

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on March 19, 2003 in Room 519-S of the Capitol.

All members were present except: Representative Vaughn Flora

Committee staff present: Chris Courtwright, Legislative Research Dept.  
Gordon Self, Office of the Revisor of Statutes  
Carol Doel, Committee Secretary

Conferees appearing before the committee: Chris Courtwright, Legislative Research Dept.  
Joan Wagon, Acting Secretary of Revenue

Others attending: See attached sheet

Chairman Edmonds opened the meeting for any bill introductions. Hearing none, he opened the floor for public hearing on **HB 2416** - *Amnesty from assessment or payment of penalties and interest on certain unpaid taxes.*

The Chairman asked Chris Courtwright from the Legislative Research Department to give an overview on **HB 2416**.

Acting Secretary of Revenue, Joan Wagon, addressed the committee in favor of **HB 2416**. The Department of Revenue is implementing a two phased tax amnesty program, with Phase 1 having started in early February. Phase 1, which does not require authorizing legislation, involves an aggressive campaign to pursue settlement negotiations on pending assessments, with the goal of resolving those that should be settled prior to the end of this fiscal year. **HB 2416** will provide the Department legislative authority to implement Phase 2, which will involve a tax amnesty program to be conducted this coming fall, and will offer waiver of penalties and interest to taxpayers with accounts in collection or who are non-filers or under-reports upon payment in full of the underlying taxes, if payment is received between October 1, 2003 and November 30, 2003. (Attachment 1)

With no other person wishing to address the bill, Chairman Edmonds closed the meeting for public hearing on **HB 2416** and opened the meeting for hearing on **HB 2411**.

Secretary Wagon stood for question. Chairman Edmonds asked if by this time next year, the department would be able to report on how much was collected. Secretary Wagon assured him this would be possible. A tracking system will be put together so they will know the amount of each payment. It will also be able to tell them what was paid in terms of penalties and interest.

In response to Representative Schwab's question regarding the greatest area of outstanding burden, Secretary Wagon stated that she had the report on her desk and it would be sent over for the committee to review.

With no other person wishing to address the bill, Chairman Edmonds closed the meeting for public hearing on **HB 2416** and opened the meeting for hearing on **HB 2411** - *State contractors must agree to collect and remit sales tax.*

From the Department of Revenue, Acting Secretary Wagon testified in support of **HB 2411**. This bill will require bidders on state contracts for supplies, materials and equipment to agree to register and collect sales or use tax on their sales to Kansas customers, if they want to do business with the State of Kansas. This bill should prevent out-of-state retailers claiming no nexus with Kansas from participating in bidding on state contracts unless those retailers are willing to register with the Department and collect sales and use tax on their sales to customers located in Kansas, if they win the contract. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on 2003 in Room 519-S of the Capitol.

Also appearing as a proponent for **HB 2411**, was Marlee Carpenter, KCCI (Kansas Chamber of Commerce and Industry). As stated in her testimony, this bill requires any vendor that does business with the state of Kansas be a registered retailer for sales tax collection purposes. This would bring in additional revenue for the state, revenue that is due, but is being uncollected at the current time. (Attachment 3)

With no other conferee wishing to address the bill, Chairman Edmonds closed the hearing on **HB 2411**.

There being no further business before the committee, meeting was adjourned at 10:30 a.m.

GUEST LIST

DATE March 19, 2003

NAME	REPRESENTING
<i>[Signature]</i>	IPTV
KEVIN WALKER	AMERICAN HEART ASSOC.
Tom Whitaker	KS MOTOR CARRIERS ASSN
Gwendolyn Cargnel	American Cancer Society
Don Seches	GBA
Pete Bodyk	KDOR/ABC
Rosanne Gable	Kansas Library Association
Slim McHenry	The Library Foundation
Bill Gross	Shawnee Mission Med. Center
John C. Bottenby	Philip Morris USA
Jessie Pointer	KDHE
Ashley Muir	KDHE
Lou Jacobs	—
Ron Hein	RJ Reynolds/Hein Law Firm Chft
Stephanie Shays	
Michelle Peterson	
Rep [Signature]	



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony to House Tax Committee  
Joan Wagon  
Secretary of Revenue

**March 19, 2003**

## **House Bill 2416—Tax Amnesty**

Chairman Edmonds and Members of the Committee:

The Department is implementing a two-phased tax amnesty program, with Phase 1 having started in early February. Phase 1, which does not require authorizing legislation, involves an aggressive campaign to pursue settlement negotiations on pending assessments, with the goal of resolving those that should be settled prior to the end of this fiscal year. House Bill 2416 will provide the Department legislative authority to implement Phase 2, which will involve a tax amnesty program to be conducted this coming fall, and will offer waiver of penalties and interest to taxpayers with accounts in collection or who are non-filers or under-reporters upon payment in full of the underlying taxes, if payment is received between October 1, 2003 and November 30, 2003.

### **Phase 1—Accelerated Settlement Program**

In Phase 1, the Department is exercising its existing authority to settle disputed matters. This involves an effort to accelerate reasonable settlement of assessments on a non-principled basis, including those pending before the Office of Administrative Appeals, the Board of Tax Appeals (BOTA) or in the judicial review process.

#### Purpose

The purpose of Phase 1, the accelerated settlement program, is to bring in as much revenue as possible before the end of FY 03 from disputed assessments, in order to help alleviate the current fiscal situation.

#### Goal

The goal of the accelerated settlement program is to bring in additional tax revenue in excess of \$7.5 million in FY 03.

#### Tax Types Included

The Department is focusing on assessments for individual and corporate income tax, as well as state and local sales and compensating use tax, but would welcome inquiries from taxpayers with disputed assessments for privilege tax, estate tax, liquor taxes, cigarette and tobacco taxes.

employer withholding and mineral taxes. Included taxes are those owed for tax periods ended by December 31, 2002, except that for income tax and privilege tax, included taxes are only those owed for tax periods ended by December 31, 2001. This would specifically exclude income and privilege taxes for tax year 2002, the returns for which are now being processed.

#### Assessments Included

The assessments to be included in the accelerated settlement program include: those in dispute and pending before the Office of Administrative Appeals, BOTA or under judicial review; and assessments or proposed assessments (under audit).

#### Matters not included

Not included in the accelerated settlement program are: assessments under appeal or subject to appeal that are not candidates for settlement; assessments for which appeal rights have expired or have been exhausted (in collections); and tax liability from underpayment or nonpayment of amounts declared due on returns.

#### Settlement Procedures

For assessments that can be reasonably settled, the taxpayer will have the opportunity to resolve the assessment on a non-principled basis, if the negotiated amount is paid in full within a stated time period but prior to June 30, 2003. The taxpayer must agree to waive any further appeal rights with respect to the assessment and must further waive any right to seek a refund of the amount paid. If the taxpayer makes payment on or before the given deadline and pursuant to the settlement terms, then the assessment will be deemed paid in full and resolved. The taxpayer's account with respect to the assessment will be adjusted to reflect the settlement under the accelerated settlement program.

#### Tracking Procedures

Revenue attributable to acceptances of settlement offers made under the accelerated settlement program will be separately tracked, so that a determination can be made as to whether the \$7.5 million FY 03 goal has been met.

### **Phase 2**

House Bill 2416 authorizes Phase 2, the tax amnesty program for the fall of 2003. Under this proposal, the Department would be given authority to waive penalties and interest for taxpayers with accounts in collection and taxpayers who are non-filers or under-reporters if the unpaid taxes due and owing for tax periods ended by December 31, 2002 (except for income and privilege taxes, the tax must be due and owing for tax periods ended by December 31, 2001), are paid between October 1, 2003 and November 30, 2003. Assessments issued by the Department's audit staff, which are pending as of February 6, 2003 or issued after that date, will not be eligible for Phase 2. Taxpayers under audit on or after February 6, 2003 will not be eligible for Phase 2. Assessments under review or affirmed by BOTA or a reviewing court are not eligible for Phase 2. A taxpayer who had the opportunity to participate in Phase 1, the accelerated settlement program, will not be eligible for Phase 2.

#### Purpose

The purpose of Phase 2, the tax amnesty program, is to convert as many outstanding accounts receivable as possible into much needed revenue during the first half of FY 04.

### Goal

The goal of the tax amnesty program is to bring in additional tax revenue in excess of \$4.5 million during the first half of FY 04.

### Tax Types included

State and local sales and compensating use tax, employers withholding tax, privilege tax, estate tax, liquor taxes, cigarette and tobacco taxes, and mineral taxes due and owing for tax periods ending on or before December 31, 2002; individual and corporate income taxes and privilege taxes due and owing for tax periods ending on or before December 31, 2001. This would specifically exclude income and privilege taxes for tax year 2002, the returns for which are now being processed. Taxpayers owing compensating use tax on out-of-state catalog or Internet purchases will have the opportunity to participate in Phase 2 as non-filers.

### Timetable

Assuming House Bill 2416 is enacted, during June through August 2003, the Department will identify all taxpayers with delinquent accounts in collection under the above tax types and attempt to notify them that the Department will waive all penalties and interest due with respect to delinquent tax liability, if the underlying taxes due are paid between September 1, 2003 and October 31, 2003. The notices will include payment vouchers marked as part of the amnesty program and return envelopes. Also during that time, the Department will post downloadable information on its website about the tax amnesty program and will seek to publicize the program as much as possible.

### Revenue Tracking

Once the notices to delinquent taxpayers are sent, the Department will track payments received under the tax amnesty program through the vouchers.



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony to House Tax Committee  
Joan Wagnon  
Secretary of Revenue

**March 19, 2003**

**House Bill 2411**

Chairman Edmonds and Members of the Committee:

The Department strongly supports House Bill 2411, which will require bidders on state contracts for supplies, materials and equipment to agree to register and collect sales or use tax on their sales to Kansas customers, if they want to do business with the State of Kansas.

Section 1 amends K.S.A. 2002 Supp. 75-3739 to require that bidders on state contracts handled through the director of purchases must indicate whether they make retail sales in Kansas and if so, whether they are registered to collect sales or use tax in Kansas. If they are not registered, they must agree to register and collect applicable sales and use tax on retail sales to Kansas customers, should they become the successful bidder on the contract. Otherwise, the director of purchases will not consider the bid.

Section 2 amends K.S.A. 2002 Supp. 75-3740a to require an out-of-state retailer submitting a bid on a contract with a state agency, county, municipality, school district or improvement district for the sale of supplies, materials and equipment to agree that if the bid is accepted, the bidder will agree to register with the Department as a retailer and collect and remit to the Department applicable sales or use tax on retail sales of its products to customers located in Kansas.

As we have previously discussed, the U. S. Supreme Court *Quill* decision prevents states from requiring out-of-state retailers lacking a physical presence in the taxing state to collect sales or use tax on retail sales into that state. However, an out-of-state retailer seeking to successfully bid on a lucrative state contract can be required, as a condition of winning that contract, to agree to register as a retailer with the Department and assume the collection duties of a retailer doing business in Kansas. This bill should prevent out-of-state retailers claiming no nexus with Kansas from participating in bidding on state contracts unless those retailers are willing to register with the Department and collect sales and use tax on their sales to customers located in Kansas, if they win the contract.

# LEGISLATIVE TESTIMONY



*The Unified Voice of Business*

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## HB 2411

March 19, 2003

### KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony before the House Taxation Committee  
By Marlee Carpenter, Director of Taxation and Small Business

Chairman Edmonds and members of the Committee:

I am Marlee Carpenter with the Kansas Chamber of Commerce and Industry testifying in favor of HB 2411. This bill requires any vendor that does business with the state of Kansas be a registered retailer for sales tax collection purposes. Currently, when the state purchases goods from these vendors they do not collect sales tax on sales to the state because of the sales tax exemption in place—this would not change. However, when these vendors sell products to other consumers, businesses or individuals, this bill would require them to collect and remit the sales tax. Under current law, a use tax applies to items bought from vendors without nexus with the state. The use tax is very hard to collect. The proliferation of this problem—internet and catalogue sales—is the genesis of the streamlined sales tax project, which we are hopeful will pass this year. This bill simply requires that those who choose to do business with the state of Kansas register as retailers for sales tax collection purposes. This would bring in additional revenue for the state, revenue that is due but is being uncollected at the current time.

Thank you for your time and I'll be happy to answer any questions.

#### **About the Kansas Chamber of Commerce and Industry**

The Kansas Chamber of Commerce and Industry (KCCI) is the leading broad-based business organization in Kansas. KCCI is dedicated to the promotion of economic growth and job creation and to the protection and support of the private competitive enterprise system.

KCCI is comprised of nearly 2,000 businesses, which includes 200 local and regional chambers of commerce and trade organizations that represent more than 161,000 business men and women. The organization represents both large and small employers in Kansas. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

House Taxation  
Attachment 3  
Date 3-19-03