

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on March 25, 2003 in Room 519-S of the Capitol.

All members were present except:

Representative John Faber

Committee staff present:

Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Senator Corbin  
Richard Cram, Department of Revenue  
Joe Crosby, Committee on State Taxation,  
Washington, D.C.  
Lew Eber, Kansas Chamber of Commerce  
Larry Baer, Kansas League of Municipalities  
Robert Watson, City of Overland Park

Others attending:

See attached sheet.

On opening the meeting the Chairman asked for any bill introductions. Hearing none, he opened the meeting for public hearings on **SB 192** - *Enacting the streamlined sales and use tax agreement conformity act.*

First to appear as a proponent of **SB 192** was Richard Cram of the Department of Revenue. He submitted testimony on behalf of Acting Secretary of Revenue, Joan Wagon. She feels that the States cannot count on Congress taking action in the area of Streamlined Sales and Use Tax soon, and instead we must focus on persuading multi-state retailers to sign on with the Agreement and voluntarily collect the use tax.

(Attachment 1) Mr. Cram then presented his testimony stating that the bill contains the changes needed to Kansas sales tax law, in order to meet the uniformity and simplification requirements set forth in the Streamlined Sales and Use Tax Agreement adopted by the Implementing States (including Kansas) on November 12, 2002. The agreement will become effective and operational once 10 states with at least 20% of the population in all states imposing sales tax join the Agreement. His testimony also listed the Provisions of **SB 192**. (Attachment 2)

Legislative Director, Council on State Taxation (COST), Joseph R. Crosby presented testimony in support of **SB 192**. This bill not only greatly simplifies Kansas' current sales tax system, but it would also make it more uniform with other states considering similar legislation. This simplified sales tax system will help Kansas as well by simplifying the administration of the tax and increasing compliance with the tax on the part of businesses that are already subject to the system. Perhaps more importantly, and as has been demonstrated recently, many sellers not currently collecting the sales tax in Kansas will be induced to do so under a simplified sales tax collection system. (Attachment 3)

Representing the KCCI ( Kansas Chamber of Commerce and Industry), Lewis Ebert, President and C.E.O., submitted testimony in favor of **SB 192**. It is their feeling the current system for collecting and remitting sales tax is very burdensome and complex, and retailers, and retailer. Simplification is needed in this area. Companies large and small will benefit from the changes being proposed in **SB 192**. (Attachment 4)

Next to appear in support of **SB 192** was Larry Baer, Kansas League of Municipalities. The League supports the bill because it provides a mechanism for the capture of lost state revenue and includes a local use tax component that will permit local governments to capture lost local revenues. (Attachment 5) The League also submitted an amendment which they would like approved. (Attachment 6)

Robert Watson, City Attorney for Overland Park testified before the committee in support of **SB 192**. The City of Overland Park expressed support for Sections 29 through 46 in the form being proposed to the committee in the balloon amendment. These sections pertain to transportation development districts.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 25, 2003 in Room 519-S of the Capitol.

(Attachment 7)

Kathy Peters, a bond attorney for the City of Overland Park stood before the committee with a brief statement in support of the **SB 192**. (No testimony)

Senator Corbin did not testify on **SB 192**, however, he voiced his support and stood for questions.

Written testimony in support of **SB 192** was submitted by Mike Taylor, Government Relations Director for the City of Wichita (Attachment 8), Randall Allen, Executive Director Kansas Association of Counties, (Attachment 9), and Danielle Noe, Intergovernmental Relations Coordinator Johnson County (Attachment 10).

With no further conferees on **SB 192**, Chairman Edmonds closed the hearing.

The Chairman opened the floor for discussion on **HB 2416**. *Representative Larkin made a motion that **HB 2416** be placed on the consent calender. Representative Sharp seconded the motion. Vote was taken motion passed.*

With no further business before the committee, meeting adjourned at 10:30 p.m.

GUEST LIST

DATE March 25

NAME	REPRESENTING
Bob Clark	Hallmark Cards
Vivian Clement	" "
Robert Walker	City of Overland Park
Christy Caldwell	Topeka Chamber of Comm
LARRY R. BAER	LKW
Bernie Koch	Wichita Area Chamber of Comm
Marion Carpenter	KCCB
Low Ewert	KCCI
Joe Crosby	COMMISSION ON STATE TAXATION
Kathy Peters	City of Overland Park
Ron Applebitt	WATERONE
Jim Eudy	KASF
T. C. Anderson	KSCPA
Judy Shaw	MCA of KS
Erik Sartorius	City of Overland Park
Deann Williams	KMCA
Michelle Peterson	Kr. Bus. Consulting
Judith Clark	Hallmark
Stuart Little	Overland Park Chamber
Deane Shuman	KS coop council
J. Small	KOCH
<del>Mr. [unclear]</del>	<del>ATI</del>

~~Bill Henry~~  
~~Tom Coe~~  
 Mark Seaforth  
 Steve Johnson

~~KUCH~~  
 CBBA  
 KUMH  
 Kansas Eyes Service



**K A N S A S**

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
POLICY AND RESEARCH

KATHLEEN SEBELIUS, GOVERNOR

Statement to House Tax Committee  
Joan Wagnon

March 25, 2003

**Senate Bill 192 Effective Date**

Chairman Edmonds and Members of the Committee:

Although the Streamlined Sales and Use Tax Agreement conforming provisions of Senate Bill 192, as it passed the Senate, would not become effective until July 1, 2004, we support moving the enactment date to this year, upon Kansas joining the Agreement.

After attending a Federation of Tax Administrators (FTA) meeting in Washington, D.C. last week, I am more convinced than ever that the States cannot count on Congress taking action in this area soon. Instead, we must focus on persuading multi-state retailers to sign on with the Agreement and voluntarily collect the use tax. Our best avenue for collecting the use tax we are missing is to work through this Agreement. The simplification it represents and the guarantees to large retailers for amnesty in case of errors, standardization of tax bases and prospective conformity through voluntary compliance have huge wins for the state of Kansas. I am eager for Kansas to move forward in joining the Agreement and urge your positive votes for Senate Bill 192. I also believe that the States will reach the thresholds in the Agreement for implementation (10 States passing legislation conforming to the Agreement, containing at least 20% of the population of States imposing sales tax) in the near future and Kansas should be among that group.

House Taxation  
Attachment 1  
Date 3-25-03



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
POLICY AND RESEARCH

KATHLEEN SEBELIUS, GOVERNOR

Testimony to House Tax Committee  
Joan Wagnon  
Secretary of Revenue

March 25, 2003

## Senate Bill 192

Chairman Edmonds and Members of the Committee:

Senate Bill 192 contains the changes needed to be made to Kansas sales tax law, in order to meet the uniformity and simplification requirements set forth in the Streamlined Sales and Use Tax Agreement (Agreement) adopted by the Implementing States (including Kansas) on November 12, 2002. The Agreement will become effective and operational once at least 10 states with at least 20% of the population in all states imposing sales tax join the Agreement. Four states (Wyoming, North Carolina, Minnesota, Illinois) adopted legislation to conform to the Agreement last year, and 3 more (Kentucky, West Virginia and South Dakota) have adopted such legislation so far this year. A state cannot become a Member of the Agreement until it's laws meet the uniformity and simplification requirements. The effective date of the changes proposed in Senate Bill 192 is July 1, 2004 (with a few exceptions to be explained later). Although this will prevent Kansas from becoming a Member State of the Agreement any sooner than July 1, 2004, the Legislature would have the opportunity to observe whether Congress will authorize states to require remote retailers to collect use tax on Internet and catalog sales, before the uniformity and simplicity provisions in Senate Bill 192 become effective. If Kansas wants to be one of the initial states joining the Agreement, then the effective date would need to be earlier.

### Provisions of Senate Bill 192

The provisions of Senate Bill 192 are described below, by subject area.

#### Uniform Definitions—Section 4

The Agreement requires that if a state's sales tax laws use certain terms, or if those terms fall within a state's sales tax impositions or exemptions, then the definitions of those terms contained in the Agreement must be adopted. Senate Bill 192 adds several new definitions to Kansas sales tax law. The following terms are added, not because they are required definitions, but because they are terms frequently used within the Agreement (and also within the Senate Bill 192 provisions), and for clarity sake need to be defined. These include: agent, certified automated system, certified service provider, model 1 seller, model 2 seller, model 3 seller, purchaser, registered under this agreement, seller, sourcing rules, agreement, and member state. The following terms are uniform definitions required by the Agreement to be adopted in Kansas:

delivery charges, direct mail, lease or rental, purchase price, retail sale (differs slightly from current Kansas definition), sales or selling price, computer, computer software (differs from current Kansas definition), delivered electronically, electronic, load and leave, prewritten computer software, tangible personal property (differs slightly from current Kansas definition), alcoholic beverages, food and food ingredients, tobacco, drug (differs from current definition), durable medical equipment (differs from current Kansas definition of "medical equipment"), mobility enhancing equipment, prescription, and prosthetic device (differs from current Kansas definition).

Most of the above definitions are consistent with current Kansas law. Some differences arise. Under Kansas law, tangible personal property is defined to include computer software (both custom and canned) and prepaid telephone calling cards. The Agreement treats custom software as a service and defines canned software as tangible personal property. The Agreement also defines prepaid calling cards as a service. Changes to Kansas law are made to conform to the Agreement definitions. See Section 5, p. 24, lines 12-22 and lines 31-41.

Adoption of the Agreement definition for "drug" requires some cosmetic changes to the sales tax exemption for prescription drugs, K.S.A. 79-3606(p). See Section 6, p. 29, lines 26-37.

Kansas law contains an exemption for "medical equipment," but excluding items customarily used for human habitation purposes. K.S.A. 79-3606(hh). The Agreement contains a required definition for "durable medical equipment." This new term is inserted in the exemption statute, see Section 6, p. 33, lines 11-22.

Kansas law contains an exemption for prescribed prosthetic and orthopedic appliances. K.S.A. 79-3606(r). The Agreement contains required definitions for "prosthetic devices" and "mobility enhancing equipment." The exemption must be modified to use these terms. However, this should not substantively change the exemption. See Section 6, p. 29, lines 41-43; p. 30, lines 1-19.

#### **State Administration of All Local Sales Taxes—Sections 29 through 42**

The Agreement requires that all local sales taxes be administered at the state level. This is also current Kansas law. However, last year, the legislature adopted the "transportation district excise tax act" in House Bill 2949, which created a locally administered excise tax to support transportation infrastructure. It operates essentially like a local sales tax. Senate Bill 192 proposes to amend this act and make this tax a transportation district local sales tax, to be administered at the state level, in conformity with the Agreement. See Sections 29 through 42. Section 41 expands the secretary's authority to disclose transient guest tax and local sales tax distribution information with transportation development district bond trustees. Unlike the rest of the bill, these provisions would become effective upon publication in the statute book.

#### **Uniform State and Local Sales Tax Bases—Sections 5-6**

The Agreement requires that by 2006, except for motor vehicles, aircraft, watercraft, modular homes, manufactured homes or mobile homes, the sales tax base (i.e., the items subject to sales tax) must be identical at the state and local level. If an item is subject to state sales tax, it must also be subject to local sales tax, and vice versa. In Kansas, sales of water, natural gas, electricity and heat delivered through mains, lines or pipes for residential or agricultural use is exempt from state sales tax but subject to local sales tax. However, the Agreement does allow a state to impose a zero state sales tax rate on sales of piped natural or artificial gas, electricity, or other heating fuels delivered by the seller. Thus, the only state vs. local sales tax base issue for Kansas concerns sales of water for residential or agricultural use. Senate Bill 192 (Section 6, p. 31, lines

18-37), effective for 2006, deletes from the state sales tax exemption at K.S.A. 79-3606(w) sales of natural gas, electricity, and heat delivered through pipes, lines or mains, and deletes K.S.A. 79-3606(x), the state exemption for sales of propane, LP gas, coal, wood and other fuel sources for the production of heat or lighting for residential use. Senate Bill 192 (Section 5, p. 20, lines 39-43; p. 21, lines 1-3) then provides, effective 2006, a “zero” percent state sales tax rate on the sales of natural gas, electricity, and heat delivered through pipes, lines or mains for residential or agricultural use, and a “zero” percent state sales tax rate on the sales of propane, LP gas, coal, wood and other fuels for residential use. Sales of water for residential or agricultural use remain exempt from state sales tax, and beginning in 2006, will also be exempt from local sales tax. See Section 43, p. 69, lines 38-43; p. 70, lines 1-11.

### **Local Use Tax—Section 2**

Unlike many other states, Kansas does not have a local use tax, except for boats and motor vehicles (when the local use tax is paid upon registration). In order to “level the playing field” for Kansas brick and mortar merchants versus competing out-of-state retailers, and in order to allow local governments to participate in the benefits of the voluntary collection efforts of out-of-state retailers registering under the Agreement, a local use tax needs to be imposed. Otherwise, only state use tax would be due on out-of-state purchases, whereas both state and local sales tax is due on in-state purchases. Senate Bill 192 (Section 2, p. 3, lines 3-11) proposes to add a broad local use tax at K.S.A. 12-198, although this is not a requirement of the Agreement.

### **Use Tax on Services—Sections 2 and 11**

Kansas law currently imposes use tax only on out-of-state purchases of tangible personal property used, consumed or stored in Kansas. There is no use tax on out-of-state purchases of services. Senate Bill 192 (Section 2, p. 3, lines 3-11; Section 11, p. 49, lines 17-18) proposes to add a use tax on services, both at the state and local level, amending K.S.A. 79-3703 and K.S.A. 12-198. This particularly comes into play with the sale of custom computer software, which is treated as a sale of service under the Agreement definitions. Without the imposition of use tax on services, there would be no use tax owed on an out-of-state purchase of custom computer software, once the Agreement definitions are adopted. Under existing Kansas law, all computer software (both custom and canned) is defined as tangible personal property, so an out-of-state purchase would be subject to use tax.

### **Seller Registration—Section 8**

The Agreement requires that states develop uniform registration procedures that would apply to out-of-state sellers voluntarily registering under the Agreement to collect sales or use tax. This includes electronic registration and registration through an agent. K.S.A. 79-3608, the sales tax registration statute, is amended accordingly. Retailers obligated to register in Kansas (because they are located in Kansas or “doing business” in Kansas) remain subject to the existing registration requirements. See Section 8, p. 46.

### **Notices to Retailers of Tax Rate, Effective Date, and Taxing Jurisdiction Boundary Changes—Sections 1, 12 and 24**

One of the major goals of the Agreement is to give retailers sufficient lead time to implement changes in state and local sales tax rates and taxing jurisdiction boundaries. Lack of sufficient lead time for sales tax changes has been a major complaint of the retail community. Under current law, there is no requirement for any lead time for a change to the state sales tax rate. The legislature could make a rate change effective at any time. The Agreement requires that state sales tax rate changes can be effective only on the first day of a quarter. It also requires that revenue departments must make a reasonable effort to provide sellers as much advance notice of changes as is practical, but sellers failing to receive such notice are not relieved of liability for

failing to comply with those changes. Section 12 (p. 49) of Senate Bill 192 contains these required changes. For services covering a period including a rate change, the rate change will go into effect for the first billing period starting on or after the rate change. See Section 24, p. 59.

The statute governing local sales tax rate and boundary changes, K.S.A. 12-191, was amended in 2001 to accommodate some of the Agreement requirements regarding lead time for local rate and boundary changes. Senate Bill 192 amends K.S.A. 12-191 to make additional required changes. Local rate changes will not apply to catalog purchases until the 1<sup>st</sup> day of the quarter following 150 days after the city or county has provided notice to the department of the change. Once the department receives such notice, the department is given 30 days to send notice of such change to sellers. Existing law provides that for other than catalog purchases, local rate and boundary changes can become effective on the 1<sup>st</sup> day of the quarter following the 90<sup>th</sup> day after the city has provided the department notice of the change. Senate Bill 192 requires that after receiving such notice, the department must give sellers notice of the change within 30 days. See Section 1, p. 2, lines 24-38.

#### **Database for Rate and Boundary Changes—Sections 13-14**

The Agreement requires that, as of the date that a state joins the Agreement, the state must develop and maintain an electronic database (in downloadable format) of all taxing jurisdiction boundaries, rates and the effective dates of any changes, pursuant to certain standards. The state must further develop and maintain a database that assigns each 5 and 9 digit zip code to the proper rates and taxing jurisdictions. The state must also participate with other member states in developing an address-based system for assigning taxing jurisdictions, meeting the requirements of the federal Mobile Telecommunications Sourcing Act. Once these databases are developed, sellers would be relieved from liability for charging the wrong rates if the state's databases contained erroneous rate information, and sellers relied on that information. However, no liability relief is provided if the state develops an address-based system meeting the requirements of the federal Mobile Telecommunications Sourcing Act. Senate Bill 192 makes these changes at Sections 13-14, pp. 50-51.

#### **Sourcing Rules—Sections 1, 15-19**

Probably the most significant changes to Kansas sales tax law required by the Agreement are the sourcing rules. They are found at Sections 15-19 (pp. 51-57) of Senate Bill 192. The sourcing rules identify the local sales or use tax that should apply to the transaction. They are quite lengthy and sound very complex, but in principle, can be described simply. Under current Kansas law, sales are generally sourced to the retailer's business location, for purposes of determining the local sales taxes that are due. Thus, the local sales tax in effect at the seller's location applies. This is an "origin-based" sourcing rule. The Agreement uses a "destination-based" sourcing rule to determine the applicable local sales or use tax. Under "destination-based" sourcing rules, the sale is "sourced" to the retailer's location, if the buyer takes possession of the merchandise there. However, if the retailer delivers or ships the merchandise to the buyer's location, the sale is "sourced" to buyer's location, and the local sales or use tax applicable at the buyer's location will apply.

There are items excepted out of the Agreement sourcing rules: sales of watercraft, modular homes, manufactured homes or mobile homes, and the sale of certain motor vehicles, trailers, semitrailers or aircraft not used in interstate commerce. These sales remain sourced to the retailer's location under the current rules.

Special sourcing rules exist for specific categories of sales. See Section 16. For leases of tangible personal property in which periodic payments are made, the first lease payment is



sourced under the general “destination-based” sourcing rules. Later payments are sourced to primary property location. For leases with only one payment, the sale is sourced under the general “destination-based” rules. This is essentially consistent with current Kansas law, and the law of most states. For leases of motor vehicles and aircraft not used in interstate commerce, all periodic lease payments are sourced to the primary property location. If there is only one lease payment, it is sourced under the general rules. Retail sale and leases of motor vehicles and aircraft used in interstate commerce are sourced under the general “destination-based” sourcing rules.

When the purchased item can be used in several different locations (such as with computer software purchased by a large company for use in its offices located in several states), the purchaser may give the seller a “multiple points of use” exemption certificate. The seller is then relieved of the obligation of collecting sales or use tax, and the purchaser assumes to burden to properly apportion the use tax among the jurisdictions in which the item is being used. See Section 1.7.

Likewise, with a direct mailing to addresses in several states, the purchaser of the mailing may give to the printer a “direct mail form” showing the multiple jurisdictions where the mailing is to be sent. The printer is then relieved of the obligation to collect sales or use tax, and the purchaser assumes the obligation directly remit the tax to the appropriate taxing jurisdictions, based on the mailing. See Section 18.

Telecommunications service has its own sourcing rules. See Section 19. The Agreement telecommunications sourcing rules are essentially the same as under current Kansas law. They are also consistent with the federal Mobile Telecommunications Sourcing Act, adopted in Kansas last year.

#### **Administration of Exemptions—Section 10**

A purchaser claiming an exemption for sales tax must give to the seller a properly completed exemption certificate at the time of purchase, documenting the reason for the exemption and providing information concerning the sale and the identify of the purchaser. The seller then need not charge sales tax on the transaction. The seller must retain the exemption certificate and make it available upon audit. Otherwise, the seller is subject to assessment. The Agreement removes the “good faith” burden on sellers existing under current Kansas law, when a sellers accepts an exemption certificate. The seller need not make any independent judgment (absent fraud) as to whether the exemption claim is valid, so long as the seller obtains a properly completed exemption certificate. The Agreement also provides that exemption certificates may be filed electronically. Section 10, pp. 47-49, makes these changes to K.S.A. 79-3651.

#### **Uniform Returns—Section 7**

The Agreement requires that sellers who are not obligated to register in a state can voluntarily register under the Agreement to voluntarily collect and remit sales and use tax. The state can require electronic filing by these sellers and can approve a simplified format for the return, which must be filed at least annually, unless collections exceed \$1600 in a month, in which case, returns must be filed monthly thereafter. Section 7, p. 45, lines 40-43; p. 46, lines 1-11, makes these changes to K.S.A. 79-3607. Filing requirements for sellers obligated to register remain the same as under existing law.

### **Electronic Remittances—Section 3**

Under the Agreement, a state can require model 1, 2 or 3 sellers to make sales or use tax remittances electronically. Section 3, p. 4, lines 23-26, amends K.S.A. 75-5151 to impose this requirement.

### **Uniform Bad Debt Recovery Rules—Section 20**

When a seller sells merchandise, receives only partial payment, but has remitted the full amount of sales tax owed on the transaction (as required), the seller may incur a “bad debt” if the buyer later defaults on the transaction. Typically, the seller can take a “bad debt deduction” for sales tax previously remitted on defaulted sales transactions. Some states allow the party providing financing for the defaulted sales transaction to take the “bad debt deduction.” Kansas only allows sellers the bad debt deduction. Third-party financiers are not eligible. Under the Agreement, a state retains the option whether to allow only sellers to receive the bad debt deduction. However, member states use uniform rules governing how sellers are permitted to deduct bad debts. The bad debt deduction rules in the Agreement are essentially in line with current department policy.

### **Confidentiality and Privacy Protections—Section 21**

Confidentiality and privacy protection already exists under current law with respect to taxpayer information from sellers required to register. K.S.A. 79-3614. The Agreement focuses on ensuring that states have in place confidentiality and privacy protections with respect to “personally identifiable information” that certified service providers must collect concerning consumers when handling the sales and use tax collection, reporting and remitting responsibilities for model 1 sellers. Section 21 contains those changes.

### **Uniform Rounding Rules—Section 22**

Rounding rules apply to determine when a sales tax amount calculation should be “rounded up” to the nearest whole cent. The Agreement requires that member states use a uniform rounding rule, and that the tax computation should be carried to the third decimal place, and rounded up to the next cent whenever the third decimal place is greater than four. This is consistent with current policy. Section 22 would codify this policy.

### **Customer Refund Procedures—Section 9**

The Agreement requires that member states include in their refund procedures a provision that requires a purchaser, before suing a seller for over-collected sales tax, to give the seller 60 days written notice and an opportunity to respond. Section 9, p. 47, lines 13-22 makes this addition to K.S.A. 79-3650(b).

### **Taxability Matrix—Section 23**

The Agreement requires that a member state must maintain a “taxability matrix” in a database in downloadable format. The taxability matrix will list the products and services taxable in Kansas. Sellers and certified service providers are relieved from liability to the state or local jurisdiction for having charged or collected incorrect amounts in reliance on erroneous data contained in the taxability matrix.

### **Seller Participation—Section 25**

The Agreement requires that member states develop an online central registration system for out-of-state sellers volunteering to register under the Agreement. Sellers already obligated to register (because they have nexus with the state) must comply with the existing state registration rules. The fact that a seller voluntarily registers under the Agreement cannot be used as a factor in determining whether that seller has nexus with the state.

**Amnesty for Registration—Section 26**

Amnesty for past sales or use tax collections is available to a seller registering under the Agreement, provided the seller was not registered with the state within the 12-month period preceding the effective date of the state's joining the Agreement, and the seller registers within the 12-month period following that effective date. Amnesty is not available to sellers under audit. The seller must continue to remain registered and collect taxes for at least 36 months, for the amnesty to be effective.

**Method of Remittance—Section 27**

Sellers registering under the Agreement may select 1 of 3 models to operate under: model 1 (seller relies on a certified service provider to perform all tax functions on its sales), model 2 (seller relies on a certified automated system to calculate the tax on each transaction, but the seller performs all other tax functions), or model 3 (seller utilizes a certified proprietary automated sales tax system).

**Registration By An Agent—Section 8**

The Agreement requires that member states permit sellers to register through a duly appointed agent. Section 8, p. 46, lines 22-24, so amends K.S.A. 79-3608.

**Monetary Compensation**

The Agreement requires that member states provide monetary compensation to certified service providers under model 1, model 2 and 3 sellers. However, the compensation terms are the subject of contractual negotiations between the governing board and certified service providers, to be determined at some point in the future. Therefore, the compensation provisions in the Agreement are not contained in Senate Bill 192. After those compensation provisions are contractually agreed to, Kansas can at that point legislatively approve them. Also, the Agreement compensation provisions are based only on sales tax revenue remitted by model 1, 2 and 3 sellers registering under the Agreement voluntarily. Whether a state chooses to provide compensation to sellers required by law to register, in the form of an across-the-board discount, remains a matter for each state to decide individually.



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**Testimony to the  
Kansas Houst Taxation Committee  
March 25, 2003**

**In Support of Senate Bill 192—Streamlined Sales Tax**

**Joseph R. Crosby  
Legislative Director, Council On State Taxation (COST)**

Mr. Chairman and Members of the Committee, thank you for the opportunity to present testimony in support of Senate Bill 192, which would enact the Streamlined Sales Tax.

**About COST**

The Council On State Taxation (COST) is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of 550 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

**The Streamlined Sales Tax**

Delegates from 38 states, including Kansas, spent the past year reviewing the recommendations of the Streamlined Sales Tax Project (SSTP) and have approved a multistate agreement for a truly simple sales tax system. COST and scores of business community representatives have for the past three years participated in the deliberations of the SSTP. Legislative enactment of the provisions of this agreement would represent a major step towards a more simple and uniform sales and use tax.

House Taxation  
Attachment 3  
Date 3-25-03

### Benefits to Business and the State

The current sales and use tax system, when viewed from the perspective of a multistate retailer, is burdensome and exceedingly complex. Indeed, the U.S. Supreme Court has twice ruled (*Bellas Hess* and *Quill*) that it is so complex as to constitute an unreasonable burden on interstate commerce. Consequently, under the current system, it is a violation of the U.S. Constitution to require remote sellers to collect Kansas' sales and use tax.

Senate Bill 192 not only greatly simplifies Kansas' current sales tax system, but it would also make it more uniform with other states considering similar legislation. Minnesota, North Carolina, South Dakota, West Virginia and Utah have already enacted the Streamlined Sales Tax, and many more states are poised to do so. The simplifications in SB 192—from the single vendor registration process to uniform exemption administration and reduced audit burden—will benefit all sellers, whether large or small. For those sellers operating in multiple states, the uniformity of these administrative provisions among the states will represent an amazing improvement over the existing system.

This simplified sales tax system will help Kansas as well by simplifying the administration of the tax and increasing compliance with the tax on the part of businesses that are already subject to the system. Perhaps more importantly, and as has been demonstrated recently, many sellers not currently collecting the sales tax in Kansas will be induced to do so under a simplified sales tax collection system.

We do not find any reason to delay implementation of the simplifications contained in SB 192 and thus encourage you to amend the bill to make it effective as of July 1, 2003.

### Separating Myth from Fact

Senate Bill 192 simplifies the existing sales tax for sellers that are already collecting it. Senate Bill 192:

- **Does Not** impose a new tax—SB 192 merely makes the existing tax easier to comply with and administer;
- **Does Not** cede state sovereignty—the Kansas legislature will retain all authority over its sales tax, including the determination of what items are taxable and at what rate; and

- **Does not** violate federal law—the Internet Non-Discrimination Act (formerly known as the Internet Tax Freedom Act), which will expire November 1, 2003 without Congressional action, does not prohibit the taxation of transactions that happen to occur over the Internet.

### Conclusion

COST recognizes that 2003 is one of the most challenging fiscal years in decades for state legislatures. Senate Bill 192 represents the results of an extraordinary collaboration between business and state governments, and I am not aware of one substantive reason not to enact this legislation today. Senate Bill 192 benefits businesses large and small and will over time significantly reduce administrative costs to the state. Moreover, it will likely lead to greater compliance with the sales tax, generating additional revenue for the state and localities. COST strongly supports the enactment of this legislation with an amendment to make it effective as of July 1, 2003.

# LEGISLATIVE TESTIMONY



*The Unified Voice of Business*

835 SW Topeka Blvd. • Topeka, KS 66612-1671 • 785-357-6321 • Fax: 785-357-4732 • E-mail: [kcci@kansaschamber.org](mailto:kcci@kansaschamber.org) • [www.kansaschamber.org](http://www.kansaschamber.org)

## SB 192

March 25, 2003

### KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony before the House Taxation Committee  
By S. Lewis Ebert, President and CEO

Chairman Edmonds and members of the Committee:

I am Lew Ebert, President of the Kansas Chamber of Commerce and Industry (KCCI) testifying in favor of SB 192. I am here on behalf of both KCCI and the Kansas Retail Council (KRC).

The current system for collecting and remitting sales tax is very burdensome and complex. Simplification is needed in this area and businesses across the state are excited to see the Kansas Legislature addressing this issue. Companies large and small will benefit from the changes being proposed in SB 192. A streamlined system would simplify the process of sales tax collection and remittance, increase compliance with existing sales tax laws, and bring increased revenue to the state.

Kansas' retailers also support this project. Retailers feel that they do not have a level playing field to operate on. Businesses with nexus in the state, a physical presence, are required to collect and remit sales tax. Vendors that do not have a physical presence are not. Some large retail companies are creating separate Internet entities that do not have a presence in many states, thus getting around the requirements of collecting and remitting sales tax. Additionally, large retailers with physical presence in only a handful of states do not have to charge sales tax and as a result, their product is sold at a lower price.

Not in the current bill, but another element to the SSTP that we support, is the enactment of a vendor or administrative allowance. Retailers in Kansas are required to collect and remit sales tax to the Department of Revenue without compensation. They are not reimbursed for any of their expenses. Kansas' retailers believe that they should be compensated for this. The SSTP proposal includes a vendor allowance for remote retailers. If this was enacted for remote retailers but not Kansas retailers it would be unfair and discriminatory to those in state. Businesses that collect

House Taxation  
Attachment 4  
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and remit sales tax — retailers, telecommunications companies and manufacturers alike — are optimistic that this is part of the SSTP and may be enacted in Kansas.

The SSTP will not impose new taxes on Kansans. Sales and use tax laws have been on the books for many years. Today, if a person buys something out of state and does not pay sales tax on that item, they are required by Kansas law to pay a use tax when they bring it back into the state. Many of us who order products over the Internet or through a catalogue and do not pay sales tax on the item should remit a use tax to the Kansas Department of Revenue. There are very few people who do this. In effect, enactment of the SSTP in Kansas would only be enforcing a law that is already on the books.

This legislation helps small businesses in many ways. SSTP simplifies exemption processing with protection for sellers that accept exemption certificates; it allows a small business the option to use state-certified software of a Certified Service Provider to reduce or eliminate sales tax administrative burdens; and, SSTP makes it easier for businesses to expand to markets in other states via the Internet because all states will use the uniform definitions and administrative procedures.

KCCI and the KRC strongly support the enactment of SB 192. This will simplify the sales tax collection and remittance procedure for all Kansas companies and will level the playing field for Kansas retailers. 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.





League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

Date: March 25, 2003  
To: House Taxation Committee  
From: Larry R. Baer  
Assistant Legal Counsel  
Re: SB 192 - Testimony in Support with Amendment

Thank you for allowing me to appear before you this morning on behalf of the League of Kansas Municipalities and its member cities to offer testimony in support of SB 192. The League has been involved with this issue since the beginning of the Streamlined Sales Tax Initiative ("SST"). We have been a member of the working group which was formed when the issue first began to be studied, and we remain a member of the group. The League is convinced that the Streamlined Sales and Use Tax Initiative and the resulting multi-state agreement are important steps in the taxation of Internet and remote catalog sales. SST does not result in a new tax. It simply results in an equitable application of an existing tax.

The League remains solid in its belief that there must be an equitable system for those businesses operating from Main Street as well as those operating via the Internet. The League position on Internet sales, adopted by our Convention of Voting Delegates at the October, 2002 annual meeting, reads as follows: "**Internet Sales.** Sales over the Internet should be taxed in the same manner as sales by bricks and mortar stores. Any federal Internet legislation should not preempt state and local tax authority. Local sales tax effort should be included in whatever formula is developed to tax remote sales."

Simply stated, this means that the current system where in-state sales are taxed and remote sales via Internet or catalogs go untaxed results in inequitable tax consequences. It also means, that however implemented, the streamlined sales tax should neither eliminate the local option sales tax now in place nor preclude the future use of local option sales tax.

The League supports SB 192 because it does provide a mechanism for the capture of lost state revenue and it **does** include a local use tax component that will permit local governments to capture lost local revenues as well. Streamlined sales tax without the local use tax component would not result in increased revenues to local government.

The League supports SB 192 even though it does remove local authority to tax sales of water beginning in 2006. Although supportive of SB 192, the loss of tax revenues from the sale of water, approximately \$2.3 million per year, without the assurance that SST will be in place by July 1, 2006 leaves us uncomfortable. Therefore, we are requesting the amendment shown on the attachment be made to SB 192. As written, the ability to tax water sales ends July 1, 2006 whether or not SST is in place. The proposed amendment simply uses the effective date of federal legislation permitting state taxation of remote sales as the trigger for the termination of local government's authority to tax water sales. The use of a fixed date for the repeal of this authority creates the possibility that local government could lose a revenue source without compensating revenue as generated by SST.

Thank you for allowing the League to testify on this important piece of legislation. I will stand for questions when appropriate.

1 (12) Johnson county park and recreation district organized under  
2 K.S.A. 19-2859, and amendments thereto;

3 (13) sewage disposal districts organized under K.S.A. 19-27,140, and  
4 amendments thereto;

5 (14) water districts organized under K.S.A. 19-3501 *et seq.*, and  
6 amendments thereto; or

7 (15) transportation development districts created pursuant to ~~K.S.A.~~  
8 ~~2002 Supp. 12-17,130~~ *section 29 et seq.*, and amendments thereto.

9 *New Sec. 41. The secretary of revenue in connection with a re-*  
10 *development project area for which sales, use and transient guest*  
11 *tax revenues are pledged or otherwise intended to be used in whole*  
12 *or in part for the payment of bonds issued to finance redevelopment*  
13 *project costs in such redevelopment project area or a transportation*  
14 *development district for which a local sales transportation tax has*  
15 *been imposed, shall provide reports identifying each retailer having*  
16 *a place of business in such redevelopment district or transportation*  
17 *development district setting forth the tax liability and the amount*  
18 *of such tax remitted by each retailer during the preceding month*  
19 *and identifying each business location maintained by the retailer*  
20 *within such city or county. Such report shall be made available to*  
21 *the bond trustee, escrow agent or paying agent for such bonds*  
22 *within a reasonable time after it has been requested from the di-*  
23 *rector of taxation. The bond trustee, escrow agent or paying agent*  
24 *shall keep such retailers' sales, use and transient guest tax returns*  
25 *and the information contained therein confidential, but may use*  
26 *such information for purposes of allocating and depositing such*  
27 *sales, use and transient guest tax revenues in connection with the*  
28 *bonds used to finance redevelopment project costs in such redevel-*  
29 *opment project area or used to finance the costs of a project in a*  
30 *transportation development district. Except as otherwise provided,*  
31 *the sales, use and transient guest tax returns received by the bond*  
32 *trustee, escrow agent or paying agent shall be subject to the pro-*  
33 *visions of K.S.A. 79-3614 and amendments thereto.*

34 *New Sec. 42. The provisions of sections 29 through 38 and 41,*  
35 *and amendments thereto, and K.S.A. 12-194 and 25-432, as*  
36 *amended pursuant to this act, shall apply to all transportation de-*  
37 *velopment districts, whether created before or after July 1, 2003.*

38 *Sec. 43. On and after July 1, 2004, K.S.A. 12-189a is hereby*  
39 *amended to read as follows: 12-189a. The following sales shall be*  
40 *subject to the taxes levied and collected by all cities and counties*  
41 *under the provisions of K.S.A. 12-187 et seq. and amendments*  
42 *thereto:*

43 (a) *All sales of natural gas, electricity, heat and water delivered*

1 through mains, lines or pipes to residential premises for noncom-  
2 mercial use by the occupant of such premises and all sales of natural  
3 gas, electricity, heat and water delivered through mains, lines or  
4 pipes for agricultural use, except that, effective January 1, 2006, the  
5 provisions of this subsection shall expire for sales of water pursuant to  
6 this subsection;

7 (b) all sales of propane gas, LP-gas, coal, wood and other fuel  
8 sources for the production of heat or lighting for noncommercial  
9 use of an occupant of residential premises; and

10 (c) all sales of intrastate telephone and telegraph services for  
11 noncommercial use.

12 New Sec. 44. K.S.A. 2002 Supp. 12-194, 12-17,130, 12-17,131,  
13 12-17,132, 12-17,133, 12-17,134, 12-17,135, 12-17,136, 12-17,137,  
14 12-17,138, 12-17,139 and 25-432 are hereby repealed.

15 Sec. 41: 45. On and after July 1, 2004, K.S.A. 12-189a, 12-191,  
16 12-191a, 12-198, 75-5151, 79-3607, 79-3608 and 79-3651 and K.S.A. 2002  
17 Supp. 12-194, 25-432, 79-3602, 79-3603, 79-3606, 79-3650 and 79-3703  
18 are hereby repealed.

19 Sec. 42: 46. This act shall take effect and be in force from and after  
20 July 1, 2004, and its publication in the statute book.

*the provisions of this subsection shall expire  
for the sales of water pursuant to this  
subsection upon the effective date of federal  
legislation authorizing states to require  
remote retailers to collect use tax on Internet  
and catalog sales;*

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TESTIMONY IN SUPPORT OF SECTIONS 29 THROUGH 46 OF SENATE BILL NO. 192

TO: The Honorable John Edmonds, Chairperson  
Members of the House Taxation Committee  
Room 519-S

DATE: March 25, 2003

RE: Sections 29 through 46 of Senate Bill No. 192 – Proposed legislation pertaining to transportation development districts.

Ladies and Gentlemen:

The City of Overland Park wishes to express its support for Sections 29 through 46 of SB 192 in the form being proposed to this committee in the balloon amendment. These sections pertain to transportation development districts.

The City of Overland Park is working with a local developer of regional shopping malls to foster the development of a new 1.15 million square foot regional shopping mall at 135<sup>th</sup> and Metcalf in the City by creation of a transportation development district including the imposition of a sales tax of up to 1% on retail sales in the mall and special assessments on certain property in the district. The mall is projected to generate about \$300 million dollars in retail sales per year. Although the project is currently on hold, the City would like the amended legislation to be in place if and when the developers are prepared to proceed with the project.

Sections 29 through 46 of this bill would amend the existing transportation development district act that already exists in the statutes at K.S.A. 2002 Supp. 12-17,130 through 12-17,139.

A group of about 10 bond attorneys from the Kansas City and Wichita metropolitan areas, including Overland Park's bond attorneys, have been working on various proposed clean-up amendments. The balloon amendment presented to you this morning is the consensus work product of that group.

Sections 29 through 46 of Senate Bill 192, as originally proposed and as amended by the Senate Committee:

- Would allow for sales, use, transient guest and transportation development district sales tax returns and information to be shared with the bond trustee but also would require the bond trustee to keep the information otherwise confidential.
- Would require the Department of Revenue to collect the transportation development district sales tax in return for 2% of the gross receipts, rather than leaving it up to the local jurisdiction to collect it.
- Would allow the creation of a transportation development district without notice and hearing if the district will be reliant only upon special assessments for repayment of the bonds issued to fund the projects. The petition for creation of all transportation development districts must be signed by 100% of the property owners in the district.

March 25, 2003

Page 2

- Would continue to require notice and a public hearing on the creation of transportation development districts that are to be financed in whole or in part with a transportation development district sales tax.
- Would include several clean-up provisions, such as adding "economic development" to the list of purposes for which transportation development districts may be created.

In addition, the new balloon amendments:

- Would require that a petition for creation of a transportation development district contain consent by all of the owners of the land in the district to the assessment scheme without regard to benefits conferred by the project.
- Would continue to state that not all property in the district that is benefited must be assessed, and clarify that property outside the district that is benefited need not be assessed either. This assessment method, as well as any other assessment method, would continue to require the consent of all owners of land in the district.
- Would require that the petition creating a transportation development district, containing the consent with respect to the assessment scheme and sales tax, if applicable, be filed with the register of deeds.
- Would provide that the notice and hearing given with respect to the creation of a transportation development district, if it provides for the levying of a transportation development district sales tax, suffices as the notice and hearing required for the levy of the identical transportation development district sales tax.
- Would require that suits to set aside a transportation development district sales tax be brought within 30 days of publication of the notice of intent to levy the tax rather than within 30 days of publication of the ordinance or resolution that actually levies the tax, to be consistent with the protest period for the levying of such a tax.
- Would provide for "clean-out" of the unspent transportation development district sales tax monies after the bonds are paid off by allowing the municipality to spend the remaining monies for purposes for which general sales taxes may be spent.
- Would grandfather transportation development districts created under the existing statutes.
- Would add several additional clean-up provisions, such as standardizing on the term "transportation development district sales tax" as the name of the sales tax levied in a transportation development district.

The City would like for Sections 29 through 46 of SB 192 in the amended form being proposed to this committee to be made effective on or before July 1, 2003, regardless of the effective date of the balance of the sections of SB 192.

Thank you for your consideration.



Robert J. Watson  
City Attorney

RJW/rjw



# TESTIMONY

City of Wichita  
Mike Taylor, Government Relations Director  
455 N Main, Wichita, KS. 67202  
Wichita Phone: 316.268.4351  
Topeka Phone: 316.648.6236  
mtaylor@wichita.gov

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## Senate Bill 192 Streamlined Sales Tax

Delivered March 25, 2003  
House Taxation Committee

The City of Wichita supports Senate Bill 192. The fair and equal application of sales taxes on all commerce is essential to protect Main Street businesses and prevent devastating erosion of vital funding for government services and programs.

Charging sales tax for online purchases, catalog and other remote sales does not represent new taxes. These taxes are already charged on over-the-counter sales and even on some online purchases. It is imperative that our Kansas businesses be protected from unfair competition. Our local merchants should not be imperiled by an arbitrary tax subsidy for electronic commerce.

The City of Wichita, along with the National League of Cities, League of Kansas Municipalities and many other groups has supported fair and equal application of state and local sales taxes since 1996.

Sales taxes are essential to providing safe-neighborhoods, good schools, well-paved roads, attractive and safe parks and recreation, good libraries and an overall quality of life that sustains a healthy local economy with good jobs and a promising future. Our tax structure should work the same for everyone in the community, or some will bear an unfair burden to offset the exemptions given to others via electronic commerce.

The Kansas Legislature and Department of Revenue should continue to take part in efforts which will lead to the fair and equal taxation of commerce, whether that transaction takes place on Main Street or over the Internet.

House Taxation  
Attachment 8  
Date 3-25-03



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

Written Testimony concerning SB 192

House Taxation Committee

March 25, 2003

Presented by Randall Allen, Executive Director  
Kansas Association of Counties

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to present written testimony in support of SB 192, the Streamlined Sales and Use Tax Conformity Act. The Association appreciates the opportunity we have enjoyed over the past several years to engage in discussions with the Department of Revenue and legislators about this very important issue. In a long-term perspective, there may be no more important tax issue facing the Legislature this session.

As the world of commerce continues to change and an increasingly larger percentage of sales are conducted over the internet or by mail order catalogue, we are concerned about the continued viability of the state and local option sales taxes to finance basic services. Historically, we have been concerned about the viability of the State's sales and use tax because it has been the source of two of three demand transfers for counties and other local governments (i.e. the Local Ad Valorem Tax Reduction Fund and the City-County Revenue Sharing Fund). While neither transfer is funded in the Governor's recommended FY 2004 budget, we hold some hope that when better financial days return, the transfers may be resumed. More importantly, we are concerned about the viability of county option sales taxes levied in 76 of 105 counties. An attachment to my testimony documents the collection and distribution of \$289 million in countywide sales taxes in 2002, including \$131 million for county purposes and \$158 million distributed to cities within the counties. This does not even include the various city sales tax revenue which is collected and remitted directly to cities. Without dependable local-option sales taxes, we are inevitably more dependent upon the property tax to finance basic services. As such, we strongly support Section 2 (a) of the bill which concerns the local compensating use tax.

We strongly support the basic premise of the bill, i.e. that all sales, wherever they take place, should be treated the same with respect to taxation, without preference or disadvantage to vendors. We also believe in the fundamental right for states to establish their own sales tax rates and for local governments, within statutory guidelines, to adopt local-option sales taxes. These premises of state and local self-determination are not sacrificed (and are in fact enhanced) in SB 192.

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House Taxation  
Attachment 9  
Date 3-25-03



As the insatiable appetite for resources by the federal government plays out over time, we are concerned that if states and local governments do not make changes to the sales tax to make it easier for merchants to collect and remit taxes state by state, the federal government will impose a national sales tax and effectively pre-empt states' rights to this important revenue source.

If you have questions, please let me know and I will respond. Thank you.

## 2002 COUNTYWIDE SALES TAX DISTRIBUTIONS

<u>County</u>	<u>Total</u>	<u>Dedicated County</u>	<u>Balance of County</u>	<u>Shared with City(s)</u>
Allen	\$ 1,208,234.11	\$ 604,117.01	\$ 299,020.87	\$ 305,096.23
Anderson	\$ 621,204.67	\$ -	\$ 403,668.31	\$ 217,536.36
Atchison	\$ 1,897,810.94	\$ 632,603.01	\$ 557,287.35	\$ 707,920.58
Barber	\$ 497,378.05	\$ -	\$ 267,632.78	\$ 229,745.27
Barton	\$ 3,818,276.91	\$ -	\$ 1,587,298.84	\$ 2,230,978.07
Bourbon	\$ 1,294,213.75	\$ -	\$ 690,031.14	\$ 604,182.61
Brown	\$ 775,411.99	\$ -	\$ 425,085.92	\$ 350,326.07
Butler	\$ -	\$ -	\$ -	\$ -
Chase	\$ 172,022.51	\$ -	\$ 112,904.61	\$ 59,117.90
Chautauqua	\$ 181,212.05	\$ -	\$ 117,180.39	\$ 64,031.66
Cherokee	\$ 1,157,506.74	\$ -	\$ 673,461.61	\$ 484,045.13
Cheyenne	\$ 443,224.29	\$ 221,612.08	\$ 142,568.50	\$ 79,043.71
Clark	\$ -	\$ -	\$ -	\$ -
Clay	\$ 699,890.02	\$ 349,944.96	\$ 185,090.07	\$ 164,854.99
Cloud	\$ 1,060,967.14	\$ -	\$ 479,000.03	\$ 581,967.11
Coffey	\$ -	\$ -	\$ -	\$ -
Comanche	\$ -	\$ -	\$ -	\$ -
Cowley	\$ -	\$ -	\$ -	\$ -
Crawford	\$ 3,880,934.94	\$ -	\$ 1,562,730.99	\$ 2,318,203.95
Decatur	\$ 209,005.57	\$ -	\$ 116,697.57	\$ 92,308.00
Dickinson	\$ 1,710,077.57	\$ -	\$ 869,595.64	\$ 840,481.93
Doniphan	\$ 351,762.89	\$ -	\$ 205,690.18	\$ 146,072.71
Douglas	\$ 11,772,142.66	\$ -	\$ 4,096,313.05	\$ 7,675,829.61
Edwards	\$ 174,926.49	\$ -	\$ 96,413.87	\$ 78,512.62
Elk	\$ 180,854.95	\$ -	\$ 112,014.15	\$ 68,840.80
Ellis	\$ -	\$ -	\$ -	\$ -
Ellsworth	\$ 213,361.15	\$ 213,361.15	\$ -	\$ -
Finney	\$ 3,820,855.54	\$ -	\$ 1,921,304.33	\$ 1,899,551.21
Ford	\$ 4,070,655.05	\$ -	\$ 1,607,694.96	\$ 2,462,960.09
Franklin	\$ 3,550,516.57	\$ 1,183,504.36	\$ 1,280,520.33	\$ 1,086,491.88
Geary	\$ 3,029,947.16	\$ 605,989.42	\$ 996,229.24	\$ 1,427,728.50
Gove	\$ 279,197.12	\$ -	\$ 184,054.03	\$ 95,143.09
Graham	\$ -	\$ -	\$ -	\$ -
Grant	\$ -	\$ -	\$ -	\$ -
Gray	\$ 437,358.17	\$ -	\$ 275,659.08	\$ 161,699.09

<u>County</u>	<u>Total</u>	<u>Dedicated County</u>	<u>Balance of County</u>	<u>Shared with City(s)</u>
Greeley	\$ 104,839.10	\$ -	\$ 66,806.13	\$ 38,032.97
Greenwood	\$ 449,325.22	\$ 449,325.22	\$ -	\$ -
Hamilton	\$ 94,222.25	\$ 94,222.25	\$ -	\$ -
Harper	\$ -	\$ -	\$ -	\$ -
Harvey	\$ 3,390,286.10	\$ -	\$ 1,133,678.71	\$ 2,256,607.39
Haskell	\$ 140,745.90	\$ -	\$ 86,484.66	\$ 54,261.24
Hodgeman	\$ -	\$ -	\$ -	\$ -
Jackson	\$ 1,029,738.48	\$ -	\$ 720,166.85	\$ 309,571.63
Jefferson	\$ 798,524.06	\$ -	\$ 610,761.09	\$ 187,762.97
Jewell	\$ 162,886.75	\$ -	\$ 112,151.03	\$ 50,735.72
Johnson	\$ 78,871,585.49	\$ 13,306,889.48	\$ 26,050,421.92	\$ 39,514,274.09
Kearny	\$ -	\$ -	\$ -	\$ -
Kingman	\$ -	\$ -	\$ -	\$ -
Kiowa	\$ 244,959.45	\$ -	\$ 137,732.70	\$ 107,226.75
Labette	\$ 2,330,643.62	\$ -	\$ 760,920.91	\$ 1,569,722.71
Lane	\$ -	\$ -	\$ -	\$ -
Leavenworth	\$ 4,767,034.70	\$ -	\$ 2,043,100.78	\$ 2,723,933.92
Lincoln	\$ 189,984.38	\$ -	\$ 129,907.70	\$ 60,076.68
Linn	\$ -	\$ -	\$ -	\$ -
Logan	\$ 286,004.88	\$ -	\$ 138,208.31	\$ 147,796.57
Lyon	\$ 1,974,560.47	\$ 1,974,560.47	\$ -	\$ -
Marion	\$ 823,483.23	\$ -	\$ 450,794.11	\$ 372,689.12
Marshall	\$ -	\$ -	\$ -	\$ -
McPherson	\$ 3,079,894.32	\$ -	\$ 1,354,810.08	\$ 1,725,084.24
Meade	\$ 283,662.45	\$ -	\$ 157,931.07	\$ 125,731.38
Miami	\$ 2,940,541.19	\$ 588,108.23	\$ 1,586,500.80	\$ 765,932.16
Mitchell	\$ 742,527.22	\$ -	\$ 355,307.02	\$ 387,220.20
Montgomery	\$ 3,466,239.23	\$ 3,466,239.23	\$ -	\$ -
Morris	\$ 456,960.23	\$ -	\$ 279,925.26	\$ 177,034.97
Morton	\$ -	\$ -	\$ -	\$ -
Nemaha	\$ 813,973.77	\$ -	\$ 482,691.96	\$ 331,281.81
Neosho	\$ 1,902,716.17	\$ 951,358.04	\$ 498,728.43	\$ 452,629.70
Ness	\$ -	\$ -	\$ -	\$ -
Norton	\$ -	\$ -	\$ -	\$ -
Osage	\$ 881,578.63	\$ -	\$ 518,738.29	\$ 362,840.34
Osborne	\$ 171,900.74	\$ -	\$ 94,786.35	\$ 77,114.39
Ottawa	\$ 292,509.00	\$ -	\$ 185,706.26	\$ 106,802.74
Pawnee	\$ 549,530.44	\$ -	\$ 290,771.69	\$ 258,758.75
Phillips	\$ -	\$ -	\$ -	\$ -
Pottawatomie	\$ -	\$ -	\$ -	\$ -
Pratt	\$ 1,318,745.73	\$ -	\$ 665,240.29	\$ 1,318,745.73
Rawlins	\$ 166,834.02	\$ -	\$ 113,433.00	\$ 53,401.02
Reno	\$ 8,389,945.11	\$ -	\$ 3,389,602.95	\$ 5,000,342.16
Republic	\$ 416,124.44	\$ -	\$ 247,143.48	\$ 168,980.96
Rice	\$ 699,746.17	\$ -	\$ 365,055.98	\$ 334,690.19
Riley	\$ 5,308,289.56	\$ 2,654,144.75	\$ 997,996.04	\$ 1,656,148.77
Rooks	\$ 3,961.07	\$ -	\$ -	\$ 3,961.07
Rush	\$ -	\$ -	\$ -	\$ -

<u>County</u>	<u>Total</u>	<u>Dedicated County</u>	<u>Balance of County</u>	<u>Shared with City(s)</u>
Russell	\$ 962,365.96	\$ 320,788.32	\$ 304,933.05	\$ 336,644.59
Saline	\$ 8,993,964.87	\$ -	\$ 3,079,389.97	\$ 5,914,574.90
Scott	\$ 552,643.45	\$ -	\$ 270,331.05	\$ 282,312.40
Sedgwick	\$ 68,446,518.70	\$ -	\$ 21,099,593.61	\$ 47,346,925.09
Seward	\$ 3,288,689.39	\$ -	\$ 1,223,378.54	\$ 2,065,310.85
Shawnee	\$ 12,549,634.14	\$ 5,888,380.36	\$ 2,987,794.14	\$ 3,673,459.64
Sheridan	\$ 189,708.14	\$ -	\$ 134,323.06	\$ 55,385.08
Sherman	\$ 1,261,861.86	\$ 326,397.34	\$ 434,195.06	\$ 501,269.46
Smith	\$ -	\$ -	\$ -	\$ -
Stafford	\$ 252,945.25	\$ -	\$ 151,425.39	\$ 101,519.86
Stanton	\$ 118,516.95	\$ -	\$ 74,250.33	\$ 44,266.62
Stevens	\$ -	\$ -	\$ -	\$ -
Sumner	\$ -	\$ -	\$ -	\$ -
Thomas	\$ 1,166,116.98	\$ -	\$ 518,264.52	\$ 647,852.46
Trego	\$ -	\$ -	\$ -	\$ -
Wabaunsee	\$ 326,400.47	\$ 65,280.10	\$ 187,628.50	\$ 73,491.87
Wallace	\$ -	\$ -	\$ -	\$ -
Washington	\$ 364,596.69	\$ -	\$ 236,589.10	\$ 128,007.59
Wichita	\$ 312,052.53	\$ 156,026.20	\$ 96,408.74	\$ 59,617.59
Wilson	\$ 595,352.77	\$ 595,352.77	\$ -	\$ -
Woodson	\$ -	\$ -	\$ -	\$ -
Wyandotte	\$ 14,970,718.64	\$ -	\$ 3,157,931.23	\$ 11,812,787.41
Total	\$ 289,405,539.36	\$ 34,648,204.75	\$ 97,247,087.98	\$ 158,175,486.92



Johnson County, Kansas

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## BOARD OF COUNTY COMMISSIONERS

### MEMORANDUM

TO: Representative John Edmonds, Chairman  
Members of the House Taxation Committee

FROM: Danielle Noe, Intergovernmental Relations Coordinator

RE: SB 192 Streamlined Sales Tax

DATE: March 24, 2003

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Johnson County supports legislation that treats all sales alike for purposes of state and local sales taxation, regardless of whether the sale is conducted in person or by telephone, Internet, mail, facsimile, or other electronic means, and that remits electronic sales tax revenues to the state in which the sales originated.

In 1992, the U.S. Supreme Court ruled in *Quill Corporation v. North Dakota* that requiring retailers to remit sales taxes to states where they do not have a physical presence imposed a burden on interstate commerce. Therefore, state and local governments currently are prohibited from enforcing collection of sales taxes on transactions that occur via the Internet, facsimile, telephone or mail order, known as "remote sales," if the retailer does not have a physical presence in the state where the buyer is located.

*Generally, however, every sale – whether conducted in person or remotely – is still subject to tax.* If the seller does not have sufficient physical presence in the state, known as "nexus," to be required to collect sales tax, the buyer becomes responsible for filing and remitting the tax. Although the law technically places responsibility on buyers to remit taxes on remote sales, the vast majority of consumers either ignores the law or is unaware of it and it is nearly impossible for the state Department of Revenue to enforce collection.

As a result, state and local governments across the nation are losing millions of dollars a year in uncollected taxes on sales conducted remotely. The Kansas Department of Revenue estimates the state's revenue loss on remote sales was more than \$70 million in 2001. With continued growth in electronic commerce expected in the coming years, the fiscal impact of lost sales and use tax revenues will become even more critical.

This issue is of substantial importance to not only governments, who are losing uncollected tax revenues, but also to local retailers, who believe the failure to enforce collection provides remote sellers with an unfair competitive advantage.

We believe it is important for the 2003 Legislature to make amendments to the sales tax code in order for Kansas to begin collections of this tax. For these reasons, the Board of County Commissioners encourages you to support SB 192.

House Taxation  
Attachment 10  
Date 3-25-03