Approved: February 23, 2004
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:45 a.m. on February 18, 2004, in Room 519-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:
Senator Karin Brownlee
Charles Gregor, Jr., Leavenworth-Lansing Area Chamber of Commerce
Marlee Carpenter, Kansas Chamber of Commerce
Hal Hudson, National Federation of Independent Business
Kenneth Daniel, Midway Wholesale
Bob Corkins, Freestate Center for Liberty Studies
Merv Gleason, Strategic Financial Management, City of Olathe
Dave Gregory, Star Lumber & Supply Co., Inc.
Rebecca Shipley, Olathe Glass Company, Inc.

Others attending:
See Attached List.

Senator Corbin called the Committee's attention to the minute of the February 16 meeting.

Senator Donovan moved to approve the minutes of the February 16, 2004, meeting, seconded by Senator Buhler. The motion carried.

SB 444–Delay of destination sourcing for sales tax purposes until action of Congress

Senator Corbin commented that an amendment to **SB 325** similar to the provisions in **SB 444** was offered on the floor of the Senate on February 12, and it was defeated on a vote of 26-13.

Senator Karin Brownlee testified in support of **SB 444**. She noted that the mission statement of the Streamlined Sales Tax Project (SSTP) indicates that the goal is to develop and implement a sales and use tax system that radically simplifies sales and use taxes. After receiving phone calls and meeting with frustrated business owners, she believes that the state's formerly usable sales tax system has not been radically simplified but instead has been replaced with a system that defies logic and steals away hours of productivity from those who can least afford to give it. She contended that Kansas' participation in the project means that the state is giving up a great deal of autonomy. She noted that allowing business an administrative fee may be helpful, but it still leaves them with the burden of compliance with the SSTP legislation. In her opinion, the benefits of the SSTP have been tremendously oversold. (Attachment 1)

Charles Gregor, Jr., Leavenworth-Lansing Area Chamber of Commerce, testified in support of **SB 444** because he believes that it takes a common sense approach to the issue of sales tax destination sourcing and provides an opportunity for Kansas businesses to be well prepared to make the transition to nationwide destination sourcing if and when enabling federal legislation becomes law. By that time, the Department of Revenue will be aware of the precise requirements needed and will be able to implement a well thought out destination sourcing law. He noted that the status of Kansas as an SSTP qualified state will not be lost if destination sourcing is delayed, and the state can remain on the list of those favoring the SSTP. He noted further that there is a distinct possibility that some of the state's taxing jurisdictions will experience minor to severe losses of sales tax revenue with the full implementation of destination sourcing. The bill would allow time to research what the impact would be and what remedies might be needed. (Attachment 2)

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on February 18, 2004, in Room 519-S of the Capitol.

Marlee Carpenter, Kansas Chamber of Commerce, testified in support of **SB 444**. She noted that the Chamber supports a level playing field between Internet retailers and brick and mortar retailers, and it supported the passage of the SSTP last year. However, retailers are very concerned that destination sourcing is not working in Kansas with its more than 750 sales tax jurisdictions. Ms. Carpenter urged the Committee to consider delaying implementation of the destination sourcing requirements until six months after Congress implements the SSTP at the national level. She noted that delaying implementation would give legislators time to work with the national project to find solutions to the destination sourcing problem. In addition, a delay would allow the national project to finalize all details and listen to concerns about specific parts of the project, and it would allow retailers time to figure out the new system. (Attachment 3)

In response to committee questions, Ms. Carpenter commented further that retailers with which she has visited indicated that they are willing to comply with destination sourcing rules, but they do not see a monetary gain until Congress acts and all companies nationwide must comply. As to the recent agreement by Amazon.com to begin remitting sales taxes to the state, she pointed out that Amazon.com should have been already remitting sales taxes to the state because it has nexus in Kansas.

Hal Hudson, National Federation of Independent Business (NFIB), testified in support of **SB 444**. He informed the Committee that a survey of NFIB members showed that a majority believes it is appropriate to delay or repeal the destination sourcing rule until Congress acts to allow Kansas to collect sales tax from remote sellers. Even those members who support the concepts of SSTP question the implementation of destination sourcing at this time. Mr. Hudson noted that many NFIB members have 15 or fewer employees, and many of them had no need for a computer prior to the enactment of destination sourcing. Those who do have computers complain about expensive upgrades needed to comply with the law. (Attachment 4)

Kenneth Daniel, Midway Wholesale, testified in support of **SB 444**. He noted that his business has been in full compliance with the destination sourcing law since September 2003. It cost his company $50,000 to convert and comply in 2003, and it will cost approximately $20,000 to comply in 2004. He estimates that it will cost $10,000 to $20,000 per year in future years. He discussed data, using four different scenarios of destination sourcing, as shown on spreadsheets which analyze the revenue effects of destination sourcing and remote tax collections for the state, local governments, and Kansas retailers. He also discussed the documentation of the figures he used in preparing the spreadsheets. (Attachment 5)

Bob Corkins, Freestate Center for Liberty Studies, testified in support of **SB 444**. He contended that the SSTP advocates are exercising a deplorable strategy to circumvent the U.S. Constitution. In his opinion, the national strategy is to sidestep the Commerce Clause barrier to Internet sales tax by getting enough states to make their sales tax laws more uniform. He emphasized his concern that the SSTP downplays the importance of state sovereignty and discourages states from competing to have the lowest tax burden. In Mr. Corkins' opinion, the Governor and the Secretary of Revenue, who are SSTP advocates, showed little respect for their constitutional duty to enforce state law when they chose not to begin enforcing the destination sourcing legislation immediately after its passage. The net result is millions in overcharged sales tax dollars since last July. Mr. Corkins argued that it is possible that Kansas will have implemented a new sales tax rule that does nothing but impose onerous costs on merchants and reduce local tax revenue. In conclusion, he suggested that the destination sourcing rule should be suspended for all retailers alike by deleting Section 11 from the bill. (Attachment 6)

Merv Gleason, Interim Director for the Strategic Financial Management Department for the City of Olathe, testified in support of **SB 444**. He noted that the City of Olathe is the fastest growing city in the state, and given the current economic times, citizen demands for road improvements and services are stretching the city's budget. The sales tax level has remained at 2002 levels, and passage of the SSTP legislation in 2003 has not proven to be beneficial for the City of Olathe. Customers still come to Olathe to purchase goods and send them home; however, the sales tax that formerly came to Olathe now goes home with the customer. To compound that problem, the movement of revenue is often one way due to the city's geographical location. Mr. Gleason requested that implementation of destination sourcing be delayed until such time Congress has enacted the appropriate legislation. (Attachment 7)

Dave Gregory, Star Lumber and Supply Company, testified in support of **SB 444**. He noted that he works very closely with retail sales tax collection and that over 80 % of Star's sales are derived from deliveries. For retailers like Star, the SST is a logistics nightmare. In his opinion, the SSTP may cost Kansas based retailers more in implementation expenditures and lost productivity than the amount of lost use taxes the state can collect. He contended that the state's "Sales and Use Tax Address Tax Rate Locator" Internet based lookup routine is impractical. In addition, he called attention to a list of other problems with the SSTP included in his written testimony. To allow businesses additional time to finalize software changes and train employees, he suggested that **SB 444** be amended by providing for a further one year extension after Congress enables the states to tax intrastate commerce. (Attachment 8)

Rebecca Shipley, Olathe Glass Company, testified in support of **SB 444**. She complained that the SST code is asking too much of small service businesses and businesses such as hers which conduct zero Internet sales. She noted that, for her business, compliance with the SST code would decrease the collected share of the tax revenue, and implementation of the new tax code would be a large financial burden. She emphasized that her company cannot afford to spend thousands on a system from which it will receive no benefit. She argued her company should not be forced to comply with a complicated tax code which will negatively affect its welfare nor should it be doing the job of the state, dividing up the taxes among different districts. (Attachment 9)

There being no further time, Senator Corbin announced that the written testimony of others scheduled to testify on **SB 444** would be made part of the record. The remaining testimony in support of **SB 444** in included the following:

Karl Peterjohn, Kansas Taxpayers Network (Attachment 10),
Art Brown, Mid-America Lumbermens Association (Attachment 11),
Kenneth Hite, Christian Book & Gift Stores (Attachment 12), and
Natalie Bright, Wichita Independent Business Association (Attachment 13).

Larry Baer, League of Kansas Municipalities, was scheduled to testify in opposition to **SB 444** for the reason that the League remains firmly committed to the SSTP as adopted and placed in effect last year as a means to level the playing field and to allow for revenues to be derived from Internet sales. (Attachment 14)

The hearing on **SB 470,** concerning remittance credits for sales and use tax collection services provided by retailers, was not rescheduled. Senator Corbin noted that the provisions of the bill were incorporated into **SB 532**, which he requested for introduction in the Senate Ways and Means Committee on February 17.

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

The next meeting is scheduled for February 19, 2004.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: February 18, 2004

NAME	REPRESENTING
Richard Cram	KDOR
Merv Gleaser	City of Olathe
BUD BURKE	"
LARRY R BAER	LKM
Pat Brown	MID-AMERICA LUMBERMENS ASSN (M.L.A.)
KEN DANIEL	MIDWAY WHOLESALE & NFIB
Hal Hudson	NFIB/KS
Karl Peterjohn	KS Taxpayers Network
Leo Henwin	Taxpayer - Wellsville Ks
Cathy Bennett	Greater KC Chamber.
Dave Gregory	Myself
John Frederick	Boeing
Bill Brady	Ks Gov't Consulting
Andy Shaw	PMCA of Ks
Tom Bruno	GBBA
Marlee Carpenter	KS Chamber
Ross Marde	LEAVENWORTH CHAMBER
Charlie Gregor	" "

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: February 18, 2004

NAME	REPRESENTING
Ken Hite	Christian Book & Gift Co.
Con J Schroeder	OLATHE GLASS Co Inc
Rebecca J Shipley	OLATHE Glass Co Inc

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SENATE ASSESSMENT & TAXATION COMMITTEE

SB 444 – STREAMLINED SALES TAX PROJECT

February 18, 2004

"The Streamlined Sales Tax Project will develop measures to design, test and implement a sales and use tax system that radically simplifies sales and use taxes." This is the mission statement of the SSTP, copied directly from their web site at www.streamlinedsalestax.org. This may have been what some Kansas legislators and government leaders thought they were supporting when they promulgated legislation to bring Kansas into compliance with SSTP. What did we really get with this legislation?

After many phone calls and meetings with frustrated business owners and much research on the topic, I would conclude that we have been taken much like River City was taken by the traveling salesman in "The Music Man." Our formerly usable sales tax system has not been radically simplified, it has instead been replaced with a system that defies logic and steals away previous hours of productivity from those who can least afford to give it. We swallowed the bait offered by SSTP hook line and sinker. The supposed SSTP pilot project resulted in one retailer remitting tax through one vendor. The Senate leadership has especially emphasized that being a participating state allows us a "voice and a vote" at the table. Again, please refer to the SSTP web site and pull up the minutes for the meeting dates. Kansas and the message our representatives took to the meetings have been summarily ignored. Kansas is not even mentioned in the official minutes of these meetings.

Participating in this project means we are giving up a great deal of our autonomy and allowing a voluntary group decide what sales tax policy will be in our state. We will not get to make these decisions ourselves as long as we insist on being a participating state. Home rule has been a precious principle that our local governments have embraced for decades. This principle also makes it more difficult to implement SSTP as we have allowed our local governments to pass some local taxes that have led to Kansas having about ten percent of the taxing jurisdictions in the country (for one percent of the population).

Last fall I was contacted by the general counsel for the U.S. House Judiciary committee as the subcommittee on Commercial and Administrative Law was preparing for hearings on SSTP. Rep. Chris Cannon chairs this subcommittee and voiced his reservations about SSTP based on constitutional issues. His testimony and others are available at www.house.gov/judiciary/commercial.htm.

As we have struggled with budget challenges in the past few years, we have raised taxes and made some business unfriendly decisions. My sense is that this legislation was the granddaddy of them all with the reaction it generated from businesses. This time businesses said, "This is impossible," "I cannot do this" and in some cases, "I will not do this."

Consider if you will please, the plight of the locksmith, my former backdoor neighbor in the vitamin business, the washing machine repair man, the electrical contractor... All of these businesses and more have been impacted in such major, negative ways. We have stolen their focus from being productive to calculating and distributing tax revenues; this should be the job of DOR, not of private business. Allowing businesses an administrative fee might be helpful but it still leaves them with the burden of complying with this law. I believe it is best to not be part of SSTP. The benefits have been oversold tremendously.

Senate Assessment + Taxation
2-18-04
Attachment 1

Let's admit that we swallowed the wrong tonic and correct our mistake. I think the way that we correct this will be important. This legislation was part of a large bundled package of tax bills. Most of these bills were good; this one was not. We need to question why we have allowed our integrity to slip when it comes to difficult issues. If they should be passed, they should do so on their own merit and not because we have stuffed them down the throats of our colleagues either at the eleventh hour and/or by bundling. We need to address this quickly – partly to provide certainty to businesses – and to show the public that we can handle difficult issues in a straightforward manner.

Thank you for considering my comments.

State Senator Karin Brownlee

Leavenworth-Lansing Area Chamber of Commerce

TESTIMONY
CHARLES H. GREGOR, JR.
EXECUTIVE VICE PRESIDENT
LEAVENWORTH-LANSING AREA CHAMBER OF COMMERCE
Senate Assessment & Taxation Committee
Wednesday, February 18, 2004
Senate Bill 444

Mr. Chairman, members of the Committee, I thank you for the opportunity to testify before you today in favor of Senate Bill 444 on behalf of the approximately 500 members of the Leavenworth-Lansing Area Chamber of Commerce. This bill takes a common sense approach to the issue of sales tax destination sourcing within Kansas and provides the opportunity to insure that Kansas businesses will be prepared to make the transition to nationwide destination sourcing if and when that opportunity presents itself.

The Leavenworth-Lansing Area Chamber of Commerce supports the concept of destination sourcing of sales taxes given the objective of taxing internet sales. We feel this is important to Kansas businesses, both directly and indirectly. Directly in that it will help level the retail sales playing field, and indirectly in that taxation of internet sales will provide revenue to the State of Kansas that will help ease the tax burden and cost of doing business within the state. We are aware of the agreement with Amazon.com that will bring an estimated million dollars to the state.

We congratulate Secretary Wagnon and the Kansas Department of Revenue (KDOR) for what has been accomplished in preparing Kansas to implement destination sourcing. It is worth noting that this has not been done without cost. We have invested over a half million dollars in the creation of a KDOR website that will simplify sales tax calculations and collections. We will continue to invest in the maintenance of that website to the tune of approximately a hundred thousand dollars a year. I have attended several of KDOR's briefings on the progress to date and it is clear there is still more to be done and many valid questions and concerns are still out there on the part of retailers and service providers that must be answered.

For these reasons we favor Senate Bill 444. It is clear that much remains to be done. This bill will allow the Kansas Department of Revenue to make deliberate and calculated preparations for implementing destination sourcing when and if enabling federal legislation becomes law. At that point we will be aware of the precise federal requirements needed to pass constitutional muster, as well as federal requirements and restrictions that may be included in enabling federal legislation. We can then adjust and fine tune our intra- and interstate tax law accordingly, and implement a well thought out and prepared destination sourcing Kansas law. This makes sense and will go a long to easing our businesses into the transition to destination sourcing. Meanwhile, the status of Kansas as an "SSTP qualified state" will not be lost and we can remain on the list of states favoring the Streamlined Sales Tax Project.

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Senate Assessment & Taxation
2-18-04
Attachment 2

At this point we are inflicting costs and consternation on many of our businesses that may be unnecessary. Congress may not pass enabling legislation for years, if at all. That federal legislation, if passed, will inevitably be challenged in court.

There is another advantage to this bill that is not as obvious. Despite the fact that such organizations as the Kansas League of Municipalities have supported sales tax destination sourcing within the State of Kansas, nobody has done their homework on the actual revenue impact of destination sourcing on our cities and counties. KDOR is working on developing answers to such questions but has virtually none at this point. There has simply not been enough time. There is the distinct possibility that some of our taxing jurisdictions will experience a minor to severe loss of sales tax revenue with the full implementation of destination sourcing. This bill will allow the time for research to determine what those impacts will be and possible remediation that may be required.

I urge you to favorably consider Senate Bill 444. It's a logical and prudent step toward preparing Kansas and Kansas businesses for an eventual smooth and relatively painless transition to a nationwide destination sourcing system should such a system become reality.

I would be glad to stand for questions.

--------------------- end of statement --------------------

Legislative Testimony

SB 444

February 18, 2004

Testimony before the Kansas Senate Assessment and Taxation Committee
By Marlee Carpenter, Vice President Government Relations

THE KANSAS CHAMBER

The Force for Business

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Chairman Corbin and members of the committee:

I am Marlee Carpenter of The Kansas Chamber of Commerce. We are here today to support SB 444. The Kansas Chamber has a long history of supporting a level playing field between Internet retailers and brick and mortar retailers. We supported the passage of the Streamlined Sales Tax Project (SSTP) last year and this session we continue our support.

Destination sourcing, which is a major element of the SSTP, is of great concern to our retailers and is not working in Kansas, with its more than 750 sales tax jurisdictions. For retailers that deliver in the state, collecting and remitting this tax has become burdensome and expensive. We urge the committee to consider delaying implementation of the destination sourcing requirements until 6 months after Congress implements the SSTP at the national level.

Delaying implementation will do several things. First, it will give legislators time to work with the national project and within the state to find possible solutions to the destination-sourcing problem. Second, it will allow the national project to finalize all details and listen to the concerns and work with states like Kansas who are having issues with specific parts of the project. Finally, it will allow retailers time to figure out the new system, how to implement it in their store and ways retailer and the Department can collaborate to make this work in Kansas.

The Kansas Chamber also supports a sales tax or income tax credit for small retailers that must invest in software or hardware to comply with destination sourcing and an administrative allowance for all retailers. Finally, we support amnesty provisions for retailers during this time of uncertainty—when the law is enacted but a "grace period" has been declared.

Again, the Kansas Chamber continues its support of the SSTP and a level playing field, but also supports a delay in the enactment of the destination sourcing provisions. Thank you for your time and I will be happy to answer any questions.

The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, large and medium sized employers all across Kansas.

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2-18-04
Attachment 3

LEGISLATIVE NFIB TESTIMONY

The Voice of Small Business®

KANSAS

Statement by
Hal Hudson, Kansas State Director
National Federation of Business
Before the
Senate Committee on Assessment and Taxation
Wednesday, February 18, 2004

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to speak in support of Senate Bill 444.

As you know, the Legislative Agenda of NFIB/Kansas is determined by direct ballot, survey or questionnaire of our members. Last summer, we asked our members if the destination-sourcing rule enacted as a part of H.B 2005 should be repealed or delayed. The fax survey, done in response to a voluminous outcry from our members, was sent to the 4,400 members for whom we have fax numbers. Of the more than 500 (11%) respondents, 84% voted "YES."

S.B. 444 provides for delay in most situations until the U.S. Congress acts to allow Kansas to collect sales tax from remote sellers. Our members think this would be appropriate.

While the members of NFIB are divided on the issues of SSTP pertaining to the collection of sales tax from such sources as Internet and catalog sales, they have not been divided on the issue of destination sourcing. Even those who support the concepts of SSTP have asked, "Why are retailers based in Kansas prematurely burdened with the expense of time and effort, not to mention investment in computers and/or software, needed for compliance?"

S.B. 444 provides that utilities and telecommunications services will continue using the destination sourcing, as current law requires. We accept this as reasonable because the major of their sales are to repeat customers. Once their customers' local jurisdictions are set up in their billing systems there will be little change from month-to-month.

We also accept that contractor sales of $10,000 or more would continue to collect and remit according to the destination sourcing rules. Such transactions, for the most part, will be of much smaller number of transactions than retail sales of the typical retailer.

Of the nearly 6,000 members of NFIB in Kansas, over 80% have 15 or fewer employees. Many do not even own computers. Some have said they have never seen the need for a computer in their business, prior to enactment of H.B. 2005. Others, who do have computers, have reported very expensive upgrades of their computers and/or software to comply with the law.

A few of our members, who have enabled their systems to attain compliance, report the ongoing effort of determining the correct tax and properly reporting to the Department of Revenue is both time consuming and expensive.

We believe that enactment of S.B. 444 is appropriate action, at this time, to alleviate problems of unintended consequences arising out of the 2003 legislation. We urge you to support enactment of S.B. 444.

Thank your for your attention.

The National Federation of Independent Business (NFIB) is the nation's largest small-business advocacy group. A nonprofit, nonpartisan organization founded in 1943, NFIB represents the consensus views of its 600,000 members in Washington and all 50 state capitals, including nearly 6,000 members in Kansas. More information is available on-line at www.nfib.com/ks.

National Federation of Independent Business – KANSAS
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Senate Assessment & Taxation
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Attachment 4

NFIB
The Voice of Small Business®

KANSAS

Top 10 Reasons To Love Small Business
The Heart Of The American Economy

WASHINGTON, D.C. - The Office of Advocacy of the SBA offers the top 10 reasons to love small business, the heart of the American economy.

Top 10 Reasons To Love Small Business

10. Small businesses make up more than 99.7% of all employers.

9. Small businesses create more than 50 percent of the non-farm private gross domestic product (GDP).

8. Small patenting firms produce 13 to 14 times more patents per employee than large patenting firms.

7. The 22.9 million small businesses in the United States are located in virtually every neighborhood.

6. Small businesses employ about 50 percent of all private sector workers.

5. Home-based businesses account for 53 percent of all small businesses.

4. Small businesses make up 97 percent of exporters and produce 29 percent of all export value.

3. Small businesses with employees start-up at a rate of over 500,000 per year.

2. Four years after start-up, half of all small businesses with employees remain open.

1. The latest figures show that small businesses create 75 percent of the net new jobs in our economy.

The Office of Advocacy, the "small business watchdog" of the government, examines the role and status of small business in the economy and independently represents the views of small business to federal agencies, Congress, and the President. It is the source for small business statistics presented in user-friendly formats and it funds research into small business issues.

For more information, visit the Office of Advocacy website at www.sba.gov/advo.

National Federation of Independent Business - KANSAS
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Midway Sales & Distributing, Inc. d/b/a
MIDWAY WHOLESALE
Topeka • Salina • Lawrence • Manhattan • Elwood • Kansas City • Wichita

Presentation to the Senate Assessment & Taxation Committee
February 18, 2004

By Kenneth L. Daniel
Chairman and C.E.O., Midway Sales & Distributing, Inc. d/b/a Midway Wholesale
and
2004 Chairman, Kansas Leadership Council, National Federation of Independent Business (NFIB)

Mr. Chairman and Members of the Committee:

I would like to speak in support of Senate Bill 444.

I assume you have heard and will hear plenty of stories about the horrors of destination sourcing, so I will only briefly comment on my own business, then spend the rest of my time on an entirely new viewpoint of this issue.

MY BUSINESS

My business was one of the first to comply with this law. We have been in full compliance since September. The amount of effort, expense, and management attention that this is requiring is equal to D.O.T. or OSHA regulations.

In the last seven months of 2003, it cost us an estimated $50,000 to come into compliance and comply with destination sourcing even though our computer was already programmed to handle it. This year it will cost about $20,000. In future years it will cost us an estimated $10,000 to $20,000 per year to comply.

PENNY WISE, POUND FOOLISH

In my opinion this legislation is a prime example of "penny wise, pound foolish".

Attached, on bright orange paper, are four spreadsheets and a summary cover sheet that I have prepared. All of these sheets estimate the effect of the SSTP on revenues and expenses for the years 2004 through 2009. It separates the effects for the State, local governments, and Kansas retailers. Each spreadsheet is for a different scenario.

In the first scenario, we assume that the "lost" taxes are $70 million per year in 2006, and that we collect the full $70 million that year. For the 6 years from 2004 through 2009, the State will gain $182 million in net new revenue. Local governments will lose $108

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Senate Assessment + Taxation
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million in revenues. It will cost Kansas businesses $378 million to generate the combined net $74 million of revenue to State and local governments.

In the second scenario, we assume that the "lost" taxes are only $50 million per year. For the 6 years from 2004 through 2009, the State will net $111 million in net new revenue. Local governments will lose $130 million in revenues. It will cost Kansas businesses $378 million to generate the combined $19 million loss.

MOST LIKELY SCENARIO: In the third scenario, we assume that the "lost" taxes are only $25 million per year in 2006. For the 6 years from 2004 through 2009, the State will net $33 million in net new revenue. Local governments will lose $155 million in revenues. It will cost Kansas businesses $378 million to generate the combined $122 million loss.

A SENSIBLE ALTERNATIVE: In the fourth scenario, we again assume that the "lost" taxes are only $25 million. We change the law so that when we start collecting from remote retailers in 2006, they will collect only 5.3% for all sales in Kansas. This will eliminate entirely any possibility of being in violation of the Commerce Clause. Now we can go back to origin sourcing for all retailers located in Kansas. We can divide up the revenue from the 5.3% between the State and locals using the same proportions as other sales taxes, which is about 77% State and 23% local. In 6 years, the State will net $72 million, locals will net $20 million, and it will cost Kansas businesses only the $5 million they have already spent.

I did run a fifth scenario based on the $70 million figure, but with collections delayed to 2009. For the six years, the State would have only $6 million in net revenues, locals would have lost $163 million, and it would have cost Kansas businesses $378 million.

DOCUMENTATION OF FIGURES USED IN THE SPREADSHEETS

How Much Sales & Use Tax Revenue Is Kansas Losing? Attached is a page with that title. It shows that about $25 million will be "lost" in 2004 by the state and local governments. This includes all remote sales—internet, catalog, telephone, and others. The $140 to $180 million dollar "losses" we have been hearing about are just plain wrong.

Conversion Costs For Kansas Retailers: Attached is a page with that title. It shows that it will cost Kansas retailers about $54 million to convert to destination sourcing. There have been estimates by others ranging from $30 million to $60 million to $140 million in recent months.

Ongoing Destination Sourcing Costs for Kansas Retailers: Attached is a page with that title. It shows that it will cost Kansas Retailers over $50 million per year to comply with the new destination sourcing provisions.

Other States: Attached are two pages titled "Destination Sourcing and Other Sales Tax Information", which summarizes SSTP information for all 50 states

"Costs to Collect Sales Taxes": Attached is a page with that title. It shows how much it costs retailers to collect sales taxes, and how much more it costs to collect in multiple states. This study by the State of Washington is the only definitive recent study.

"Impact of the SSTP on Local Sales Tax Revenues": Attached is a KsSmallBiz.com article with that title. It shows how Kansas cities and counties will collectively lose about $32 million per year of sales tax revenues, amounting to about 6% of all local sales tax revenues statewide. It also shows that trade centers will ship about 4.25% of their revenues to rural areas.

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

HOW MUCH SALES & USE TAX REVENUE IS KANSAS "LOSING"?

Kenneth Daniel
2/13/04

Method One: $134.4 million in 2001. Proponents of the STTP continue to cite an outdated and seriously faulted 2001 University of Tennessee study. It claims that Kansas "lost" $134.4 million of sales tax revenue in 2001 because of e-commerce.

Method Two: $50-70 million per year. Months ago, Kansas Department of Revenue officials quit quoting the embarrassingly flawed "loss" figure and started using $70 million and even "less than $50 million".

Method Three: Less than $20.8 million in 2001. In 2001, the U.S. Census Bureau and the U.S. Department of Commerce began publishing statistics on e-commerce. (None of this information was used in the University of Tennessee study, nor has the UT study been updated.) The March 19, 2003 edition of the U.S. Department of Commerce "E-Stats" (www.census.gov/estats) shows that total retail e-commerce sales in the U.S. in 2001 were $34 billion. Based on population, Kansas' share of that was $306 million. The sales tax on that amount at a statewide average of 6.8% is $20.8 million. This still overstates the amount of "loss" considerably because some of those taxes were collected and some of those sales were not taxable.

Method Four: $22.5 million in 2003. A 2003 study by the Direct Marketers Association (DMA) thoroughly debunks the UT study. The DMA study may be seen at:

http://www.the-dma.org/taxation/CurrentCalculationofUncollectedSalesTax.pdf

The DMA study predicts the following "total potential uncollected sales tax"[1]:

	Nationally	Kansas Share*
2003	$2.5 billion	$22.5 million
2004	$2.8 billion	$25.2 million
2005	$3.0 billion	$27.0 million
2006	$3.2 billion	$28.8 million
2007	$3.4 billion	$30.6 million
2008	$3.7 billion	$33.3 million
2009	$4.0 billion	$36.0 million

The Kansas share is based on the Kansas population being .9% of the U.S. population.

[1] "A Current Calculation of Uncollected Sales Tax Arising From Internet Growth" by Peter A. Johnson, PH.D., Senior Economist for the Direct Marketing Association, March 11, 2003.

CONVERSION COSTS FOR KANSAS RETAILERS

Kenneth Daniel
February 13, 2004

Last fall, the Kansas Chamber surveyed its members concerning the costs of destination sourcing for their businesses.

Using the portion of the survey that applies to the cost of converting business systems to enable the tracking of destination-based sales, it is estimated that the up-front conversion costs for 25,000 Kansas retailers will be $54 million. (This includes only the first $10,000 for large firms—some will have costs of $250,000 or more.)

CONVERSION COSTS

	KCCI Survey	# of Firms	Avg Cost/Firm	Total Cost
Assume Zero Cost	30%	7500	0	$0
Under $500	18%	4500	$250	$1,125,000
$500-$2500	26%	6500	$1,500	$9,750,000
$2500-$5000	14%	3500	$3,750	$13,125,000
Over $5000	12%	3000	$10,000	$30,000,000
Totals	100%	25000	$1,560	$54,000,000

ONGOING DESTINATION SOURCING COSTS FOR KANSAS RETAILERS

Kenneth Daniel
February 13, 2004

Last fall, the Kansas Chamber surveyed its members concerning the costs of destination sourcing for their businesses. Using the portion of that survey that applies to ongoing costs, it is estimated that the total compliance costs to 25,000 Kansas retailers will be more than $50 million annually. (The table includes only the first $10,000 for large firms—some will have costs of $50,000 or even $100,000 per year.)

ONGOING ANNUAL COSTS

	KCCI Survey	# of Firms	Avg Cost/Firm	Total Cost
Assume Zero Cost	21.5%	5375	0	$0
Under $500	27.5%	6875	$250	$1,718,750
$500-$2500	25.5%	6375	$1,500	$9,562,500
$2500-$5000	15.7%	3925	$3,750	$14,718,750
Over $5000	9.8%	2450	$10,000	$24,500,000
Totals	100.0%	25000	$1,530	$50,500,000

5-07

DESTINATION SOURCING AND OTHER SALES TAX INFORMATION

Compiled by Kenneth Daniel of NFIB Kansas (kdaniel@midwaywholesale.com)

Updated 1/13/04

States That Had Some Form of Destination Sourcing Before 2003

State	Destination Sourcing?	1994 Book*	When?	SSTP Member?	In SSTP Compliance?	# of Sls Tx Jurisdctns	1994 Book*	Collection Fee?	Comments
AL	Yes	D		Attending	No	230	435	Yes	Locals collect their own taxes
CA	Partial	OD		Yes	No	33	35	No	If delivered by vendor's vehicle
FL	Yes	D		Attending	No	67	27	Yes	Counties only
GA	Yes	D		No	No	159	161	Yes	Counties only--only 3 rates
IA	Yes	D	Jul '04?	Yes	Yes	50	16	No	Counties only
LA	Yes	D		Attending	No	64	322	Yes	Each parish collects its own.
MN	Yes	D	Not set?	Yes	Mostly	11	91	No	10 Cities and 1 County
NE	Yes	D	1967	Yes	Yes	129	44	Yes	Cities only
NY	Yes	D	1965	No	No	81	92	Yes	Counties & 24 Cities
NC	Yes	O	Jan-02	Yes	Yes	100	100	No	Counties only
ND	Yes	D		Yes	Yes	101	14	Yes	100 Cities and 1 County
OH	Yes	O		Yes	Yes	88	91	Yes	Counties only
SC	Partial	OD		Attending	No	177	149	Yes	If delivered by vendor's vehicle
SD	Yes	D	abt 1973	Yes	Yes	204	143	No	Cities & 4 Reservations Only
WI	Partial	D		Attending	No	57	40	Yes	If delivered by vendor's vehicle

Changing from Origin to Destination?

State	Destination Sourcing?	1994 Book*	When?	SSTP Member?	In SSTP Compliance?	# of Sls Tx Jurisdictions	1994 Book*	Collection Fee?	Comments
AR	Coming	O	Not set	Yes	Maybe	332	195	Yes	In Oct. '03, not ready for D.S.
KS	Yes--new	O	Jul-03	Yes	Yes	751	179	No	
NV	Coming?		Jul '03?	Yes	Yes	17		Yes	Counties only--DS probably not 7/2003
OK	Coming	O	Nov-03	Yes	Yes	597	476	Yes	Cities and Counties
TN	Yes--new?	O	Not set?	Yes	No?	750	105	Yes	Sen. Brownlee says they aren't in compliance
TX	Coming	OD	Jul '04?	Yes	No?	2628	1186	Yes	Refused to change sourcing?
UT	Coming	O	Jul-04	Yes	Maybe	293	270	Yes	Refusing D.S.?
WY	Coming	D	Not set?	Yes	Yes	23	18	No	Counties only

Others

State	Destination Sourcing?	1994 Book*	When?	SSTP Member?	In SSTP Compliance?	# of Sls Tx Jurisdictions	1994 Book*	Collection Fee?	Comments
AK	No sales tax	O		No	No		92	N/A	No state sales tax
AZ	No	O		Attending	No	105	94	Yes	Cities and counties
CO	No	D		No	No	298	243	Yes	No local collected if shipped out of local
CT	No local			Attending	No	0		No	
DE	No sales tax			No	No	0		N/A	
HA	Excise tax			Attending	No			No	Excise tax, not sales tax
ID	No	D		No	No	6	2	No	6 locals--locals collect
IL	No	O		Attending	No	1517	74	Yes	Refused to change sourcing?
IN	No local		Jan-04	Yes	Yes	1		No	No local sales taxes so no problem
KY	No local		Jul-04	Yes	Yes	1		Yes	
MA	No local			Attending	No	1		No	
ME	No local			Attending	No	1		No	
MD	No local			Attending	No	1		Yes	
MI	No local			Attending	No	1		Yes	
MO	Not yet	O		Attending	No	1681	665	Yes	
MS	No local	D		Attending	No	1	1	Yes	Why D when no local?
MT	No sales tax			No	No	0		N/A	
NH	No sales tax			No	No	0		N/A	
NJ	No local			Attending	No	1		No	
NM	No	O		No	No	170	132	No	
OR	No sales tax			No	No	0		N/A	
PA	No local	O		Attending	No	3	2	Yes	Only 2 local--locally administered
RI	No local			Attending	No	1		No	
VA	No	O		Attending	No	139	136	Yes	Origin
VT	No local		Not set?	Yes	Yes?	1		No	
WA	Origin	O		Yes	No		325	No	Refused to change sourcing
WV	No local		Jan 2004?	Yes	Yes	1		No	
						10872	9943		

* "Sales Taxation", 1994, contains sourcing information on 33 states. O = Origin D = Destination OD = Some of both

COSTS TO COLLECT SALES TAXES

Kenneth Daniel
February 13, 2004

State and local sales taxes are expensive to administer and the costs are born primarily by retailers.

The most definitive analysis to date on this issue was done by Ernst & Young in 1999[2]. It addresses costs for single-state retailers as well as multi-state retailers.

A detailed study was done on this subject in 1998 by the State of Washington. Washington is and has been an "origin-based sourcing" state. Based on the study, the costs for Washington retailers doing business in only one state were:

Small ($250,000 of taxable sales)	7.2% of collections
Medium ($750,000 of taxable sales)	3.7% of collections
Large ($10,000,000 of taxable sales)	1.0% of collections

For retailers collecting taxes in 15 states, the costs were as follows:

Small ($250,000 of taxable sales)	54% of collections
Medium ($750,000 of taxable sales)	33% of collections
Large ($10,000,000 of taxable sales)	8% of collection

For retailers collecting taxes in 46 states, the costs were as follows:

Small ($250,000 of taxable sales)	87% of collections
Medium ($750,000 of taxable sales)	48% of collections
Large ($10,000,000 of taxable sales)	14% of collections

For those Kansas retailers who are now required to track "destination sourcing", we can use the above figures to estimate the increase in costs for going from "origin sourcing" to "destination sourcing" within Kansas. The "one-state" category is equivalent to what Kansas was doing before. To go from one jurisdiction to 753 jurisdictions is the equivalent of adding 5 states[3]. Interpolating between the one-state and 15-state figures above, the extra costs would be as follows:

Small ($250,000 of taxable sales)	15.6% of collections
Medium ($750,000 of taxable sales)	9.8% of collections
Large ($10,000,000 of taxable sales)	2.3% of collections

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[2] "Masters of Complexity and Bearers of Great Burden: The Sales Tax System and Compliance Costs for Multistate Retailers" by Robert J. Cline and Thomas S. Neubig, Ernst & Young LLP, September 8, 1999.

[3] Kansas has 753 jurisdictions. The entire country including D.C. has 7,500, an average of 150 per state. 753 divided by 150 = the equivalent of 5 average states.

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Impact of the SSTP on Local Sales Tax Revenues

by Kenneth Daniel

Although it had nothing to do with the Streamlined Sales Tax Project (SSTP), local use tax taxes were inserted into the SSTP legislation passed by the 2003 Kansas legislature. The Local Consumers' Compensating Use Tax is an estimated $28 million tax (revised = $21) increase that will fall wholly on Kansas businesses. The Local Retailers' Compensating Use Tax is an estimated $39 million tax (revised = $30) increase on Kansans and Kansas businesses.

On the other hand, there will be shifts and losses of local sales tax revenues as a result of the destination sourcing provisions of the SSTP that were not taken into consideration. In the following, these unintended consequences are explained, then some real numbers from my own company, Midway Wholesale, are presented.

Shifts of Sales Tax Revenues: Overwhelmingly, the larger retailers are located in the more populous jurisdictions and retailers in lightly populated areas tend to be smaller. In some industries, there are no small retailers—all are large and located in population centers. Therefore, with sales taxes based on the destination of shipments instead of the origin, there will be an outflow of sales tax revenues from more highly populated areas to less populated areas.

An example would be Cabela's and Bass Pro Shop. Cabela's is open in Kansas City and Bass Pro Shop may open in Wichita. There are simply no other stores of this type in Kansas. These two stores could ship goods all over the state, but there are no stores in the rest of the state likely to ship significant amounts of outdoor goods to customers in Kansas City and Wichita. Kansas City and Wichita will lose all the local sales taxes on such shipments, but will receive no sales tax revenues from elsewhere to make up for it.

Losses of Sales Tax Revenues: Another consequence is the loss statewide of an estimated $25 to $35 million of local sales tax revenues. As a general rule, the higher sales tax rates are in the more populous jurisdictions. Moving the taxing entity from urban to rural eliminates sales tax revenue in most cases. For instance, when the sourcing of a sale is moved from Topeka, with a 7.2% sales tax rate, to Shawnee County, with a 6.3% sales tax rate, .9% of sales tax revenue disappears entirely.

Not Unique to Kansas: There is nothing new about these concerns. Officials in the states of Washington, Texas, and Illinois have rejected the destination sourcing provisions of the SSTP because of concerns about shifts and losses of local sales tax revenues.

Some Real Numbers: In October, Revenue Secretary Joan Wagnon reported to legislators that the Department of Revenue had not yet been able to develop any statistics on any effects on local sales tax revenues. Less than 1% of Kansas retailers had reported July sales taxes using destination sourcing, and the department had not yet analyzed August or September reports.

At Midway Wholesale, we have been working hard to comply with the destination sourcing provisions of the SSTP. Our computer programs, which are used in most states, already provide for tracking destination sourcing since about 15 states already have destination sourcing (although with far fewer jurisdictions than the 751 in Kansas).

In September, we think we got it right for the first time. With great effort and at great expense, we tracked shipments for 159 different sales tax jurisdictions in Kansas. To analyze the effects of destination sourcing, we computed the taxes two ways—once based on the previous "origin sourcing" law, and again with the new "destination sourcing" law. Here are the results:

Topeka: Under the old law, would have gotten $13,542 in local sales tax. Under the new, got only $9,253, a reduction of $4,289 or 31.67%.

Shawnee County: Under the old law, would have gotten $12,188. Under the new, got $8,945, a reduction of $3,243 or 26.61%.

Salina: Under the old law, would have gotten $1,435. Under the new, got $858, a reduction of $577 or 40.21%.

Saline County: Under the old law, would have gotten $1,913. Under the new, got $1,198, a reduction of $715 or 37.78%.

Lawrence: Under the old law, would have gotten $4,908. Under the new, got $2,492, a reduction of $2,416 or 49.23%.

Douglas County: Under the old law, would have gotten $4,908. Under the new, got $2,540, a reduction of $2,368 or 48.25%.

Manhattan: Under the old law, would have gotten $2,507. Under the new, got $1,413, a reduction of $1,094 or 43.64%.

Riley County: Under the old law, would have gotten $2,507. Under the new, got $1,685, a reduction of $822 or 32.79%.

Pottawatomie County: Under the old law, would have gotten zero. Under the new, got zero.

Elwood: Under the old law, would have gotten $1,594. Under the new, got $1,026, a reduction of $568 or 35.63%.

Doniphan County: Under the old law, would have gotten $1,594. Under the new, got $1.026, a reduction of $568 or 35.63%.

149 Other Jurisdictions: Under the old law, would have gotten zero. Under the new, got $13,059, an increase of $13,059.

Total Shifts To Destination Jurisdictions: On the average, the local percentage loss to the cities and counties where Midway's branches are located was 35.37%. One estimate of the percentage of total taxable sales that is shipped out-of-jurisdiction is 12%. This would indicate that the cities and counties where Midway has branches will lose 4.25% of their total sales tax revenues due to shifts.

Lost Altogether: The total revenues lost by the first 10 jurisdictions was $16,660, while the gains by 149 new jurisdictions was only $13,059. The remaining $3,601, equal to 7.65% of total local sales tax revenues, disappeared altogether due to generally lower sales tax rates in the 149 jurisdictions than in the 10 jurisdictions.

Total local sales and use tax revenues in Fiscal Year 2003, which ended June 30, were $547,773,000 (Kansas Tax Facts, 2003 Supplement). If Midway's figure of 7.65% of local sales tax losses applies statewide, the total losses of local sales tax revenues would be $41.9 million.

If one-third as much is shipped back into large jurisdictions from small jurisdictions as is shipped out, the $41.9 million statewide loss of tax revenues would be reduced to $31.5 million. This is probably a good estimate of the actual statewide loss of local sales tax revenues due to destination sourcing.

-- End --

(Kenneth Daniel is the publisher of KSSmallBiz.com. He is C.E.O. of Midway Wholesale of Topeka, a small business he founded in 1970, and is the volunteer Chairman of NFIB Kansas, the largest business association in Kansas, www.nfib.com.)

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SUMMARY

REVENUE EFFECTS OF DESTINATION SOURCING AND REMOTE TAX COLLECTIONS
by Kenneth Daniel, Midway Wholesale and NFIB

	Total Fiscal Notes 2004 Through 2009			
	Various Estimates of 2004 "Loss"			5.3% Method
	$70 MM	$50 MM	$25 MM	$25 MM Loss
	Total 2004 Through 2009			2004-2009
STATE OF KANSAS	+$182 MM	+$111 MM	+$ 33 MM	+ $ 72 MM
LOCAL GOVERNMENTS	-$108 MM	-$130 MM	-$155 MM	+ $20 MM
KANSAS RETAILERS	-$378 MM	-$378 MM	-$378 MM	- $5 MM
Additional Shifts in Local Sales Tax Revenue Not In Above Figures				
TRADE CENTERS	-$140 MM	-$140 MM	-$140 MM	Negotiable
RURAL AREAS	+$140 MM	+$140 MM	+$140 MM	Negotiable

These are best case scenarios. Any delays will make these numbers worse.

Assumes Congress passes SSTP legislation that will allow full collection of remote taxes by January 1, 2006.
Assumes all Kansas Retailers are in full compliance with destination sourcing by January 1, 2005.
Assumes Congress strips out the "de minimus" provisions so states can collect on ALL remote sales.
Assumes 10% increase in revenues from remote sales each year starting in 2006.
Assumes 3% inflation rate each year.

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#1. ANALYSIS OF THE EFFECTS OF DESTINATION SOURCING AS PRESENTLY DESIGNED
IN THIS ONE, I USE KDOR'S ESTIMATE OF $70 MILLION LOST + 10% ANNUAL GROWTH

Assume all Kansas retailers are in compliance with destination sourcing by January 1, 2005.
Assume Congress passes legislation in time for it to be completely in place by January 1, 2006.
Assume Congress strips out the "de minimus" provisions entirely so states can collect on ALL remote sales.
Assume 10% of Kansas Businesses buy new computers each year. (Conversion Costs)
Assume 10% of Kansas Retailers are Replaced by New Startups Each Year (Set-up Costs)
Assume 3% inflation per year.

ALL FIGURES ARE IN MILLIONS

KANSAS RETAILERS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
Retailer Conversion & Startup Costs	-$54.00	-$10.00	-$10.30	-$10.61	-$10.93	-$11.26	
Ongoing Compliance Costs	-$25.00	-$50.00	-$51.50	-$53.05	-$54.64	-$56.28	
Value of Income Tax Deduction for Costs @ 5%	$3.95	$3.00	$3.09	$3.18	$3.28	$3.38	
NET YEARLY LOSSES TO KANSAS RETAILERS	-$75.05	-$57.00	-$58.71	-$60.47	-$62.29	-$64.15	-$377.67

STATE OF KANSAS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--State Portion	$0.00	$0.00	$53.15	$58.47	$64.31	$70.74	
Retailer conversion--loss of income taxes @ 5%	-$2.70	-$0.50	-$0.52	-$0.53	-$0.55	-$0.56	
Retailer compliance--loss of income taxes @ 5%	-$1.25	-$2.50	-$2.58	-$2.65	-$2.73	-$2.81	
KDOR annual collection costs	-$7.00	-$7.21	-$7.43	-$7.65	-$7.88	-$8.11	
NET YEARLY REVENUE (LOSS) TO STATE	-$10.95	-$10.21	$42.63	$47.63	$53.15	$59.25	$181.51

LOCAL KANSAS GOVERNMENTS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--Local Portion	0	$0.00	$16.85	$18.53	$20.39	$22.42	
Net Loss of Revenue to Locals	-$16.00	-$32.00	-$32.96	-$33.95	-$34.97	-$36.02	
	-$16.00	-$32.00	-$16.11	-$15.42	-$14.58	-$13.59	-$107.70

Additional Concern:						
REVENUE SHIFTS FROM URBAN TO RURAL	$21.70	$22.35	$23.02	$23.71	$24.42	$25.16
Est. 4.25% of Total Local Sales & Use Tax Revenues						

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#2 ANALYSIS OF THE EFFECTS OF DESTINATION SOURCING AS PRESENTLY DESIGNED
IN THIS ONE, I USE AN ESTIMATE OF $50 MILLION LOST + 10% ANNUAL GROWTH

Assume all Kansas retailers are in compliance with destination sourcing by January 1, 2005.
Assume Congress passes legislation in time for it to be completely in place by January 1, 2006.
Assume Congress strips out the "de minimus" provisions entirely so states can collect on ALL remote sales.
Assume 10% of Kansas Businesses buy new computers each year. (Conversion Costs)
Assume 10% of Kansas Retailers are Replaced by New Startups Each Year (Set-up Costs)
Assume 3% inflation per year.

ALL FIGURES ARE IN MILLIONS

KANSAS RETAILERS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
Retailer Conversion & Startup Costs	-$54.00	-$10.00	-$10.30	-$10.61	-$10.93	-$11.26	
Ongoing Compliance Costs	-$25.00	-$50.00	-$51.50	-$53.05	-$54.64	-$56.28	
Value of Income Tax Deduction for Costs @ 5%	$3.95	$3.00	$3.09	$3.18	$3.28	$3.38	
NET YEARLY LOSSES TO KANSAS RETAILERS	-$75.05	-$57.00	-$58.71	-$60.47	-$62.29	-$64.15	-$377.67

STATE OF KANSAS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--State Portion	$0.00	$0.00	$37.96	$41.76	$45.93	$50.52	
Retailer conversion--loss of income taxes @ 5%	-$2.70	-$0.50	-$0.52	-$0.53	-$0.55	-$0.56	
Retailer compliance--loss of income taxes @ 5%	-$1.25	-$2.50	-$2.58	-$2.65	-$2.73	-$2.81	
KDOR annual collection costs	-$7.00	-$7.21	-$7.43	-$7.65	-$7.88	-$8.11	
NET YEARLY REVENUE (LOSS) TO STATE	-$10.95	-$10.21	$27.44	$30.92	$34.77	$39.03	$111.02

LOCAL KANSAS GOVERNMENTS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--Local Portion	0	$0.00	$12.03	$13.24	$14.56	$16.02	
Net Loss of Revenue to Locals	-$16.00	-$32.00	-$32.96	-$33.95	-$34.97	-$36.02	
	-$16.00	-$32.00	-$20.93	-$20.71	-$20.41	-$20.00	-$130.05

Additional Concern:						
REVENUE SHIFTS FROM URBAN TO RURAL Est. 4.25% of Total Local Sales & Use Tax Revenues	$21.70	$22.35	$23.02	$23.71	$24.42	$25.16

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#3. ANALYSIS OF THE EFFECTS OF DESTINATION SOURCING AS PRESENTLY DESIGNED

(Assumes a $25 million "loss" in 2006, which is exactly what the DMA predicts.

Assume all Kansas retailers are in compliance with destination sourcing by January 1, 2005.
Assume Congress passes legislation in time for it to be completely in place by January 1, 2006.
Assume Congress strips out the "de minimus" provisions entirely so states can collect on ALL remote sales.
Assume 10% of Kansas Businesses buy new computers each year. (Conversion Costs)
Assume 10% of Kansas Retailers are Replaced by New Startups Each Year (Set-up Costs)
Assume 3% inflation per year.

ALL FIGURES ARE IN MILLIONS

KANSAS RETAILERS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
Retailer Conversion & Startup Costs	-$54.00	-$10.00	-$10.30	-$10.61	-$10.93	-$11.26	
Ongoing Compliance Costs	-$25.00	-$50.00	-$51.50	-$53.05	-$54.64	-$56.28	
Value of Income Tax Deduction for Costs @ 5%	$3.95	$3.00	$3.09	$3.18	$3.28	$3.38	
NET YEARLY LOSSES TO KANSAS RETAILERS	-$75.05	-$57.00	-$58.71	-$60.47	-$62.29	-$64.15	-$377.67

STATE OF KANSAS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--State Portion	$0.00	$0.00	$21.87	$23.23	$25.29	$27.34	
Retailer conversion--loss of income taxes @ 5%	-$2.70	-$0.50	-$0.52	-$0.53	-$0.55	-$0.56	
Retailer compliance--loss of income taxes @ 5%	-$1.25	-$2.50	-$2.58	-$2.65	-$2.73	-$2.81	
KDOR annual collection costs	-$7.00	-$7.21	-$7.43	-$7.65	-$7.88	-$8.11	
NET YEARLY REVENUE (LOSS) TO STATE	-$10.95	-$10.21	$11.35	$12.40	$14.13	$15.84	$32.57

LOCAL KANSAS GOVERNMENTS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--Local Portion	0	$0.00	$6.93	$7.37	$8.01	$8.66	
Net Loss of Revenue to Locals	-$16.00	-$32.00	-$32.96	-$33.95	-$34.97	-$36.02	
	-$16.00	-$32.00	-$26.03	-$26.58	-$26.95	-$27.35	-$154.92

Additional Concern:						
REVENUE SHIFTS FROM URBAN TO RURAL	$21.70	$22.35	$23.02	$23.71	$24.42	$25.16
Est. 4.25% of Total Local Sales & Use Tax Revenues						

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#4. ANALYSIS BASED ON COLLECTING ONLY THE STATE RATE FROM REMOTE RETAILERS

Based on collecting only 5.3% and going back to origin sourcing for in-state retailers.

Assume we change our SSTP program to collect only 5.3% from remote retailers.
Assume we divide the 5.3% between the state and locals with 76% going to the state.
Then we can go back to origin sourcing for Kansas retailers.
Assume Congress passes legislation in time for it to be completely in place by January 1, 2006.
Assume Congress strips out the "de minimus" provisions entirely so states can collect on ALL remote sales.
Assume 3% inflation per year.

ALL FIGURES ARE IN MILLIONS

KANSAS RETAILERS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
Retailer Conversion & Startup Costs	-$5.40	$0.00	$0.00	$0.00	$0.00	$0.00	
Ongoing Compliance Costs	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	
Value of Income Tax Deduction for Costs @ 5%	$0.27	$0.00	$0.00	$0.00	$0.00	$0.00	
NET YEARLY LOSSES TO KANSAS RETAILERS	-$5.13	$0.00	$0.00	$0.00	$0.00	$0.00	-$5.13

STATE OF KANSAS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--State Portion	$0.00	$0.00	$16.62	$17.66	$19.22	$20.77	
Retailer conversion--loss of income taxes @ 5%	-$0.27	$0.00	$0.00	$0.00	$0.00	$0.00	
Retailer compliance--loss of income taxes @ 5%	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	
KDOR annual distribution costs	-$4.00	$0.00	$0.52	$0.53	$0.55	$0.56	
NET YEARLY REVENUE (LOSS) TO STATE	-$4.27	$0.00	$17.13	$18.19	$19.76	$21.34	$72.15

LOCAL KANSAS GOVERNMENTS	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	
"Lost" Taxes Collected--Local Portion	0	$0.00	$5.25	$5.58	$6.07	$6.56	
Net Loss of Revenue to Locals	-$3.20	$0.00	$0.00	$0.00	$0.00	$0.00	
NET YEARLY REVENUE (LOSS) TO LOCALS	-$3.20	$0.00	$5.25	$5.58	$6.07	$6.56	$20.25

IF YOU STILL WANT TO SHIFT SALES TAX REVENUES FROM URBAN TO RURAL:

Split out a percentage of total local sales tax revenues and distribute it according to population.

Freestate Center for Liberty Studies

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February 17, 2004

The Hon. Dave Corbin, Chair
and Senate Assessment & Taxation Committee
Kansas Statehouse
300 S.W. 10th Ave., Room 143-N
Topeka, KS 66612-1504

Testimony in support of SB 444

Honorable Chair and Members of the Committee,

My name is Bob Corkins, director of the Freestate Center, a nonpartisan, nonprofit research firm advocating the constitutional principles of liberty and limited government. Our organization has devoted much time to studying the Streamlined Sales Tax Project and destination-sourcing of sales tax. Although there are many policy arguments we could dive into for opposing internet sales tax overall, I'll concentrate on the sourcing question after making one observation. Internet transactions could be made subject to sales tax without the use of a destination-sourcing rule, but for political reasons we believe that will never happen. If there is no destination-sourcing rule applied nationwide, internet sales tax is highly unlikely.

The Freestate Center's most pressing concern is that SSTP advocates, both nationally and at the state level, are using deplorable circumvention tactics with the U.S. Constitution. The national strategy is this: sidestep the Commerce Clause barrier to internet sales tax by getting enough states to make their sales tax laws more uniform. Downplay the value of state sovereignty. Downplay the Constitution's design for states to be the laboratories of social policy change. Discourage states from competing to have the lower tax burden versus one another. That is the SSTP plan. If enough states (and nobody knows how many will be "enough") enact uniform sales tax rules, there will be no undue burden on interstate commerce from taxing internet sales.

Kansas' Executive Branch, being among these SSTP advocates, is similarly showing little respect for its constitutional duty to enforce state law. Destination-sourcing is an extremely troublesome and expensive rule to implement for both the state and retailers, and it has been Kansas law for over seven months. The Governor has said to complaining merchants "if I were you, I'd collect sales tax the way you always have and send it in," adding that if any customer questions the tax rate applied "just tell them the governor said to do it that way." Our Secretary of Revenue, despite making an address-based tax rate search publicly available, has recently said KDOR's goal is to begin enforcing the law, possibly starting in July. But even then, if a retailer at least would try to comply "you probably won't be in any trouble at all. If you don't try, we'll probably have a very serious conversation." Last September the Secretary said "I can't tell anybody they don't have to comply with the law."

<u>The state of Kansas cannot Constitutionally have it both ways. Either we enforce the law or we must change it</u>. Probably every member of this Legislature – perhaps every Kansan – can mention at least one state law that they would prefer to be unenforced. Prosecutorial discretion within reason is necessary. This case, however, applies that discretion in blanket fashion to millions of commercial transactions. If KDOR would articulate the specific legal standards that justify its disregard for a duly enacted law, perhaps we might find many other state statutes that could legally be ignored.

(continued, over)

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There are judicial remedies for this limbo and perhaps their time has come. A *writ of mandamus* is a court order for a governmental entity to perform its legal duty. On a more personal level, a *writ of quo warranto* is a court order removing a public official from office for, among other grounds, willful neglect to perform any duty required by law. Right now the vast majority of merchants are unwilling to bring any such action because they do not want destination-sourcing to be enforced. However, these retailers should be wary of a few pitfalls before they get too comfortable with the present leniency.

First, KDOR could begin enforcing the law at any time. Second, large national retailers who wholeheartedly support destination-sourcing could file for one of the above writs in order to thrust a sudden and expensive new cost on their small competitors. Third, any given retail customer might have standing to successfully seek enforcement.

Why should customers care? Many of them – and by one careful and responsible calculation, most of them – would pay less sales tax if the destination-sourcing law were enforced. The reasoning is logical. Retailers tend to base their outlets in urban areas where sales tax rates tend to be higher. Their deliveries that trigger the new sourcing rule will tend to be to customers located where sales tax rates are lower.

The net result is millions in overcharged sales tax dollars since last July, all caused by a failure to enforce current law. Put another way, if all retailers complied with the new law, consumers would save millions of dollars per year. Put yet another way, if the state properly enforced our law, local governments would lose millions in tax revenue annually.

What a remarkably convenient state tax result, all thanks to our continuing legal limbo. We get overtaxed now because the law is not enforced. Then, if internet sales tax becomes constitutional, the law finally gets enforced only when the net effect will be higher government revenue.

Then again, maybe the number of states adhering to SSTP will never reach the critical mass necessary to overcome Commerce Clause objections. In that event, Kansas will have implemented a new sales tax rule that does nothing but impose onerous costs on merchants and reduce local tax revenue. Clearly, the wiser move would be to enact SB 444 for a pro-economic growth policy that provides a far more reliable estimate of government revenues.

My concluding thought regarding constitutionality deals with new section 11 in SB 444. This provision would allow retailers to continue using-destination sourcing. Essentially, retailers would be permitted to choose what their customers' tax liability will be. I believe this would be either a violation of Equal Protection or an unconstitutional delegation of legislative authority. The destination-sourcing rule should be suspended for all retailers alike by deleting section 11 from this bill.

Thank you for your time and consideration.

GOOD MORNING, I AM MERV GLEASON, INTERIM DIRECTOR FOR THE STRATEGIC FINANCIAL MANAGEMENT DEPARTMENT FOR THE CITY OF OLATHE. I AM HERE TO TESTIFY ON BEHALF OF SENATE BILL 444.

THE CITY OF OLATHE IS THE FASTEST GROWING CITY IN THE STATE OF KANSAS AND THE EIGHTH FASTEST GROWING CITY IN THE NATION WITH A POPULATION OVER 100,000. WE HAVE GROWN FROM A CITY OF 63,000 IN 1990 TO OVER 110,000 IN 2004. THE CITIZEN DEMANDS FOR ROAD IMPROVEMENTS AND SERVICES ARE STRETCHING OUR CAPABILITIES GIVEN OUR SCARE RESOURCES AND THE CURRENT ECONOMIC TIMES.

AS THE CITY EXPANDED WE TRIED TO DIVERSIFY OUR TAX BASE AND INCLUDE MORE RETAIL STORES. WE BROUGHT IN A NUMBER OF BUSINESSES THAT FIT THE NEEDS OF A GROWING COMMUNITY. WE WERE ALSO AWARE OF OUR GEOGRAPHICAL LOCATION ASTRIDE I-35, K-7, US-169 AND ADJACENT TO K-10. THESE ROUTES BROUGHT CUSTOMERS TO US FROM THE SURROUNDING SMALLER COMMUNITIES TO OUR WEST, SOUTHWEST AND SOUTH. THEY PURCHASED THEIR GOODS AND HAD THEM DELIVERED TO THEIR HOMES VALIDATING OUR DECISION TO BRING THOSE BUSINESSES INTO OUR COMMUNITY AND ON THOSE ASSUMPTIONS WE HAVE BUILT OUR FOUNDATIONS FOR CITY SERVICES.

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THE PAST SEVERAL YEARS HAVE BEEN DIFFICULT FOR EACH LEVEL OF GOVERNMENT. IN THE CITY OF OLATHE WE HAVE SEEN OUR SALES TAX REVENUE HOVER AT 2002 LEVELS. ALSO FOR THE PAST 2 YEARS THE STATE HAS CHOSEN TO HOLD ON TO FUNDS THAT WE HAD COME TO EXPECT AS PART OF THE LOCAL AD VALOREM TAX REDUCTION ALSO CALLED DEMAND TRANSFERS. THEN IN 2003 THE LEGISLATURE PASSED THE STREAMLINE SALES TAX BILL.

THIS BILL HAS FURTHER ALTERED OUR SITUATION. LAST SUMMER CITIES WERE TOLD THAT SST WOULD EVENTUALLY BE A BENEFIT TO THEM AND IN THE MEANTIME SHOULD BE AT WORST REVENUE NEUTRAL AS SALES TAX MOVED BETWEEN THE CITIES. FOR OLATHE, THIS HAS DEFINITELY NOT BEEN THE CASE.

CUSTOMERS STILL COME TO OLATHE TO PURCHASE THEIR GOODS AND STILL SEND THEM HOME, BUT NOW THE SALES TAX THAT CAME TO OLATHE ALSO GOES HOME WITH THOSE CUSTOMERS. CITIES THAT WERE UNABLE TO LURE BUSINESSES TO THEIR COMMUNITIES ARE NOW REAPING THE BENEFITS WHILE WE WATCH A FURTHER DECLINE IN OUR REVENUE STREAM. TO COMPOUND THAT PROBLEM WE DO NOT SEE THE EXPECTED RETURN IN REVENUE SINCE MANY OF THE SMALLER NEIGHBORING COMMUNITIES DO NOT HAVE THE BUSINESSES THAT PULL IN CUSTOMERS FROM OLATHE. OUR GEOGRAPHICAL LOCATION HAS NOW

BECOME A DETRIMENT TO US, IN THAT, THE MOVEMENT OF REVENUE IS OFTEN ONE WAY.

WE STARTED TRACKING THE EFFECTS OF SST WITH THE RECEIPT OF OUR SALES TAX DISTRIBUTION LAST SEPT. WE IDENTIFIED THE MAJOR DELIVERY BUSINESSES IN OUR COMMUNITY AND HAVE RUN COMPARISIONS TO PREVIOUS YEARS. TO BE FAIR WE HAVE ALSO IDENTIFIED A NUMBER OF BUSINESSES THAT DELIVER INTO OUR CITY AND NOW REMIT SALES TAX TO OUR CITY. THOSE NEW REVENUES ARE INCLUDED ~~THOSE~~ IN OUR COMPUTATIONS. OUR BOTTOM LINE NUMBERS VARY FROM MONTH TO MONTH BUT OUR WORST CASE SCENARIO IS AROUND $1.8 MILLION DOLLARS IN LOST ANNUAL REVENUE WHILE OUR BEST CASE SCENARIO IS ONLY A LOSS OF $1.4 MILLION DOLLARS.

THE CITY OF OLATHE ACKNOWLEDGES THE POTENTIAL OF SST SOME TIME IN THE FUTURE AFTER THE US CONGRESS HAS ACTED. BUT UNTIL THAT TIME COMES, THE CITY IS ASKING THAT WE WAIT FOR THE CONGRESS TO ACT BEFORE WE IMPLEMENT CHANGES ON THE LOCAL GOVERNMENTS THAT FURTHER UNDERMINE OUR EFFORTS TO RESPOND TO CITIZEN DEMANDS.

STAR LUMBER & SUPPLY CO., INC.
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Senate Committee on Assessment and Taxation
February 18, 2004
Senate Bill 444

Mr. Chairman, and members of the Senate Assessment and Taxation Committee, I appreciate the opportunity to come before you this morning. My name is Dave Gregory and I am the Director of Information Technology at STAR LUMBER & SUPPLY CO of Wichita, Kansas, where I work very closely with Retail Sales Tax Collections.

Although I also have chaired the Streamlined Sales Tax working group of the Kansas Retail Council I do not speak for the Kansas Retail Council nor the Kansas Chamber of Commerce and Industry.

Having been a member of this House Committee on Taxation years ago and a past President of the Kansas Retail Council, I worked to point the state in the direction of something called Streamlined Sales Tax that was supposed to level the playing field between main street and internet retailers. However the think tank group was overrun by nationwide corporations who had little concern for Main Street Retailers who primarily operate in one or a few states.

I humbly apologize to you and my fellow retailers for helping to incubate this Tax Frankenstein call Streamlined Sales Tax.

The company I work for, STAR LUMBER & SUPPLY COMPANY has around 500 employees throughout Kansas, with operations in Wichita, Hutchinson, Salina, and here in Topeka. We are definitely not a nationwide, huge corporation, but we may be one of the largest Kansas based retailers remaining. Over 80% of STAR's sales are derived from deliveries. Last year STAR made over 70,000 deliveries to customers throughout Kansas.

For retailers, like STAR LUMBER, Streamlined Sales Tax is a logistics nightmare. Compliance at the cash register is impractical. SSTP may cost Kansas based retailers more in hard implementation expenditures and lost productivity than this state can collect in lost use tax.

We appreciate that the powers in this state have not fully enforced this legislation, which they recognized as impractical.

The State's new "Sales and Use Tax Address Tax Rate Locator" internet based lookup routine is impractical.

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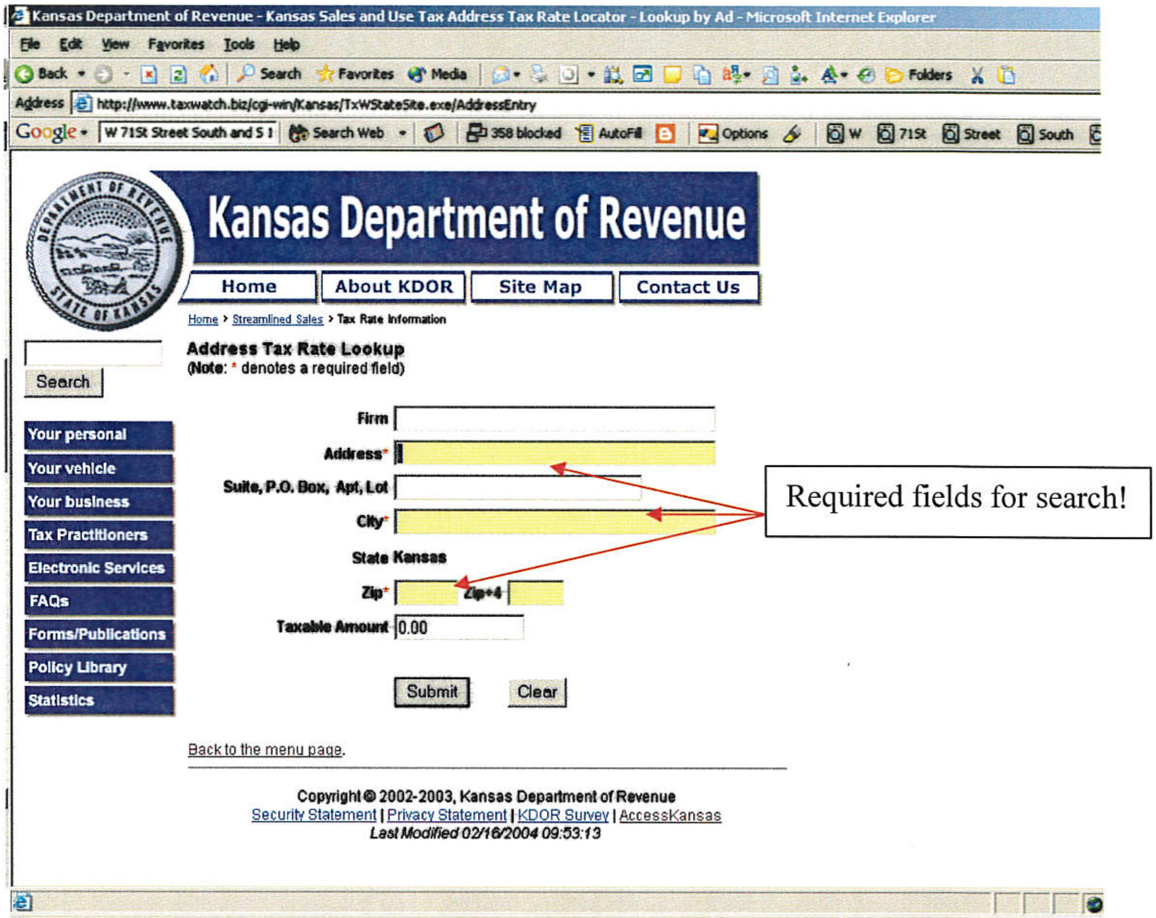
In the testimony I have provided please note the fields which are **required** for the state's Internet based address search: Address, City and Five Digit Zip Code. The user is required to enter all three! What if the delivery site it is not within a city limits, or the foundation sub-contractor does not know the five digit zip code, or the address has not yet been assigned by the county. Users will end up being very frustrated.



KDOR Address Tax Rate Lookup

I tried using the state's address locator on one of STAR LUMBER's former properties which was donated to the Great Plains Girl Scouts and turned into a beautiful Girl Scout Camp called Camp Starwoods. It is at the Intersection of South 103rd Street West and West 71st Street South several miles Southwest of Wichita. Not knowing what the zip code was it took me about an hour to find the correct information to plug into the state's locator to find a match.

According to the Watch System's Mapping Service that piece of property is located in a small town called Clearwater, and I had to invent an address to make the service work correctly. Furthermore, I could not have looked up the address without going to a zip code map and physically pinpointing the address to plug the zip code into the Watch Systems software.

There are many problems with Streamlined Sales Tax Project.

1. While Streamlined Sales Tax does simplify the national retailer's reporting duties, it gives them a significant competitive advantage over small retailers by allowing them leverage their Information Technology and Corporate Resources over 100s of locations. Kansas based small retailers do not have that same ability.
2. Kansas retailers who have little or no interstate commerce will pay a disproportionate price to develop software and even comply with the Kansas Department of Revenue rules.
3. Many Kansas retailers such as STAR utilize "Green Screen" terminals that will never be able to surf the internet. The state's internet based Watch System's software will never work on green screen terminals. To change STAR terminals and Cash Registers to a PC based solution which can connect to the state's internet website would cost STAR $250,000 to $300,000 and this doesn't include beefing up our network backbone to accommodate increased network traffic from PC traffic.
4. Instead, at STAR we are modifying our software code in an attempt to develop our own address look-up routine which will cost $50,000.00.
5. Many retailers in Kansas cannot receive reliable high speed internet. It took us a month and half to obtain high speed internet at one of our sites here in Topeka. For many rural retailers high speed internet is not available. Only dial-up is available.
6. The address lookup function will not work very well for lumberyards in new construction high growth areas. Once a quarter, the Department of Revenue will ask local taxing jurisdictions for their newest street additions. Unfortunately we often make deliveries to Lot 45 of the Deerpath Addition. And when they finally get an address it may not be in the database for months.
7. Also in an urban area like Wichita, we have a lot of specialty sub-contractors who travel from job to job who have no idea what the correct five digit zip code is. Yet the five digit zip code is a required field in the Kansas Department of Revenue's search engine. If we use PCs we will have to use someone else's search engine to find the five digit zip code before we turn around and reenter it back into the State's search engine to find the right rate and jurisdiction.
8. Other significant lookup limitations are rural deliveries where the address is a cryptic description rather than an address: "Delivery 3 and ¼ miles west and ½ miles south of the Winder home on old highway 54."
9. Combined delivery and pick-up sales will cause a great many orders to be entered into separate tickets. A customer comes into STAR and orders products for a deck and to paint a room. After the order is built and the customer pays for it, they then ask if he can take the paint with him. Yes, but

we have to write a return for the items he wants to pick up and write a new ticket and charge or credit him for the difference.

10. Smaller retailers will spend a great deal of time filling out tax forms.
11. Database issues:
    a. Some software only supports a limited and fixed number of taxing jurisdictions and they lack adequate lookup functions.
    b. At some point in time we will be required to alter our order database and record the nine-digit zip code with the ticket for retail tax audits.

Everyone is looking for ways to incubate Kansas based businesses: Here is the number one way to help Kansas entrepreneurs, postpone and repeal as much of Streamlined as you can.

We would rather see you repeal all of Streamlined Sales Tax or repeal the destination provisions rather than postpone the pain. But, we also recognize the political realties here in the Senate.

We have reason to believe that essential congressional action may not happen this year or ever and it seems counter-productive to put Kansas retailers through all this pain on the bet that the state may be able to collect additional sales tax revenue after congress acts.

Mr. Chairman, If the best we can hope for from the Senate is a postponement, we would ask that you Pass Senate Bill 444 and add a further one year extension, after Congress enables the states to tax intrastate commerce, in order that we may finalize software changes and train employees in a reasonable timeframe.

Dave P. Gregory
Director of Information Technology
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dgregory@starlumber.com

2-18-04

Speaker: **Rebecca Shipley**- Daughter and Part owner.
Olathe Glass Company Inc. -Family Owned since 1977.
We specialize in wholesale and retail sales and installation of commercial, residential and automotive glass in the Kansas City metro area and beyond.

Subject: **HB2005 Streamline Tax code.**

Growing up in a family business has taught me a great deal about business, the law and the community in which we thrive and support. My parents and I are ethical people who believe in paying our fair share. In Olathe we enjoy great schools, streets and municipalities and know that it would not be the same if taxes were not paid. I come before you today to point out what I feel are issues overlooked by the streamline tax code.

This streamline tax code is asking too much of small service businesses and businesses that conduct **ZERO Internet sales**. Although this code has been set up to increase tax revenues from Internet sales, I believe that it is of the expense of small businesses like ours.

Compliance to this streamline tax code, as I have researched from our business, would decrease our collected share of the tax revenue and severely increase our financial burden i.e. computer systems, training, tax attorneys.

I break this down into **two main problems** I see with this streamline tax code.

1. Last Year 70% of our business was conducted in the State of Kansas. (Parameters of as far North as Atchison, South as Fort Scott, As West as Manhattan.) 30% of our business was installed or delivered in the state of Missouri. Olathe Glass does not do any sales via Internet. Last year we collected $137,115.34 on behalf of Kansas, Johnson County and Olathe. (Based on a tax rate of 7.525%)

   The new code would have us collect on various rates (most of witch are lower than 7.525%) on behalf of hundreds of districts and not collect a tax on all customers delivered to in Missouri. – Even though we use Kansas's roads and Municipalities to get there. If we were to have done this last year our collection of taxes would have **decreased** at least 30% to $95,980.74. **A loss of $41,134.60.**

   - *Johnson County and Olathe would have lost more than 30% of their share. As the majority of our business is not delivered to Olathe. Loss of revenue to the county and city means potentially having to increase our local sales and property tax to make up for lost earnings.*
   - *Why should an individual not open a company in Kansas and sale only to Missouri- saving the customer 7+% and the hassle of dealing with a system so complex?*

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2. To implement this new tax code would be a large financial burden to our company. For 15 years our company has functioned with a non-customized, computer-billing and accounting system. This system is one of the strongest on the market (it rarely crashes) but it is a dos system. It contains three places for a tax percentage, State, City and County. These rates are the same no matter what address. This computer system is not used to quote prices.

The new code would have us customize this standard system to read over 751 rates that would have to be cross-referenced with the customers delivery address. This cost to our company for customizing the standard system would start at $8,000 and $700 a day to train each employee (about 8 employees) on its use. It would also weaken the integrity of the system- by introducing new glitches. Because this system has never been customized this way before the computer tech company is not sure how many hours it would take and $8,000 is just a base line estimate.

8 employees do all job quotes manually. We quote 25 to 40 jobs a day. All employees would have to have access to all the tax codes and be able to cross-reference each address to be accurate in these quotes. This would take up a lot of time and labor. Time to train the employees, time taken from the customer and profitable time taken from us doing what we do best- Glass work.

Our company cannot afford to spend thousands on a system that is not going to be of benefit to our bottom line. We like to contribute and we currently do our share in **collecting taxes on every sale**. Our company should not be forced to comply with a tax code this complicated - Compliance will negatively affect the welfare of our business. I understand that the state is using this system to get the revenues lost through the Internet sale. But to what cost to businesses like ours are you willing to pay?

Bottom Line-

- We should not have to go through the expense and hardship of compliance in order for our local municipalities to receive less.
- We are not tax experts- this system is **too complicated** and **too expensive** to implement and sustain.
- We should not be doing the job of the state, dividing up the taxes among different districts.
- IF forced to comply there may not be an Olathe Glass Company to collect from.
- Please- find a way to **keep it simple** or at least offer some exemption for those who do not do sales via the Internet.

Thank You,

Rebecca Shipley
Olathe Glass Co Inc.
510 E Santa Fe
Olathe, KS 66061
913-782-7444

KANSAS TAXPAYERS NETWORK
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18 February 2004

Testimony Supporting SB 444

Karl Peterjohn
Exec. Dir.

Kansas' misadventures with the so-called "streamlined" sales tax statutes have already hurt this state. The harm continues in various forms: uncertainty over this statute's enforcement, the new unfunded mandate onto the private sector this statute created, the costs of complying both one time and continuing, and the harm it places on smaller firms involved in retailing when competing with large national firms.

Kansas has 752 differing sales tax jurisdictions according to the Kansas Department of Revenue. This is a major problem for effectively going to a streamlined sales tax. Fortunately an effort is underway to try and reduce this number but the "new" number is still over 300. This is still way too many. This is just one of the problems with the state's new modifications that continue to make this law and its enforcement a mess.

Here's an example and I'm taking this from the presentation by the KS Dept. of Revenue in Wichita February 12. The state's system cannot accept negative numbers, so a retailer who makes an isolated sale to a person in a small jurisdiction, pays the tax collected to the state, and then has the item returned by the customer for a refund is out the sales tax money under this new system until another sale occurs in that jurisdiction and a credit can be claimed. The businesses expressing a concern about this problem were told that this problem is still being worked on.

We are well past the "still being worked on" stage on this sales tax mess. The so-called "streamlined" sales tax or, more accurately, the "unfunded mandate and anti-retailer sales tax act" should and must be repealed. If the legislature cannot find the will to enact a bill like H.B. 2700 than S.B. 444 is the next best substitute.

The so-called "streamlined" sales tax is a national issue involving the 46 states with either state and or local sales taxes. Kansas should not be on the "bleeding edge," as one of the national streamlined sales tax proponents described our position during the interim legislative tax committee hearings last year.

When Kansas enacted this law last year we jumped off a fiscal cliff without really knowing what, if anything, was underneath us. Last year Ohio almost followed us but, fortunately for them, their legislature did a reversal and backed off taking this drastic step. Kansas should not continue to serve as a national model of what NOT to do.

If H.B. 2700 cannot be enacted then mitigate the damage by enacting S.B. 444.

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MID-AMERICA LUMBERMENS ASSOCIATION

TESTIMONY

Senate Assessment & Taxation Committee

February 18, 2004 **SB 444**

Mister Chairman and members of the Senate Assessment and Taxation Committee, my name is Art Brown representing the Mid-America Lumbermens Association. We represent the independent retail lumber and building material dealers in the State of Kansas and appear before you today as proponents of Senate Bill 444.

I believe after hearing prior testimony that it is evident that the challenges brought about with this tax policy are costly, ineffective, and an obstacle to the efficiency needed to run these businesses on a daily basis. The much-retold story about how this policy became law and thus foisted on the business community is well documented. The real issue now is not that this law was passed late at night without full knowledge of its ramifications, rather now the focus is now on whether any corrective action will be taken when an opportunity presents itself to do so. SB 444 is such a vehicle for this opportunity.

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Our members have told us this policy is a significant cost driver to them. As any business owner will tell you, when you increase the costs of doing business, job creation and stability are in jeopardy; use of discretionary funds for community improvements and activity are cut back or eliminated; another barrier is put into place to compete in the open market; and in some cases, the survival of the business itself is called into question. This law in its present form does nothing but tighten the grip around the goose that lays the golden eggs.

I have to think that everyone on this Committee has heard from their constituents about the problems this policy has created. In our hearts, we would rather this entire mess was repealed. We realize that several elected officials are meeting this option with the stiffest of opposition. Given this, this bill presents to us a logical and reasonable compromise that protects Kansas' interest with the SST consortium. It would be appreciated that in the spirit of compromise we would look at this bill as a viable, albeit not a perfect solution, that this Committee and the body of the Senate would also act in the spirit of compromise and take this burden off of us. Passage of SB 444 would indeed tell our businesses: "Message received" to the concerns I know all of you have heard since the ramifications of this law were brought to your attention.

I have visited with many legislators and small business people about this flawed policy as we held meetings throughout the State last fall in which you all were invited and some managed to attend. In general terms, there seems to be a forgiveness factor in the way this law was put into place. Almost all—both legislators and business owners-- admit it was a mistake. Fair enough. That was one mistake that can be forgiven, but I sense no forgiveness if corrective action is not taken to remedy this situation. Again, SB 444 gives you this opportunity.

Last fall, the University of Texas beat the University of Nebraska very handily in a football game between the two schools. In a subsequent interview after this game, one of the Texas players was asked about how they obtained such a success against the Nebraska team. His response was that "we shoved it down their throats until they liked it." We get the distinct feeling that if something isn't done to correct this situation as it now exist, we will have no choice but to believe that is how the legislature feels about this issue—that it will be shoved down our throats until we like it. We certainly hope that is not the case and feel passage of SB 444 out of this

Committee sends the right message to our members that corrective action has been taken and this onerous policy will be lifted from our businesses. In my 16 years of legislative activity, I have never had my phone ring off of the hook as I did when this law was implemented. Our members will not get over this! I implore you to pass SB 444 out of Committee and out of the Senate to correct this obviously grievous mistake.

I thank the Committee for allowing me this time to present our views on this matter and stand for any questions or comments on my testimony.

Christian Book & Gift
STORES
Olathe • Topeka

February 18, 2004

Senator David Corbin
Assessment and Taxation Committee

Re: SB 444

I have owned Christian Book & Gift Co., with stores in Olathe and Topeka since 1976. Our point of sale is linked with our inventory management system which we have used since 1984.

I appreciate the purpose of the streamline tax. It's obvious that we loose large amounts of tax dollars to internet and mail order sales coming into Kansas. Taxing those sales also help local retailers to compete on a level field. We don't ship a lot of packages, but feel it is an important service to offer.

However the streamline tax is too complex for the small business. The plan sounds simple enough, but the reality is that it doesn't work for many of us. Below are a few of the challenges we face.

- Our computer cannot track the 700 plus tax jurisdictions. It sounds simple to have the data base on the state web site, but our system is not PC based and does access internet. Our computer ties together the entire process, from taking an order from the customer, placing the order with the distributor, receiving the product and completing the sale at the cash register. The process of entering an order for a book would now have to include going to a PC and accessing the Dept. of Revenue web site, return to the store computer to complete the order. We have 21 terminals in one store and 13 in another. Each of these can be used to enter the order, but not the web site.

  Training will be a major issue for our staff, especially the short term and high school students. They will have to be trained to determine the jurisdiction at the time of the order or at the time of purchase. Then, as often they do, the customer calls and says to hold the order and they will pick it up, thus, the tax rate would have to be changed. An error by a staff member would cost me in the event of an audit. We already struggle with training in the complexity of the details. The complexity of this law will make hiring part-timers and students almost prohibitive.

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Attachment 12

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- Filing the reports has also become time-consuming. Currently we reprint every receipt for product that is mailed from the store. These receipts are sent to the bookkeeping department. When the monthly reports are filled out, my bookkeeper gets on the internet and keys in each zip or address from each receipt. Then she fills out the paperwork. We had to make up our own form be cause the state mails a form each month with the taxing jurisdictions listed which we mailed to last month. We rarely mail to the same jurisdictions twice in a row. When looking up the numbers, some 9 digit numbers don't respond. If you key in the 9 digit zip and it isn't found, you then go back and enter the address. One post office box came up and said "TaxWatch has successfully matched the zip code provided but was not able to match the zip+4 component: and suggested four possible jurisdictions". It takes hours of work trying to comply. While we are able to send in the required reports with this hand labor, we are only collecting the tax rate of each store location. When enforcement of the law takes place, I'm sure this practice will be illegal as our tax rate may be a higher rate than the delivery point, and in some cases it may be less, in which case we have to absorb the undercharge ourselves.

- Our computer software company has indicated they cannot accommodate a tax code based on the 9 digit zip code. That file would have to be large enough to hold every mailing address in the state, both businesses and homes. Even now the state data base isn't complete and accurate.

I know there has been some consideration to compensate small business in some amount. I do not believe that is adequate. We are taking several additional hours to comply.

I ask that this tax law be repealed.

I would recommend that if the Streamlined Tax is not repealed, that a flat "delivery Point" tax rate be put in place. An example might be the state rate of 5.3% with an additional amount added which could be distributed to the various taxing jurisdictions based on population or some other formula that would be fair.

The Streamlined tax law is not workable. If left as it is, and when enforcement begins, we will be unable to comply and have to cease shipping to our customers.

Sincerely

Kenneth Hite

Kenneth Hite
CEO

Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Written Testimony in favor of
SB 444
Submitted to the
Senate Committee on Assessment and Taxation
February 18, 2004

Chairman Corbin and Honorable Committee Members,

I am Natalie Bright and I am appearing on behalf of the Wichita Independent Business Association (WIBA) in favor of SB 444. WIBA has over 656 retail members who employ over 1076 full-time employees and 156 part-time employees. The majority of the WIBA retail members are very small operations that survive on small profit margins and many are not equipped with PC's.

As I have shared with you in previous testimony, implementation of Destination Sourcing has been very burdensome for WIBA retailers who have struggled with its implementation. Compliance with Destination Sourcing has taken a tremendous amount of administrative time and effort which equates to a considerable amount of cost and loss profit for our members. In addition, several of our members have invested significant dollars in having to purchase new computer systems and software to meet the demands of the new law.

Due to the hardships Destination Sourcing has had on our retail members, WIBA has taken the official position that it is not necessary to implement the Streamline Sales Tax Project (SSTP) laws until such a time as the federal government actually places an Internet Sales Tax into effect or rules interstate commerce may be taxed. WIBA recommended in late August of last year that a bill be introduced to place the implementation of SSTP into abeyance until six months following the date the federal government authorizes collection of state sales tax on interstate commerce transactions. The members of WIBA believe such action will allow the Kansas Legislature to fully study the impact this major initiative will have on Kansas retailers and still afford Kansas an opportunity to remain an active participant in the Streamline Sales Tax Project.

While the members of WIBA remain evenly split on whether sales tax should be collected on items purchased via the Internet or catalogue, they are clear that they support the delay of the implementation of Destination Sourcing in Kansas today. Therefore, on behalf of the members of WIBA, I respectfully request that you support the passage of SB 444.

Thank you for the opportunity to submit written testimony today. You may contact me at 316-640-1422 if you should have any additional questions.

415 S. Main Street / Wichita, KS 67202-3719
316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org / Web Site: www.wiba.org

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Attachment 13

LKM
League of Kansas Municipalities

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

Date: February 18, 2004

To: Senate Assessment and Taxation Committee

From: Larry R. Baer
Assistant General Counsel

Re: SB 444 - Testimony in Opposition

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities in opposition to SB 444.

The League has been involved with this issue since the beginning of the Streamlined Sales Tax Initiative. We have been a member of the State working group which was formed when the issue first begin to be studied, and we remain a member of the group. The League has spent much time reviewing the various aspects of tax collection on remote sales. We remain convinced that the Streamlined Sales Tax Initiative remains an important step in the taxation of remote sales, this includes phone, catalog and Internet. Just a few years ago there were essentially no commercial sales on the Internet. Today we see mammoth sales with growth at exponential rates. Most commentators expect continuing growth in the foreseeable future.

The League remains solid in its belief that we must have a system which is equitable for those businesses who operate from brick and mortar locations as well as those operating via the Internet. The League position on Internet sales, adopted by our Convention of Voting Delegates at the October, 2003 annual conference reads as follows:

> "**Streamlined Sales Tax Project.** We support the Streamlined Sales Tax Project including a local compensating use tax component. The Kansas Department of Revenue should work with businesses to make the transition to destination-based sourcing as smooth as possible. Locally elected officials and their citizens should determine local sales and use tax rates. We urge Congress to take action as soon as practicable to pave the way for mandatory collection of sales and use taxes on remote sales. Any federal legislation should not preempt state and local sales tax authority."

From this statement it is easy to see that the League remains firmly committed to the Streamlined Sales Tax Project as adopted and placed in effect last year by this legislature.

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While we realize that there have been difficulties in implementing the system, we have no doubt that the Kansas Department of Revenue, and the State of Kansas can make the Streamlined Sales Tax work in Kansas. As a result, we are strongly opposed to SB 444. We do not feel that it is appropriate to delay the implementation of the destination sourcing rules until such time as Congress acts on the matter. To take this approach would be a step away from the ability to tax Internet sales and might forever bar the ability of Kansas and its local governments to receive the sales tax income off of those Internet sales.

Times change, as due tax systems, and now is the time for the State of Kansas to move forward with the new system of sales taxation which will level the playing field and allow for revenues to be derived from Internet sales. We urge this Committee to reject SB 444 and stay the course concerning Streamlined Sales Tax and its implementation.

Thank you for allowing the League to testify on this very important matter.