

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Vice Chairperson Tony Powell at 9:00 a.m. on January 29, 1997 in Room 519-S of the Capitol.

All members were present except: Rep. Phill Kline, excused  
Rep. Doug Mays, excused  
Rep. Eugene Shore, excused

Committee staff present: Chris Courtwright, Legislative Research Department  
Tom Severn, Legislative Ressearch Department  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:  
Rep. Henry Helgerson  
Secretary John LeFaver  
Hal Hudson, MidAmerica Lumbermens Assn.

Others attending: See attached list

Vice Chair Powell called the meeting to order. He announced the following passouts have been placed in the file folders for the members to read later: several fiscal notes, information from Secy. LeFaver from his appearance on January 28 and written testimony from Bernard Koch on **HB 2037** which was heard on January 27. (Attachment 1)

Rep. Henry Helgerson voiced his concern about an issue regarding taxes on cars. Asked for Attorney General opinion on satellite offices and expedited titles were allowed under the law. AG interpretation indicates they are not allowed. Rep. Garner indicated he has a bill draft in to take care of this problem. (Attachment 2)

Chair asked for bill introductions.

Moved by Rep. Krehbiel, seconded by Rep. Shriver, introduce a bill to exempt from severance tax production of oil and gas produced from horizontal drilling. Motion carried.

Moved by Rep. Krehbiel, sesconded by Rep. Ruff, introduce a bill to clarify the value of used commercial and industrial machinery and equipment after 40 or 50 years of use. Motion carried.

Moved by Rep. Presta, seconded by Rep. Donovan, introduce a bill to exempt the first \$1,000 of interest income from Kansas adjusted gross income to the extent included in federal adjusted gross income. Motion carried.

Hearing opened on:

**HB 2105 - Kansas tax equity and fairness act of 1997.**

Proponents:

Secretary John LeFaver of Department of Revenue (Attachment 3)  
Hal Hudson, National Federation of Independent Business (Attachment 4)

Written testimony only from  
Jim Allen, Commercial Property Association of Kansas (Attachment 5)

No further proponents or opponents scheduled. Hearing on **HB 2105** continued on January 30.

The next meeting is scheduled for January 30, 1997.

Adjournment.

Attachments -5



# TAXATION COMMITTEE GUEST LIST

DATE:           JANUARY 28, 1997          

NAME	REPRESENTING
Judy Moler	KAC
Nancy Kemper	Douglas Co. Treasurer
Cileen King	Riley Co. Treas. & KCTA
Shirley Sicilian	KDOR
Bice Juarez	BOEING
Tom Hatten	KDOR
Hal Hudson	NFIB/KS
Jamie Schwarz	Sprint
Christy Caldwell	Topeka Chamber of Comm.
Asbury Sherard	Overland Park Chamber of Commerce
MARIE BECK	KDOT
Jana Johnson	KDOR - PVD
T.P. Anderson	KSCPA
J.P. SMALL	KOCH INDUSTRIES, LEARJET
Sabrina Wells	Budget Division
BO GRAND	KCI
Tom Bruno	Allent Assoc.
Rich McKee	KLA
<del>BO GRAND</del>	

Testimony on H.B. 2037  
House Taxation Committee  
January 27, 1997  
Bernie Koch, VP/Government Relations  
Wichita Area Chamber of Commerce

**Note:** Bernie Koch delivered oral testimony to the House Committee on Taxation on January 27. These comments are follow-up written remarks which summarize that testimony.

Members of the committee:

I've appeared before legislative tax committees several times over the past nine years to discuss tax abatements. That's because half the tax abatements in Kansas are in Sedgwick County and about 75% of them are for machinery and equipment. We use tax abatements to defer property taxes because our machinery and equipment property taxes in Kansas are very high compared to surrounding states.

We support House Bill 2037 because it begins to attack the problem of high machinery and equipment property taxes in Kansas.

I believe that one of the reasons the State of Kansas has a revenue surplus which it can use to reduce property taxes is, in part, because of the strong economy of Sedgwick County right now. Relieving the property tax burden on machinery and equipment was a key factor in that success.

New inventions, machines, have made our lives easier and more productive, and have created new jobs. The industrial revolution in the United States began in agriculture with machinery that made American farmers the most productive in the world. I would point out that in Kansas, there is no property tax on farm machinery as there is on other machinery and equipment.

A study by Harvard and the Massachusetts Institute of Technology looked at about 75 countries' and their investment in machinery and equipment over a 25 year period, using United Nations economic data. The study concluded that any incentive that encourages investment in machinery in industrialized countries more than pays for itself in economic and social benefits.

Knowing what we know about the importance of machinery and equipment to our economy, our culture, and the way we live, I'm frankly amazed that someone decided to tax it at all.

Thank you for the opportunity to appear before the committee, and thanks to Rep. Phill Kline for allowing me the opportunity to submit written testimony late.

HENRY M. HELGERSON, JR.  
REPRESENTATIVE, EIGHTY-SIXTH DISTRICT  
4009 HAMMOND DRIVE  
WICHITA, KANSAS 67218-1221  
WICHITA 316-683-7628  
TOPEKA 1-800-432-3924  
913-296-7691  
(WHEN IN SESSION)



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
APPROPRIATIONS  
INSURANCE  
JOINT COMMITTEE ON HEALTH CARE

August 23, 1996

Attorney General Carla Stovall  
Kansas Judicial Center  
Second Floor  
Topeka, KS 66612-1597

Dear Attorney General Stovall:

I hereby respectfully request that you issue an opinion in regards to the following.

As you are well aware, in Attorney General Opinion No. 93-80, dated June 9, 1993, the use of credit cards for the payment of motor vehicle taxes and vehicle registration fees was deemed not to be authorized by statute and counties were prohibited from imposing additional fees to cover the credit card company service fees.

In Attorney General Opinion No. 94-16, dated February 7, 1994, county treasurers were deemed not authorized to charge a fee for the production or issuance of individual identification cards issued to disabled veterans for parking privileges.

And in Attorney General Opinion No. 96-65, dated August 9, 1996, county treasurers may not charge an additional \$2 fee per motor vehicle registration when registrants use a "satellite" registration facility.

It has come to my attention that a number of county treasurers are charging an additional fee, ranging from \$2 to \$5, in conjunction with application being made for certificate of title, for the "priority" processing of that application. This additional fee is being charged by the county and is being retained by the county.

In light of the opinions contained in the three referenced Attorney General Opinions, are county treasurers operating within their statutory authority in charging certificate of title applicants an additional fee for expedited or priority processing? Do counties have the ability to impose such a fee by using home rule?

Respectfully,

*Henry Helgersen, Jr.*  
HENRY HELGERSON, JR. *By: Jan King*

House Taxation  
1-29-97  
Attachment 2-1

HENRY M. HELGERSON, JR.  
REPRESENTATIVE, EIGHTY-SIXTH DISTRICT  
4009 HAMMOND DRIVE  
WICHITA, KANSAS 67218-1221  
WICHITA 316-683-7628  
TOPEKA 1-800-432-3924  
913-296-7691  
(WHEN IN SESSION)



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
RANKING DEMOCRAT ON: APPROPRIATIONS  
MEMBER: HEALTH CARE REFORM  
LEGISLATIVE OVERSIGHT

July 2, 1996

Attorney General Carla Stovall  
Kansas Judicial Center, 2nd Floor  
Topeka, KS 66612  
BUILDING MAIL

Dear Attorney General Stovall:

The purpose of this letter is to request your opinion on a motor vehicle fee registration issue. Are county treasurers authorized to charge an additional \$2 fee per motor vehicle registration when registrants use a "satellite" registration facility? The fees authorized pursuant to KSA 1995 Supp. 8-145 and 8-145d do not appear to contemplate such a fee.

Thank you in advance for your opinion on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Henry Helgerson, Jr.".

Henry Helgerson, Jr. *jk*  
86th District



State of Kansas

## Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

August 9, 1996

MAIN PHONE: (913) 296-2215  
FAX: 296-6296  
TTY: 291-3767

### ATTORNEY GENERAL OPINION NO. 96- 65

The Honorable Henry M. Helgerson, Jr.  
State Representative, 86th District  
4009 Hammond Drive  
Wichita, Kansas 67218-1221

Re: Automobiles and Other Vehicles--General Provisions; Regulatory Provisions--Collection of Fees; Compensation of County Treasurers; Service Fee in Addition to Registration Fee; Satellite Facilities.

Synopsis: In the absence of statutory authorization, county treasurers may not charge an additional \$2 fee per motor vehicle registration when registrants use a "satellite" registration facility. Because the registration fee statutes are uniform and a resolution allowing additional fees would be in conflict therewith, counties may not alter this conclusion by home rule. Cited herein: herein: K.S.A. 8-129; K.S.A.1995 Supp. 8-143; K.S.A. 8-143b; 8-143c; 8-143g; 8-143h; 8-143i; 8-143j; K.S.A. 8-143k; K.S.A. 1995 Supp. 8-145, as amended by L. 1996, ch. 260, § 4; K.S.A. 8-145a; 8-145b; K.S.A.1995 Supp. 8-145d; K.S.A. 8-167; 8-172; 8-195; K.S.A.1995 Supp. 19-101a, as amended by L. 1996, ch. 68, § 2; K.S.A. 79-5102; 79-5106.

\* \* \*

Dear Representative Helgerson:

As representative for the eighty-sixth district you request our opinion regarding a motor vehicle fee registration issue. You specifically ask whether "county treasurers [are] authorized to charge an additional \$2 fee per motor vehicle registration when registrants use a 'satellite' registration facility."

The registration fees allowed to be collected by the treasurer are very specifically set forth

in the statutes: K.S.A. 1995 Supp. 8-143; K.S.A. 8-143b; 8-143c; 8-143g; 8-143h; 8-143i; K.S.A. 1995 Supp. 8-143j; K.S.A. 8-143k; 8-167; 8-172; 8-195. Additional fees are allowed in certain situations: K.S.A. 8-129(a)(2) (registration by mail); 8-145c (penalty for recovery of plates taken for non-payment); K.S.A. 1995 Supp. 8-143(b) and (c) (penalty for late payment of fee); 8-145d (service fee). There is no authority for assessing an additional fee when registering at a satellite facility.

Further, we do not believe that the county may, pursuant to home rule powers, impose such additional fees on the use of "satellite" registration facilities. K.S.A. 19-101a grants to counties home rule powers in the performance of "local legislation" with certain limitations. One such limitation is that counties are subject to all acts of the legislature which apply uniformly to all counties. K.S.A. 19-101a (a) (1), as amended by L. 1996, ch. 68, § 2. We find nothing in the vehicle registration statutes that would render them non-uniform. *See Blevins v. Hiebert*, 247 Kan. 1, 11 (1990); Attorney General Opinions No. 94-16; 93-80; 80-88. Because the statutes are uniform, a county may only enact non-conflicting resolutions dealing with vehicle registration fees, and may be further limited if the statutes are found to show a legislative intent to occupy the field of vehicle registration fees. *McCarthy v. City of Leawood*, 257 Kan. 566 (1995).

One test for determining whether a conflict exists is whether the county action permits or licenses that which the statute forbids, or prohibits that which the statute authorizes. *McCarthy*, 257 Kan. at 577, quoting *City of Junction City v. Lee*, 216 Kan. 495, 501 (1975). K.S.A. 1995 Supp. 8-145(b), as amended by L. 1996, ch. 260, § 4, specifically provides for the collection, deposit and appropriation of fees "for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act . . . ." The statute proceeds to specify the formula for determining the maximum amount of additional compensation allowed for performing the duties associated with vehicle registration. The statute then provides:

"The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund."

Further, K.S.A. 1995 Supp. 8-145d provides for a service fee to add to the amount a county treasurer may deposit in this special fund for use to pay for expenses incurred in administering the vehicle registration statutes.



Representative Henry M. Helgerson, Jr.  
Page 3

While it may be argued that establishment or operation of a satellite facility is not required by the act, and fees to defray the costs associated with such establishment and operation are therefore not covered by the act, we believe the language of K.S.A. 1995 Supp. 8-145(b) and 8-145d would conflict with any attempt by a county to assess additional fees for the costs associated with registration of motor vehicles. Not only do the statutes allow fees to be assessed in certain amounts, they limit the total amount to be appropriated for performance of vehicle registration duties.

Further, while there is no express language in the vehicle registration statutes preempting the field, there is evidence of an intent to occupy the field which a court may view as a conflict between any county legislation in this area and the statutes. See Clark, State Control of Local Government in Kansas: Special Legislation and Home Rule, 20 Kan. Law Rev. 631, 673 (1972). Vehicle registration is a state program that requires uniformity in application. The fees to be assessed and the municipal interest in recovering costs for administering the program are specifically addressed by the statutes in a comprehensive way.

In conclusion, in the absence of statutory authorization, county treasurers may not charge an additional \$2 fee per motor vehicle registration when registrants use a "satellite" registration facility. Because the registration fee statutes are uniform and a resolution allowing additional fees would be in conflict therewith, counties may not alter this conclusion by home rule.

Very truly yours,



Carla J. Stovall  
Attorney General



Julene Miller  
Assistant Attorney General

CJS:JLM:jm



State of Kansas

## Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

December 3, 1996

MAIN PHONE: (913) 296-2215  
FAX: 296-6296  
TTY: 291-3767

### ATTORNEY GENERAL OPINION NO. 96- 88

The Honorable Henry M. Helgerson, Jr.  
State Representative, 86th District  
4009 Hammond Drive  
Wichita, Kansas 67218-1221

Re: Automobiles and Other Vehicles--General Provisions; Registration of Vehicles--Collection of Fees; Additional Fee for Priority Processing of Application for Certificate of Title

Synopsis: County treasurers are not authorized to assess fees in excess of those prescribed by statute for "priority processing" of applications for certificates of title. Cited herein: K.S.A. 8-129; K.S.A. 1995 Supp. 8-135, 8-135a, 8-139, 8-145, 8-170, 8-171, 8-198 and 74-2013, as amended by L. 1996, ch. 260, §§ 1-8.

\* \* \*

Dear Representative Helgerson:

You request our opinion regarding the authority of county treasurers to charge an additional fee for processing applications for certificates of title on a priority basis. You explain that a number of counties are assessing such additional fees, ranging from two to five dollars, and that the fees are being retained by such counties.

You direct our attention to three prior opinions of the Attorney General, nos. 96-65, 94-16 and 93-80. Most recently, in Attorney General Opinion No. 96-65, this office concluded that county treasurers may not charge additional fees for motor vehicle registrations when registrants make use of satellite registration facilities. The basis for this conclusion was the fact that the Kansas statutes provide specifically for the amount of fees to be assessed

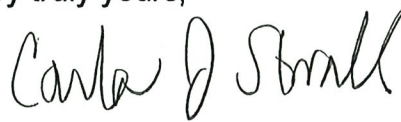
for vehicle registration, those statutes are uniformly applicable, and any local legislation to the contrary would be in conflict with the statutory fee schedules. Similarly, Attorney General Opinions No. 94-16 and 93-80, respectively, concluded that county treasurers may not charge additional fees for production or issuance of individual identification cards issued to disabled veterans for parking, or for using credit cards for payment of motor vehicle taxes and registration fees. (While the statutes may have been amended subsequent to the issuance of these opinions in order to deal with specific situations, the analysis remains the same; if the fee is not statutorily provided for, county treasurers cannot charge it as part of the vehicle registration process.)

The provisions requiring application and payment of fees for certificates of title are located in K.S.A. 8-129 and K.S.A. 1995 Supp. 8-135, 8-135a, 8-139, 8-170, 8-171, 8-198 and 74-2013, as amended by L. 1996, ch. 260, §§ 1-3 and 5-8. Generally, the fee to obtain a certificate of title is, until July 1, 1999, seven dollars. K.S.A. 1995 Supp. 8-145, as amended by L. 1996, 260, § 4, establishes the amount of the certificate of title fee that is to be deposited by the county treasurer in the special fund created for use in paying for necessary help and expenses incidental to the administration of the tags and title law, and limits the total amount to be appropriated for this purpose.

As in Attorney General Opinion No. 96-65, the statutes referenced above are uniform and any attempt by a county treasurer to assess additional fees for processing a certificate of title would appear to be in conflict with K.S.A. 1995 Supp. 8-145, as amended, and the comprehensive nature of the statutes dealing with vehicle registration and titling. **See *Wyandotte County Comm'rs v. Ferguson*, 159 Kan. 80, 85 (1944).**

In conclusion, county treasurers are not authorized to assess fees in excess of those prescribed by statute for "priority processing" of applications for certificates of title.

Very truly yours,



CARLA J. STOVALL  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General

Office of the Secretary  
Kansas Department of Revenue  
915 SW Harrison St.  
Topeka, KS 66612-1588



(913) 296-3041  
FAX (913) 296-7928

Office of the Secretary

MEMORANDUM

TO: Members, House Committee on Taxation

FROM: John D. LaFaver  
Secretary of Revenue

A handwritten signature in cursive script, reading "John D. LaFaver", is written over the printed name of the Secretary of Revenue.

DATE: January 29, 1997

SUBJECT: Governor's Tax Equity and Fairness Act

I am pleased to present Governor Graves' Tax Equity and Fairness Act of 1997. The Act is an important and, truly, historic piece of legislation -- both in terms of correcting unfair procedures and requirements historically placed on taxpayers and in terms of the process that created this legislation.

The substance of the Act is considerable:

1. The costly, time-consuming and duplicative formal appeal process at the Department is abolished. The new procedure serves to assure an accelerated, final determination by the Department. Along with administrative actions already taken, this legislation assures rapid action by the Department on disputed matters, and an appeal to a truly impartial body when the taxpayer does not agree.

2. Interest would be paid by the State to the taxpayers at exactly the same rates and circumstances as we expect the taxpayers to pay the state. It is hardly fair to expect taxpayers to pay higher interest than the State pays them under the same situations.

3. We want to assure that all taxpayers are informed of Department rulings. Accordingly, the bill requires the Department to publish rulings including summaries of private letter rulings.

4. As you may know, we rely heavily on federal audits of income taxes, and law opens the State statute of limitations (SOL) when a federal adjustment is made. This procedure assures that federal adjustments can flow through to the State return. This bill assures that the SOL is opened only to allow the federal changes to flow through, and not permit a wholly unrelated State audit to commence.

5. We present a clear, objective good faith standard that merchants can rely upon when they make tax exempt sales.

6. The bill allows direct refunds of sales tax to purchasers under certain circumstances, and as a result, all firms may offset underpayments of sales tax with overpayments.

7. A few years ago penalty provisions were relaxed under certain circumstances. That relief was not made available to past tax years. We believe the provision makes sense for all years, and correct the existing law accordingly.

8. The bill assures no employee is evaluated based on how much he/she generates in terms of audit assessments or settlements. The new Department of Revenue believes we all win when the law is fairly administered and, if that means the state owes a taxpayer reimbursement for payments beyond what was owed, that's fine.

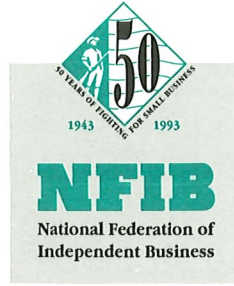
I spoke at the outset of the process that created this bill. Truly there is no single author. It came from ideas of many businesses, organizations - notably the State Chamber of Commerce, and one of the Department's most capable customer focused leaders, Shirley Sicilian. Shirley worked many hours with business leaders to create this important proposal. My role was simply to encourage and applaud their important work.

In past years efforts at true tax reform often bogged down when business and tax officials did not carefully consider each others' views. Too often what resulted was people talking at each other not communicating with each other. This proposal reflects a consensus of business and tax experts on the key fairness issues of the day. I congratulate them on their work and hope you will join me in recognizing their accomplishment.

3.2

~~3-1~~

LEGISLATIVE



The Voice of Small Business

TESTIMONY

**Testimony of Hal Hudson, State Director  
Kansas Chapter, National Federation of Independent Business  
Before the Kansas House Taxation Committee  
on House Bill 2105**

**January 29, 1997**

Mr. Chairman and Members of the Committee: Thank you for allowing me to appear -  
- the second time this week -- today to support enactment of H.B. 2105.

You have heard (or will hear) testimony on the numerous provisions of this bill, all of which can be beneficial to the small and independent businesses of Kansas. In the interest of time, I would like to focus your attention on one section: New Section 19 of the bill, which deals with the retail sales tax exemption certificates.

As most of you know, legislative positions taken by NFIB/Kansas are determined by direct ballot surveys of our members. On the ballot survey conducted in December 1996, we asked:

**Should legislation be adopted to relieve retailers from the responsibility of remitting sales tax not collected from a purchaser who has provided a sales tax exemption certificate?**

Eighty-nine percent (89.4 to be exact) of the members responding to this question answered yes, indicating that this is an important concern. (Note that this compares with only 57 percent who said they should have compensation for collecting and remitting sales tax to the state.) A copy of our ballot is attached to this testimony.

We are pleased that this issue has been addressed in H.B. 2105 in a manner that will relieve some of the burden imposed the current policy of the Department of Revenue.

We urge you to report H.B. 2105 favorable for passage and to support its enactment on the floor of the House. Thank you.

House Taxation  
1-29-97  
Attachment 4-1

# KANSAS

# STATE BALLOT



## DETERMINE NFIB'S POSITION ON THE ISSUES



**NFIB**  
National Federation of  
Independent Business

3601 S.W. 29th St., Suite 116-B  
Topeka, KS 66614-2015

Hal Hudson  
State Director

### Your Vote Counts.

Please take a few minutes to vote.

The NFIB staff in the state capital uses your votes on the state ballot to argue your case in the legislature.

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Results of the Ballot reported here are based on the survey conducted between Dec. 1, 1996 and Dec. 31, 1996.

*Hal Hudson*  
Hal Hudson  
Kansas State Director

#### STATEWIDE PROPERTY TAX

1. Should the legislature eliminate the state-levied 35-mill property tax and provide funding for the local school finance program through other sources of revenue?

Yes       No       Undecided  
68.4%    15.8%    15.8%

Background: Property tax continues to be the most disliked tax paid by small business owners. Proponents of eliminating the 35-mill property tax point out that customers pay sales tax and that a business does not owe income tax unless there is taxable income (profit).

During the 1996 session, many legislators supported phasing out the state-levied 35-mill tax over 5-7 years, replacing the revenue with economic growth of the state. They relied on projections by the Legislative Research Department showing that annual growth in state revenue was more than sufficient to fund state operations and to fund the state-supported school finance program.

Opponents claim that relying on economic growth to increase state tax revenues is too risky and that schools could suffer from reduced funding if the projected growth does not take place. No consensus was reached on how to fund total elimination of the tax.

2. If elimination of the 35-mill property tax is contingent on finding replacement revenues, which of the following would you prefer:

Sales tax increase 29.6%  
 Income tax increase 2.9%  
 Combination of sales and income tax 18.2%  
 No tax increase; economic growth will bring sufficient revenues 43.1%  
 No opinion 6.2%

#### WORKERS' COMPENSATION FRAUD

3. Should penalties for acts of fraud in connection with workers' compensation claims be made more severe?

Yes       No       No opinion  
89.8%    4.3%    5.9%

Background: Proponents of increasing penalties for fraudulent claims point out that fraud still is a major cost-driver in workers' compensation insurance. They acknowledge that proving fraud is difficult but argue that stiffer penalties could make claimants "think twice" before making such claims.

Opponents point out that major changes made in 1993 in the workers' compensation law to increase penalties for fraud are sufficient to deter such claims.

#### RETAIL SALES TAX COLLECTIONS

4. Should legislation be adopted to relieve retailers from the responsibility of remitting retail sales tax not collected from a purchaser who has provided a tax exemption certificate?

Yes       No       No opinion  
89.4%    4.8%    5.8%

Background: Current policy of the Kansas Department of Revenue is to hold a retailer responsible for remitting retail sales tax even if it is not collected from a purchaser at the time of sale. Proponents of change argue that if the retailer accepts an exemption certificate or affidavit in good faith, and it is later discovered through an audit that the purchaser was not entitled to the exemption, the purchaser, not the retailer, should be held liable for payment of the tax.

Opponents argue that retailers should absolutely verify that the purchaser has a valid tax exemption certificate or collect the tax. They say collecting the tax from individual purchasers after the fact, would place too great a burden on the Department of Revenue and could result in loss of tax revenue to the state.

5. Should legislation be adopted allowing retailers to retain a small percentage of Kansas retail sales tax as compensation for the time and effort spent in collecting, reporting and remitting the tax to the state?

Yes       No       No opinion  
57.0%    37.0%    6.0%

Background: All retail businesses are responsible for collecting sales tax from purchasers, providing reports of

Comments or Suggestions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(and exempt) sales and remitting taxes collected to the Department of Revenue.

Proponents argue that retailers are "involuntary" tax collectors without compensation. They claim that businesses should be entitled to a small percentage of the tax collected as compensation for the time and effort it takes to comply with the law.

Opponents argue that allowing retailers to retain a portion of the tax collected would reduce revenue to the state and could result in the need for a sales tax increase.

**ABANDONED PROPERTY DISPOSAL**

**6. Should legislation be adopted to reduce the time required and make disposal of low-value abandoned property less complicated?**

Yes       No       No opinion  
 '84.1%      '24.6%      '311.3%

Background: Kansas law provides for a time-consuming and expensive process for disposal of abandoned personal property. Owners of rental property, operators of hotels and other service providers, such as dry cleaners, small appliance and radio-TV repair, often are left holding personal property of little or no value which they cannot dispose of in a timely manner because current law requires them to follow an extensive procedure of trying to locate the owner.

Proponents of change suggest that the law be revised to allow for a more timely and less expensive procedure for disposal of low-value abandoned property.

Opponents argue that current law protects the owner, who may want to reclaim the property in the future.

**ISSUES FROM PREVIOUS**

**KANSAS BALLOTS**

The following issues, with votes from previous ballots, continue as NFIB/Kansas legislative policy:

**1992 Ballot:**

**#4. Should the legislature permit cities and counties to levy a local earning tax?**

Yes ..... 12%  
 No ..... 78%  
 Undecided ..... 10%

**1993 Ballot:**

**#5. Should the state sales tax, currently levied on the sales of goods, be extended to cover services, as well?**

Yes ..... 25.2%  
 No ..... 62.9%  
 Undecided ..... 11.9%

**#8. Should NFIB/Kansas support or oppose legislation which prohibits employment decisions based on an employee's legal activities outside the workplace?**

Support ..... 28.2%  
 Oppose ..... 51.8%  
 No position ..... 20.0%

**1994 Ballot:**

**#1. Should legislation be enacted to provide "Universal Health Care Access," a "pay or play" health insurance plan such as was introduced in the 1993 session?**

Yes ..... 4.3%  
 No ..... 87.2%  
 Undecided ..... 8.5%

**#2. Should legislation be enacted to allow labor unions to assess a "fair share representation fee" from non-union employees?**

Yes ..... 3.6%  
 No ..... 92.6%  
 Undecided ..... 3.8%

**#5. Should the legislature adopt a resolution to limit the number of terms Kansans may be elected to the U.S. Senate and House of Representatives?**

Yes ..... 72%  
 No ..... 23.0%  
 Undecided ..... 5.0%

**#8. Should the Kansas Legislature pass a resolution [introduced in 1993] to place a constitutional amendment on the general election ballot [in 1994] to limit appropriations by the legislature?**

Yes ..... 84.6%  
 No ..... 8.1%  
 Undecided ..... 7.3%

**1995 Ballot:**

**#5. Should the assigned risk pool surcharge on workers' compensation insurance premiums be eliminated for those employers with good experience ratings?**

Yes ..... 89.1%  
 No ..... 3.7%  
 Undecided ..... 7.2%

**#6. Should the legislature clarify the definitions of "employees" versus "independent contractors" pertaining to workers' compensation insurance?**

Yes ..... 78.6%  
 No ..... 7.8%  
 Undecided ..... 13.6%

**#8. Should Kansas state and local government agencies privatize assets that could be managed by private business and contract with private business for more of the services now provided by government?**

Yes ..... 86.2%  
 No ..... 4.2%  
 Undecided ..... 9.6%

**1996 Ballot:**

**#2. Should the 1996 legislature adopt a resolution to amend the Kansas Constitution to place a spending limit on state and local government spending? (Similar to 1994 question, but added "local" government.)**

Yes ..... 86.5%  
 No ..... 9.3%  
 Undecided ..... 4.2%

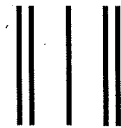
**#3. Should the 1996 legislature enact a law excluding sales tax, installation charges and freight charges from the valuation of commercial and industrial "personal" property?**

Yes ..... 71.6%  
 No ..... 16.5%  
 Undecided ..... 11.9%

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1997 Kansas State Ballot

**National Federation of Independent Business**  
 P.O. Box 305040  
 Nashville TN 37230-5040



4-3



# **CPAK**

## **Commercial Property Association of Kansas**

820 SE Quincy, Suite 220 - C  
Topeka, KS 66612  
Phone: (913) 232-0486

To: House Taxation Committee  
From: Jim Allen  
Re: Testimony for Interest on Property Tax Refunds  
Date: 1-29-97

Mister Chairman and members of the committee, my name is Jim Allen. I represent the Commercial Property Association of Kansas. I came today to urge you to pass H.B. 2105, specifically, section 29 of the bill. Section 29 allows interest to be paid on refunds of overpaid property taxes.

Due to the wide variation in county assessors' valuations of Kansas properties, more and more property owners are filing appeals through BOTA and district courts to dispute the high valuations. Property owners are forced to file these appeals because property taxes in Kansas have become one of the highest costs of conducting business in the state.

When a property owner disagrees with an assessed valuation, that person has the right to file a protest and appeal. The problem of the appeal process is the length of time it takes to receive a final decision. This process takes months or even years. Even though there is a protest or an appeal in process, the property owner is required to pay the tax(under protest).

As an example, I submit the situation of one CPAK member. For the tax year 1992, the county assessed valuation was about \$47 million. The member appealed and thought it should be in the \$37 million range. In the BOTA hearing, the county came up with a new higher valuation of \$72 million. The member filed an appeal through the district court and received a ruling that referred the case back to BOTA. The problem is that it took four years to receive a decision that may not be final if the county decides to appeal to a higher court.

In the mean time, the county has had the property tax payments for nearly four years. The county has had this money available to either spend or to draw interest for four years. To be fair to property owners, any refunds should include interest from the date the taxpayer paid to the date of the final decision by BOTA or the court system. The property owner is being penalized for an incorrect valuation by the county and property owners do not have access to their own money.

Interest on property tax refunds would be beneficial in two ways. One, it would force the county assessor to be more diligent in his assessed valuation process if the assessor knew the county would be required to pay interest on all refunded property taxes. And two, it would help speed up the appeals process

if the county had to pay interest for a long period of time. Two counties have taken positive steps to improve the current situation. Shawnee County has already begun paying interest on property tax refunds. Sedgwick County is presently considering a similar proposal. Counties can do this by home rule.

Thank you for your time and consideration this morning.