Approved: February 26, 2003
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on February 24, 2003, in Room 519-S of the Capitol.

All members were present except: Senator Donovan

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

Conferees appearing before the committee: Joan Wagnon, Acting Secretary, Department of Revenue
Mark Tallman, Kansas Association of School Boards
Richard Cram, Kansas Department of Revenue

Others attending: See attached list.

SB 146–Including certain dividend income excluded by federal government for Kansas income tax purposes

Joan Wagnon, Acting Secretary, Kansas Department of Revenue, testified in support of **SB 146**. At the outset, she called the Committee's attention to a one page summary of the fiscal impact of President Bush's tax stimulus proposal. She pointed out that the projected revenue loss to Kansas from individual income tax receipts is $51 million per year for the dividend exclusion proposal. (Attachment 1) She went on to explain that **SB 146** simply "decouples" from any proposed dividend income exclusion that may be enacted at the federal level. She noted that, if Congress does enact some form of dividend income exclusion this year, the negative fiscal impact of that change will directly affect Kansas because calculation of Kansas taxable income begins with federal adjusted gross income. She explained that, should Congress not enact a dividend income exclusion, the bill will have no effect because it does not address decoupling from other aspects of the President's proposal. (Attachment 2)

Mark Tallman, Kansas Association of School Boards, testified in support of **SB 146** or, alternatively, the passage of replacement revenue sources. He noted that it is highly probable that state revenues will not meet the requirements of the current fiscal year, and lost revenues from dividend income would make the situation worse. (Attachment 3)

There being no others wishing to testify, the hearing on **SB 146** was closed.

Senator Corbin opened a discussion on a previously heard bill, **SB 94** which would repeal retroactively the inheritance or succession tax enacted last year. He noted that the Committee has the option to choose **SB 94** or a similar bill, **SB 148**. Noting that both have the same cost, he expressed his preference for **SB 94**.

Senator Clark moved to report **SB 94** as favorable for passage, seconded by Senator Taddiken. The motion carried.

Senator Corbin called the Committee's attention to another previously heard bill, **SB 192** concerning the Streamlined Sales and Use Tax Agreement Conformity Act. Richard Cram, Kansas Department of Revenue, discussed suggested amendments to the bill with special attention to the proposed amendment on page 23, lines 29 through 39, calling for a repeal of the current exemption for residential and agricultural utilities. As the bill is written, the repeal would become effective July 1, 2004. However, the Streamlined Sales Tax Act does not require that the sales tax dates be uniform until January 1, 2006. Mr. Cram explained that the proposed amendments to Sections 29 through 41 deal with the transportation district excise tax. The intent is to make the tax state administered so that there is not an issue with the Streamlined Sales Tax Agreement. The amendment designates the tax as a local sales tax instead of the transportation district excise tax. The

repeal of the transportation district excise tax act found on page 59, line 41, will be effective July 1, 2003. Mr. Cram noted that all other changes are technical in nature. (Attachment 4)

With regard to the utilities issue, Mr. Cram confirmed for Senator Allen that the amendments on page 23 would impose a tax on water at the state level, effective calendar year 2006. He also reported that, if a state sales tax is imposed on all utilities for residential and agriculture use, the fiscal note would be an increase of approximately $71 million a year in state revenue. Of that, approximately $9 million is attributable to water. In response to further Committee questions, he explained that agricultural water usage which becomes an ingredient or component part of a crop or which is consumed in the production of crops and livestock will continue to be exempt under the consumed in production exemption. Only water consumed for home purposes will be subject to sales tax. He acknowledged that, effective 2006, the sales tax base would be broadened. Senator Allen commented that, in effect, the amendment would make a policy decision to place a new tax on water at the state level rather than exempting water at the local level. Following further discussion, Senator Corbin continued the discussion on **SB 161** to the February 25 meeting when more information on the issue would be available.

Senator Corbin returned the Committee's attention to **SB 146**, noting that, if Congress does not pass the dividend exclusion, the bill will have no effect.

Senator Lee moved to report **SB 146** as favorable for passage, seconded by Senator Oleen. The motion carried.

Senator Cobin opened a discussion of a previously heard bill, **SB 85**, which would eliminate the property tax exemption for wind energy resources. He noted that the issue centers on payment in-lieu-of taxes by wind production companies. Currently, there is no statutory requirement for a set amount or that the companies must pay after the first year's agreement with the county. He called upon Gordon Self, Revisor of Statutes Office, for a review of a proposed amendment. Mr. Self explained that the new language requires that an agreement for in-lieu-of taxes be in place before the exemption is granted and also provides that, if the agreement is not kept, the tax exemption is lost. (Attachment 5)

The meeting was adjourned at 11:15 a.m.

The next meeting is scheduled for February 25, 2003.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: February 24, 2003

NAME	REPRESENTING
Marlin Hoover	Hoover's Capitol Report
Terry Leatherman	KCCI
George Petersen	KTN
Tom Palace	PMCA of Kansas
Scott Schneider	GIBBA
Bill Brady	Ks Gov't Consulting
Bill Henry	Ks Credit Union Assn.
Deann Williams	KMCA
Stuart Little	Westar
Jackie Clark	Hallmark Cards
Ron Seeber	Hein Law Firm
Ann Durkes	DOB
J.P. SMALL	KOCH INDUSTRIES, INC
J.C. Anderson	KSCPA

Senate Assessment & Taxation
2-24-03
Attachment 1

Kansas City Kansas Chamber Congressional Forum

Fiscal Impact of President Bush's Tax Stimulus Proposal to Kansas
Joan Wagnon
Acting Secretary of Kansas Department of Revenue
February 21, 2003

- Kansas Revenue loss of $51 million against individual income tax receipts per year for the dividend exclusion proposal.

  - ✓ Negative Fiscal impact on the states- $4.5 billion-- $51 million on Kansas.
  - ✓ Dividend exclusion could cause upward pressure on interest rates by drawing capital from the bond market to stocks and increasing the federal deficit, increasing states' borrowing costs.
  - ✓ Economists believe that the increased deficit pressure alone could result in a one-half percent increase in interest rates.
  - ✓ States could consider "decoupling" from the federal dividend exclusion, if enacted, however, that decoupling from the dividend exclusion may be more difficult.
  - ✓ States that decoupled from the bonus depreciation knew that after a short period of time, their tax laws on depreciation would once again conform to federal treatment. The dividend exclusion, would be permanent. In the majority of states that have the tradition of conformity to federal tax law, it can be quite difficult to sustain a major difference from federal law over time.

- Kansas Revenue loss of $2 million spread across both individual income tax and corporate income tax for the increased small business expensing proposal.

  - ✓ The increased "expensing" for small businesses --- would result in a small annual reduction in state revenue.
  - ✓ The revenue loss to the states is likely to be around $200 million a year----$2 million impact for Kansas.

K A N S A S

JOAN WAGNON, ACTING SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

February 24, 2003

To: Senator David Corbin, Chair
Senate Committee on Assessment and Taxation

From: Joan Wagnon

Testimony in Support of Senate Bill 146

Senate Bill 146 proposes "decoupling" from any proposed dividend income exclusion, should it be enacted at the federal level. As you know, the center piece of President Bush's recent tax cut proposal is the exclusion of dividends from individual taxable income when paid out of previously taxed corporate income. This would be an exclusion from federal adjusted gross income. Because calculation of Kansas taxable income begins with federal adjusted gross income, if Congress does enact some form of dividend income exclusion this year, the negative fiscal impact of that change will directly affect Kansas. The Center on Budget and Policy Priorities (CBPP) has estimated the total negative fiscal impact of the dividend income exclusion on the states at over $4 billion, with $51 million of that on Kansas. The CBPP has also noted that the President's dividend exclusion proposal also includes some limited capital gains relief, the state fiscal impact of which has not been estimated. Any negative fiscal impacts on Kansas are problematic at this time.

Senate Bill 146 provides, effective for tax years 2003 and after, an add-back to Kansas adjusted gross income of any dividend income, to the extent such dividend income is excluded from federal adjusted gross income pursuant to any amendments to the federal internal revenue code enacted after December 31, 2002. This "decoupling" is intended to protect Kansas from potential loss of revenue, should Congress choose to enact some form of dividend income exclusion at the federal level. Should Congress not enact a dividend income exclusion, then Senate Bill 146 should have no effect.

Senate Bill 146 focuses only on decoupling from any potential federal exclusion of dividend income, because the dividend exclusion would have the highest fiscal impact on Kansas. Senate Bill 146 does not address decoupling from other aspects of the President's proposal, such as limited capital gains relief, or increased expensing allowances for small businesses. Those present a much smaller risk of fiscal impact on Kansas.

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
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Senate Assessment + Taxation
2-24-03 Attachment 2

KANSAS ASSOCIATION OF SCHOOL BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
S.B. 146 – Taxation of Dividend Income
Before the
Senate Committee on Assessment and Taxation

By
Mark Tallman, Assistant Executive Director/Advocacy

February 24, 2003

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to offer comments on SB 146. As we understand this bill, it would make dividend income taxable in Kansas if such income is excluded from federal taxation, as has been proposed by President Bush. We understand that the President's proposal could reduce Kansas tax revenues by tens of millions of dollars.

Based on previous testimony by KASB before this committee, I am sure you are well aware of our position on state revenues. It appears highly probable that state revenues will not meet the requirements of the current fiscal year, including the supplemental appropriations bill already passed by this Legislature. It is quite possible that revenue estimates for next year will be lowered. In that case, because the Governor's budget contains no ending balance for either FY 2003 or 2004, her recommendations for expenditures, including education programs, could not be funded. The lost of revenues from dividend income would make this situation worse.

We would support the enactment of SB 146, or alternatively, the passage of replacement revenue sources.

Thank you for your consideration.

Senate Assessment + Taxation
2-24-03
Attachment 3

Session of 2003

SENATE BILL No. 192

By Committee on Assessment and Taxation

2-10

AN ACT concerning sales taxation; enacting the streamlined sales and use tax agreement conformity act; local sales tax transportation development district act; amending K.S.A. 12-191, 12-198, 75-5151, 79-3607, 79-3608 and 79-3651 and K.S.A. 2002 Supp. 12-194, 25-432, 79-3602, 79-3603, 79-3606, 79-3650 and 79-3703 and repealing the existing sections; also repealing K.S.A. 12-191a.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-191 is hereby amended to read as follows: 12-191. All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, all retail sales, for the purpose of this act, shall be considered to have been consummated at the ~~place of business of the retailer~~ *location determined by the sourcing rules as provided in section 16, and amendments thereto. The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of section 16, and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location. The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where the motor vehicle or trailer was kept at the time negotiations were first entered into.* In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. ~~Retail sales involving the use, consumption, or furnishing of gas, water, electricity and heat, for the purposes of this act, shall be considered to have been consummated at the situs of the user or recipient~~

Senate Assessment & Taxation
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Attachment 4

(e) "Retail sale" or "sale at retail" means ~~all sales made within the state of tangible personal property or electrical energy, gas, water, services or entertainment for use or consumption and not for resale~~ *any sale, lease or rental for any purpose other than for resale, sublease or subrent.*

(f) "Tangible personal property" means ~~corporeal~~ personal property *that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.* ~~Such term shall include: (1) Any computer software program which is not a custom computer software program, as described by subsection (s) of K.S.A. 79-3603, and amendments thereto, and (2) any prepaid telephone calling card or prepaid authorization number, or recharge of such card or number, as described by subsection (b) of K.S.A. 79-3603, and amendments thereto.~~

(1)

(g) *"Sales or* selling price" ~~means the total cost to the consumer exclusive of discounts allowed and credited, but including freight and transportation charges from retailer to consumer.~~ *applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:*

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) delivery charges;

(E) installation charges; and

(F) the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(2) "Sales or selling price" shall not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(D) the amount equal to the allowance given for the trade-in of prop-

the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(mm) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(nn) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(oo) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(pp) "Seller" means a person making sales, leases or rentals of personal property or services.

(qq) "Sourcing rules" means the rules set forth in sections 16 through 19, K.S.A. 79-191 and 79-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

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(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.

Sec. 5. K.S.A. 2002 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, 2004, 5.2% on and after July 1, 2004, and before July 1, 2005, and 5% on and after July 1, 2005, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph serv-

uals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, *the sale of the service of providing computer software other than prewritten computer software* and the sale of the services of modifying, altering, updating or maintaining computer software~~. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software~~, *whether* the computer software is *installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave*;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid ~~telephone~~

~~calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address~~ *calling service* as defined at Section 19 (e)(11) and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 6. K.S.A. 2002 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or

equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

until January 1, 2006

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) ~~To residential premises for noncommercial use by the occupant of such premises, (2) for agricultural use and also, for such use, all sales of propane gas, (3)~~ for use in the severing of oil; and ~~(4)~~ (2) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

Repeal of these exemptions should not be effective until Jan. 1, 2006

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

~~(y)~~ all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

department; (2) provides evidence that the retailer refused or was unavailable to refund the tax; (3) provides evidence that the retailer did not act upon its refund request in a timely manner as provided in subsection (b), or; (4) provides a notarized statement to the department from the retailer that the retailer: (A) Will not claim a refund of the same tax included in the purchaser's or consumer's refund request; (B) agrees to provide to the consumer or purchaser any information or documentation in the retailer's possession needed for submission to the department to support or prove the refund claim; (C) has remitted to the state the tax sought to be refunded; and (D) has not taken or will not take a credit for such tax. A retailer providing false information in any such statement shall be subject to penalties prescribed by K.S.A. 2002 Supp. 79-3615(h), and amendments thereto.

(b) *A cause of action against the seller for the over-collected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. Such notice to the seller must contain the information necessary to determine the validity of the request. In connection with a purchaser's request from a seller* ~~or~~ *for over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller uses either a provider or a system, including a proprietary system, that is certified by the state and has remitted to the state all taxes collected less any deductions, credits or collection allowances.* If the director of taxation finds upon proper showing that a consumer or purchaser submitted a refund request to a retailer that was not acted upon by the retailer in a timely manner, the director shall extend the time for filing the request with the department beyond the three year limitation period that is otherwise provided by the time attributed to the delay caused by the retailer.

Sec. 10. K.S.A. 79-3651 is hereby amended to read as follows: 79-3651. (a) For the purpose of the proper administration of the Kansas retailers' sales tax act and to prevent evasion of the tax imposed thereunder, it shall be presumed that all gross receipts from the sale of tangible personal property or enumerated services are subject to tax until the contrary is established. The burden of proving that a sale is not subject to tax is upon the ~~vendor~~ *seller* unless the ~~vendor~~ *seller* takes from the purchaser an exemption certificate to the effect that the property or service purchased is not subject to tax.

(b) An exemption certificate shall relieve the ~~vendor~~ *seller* from collecting and remitting tax ~~when taken in good faith. A vendor shall be presumed to have accepted an exemption certificate in good faith in the absence of evidence to the contrary. A vendor shall be deemed to have accepted an exemption certificate in good faith if the vendor: (1) Main-~~

(b) model 2, wherein a seller selects a certified automated system to use which calculates the amount of tax due on a transaction; or

(c) model 3, wherein a seller utilizes its own proprietary automated sales tax system that has been certified as a certified automated system.

New Sec. 28. The provisions of this act shall be known and may be cited as the streamlined sales and use tax agreement conformity act.

Sections 29 through 40 should be effective 7/1/03

New Sec. 29. (a) Sections 29 through 38, and amendments thereto, shall be known and may be cited as the local sales tax transportation development district act.

(b) The powers conferred by this act are for public uses and purposes for which public money may be expended.

New Sec. 30. As used in sections 29 through 38, and amendments thereto: (a) "Acquire" means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and projects already owned by a municipality.

(b) "Act" means the provisions of sections 29 through 38, and amendments thereto.

(c) "Bonds" means special obligation bonds or special obligation notes payable solely from the sources described in section 35, and amendments thereto, issued by a municipality in accordance with the provisions of this act.

(d) "Consultant" means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the governing body in planning and making of projects.

(e) "Cost" means: (1) All costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, necessary fees and expenses of consultants and interest accrued on borrowed money during the period of construction together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any project and may include a charge of not to exceed 5% of the total cost of a project or the cost of work done by the municipality to reimburse the municipality for the services rendered by the municipality in the administration and supervision of such project by its general officers; and (2) in the case of property and projects already owned by the municipality and previously financed by the issuance of revenue bonds, cost means the principal amount of such outstanding revenue bonds plus the amount of matured interest, interest maturing within 90 days, plus the amount of any call premium or purchase premium required.

(f) "District" means a transportation development district created pursuant to this act.

body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision; and

(b) the secretary of state approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer; and

(c) the election is nonpartisan; and

(d) the election is not one at which any candidate is elected, retained or recalled; and

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto;

(4) townships;

(5) benefit districts organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

(7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;

(8) community college districts organized under K.S.A. 71-1101 *et seq.*, and amendments thereto;

(9) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

(10) hospital districts;

(11) improvement districts organized under K.S.A. 19-2753, and amendments thereto;

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

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

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

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

Sec. 41. ~~K.S.A. 12-191, 12-191a, 12-198, 75-5151, 79-3607, 79-3608~~ and 79-3651 and K.S.A. 2002 Supp. 12-194, 25-432, 79-3602, 79-3603,

Repeal Transportation District Excise Tax Act effective 7/1/03

Legislative Research Dept.

health care services.

Eleventh. For all taxable years commencing after December 31, 1998, all property actually and regularly used predominantly to produce and generate electricity utilizing renewable energy resources or technologies. For purposes of this section, "renewable energy resources or technologies" shall include ~~wind,~~ solar, thermal, photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies [~~*but, commencing in tax year 2003 and all tax years thereafter, shall not include wind resources or technologies*~~].

The provisions of this section, except as otherwise more specifically provided, shall apply to all taxable years commencing after December 31, 1995.

Sec. 2. K.S.A. 2002 Supp. 79-201 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

, except that for all taxable years commencing after December 31, 2002, there shall be no exemption granted pursuant to this paragraph for wind resources or technologies unless the taxpayer claiming such exemption has entered into a contract for the payment of service charges in lieu of taxes, authorized pursuant to K.S.A. 12-147, and amendments thereto, with the board of county commissioners of the county in which the property for which the exemption is to be granted is located. If such payment of service charges in lieu of taxes is not made by the taxpayer claiming such exemption in accordance with the provisions of the contract, such taxpayer shall no longer be entitled to the exemption

wind,

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2-24-03
Attachment 5