

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on March 24, 2003 in Room 519-S of the Capitol.

All members were present except: Representative Paul Davis
Representative Tom Sawyer

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

Conferees appearing before the committee: Jim Weisgerber, Department of Revenue
Richard Cram, Department of Revenue
Marlee Carpenter, KCCI
Allie Devine, Kansas Livestock
Leslie Kaufman, Kansas Farm Bureau
Ken Daniel, Midway Wholesale

Others attending: See attached list

Chairman Edmonds opened the meeting asking for any bill introductions. Richard Cram, Department of Revenue presented two concepts, one dealing with dropped shipments. This is a situation where there is an out-of-state retailer and they have an in-state warehouse. The out-of-state retailer would have an internet order with an in-state Kansas customer and the warehouse, which is a separate entity, would ship the product to the Kansas customer. Right now with that situation, sales tax is not being collected and sales release tax is not being collected. This proposal would deem the warehouse a retailer so that the warehouse would have the obligation to collect sales tax on that transaction. The other part of the proposal deals with situations where we have an out-of-state .com retailer and there is an in-state brick and mortar retailer and they are both selling similar merchandise and there is some type of affiliate relationship with the two and if the in-state brick and mortar retailer is promotion the business of the out-of-state retailer, this statute would indicate that as far as Kansas is concerned the .com retailer is deemed to have nexus.

Without objection this was accepted for introduction.

Appearing before the committee with a presentation regarding estate taxes, was Jim Weisberger from the Department of Revenue. He explained the two basic types of taxes imposed on decedent's estates, inheritance tax and estate tax.

First, an inheritance tax system and an estate tax system are similar in that they include essentially the same assets in the gross estate and value these assets in essentially the same manner.

Second, the principal differences, between an inheritance tax system and an estate tax system are (1) the concept by which the tax is imposed and (2) the treatment accorded a situation in which the estate contains property with a tax situs in another jurisdiction. In other words, while the same assets are subject to tax, the manner in which the tax is computed is different. (Attachment 1)

After Mr. Weisberger's presentation, Richard Cram, Department of Revenue presented the revenues by tax type/fiscal note of bills. (Attachment 2)

Chairman Edmonds opened the floor on **HB 2065** and **HB 2097** combined. Each conferee was to present his testimony and questions would be allowed when all testimony was done.

Marlee Carpenter, KCCI (Kansas Chamber of Commerce and Industry) presented testimony in favor of both **HB 2065** and **HB 2097** relating that a family owned business stands to lose 555 of all its' assets when it passes from one generation to the next. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 24, 2003 in Room 519-S of the Capitol.

Presenting testimony for the Kansas Livestock Association was Allie Devine, Vice President and General Counsel as a proponent for both **HB 2065** and **HB 2097**. KLA supports **HB 2097** as a means of beginning the elimination of estate taxes. It seeks to conform state estate taxes to federal death taxes that will be phased out over the years to 2010. Regarding **HB 2065** they understand that the current succession tax was designed a year ago to capture revenue from Class C heirs. While these heirs may be distant, they may be the only parties interested in continuing the ranching or farming operation. KLA wishes to assure that no one is precluded from continuing the family, extended or otherwise, business operation. (Attachment 4)

Kansas Farm Bureau was represented by Leslie Kaufman, State Director KFB Governmental Relations. Ms. Kaufman submitted testimony in support of **HB 2065** and **HB 2097**. They are supportive of repealing the succession tax, from a policy perspective, but also know that, as a practical matter, repeal also serves to eliminate a now confusion area of tax law. One way to accomplish that would be the passage of **HB 2065**. They also support the concept of conforming the Kansas estate tax to the federal tax, such as proposed in **HB 2097**. (Attachment 5)

Kenneth Daniel, Founder, Chairman and C.E.O. of Midway Wholesale testified in support of **HB2097**. This bill recouples the Kansas estate tax with the federal estate tax. For small businesses and farms, this is an extremely important issue. (Attachment 6)

With no further conferees wishing the address the bill, Chairman Edmonds allowed the members of the committee to ask questions of the conferees of their choice.

The Chairman called attention to an article on estate tax which was presented to the committee by Chris Courtwright from the Legislative Research Department. (Attachment 7)

With there being no further business before the committee, Chairman Edmonds adjourned the meeting at 10:33 a.m.

GUEST LIST

DATE March 24, 2003

NAME	REPRESENTING
Leslie Kaufman	Ks Farm Bureau
George Elton	PTN
Diane Shuman	RS Coop Council
Ken Davis	NFIB
Hal Hudson	NFIB
Alicia Devine	KLA
Charles Carpenter	Kansas Chamber
Ron Seeborg	Airm Law Firm
T.O. Anderson	KSCPA
Stacy Lutz	Wetzel
Michelle Peterson	Kansas Governmental Consulting
Tom Deches	GABA
Kathy Derron	KCC Chamber
Brian P. Olveras	Intern Sample
J Small	KOCH INDUSTRIES
Chris Wilson	K&IA
Walter Lee Smith	KEMSA
Shirley Baker	
Steve Johnson	Kansas Gas Service



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
POLICY AND RESEARCH

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY REGARDING TAXES IMPOSED ON DECEDENT'S ESTATES IN KANSAS Before the House Taxation Committee March 24, 2003

Types of Taxes

There are two basic types of taxes imposed on decedent's estates - inheritance tax and estate tax. An understanding of two major points is essential to an understanding of the similarities and differences in these systems.

First, an inheritance tax system and an estate tax system are similar in that they include essentially the same assets in the gross estate (the starting point in determining what is subject to tax), and value these assets in essentially the same manner.

Second, the principal differences between an inheritance tax system and an estate tax system are (1) the concept by which the tax is imposed, and (2) the treatment accorded a situation in which the estate contains property with a tax situs in another jurisdiction. In other words, while the same assets are subject to tax, the manner in which the tax is computed is different.

In order to compare and contrast the inheritance tax and the estate tax it is necessary to understand the concepts under which the taxes are imposed.

An inheritance tax is imposed on the right of a beneficiary to receive property, and is levied on the value received by each beneficiary. The individual heirs and beneficiaries are responsible for the payment of tax, unless a will or trust specifically provides otherwise. Inheritance taxes may generally be structured to achieve a particular tax incidence policy in that different classes of beneficiaries may be subjected to selective tax rates and exemptions.

An estate tax is imposed on a decedent's right to transfer property, and is levied on the net value of the decedent's estate. The estate is responsible for the payment of tax. The estate tax lacks the flexibility of an inheritance tax in that selective tax rates and exemptions may not be applied to particular classes of beneficiaries, but has the advantage of ease of computation and administration.

In addition, it is necessary to consider the treatment accorded a situation in which the estate contains property with a tax situs in another jurisdiction.

Under an inheritance tax concept, assets which are beyond the jurisdiction of the taxing authority are set apart before the tax is imposed. Most deductions for debts and expenses, federal tax, and claims for exemption which are personal to the distributee, are prorated to reflect the percentage that property within the taxing jurisdiction bears to the total of all property in the estate.

Under an estate tax concept, the tax liability of the estate is determined before the tax situs of property comprising the estate is considered. After the tax liability has been determined the total liability is then prorated to reflect the percentage that property within the taxing jurisdiction bears to the total of all property in the estate.

There is another type of death tax that may be used alone, or in connection with either an inheritance tax or an estate tax. It is called a "pick-up" tax.

The pick-up tax taxes the estate in an amount equal to the federal credit for state death taxes. Under a pick-up tax system, the estate tax liability is equal to the federal credit allowed. Absent a state death tax, liability in an amount at least equal to the state death tax credit would be owed to the federal government. Stated differently, a state pick-up tax system does not increase total federal and state death tax liability, but merely causes a portion of the death tax liability to be paid to the state instead of to the federal government.

Overview of Kansas Estate and Inheritance Taxes

Deaths Occurring Prior To July 1, 1998 – Inheritance Tax

Estates of persons who died before July 1, 1998 are subject to an inheritance tax. Additional information about the inheritance tax is available from the Department of Revenue.

Deaths Occurring On Or After July 1, 1998 And Prior To January 2, 2002 – Pick-up Tax

Estates of persons who died on or after July 1, 1998 and prior to January 2, 2002 are subject to a pick-up tax. It is a tax on the value of the decedent's estate, and is equal to the federal credit for state death taxes computed on the basis of 1997 federal law. By statute, Kansas has incorporated by reference federal law as it existed on December 31, 1997.

Federal law as it existed on December 31, 1997 provides that when estate taxes are paid to a state, a credit for that tax is allowed against the federal tax shown on the United States Estate (and Generation Skipping Transfer) Tax Return, federal Form 706. The Kansas estate tax is equal to 100% of the maximum federal credit allowable for state death taxes paid. In effect, the Kansas estate tax return picks up the maximum allowable credit amount. This is why the Kansas estate tax is referred to as a "pick-up tax".

Generally, no Kansas tax is due unless the gross value of the estate exceeds the federal estate tax filing threshold for the year in which the death occurred. In the case of estates of decedents dying during 1998, the federal filing threshold was \$625,000. In the case of estates of decedents dying during 1999, the federal filing threshold was \$650,000. In the case of estates of decedents dying during 2000 and 2001, the federal filing threshold was \$675,000.

Death Occurring On Or After January 2, 2002 And Prior To June 6, 2002 – Pick-up Tax

Estates of persons who died on or after January 2, 2002 are subject to a pick-up tax computed on the basis of 1997 federal law Kansas has incorporated by reference.

A major feature of the federal tax package adopted in June of 2001 is the phasing down and eventual elimination of the federal estate tax. Under this law, the federal estate tax will be gradually reduced over the next decade until it is eliminated in calendar year 2010.

The recent changes in federal law fall into two primary categories. First, the accelerated increase in the Internal Revenue Code §2010 applicable exclusion amount has the effect of increasing the federal filing threshold to \$1,000,000 effective January 2, 2002. In accordance with federal law this amount will increase to \$1,500,000 in 2004, \$2,000,000 in 2006, and \$3,500,000 in 2007.

Second, under the new federal law the federal credit for state death taxes found in Internal Revenue Code §2011 is phased out. In accordance with federal law, for deaths occurring in 2002 the amount of the credit is decreased by 25%, for deaths occurring in 2003 by 50%, and for deaths occurring 2004 by 75%. For deaths occurring in 2005 the credit is eliminated and replaced with a deduction.

The recent changes in federal estate tax law do not affect the Kansas estate tax. Many believe the Kansas estate tax is in total conformity with federal law, and that the 2001 changes to federal law will automatically flow through to Kansas. This is not the case. By statute, Kansas has incorporated by reference federal law as it existed on December 31, 1997. Therefore, under current law, the Kansas estate tax will not be affected by the 2001 changes to federal law.

The 1997 federal law Kansas has incorporated by reference does not recognize the accelerated filing thresholds found in current federal law. Instead, the state filing threshold is \$700,000 for deaths occurring in 2002 and 2003, \$850,000 for deaths occurring in 2004, \$950,000 for deaths occurring in 2005, and \$1,000,000 for deaths occurring in 2006 or thereafter.

Similarly, the 1997 federal law Kansas has incorporated by reference does not include a provision that provides for a phase-out of the credit for state death taxes. Instead, 100% of the amount of the credit is to be paid.

Deaths Occurring On Or After June 6, 2002 – Pick-up Tax And Succession Tax

Estates of persons who died on or after June 6, 2002 are subject to a pick-up tax and to a succession tax.

The Kansas succession tax is in addition to the Kansas estate tax. It is imposed on the privilege of succeeding to the ownership of any property, corporeal or incorporeal, and any interest therein within the jurisdiction of Kansas by any person who is not a spouse, brother or sister, lineal ancestor, lineal descendant, step-parent, step-child, adopted child, lineal descendant of any adopted child or step-child, spouse or surviving spouse of a son or daughter, or spouse or surviving spouse of an adopted child or step-child of the decedent. Generally, any estate that includes property passing to any person who is not a spouse, brother or sister, lineal ancestor, lineal descendant, step-parent, step-child, adopted child, lineal descendant of any adopted child or step-child, spouse or surviving spouse of a son or daughter, or spouse or surviving spouse of an adopted child or step-child of the decedent will be subject to the succession tax, regardless of the size of the estate.

Overview of Proposed / Possible Changes

House Bill 2065 – Repeal of Succession Tax

House Bill 2065 provides for the repeal of the succession tax.

House Bill 2097 – Conformity to Current Federal Law

House Bill 2097, as introduced, amends K.S.A. 79-15,101 to provide that references to “federal law” or the “internal revenue code” mean the provisions of the Internal Revenue Code as they existed on December 31, 2001, except that section 2011(b)(2) of the Code is to be disregarded. By referencing federal law as it existed on December 31, 2001, the amendment recognizes the accelerated increase in the federal filing threshold, and conforms Kansas law to the new federal threshold levels. By disregarding section 2011(b)(2) of the Code, the amendment specifically ignores the phase out of the federal credit for state death taxes, thereby requiring Kansas to continue collecting 100% of the credit amount.

It should be noted that conformity to the current federal law will result in the elimination of the “pick-up” tax for estate’s of decedents dying on or after January 1, 2005. This means that under House Bill 2097 the Kansas “pick-up” estate tax will disappear in 2005, with the accompanying loss of the revenue from that source.

Senate Bill 94 – Repeal of Succession Tax

Senate Bill 94 provides for the retroactive repeal of the succession tax. We understand that the Senate Committee on Assessment and Taxation is considering amendments that would add enforcement powers to the current “pick-up” estate tax and keep the bill fiscally neutral.

Senate Bill 148 – Stand Alone Estate Tax

Senate Bill 148 creates a stand-alone Kansas estate tax. It would replace both the current “pick-up” tax and the succession tax. We proposed amendments to the rate structure to make it

revenue neutral at least as to replacing the “pick-up” tax revenues. The bill has been heard in the Senate Assessment and Taxation Committee and the suggestion has been made to refer it for interim study.

The structure of the tax is based on current (December 31, 2002) federal law, but it is independent of federal law. If federal law changes, the major components of the Kansas law will not change. All calculations made in determining the tax (including the size and valuation of the gross estate, deductions, computation of the taxable estate, and calculation of the tax) are made independently under Kansas law.

The bill also addresses two problems with current law:

First, the bill recognizes current federal law with regard to the calculation of the “pick-up” tax (i.e. the federal credit for state death taxes). In other words, the bill recognizes the planned increases in the federal filing threshold (which means few and fewer estates will have to make the computation). And, the bill recognizes the percentage phase-out of the credit (which means the amount of the credit is reduced even for those estates paying it).

Second, the bill repeals the succession tax, retroactively. The succession tax, which was intended to re-impose the inheritance tax on Class C heirs, became effective for estates of decedents dying on or after June 6, 2002. However, many believe the law is fatally flawed and that the best way to address the problem is to repeal the law.

Add Administrative / Enforcement Provisions To Current Pick-Up Tax

If no action is taken, the current pick-up tax will remain in effect. If this occurs, the Legislature is encouraged to add administrative and enforcement provisions to the current law. Without these provisions, as the gap between the state filing threshold and the federal filing threshold widens it will become increasingly difficult (if not impossible) for the Department to administer and enforce the Kansas law.

Replace The Succession Tax With An Inheritance Tax

It would be possible to retain the current pick-up tax and replace the succession tax with an inheritance tax. The structure of the inheritance tax would be based on federal law, but would be independent of federal law. If federal law changed, the major components of the Kansas law would not change.

Estates filing a federal estate tax return would use the values determined for federal estate tax purposes as the values to be used for Kansas purposes. Estates not required to file a federal estate tax return would use Kansas law to determine the tax (including the size and valuation of the gross estate, deductions, computation of the taxable estate, and calculation of the tax).

REVENUES BY TAX TYPE/FISCAL NOTE OF BILLS (\$millions)						
Fiscal Year	Current Succession Tax	Current Estate Pick-Up Tax	HB 2097 (Conform to federal filing thresholds)	HB 2065 (Repeal Succession Tax prospective)	Class C Inheritance Tax	
2002	0	48.1	0	0	0	
2003	5	50	0	0	0	
2004	10	50	-5	-10	15	
2005	10	50	-6.9	-10	15	
2006	10	50	-50	-10	15	

LEGISLATIVE TESTIMONY



The Unified Voice of Business

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HB 2065 and HB 2097

March 24, 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 support of both bills today. The Kansas Chamber has a long-standing policy to repeal both the inheritance tax and estate tax. Last session the "class C" inheritance tax was reinstated on "class C heirs", nieces, nephews, charities, etc. KCCI did not support this reimposition. There have been many problems with the reimposition of this tax. The class C inheritance tax has been very hard to administer because of the way it was drafted and will not bring in the money envisioned. We support HB 2065, the repeal of the inheritance tax.

A family-owned business stands to lose 55% of all its assets when it passes from one generation to the next. To support family-owned businesses large and small the Kansas Chamber supports HB 2097 and the conformity of state estate tax law to federal estate tax law. KCCI supported the pick-up estate tax changes made in the late 1990s and we support the phase out of the estate tax in HB 2097 today. We understand the fiscal situation of the state but feel this is an important issue the legislature must consider if not this year then next.

KCCI supports both HB 2065 and HB 2097. Thank you for your time and I will 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 3-24-03



Since 1894

TESTIMONY

To: House Committee on Taxation

From: Allie Devine, Vice President and General Counsel

Date: March 24, 2003

Re: House Bills 2065 and 2097

Good morning. My name is Allie Devine. I am representing the Kansas Livestock Association (KLA). KLA is a trade organization that represents all segments of the livestock industry and has over 6,000 members.

We appreciate the opportunity to comment on both of these bills. Before addressing the specifics of these bills please let me provide a context for our positions. At the federal level, the National Cattlemen's Beef Association (NCBA) has been a leader in organizing the efforts of small businesses to repeal the federal death tax.

Death taxes are often one of the reasons ranches and farming operations split. Death, unlike other taxable events, produces no revenue. This is why it becomes a burden on the heirs. The heirs must generate the revenue to pay the tax. At a time when we are searching for ways to maintain our farms and ranches, and encourage young farmers and ranchers, we cannot afford to undercut them with this type of tax policy. Ranching and farming are capital intensive. It takes many years to accumulate a sustainable size operation. Our members want to preserve and pass their work onto their families. We view death taxes as an obstacle to the survival of ranching and farming operations, small businesses and the preservation of a family legacy.

A year ago at the NCBA convention President Bush stood before 5,000 ranchers, tipped his cowboy hat and called for the permanent repeal of death taxes. President Bush said, "the repeal of death taxes will allow families to pass our assets on from one generation to the next." The crowd was ecstatic.

KLA supports HB 2097 as a means of beginning the elimination of estate taxes. HB 2097 seeks to conform state estate taxes to federal death taxes that will be phased out over the years to 2010. It is our understanding from discussions on the Senate side that this bill generates 45 million dollars in 2004 and 43.1 million dollars in 2005. After 2005, the state estate tax would be eliminated. We are hopeful that we will see a turn in the economy such that the phase out will not have an impact on the long-term finances.

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Regarding HB 2065 we understand that the current succession tax was designed a year ago to capture revenue from Class C heirs. While these heirs may be distant, they may be the only parties interested in continuing the ranching or farming operation. Philosophically we support HB 2065, because we want to assure that no one is precluded from continuing the family, extended or otherwise, business operation.

Thank you for your time. We are committed to working with you on this important issue.



Kansas Farm Bureau

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

**Re: HB 2065 -- repealing the succession tax and
HB 2097 – providing greater conformity with the federal estate tax.**

**March 24, 2003
Topeka, Kansas**

**Presented by:
Leslie J. Kaufman, State Director
KFB Governmental Relations**

Chairman Edmonds and members of the Committee, thank you for the opportunity to present supporting comments on HB 2065 and HB 2097 regarding the succession and estate taxes. I am Leslie Kaufman, the State Director of Governmental Relations for Kansas Farm Bureau (KFB). As I am sure you are aware, KFB is the state's largest general farm organization. We represent agricultural producers through the 105 county Farm Bureau Associations across Kansas.

Farm Bureau policy, on both the state and national levels, has long opposed any form of "death tax". Our members have policy recognizing that developing an estate pick-up tax for Kansas provided reform, but also calling for the repeal of the federal estate tax and the state inheritance tax on class "C" heirs. I would note, the specific language addressing class "C" heirs was added this past November in response to 2002 legislative action resulting in the "succession" tax we now have.

We are supportive of repealing the succession tax, from a policy perspective, but also know that, as a practical matter, repeal also serves to eliminate a now confusing area of tax law. One manner to accomplish that would be the passage of HB 2065. We support this bill. We do, however, recognize that course of action has fiscal implications that the legislature might need to address.

We also support the concept of conforming the Kansas estate tax to the federal tax, such as proposed in HB 2097. We have been supportive of means to phase-out the estate tax permanently, as well. Repealing death taxes is an issue of importance for Farm Bureau on the state and national levels.

We appreciate the opportunity to comment on HB 2065 and HB 2097 and are ready to participate in further discussion on the state's succession and estate tax mechanisms.



Midway Sales & Distributing, Inc. d/b/a

MIDWAY WHOLESALE

Topeka • Salina • Lawrence • Manhattan • St. Joseph • Kansas City

**Presentation to the House Taxation Committee
March 24, 2003**

**By Kenneth L. Daniel, Jr.
Chairman and C.E.O., Midway Sales & Distributing, Inc. d/b/a Midway Wholesale
and
2003 Leadership Council Chairman, NFIB/Kansas**

Mr. Chairman and Members of the Committee:

My name is Kenneth Daniel. I am the Founder, Chairman and C.E.O. of Midway Wholesale, a building materials distributor headquartered in Topeka with five other Kansas branches and one Missouri branch. I am also the Chairman of NFIB/Kansas, a volunteer position.

I speak in strong support of House Bill 2097. This bill recouples the Kansas estate tax with the federal estate tax. For small businesses and farms, this is an extremely important issue.

NFIB and dozens of other small business and farm organizations have been fighting for many years to get rid of the hated and unfair death taxes. That battle has been partially won in Washington, and if Kansas will stay coupled to the federal law, it will also be won in Kansas.

The present combination of Kansas death taxes makes both business continuity planning and estate planning a nightmare. For many Kansans, expensive estate plans have to be redone every year. Frequent changes in the past several years have made the problem much worse. This pattern of churning laws that has

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been frustrating the efforts of many of your best tax-paying Kansas businesses to plan for survival as Kansas companies.

Midway Wholesale has 78 Kansas employees, we are headquartered here, and we are paying a full load of a wide range of Kansas taxes. We want to stay a Kansas-owned and Kansas-headquartered company as we turn over the ownership to younger managers. Our biggest hurdle in making that happen is death taxes. If we can't overcome that hurdle, our alternative is to sell out to one of our nationwide competitors.

We aren't just talking about Midway Wholesale, however. Your decisions on estate taxes will determine whether much larger but still independent employers like Koch Industries, Intrust Bank, and others continue to be Kansas-owned.

We urge you to be patient. Recouple to the federal by passing House Bill 2097. Give Congress a chance to establish a permanent estate tax policy.

Thank you. I will be happy to answer any questions.

Present Rates: Banks – 2.25 percent plus 2.125 percent surtax on taxable income over \$25,000; Savings and Loan Associations and Trust Companies – 2.25 percent plus 2.25 percent surtax on taxable income over \$25,000.

History of Tax Rates	1963	1970	1972	1979	1998
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Banks	(Amounts in Percent)				
Taxable Income					
First \$25,000	5	5.5	5	4.25	2.25
\$25,001 +	5	7.75	7.25	6.375	4.375

Savings and Loans and Trust Companies

Taxable Income					
First \$25,000	5	5	4.5	4.5	2.25
\$25,001 +	5	7.25	6.75	6.75	4.5

Special Credits: Taxpayers may be allowed credits against the tax for expenditures for providing child day care assistance

and accessibility to the handicapped and for making certain agricultural production loans with reduced interest rates. Additional credits are available to the extent of 15 percent of property taxes paid on commercial and industrial machinery and equipment.

Disposition of Revenue: To State General Fund.

Net Collections:

(\$ in thousands)

FY 2000	\$	22,301
FY 1999		26,356
FY 1998		22,150
FY 1997		26,506
FY 1996		35,262

Estate Tax

Enacted: 1978 (changes in Kansas Inheritance Tax Act conformed Kansas to federal law for pick-up estate tax purposes). Kansas Estate Tax Act applicable to estates of all decedents dying on and after July 1, 1998. (The Kansas Inheritance Tax Act was repealed on that date.)

Statutory Citation: KSA 79-15,100 *et seq.*

Administration and Collection: Department of Revenue, Division of Taxation

Collection: Tax is due upon the filing of federal estate tax return (generally within nine months after the death of the decedent).

Tax Base: Estates of resident decedents and nonresident decedents holding interest

in property with a Kansas tax situs which are required by federal law to file for federal estate tax purposes. The estate is defined to include "real, personal and mixed property or interest therein ... which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors." Apportionment language determines the taxable share of resident-decedents with property in other states and nonresident decedents with property in Kansas.

Rate: The amount of Kansas estate tax liability is equal to the maximum credit allowable by Section 2011 of the federal Internal Revenue Code against the tax imposed on the transfer of the estate by the decedent. (This is known as the "pick-up" tax.) The state also picks-up the maximum

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federal generation-skipping transfer tax credit.

Federal Estate Tax Exemptions and Exclusions: Unified federal estate and gift tax credits allow an estate of an individual decedent to exempt the following amounts from taxation:

Year	Exemption Under Unified Credit	Closely-Held Business Exclusion	Total Exclusion for Closely-Held Businesses
2000-01	\$ 675,000	\$ 625,000	\$ 1,300,000
2002-03	700,000	600,000	1,300,000
2004	850,000	450,000	1,300,000
2005	950,000	350,000	1,300,000
2006 and thereafter	1,000,000	300,000	1,300,000

An additional exclusion for "closely-held" family farms and businesses allows qualifying estates to exempt up to \$1.3 million from taxation. Since the exemptions and exclusions are available on an individual basis, a husband and wife will be able to transfer up to \$2.0 million of assets free of estate taxes starting in 2006 and can currently transfer up to \$2.6 million of assets relating to closely-held business interests.

History of Tax Rates: Prior to the repeal of the inheritance tax in 1998, estates paid the greater of the pick-up estate tax or the inheritance tax. Inheritance tax exemptions of \$30,000 were available for lineal ascendants and descendants; and \$5,000 for brothers and sisters. Rates ranged from 1 to 5 percent on lineal ascendants and descendants; from 3 to 12.5 percent on brothers and sisters; and from 10 to 15 percent on all others.

Disposition of Revenue: To State General Fund

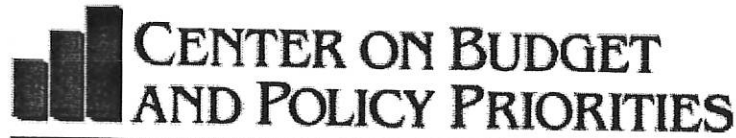
Net Collections:

(\$ in thousands)

	Estate	Inheritance	Total
FY 2000	\$ 59,081	\$ 3,807	\$ 62,888
FY 1999	11,620	70,239	81,859
FY 1998	n/a	n/a	88,651
FY 1997	n/a	n/a	76,029
FY 1996	n/a	n/a	98,704

Note: Estate and inheritance taxes were commingled prior to 1998. Repeal of the inheritance tax was expected to reduce receipts by about 67 percent when fully phased in.

	<u>Kansas Exemption Amount</u> <u>(1997 federal law)</u>	<u>Current Federal</u> <u>Exemption Amount</u>
2002	\$700,000	\$1,000,000
2003	\$700,000	\$1,000,000
2004	\$850,000	\$1,500,000
2005	\$950,000	\$1,500,000
2006	\$1,000,000	\$2,000,000
2007	\$1,000,000	\$2,000,000
2008	\$1,000,000	\$2,000,000
2009	\$1,000,000	\$3,500,000
2010	\$1,000,000	tax repealed
2011	\$1,000,000	\$1,000,000



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Many States are Decoupling from the Federal Estate Tax Cut

by Elizabeth C. McNichol

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Last summer's federal tax legislation includes a phaseout of the federal estate tax, culminating in full repeal in 2010. On a much faster track, the legislation repeals *over the next four years* the federal estate tax credit to which state estate taxes are tied. In most states, estate and inheritance taxes are designed in such a way that states will face either a full or partial loss of estate tax revenues as this credit is phased out. States can avert this loss of revenue by "decoupling." Decoupling means protecting the relevant parts of their tax code from the changes in the federal tax code, in most cases by remaining linked to federal law as it existed prior to the change. Seventeen states and the District of Columbia are currently decoupled.

- **Eleven states have acted to decouple from the federal changes.** Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Rhode Island, and Vermont enacted legislation linking their estate taxes to the federal estate tax as in effect before the 2001 tax bill. Minnesota, which passes a tax conformity package each year, explicitly elected not to change its estate tax to conform to the federal changes. Maine has elected to decouple at least for 2002, and Wisconsin has decoupled through 2007. Nebraska decoupled by creating a separate state estate tax on estates that exceed \$1 million based on the federal law before the 2001 changes.
- **Six states and the District of Columbia will remain decoupled unless they take legislative action.** In six states — Kansas, New York, Ohio, Oregon, Virginia, and Washington — and the District of Columbia, estate tax laws are written in such a way that the state will not conform to the federal changes unless it takes legislative action. These states have either adopted budgets for this year without conforming to the new law or have no legislative session and thus are decoupled from the federal changes.
- **The decoupling status of one state is uncertain.** The estate tax law of a seventh state — Arkansas — is written in such a way that it would appear that the state would not conform to the federal changes unless it takes legislative action. However, Arkansas is conforming to the federal changes while awaiting legislative action next year.

Most states can decouple through actions by the legislature. In a few states, there are additional barriers to decoupling. For example, in California decoupling would require a vote of the people, and in three states — Alabama, Florida, and Nevada — constitutional provisions restricting the amount of estate tax levied would likely need to be altered. Oklahoma is the only state that has

no need to decouple, since its separate tax is designed in a way that avoids the revenue loss from the federal changes.

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Inheritance Tax

Enacted: 1909; repealed 1913; re-enacted 1915; revised in 1919 and 1978.

Repealed: 1998.

Statutory Citation: KSA, Ch. 79, Art. 15.

Administration and Collection: Department of Revenue, Division of Taxation.

Collection Period: Tax was due at the expiration of nine months after the death of the decedent.

Tax Base: The tax was imposed on the interests received by beneficiaries from a decedent's estate, less exemptions, and was based primarily on the relationship of the beneficiary to the decedent.

Rates, Exemptions, and Exclusions: The rates and exemptions in effect in 1998 for the three classes of distributees are summarized in the following table:

Value of Share Above Exemption*		Class A—Children, Lineal Relations		Class B—Brothers and Sisters		Class C—All Others	
		Tax on Col. 1	Rate on Excess	Tax on Col. 1	Rate on Excess	Tax on Col. 1	Rate on Excess
(1)	(2)						
\$ 0	\$ 25,000	\$ 0	1.0%	\$ 0	3.0%	\$ 0	10.0%
25,000	50,000	250	2.0	750	5.0	2,500	10.0
50,000	100,000	750	3.0	2,000	7.5	5,000	10.0
100,000	200,000	2,250	4.0	5,750	10.0	10,000	12.0
200,000	500,000	6,250	4.0	15,750	10.0	22,000	15.0
500,000	0	18,250	5.0	45,750	12.5	67,000	15.0

*** Exemptions:**

Class A—lineal ancestors and descendants, adopted children, etc., \$30,000 exemption.

Class B—brothers and sisters, \$5,000 exemption.

Class C—all others, no exemption.

Property left to a surviving spouse or to a charity was exempt from the inheritance tax.

Note: Exemptions are prorated when there are assets located outside Kansas. No tax is due on any class if the share is less than \$200, after deduction of the exemptions.

Disposition of Revenues: To State General Fund.