

Approved: 1-25-99  
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:10 a.m. on January 20, 1999, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Jean Barbee, Kansas Lodging Association  
August "Gus" Bogina, Jr., Board of Tax Appeals  
Shirley Sicilian, Department of Revenue

Jean Barbee, Kansas Lodging Association, requested the introduction of three bills. The first bill would amend the sales tax statutes to more clearly define how the sales tax exemption for state employees is to be recognized and allowed by the Department of Revenue. (Attachment 1) The second bill would amend the transient guest tax statutes to insure that the term "accommodations brokers" includes the sale of room nights by any entity. (Attachment 2) The third bill would amend the sales tax statutes to allow an exemption for remodeling and upgrading Kansas hotels and motels. (Attachment 3)

Senator Corbin moved to introduce the bills, seconded by Senator Donovan. The motion carried.

Gus Bogina, Chairman of the Board of Tax Appeals (BOTA), informed the Committee of the modifications which BOTA has implemented to accommodate the 1998 legislation creating the Small Claims Division within BOTA. Richard "Clark" Allemang will assume his duties as Executive Director on February 15, 1999. A copy of Mr. Allmang's application is attached to Mr. Bogina's written testimony. Five of the seven positions that were authorized for the Small Claims Division have been filled, and applications for the remaining two positions are currently being accepted. The BOTA appeals and protest forms to accommodate the small claims appellant have been revised. Copies of the forms are attached to Mr. Bogina's written testimony. Mr. Bogina reported that he did not yet have a reliable estimate of the number of small claims appeals that will be filed but estimated that there could be approximately 8,450 appeals. He called attention to flow charts regarding the appeals process attached to his written testimony. Mr. Bogina also discussed issues within the statutes that could be revised to clarify the legislative intent, but he did not request the introduction of a specific bill. (Attachment 4) In conclusion, he noted that 14 counties will retain their hearing officer panels, and 5 counties are undecided. In his opinion, once the process is totally in place, most of the counties will choose not to retain their panels.

**SB 43-Property taxation; concerning certain refunds relating to residential property.**

**SB 47-Taxation; concerning collection procedures of the Department of Revenue.**

Shirley Sicilian, Department of Revenue, summarized **SB 43** and **SB 47**, both requested for introduction by the Department. (Attachment 5) She explained that neither bill has a fiscal impact to the state and that both are aimed at administrative clarity and fairness.

## CONTINUATION PAGE

Ms. Sicilian noted that **SB 43** deals with the homestead circuit breaker which was enacted as part of the Taxpayer Equity and Fairness Act of 1997. That law created a property tax refund for taxpayers whose single-family, owner occupied residential real property increases in appraised value by 75 percent or more from one year to the next. She explained that the statute does not identify a funding source, nor was an appropriation given the Department for payment of the refunds. The bill would clarify that the Department may use the homestead refund funding source to satisfy the circuit breaker claims.

With regard to **SB 47**, Ms. Sicilian noted that the Taxpayer Equity and Fairness Act of 1997 made several major improvements to the way the Department determines the amount of tax due and also made significant improvements in how the Department reviews its determination and issues a final decision if the matter is appealed. **SB 47** addresses the final step in the appeals process—the Department procedures for collecting the tax liability once it has become final. The bill would streamline the process and increase fairness for taxpayers. Ms. Sicilian outlined the following substantive parts of the bill: (1) Expansion of the Secretary's authority to abate final liability, (2) Increasing the limit for charge-off of individual income tax accounts receivable, (3) Providing a hearing where corporate officers are held liable, and (4) elimination of the Division of Collections.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for January 21, 1999.





## REQUEST FOR LEGISLATION

**DATE:** January 19, 1999  
**TO:** SENATE COMMITTEE ON ASSESSMENT & TAXATION  
**FROM:** Jean Barbee, Executive Director  
KANSAS LODGING ASSOCIATION  
**RE:** Amendments to KSA 79-3606(b)

In order to provide a level playing field and competitive tax administration for lodging businesses, we respectfully request your consideration to amend the sales tax statutes to more clearly define how the sales tax exemption for state employees is to be recognized and allowed by the Department of Revenue.

79-3606(b) allows an exemption of sales tax on sleeping room rentals purchased by the State of Kansas. This exemption is allowed for state employees when work related traveling is required. The interpretation of 79-3606(b) language "purchased directly" is causing Kansas hoteliers to have to deny the exemption to state employees. Strict interpretation of the term "purchased directly":

- Creates a needless cost to state employees
- Causes some hotels and motels in Kansas to lose business to Missouri properties where the Missouri Department of Revenue is more lenient in their interpretation.
- Creates ill will between state employees and lodging properties in Kansas.
- We respectfully request introduction of legislation to amend KSA 79-3606(b) to allow exemption of sales tax for work related state employee travel.

*Senate Assessment & Taxation  
1-20-99  
Attachment 1*



**REQUEST FOR LEGISLATION**

**DATE:** January 19, 1999  
**TO:** SENATE COMMITTEE ON ASSESSMENT & TAXATION  
**FROM:** Jean Barbee, Executive Director  
KANSAS LODGING ASSOCIATION  
**RE:** Amendments to KSA 12-1692(f) and KSA 12-1696(f)

In order to provide a level playing field and provide for competitive tax administration for lodging business, we respectfully request your consideration to amend the transient guest tax statutes to insure that the term "accommodations brokers" includes the sale of room nights by any entity.

- Amendments you passed in 1998 defined an "Accommodations broker" for this purpose. However, the Department of Revenue has issued an opinion that because KSA 12 - 1692(f) defines an "Accommodations broker" as a "business", it does not apply to all entities that sell sleeping rooms.
- We do not agree with the interpretation.
- This was not our intent and we do not believe it was your intent.
- We respectfully request introduction of legislation to amend KSA 12 -1692(f) and 12-1696(f) to be inclusive of any entity selling sleeping rooms.

*Senate Assessment & Taxation  
1-20-99  
Attachment 2*



**REQUEST FOR LEGISLATION**

**DATE:** January 19, 1999  
**TO:** SENATE COMMITTEE ON ASSESSMENT & TAXATION  
**FROM:** Jean Barbee, Executive Director  
KANSAS LODGING ASSOCIATION  
**RE:** Amendment to KSA 79-3606

In order to provide a better tourism product for Kansas visitors, we respectfully request your consideration to amend the sales tax statutes to allow an exemption for remodeling and upgrading Kansas hotels and motels.

- As a Legislature you have provided funding for tourism marketing and spent several millions of dollars for tourism development.
- A sales tax exemption for remodeling and upgrading hotels and motels would allow Kansas to provide a better product for our tourism customer.
- Remodeling for installation, and installing and maintaining the special equipment required to fulfill ADA requirements are examples of the types of investment which must continuously be made by hotels and motels.
- We respectfully request introduction of legislation to amend KSA 79-3606 to allow exemption of sales tax for remodeling of Kansas hotels and motels.

*Senate Assessment & Taxation  
1-20-99  
Attachment 3*

January 20, 1999

Madam Chair and Members of the Committee

I welcome the opportunity to respond to your request, Senator Langworthy, to inform the committee of the modifications that we have implemented to accommodate the legislation that was passed last session creating the Small Claims Division within the Board of Tax Appeals.

The Executive Director will begin with us on or about February 15, 1999. In the interim, I have appointed Rita Maichel, the current Secretary of the Board, as Acting Executive Director from January 1, 1999 until the Director assumes his duties. The Director will be Richard "Clark" Allemang, currently the County Appraiser of Butler County. He has been the county appraiser from 1995 through the present time. Prior to that position, he was an appraiser with the Property Valuation Division of the Department of Revenue, maintained a private practice fee appraisal company and has extensive banking experience.

We have filled five of the seven positions that were authorized for the Small Claims division. I chose to not fill all the positions because there was a posting error in the appropriations statute that reduced our funding from the approved amount. We are in the process of accepting applications for the last two positions to fully implement the Small Claims Division.

During the latter part of last year we revised the BOTA appeals and protest forms to accommodate the small claims appellant. Those forms and instructions were furnished to the County Clerks, Treasurers and Appraisers of all 105 counties during the first part of December so they would be available to appellants by January 1<sup>st</sup>. There are copies of this information attached hereto.

There is confusion among the taxpayers/appellants and the counties about the Small Claims operation. We received some "Payment Under Protest" appeals after the December 20, 1998 payment deadline. The counties had neglected to implement the informal hearing/discussion with the taxpayer, hence the submittal to BOTA was premature. Based upon that initial receipt, we do know that there will be some "PUP" appeals.

*Senate Assessment & Taxation  
1-20-99  
Attachment 4*

We still do not have a reliable estimate of the number of Small Claims appeals that will be filed. Our calculations, based upon questionnaires and other information we gleaned from county responses, indicate there could be approximately 8,450 appeals to this division. We have requested funds to support 25 contract hearing officers for 60 days and two full time hearing officers to hear cases throughout the year.

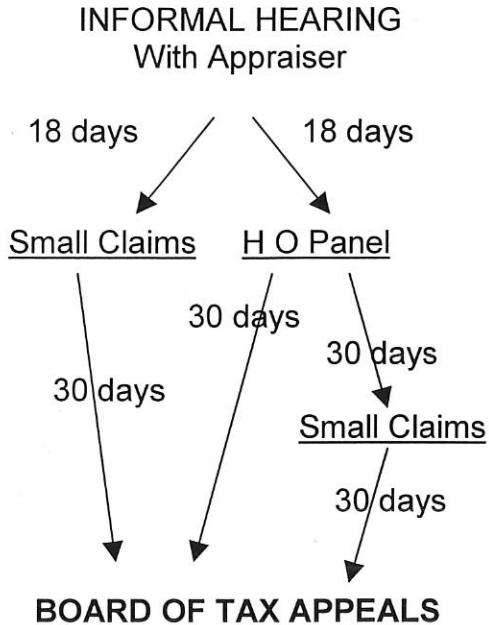
We have noted some issues within the statutes that could be revised (cleaned up). I do not believe that these conflicts will materially damage the process, but if the opportunity arises with a bill that is germane to the issue, you may wish to clarify your legislative intentions. I am not advocating a specific bill be introduced to effect any changes. The concerns are as follows:

- Tax Grievances – Some go to small claims, some don't necessitating two separate forms. Penalty issues cannot go to small claims so we have to find out "up front" if there is a penalty involved, i.e. if there is penalty and interest they are asking to be abated, the interest issue can go to small claims but the penalty issue cannot.
- Article 14 needs to be added to paragraph (b) in new Section 7 so it is clear that there is jurisdiction of EQ's after the informal. *hearing*
- Agricultural land cannot go to small claims, but ag buildings can. Example: A farming operation with 360 acres that has 2 machine sheds on it. Sheds can go to small claims but ground cannot.
- Definition of "small"? \$2 million per parcel includes lots of commercial property. Also, \$15,000 "at issue" could include many really large tax cases from the Dept. of Revenue.
- APPEARANCES at small claims hearings needs to be revisited. Current language could easily EXCLUDE county appraisers and tax representatives at this initial informal level. A party may appear, but the party is the elected commissioners, not the appraiser. A party may appear by a "certified general appraiser". That is the certification for commercial property appraisers. A county appraiser should be a certified residential property appraiser to appear on residential property. Should a tax rep be allowed to appear for a taxpayer? They are not an "employee." They are independent contractors. This whole area could be revisited.



- TIME FRAMES on Equalization appeals are not consistent.

**WITH HEARING OFFICER PANEL**



**WITHOUT HEARING OFFICER PANEL**



In counties with Hearing Officer Panels, taxpayer has 18 days to appeal initial decision from informal hearing.

In counties without Hearing Officer Panels, taxpayer is 30 days to appeal initial decision from informal hearing.

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Thank you for the opportunity to inform you of these activities. I will be most happy to answer any questions.

August "Gus" Bogina, Jr., P.E.  
Chairman  
BOARD OF TAX APPEALS

**RICHARD "CLARK" ALLEMANG**

1763 Belmont Court, Emporia, Kansas 66801

Telephone: (316) 343-3030

**Particular Strengths**

Communication. Decision-making. Problem-solving. Creativity/Innovation.

Positive interaction with people at every level. Convincing/Persuasive.

A motivated, well adjusted individual with a high degree of integrity.

Works well independently and as a member of a team. Punctual.

**Professional Experience**

- August 1995 to Present Butler County Kansas Appraiser Position: Appraiser  
Responsibilities include administrative and budgeting control of the largest county in Kansas. Supervise a full-time staff of 18. Developed Computer Assisted Mass Appraisal models of commercial/industrial and residential properties for valuation analysis purposes. Defend values at State Board of Tax Appeals. Assist in preparation and submission of tax exemption applications. Development of successful public relations program.
- Dec. 1994 to Aug. 1995 State of Kansas - Dept. of Revenue Position: Appraiser  
Responsibilities included collection and analysis of data pertaining to commercial/industrial and residential properties throughout the State for real and personal property tax assessment equity. Assist county appraisers in developing and supporting valuations.
- October 1991 to Present A-Plus Appraisal Service Position: Owner  
Emporia, Kansas  
Operate a full service appraisal company within a seven county area. Appraise real property for financial institutions, with specialization in commercial properties.
- July 1990 to October 1994 Admire Bank and Trust Company Position: President/CEO  
Emporia, Kansas Bank Assets \$15 million  
Accomplishments: Having assumed responsibility for this problem bank:  
-Upgraded CAMEL rating and extinguished a Memorandum of Understanding.  
-Coordinated overall reduction in staff while developing a team approach.  
-Successfully appealed valuation of taxing authorities at State Board of Tax Appeals.  
-Resigned to pursue appraisal business.

**Professional Experience** (continued)

Aug. 1987 to July 1990    Citizens State Bank    Osage City, Kansas    Position: Exec. Vice President  
Bank Assets \$27 million

- Controlled the daily operation of this high performance bank with a A+ Sheshunoff Rating. Supervised three officers and 12 staff members.
- Successfully coordinated a leveraged buyout to benefit a local modular housing manufacturer. Provided the loan commitment in the amount of \$1.9 million.
- Served as Branch Broker in conjunction with Peoples Real Estate, Osage City. Supervised the daily activities of eight Realtors associates involved in sales of residential, commercial and agricultural properties.

Dec. 1969 to August 1987    Bank IV N.A.    P.O. Box 1048    Department    Position: Senior Vice President  
Commercial Loan

- Emporia, Kansas    Portfolio: \$21 million
- Developed construction loan packages and attracted new commercial depositors. Monitored and enforced liquidation proceedings. Member, Discount and Asset/Liability committees.
- Supervised all activities of the Residential Mortgage Department.
- Note - Citizens National Bank & Trust Co. was purchased in 1985, with the name changed to Bank IV in 1986. Bank IV now is Nations Bank.

**Other Significant Endeavors**

- State of Kansas - Registered Mass Appraiser
- State of Kansas - Licensed Real Property Appraiser - L444
- State of Kansas - Licensed Real Estate Broker - EB00035383
- Commissioner - City of Emporia, 1983-1987/Mayor-1985
- Bachelor of Science – Bus. Admin. 1969 K.S.T.C. – Emporia, KS
- Honorable Discharge – U.S.M.C./Vietnam Veteran

## APPRAISERS QUALIFICATIONS

RICHARD C. ALLEMANG, COUNTY APPRAISER  
BUTLER COUNTY APPRAISERS OFFICE  
EL DORADO, KANSAS

### EDUCATIONAL BACKGROUND AND CONTINUING EDUCATION

#### International Association of Assessing Officers:

IAAO #1 Fundamental of Real Property Appraisal  
IAAO #2 Income Approach to Valuation  
IAAO #300 Fundamentals of Mass Appraisal  
IAAO #311 Residential Modeling Concepts  
Standards of Professional Appraisal Practice (1/96)

#### Kansas Property Valuation Division:

1-000-2 Hearing Officers and Panel Members  
1-101-1 Introduction to Kansas Computer Assisted Mass Appraisal  
1-104-2 Residential and Agricultural Data Collection  
1-104-3 Commercial and Industrial Data Collection  
2-102-1 Land Valuation in Kansas Computer Assisted Mass Appraisal  
2-123-2 Introduction to Commercial/Industrial Valuation  
2-111-3 Residential Grade and CDU Application  
3-100-4 Year End Processing and Appeals  
3-112-1 Residential Modeling and Market Valuation in KSCAMA  
8-004-1 Basic Statistics for Mass Appraisal  
Appraisers Eligibility Examination - State of Kansas  
Registered Mass Appraiser - State of Kansas

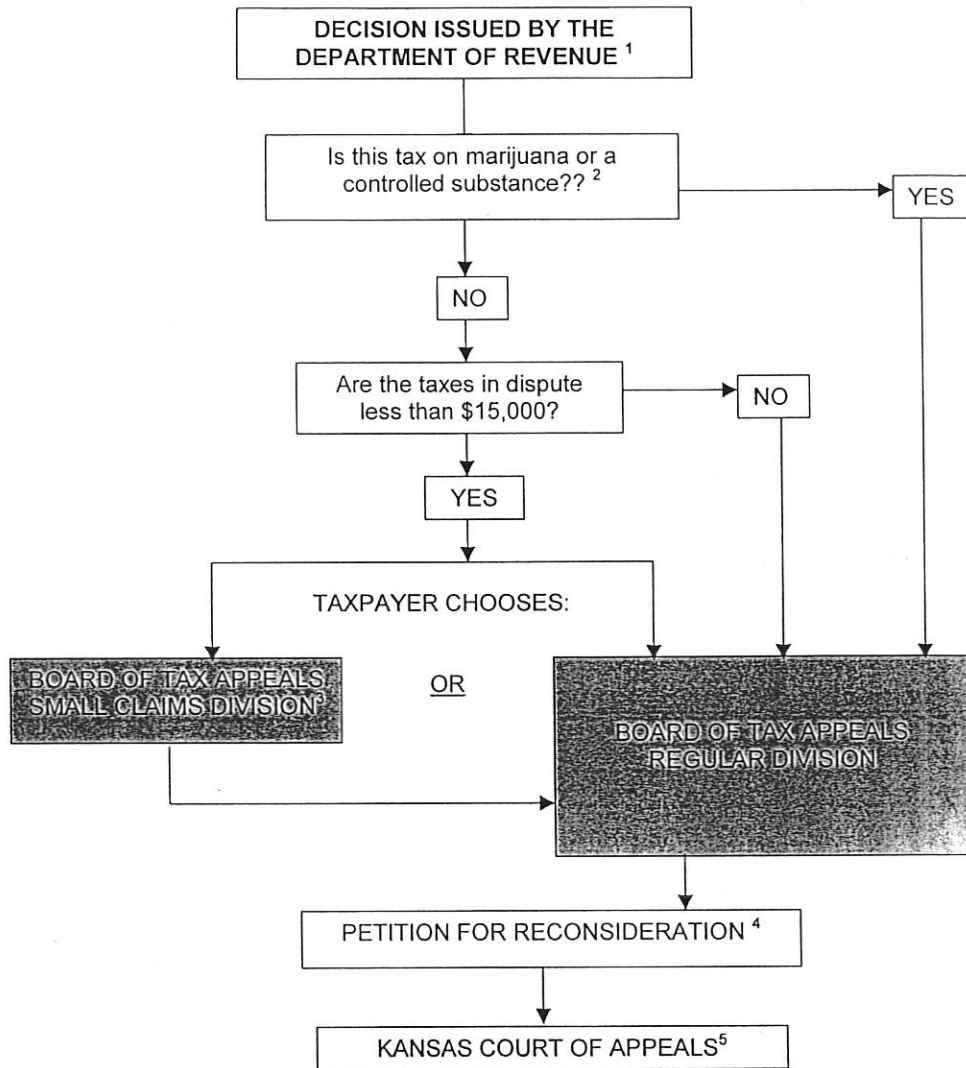
#### Kansas Association of Realtors:

Course VI Appraisal Report Writing #1  
Course VII Appraisal Report Writing #2  
Course VIII Simple Residential Cost and Income Lab

### WORK EXPERIENCE

7-1995 to Present Butler County Appraiser  
1-1995 to 7-1995 Kansas Department of Revenue - Property Valuation Div.  
1-1970 to 7-1994 Commercial Banking  
4-1990 to Present Fee Appraiser - Kansas License #L-444

APPEALS FROM THE DECISION OF THE  
DEPARTMENT OF REVENUE, DIVISION OF TAXATION



<sup>1</sup> Any appeal of this decision must be filed within 30 days [K.S.A. 74-2438]

<sup>2</sup> Tax on controlled substances must be appealed to BOTA [K.S.A. 79-5201 et seq.]

<sup>3</sup> Hearings in Small Claims are held in county where taxpayer resides or an adjacent county. Appeals from Small Claims to Regular Division must be in 30 days [K.S.A. 74-2438]

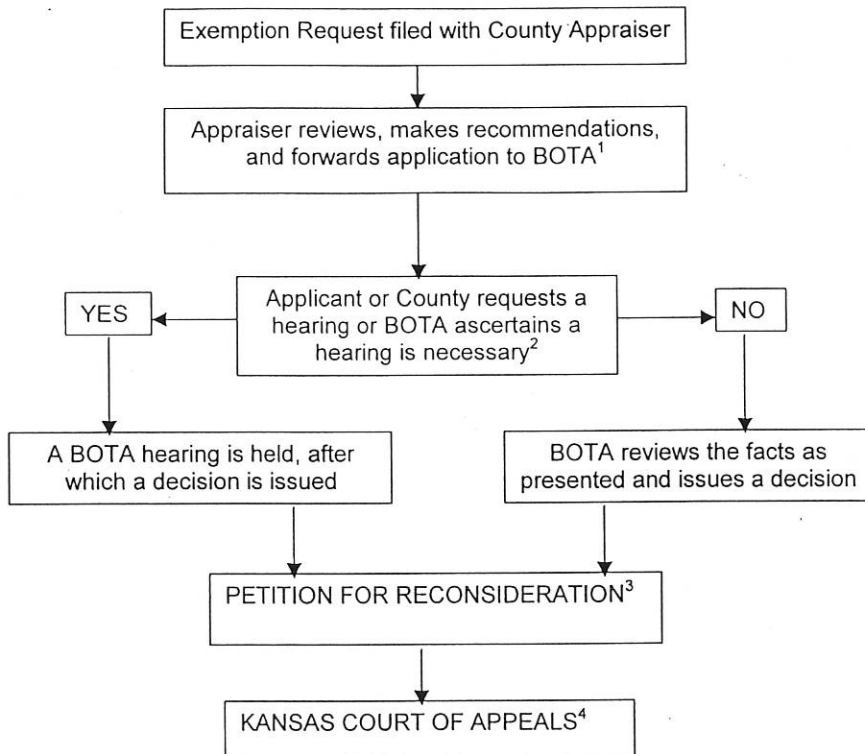
<sup>4</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]

<sup>5</sup> Judicial Review of BOTA decision must be filed in 30 days [K.S.A. 77-601 et seq.]

**REQUEST FOR EXEMPTION FROM TAXATION**

(Pursuant to K.S.A. 79-213)

[Except for Economic Development Bond and Industrial Revenue Bond Exemptions]



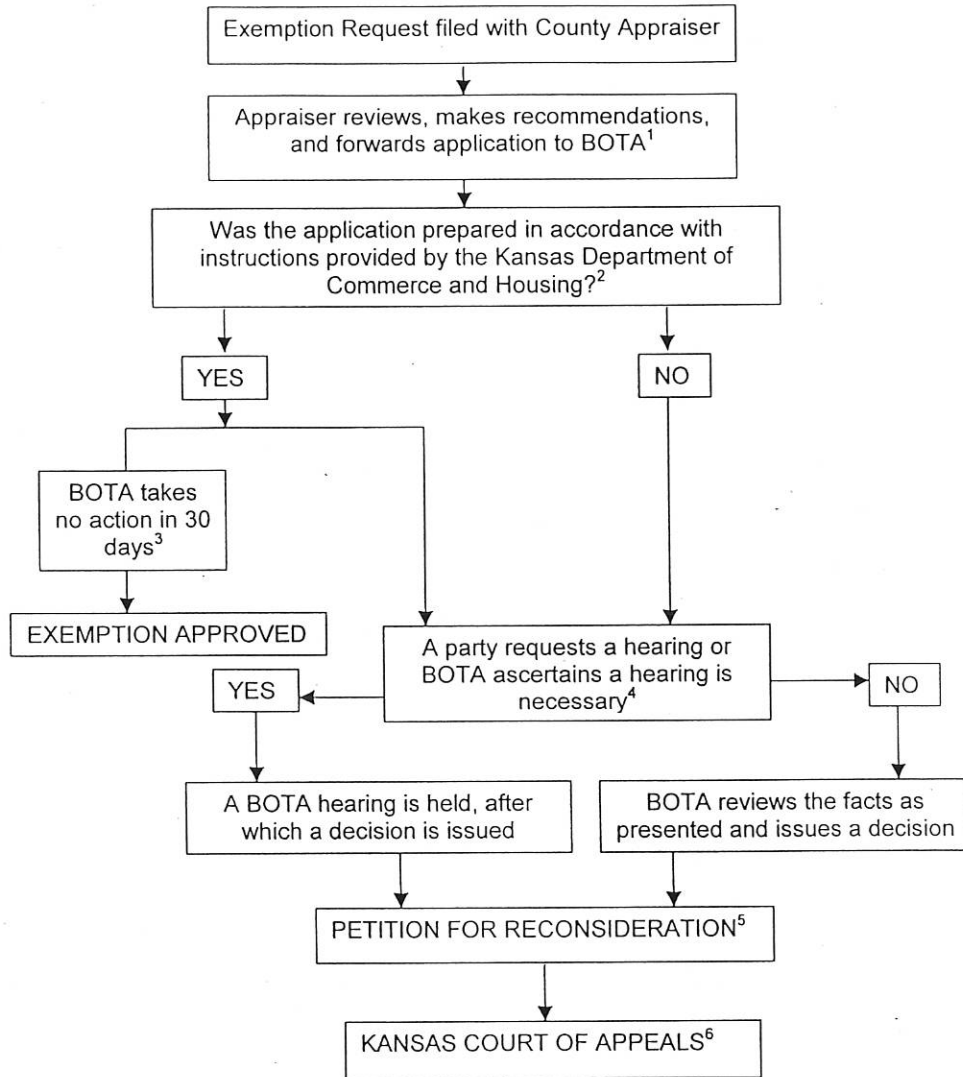
<sup>1</sup> A request for Exemption is filed with County Appraiser who makes a recommendation to grant or deny the exemption and forwards the application to BOTA [K.S.A. 79-213c, d, e]

<sup>2</sup> A hearing must be held if it is requested by either party or if the Board needs additional testimony or documentation. [K.S.A. 79-213g]

<sup>3</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]

<sup>4</sup> Judicial Review of BOTA decisions in exemption requests must be filed with the Kansas Court of Appeals within 30 days [1998 HB 2684, Section 3]

**INDUSTRIAL REVENUE BOND EXEMPTION**  
(Pursuant to K.S.A. 79-201a Second)  
or  
**ECONOMIC DEVELOPMENT BOND EXEMPTION**  
(Pursuant to Article 11, Section 13 of the Kansas Constitution)



<sup>1</sup> Exemption is filed with County Appraiser who makes a recommendation to grant or deny the exemption and forwards the application to BOTA [K.S.A. 79-213c, d, e]

<sup>2</sup> Dept. of Commerce and Housing is available to assist applicants through the process [HB 2684, Section 5]

<sup>3</sup> An application prepared with assistance from Commerce and Housing is deemed approved if not scheduled for hearing within 30 days of receipt of all necessary information [HB 2684, Section 5]

<sup>4</sup> A hearing must be held if it is requested by either party or if the Board needs additional testimony or documentation. [K.S.A. 79-213g]

<sup>5</sup> Petition for reconsideration must be filed with BOTA within 30 days [K.S.A. 74-2426, 77-529 as amended by 1998 HB 2684, Section 4, and 77-601 et seq.]

<sup>6</sup> Judicial Review of BOTA decisions in exemption requests must be filed with the Kansas Court of Appeals within 30 days [1998 HB 2684, Section 3]

**BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS  
EQUALIZATION APPEAL OF PROPERTY CLASSIFICATION OR VALUE  
(Pursuant to K.S.A. 79-1409 and K.S.A. 79-1609)**

IN THE MATTER OF THE APPEAL OF:

\_\_\_\_\_  
NAME (Owner of Record)

\_\_\_\_\_  
MAILING ADDRESS (Street, Box #)

\_\_\_\_\_  
CITY STATE ZIP

TELEPHONE:

Work: ( ) \_\_\_\_\_

Home: ( ) \_\_\_\_\_

**ATTORNEY OR REPRESENTATIVE (if applicable):**

\_\_\_\_\_  
NAME TITLE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY STATE ZIP

TELEPHONE ( ) \_\_\_\_\_

BOARD OF TAX APPEALS USE ONLY	
Docket No.: _____ -EQ (Assigned by BOTA)	

COUNTY \_\_\_\_\_

YEAR AT ISSUE \_\_\_\_\_

NOTE: If you are to be represented by an attorney or other individual, you must provide the Board with either an Entry of Appearance or current Declaration of Representative approved by BOTA.

**1. Are you filing in the SMALL CLAIMS DIVISION or REGULAR DIVISION of BOTA? (SEE PG. 3)**

**Small Claims Division**

**Regular Division**

**2. DESCRIBE PROPERTY UNDER APPEAL:**

( ) Personal Property - Give description and Personal Property Number used by County

( ) Real Property (Real Estate) - Give street address or legal description and provide:

Parcel ID No.: \_\_\_\_\_

**OR** Other ID No. used by the County \_\_\_\_\_

**3. OWNER'S OPINION OF APPRAISED VALUE and/or CLASSIFICATION AS OF Jan. 1st this year:**

\$ \_\_\_\_\_ CLASS \_\_\_\_\_

**MORE—PLEASE COMPLETE ENTIRE FORM — NOTARIZED SIGNATURE REQUIRED**



4. Explain why you are filing this appeal and state the law (if known) or facts on which your appeal is based. Simply stating values are "too high" is insufficient. Be specific. If more space is needed attach additional sheets.

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STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss:

I hereby certify that all information/documentation contained herein, attached hereto or hereafter provided by me is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE of APPLICANT (or authorized representative)

\_\_\_\_\_  
TITLE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My appointment expires:  
\_\_\_\_\_

**IF YOU APPEAL TO THE BOARD OF TAX APPEALS, SUBMIT ALL REQUIRED DOCUMENTATION TO:**

**STATE BOARD OF TAX APPEALS  
DOCKING STATE OFFICE BUILDING  
915 S.W. HARRISON, STE. 451  
TOPEKA, KS 66612-1505  
Tele.No. (785) 296-2388  
Fax No. (785) 296-6690**

**SM CLAIMS DIVISION** – You may choose to file with the Small Claims Division if your property meets certain statutory requirements. Small Claims cases are heard by one hearing officer and your hearing will be held in the county where the property is located, or in an adjacent county. If you are not satisfied with the decision of the Small Claims Hearing Officer, you may appeal that decision to the Regular Division of the Board of Tax Appeals. The Small Claims Division does not have the statutory authority to hear appeals on property devoted to agricultural use.

You may elect to file your appeal with the Small Claims Division **ONLY** if:

1. The property that is the subject of this appeal is classified as “single family residential” property; or
2. The property is valued by the county at less than \$2,000,000 and is not classified as agricultural use.

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**REGULAR DIVISION OF THE BOARD OF TAX APPEALS** – Even if your property meets the requirements for a hearing in the Small Claims Division, you **may** elect to file your appeal with the Regular Division of the Board of Tax Appeals. Your appeal may then be heard in your geographical area or it may be heard in the Board’s hearing rooms in Topeka. One or more of the five members of the Board will hear your appeal. Three or more members of the Board, however, must make the decision on your case and approve the order.

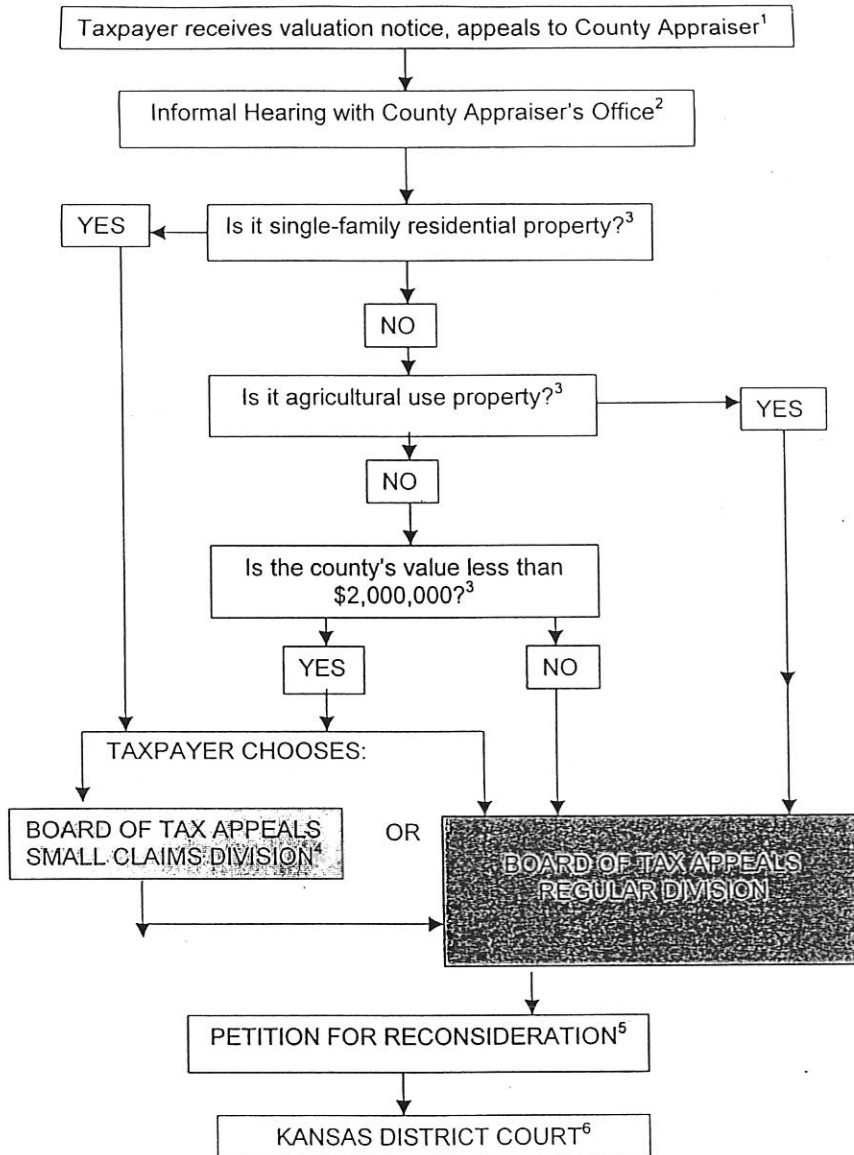
You **must** file with the Regular Division of the Board of Tax Appeals if:

1. The property which is the subject of this appeal is classified as “agricultural use” property; or
2. The property that is the subject of this appeal is not single family residential property and is valued by the county at \$2,000,000 or more.

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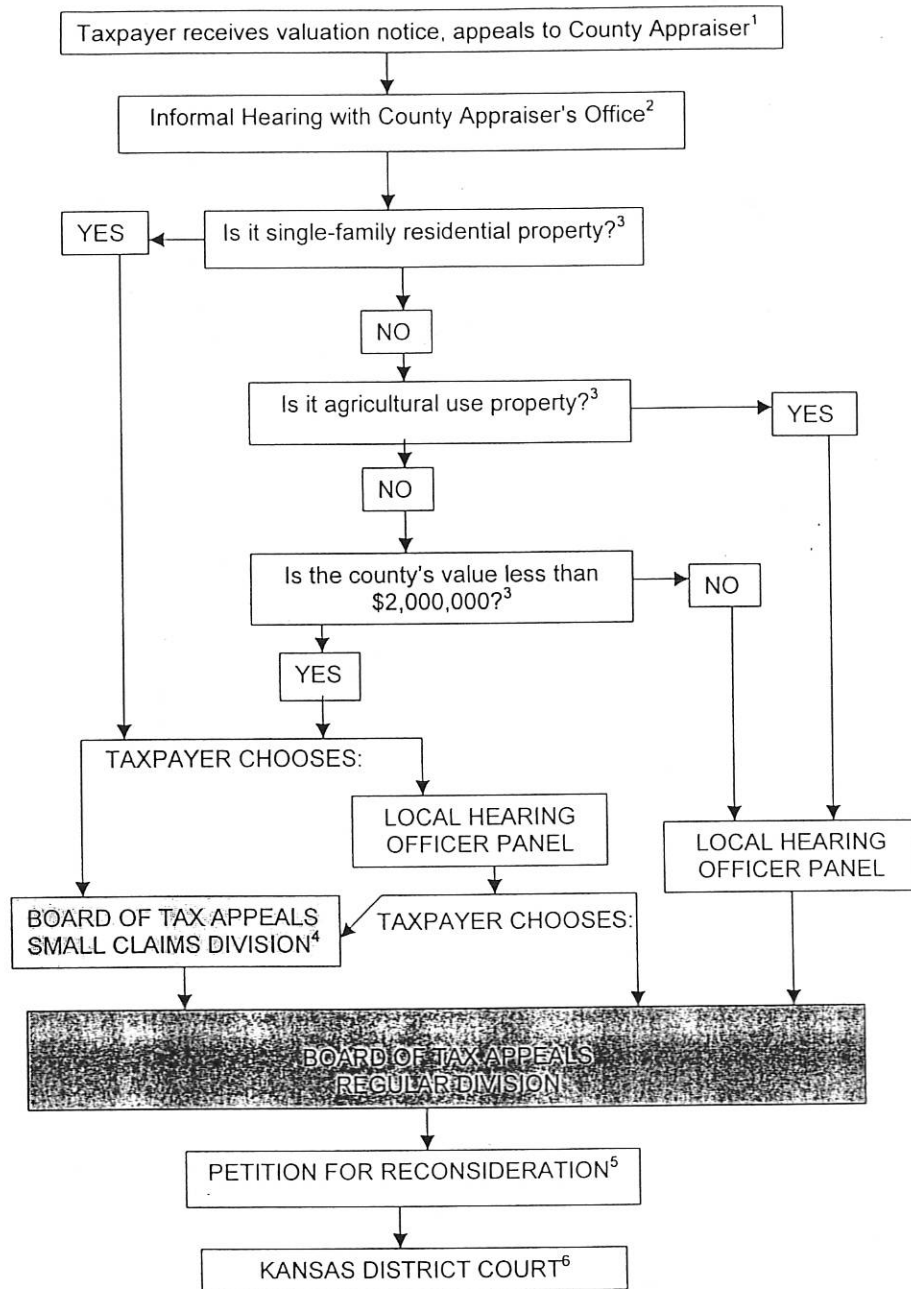
DETERMINE WHICH DIVISION YOU WISH TO HEAR YOUR APPEAL, THEN **CHECK ONE** OF THE TWO BOXES ON THE FIRST PAGE OF THE APPLICATION. IF YOU DO NOT CHECK ONE OF THE BOXES, THE BOARD WILL ASSUME YOU WISH TO FILE IN THE REGULAR DIVISION.

**EQUALIZATION APPEALS**  
**WHERE NO LOCAL HEARING OFFICER PANEL IS AVAILABLE**  
(Pursuant to K.S.A. Chapter 79, Article 16 or 17)



<sup>1</sup> Appeal must be filed with County Appraiser within 30 days [K.S.A. 79-1448]  
<sup>2</sup> Appeal from Informal Hearing results must be filed within 18 days [K.S.A. 79-1606]  
<sup>3</sup> Small Claims Division jurisdiction is limited and hearings are held in county where property is located or an adjacent county [1998 HB 2684, Section 7]  
<sup>4</sup> Appeal from Small Claims Division to BOTA must be filed within 30 days [K.S.A. 74-2438]  
<sup>5</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]  
<sup>6</sup> Judicial Review of BOTA decision must be filed with the District Court within 30 days [K.S.A. 77-601 et seq.]

**EQUALIZATION APPEALS  
IN COUNTIES WITH LOCAL HEARING OFFICER PANELS**  
(Pursuant to K.S.A. Chapter 79, Article 16 or 17)



<sup>1</sup> Appeal must be filed with County Appraiser within 30 days [K.S.A. 79-1448]  
<sup>2</sup> Appeal from Informal Hearing results must be filed within 18 days [K.S.A. 79-1606]  
<sup>3</sup> Small Claims Division jurisdiction is limited and hearings are held in county where property is located or an adjacent county [1998 HB 2684, Section 7]  
<sup>4</sup> Appeal from Small Claims Division to BOTA must be filed within 30 days [K.S.A. 74-2438]  
<sup>5</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]  
<sup>6</sup> Judicial Review of BOTA decision must be filed with the District Court within 30 days [K.S.A. 77-601 et seq.]

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS  
APPLICATION PROTESTING PAYMENT OF AD VALOREM TAXES  
(Pursuant to K.S.A. 79-2005)

IN THE MATTER OF THE PROTEST OF:

NAME (OWNER OF RECORD)

MAILING ADDRESS (STREET, BOX #)

CITY STATE ZIP

( ) ( )  
(WORK) PHONE NUMBERS (HOME)

ATTORNEY OR OTHER REPRESENTATIVE, if applicable:

NAME

ADDRESS

CITY STATE ZIP

TELEPHONE ( )

FOR OFFICIAL BOTA USE ONLY

BOTA DOCKET NO. \_\_\_\_\_ -PR

\_\_\_\_\_

(If you are represented by an attorney or agent, you must submit an Entry of Appearance or current Declaration of Representative approved by BOTA)

FOR TAXES PAID IN: \_\_\_\_\_ COUNTY

1. Are you filing in the SMALL CLAIMS DIVISION or REGULAR DIVISION? (SEE LAST PAGE)  
 Small Claims Division  Regular Division

2. Give a description of the property (including ID number used by County).  
( ) Real property (real estate):  
• I.D. No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
• Street address or legal description, common name, subdivision, etc.

\_\_\_\_\_

( ) Personal property:  
\_\_\_\_\_  
\_\_\_\_\_

3. Tax year(s) at issue: \_\_\_\_\_

4. TAXES PAID: 1st half \_\_\_\_\_ 2nd half \_\_\_\_\_ Full \_\_\_\_\_

5. Are taxes paid by a mortgage company, bank or savings & loan? Yes \_\_\_\_\_ No \_\_\_\_\_

6. What do you believe is the value and/or proper classification of this property for the year being protested? \$ \_\_\_\_\_

7. Explain why you are filing a protest and the statute, law, or facts on which your protest is based -- please be specific:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If more space is needed, attach additional sheets.)

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss:

I hereby certify that all information/documentation contained herein, attached hereto or hereafter provided by me is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
APPLICANT (OR Authorized Representative) SIGNATURE TITLE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

My appointment expires:  
\_\_\_\_\_

FOR COUNTY TREASURER'S OFFICIAL USE ONLY

Class %	County Appraised Value	County Assessed Value	Taxpayer's Assessed Value	Invalid Assessment	Total Mill Levy	Amount of Taxes Protested

GENERAL INSTRUCTIONS FOR FILING A PROTEST

1. You may protest your taxes only if you did not file an equalization appeal on the valuation of the same property for the same tax year. If you have protested your first half payment of taxes, you may not protest your second half payment.
2. Complete the tax protest form and FILE A COPY WITH THE COUNTY TREASURER'S OFFICE ON OR BEFORE DECEMBER 20. (If taxes are paid by an escrow agent, you must file your protest no later than January 31.) After that deadline, any protest must be filed at the time taxes are paid. **YOU MUST KEEP A COPY OF THE PROTEST FORM.** If dissatisfied with the County's decision, you will use this form to file your protest with the Board of Tax Appeals.
3. The County Appraiser will contact you to schedule an informal meeting with that office. (NOTE: If the grounds for your tax protest is that a tax levy is illegal, an Appendix to BTA 2005 must be completed and attached to the protest form and the County Treasurer will forward the appeal directly to the Board of Tax Appeals. No informal hearing will be scheduled with the County Appraiser when the basis for your appeal is that a tax levy is illegal.)
4. When you receive notification of the results of the informal hearing, if you disagree with those results, you have 30 days from the mailing date of that notification within which to file an appeal with the Board of Tax Appeals.

When filing your appeal with the Board of Tax Appeals, you must include:

- A. A copy of the protest form filed with the County Treasurer;
- B. A copy of your paid tax receipt;
- C. A copy of the notification of results (Form PV-RA-35) from your informal county hearing; and
- D. A copy of an Entry of Appearance or current Declaration of Representative approved by BOTA if you are to be represented by an attorney or other individual.

**A copy of all information sent to the Board must also be provided to the County.**

If the above documentation is not received by the Board of Tax Appeals within the required 30 day time frame, your appeal will be dismissed.

The Board of Tax Appeals will notify you and the County of the date and time for the hearing of this protest.

**IF YOU APPEAL TO THE BOARD OF TAX APPEALS, SUBMIT ALL REQUIRED DOCUMENTATION (above) TO:**

STATE BOARD OF TAX APPEALS  
DOCKING STATE OFFICE BUILDING  
915 S.W. HARRISON, STE. 451  
TOPEKA, KS 66612-1505  
Tele.No. (785) 296-2388  
Fax No. (785) 296-6690

**SMALL CLAIMS DIVISION** – You may choose to file with the Small Claims Division if your property meets certain statutory requirements. Small Claims cases are heard by one hearing officer and your hearing will be held in the county where the property is located, or in an adjacent county. If you are not satisfied with the decision of the Small Claims Hearing Officer, you may appeal that decision to the Regular Division of the Board of Tax Appeals. The Small Claims Division does not have the statutory authority to hear appeals on property devoted to agricultural use.

You may elect to file your appeal with the Small Claims Division **ONLY** if:

1. The property that is the subject of this appeal is classified as “single family residential” property; or
2. The property is valued by the county at less than \$2,000,000 and is not classified as agricultural use.

---

**REGULAR DIVISION OF THE BOARD OF TAX APPEALS** – Even if your property meets the requirements for a hearing in the Small Claims Division, you **may** elect to file your appeal with the Regular Division of the Board of Tax Appeals. Your appeal may then be heard in your geographical area or it may be heard in the Board’s hearing rooms in Topeka. One or more of the five members of the Board will hear your appeal. Three or more members of the Board, however, must make the decision on your case and approve the order.

You **must** file with the Regular Division of the Board of Tax Appeals if:

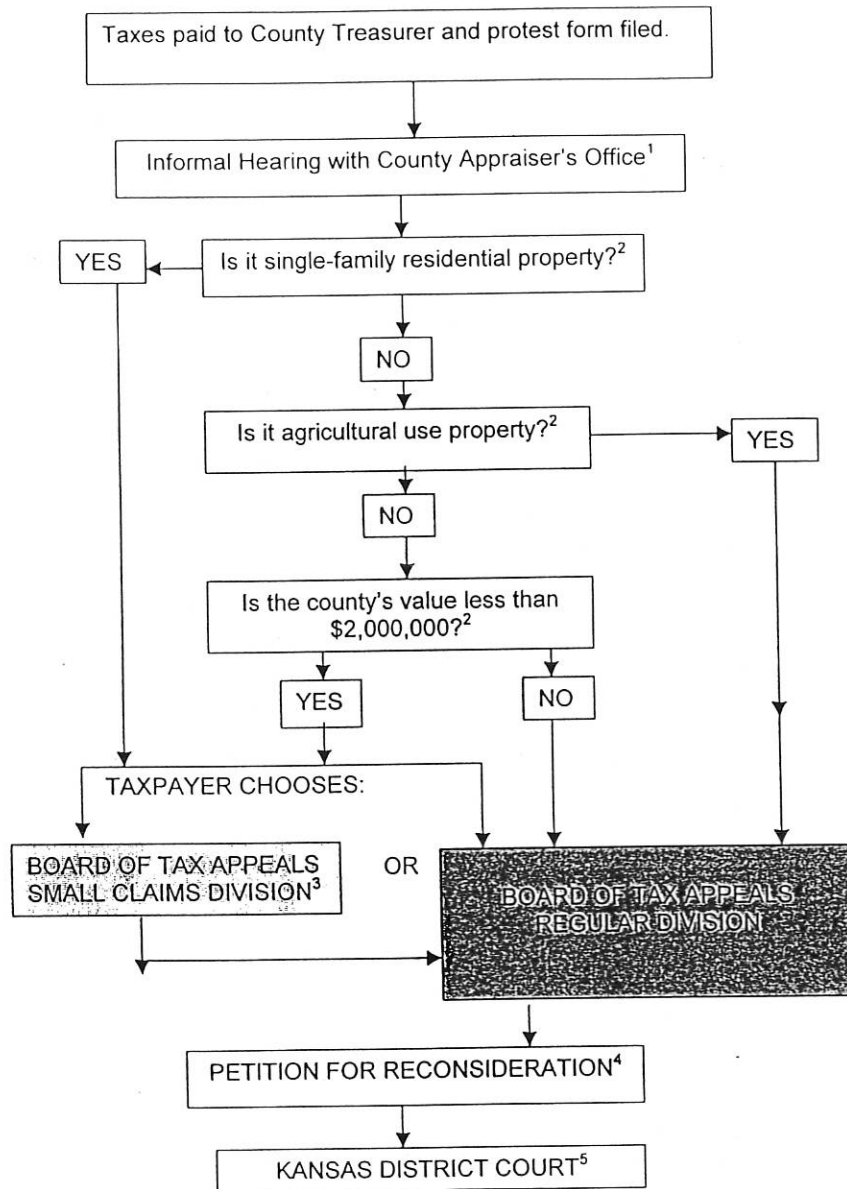
1. The property that is the subject of this appeal is classified as “agricultural use” property; or
2. The property that is the subject of this appeal is not single family residential property and is valued by the county at \$2,000,000 or more.

---

DETERMINE WHICH DIVISION YOU WISH TO HEAR YOUR APPEAL, THEN **CHECK ONE** OF THE TWO BOXES ON THE FIRST PAGE OF THE APPLICATION. IF YOU DO NOT CHECK ONE OF THE BOXES, THE BOARD WILL ASSUME YOU WISH TO FILE IN THE REGULAR DIVISION.



**PAYMENT OF AD VALOREM TAXES UNDER PROTEST**  
(Pursuant to K.S.A. 79-2005)



<sup>1</sup> Appeal from Informal Hearing results must be filed within 30 days [K.S.A. 79-2005]

<sup>2</sup> Small Claims Division jurisdiction is limited and hearings are held in county where property is located or an adjacent county [1998 HB 2684, Section 7]

<sup>3</sup> Hearings in Small Claims Division are held in county where taxpayer resides or an adjacent county. An appeal from Small Claims Division to BOTA must be filed within 30 days [K.S.A. 74-2438]

<sup>4</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]

<sup>5</sup> Judicial Review of BOTA decision must be filed with the District Court within 30 days [K.S.A. 77-601 et seq.]

**APPLICATION FOR RELIEF FROM A TAX GRIEVANCE**

(Pursuant to K.S.A. 79-1702)

**BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS**

IN THE MATTER OF THE APPLICATION OF

\_\_\_\_\_  
NAME (**Owner** of Record)

\_\_\_\_\_  
CONTACT PERSON (if applicable)                      TITLE

\_\_\_\_\_  
ADDRESS (Street, Box No.)

\_\_\_\_\_  
CITY    STATE                      ZIP

\_\_\_\_\_  
TELEPHONE (     )

**ATTORNEY OR REPRESENTATIVE (if applicable):**

\_\_\_\_\_  
NAME    TITLE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY    STATE                      ZIP

\_\_\_\_\_  
TELEPHONE (     )

DOCKET NO. \_\_\_\_\_ -TG  
(BOTA USE ONLY)

NOTE: If you are to be represented by an attorney or other individual, you must provide the Board with either an Entry of Appearance or current Declaration of Representative form approved by BOTA.

RELIEF FROM A TAX GRIEVANCE IN:

\_\_\_\_\_ COUNTY, KS

1. Are you filing in the SMALL CLAIMS DIVISION or REGULAR DIVISION OF BOTA? (See last page)

SMALL CLAIMS DIVISION

REGULAR DIVISION

2. Provide a legal description of the real property, or if personal property, provide a list of the personal property involved, including identification numbers if applicable. ATTACH a copy of any deeds, certificates of title, registrations, and personal property renditions and/or lease agreements for the property. This information may serve in lieu of a written description if the property is clearly identified and described.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Provide the County's parcel identification number for real property or the County's personal property identification number and ATTACH a copy of tax statement.

---

4. If this application is a request for tax abatement or refund:

a. List the tax year(s) on which the grievance is based.

---

b. Has the tax at issue been paid? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Partial

If the tax has been paid in part or in full, please provide date of payment and ATTACH a copy of tax receipt.

---

5. Description of Clerical Error:

a. List any errors in description or quantity of the property. \_\_\_\_\_

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b. List any real estate improvements previously assessed that have been removed or destroyed and the date of occurrence. \_\_\_\_\_

---

c. Has this property been taxed in the taxing district where the property is located?  Yes  No

d. Has the correct owner been taxed for this property?  Yes  No

e. Has this property been taxed in more than one district for the same tax period?  Yes  No

6. Explain in detail why relief should be granted: \_\_\_\_\_

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7. If you are requesting abatement and/or refund for the overassessment or overpayment of taxes that occurred more than three years prior to the date this grievance is filed, explain in detail why the grievance was not submitted sooner. If the grievance relates to a clerical error, explain why the error was not discovered sooner. If you believe that undue hardship would result if relief were denied, explain the circumstances in detail.

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VERIFICATION

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss:

I, \_\_\_\_\_, applicant herein, do solemnly swear that the information  
(Please type or print)  
set forth in this application is true and correct, to the best of my knowledge and belief. So help me God.

\_\_\_\_\_  
Applicant Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

S E A L

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

**FORWARD COMPLETED AND SIGNED FORM, INCLUDING ALL REQUIRED DOCUMENTATION,  
TO THE BOARD OF TAX APPEALS AS FOLLOWS:**

**STATE BOARD OF TAX APPEALS  
DOCKING STATE OFFICE BUILDING  
915 S.W. HARRISON, STE. 451  
TOPEKA, KS 66612-1505  
Tele.No. (785) 296-2388  
Fax No. (785) 296-6690**

4-22

**SMALL CLAIMS DIVISION** – You may choose to file with the Small Claims Division if your property meets certain statutory requirements. Small Claims cases are heard by one hearing officer and your hearing will be held in the county where the property is located, or in an adjacent county. If you are not satisfied with the decision of the Small Claims Hearing Officer, you may appeal that decision to the Regular Division of the Board of Tax Appeals. The Small Claims Division does not have the statutory authority to hear appeals on property devoted to agricultural use.

You may elect to file your appeal with the Small Claims Division **ONLY** if:

1. The property that is the subject of this appeal is classified as “single family residential” property; or
2. The property is valued by the county at less than \$2,000,000 and is not classified as agricultural use.

---

**REGULAR DIVISION OF THE BOARD OF TAX APPEALS** – Even if your property meets the requirements for a hearing in the Small Claims Division, you **may** elect to file your appeal with the Regular Division of the Board of Tax Appeals. Your appeal may then be heard in your geographical area or it may be heard in the Board’s hearing rooms in Topeka. One or more of the five members of the Board will hear your appeal. Three or more members of the Board, however, must make the decision on your case and approve the order.

You **must** file with the Regular Division of the Board of Tax Appeals if:

1. The property which is the subject of this appeal is classified as “agricultural use” property; or
2. The property that is the subject of this appeal is not single family residential property and is valued by the county at \$2,000,000 or more.

---

DETERMINE WHICH DIVISION YOU WISH TO HEAR YOUR APPEAL, THEN **CHECK ONE** OF THE TWO BOXES ON THE FIRST PAGE OF THE APPLICATION. IF YOU DO NOT CHECK ONE OF THE BOXES, THE BOARD WILL ASSUME YOU WISH TO FILE IN THE REGULAR DIVISION.

APPLICATION FOR RELIEF FROM A TAX GRIEVANCE

Abatement of Penalties

(Pursuant to K.S.A. 79-1422, 79-1427a or 79-332a)

File completed form with County Appraiser for recommendation and forwarding to the Board of Tax Appeals

BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION OF

NAME (Owner of Record)

CONTACT PERSON (if applicable) TITLE

ADDRESS (Street, Box No.)

DOCKET NO. \_\_\_\_\_ -TG
(BOTA USE ONLY)

CITY STATE ZIP

TELEPHONE ( )

ATTORNEY OR REPRESENTATIVE (if applicable):

NAME TITLE

ADDRESS

CITY STATE ZIP

TELEPHONE ( )

NOTE: If you are to be represented by an attorney or other individual, you must provide the Board with either an Entry of Appearance or current Declaration of Representative form approved by BOTA.

RELIEF FROM A TAX GRIEVANCE IN:

\_\_\_\_\_ COUNTY, KS

- 1. Provide a legal description of the real property or, if personal property, provide a list of the personal property involved, including identification numbers if applicable. ATTACH a copy of any deeds, certificates of title, registrations, and personal property renditions and/or lease agreements for the property. This may serve in lieu of a written description if the property is clearly identified and described.

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

- 2. Provide the County's parcel identification number for real property or the County's personal property identification number and ATTACH a copy of tax statement.

\_\_\_\_\_

3. If this application is a request for tax abatement or refund:

a. List the tax year(s) on which the grievance is based.

\_\_\_\_\_

b. Has the tax at issue been paid? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Partial

If the tax has been paid in part or in full, please provide date of payment and ATTACH a copy of tax receipt.

\_\_\_\_\_

4. For what tax year(s) do you seek penalty relief? \_\_\_\_\_

5. Explain in detail why relief should be granted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Do you request a formal hearing on this application or do you request that a determination be made from the information provided above? [PLEASE NOTE: If you request a hearing, the Board will set a hearing at a future date and may require travel to Topeka.]

\_\_\_\_\_ Hearing

\_\_\_\_\_ Decision on the information as submitted.

**VERIFICATION**

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss:

I, \_\_\_\_\_, applicant herein, do solemnly swear that the information  
(Please type or print)  
set forth in this application is true and correct, to the best of my knowledge and belief. So help me God.

\_\_\_\_\_  
Applicant Signature/Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

S E A L

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

4-25

COUNTY APPRAISER RECOMMENDATIONS AND COMMENTS

TO COUNTY APPRAISER:

Have you carefully examined the facts as set out in the application?	Yes	No
Do you find the facts as stated by the applicant represent the true situation?	Yes	No
Does the County recommend that the relief herein requested be granted?	Yes	No
Does the County request a hearing on this application?	Yes	No

Please provide the filing history of the owner. If no penalty was applied in a prior year because the owner was not required to file a personal property rendition, indicate as not applicable. If applicant timely filed and no penalty was applied, indicate with "0" (zero). If the penalty applied was for escaped property rather than a failure to file, so indicate.

Current year:	19 _____	_____ % Penalty
Past 3 years:	19 _____	_____ % Penalty
	19 _____	_____ % Penalty
	19 _____	_____ % Penalty

For the years for which the applicant is requesting relief, please provide the total amount, to date, of:

Tax	\$ _____
Penalty	\$ _____
Interest	\$ _____

Has the Board of Tax Appeals abated a prior penalty in full or in part? \_\_\_\_\_ Yes \_\_\_\_\_ No

Provide the PIN or other ID number used by the County for this property. \_\_\_\_\_

Is there a tax warrant or judgment on this property? \_\_\_\_\_ Yes \_\_\_\_\_ No.  
If "Yes", send a copy of the tax warrant and/or judgment and a copy of the appearance docket.

Provide any additional comments as to the County's position regarding the taxpayer's request. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ County, Kansas

\_\_\_\_\_  
Signature County Appraiser

\_\_\_\_\_  
Typed (printed) Name of County Appraiser

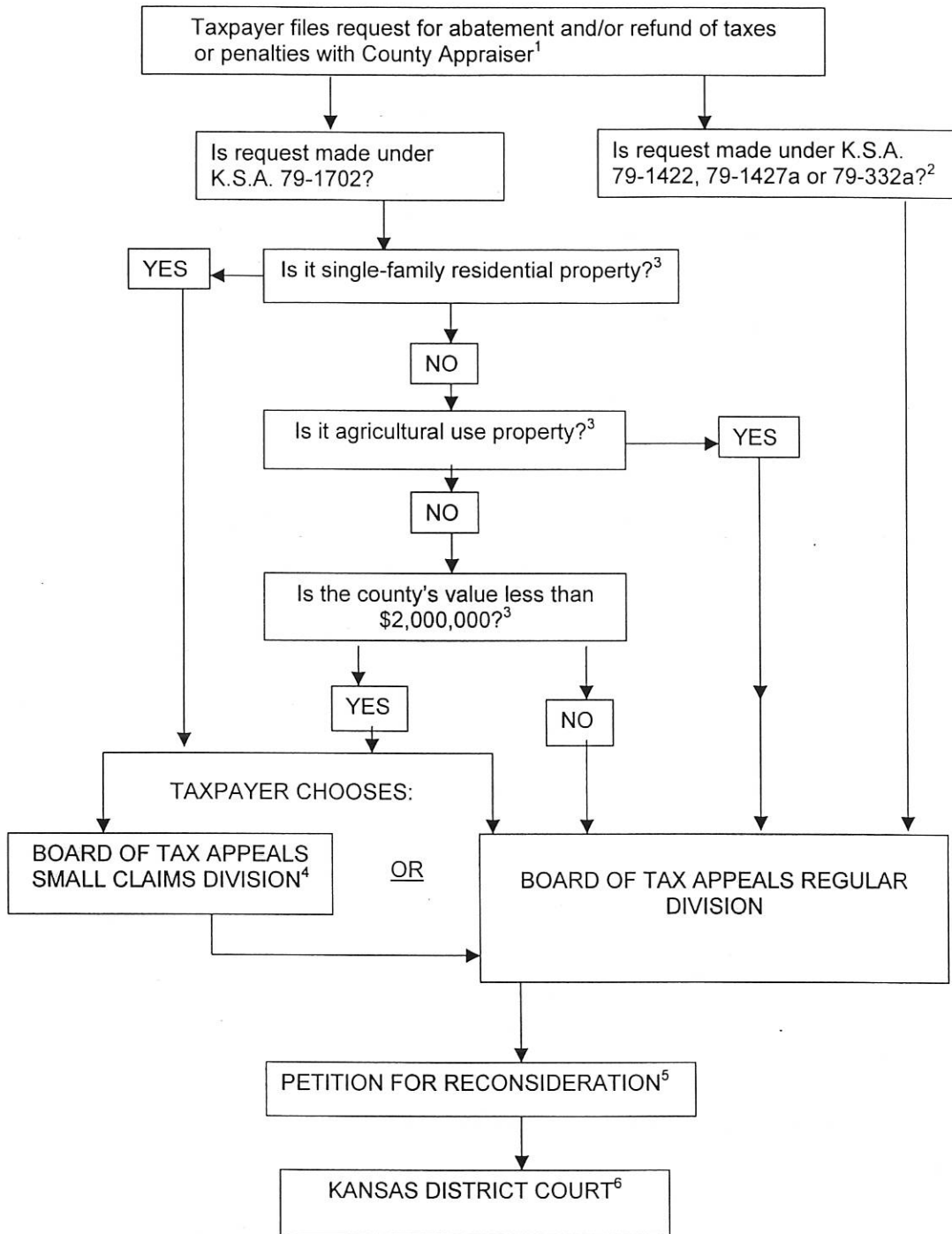
( \_\_\_\_\_ )  
\_\_\_\_\_  
Telephone Number

4-26



**TAX GRIEVANCES**

(Pursuant to K.S.A. 79-332a, 79-1422, 79-1427a or 79-1702)



<sup>1</sup> Tax Grievance forms may be obtained from the County Appraiser [K.S.A. 79-1702]

<sup>2</sup> Grievances regarding penalties for late filing or failing to file a rendition must be heard by the Regular Division of the Board of Tax Appeals [K.S.A. 79-1422, 79-1427a or 79-332a]

<sup>3</sup> Small Claims Division jurisdiction is limited and appeals are heard in county where property is located or an adjacent county [1998 HB 2684, Section 7]

<sup>4</sup> Appeal from Small Claims Division to BOTA must be filed within 30 days [K.S.A. 74-2438]

<sup>5</sup> Petition for reconsideration must be filed with BOTA within 15 days [K.S.A. 74-2426, 77-529 and 77-601 et seq.]

<sup>6</sup> Judicial Review of BOTA decision must be filed with the District Court within 30 days [K.S.A. 77-601 et seq.]

4-27

Office of Policy & Research  
Shirley K. Sicilian, Director  
915 SW Harrison St.  
Topeka, KS 66625



(785) 296-3081  
FAX (785) 296-7928  
Hearing Impaired TTY (785) 296-6461  
Internet Address: [www.ink.org/public/kdor](http://www.ink.org/public/kdor)

Office of Policy & Research

TESTIMONY

**To:** Senator Audrey Langworthy  
Chair, Senate Committee on Assessment and Taxation

**From:** Shirley Sicilian  
Kansas Department of Revenue, Director of Policy & Research

**Re:** Senate bill 43 and Senate bill 47

**Date:** January 20, 1999

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Good morning Senator Langworthy and members of the Senate Committee on Assessment and Taxation. My name is Shirley Sicilian and I serve as Director of Policy & Research at the Kansas Department of Revenue. I appreciate the opportunity to testify before you today regarding Senate bills 43 and 47, which were requested for introduction by the Department. I will summarize each of the two bills. Neither bill has a fiscal impact to the state. Both are aimed at administrative clarity and fairness.

**1. Senate bill 43.**

Senate bill 43 deals with the homestead circuit breaker which was enacted as part of the Taxpayer Equity and Fairness Act of 1997. (K.S.A. 79-4530). That law created a property tax refund for taxpayers whose single-family, owner occupied residential real property increases in appraised value by 75 percent or more from one year to the next. The criteria for receiving the refund is clearly outlined in the statute. However, the statute does not identify a funding source, nor was an appropriation given the Department for payment of these refunds. Our proposed amendment would establish the funding source for these refunds. It would allow a taxpayer who is claiming property tax relief under the homestead circuit breaker to be paid from the homestead refund fund. The homestead refund fund is an existing fund that currently supports another property tax relief provision, the Homestead Refund Act (K.S.A. 79-4504). In fact, the department has processed circuit breaker refunds from the homestead refund fund since the implementation of the bill, but there is currently no specific statutory authority to use those funds for that purpose. Only a handful of circuit breaker claims have been made to-date. There is a potential for a marked increase in claims this year, due to a valuation change which affects 97 property taxpayers in the Lake Kahola and Council Grove City Lake areas. This bill would clarify the department may use the homestead refund funding source to satisfy the circuit breaker claims.

**2. Senate bill 47.**

The Taxpayer Equity and Fairness Act of 1997 made several major improvements to the way the Department determines the amount of tax due. The Act also made significant improvements in how the Department reviews its determination and issues a final decision, if the matter is appealed. These procedures, along with possible further review through the Board of Tax Appeals and the Court system,

Senate Assessment & Taxation  
1-20-99  
Attachment 5

culm in a final determination of tax liability. Senate bill 47 addresses the next, and final step in the process: the Department procedures for collecting that tax liability once it has become final. Our goal is to improve this collection process in the same way we have improved the assessment and review processes that came before it. We believe the amendments would streamline the process and increase fairness for taxpayers.

The bill has four substantive parts:

**A. Expand Secretary's authority to abate final liability.** Under the current statutes, the Secretary can abate a final income tax liability "in the event of insolvency of the taxpayer." (K.S.A. 79-3233a). Section 2 of SB 47 would expand that authority to cases where the Secretary finds "serious doubt as to either the collectability of the tax due or the taxpayer's liability." This new criteria would give the Department additional flexibility to abate a portion of a tax liability in situations where it makes sense to do so. These situations typically arise where the taxpayer neglected to appeal for one reason or another. The assessment becomes final, collection is pursued, and in the course of pursuing collection, it becomes apparent that the final liability is erroneous. To ensure accountability, section 3 requires the Secretary to maintain records of all abatements of \$5,000 or more, including the name of the taxpayer and the reason for abatement. An annual report with this information is required to be submitted to the secretary of state, the legislative division of post audit, and the attorney general. These records would also be available for public inspection upon written request. Section 7 of the bill would extend these provisions to sales and compensating use taxes, and section 8 further extends the provisions to other excise taxes.

**B. Increase the limit for charge-off of individual income tax accounts receivable.** Under current law, accounts receivable for less than \$25 which have been delinquent for more than seven years may be abated if the director finds them to be uncollectable after all reasonable efforts have been made. A finding of "uncollectable" must be based on one of the reasons enumerated in statute. These reasons include cases where the taxpayer is insolvent, receiving social security or welfare and has no other assets, mentally ill or physically incapacitated and not economically productive, etc. The \$25 limit has been in place since 1969. Section 4, 5 and 6 of the proposed legislation would simply raise that \$25 limit to \$100, and reduce the waiting period from 7 to 5 years. These changes would reflect inflation and reduce administrative costs of maintaining the account. Again, Section 7 of the bill would extend these provisions to sales and compensating use taxes. Section 8 further extends the provisions to other excise taxes.

**C. Provide a hearing where corporate officers are held liable.** Current statutes establish certain circumstances where corporate officers, in addition to the corporation itself, are responsible for the corporation's sales and excise tax liability. (K.S.A. 79-2971 and 3643). It is general department practice that we do not invoke this provision of law unless we are unable to collect a final liability from the corporation itself. The current statutes do not provide for direct agency review of our determination that the required circumstances were met to hold the officer liable. In order to satisfy constitutional due process requirements, it has been the Department's practice to provide review by having the corporate officer pay the debt, seek a refund, and if denied, appeal that denial. Sections 9 and 10 of this bill would provide for agency review of the determination that the circumstances exist for the corporate officer to be liable, and of the determination of the amount of liability. This will allow the Department to provide a direct review, without requiring the officer to first pay the tax and seek a refund. While we feel our current practice is provided for by statute and meets constitutional due process requirements, one recent Kansas Court of Appeals ruling found otherwise. (*Copeland v. Robinson, et al*, Docket No. 77,652 [Ks. Ct. of Appeals, Dec. 11, 1998]). We may appeal that ruling. In the meantime, we feel that a statutory provision allowing direct review of these issues would not only clarify that due process will be met, but will also streamline the process for taxpayers.

**D. Eliminate the Division of Collections.** Section 11 repeals the above amended statutes. But it also makes a substantive change by repealing the statutes that establish a Division and Director of Collections. The Division of Collections currently operates under the Division of Taxation. The Department has not had a separate Director of Collections for 6 years.