

Note for Sheridan, Tom J.

From: Sheridan, Tom J.
Date: Wed, Jan 24, 1996 2:24 PM
Subject: RE: NEWSPAPER ARTICLE
To: Sheridan, Tom J.; Walker, Sheila J.

Sheila:
I know that. However the auditor feel pretty upset at such false charges. And being an auditor in the "olden days", I understand where she is coming from.
Thanks.
tom

From: Walker, Sheila J. on Wed, Jan 24, 1996 2:19 PM
Subject: RE: NEWSPAPER ARTICLE
To: Sheridan, Tom J.
Cc: Blaha, Laurie J.

Secretary LaFaver prefers that we not respond to this editorial. Let the audit run its course.
Let's not fight the issues in the media.
Thanks,
Sheila

From: Sheridan, Tom J. on Wed, Jan 24, 1996 2:05 PM
Subject: FW: NEWSPAPER ARTICLE
To: Walker, Sheila J.

FYI!!

From: Blaha, Laurie J. on Wed, Jan 24, 1996 2:01 PM
Subject: RE: NEWSPAPER ARTICLE
To: Sheridan, Tom J.

Since the Wichita Eagle appears to know so very little about sales tax, I am referring them for audit.

Since the public is so terribly misinformed, I suggest someone get on TV right away, explain that utilities have been taxable forever, and plug our "free" tax seminars... a little pr, you know. Let's use this to our advantage and take the blame off the Gov. laurie.

From: Sheridan, Tom J. on Wed, Jan 24, 1996 1:36 PM
Subject: RE: NEWSPAPER ARTICLE
To: Blaha, Laurie J.

Thanks. We are informing Wayne and John about it.
tom

From: Blaha, Laurie J. on Wed, Jan 24, 1996 11:26 AM
Subject: NEWSPAPER ARTICLE
To: Blaha, Laurie J.; Hale, Michael; Lewis, Robert R.; Sheridan, Tom J.

I am faxing you a copy of the article in today's Wichita Eagle editorial page. It appears either the City or the attorneys hired by the City has some pull with the Eagle. I believe someone should issue a public or private response to the Eagle and to the Sedgwick County delegation to correct the misstatements and clarify the issues. Can we? I am disappointed by the errors in the article which make us sound bad, but I'm sure that was the plan. Thanks...
laurie.

Bogus

Wichita water customers to be hit with unenacted tax increase

WEB 124-96

Gov. Bill Graves has proposed a state budget so tight that his tax collectors in the Kansas Department of Revenue are scrambling to find every available dollar. But one of the methods that state revenueurs have cooked up to raise extra money for the state is — to put it bluntly — bogus.

The Revenue Department has decided that customers of the Wichita Water Department owe the state a sales tax. No longer do the governor's revenueurs regard the Water Department as a tax-exempt branch of local government. As a result of this abrupt decision to impose a new state tax on Wichita water customers, water bills soon will rise.

What is the Revenue Department's "reasoning" for this arbitrary and capricious policy change? The millions upon millions of kilowatts that the Wichita water folks use every year to run the electric pumps that move water from Cheney Reservoir and the Equus Beds aquifer, says the Revenue Department, are not a form of production. Energy not used in production is taxable, says Revenue, and therefore the Water Department must pay the 5.9 percent sales tax on it.

The only way the Wichita Water Department has to raise this money is to

pass these unanticipated costs on to water customers. For those customers who use large amounts of water in doing business — certain manufacturers — this will amount to tens of thousands of extra dollars per year in water costs.

The city has appealed the Revenue Department's decision, but it is likely to lose because the law that governs sales taxation is murkily worded. That's where Sedgwick County's seven senators and 21 state representatives come in.

The city is asking the Legislature to pass amendments to the sales-taxation law that make clear that pumping water into the Wichita water system is a form of production and is therefore tax-exempt, and that water sales — in any event — are a tax-exempt part of city government. Considering that county residents outside the city limits use Wichita water, this is an issue that affects most Sedgwick County residents.

The Sedgwick County delegation should not stand idly by and allow the Revenue Department to confiscate extra money from Wichita water users. The governor's tax collectors are entitled to every penny they can raise that's clearly theirs, but in imposing this unenacted tax increase on water customers, they have gone too far.

Water-tax facts

WEB 124-96
I am writing in response to the editorial headlined "Bogus: Wichita water customers to be hit with unenacted tax increase" published on Jan. 24. Once again, The Wichita Eagle has printed an editorial criticizing the Kansas Department of Revenue without checking the facts.

Confidentiality statutes preclude the department from speaking about specific income tax, sales tax and other tax returns and reports, as well as audits. In general terms, however, we say that of the hundreds of municipalities with water departments (cities, counties, townships, etc.) that have been required to pay the state 2.5 percent sales tax on power used to transport water to a water system, the lever of compliance is extremely high. This is a tax that was enacted in 1992 and repealed last year by the Kansas Legislature. The Kansas Department of Revenue sent a special notice in 1992 to all cities registered for retailers' sales tax in Kansas to help them determine whether utilities consumed in production were taxable or exempt.

In addition, a vast majority of municipalities with water departments are also in compliance with the 4.9 percent state tax (plus any local tax) on the electrical usage of water distribution. In other words, energy used to distribute water from a city water plant to area homes is taxable. This tax is and has been in effect for many years.

Many water departments in Kansas have been audited on these and other tax issues; almost all were found to be in compliance. Those not in compliance were assessed by the Department of Revenue.

Also, the Department of Revenue is aware that, since the tax was repealed in 1995, energy used in production is not taxable. The department, today, does not tax energy used to run electric pumps that move water from a reservoir or aquifer to a city water system.

Finally, municipal water departments are not a tax-exempt branch of local government. The state did not "abruptly" change its policy. Municipal water departments have been taxable for many years.

Whatever The Eagle's editorial staff may think of the merits of a particular tax law, it is a disservice to readers to so totally misunderstand the issues at hand.

JOHN D. LAFAVER
Secretary

Kansas Department of Revenue