

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 2, 2005 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  
 Richard Cram, Department of Revenue  
 Rose Marie Glatt, Committee Secretary

## Conferees appearing before the committee:

## Proponents:

Charles Gregor, Leavenworth/Lansing Area Chamber of Commerce  
 Ken Daniel, Midway Wholesale  
 Martin Luther, Luther's Smokehouse Inc.  
 Donna Homan, Donna's Designs, Inc.  
 Ross E. Markle, Harris Brothers Cleaners, Inc.  
 Sharon Funk, Buckeye Corporation  
 Jamie Bell, City of St. Marys  
 Kevin Gray, Custom Wood Products, Inc.  
 William Brannan, Schendel Pest Control, Inc.  
 Tim Danneburg, City of Olathe  
 Mike Howater, Howater Appliance  
 Sharon DuBois, Senior Ease  
 Marlee Carpenter, Kansas Chamber of Commerce  
 Hal Hudson, National Federation of Independent Business (NFIB)  
 Bob Corkins, Freestate Center for Liberty Studies  
 Karl Peterjohn, Kansas Taxpayers Network  
 Joanna C. Brazil, The Peabody Main Street Association

(written testimony only)

\*John Lewis, Kansas Press Association,\* Diane Costello, Olathe Chamber of Commerce,  
 \*Cliff Sones, Wichita Independent Business Association, \*Justin N. Crain, American  
 Concrete Company, Inc., \*Erik Sartorius, City of Overland Park, \*Craig & Jeanine  
 Pumphrey, CPC Bearing, Inc. \*Anonymous testimony from a Kansas Taxed Retailer,  
 \*written testimony from Cleaver Farm, Chanute, KS.

## Opponents:

Randal Allen, Kansas Association of Counties  
 Larry Baer, League of Kansas Municipalities  
 Secretary Wagnon, Department of Revenue  
 David Corbin, Department of Revenue

## Others attending:

See attached list.

**HB 2131 - Delay of destination sourcing rules for sales tax purposes until action of Congress**

Mr. Self explained that the bill relates to sales taxation, regarding the streamline agreement and to some of the rules that were required to be in compliance to that agreement. The bill deals with one area that relates to the sourcing of sales.

The Chairman opened the public hearing on **HB 2131**.

Charles Gregor, Leavenworth/Lansing Area Chamber of Commerce, urged the Committee to favorably consider **HB 2131 (Attachment 1)**. It is a logical and prudent step toward preparing Kansas and Kansas businesses for an eventual smooth and relatively painless transition to a nationwide destination sourcing sales

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 2, 2005 in Room 519-S of the Capitol.

tax system should such become a reality.

Ken Daniel, Midway Wholesale, appeared in support of **HB 2131**. He stated that the Streamlined Sales Tax Project (SSTP) was a damaging piece of legislation from the small business standpoint (Attachment 2). His testimony included seven myths that he disputed. He provided data that reflected costs to collect sales tax, conversion costs and ongoing destination sourcing costs for Kansas retailers.

Martin Luther, Luther's Smokehouse Inc. stated that half of their Kansas customers are sending jerky to the military with an out of state zip (Attachment 3). He suggested that **HB 2131** would provide the time to develop software when the national laws are passed making it easier for the small businesses to conform to the laws.

Donna Homan, Donna's Designs, Inc. spoke of the bookkeeping difficulties she had experienced in her florist shop (Attachment 4). She stated that the software created by the State of Kansas would not interface with their floral specific software thus creating more accounting problems. She urged the passage of **HB 2131** in order to provide time to allow the floral association to lobby to defeat SSTP at the national level.

Ross E. Markle, Harris Brothers Cleaners, Inc. rose in support of **HB 2131**. He stated that destination sourcing as required by the current SSTP legislation puts another burden on their limited resources and severely restricts their option of running their small business (Attachment 5). The required cost of the software and hardware alone is simply not an added expense they can absorb.

Sharon Funk, Buckeye Corporation, testified in support of **HB 2131** (Attachment 6). She said that the new point of destination sales tax has cost their company hundreds of extra man hours involving their sales staff and bookkeepers. The cities where their stores are located have lost thousands of dollars in sales tax revenue.

Jamie Bell, City of St. Marys appeared to endorse the passage of **HB 2131** (Attachment 7). He spoke of the economic challenges facing small towns today. As a City Manager, he stated that he worried about any new initiatives offered up by the State Legislature or Governor that clearly do not have the best interest of small communities in mind.

Kevin Gray, Custom Wood Products, Inc. stated that the past year and a half they had been struggling to meet the deadlines for compliance (Attachment 8). Good-intentioned lawmakers were focused on the loss of revenue from internet sales and products shipped into Kansas across state lines, however the impact on the small businesses, they were trying to protect, were hurt the most. He urged passage of **HB 2131**.

William Brannan, Schendel Pest Control, Inc. appeared in support of **HB 2131**. He stated three reasons that he opposed SSTP; prohibitive cost of software and annual service fees to his small business, increased time to prepare tax reports and lack of compensation for the extra effort required (Attachment 9).

Tim Danneburg, City of Olathe, stated that Olathe continued to support federal initiatives to capture internet sales revenue (Attachment 10). Although they recognized that states must first take steps to prepare for such collection, Olathe opposed state efforts to implement destination source taxing **prior** to any reasonable assurance that the federal government would take action.

Mike Howater, Howater Appliance, appeared in support of **HB 2131** (no written testimony). He illustrated that bookkeeping duties had increased significantly for his small business by providing adding machine tapes required for the process before and after the advent of destination sourcing rules.

Sharon DuBois, Senior Ease, testified about the difficulty she has encountered in her small business as a result of the implementation of the destination sales tax. She had a software package that has worked in the past, however now under the new rules, she is forced to be creative in her reporting procedure. She urged passage of **HB 2131** (Attachment 11).

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 2, 2005 in Room 519-S of the Capitol.

Secretary Wagon, Department of Revenue rose in opposition to **HB 2131**. Her testimony included the background of taxation of remote sales, Phase 1, 2 and 3 of streamlined sales tax project, time line of Kansas Legislative Action, progress of the program, voluntary use tax remittance from remote retailers, sales tax returns filed and jurisdiction reported, and the conclusion of the Department (Attachment 20). She said the compliance date was January 1, 2005 therefore there would not be a complete picture until February 25<sup>th</sup>, and the small retailers, who file only quarterly, wouldn't be recognized until April 25<sup>th</sup>. Early results from collections are positive. She spoke of alternative methods that KDOR had implemented to aid in distributing the sales tax in an appropriate manner for many retailers. She explained the purpose of the relaxed enforcement period was to provide service not sanctions. She reviewed the Sales and Use Tax distributed to counties for CY 2003, 2004 (Attachment 21), and a Forrester document for the National Governor's Association and the National Conference of State Legislatures and an excerpt from The University of Tennessee (Attachment 22).

Due to remaining multiple questions the Chairman requested that Secretary Wagon return tomorrow for continuation of discussion.

The Chairman adjourned the meeting at 11:00 a.m. The next meeting is scheduled for March 3, 2005.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 2, 2005

NAME	REPRESENTING
DIANE Costello	Olathe C of C
JOANNA BRAZIL	PEABODY, MARION COUNTY, KDDA
Donna Homan	Kansas Florists
Sharon Funk	Buckeye Corp - 91 Dorado KS
Hal Hudson	NFIB/KS
CHARLIE GREGOR	LEAVENWORTH - LAWSONIA AREA CHAMBER OF COMMERCE
RUSS MARIELE	HARRIS BROS. CLEANERS, LEAVENWORTH
Mike Howerton	Howerton Appliance - PARSONS, KS.
KEN DANIEL	MIDWAY WHOLESALE
SHARON DUBOIS	SENIOR EASE, INC.
Jamie R. Bell	City of St. Marys
William D. Brannan	Schendel Post Card Co
LARRY R. BAER	LKWM
Martin Luther	Luther's Smokehouse, LeRoy KS
Randall Allen	Ks. Association of Counties
Erik Santorius	City of Overland Park
Wendy Williams	KAPA
Woodruff	KRMCA
Karl Peterjohn	Kansas Taxpayers Network



# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 2, 2005

NAME	REPRESENTING
George Petersen	KTR
SCOTT SCHNEIDER	CITY OF WICHITA
Deann Williams	KMCA
Rubon Cunn	KDOR
David R. Corbin	KDOR
Mary Cuthbert	KDOR
Steven Brunkow	KDOR
Kevin Gray	Custom Wood Products
Lucas Thompson	Intern - Rep. Mays
Bob Corkins	Freestate Center
Charles Nicolay	Capitol City Oil Co
Tom PANCE	PMCA OF KANSAS
Michelle Peterson	Kansas Governmental Consulting
Jake Heim	Hein Law Firm
Christy Caldwell	Topeka Chamber of Comm
Charee Carpenter	Kansas Chamber
Senata Peggy Parnell	
Mike Pegoon	Sedgwick County
<del>See</del>	

**TESTIMONY**  
**CHARLES H. GREGOR, JR.**  
**EXECUTIVE VICE PRESIDENT**  
**LEAVENWORTH-LANSING AREA CHAMBER OF COMMERCE**  
**House Taxation Committee**  
**Wednesday, March 2, 2005**  
**House Bill 2131**

Mr. Chairman, members of the Committee, I thank you for the opportunity to testify before you today in favor of House Bill 2131, 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 national 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 that Kansas Department of Revenue (KDOR) has done a great deal to prepare 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 made to implement destination sourcing to date within the State of Kansas. 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.

At this point we are inflicting costs and consternation on many of our businesses that are absolutely unnecessary. The Congressional leadership and the administration have said they will not entertain destination sourcing legislation for at least two years. When and if such legislation is passed, it will inevitably be challenged in court.

For these reasons we favor House Bill 2131. This bill will allow the Kansas Department of Revenue to continue to make all due 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 that 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 way in easing our businesses into the transition to nation-wide destination sourcing. Meanwhile, Kansas will remain on record as favoring a national destination

sourcing law. As the Speaker testified last year before this Committee, the status of Kansas as an "SSTP qualified state" will not be lost if HB 2131 becomes law and we will remain on the list of states favoring the Streamlined Sales Tax Project.

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. I understand KDOR is working on developing answers to such questions but has virtually none at this point. There is a strong probability that some Kansas taxing jurisdictions will experience a loss of sales tax revenue as revenue is shifted this year under Kansas' destination sourcing law. The bill we are considering today will allow time for research to determine what the impacts of destination sourcing revenue shifts will be and possible remediation that may be required.

Related to that concern, I clearly remember that last year, while testifying before the Senate Taxation Committee on a bill virtually identical to the bill we discuss today, a conferee was asked by a member of the committee if it was not fair and just that Kansas sales taxes be collected in the jurisdiction where the money to make the purchase was earned. This question was asked in an almost rhetorical sense, as if an affirmative answer was a given. I suggest to you that the correct answer is a resounding "no". That sales taxes should go to taxing jurisdictions where, at considerable cost, the schools, streets and highways, bridges, and all other infrastructure and related costs are borne to create the environment required to host the business that manufactures and/or sells a particular product, no matter where that product is delivered.

I urge you to favorably consider House Bill 2131. It a logical and prudent step toward preparing Kansas and Kansas businesses for an eventual smooth and relatively painless transition to a nationwide destination sourcing sales tax system should such become a reality. More importantly, this bill saves our businesses, primarily our small businesses, from the great expense associated with a completely unnecessary change from a tax system that works well for all Kansans.

Thank you for your time today. I will stand for any questions.

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



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

**MIDWAY WHOLESALE**

Topeka • Salina • Lawrence • Manhattan • Elwood • Kansas City • Wichita

**Presentation to the House Taxation Committee  
March 2, 2005**

**By Kenneth L. Daniel, Jr.**

**Chairman and C.E.O., Midway Sales & Distributing, Inc. d/b/a Midway Wholesale**

**Mr. Chairman and Members of the Committee:**

**My name is Kenneth Daniel. I am the Founder, Chairman and C.E.O. of Midway Wholesale, a building materials distributor headquartered in Topeka with branches in six other Kansas cities.**

**Last year I did a huge amount of research, writing, speaking, and working to save Kansas small businesses from the SSTP, one of the most damaging pieces of legislation ever enacted in Kansas from the small business standpoint. The support we received from the Kansas House last year is deeply appreciated. Unfortunately, we couldn't get enough help from the Senate.**

**My business is in full compliance with the SSTP and has been since the first day it went into effect. It cost us \$50,000 to get into compliance, even though our computer programs did not have to be modified. Last year, it cost us \$15,000 to continue to comply, and will cost that much or more from now on.**

**Destination sourcing is a red tape fiasco that rivals OSHA and D.O.T. for us. We have 95 employees. Unlike smaller companies, we were able to throw enough money and high-priced talent at this to make the conversion without it becoming a permanent threat to us.**

Hs Taxation Committee  
March 2, 2005  
Attachment 2

At this point destination sourcing is giving us a huge competitive advantage over our smaller competitors. Unfortunately, we are giving up a huge competitive advantage to our large competitors like Home Depot and ABC Supply.

We don't want to go back to origin sourcing unless it is a permanent switch – it would just cause a lot of extra expense and pain. However, we think it would be a very good idea for the Kansas economy if you would allow the smallest businesses the option to take a year or even five years to get into compliance.

Cost estimates: We estimate that it will cost Kansas retailers more than \$50 million to convert. Then, it will cost them \$50 million per year to comply. It will cost the State of Kansas \$7 million per year to administer.

When the SSTP was first proposed, we were promised we would be paid for collecting destination taxes. Kansas isn't paying us. If I could receive a 3% collection fee on the portion of the sales taxes that are outside my local tax jurisdictions, it would repay me just about exactly for my ongoing costs. Missouri pays us 3% of all taxes we collect for them. Kansas pays Missouri retailers 3% of all taxes they collect for Kansas. It is a slap in the face to force us to eat these costs just because we are "yours".

There are dozens of articles on this subject on [www.KsSmallBiz.com](http://www.KsSmallBiz.com) under the "Small Business Issues" section.

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



**MYTH: "BIG RETAILERS ARE NOW COLLECTING KANSAS TAXES, BUT ONLY BECAUSE WE ENACTED THE SSTP". FACT: Wal-Mart and other big retailers have started collecting in ALL states. Amazon started collecting in Kansas to avoid a lawsuit because they have a warehouse in Coffeyville. I have not been able to identify a single retailer who is discriminating based on Kansas having passed the SSTP. The legal risks and public relations risks to doing something like that are huge.**

**MYTH: "THIS IS ALREADY PUTTING MONEY INTO THE POCKETS OF LOCAL GOVERNMENTS". FACT: Locals are losing revenue. Locals will not "make" any money on the SSTP unless Congress legalizes it. In the meantime, about \$25 million in local sales tax revenues is being lost statewide because rural areas have lower tax rates than the trade centers. This is being masked by \$50 million in new use tax revenues. We are NOT asking you to repeal the new local use taxes.**

**MYTH: "THIS IS MAKING MONEY FOR RURAL CITIES AND COUNTIES". FACT: The extra money they are getting, an estimated \$30 million per year, is coming or will come out of the pockets of the trade centers, which think they are winning because of the new use taxes. In Texas, the cities have figured this out. In Kansas, they still haven't. Texas cities will sue to stop the SSTP there.**

**MYTH: "THE ADDRESS-BASED LOOK-UP WILL FIX EVERYTHING."**  
**The KDOR data base is nothing more than a fancy way to look up the information. Instead of a little booklet, a computer with a web hookup is required. There are no accounting programs available to small businesses that will interface automatically**

with it. It requires extensive and expensive programming to build such interfaces. Even if built, they will be expensive to maintain. Even if fully integrated into an accounting system, nothing has been done to eliminate the extra questions that retailers have to ask, the extra steps they have to take, and the extraordinary increase in work a retailer has to do to send in a sales tax report. Looking up the right jurisdiction is only a small part of the additional work retailers are being asked to do.

**MYTH: "A \$5 MILLION 'DE MINIMUS' EXEMPTION WILL FIX THE PROBLEM". FACT: This isn't legal on the state level. Such an exemption has been mentioned as a possible part of the federal SSTP legislation, but it would only apply to remote retailers, not to retailers within a given state. This would help only a small number of Kansas-based remote sellers.**

**MYTH: "15 OTHER STATES ALREADY HAVE DESTINATION SOURCING, THEREFORE IT ISN'T A BIG DEAL FOR KANSAS".** Kansas retailers are being asked to track 750 jurisdictions. (Midway has had sales in 393 since July 2003.) The other states that have destination sourcing have an average of 103. Most of them have one rate per county. What Kansas businesses are being asked to do is far more burdensome than what any other state is doing. Kansas, which has a pitiful track record on new business startups, will have an even worse record.

**MYTH: "KANSAS IS LOSING (\$80 MILLION) (\$150 MILLION) (\$400 MILLION) IN SALES TAXES BECAUSE OF THE INTERNET." FACT: The maximum possible additional sales taxes, based on U.S. government statistics on e-**

commerce, would have been about \$32 million last year. Some of these taxes were collected, and a significant portion of these sales weren't taxable, anyway.

# COLLECTION FEE PROPOSAL

KDOR

Proposal for Destination-based Sourcing Sales Tax Credit

Except as otherwise provided and effective 1/1/05, retailers who: (1) are required to file returns and remit retailer's sales or compensating use tax, and (2) report and remit local retailer's sales or compensating use tax to multiple taxing jurisdictions in this state on their returns as a result of the destination-based sourcing provisions enacted effective July 1, 2003 at K.S.A. 2003 Supp. 79-3670 et seq., are entitled to a payment, not less than quarterly, from the retailer's sales and use tax refund fund and the local retailer's sales and use tax clearing fund of an amount equal to 2% of the state and local retailer's sales or retailer's compensating use tax remitted by such retailer to the department of revenue during the prior calendar quarter and which is attributable to taxable sales by the retailer sourced and reported on the return to local taxing jurisdictions within this state and outside the local taxing jurisdiction where the retailer's business premises are physically located, or if the retailer is located in a county in which only the county sales or use tax exists or no local sales or use tax exists, outside the county where the retailer's business premises are physically located. Such quarterly payments shall not exceed in total more than \$2,000 in any calendar year, based on the prior four quarters. Retailers that are telecommunications providers pursuant to K.S.A. 2003 Supp. 79-3603(b), as amended, utilities providers pursuant to K.S.A. 2003 Supp. 79-3603(c), as amended, cable, community antennae and other subscriber radio and television service providers pursuant to K.S.A. 2003 Supp. 79-3603(k), as amended, telephone answering service, mobile telecommunication service, beeper service or other similar service providers pursuant to K.S.A. 2003 Supp. 79-3603(t), as amended, shall not be eligible to receive any such payment.

Kansas Department of Revenue

**Discount to destination sourced filers and sourced sales only  
with annual cap**

Discount %	Annual Cap	Total (dollars in millions)	State	Local	sgf
2%	\$ 15,000	\$ 2.35	\$ 1.76	\$ 0.59	\$ 1.68
2%	\$ 10,000	\$ 2.23	\$ 1.67	\$ 0.56	\$ 1.59
2%	\$ 5,000	\$ 1.98	\$ 1.49	\$ 0.49	\$ 1.42
2%	\$ 2,000	\$ 1.61	\$ 1.20	\$ 0.41	\$ 1.14
2%	\$ 1,000	\$ 1.30	\$ 0.98	\$ 0.32	\$ 0.93
2%	\$ 500	\$ 0.98	\$ 0.74	\$ 0.24	\$ 0.71
3%	\$ 15,000	\$ 3.34	\$ 2.51	\$ 0.83	\$ 2.39
3%	\$ 10,000	\$ 3.14	\$ 2.35	\$ 0.79	\$ 2.24
3%	\$ 5,000	\$ 2.75	\$ 2.06	\$ 0.69	\$ 1.96
3%	\$ 2,000	\$ 2.16	\$ 1.62	\$ 0.54	\$ 1.54
3%	\$ 1,000	\$ 1.67	\$ 1.26	\$ 0.41	\$ 1.20
3%	\$ 500	\$ 1.20	\$ 0.90	\$ 0.30	\$ 0.86
4%	\$ 15,000	\$ 4.27	\$ 3.20	\$ 1.07	\$ 3.05
4%	\$ 10,000	\$ 3.97	\$ 2.98	\$ 0.99	\$ 2.84
4%	\$ 5,000	\$ 3.43	\$ 2.57	\$ 0.86	\$ 2.45
4%	\$ 2,000	\$ 2.61	\$ 1.95	\$ 0.66	\$ 1.86
4%	\$ 1,000	\$ 1.96	\$ 1.42	\$ 0.54	\$ 1.35
4%	\$ 500	\$ 1.35	\$ 1.01	\$ 0.34	\$ 0.96

**Discount to all filers, using a annual cap**

Discount %	Annual Cap	Total (dollars in millions)	State	Local	sgf
2%	\$ 15,000	\$ 26.88	\$ 20.16	\$ 6.72	\$ 19.21
2%	\$ 10,000	\$ 25.48	\$ 19.11	\$ 6.37	\$ 18.21
2%	\$ 5,000	\$ 22.71	\$ 17.03	\$ 5.68	\$ 16.23
2%	\$ 2,000	\$ 18.50	\$ 13.88	\$ 4.63	\$ 13.22
2%	\$ 1,000	\$ 14.89	\$ 11.17	\$ 3.72	\$ 10.64
2%	\$ 500	\$ 11.22	\$ 8.42	\$ 2.81	\$ 8.02
3%	\$ 15,000	\$ 38.23	\$ 28.67	\$ 9.56	\$ 27.32
3%	\$ 10,000	\$ 35.88	\$ 26.91	\$ 8.97	\$ 25.65
3%	\$ 5,000	\$ 31.45	\$ 23.59	\$ 7.86	\$ 22.48
3%	\$ 2,000	\$ 24.65	\$ 18.49	\$ 6.16	\$ 17.62
3%	\$ 1,000	\$ 19.13	\$ 14.35	\$ 4.78	\$ 13.67
3%	\$ 500	\$ 13.70	\$ 10.28	\$ 3.43	\$ 9.79
4%	\$ 15,000	\$ 48.75	\$ 36.56	\$ 12.19	\$ 34.84
4%	\$ 10,000	\$ 45.23	\$ 33.92	\$ 11.31	\$ 32.33
4%	\$ 5,000	\$ 39.22	\$ 29.42	\$ 9.81	\$ 28.03
4%	\$ 2,000	\$ 29.78	\$ 22.34	\$ 7.45	\$ 21.29
4%	\$ 1,000	\$ 22.44	\$ 16.83	\$ 5.61	\$ 16.04
4%	\$ 500	\$ 15.46	\$ 11.60	\$ 3.87	\$ 11.05



## 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<sup>2</sup>. 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<sup>3</sup>. 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

<sup>2</sup> "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.

<sup>3</sup> 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.

## 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

# "LOST" TAXES

## A CURRENT CALCULATION OF UNCOLLECTED SALES TAX ARISING FROM INTERNET GROWTH

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

DMA ESTIMATE FOR 2004: \$28 MILLION (KS)  
SSTP ESTIMATE FOR 2004: \$354 MILLION (KS)

PETER A. JOHNSON, PH.D.  
Senior Economist

The Direct Marketing Association  
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New York, NY 10036  
[pjohnson@the-dma.org](mailto:pjohnson@the-dma.org)

KEN'S ESTIMATE: March 11, 2003 \$51 MILLION MAX POSSIBLE

4TH QUARTER 2004: 2% OF TOTAL RETAIL SALES  
(U.S. CENSUS BUREAU)

TOTAL FY 2004 STATE & LOCAL SALES TAXES & USE TAXES \$2.543 billion  
(KANSAS TAX FACTS, 2004 SUPPLEMENT)

\$2.543 billion x 2% = \$51 million maximum possible lost  
if all retail SALES WERE TAXABLE AND NOBODY PAID ANY.  
(they are not all taxable, and lots were paid.)

**SALES TAX LAW SHOULD BE DELAYED THEN FIXED**  
by Kenneth Daniel

February 18, 2004

The reason many Kansas legislators, the Governor, and city and county officials are so determined to go forward with the Streamlined Sales Tax Project (SSTP) is that they think huge quantities of tax dollars are going uncollected as consumers buy more and more from on-line retailers who don't collect state and local sales taxes. However, the numbers that most of them have been relying upon are grossly overstated.

In September 2001, the Institute for State Studies ([www.statestudies.org](http://www.statestudies.org)) commissioned a University of Tennessee (UT) study <sup>[1]</sup> that predicted Kansas governments would lose \$451.5 million in sales tax revenues in 2006 from non-taxed e-commerce sales alone. This does not include catalog, telephone, mail-order, and other remote sales.

The study's projections are deeply flawed and completely ridiculous. Even though the U.S. Census Bureau and the U.S. Department of Commerce began publishing well-researched and far more accurate e-commerce numbers at about the same time this report came out, there has been no update of the UT report.

In March of 2003, the Direct Marketing Association (DMA), the people who actually sell on the internet, published their own report <sup>[2]</sup> that points out the flaws in the UT report and uses U.S. Department of Commerce, U.S. Census Bureau, Government Accounting Office, and other statistics to compute e-commerce sales tax "losses". The DMA report shows that the UT results are overstated by about 1100%.

In spite of the fact that the DMA report jibes completely with federal statistics, and that it has been well-publicized, proponents of the SSTP continue to use the overblown UT report to justify the SSTP.

The full DMA report can be seen at:

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

Using 1% of the national predictions from each report as the Kansas "loss" <sup>[3]</sup>, the "losses" from the reports are:

	UT Report	DMA Report
2001	\$133 million	\$ 19 million
2002	\$189 million	\$ 23 million
2003	\$262 million	\$ 25 million
2004	\$354 million	\$ 28 million
2005	\$413 million	\$ 30 million
2006	\$452 million	\$ 32 million
2007	\$482 million	\$ 34 million
2008	\$504 million	\$ 37 million
2009	\$521 million	\$ 40 million
2010	\$535 million	\$ 42 million

2011 | \$548 million | \$ 45 million

#### ANOTHER WAY TO ESTIMATE "LOSSES"

It is fairly easy to determine which report is more accurate. We can estimate Kansas "losses" through Kansas' own revenue estimates. The current revenue estimates for sales and use tax revenues is \$1.85 billion. This is for the state only and not local.

In 2003, the U.S. Department of Commerce statistics show that total e-commerce retail sales were slightly less than 1.5% of total retail sales. If Kansas "lost" the sales and use tax on 100% of its e-commerce retail sales, it missed 1.5% of \$1.85 billion or \$27.75 million.

The local taxes "lost" would add about \$8.9 million for a total missed by all Kansas governments of \$36.65 million. This overestimates because sales taxes are in fact collected on many e-commerce sales, and some sales aren't taxable. This makes the \$28 million DMA estimate for 2004 look pretty accurate.

#### FLAWED UT FIGURES STILL BEING USED

Unfortunately, the ridiculously inflated numbers from the UT study continue to be used by the proponents of the Streamlined Sales Tax Project to justify it. Last week on the floor of the Kansas Senate, the figure of \$160 to \$180 million of current lost revenue was used to argue against delaying the SSTP.

#### DELAY IS NEEDED

Unless Kansas officials enact legislation to repeal or delay the destination sourcing provisions of the SSTP, Kansas cities and counties will lose \$32 million per year in sales & use tax revenues <sup>[4]</sup> on the chance that in some future year they will collect about the same amount in "lost" sales taxes. The downside is that to purchase this chance, Kansas retailers will have to spend over \$50 million per year in compliance costs <sup>[5]</sup>.

This mess can be fixed. Local governments can avoid the \$32 million annual losses, retailers can avoid the \$50 million in annual costs, and if Congress ever acts on the SSTP, most or all of the "lost" taxes can be collected.

The Kansas legislature and Governor should put the destination sourcing provisions of the SSTP on hold until this law can be fixed.

-- 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.)*

**Word Count:** 758

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**Website:** Past articles and much more are available at the website, www.KSSmallBiz.com.



1. "State and Local Sales Tax Revenue Losses from E-Commerce: Updated Estimates", by Donald Bruce and William F. Fox of the University of Tennessee.
2. "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.
3. The 1% is almost exactly what the UT report shows for Kansas.
4. "Impact of the SSTP on Local Sales Tax Revenues" by Kenneth Daniel, Nov. 11, 2003, [www.KsSmallBiz.com](http://www.KsSmallBiz.com).
5. "Costs of Streamlined Sales Tax Project Compliance for Kansas Retailers", by Kenneth Daniel, February 13, 2004.

March 2, 2005

Dear Representative;

I operate a small Jerky Manufacturing business in a small town. A substantial part of our sales are mail order (via telephone). Half of our Kansas customers are sending jerky to the Military with an out of state zip. We are currently charging them State sales tax for LeRoy Kansas. If you enforce the new Destination source taxing method, I understand we are not to charge Kansas sales tax on these sales. As many small businesses, we do not have the software available for destination taxing or a computer programmer employed with us.

The new method would result in a loss of revenue by Kansas.

Also a lot of paperwork for us and probably the state employees who collects and distributes to each taxing district.

Are you sure Kansas will benefit with the new taxing method before it includes interstate sales?

Are there not more businesses in the larger taxing districts shipping to smaller taxing districts in Kansas resulting in less revenue for the State?

No doubt that there will be more software available when the national laws are passed. It will be a lot easier for us to conform when this is available.

I strongly oppose the enforcing the destination source taxing method until it becomes a national law.

Please pass a bill that will delay or change the new law.

Sincerely, Martin D. Luther  
Luther's Smokehouse Inc.  
LeRoy Ks. 66857  
620-964-2500

[Www.JerkyUSA.com](http://www.JerkyUSA.com)

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Attachment 3

Testimony of Donna Homan  
Donna's Designs, Inc.  
1409 Main Street  
Winfield, KS 67156

I would like to express my support of House Bill 2131. I have a floral and gift shop in a rural area. We deliver to at least thirteen different tax jurisdictions. The so-called Streamlined Sales Tax would require me to hire another employee if it were tracked properly. I have been in business for over twenty-one years and still face the cash flow woes of a sluggish economy. I have not replaced the last two employees I lost due to the recent business climate. The hiring of an additional employee just to track sales tax would be extremely detrimental to myself and to many other small businesses.

Our store has on average 2400 invoices per month. What this means for our business is that we would have to collect the appropriate rate for at least thirteen tax areas on these invoices. An even harder chore would be to see how many of the invoices went to each town. The worst part of all, in many cities it would be totally difficult to recognize addresses that sound like a county address, but are actually in the city limits. This would be true of all the towns we deliver to.

I have spent thousands of dollars over the last decade to buy a sophisticated computer system specifically for florists. This software is produced by Teleflora and has approximately 25 florists in Kansas using it. I spoke with the manager of the Teleflora development team and at this time they are not working on software upgrades to handle our sales tax problem. They are following legislation in Ohio that would force you to comply with the Streamlined Sales Tax only if your sales volume is over four million dollars. The complexity of a Teleflora upgrade that would help florists across the United States is almost uncomprehensible.

The software created by the State of Kansas will not interface with our floral specific software. I would wager a guess that it would also not interface with other industry specific software for builders, lumber yards, medical supply stores, etc. I can only imagine how hard it would be for those businesses who do not have a computer at all!

Another sad effect of the Streamlined Sales Tax is the effect on many small towns. For example, Oxford, Kansas, a town of approximately 1200 people gets a substantial amount of their sales tax from a large lumber yard located there. With this new system of collection, the money Oxford previously received would now be split among Winfield, Arkansas City, Wellington, and the other surrounding towns they deliver to.

Our sales as a florist are above the average for Kansas florists. Still the amount of tax dollars involved for the 1% city tax collected is very minimal. The tracking of all these invoices will be much more involved and time consuming than the transfer of money between cities is worth. We simply can't afford the hardship created for us by the Streamlined Sales Tax.

We thank you for House Bill 2131, which would at least buy us time before we have to comply. In the mean time we will try to rally our floral associations to fight hard for Congress not to pass this law or at least for it to apply only to businesses with large volume sales. Hopefully, they could afford the hardship more than small businesses, many of which are struggling to survive.

I thank you for your time!

Donna Homan  
620-221-2418

**TESTIMONY**  
**ROSS E. MARKLE**  
**OWNER & PRESIDENT**  
**HARRIS BROS. CLEANERS, INC.**  
**501 SOUTH 5<sup>TH</sup> STREET, LEAVENWORTH, KANSAS 66048**  
**House Taxation Committee**  
**Wednesday, March 2, 2005**  
**House Bill 2131**

Mister Chairman, members of the Committee, my name is Ross Markle. Thank you for this opportunity to speak with you in favor of HB 2131. I own and operate a small dry-cleaning and laundry business in Leavenworth. I employ 22 people including my wife, son and I. I have outlets in three taxing jurisdictions. With the exception of alterations, all of our processing is accomplished at one central facility.

Over the past few years our industry has experienced a downturn in sales. In 2004 we experienced a 15% drop and this year is trending the same way. This has forced us to look hard for ways to control costs and try to expand our market. One way to expand our market is through route sales. This means we must initiate a delivery and pick-up service. My analysis shows that this new service will expand our market share and our revenue.

Analysis of this option also shows that such a service will expose us to several more taxing jurisdictions, including several out of the State of Kansas. The implementation of the SSTP legislation has caused us not to move forward with this option.

Starting a delivery and pick-up route is not an inexpensive undertaking. The capital outlay for equipment is but one example. As of right now one very expensive CPA and my wife do all the accounting for our business. Ninety percent of all they do is in direct response to demands from government.

Sales taxes, payroll taxes, unemployment taxes, income taxes, property taxes, business personal property taxes, franchise fees and environmental accountability, to name a few examples of the demands of government, are where most of our energy, time and expenses go. While government imposes itself and takes its slice of the pie for each of these expenses, businesses are forced to perform a difficult juggling act to maintain jobs and enough profit to make the effort of operating a small business worthwhile.

The addition of destination sourcing as required by the current SSTP legislation puts yet another burden on our limited resources and, in my case, severely restricts my options. The required cost of the software and hardware alone is simply not an added expense we can absorb. No one I have currently employed in my business is capable of operating such a system. Additionally, I cannot afford to hire a computer tech to insure adequate implementation of destination sourcing for my business. Our limited computer skills and equipment make the short-term implementation of this process unreasonable for my small company.



We in small business need to invest in our companies. We cannot afford more government tax programs that thwart our ability to be good corporate citizens, provide jobs and be a viable part of a community and its tax base. I urge you to delay implementation of the SSTP until enabling federal legislation is in place. Hopefully this will afford small businesses such as mine the time to recover from the recent economic downturn, implement recovery plans, and prepare and budget for the changes destination sourcing of sales taxes will bring.

Again, thank you for your time and consideration. I will be glad to answer any questions you may have on my testimony.

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## House Bill 2131

My name is Sharon Funk and I am here representing the Buckeye Corporation. We are an oilfield supply company with store locations in El Dorado, Madison, Russell, and Chanute. Our office is located in El Dorado. Our oilfield supply store offers counter sales in the individual store locations as well as on site deliveries. These deliveries range in price and volume from a small fitting costing a few dollars to a complete well hook up including tubing, casing and rods costing several thousand dollars.

In the oilfield industry it is not uncommon to have a customer come into one of our store locations, pick up a few items off of the shelf, and then ask to have the remainder of his order delivered to his location. This requires a great deal of recordkeeping for our stores and bookkeepers. This type of order requires us to tax our customer in two different taxing jurisdictions, the first being that of the store location and the second one being that of the point of final destination for the remainder of his order. Most customers would prefer to have their complete order billed on one invoice. This is not possible because of the sales tax issue. In a month's time, we may make sales deliveries to as many as 50 to 100 different taxing entities whether they are rural with only a county tax or to a city location different from the original sale point and the next month's those taxing jurisdictions may not even be applicable with sales.

We have complied with the Streamlined Sales Tax" as we have been required to do. It has been a bookkeeping nightmare for us. Our monthly sales tax report used to take approximately one hour of time to complete. Since the new "Streamlined Sales Tax" project has begun what used to take one hour of time has been extended to one to two days. The bookkeeping time to track the different taxing entities is very complex and timely. Since most of the deliveries are made to rural oilfield sites, the city sales tax that would have been received from the store location is now gone costing the cities thousands of dollars in lost tax revenue. They are only receiving the county sales tax when applicable.

A problem that has occurred with the new "Streamlined Sales tax" is the issue of returned goods. It is very common in the oil industry for a customer to return goods a few months after the initial purchase. In one instance we had no sales in that particular taxing entity during the month that the material was returned. I completed the sales tax form for the current month, applied a credit amount to the county in which the material was returned and sent in our payment. A few months later I received notification from Kansas Compliance Management that an error had occurred and we were being penalized. After many attempts to call the state office, I finally got through and was informed that the state system could not handle a credit amount in an individual county on the consolidated tax return. I was required to file an amended return and change the sales figures for

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that county in which the goods were previously purchased. This required me to open up our sales tax accounts from the previous year and resulted in several hours of office labor.

On two separate occasions, we have been asked to deliver tubing into the states of Nebraska and Missouri. We have made every effort to correctly comply and report the sales tax to these proper states. In an effort to do this, we were required to register our business in those states and file a monetary bond. This process took weeks to complete in these two states just to get an identification number to pay them their sales tax.

The new point of destination "Streamlined Sales Tax" bill has cost our company hundreds of extra man hours involving our sales staff and bookkeepers. It has also cost the cities where our stores are located thousands of dollars in lost sales tax revenue.

The owners and employees of the Buckeye Corporation are endorsing House Bill 2131. Thank you for your time and consideration in this matter.

Respectfully submitted,

Sharon Funk  
Office Manager  
The Buckeye Corporation  
P.O. Box 1020  
El Dorado KS 67042  
316-321-6690

Honorable Representative Kenny A. Wilk and Committee Members,

My name is Jamie Bell and I am the City Manager for the community of St. Marys. I am here today to express my concerns regarding the Streamline Sales Tax Project and its impact(s) on small Kansas communities such as St. Marys.

The City of St. Marys is facing economic challenges never imagined in the past. Increasingly we have to scramble to just meet daily operating expenses. Like most Kansas communities, the bulk of our infrastructure now has to be replaced due to its age and as City Manager I am being required to do this with a budget that is already stretched as far as it will possibly go. In addition to all of these concerns, I am increasingly troubled by the actions of the State Legislature and the Governor and the direction that the State continues to pursue to bring solvency to the State's financial needs; recently at the expense of Kansas communities.

The City of St. Marys is a blessed community. We have a community that cares about the welfare of our neighbors, our businesses, and the community's future. Companies like Custom Woods, Bayer Stone, The Onyx Collection, and others thrive in St. Marys because they have found a market for their specialized products and services. This market is primarily located outside of St. Marys and under the current form of the SSTP; the City is in a position to lose hundreds of thousands of dollars in sales tax revenue generated by the sale of goods by these companies. In an increasingly global economy, these companies are seeking ways to be profitable by cutting expenses and asking local governments for tax abatements and/or other tax relief on items such as expansion efforts, the acquisition of property, and new machinery.

As City Manager I often make recommendations to the City Commission to make these offers of relief knowing that if local businesses succeed, the City of St. Marys will succeed. In the past, I have pursued these relief efforts knowing that their will be a payoff to the community in the form of increased sales tax revenue from the products that these companies sell. Under the current SSTP, that incentive is taken and so are those tax dollars. Certainly, there is no financial incentive for local governments if products produced by our largest employers are to be taxed in destination communities. As I stated earlier, most of the products produced by these companies are not bought by the citizens of St. Marys, they are sold to people living outside of St. Marys.

Please don't get me wrong; the community of St. Marys is very much a consuming community. We buy thousands of dollars of groceries, household goods, and other materials in larger communities like Topeka and Manhattan every single day. However, when we buy those products we purchase them in Topeka and Manhattan and then bring them back to St. Marys. Therefore those communities are already receiving revenue on those purchases. On the other hand, not many people drive to St. Marys to purchase and

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leave with hundreds of tons of specialty rock, thousands of dollars of kitchen cabinets, or personalized bathroom sinks; It just doesn't happen.

When the Governor took away the Demand Transfer Payments to our communities it hurt. Now the State wants to take away tax dollars that are generated on goods produced by local businesses and this just doesn't hurt, it's a sore that I'm not sure we can put a band-aid on. My only two options as City Manager is to cut services or recommend raising mill levies on a community that is already paying too much for taxes and services. Also, how do I say no to local companies seeking tax abatements when there are hundreds of communities just waiting for the opportunity to have these businesses knocking on their doors? I have yet to find one way that the community of St. Marys benefits under the current SSTP system.

Putting the word "Streamlined" in front of anything will often generate support from the public. If I want a new initiative passed in St. Marys, I could easily put the word streamlined in front of my proposal and get instant acceptance for whatever it is that I am wanting done. Streamlined is supposed to indicate that something is being done that simplifies or results in the more efficient use of an item. In this case, the State Legislature and the Governor are streamlining alright; you are streamlining small Kansas community's right into extinction.

So what do I need as a City Manager and Community Leader? I need the ability to continue to collect on those taxes that are generated by the sale of goods and services offered by businesses in my community regardless of where those transactions take place. I need to be able to justify hundreds of thousands of dollars in tax abatements to a community that is already being taxed enough. I need to be able to support and nurture businesses in our community that employ my family, friends and neighbors. I need the ability to grow our community without worrying about any new "initiatives" offered up by the State Legislature or Governor that clearly don't have the best interest of my community in mind.

I don't like the Streamlined Sales Tax Project, but if we have to have it, then I fully support the changes introduced by House Bill 2131. I am asking this committee to fully endorse this bill and introduce it to the rest of the Legislature for acceptance.

Thank you for your time and I stand for any questions.

Jamie R. Bell  
City Manager  
City of St. Marys



# CUSTOM WOOD PRODUCTS, INC.

415 E. Bertrand, St. Marys, KS 66536 ■ 785-437-6533 ■ FAX 785-437-3102

## The House Taxation Committee

March 2, 2005

### Testimony of Kevin Gray - Co-owner of Custom Wood Products - St. Marys, KS

Custom Wood Products produces custom cabinetry in our manufacturing facility in St. Marys, KS. We currently have three retail showrooms located in St. Marys, Topeka, and Manhattan. We not only sell and deliver our products to homes in Kansas but to ten other states as well.

For 24 years we have been collecting and remitting sales tax based on St. Marys origin. For the past year and a half we have been struggling with the Streamlined Sales Tax Project. We pride ourselves in our ability to comply to all laws associated with our business. But this one has been a "rollercoaster" of deadlines for compliance, followed by extensions granted as long as there was an "effort" on our part to move towards compliance.....constant uncertainty. As business people we make decisions every day that shape the direction of our company with no guarantee of success...this type of mandate unfairly adds hardship to small businesses already fighting for every dollar of profit.

I can tell you that Custom Wood Products did meet the January 1, 2005 compliance deadline for destination sourcing. This came only after countless hours from myself and my staff in the development of new systems for our sales and estimating staff to follow to insure accuracy of the jurisdictions where the job will be delivered. We also have invested to date an estimated \$12,000 to \$15,000 in programming and troubleshooting the software... there is still more work to be done and problems to solve as they reveal themselves.

The number of jurisdictions that we have to deal with is unreasonable and confusing. Cities are divided by counties and addresses bearing the name of a city are sometimes outside the city limits and are only subject to the county tax. Tax codes that are measured by legal descriptions or one in Manhattan that reads something like "from the Wal-Mart down to the Ace Hardware, and over to the American Legion" is really hard to figure out and leaves room for error. In new home construction, many times all we have to go on is a lot # in a given subdivision where the street may not have even been named yet. What use to be a single line entry on the remittance to the state is now 40 or 50. When a city or county passes a tax increase, that jurisdiction has to be updated. Even though the state updates this quarterly, we have to get it corrected in our system so that proposals and invoices get submitted correctly.

Another issue, that we have had to deal with, is the consumer's lack of compassion for this process. Even after our best efforts, occasionally a proposal is presented to a client with an incorrect tax amount. This error usually isn't detected until the day of delivery, when our controller creates the final invoice and realizes the delivery occurred in another jurisdiction than proposed. When the client is presented with the revised invoice amount, they refuse to pay the difference due to, what they consider as, our "incompetence". Another cost of doing business?...I suppose.

This also was an unfunded mandate! All of the above mentioned burdens were imposed on small businesses in Kansas without any kind of compensation by the state. I don't think you could compensate me enough for the trouble that this imposes on my business, but I am aware that other states allow for some attempt at compensation.

We have enjoyed a great partnership with the community of St. Marys...and this is where I have another huge concern. The Streamlined Sales Tax Project shifted more than 99% of sales tax revenue generated by Custom Wood Products to other communities in Kansas, leaving the City of St. Marys shorthanded. Sales tax revenue was a major source of operating capital for the city. We estimate that in 2005 St. Marys will see a reduction of approximately \$85,000 in sales tax revenue, from our company alone! This puts a burden on the city to raise funds to make up for that lost revenue....and I can only guess that an increase in property taxes may be their only option. An increase in property taxes will negatively affect my business as well as my employees



that in homes in our community. I am concerned that the city will change their philosophy in regards to efforts in attracting new manufacturing businesses as well as the expansion of existing businesses such as Custom Wood Products. Historically, tax abatements have been given to manufacturers by cities with the promise of increased sales tax revenue in return....what now?

I honestly believe that good-intentioned lawmakers were focusing on the loss of revenue from internet sales and products shipped into Kansas across state lines. But the fact remains the resulting impact on the small businesses they thought they were protecting, they hurt the most! In my opinion, the costs associated with destination sourcing will continue to "eat" up profit in my company, no matter how efficient we become. Even with our investment in time and money to be compliant, I am willing to give it all up right now to go back to origin sourcing. This will relieve a huge burden on my company and keep the sales tax revenues, we work so hard to generate, in my own community. It is the right thing to do!





## PEST CONTROL, INC.

---

406 MAIN STREET • SENECA, KANSAS 66538 • 785-336-3241

My name is William Brannan, President of Schendel Pest Control of Seneca,  
Seneca, Kansas

I am in favor of House Bill 2131.

I feel it is important that you understand the enormous financial and time costs imposed on small businesses such as mine.

1. My computer software handles my business fine. It is paid for and I do not have annual maintenance fees. To change to destination sourcing I will have to change my software which will cost me \$5000.00 to \$7000.00, and I would have to pay annual service fees of \$1000.00 to \$1500.00 per year.
2. Time of monthly preparation of sales tax was approximately 15 minutes – my secretary now spends approximately 8 hours a week .
3. Nebraska pays us a percentage of the sales tax we collect for them-.025% or \$75.00, whichever is greater. Last year that was \$75.00 for the year.
4. The amount of money I collect for the state will not change but the amount of time and expense to collect the sales tax changes dramatically.

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Tim Danneberg



TO: House Committee on Tax  
SUBJECT: Support of HB 2131  
FROM: The City of Olathe  
DATE: March 2, 2005

As sales tax constitutes a significant portion of city operational revenue, the City of Olathe has recognized both the short and long-term implications internet sales have on local governments' ability to fund services. In the last citizen survey, 55% of Olathe respondents indicated they purchased at least one item on the internet in the last year.

As such, Olathe continues to support federal initiatives to capture internet sales tax revenue. The city recognizes that states must first take steps to prepare for such collection, including laying the groundwork to implement destination source taxing or a streamlined sales tax. However, the city opposed state efforts to implement destination source taxing prior to any reasonable assurance that the federal government would take action.

Since destination source taxing has been implemented, it has had a significantly negative impact on Olathe. On top of the already slowed economy, the city estimated that implementation of streamline sales tax reduced city sales tax income by an estimated 6% to 8%\*.

While that revenue is being lost, Olathe taxpayers continue funding infrastructure for commercial businesses delivering products. The additional truck traffic not only increases wear on infrastructure, but it has a corresponding negative impact on residents' quality of life. While working to attract such retailers to our community, the city recognized such negative impact, but it was decided that the increased sales tax revenue outweigh negative consequences. Now, much of that benefit has been eliminated. Conversely, there are communities that have elected not to attract large retail due to quality of life impacts, but they are now benefiting immensely by capturing sales tax.

The expansion of the compensating use tax has been the only issue that has allowed Olathe to avoid dramatically reducing services and capital projects or avoid significantly raising taxes. However, the city views this as a distinct and separate issue.

The City of Olathe will eagerly embrace the implementation of streamlined sales tax only after federal law is changed to allow cities to actually capture internet sales tax. As a result, the city supports HB 2131.

*\*Derived from County Economic Research Institute sales activity estimates*

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Attachment 10

March 2, 2005  
Kansas House Committee on Taxation  
House Bill 2131

Testimony of Sharon Dubois  
President, Senior Ease, Inc.  
[www.seniorease.com](http://www.seniorease.com)

Mr. Chairman, Members of the Committee, good morning, and thank you for the opportunity to speak to you.

My name is Sharon DuBois, and I am a Topeka small business owner. More precisely, I am the owner of a TINY business. My business is Senior Ease, Inc., and I sell things that make life easier for the elderly and those with physical limitations. I opened Senior Ease in 1991 as a storefront in a shopping center here in Topeka, but since 1996 Senior Ease has been a catalog and internet business. I work out of the spare bedroom in my home, my warehouse is my basement, and I am the only employee. I have included information about Senior Ease here at the top of my written testimony, just in case you know any old people.

The bill before you for consideration would delay the implementation of the destination sales tax, and I'm all for it. I'd like to tell you about the position the destination sales tax has put me in.

When I decided to make Senior Ease an internet business, I purchased a piece of software that would create a web site for me and handle internet orders. It works very well, or has until now.

It will handle exactly one tax rate. The customer clicks a button – on for delivery in Kansas, to be charged Topeka sales tax, or off for delivery out of Kansas, to be charged no sales tax.

Frankly, Senior Ease cannot afford to buy a more expensive piece of software. So, since January, I have been put in the position of having to cheat. When I ship to Garden City or Hays or Colby, the customer is charged 7.45% in sales tax, and I make a note of the destination. Then, when the time comes to submit the sales tax, I manually look up the tax for the customer's delivery address, and submit the appropriate tax. Sometime I make a few cents; sometimes I come out a few cents short. But I'm cheating, and I don't like it.

We tiny businesses have been told, in effect, that nobody is going to come after us if we don't comply with this law. That's probably true, but knowingly enacting laws that are impossible for some citizens to comply with is not much of a way to run a state.

I have heard Secretary Wagnon testify before this committee that the Department of Revenue will send state employees out to help small businesses comply with this law. We all know who pays for that. I'd be interested to see figures on how much of the taxpayers' money has been spent helping merchants comply with a law that should never have been passed in the first place.

So, if you go to my web site and decide to order something that would help an elderly relative in your home town, please have it sent to your office here in Topeka. If you ask for it to be sent to Dodge City or Wichita or Emporia or Arkansas City or Olathe, I will charge you Topeka sales tax. And you will be aiding a criminal.

Thank you for your attention. I will be glad to answer any questions.

# Legislative Testimony

HB 2131

March 2, 2005

## Testimony before the Kansas House Taxation Committee By Marlee Carpenter, Vice President of Government Affairs

The Kansas Chamber is here today to support HB 2131. 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) and we continue our support for this national project.

Destination sourcing is of great concern to our retailers with over 750 sales tax jurisdictions in the state. For retailers that deliver in the state, collecting and remitting this tax has become very burdensome and expensive. We urge the committee to consider delaying implementation of the destination sourcing requirements until Congress has implemented 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. Delay will also allow the Kansas Department of Revenue to have additional time to refine and update its computer system and educate retailers about compliance. 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.

Some of our members have expressed concerns about the Department of Revenue's database. We met with the Department this fall to express some concerns about the database and they have been responsive, but the following concerns still exist:

1. The following is a partial list of one retailers customer's Street Names that are not listed in any community in Kansas in the K.D.O.R. database:
  - a. Arrowhead
  - b. Barberry
  - c. Barrington
  - d. Bayberry
  - e. Belle Terre
  - f. Berretta
  - g. Berry
  - h. Brandies
  - i. Burr
  - j. Burrus
  - k. Cane
  - l. Carriage

Hs Taxation Committee  
March 2, 2005  
Attachment 12



The Force for Business

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- m. Chatauqua
- n. Cherry (All names that start with Cherry)
- o. Dacey
- p. Devonshire
- q. Harry (A major arterial in Wichita)
- r. Herren
- s. Horseback
- t. Kingland
- u. Lake Breeze
- v. Landers
- w. Lorraine (A major arterial in Hutchinson)

2. In reviewing the K.D.O.R. database it is apparent that cities are not based upon address ranges, but rather zip code delineations and post office routes. For example in the K.D.O.R. database the following cities are listed as being located in the following counties:
  - a. Topeka- Jefferson, Shawnee, Wabaunsee
  - b. Wichita – Sedgwick, Butler
  - c. Newton - Butler, Harvey, Marion
  - d. Great Bend – Barton, Stafford
  
3. Because there are so many address misses especially in rural parts of the state, The K.D.O.R. software relies on Zip Codes to determine which locality receives sales tax revenue. Remember that zip codes span multiple counties. Whenever a zip code spans multiple counties the sales tax derived from that zip code search will revert to the lowest rate. However, in the case where both counties have similar rates which County will receive the revenue? The last time we asked the state Information Technology experts they did not know. Perhaps they now know.
  
4. There are 638 cities in the states sales tax data base. The Department of Revenue has missed 43 cities:
  - a. Bassett, Allen County, Pop. 22
  - b. Bel Aire, Sedgwick County, Pop. 5836
  - c. Bushong, Lyon County, Pop. 55
  - d. Carlton, Dickinson County, Pop. 38
  - e. Climax, Greenwood County, Pop. 64
  - f. Coyville, Wilson County, Pop. 71
  - g. Cullison, Pratt County, Pop. 98
  - h. Culver, Ottawa County, Pop. 164
  - i. Dunlap, Wilson County, Pop. 81
  - j. Earleton, Neosha County, 80
  - k. Eastborough, Sedgwick County, Pop. 826
  - l. Edmond, Norton County, Pop. 47
  - m. Galatia, Barton County, Pop. 61
  - n. Hunnewell, Sumner County, Pop. 83
  - o. Huron, Atchinson, County, Pop. 87
  - p. Labette, Labette County, Pop. 68
  - q. Lake Quivira, Johnson County, Pop. 932
  - r. Langdon, Reno County, Pop. 72
  - s. Leona, Doniphan County, Pop. 88
  - t. Linn Valley, Washington County, Pop. 425
  - u. Louisville, Pottawatomie County, Pop. 209
  - v. Manchester, Dickinson County, Pop 102

- w. Menlo, Thomas County, Pop. 57
- x. Mission Woods, Johnson County, Pop. 165
- y. New Strawn, Coffey County, Pop. 425
- z. Oak Hill, Clay County, Pop. 35
- aa. Park City, Sedgwick County, Pop. 5814
- bb. Parkerville, Morris County, Pop. 73
- cc. Penalosa, Kingman County, Pop. 27
- dd. Preston, Pratt County, Pop. 164
- ee. Radium, Stafford County, Pop. 40
- ff. Reserve, Brown County, Pop. 100
- gg. Roseland, Cherokee County, Pop. 101
- hh. Russell Springs, Logan County, Pop. 32
- ii. Scottsville, Mitchell County, Pop. 21
- jj. Severance, Doniphan County, Pop. 108
- kk. Seward, Stafford County, Pop. 63
- ll. Smolan, Saline County, Pop 218
- mm. Susank, Barton County, Pop. 57
- nn. Timken, Rush County, Pop. 83
- oo. Wheaton, Pottawatomie County, Pop 92
- pp. Willis, Brown County, Pop. 69
- qq. Zurich, Rooks County, Pop126

Again, the Kansas Chamber continues its support of the SSTP and a level playing field, but a delay in the enactment of the destination sourcing provisions so that all businesses in Kansas can comply with these requirements. Thank you for your time and I will be happy to answer any questions.

*The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.*



KANSAS

Statement by Hal Hudson, Kansas State Director  
National Federation of Independent Business  
Before the  
House Taxation Committee  
Wednesday, March 2, 2005

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to support enactment of House Bills 2131.

If my testimony sounds familiar to some of you who have served on this committee the past two years it is because, as Yogi Berra might say, "This seems like deja vu all over again." As most of you know, NFIB's legislative agenda is determined by direct ballot, surveys and questionnaires asking our members for their input on issues.

The question of whether or not to collect sales tax from remote sellers has been asked of our members on national ballots. Almost half of our members favor, and almost half are opposed to this issue. Hence, I have never taken a position on the larger issue of SSTP, of which the destination-sourcing rule is an outgrowth.

However, NFIB/Kansas members have been surveyed on the question of destination sourcing, as enacted in 2003 in H.B. 2005. In July of 2003, after receiving voluminous complaints from our members, we submitted the question, "Should destination sourcing be repealed or delayed?" The survey was sent by fax to the 4,400 members from whom we have fax numbers available. Of the more than 540 responses (12%) received, 84% favored either doing away with destination sourcing or delaying its implementation indefinitely.

H.B. 2131 would delay implementation until such time as the U.S. Congress enacts legislation that would enable Kansas to enforce collection of retail sales tax from remote sellers. For this reason, we support enactment of H.B. 2131.

Of the nearly 6,000 Kansas small businesses that are members of NFIB, over 80% have fewer than 15 employees. Many have five or fewer employees. It is this group that has been most burdened by the destination sourcing rule. They ask, "Why should Kansas businesses be burdened by this rule, when we do not have authority of enforcement on out-of-state sellers?"

Among the smallest of our members, many do not own computers. Some have said they have seen no need for a computer in their business until now. Many of those who do have computers have faced with expensive upgrades, of their computer and/or their software, just to comply with the law.

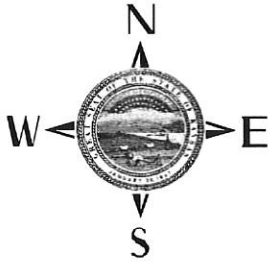
Some of our members have reported that they now have the capability to comply, but they still are faced with time-consuming labor expense of determining the correct taxing jurisdiction at the time of sale, and the difficult task of correctly reporting of taxes collected to the Department of Revenue.

This is a problem that hits hardest the smallest businesses of our state, and we urge you to favorably consider delaying implementation of destination sourcing until such time as it can be applied across the board to in-state and out-of state sellers equally.

We urge you to support enactment of House bill 2131.

Thank you 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](http://www.nfib.com/ks).*



# Freestate Center for Liberty Studies

827 S.W. Topeka Blvd., Topeka, KS 66612  
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March 2, 2005

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The Hon. Kenny Wilk, Chair  
and House Taxation Committee  
Kansas Statehouse  
300 S.W. 10<sup>th</sup> Ave., Room 426-S  
Topeka, KS 66612-1504

## Testimony in support of HB 2131

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. That work included organizing a coalition in 2003 that represented over 7,000 Kansas businesses opposed to destination sourcing and advocating the concept now in HB 2131.

This debate boils down to two reasons used to justify destination-sourcing. First, large multi-state retailers want a uniform national rule to simplify their tax compliance. Second, governmental units want a uniform national rule in order to facilitate sales tax on internet transactions. Both of these objectives are possible without destination-sourcing; their common denominator is uniformity, a goal that would be satisfied with a national policy of origin-based sourcing – the practice that has served Kansas well for over sixty years. In fact, a nationally uniform origin-sourcing law would encourage states and their political subdivisions to compete for lower sales tax rates.

Kansas' Executive Branch has shown little regard for its duty to enforce state law. Up till now, the Administration has been very patient in pushing this highly unpopular tax reform. As many are here to testify today, destination-sourcing is an extremely troublesome and expensive rule to implement. That's why we've heard sympathetic public remarks from the Governor saying "if I were you, I'd collect sales tax the way you always have and send it in," and that if customers question the retailer, "just tell them the governor said to do it that way." Our Secretary of Revenue has similarly said that if retailers 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."

Kansas merchants have operated in this limbo for nearly two years. First destination-sourcing was the law, but was not enforced, then it officially became an optional law. As of two months ago, it again became the only sourcing law of Kansas, but I'll have to defer to any recent accounts about whether the Revenue Department now treats it as binding policy. 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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**Freestate Center, Testimony HB 2131, March 2, 2005**

Why should customers care? Many of them – and by at least one careful 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 July 2003, 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.

Bear in mind, however, that this would be the aggregate result on local sales tax revenue; some local governments (urban) would lose revenue with destination-sourcing, others (more rural) would gain revenue. A November 2004 study by Profs. Upendram and Darling of the KSU Agricultural Extension Service highlighted this trend. Their conclusion compared 2003 results with 2004 to show that “sales tax collections increased by less than the State rate of 2.7% in some of the counties with big trade centers. These are Barton, Crawford, Ford, Johnson, Lyon, Montgomery, Pottawatomie, Reno, Saline, Sedgwick, and Shawnee counties. In contrast, sales tax collections increased dramatically in some counties with small trade centers. For example, sales tax collections increased by more than 10% in Barber, Chase, Chautauqua, Clark, Comanche, Edwards, Elk, Greeley, Haskell, Rush, and Stafford counties.” Of course, this shift would be even more pronounced if destination-sourcing were rigorously enforced.

What a remarkably convenient state tax result, all thanks to our continuing legal limbo. We get overtaxed now because destination-sourcing is not enforced. Then, if internet sales tax is ever judged constitutional and Congress enacts it, destination-sourcing 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. That is to say, Congress may never enact a national rule for uniform destination-sourcing...perhaps even if the vast majority of states someday sign on to the SSTP. In that event, Kansas will have implemented a new sales tax rule that does nothing but impose onerous costs on merchants and reduce aggregate local tax revenue. It's a result that makes the policy position of HB 2131 clearly superior. Please ask yourselves “What is the benefit to Kansas if Congress never makes destination-sourcing the national policy?” Better that we not disrupt the natural flow of commerce, not force small merchants out of business, and not artificially shift our intra-state tax burdens unless Congress compels us. That was the unified message of thousands of Kansas-based businesses in the summer of 2003. We believe you'll see that the state's iron-fist-in-velvet-glove approach has not changed their opinion.

Thank you for your time and consideration.

**KANSAS TAXPAYERS NETWORK**  
**www.kansastaxpayers.com**

**P.O. Box 20050**  
**Wichita, KS 67208**  
1 March 2005

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**Testimony Supporting HB 2131**

By Karl Peterjohn, Exec. Dir.

Kansas passed a destination sourcing bill in the 2003 legislature and the ripple effect from that deeply flawed legislation has continued to hurt this state in general and Kansas retailers in particular. HB 2131 takes some steps to limit the damage that continues to be done by destination sourcing.

HB 2131 will basically have the provisions of Kansas law set aside until the federal government acts to resolve the issue of interstate commerce and the interstate taxation of sales going beyond state sales and use tax laws.

Kansas Taxpayers Network (KTN) has been working to promote a better tax, business, and fiscal climate in this state. Two years ago the legislature enacted destination sourcing and placed a large, unfunded new mandate onto the backs of many Kansas businesses. KTN would prefer an outright repeal but HB 2131 would improve the situation in Kansas.

Sadly, there are a few firms that we believe are now in compliance with current law. There are many firms struggling to comply but at best are in partial compliance with destination sourcing sales taxation. KTN believes there are many smaller firms that are not in compliance, and are confused about compliance, and we have heard reports of firms or individuals who have begun to terminate retailing in this state.

When the law is unclear, when the enforcement of that law shifts and changes without any changes in the underlying statutes, and when there are hundreds of taxing districts with varying rates, we have created a climate where the rule of law is weakened, and we lack clarity for both compliance and enforcement. KTN urges the legislature and the governor to enact HB 2131 to take us back to a position where this issue, which is really national and international in many key aspects, can be resolved nationally.

The proponents of destination sourcing and other gimmicks to get around the interstate commerce clause of the U.S. Constitution as well as the judicial decisions on this clause should stop this effort through their interstate "compact" to try and expand this form of taxation. Let them take up the challenge of drafting and getting passed a constitutional amendment to address the concerns that they see. Kansas made a mistake in 2003 by enacting destination sourcing in an attempt to leap into the forefront of interstate sales taxation. HB 2131 is a way to try and place this issue at the national level and KTN urges passage of this bill.

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**THE PEABODY  
MAIN STREET  
ASSOCIATION  
300 N. WALNUT**



**PEABODY, KS. 66866**

**620-983-2174**

March 1, 2005

Taxation Committee  
C/o Kenny A. Wilk, Chairperson  
Kansas House of Representatives  
Kansas State Capital  
300 SW 10<sup>th</sup> St.  
Topeka, KS 66612

Dear Representative Wilk and Members of the Taxation Committee:

I would like to convey my support for a moratorium on the destination sourcing rules for sales tax purposes in the state of Kansas.

As Director of the Peabody Main Street Association and as a member of the Marion County Economic Development Council, I work with and represent the businesses in our area of Kansas. On the topic of Destination Sales Tax, I have yet to hear positive feedback from any of the business owners that I represent. In fact, many have conveyed confusion, apathy, and/or irritation with new system and rules in Destination sourcing.

This being said, I also understand the importance of change, and with all change comes hesitation and criticism. I think the intentions of the Streamlined Sales Tax Project are good, and can appreciate the vision of the State of Kansas in not only working with other states on this issue, but also taking a proactive stance in preparing our state for a potentially national movement.

Since the Streamlined Sales Tax Project has not yet been passed by our federal government, I think our state should continue to prepare for it, and develop a process that is less intimidating and burdensome for our State's tax collectors, our businesses.

Thank you for the opportunity to testify as a proponent of Bill number HB2131.

Sincerely,

Joanna C. Brazil  
Director, Peabody Main Street Association  
Member, Marion County Economic Development Council  
Director, Kansas Downtown Development Association

Hs Taxation Committee  
March 2, 2005  
Attachment 16





## **Kansas Press Association, Inc.**

*Dedicated to serving and advancing the interests of Kansas newspapers*

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

### **Testimony of John Lewis, Chairman, Legislative Committee Kansas Press Association**

#### **HB 2131, House Taxation Committee**

*Wednesday, March 2, 2005*

The Kansas Press Association is strongly in favor of HB 2131. The Streamlined Sales and Use Tax legislation was purportedly designed to tax the goods of out-of-state companies that are transported to a buyer in Kansas. However, as we wait for Congress to enact legislation allowing Kansas to collect these taxes (which it may never do), it is Kansas-based businesses that are being burdened by this onerous system of taxation.

This law especially victimizes small newspaper businesses in our state. Local newspapers are the cornerstones of their communities. They allow the members of the community to communicate among themselves. They provide historical chronicles of the life of small towns in Kansas.

But with the growth of the larger population centers, the rural communities and businesses that are served by small newspapers are struggling. And many of those local newspapers are therefore struggling with them. The last thing they need is a new and meddlesome mandate from the state to figure out, on the 25<sup>th</sup> of every month, what is the local sales tax rate for every single subscriber. Yes, our off-the-shelf accounting programs can store a few sales tax rates, but every local newspaper has many subscribers who have moved away or are away at college. Even our modern accounting programs cannot store all of those tax rates.

And we have to remember something else, too. Kansas has more local sales tax rates than almost any other state in the nation. It is simply beyond belief that a state with more than 750 different sales tax rates would be among the first to adopt a system that requires its own small businesses to figure which of those 750 rates applies to every single sale that it makes.

Is it any wonder that as many as 50 percent of those businesses are not currently complying with this law? They simply are unable to do so.

The State of Kansas has imposed an unreasonable burden on the enterprising men and women who have taken the risk of operating their own businesses within our state. It is an abuse of power for the state to continue to punish them with this unworkable system, while waiting for Congress to pass its own enabling legislation — which it may never do. Kansas businesses need relief from the premature action taken two years ago by the Kansas Legislature.

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## Legislative Testimony on House Bill 2131

TO: Chairperson Kenny Wilk and Members of the  
House Taxation Committee

SUBMITTED BY: Diane Costello  
Vice President, Government Affairs

DATE: Wednesday, March 2, 2005

Thank you for the opportunity to convey our support for House Bill 2131.

This conundrum began when the state approved a system to create cities out of neighborhoods. Cities need business to pay the property taxes and to generate sales tax revenue in order to survive.

A few years ago, Kansas suffered the effects of a recession and the resulting shortfalls in our state budget. In response to those shortfalls, Kansas retracted demand transfers from cities and counties and used those dollars to shore up the state budget. The challenge was now how to replace those demand transfer dollars without raising taxes or cutting services.

The answer was Streamlined Sales Tax or taxing the Internet. Some states decided if they were able to get voluntary agreement from the country's largest retailers and passed tax collection legislation that was uniform, the federal government would pass the necessary legislation -- sort of an "if we tax it they will come" strategy. This group still doesn't include the big sales tax states so the validity of these rules isn't clear. These states decided on their own that sales tax must be collected and receipted at the point of delivery because that's the way many of them collect the tax. But in Kansas, we collect tax where an item is produced and sold in over 700 taxing districts.

And as of January 1, 2005, with SST in full implementation in Kansas, the money now goes to the cities that have the people with the highest incomes and makes the most purchases. Those cities with higher per-capita income would see their incomes rocket while working communities that produce but don't have such a high income would lose.



**OLATHE**  
CHAMBER OF COMMERCE  
ONE VISION. ONE VOICE.

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Those cities that produce what we use should not only keep their portion of sales tax, but be given incentives to ensure they create more product, more capacity for more jobs, as well as the tax dollars this state needs.

But no city, no county, no government entity should take a further loss in tax dollars from a program designed to bring new income to the state of Kansas.

**The Olathe Chamber of Commerce strongly supports a moratorium in the further implementation and enforcement of SST until such time as Congress actually permits the SST project to move ahead (if ever).**

This has been our position for the past several years. While the Olathe Chamber of Commerce supports SST in theory, in practice in the state of Kansas, it has already proven to be a tremendous burden for small businesses. Olathe is an entrepreneurial community, with over 2,000 small businesses. It has been truly a hardship for these businesses to comply with the necessary changes that SST has forced upon them.

The Olathe Chamber of Commerce again urges support for House Bill 2131.

Thank you.

Diane Costello, Vice President for Government Affairs  
Olathe Chamber of Commerce



**Wichita Independent Business Association**

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*THE VOICE OF INDEPENDENT BUSINESS*

Written testimony by Cliff Sones  
in favor of HB 2131  
Submitted to the  
House Taxation Committee  
March 2, 2005

Chairman Wilk and Honorable Committee Members,

As all of you are aware, implementation of Destination Sourcing has been very burdensome for small Kansas retailers. Many WIBA members have struggled with its implementation because it has taken a considerable amount of time to implement and administer the tracking system required to comply with Destination Sourcing. 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 2003 in a letter to Speaker Doug Mays 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. Additionally, WIBA asked the State maintain origin sourcing for Kansas businesses shipping to Kansas destinations and if that is not possible then the 751 Destination Sourcing codes should be reduced to one statewide tax or at a minimum, one tax for each County.

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 HB 2131.

Thank you for the opportunity to submit written testimony regarding HB 2131. If you have any questions regarding our position, please contact me at 316-267-8987.

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



504 N. Smelter • Pittsburg, KS 66762 620-231-1520 Fax: 620-231-0878

**Written Testimony  
Before the House Taxation Committee  
On  
HB 2131 – Delay of Destination Sourcing Sales Tax**

**March 2, 2005**

Mr. Chairman and members of the committee, we feel that destination based sales tax is difficult to track within the ready mix concrete industry, as well as other industries in general. We deliver within a 25 mile radius of Pittsburg. In that distance, we would have to track 19 different sales tax rates using the destination based sales tax.

We have had trouble deciphering what rate to charge when we make a delivery. The sales tax address locator website is a good feature that the State of Kansas has; however, I have found several instances where it is not accurate. For example, there is a new sub division in Pittsburg; this land used to be farm ground and the developer for this project went to the City to ask for this to be annexed over a year ago. When I put the address into the website, it states that Crawford County Sales Tax should be charged, when really it should be Pittsburg.

When delivering concrete into Missouri, we are required to charge their sales tax. This is easy to track as we have been told to collect the state rate of 4.225%. In doing this, when we file the return; Missouri Department of Revenue allows us to take a two percent discount off of what we collected. If the State of Kansas would give a discount like Missouri, this could be an incentive for business owners to be willing to take the necessary steps to comply with legislation.

The destination based sales tax is time consuming to Kansas business. The time involved in for this reporting the various taxes is valuable time taken away from other duties. I am in support of HB 2131 at this time, due to the factors I have stated.

If you should have questions, please feel free to email me at [jncrain@sbcglobal.net](mailto:jncrain@sbcglobal.net), or call me at 620.231.1520.

Sincerely,

Justin N. Crain  
American Concrete Company, Inc.  
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Testimony Before  
The House Taxation Committee  
By Erik Sartorius  
Regarding HB 2131

March 2, 2005

The City of Overland Park supports Kansas' participation in the Streamlined Sales Tax (SST). We encourage the committee to not hastily undo years of gradual study and progress that preceded the State's participation in the project.

Much has been made of the rough beginning the state and retailers experienced with implementing the Streamlined Sales Tax, particularly the destination-based sourcing rules. Change is rarely easy, and even less frequently wanted. However, we believe the work of the state and local chambers of commerce, the Department of Revenue, and local governments has helped to greatly mitigate the challenges faced by most businesses.

The City of Overland Park supports a strategy that promotes the collection of sales taxes and minimizes the burden on companies. Most indications are that the Department of Revenue has worked hard to provide tools for businesses to easily calculate sales taxes and generate the necessary remittance reports.

Additionally, the challenge of multiple taxing jurisdictions continues to be addressed and minimized. For instance, Revenue has indicated businesses may track delivered sales by county when a city in that county does not have a local sales tax. This has reduced by hundreds the number of taxing jurisdictions to which destination sourcing applies.

Participation in the SST has gained Kansas voluntary collection of sales and use tax by some retailers. This not only benefits the state, it also benefits Kansas businesses. Currently, a bookstore in downtown Overland Park is required to charge state and local sales tax. When consumers choose to purchase books from an out-of-state vendor, they are not charged sales tax if the out-of-state business does not have a presence in Kansas. Very few consumers remit the required use tax on the books they purchase, creating a competitive advantage for the out-of-state vendor. As we have recently seen with Amazon.com and others, participation in the Streamlined Sales Tax has created new partners for the State in the collection of taxes already due.

The City of Overland Park believes that passage of the Streamlined Sales Tax by the 2003 legislature was the correct long-term policy choice. We are confident that the legislature, Department of Revenue, retailers, and local governments can address implementation issues in a manner that does not end the State's participation in the SST. We ask that you not report HB 2131 favorably for passage.



March 1, 2005

RE: Streamlined Sales Tax Project/Destination-Based Sourcing

To Whom It May Concern:

The last official notification received by our company concerning the Streamlined Sales Tax/Destination-Based Sourcing was dated September 4, 2003. It has been brought to our attention that the committee is meeting for further discussion on this issue.

Please be aware that we have NOT been updated on this issue in any official publication or letter since the date mentioned. This letter signed by Kathleen Sebelius states:

“First, I have directed the Secretary of Revenue to extend the “relaxed” approach of implementing the destination-based sourcing rules until further notice. As I stated in the July letter, you will be notified when this period will end. As part of this approach, the Department will continue to hold businesses harmless from sanctions if they cannot comply with the destination sourcing provisions of the new law.”

This is the last communiqué we received on this issue. Please know of our difficulty and expense in meeting compliance on this issue.

First, the MULTIPLE JURISDICTIONS for taxing in Kansas (700+) makes this an impossible task. Multi-million dollar corporations may be able to afford the software and computers necessary for this operation. Our company cannot. Please do not burden businesses with impossible, unnecessary expenses.

Secondly, the TIME involved in the bookkeeping alone is overwhelming. Our company already completes forms, collects, and pays taxes for Federal social security, Federal Withholding, Federal Medicare, Federal Unemployment, Kansas Withholding, Kansas Sales tax, Kansas Unemployment, Kansas Users Compensation Tax, Inventory & Personal Property tax, Real Estate Tax, corporate income tax, and Kansas Annual Corporation Tax fees. We are also required by law to withhold garnishments, completing and mailing these forms at our expense. Please help businesses expedite business; do not burden businesses in the state of Kansas.

Finally, consider again if “streamlined” destination-based sales tax will truly benefit Kansas. Burdensome, complex provisions placed upon the very entities that even Governor Sebelius declared “the backbone of the Kansas economy” is NOT beneficial. Please help the business economy of Kansas by ridding us of the Streamlined/Destination Based Sales Tax now.

Sincerely,



Craig & Jeanine Pumphrey,  
CPC Bearing, Inc.  
Wichita, Kansas



**FARM & HOME**  
**CHANUTE, KANSAS**

2103 S Sante Fe  
Chanute, Ks 66720

Phone: 620-431-6070  
Fax: 620-431-7341

Arlan, here is some general information that you had requested.

For Cleaver Farm and Home in the city of Chanute, KS.

Total number of jurisdictions that we set up to cover the Streamlined Sales tax issue:

170 different jurisdictions

Time Spent setting up the system:

2 employees approx 20 hours each

Time spent monthly with new system vs old system on the breaking down and filing of paperwork for the different sales tax jurisdictions:

2 hours monthly vs. 15 minutes

Amount the City of Chanute is losing in Sales tax dollars from Cleaver Farm and Home per month.

January, which is one of the two slowest months of the year for us: \$2321.92

Feb, which is one of the two slowest months of the year for us: \$5214.12

We had estimated that the total for the year would be around \$40000, from these figures we are now guessing more like \$65000 per year.

## Peggy Palmer - Destination Sales Tax Letter

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**From:** <SenatorPPalmer@aol.com>  
**To:** <Reppalmer@aol.com>, <JoanB@senate.state.ks.us>, <palmer@senate.state.ks.us>  
**Date:** 3/1/2005 7:39:58 PM  
**Subject:** Destination Sales Tax Letter

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Dear Senator Peggy Palmer,

I am writing in regard to destination based sales tax.

Let's see if I understand this correctly, the state wants me to inquire of my customer who walks in to make a purchase, where this item is going to live so that I can apply the appropriate sales tax to the purchase. Not only do they want me to know what county each city is in, and the appropriate sales tax for that county, I am also expected to know whether the customer resides within the city limits or outside. It seems to me that if I buy groceries in Augusta I pay a different sales tax than I would if I bought the same groceries in Wichita. So if I'm buying my groceries in Augusta but reside in Wichita, should the grocery store charge me more in tax? The same would be for if I buy in Wichita but live in a county with a lower tax, should the retailer refund me the tax difference. Now I know groceries are not the best analogy, so let's apply it to apparel. If I take my daughter shopping in Kansas City, I pay sales tax in the city in which I purchased. Rightfully so and I expect to. Maybe I am misunderstanding the destination sales tax, but it seems to me that you are putting a terrific burden of the retailer. If the point is the desire to collect retail sales tax on an item which needs to be registered, titled, tagged, or falls under a personal property tax rule, would it not be more accurate to have the retailer collect the appropriate tax for his city/county. Then the purchaser could pay the difference, or be refunded, in his appropriate county when he registers, tags, or titles his purchase. Otherwise it seems to me that I have a Pandora's Box as a decision maker in the retail business.

1. I have to educate my employees on the state map for every city and county and their tax rates within and outside the city limits.
2. I have to have new software compatible to my programs which figures accurately the appropriate tax. I feel this should come from the state for accuracy.
3. I have to have the line items appropriately taxed and hope the customer told me the truth about where he or she lives.
4. My bookkeeper must understand and separate out each ticket on the sales tax report This is very time consuming. Labor is not cheap and we are subject to human error. Not to mention misunderstandings about the D-tax itself.
5. I am subject to fines, and penalties in the event I or we make a mistake. This is no fun and very serious.
6. If the customer is purchasing accessories which are going to attach to his unit which is tagged titled or registered do I have to charge a different tax because he is not from my county?

This is all taxing to me, and we do strive to be in line with the state



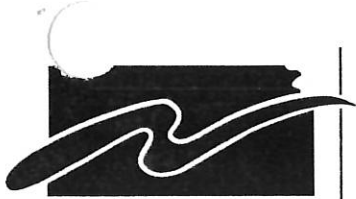
expectations but this one puts me over the edge. Have you all ever really dealt with the public about tax? I have found that most who we have inquired about their tax rate have not even known what rate they pay or how it applies. Not to mention my computer only computes for my county within the city and this is very much a problem.

At this point, this has caused so much grief for me and our small business that I have applied the Clinton Rule "don't ask, don't tell". As far as I am concerned any one buying in my county/city is paying what we are equipped to charge. Until the state provides me with the appropriate tools to charge anything any different this is all I know to do. I don't ask where they are from or where they are going. We assume it all stays right here within our city limits. I hope I have accurately explained how this has made us feel by showing my perspective as a business owner I would rather close down my business than try to tackle this in addition to all of life's other burdens.

One more bit of food for thought: I don't see Wichita ever getting enough tax collected if the people who live there are the only ones they can rightfully collect tax increase from. i.e.. If I don't live there my destination for my purchases is out of county I should only pay my county tax rate. But I sure will drive in to the arena (using Sedgwick county streets and WPD for patrol)and participate when its open.

Sincerely,  
Your KS TAXED RETAILER!!

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

**TESTIMONY**  
**concerning House Bill No. 2131**  
**Changing the Sourcing Rule for State and Local Sales Tax)**  
**Presented by Randall Allen**  
**House Taxation Committee**  
**March 2, 2005**

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I appreciate the opportunity to testify **in opposition to** House Bill No. 2131, which would change the sourcing rule for the state and local sales tax from the current destination-based (point of delivery) rule back to the point of sale rule until such time as the Congress enacts legislation authorizing the Secretary of Revenue to require out-of-state, remote sellers without physical presence or nexus in Kansas to collect and remit state and local sales or use taxes.

The Kansas Association of Counties has long been part of a group working with legislators and the Kansas Department of Revenue to modernize and streamline the sales tax system and level the playing field among Main Street, mail order, and internet retailers. Long before the Legislature enacted streamlined sales tax legislation, we were invited to be part of discussions to strengthen the state and local sales tax, and to implement a local use tax.

We further understood that the streamlined sales tax and destination based sourcing rules are inseparable. That is, if we expect to retain sales tax revenue collected from remote sellers outside of Kansas, we knew that origin based sourcing could not continue. Otherwise, remote sellers would simply site their physical locations in states like Oregon or others that do not have a sales tax, and Kansas would be left without any sales tax from these remote sellers. As such, we realized that the sales tax system designed in the 1930s would have to be adjusted to harmonize with the commercial environment of our time.

What we suspected a few years ago about destination based sourcing rules and its impact on rural economic sustainability has now been confirmed. If the State is truly serious about border to border prosperity that provides tax resources to small communities in rural counties, then the streamlined sales tax and the destination-based sourcing rules are a step in the right direction. Attached to my testimony is a report from the Kansas Department of Revenue listing, by county and city imposing a local sales tax, the local sales and use tax distributions from the State Department of Revenue to communities across the State, comparing calendar years 2003 and 2004. Since the local use tax was not effective until July 1, 2003, the use tax component of the 2003 data is for only six months while the same component for 2004 data is for a full twelve months. Nevertheless, the data are startlingly upbeat for smaller, rural counties, while still positive for larger, urban counties.

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

House Taxation Committee  
March 2, 2005  
Attachment 18

The percentage increases in local sales and use tax revenue from 2003 to 2004 for just a few small, rural counties .....

Barber County	up 19.3%
Brown County	up 19.0%
Elk County	up 10.4%
Meade County	up 20.5%
Morris County	up 15.4%
Sheridan County	up 14.0%

and for our urban counties .....

Douglas County	up 9.9%
Johnson County	up 21.9%
Sedgwick County	up 12.1%
Wyandotte County	up 19.1%

Members of the committee, the data tell the story on local sales and use tax revenue and the impact of destination based sourcing. Why would we want to revert to the former system, even while we await congressional action on the streamlined sales tax, when the new destination based sourcing rules have actually served Kansas well? And, why would we change the system after the retailers have gone through the pain of the transition? If we now say to retailers, change back to the former methodology until some unknown time in the future when you may change your systems one more time, how business-friendly is that?

Kansas has been a leader in the effort to reform our sales tax system. With our multiple jurisdictions and assorted local rates, it has been a challenge and a struggle. To revert to point of sale destination sourcing even for a short time would be a mistake in our judgment, and would have property tax consequences for many rural jurisdictions which impose countywide or citywide sales taxes.

We ask the committee to not report HB 2131 favorably. Thank you for the opportunity to testify on this issue.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its members. Inquiries concerning this testimony can be directed to Randall Allen or Judy Moler at the KAC by calling (785) 272-2585.

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Allen County	\$ 1,279,722.96	\$ 1,352,241.38	5.7%
Anderson County	\$ 642,711.49	\$ 693,900.37	8.0%
* Atchison County	\$ 2,216,621.57	\$ 2,577,229.81	16.3%
Barber County	\$ 538,089.60	\$ 641,995.51	19.3%
* Barton County	\$ 4,129,617.34	\$ 4,972,920.85	20.4%
Bourbon County	\$ 1,333,521.79	\$ 1,477,978.02	10.8%
Brown County	\$ 837,730.39	\$ 997,013.11	19.0%
* Chase County	\$ 172,715.95	\$ 55,676.72	-67.8%
Chautauqua County	\$ 223,288.82	\$ 269,247.10	20.6%
Cherokee County	\$ 1,856,911.46	\$ 2,370,516.45	27.7%
Cheyenne County	\$ 476,061.60	\$ 532,826.44	11.9%
Clay County	\$ 731,729.48	\$ 834,869.98	14.1%
Cloud County	\$ 1,070,625.96	\$ 1,201,155.18	12.2%
Crawford County	\$ 4,018,413.19	\$ 4,389,374.05	9.2%
Decatur County	\$ 223,147.09	\$ 248,083.01	11.2%
Dickinson County	\$ 1,737,120.88	\$ 1,957,585.16	12.7%
Doniphan County	\$ 438,684.89	\$ 556,573.28	26.9%
Douglas County	\$ 12,496,680.22	\$ 13,739,828.30	9.9%
Edwards County	\$ 189,826.50	\$ 245,285.83	29.2%
Elk County	\$ 188,417.79	\$ 207,980.81	10.4%
Ellsworth County	\$ 209,162.11	\$ 250,481.45	19.8%
Finney County	\$ 3,855,126.27	\$ 4,134,581.39	7.2%
Ford County	\$ 3,993,120.12	\$ 4,543,616.71	13.8%
Franklin County	\$ 3,916,125.10	\$ 4,309,652.86	10.0%
* Geary County	\$ 3,160,424.54	\$ 3,138,622.46	-0.7%
Gove County	\$ 284,379.11	\$ 320,585.56	12.7%
* Graham County	\$ 4,992.66	\$ 76,083.80	1423.9%
Gray County	\$ 424,737.23	\$ 460,388.57	8.4%
Greeley County	\$ 123,234.89	\$ 137,329.29	11.4%
Greenwood County	\$ 491,379.95	\$ 510,218.86	3.8%
Hamilton County	\$ 107,915.74	\$ 128,716.05	19.3%
Harvey County	\$ 3,350,404.20	\$ 3,522,217.65	5.1%
Haskell County	\$ 160,256.46	\$ 202,300.26	26.2%
Jackson County	\$ 1,067,172.57	\$ 1,191,334.72	11.6%
Jefferson County	\$ 899,360.25	\$ 1,032,517.03	14.8%
Jewell County	\$ 183,511.68	\$ 221,267.46	20.6%
Johnson County	\$ 98,397,469.01	\$ 119,965,269.20	21.9%
Kiowa County	\$ 268,110.10	\$ 438,335.68	63.5%
Labette County	\$ 2,424,026.48	\$ 2,588,053.59	6.8%
Leavenworth County	\$ 5,372,924.84	\$ 6,119,117.34	13.9%
Lincoln County	\$ 184,657.39	\$ 221,159.45	19.8%
Logan County	\$ 278,037.98	\$ 481,697.46	73.2%
Lyon County	\$ 1,988,787.46	\$ 2,099,958.68	5.6%
Marion County	\$ 833,556.17	\$ 961,038.95	15.3%
Mcpherson County	\$ 3,152,892.27	\$ 3,923,031.10	24.4%
Meade County	\$ 311,090.29	\$ 374,779.17	20.5%
Miami County	\$ 3,535,577.41	\$ 4,007,640.78	13.4%
Mitchell County	\$ 774,312.11	\$ 829,392.40	7.1%
Montgomery County	\$ 60,256.69	\$ 3,672.47	-93.9%
Morris County	\$ 466,523.92	\$ 538,406.81	15.4%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Nemaha County	\$ 873,106.47	\$ 989,668.50	13.4%
Neosho County	\$ 1,982,710.02	\$ 2,200,285.36	11.0%
* Norton County	\$ 28,157.90	\$ 444,837.61	1479.8%
Osage County	\$ 909,529.89	\$ 1,051,458.29	15.6%
Osborne County	\$ 181,254.13	\$ 192,003.65	5.9%
Ottawa County	\$ 304,568.62	\$ 346,042.20	13.6%
Pawnee County	\$ 512,601.33	\$ 551,563.92	7.6%
Pratt County	\$ 1,382,554.49	\$ 1,503,203.90	8.7%
Rawlins County	\$ 188,439.70	\$ 215,558.15	14.4%
Reno County	\$ 8,275,855.26	\$ 8,880,715.74	7.3%
* Republic County	\$ 561,448.26	\$ 947,698.69	68.8%
Rice County	\$ 696,422.43	\$ 836,914.12	20.2%
* Riley County	\$ 5,807,390.74	\$ 6,605,164.89	13.7%
Rooks County	\$ 857.93	\$ 1,120.26	30.6%
Russell County	\$ 1,007,468.24	\$ 1,168,962.13	16.0%
Saline County	\$ 8,986,952.54	\$ 9,589,219.06	6.7%
Scott County	\$ 527,562.12	\$ 568,879.70	7.8%
Sedgwick County	\$ 67,263,760.97	\$ 75,435,503.59	12.1%
Seward County	\$ 3,433,767.72	\$ 4,379,290.92	27.5%
* Shawnee County	\$ 23,471,140.56	\$ 28,939,712.08	23.3%
Sheridan County	\$ 209,228.35	\$ 238,502.15	14.0%
Sherman County	\$ 1,156,469.11	\$ 1,427,263.84	23.4%
Stafford County	\$ 278,255.86	\$ 374,830.05	34.7%
Stanton County	\$ 144,506.31	\$ 195,789.92	35.5%
Sumner County	\$ -	\$ 136,836.88	#DIV/0!
Thomas County	\$ 1,177,198.20	\$ 1,286,676.27	9.3%
Wabaunsee County	\$ 395,898.34	\$ 433,029.15	9.4%
Washington County	\$ 383,646.27	\$ 427,467.37	11.4%
Wichita County	\$ 370,189.42	\$ 432,258.31	16.8%
Wilson County	\$ 665,080.96	\$ 760,745.51	14.4%
Wyandotte County	\$ 16,755,868.25	\$ 19,953,917.96	19.1%
Abilene	\$ 787,411.18	\$ 883,685.05	12.2%
* Alma	\$ 5,982.69	\$ 11,282.20	88.6%
Altamont	\$ 56,798.84	\$ 61,608.93	8.5%
Americus	\$ 14,401.61	\$ 14,899.59	3.5%
Andover	\$ 920,357.25	\$ 1,027,083.13	11.6%
Anthony	\$ 358,276.79	\$ 398,286.08	11.2%
Argonia	\$ 26,047.60	\$ 29,804.47	14.4%
Arkansas City	\$ 1,338,588.56	\$ 1,482,895.80	10.8%
Arma	\$ 49,460.29	\$ 45,077.09	-8.9%
Atchison	\$ 1,251,029.81	\$ 1,459,087.69	16.6%
Auburn	\$ 118,719.61	\$ 66,574.82	-43.9%
Augusta	\$ 435,406.82	\$ 441,255.91	1.3%
Baldwin City	\$ 276,500.93	\$ 335,481.05	21.3%
Basehor	\$ 142,315.60	\$ 254,618.82	78.9%
Baxter Springs	\$ 359,439.86	\$ 406,052.66	13.0%
Belle Plaine	\$ 95,822.87	\$ 113,059.14	18.0%
Beloit	\$ 285,744.59	\$ 314,598.60	10.1%
Benton	\$ 41,015.66	\$ 44,269.64	7.9%
* Bonner Springs	\$ 1,704,581.54	\$ 2,248,565.92	31.9%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Bronson	\$ 12,180.65	\$ 13,781.85	13.1%
Burden	\$ 29,123.59	\$ 24,641.56	-15.4%
Caldwell	\$ 87,705.41	\$ 111,101.56	26.7%
* Caney	\$ 347,722.56	\$ 432,365.18	24.3%
Cedar Vale	\$ 29,254.16	\$ 40,355.10	37.9%
Chanute	\$ 1,602,474.68	\$ 1,720,302.54	7.4%
Cherryvale	\$ 265,487.99	\$ 306,592.69	15.5%
Chetopa	\$ 129,487.76	\$ 123,405.80	-4.7%
Clay Center	\$ 588,828.88	\$ 641,158.01	8.9%
Coffeyville	\$ 3,309,873.76	\$ 3,684,381.34	11.3%
Colby	\$ 3,636.85	\$ 80.80	-97.8%
Coldwater	\$ 86,536.49	\$ 97,556.31	12.7%
Collyer	\$ 3,685.42	\$ 6,546.77	77.6%
Columbus	\$ 426,996.99	\$ 513,038.96	20.2%
Concordia	\$ 881,359.68	\$ 946,583.88	7.4%
Conway Springs	\$ 55,928.92	\$ 69,263.80	23.8%
Cottonwood Falls	\$ 57,402.12	\$ 62,495.95	8.9%
* Council Grove	\$ 26,900.69	\$ 368,621.81	1270.3%
* Dearing	\$ 11,102.43	\$ 15,201.21	36.9%
Deerfield	\$ 22,209.02	\$ 21,790.86	-1.9%
Delphos	\$ 16,754.35	\$ 18,737.26	11.8%
* Derby	\$ 715,121.70	\$ 1,371,683.76	91.8%
DeSoto	\$ 585,226.93	\$ 679,372.33	16.1%
Dighton	\$ 96,957.91	\$ 107,788.96	11.2%
Dodge City	\$ 3,660,237.42	\$ 4,138,049.92	13.1%
Douglass	\$ 88,228.39	\$ 95,851.66	8.6%
Easton	\$ 15,070.57	\$ 21,949.73	45.6%
Edgerton	\$ 52,032.39	\$ 65,954.36	26.8%
Edna	\$ 26,445.07	\$ 26,940.72	1.9%
Edwardsville	\$ 161,318.16	\$ 256,340.06	58.9%
Effingham	\$ 31,161.47	\$ 32,576.50	4.5%
El Dorado	\$ 1,742,377.68	\$ 1,932,140.28	10.9%
Elkhart	\$ 251,604.45	\$ 235,840.63	-6.3%
Ellis	\$ 114,858.20	\$ 125,252.83	9.0%
Ellsworth	\$ 309,044.80	\$ 335,460.26	8.5%
Elwood	\$ 102,764.48	\$ 159,809.66	55.5%
Emporia	\$ 3,712,600.86	\$ 3,854,759.37	3.8%
Erie	\$ 100,076.29	\$ 103,846.52	3.8%
Eudora	\$ 107,900.54	\$ 142,290.63	31.9%
Fairway	\$ 355,177.86	\$ 390,740.33	10.0%
Fontana	\$ 2,811.78	\$ 3,921.07	39.5%
Fort Scott	\$ 1,128,266.66	\$ 1,207,670.06	7.0%
* Frankfort	\$ 41,131.04	\$ 86,426.42	110.1%
Fredonia	\$ 278,766.54	\$ 307,703.27	10.4%
Frontenac	\$ 381,603.28	\$ 386,489.56	1.3%
Galena	\$ 149,724.00	\$ 187,911.64	25.5%
Garden City	\$ 4,206,840.63	\$ 4,485,295.33	6.6%
Gardner	\$ 1,015,655.08	\$ 1,445,769.56	42.3%
Garnett	\$ 237,033.35	\$ 245,372.33	3.5%
Gas	\$ 66,396.47	\$ 27,600.31	-58.4%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Girard	\$ 265,615.34	\$ 335,024.01	26.1%
Glade	\$ 11,927.52	\$ 14,963.89	25.5%
Glasco	\$ 20,969.11	\$ 22,576.80	7.7%
Grandview Plaza	\$ 44,553.11	\$ 46,460.38	4.3%
Great Bend	\$ 1,322,794.95	\$ 1,486,185.01	12.4%
Grinnell	\$ 6,925.45	\$ 7,068.22	2.1%
Harper	\$ 224,512.13	\$ 255,053.90	13.6%
* Hays	\$ 4,955,139.69	\$ 4,313,081.79	-13.0%
Herington	\$ 182,971.54	\$ 210,895.42	15.3%
* Hiawatha	\$ 334,277.33	\$ 258,332.85	-22.7%
Hill City	\$ 187,401.26	\$ 206,445.09	10.2%
Hillsboro	\$ 168,960.89	\$ 195,419.40	15.7%
Holton	\$ 196,188.19	\$ 203,949.00	4.0%
Horton	\$ 114,550.79	\$ 127,527.05	11.3%
Hugoton	\$ 332,817.90	\$ 378,256.97	13.7%
* Humboldt	\$ 57,280.85	\$ 128,378.01	124.1%
Hutchinson	\$ 5,185,133.75	\$ 5,520,898.91	6.5%
Independence	\$ 3,879,372.15	\$ 4,034,549.29	4.0%
Iola	\$ 857,878.02	\$ 887,802.15	3.5%
Junction City	\$ 2,398,576.01	\$ 2,720,707.76	13.4%
Kanopolis	\$ 20,741.27	\$ 25,342.07	22.2%
* Kansas City	\$ 14,730,747.63	\$ 18,011,885.53	22.3%
Kincaid	\$ 7,927.62	\$ 6,307.69	-20.4%
Kiowa	\$ 89,856.53	\$ 115,024.98	28.0%
LaCrosse	\$ 90,415.96	\$ 100,326.04	11.0%
LaCygne	\$ 118,320.55	\$ 129,263.14	9.2%
Lakin	\$ 137,652.59	\$ 153,630.20	11.6%
Lansing	\$ 685,999.94	\$ 780,672.37	13.8%
Lawrence	\$ 11,349,116.88	\$ 12,297,676.89	8.4%
Leavenworth	\$ 3,503,206.53	\$ 3,777,669.28	7.8%
Leawood	\$ 5,399,394.45	\$ 6,530,624.85	21.0%
Lenexa	\$ 11,537,344.76	\$ 14,346,216.12	24.3%
Liberal	\$ 3,214,112.57	\$ 3,355,149.57	4.4%
Lindsborg	\$ 238,535.33	\$ 247,174.81	3.6%
* Linwood	\$ 12,824.66	\$ 24,727.73	92.8%
Longford	\$ 6,708.15	\$ 5,419.58	-19.2%
Louisburg	\$ 583,864.62	\$ 703,166.14	20.4%
Lyndon	\$ 80,828.46	\$ 98,768.14	22.2%
Lyons	\$ 165,983.04	\$ 182,441.06	9.9%
Manhattan	\$ 6,806,815.78	\$ 7,849,444.49	15.3%
Maple Hill	\$ 18,215.48	\$ 24,506.30	34.5%
Marion	\$ 133,041.14	\$ 135,336.40	1.7%
Marysville	\$ 621,498.18	\$ 660,547.20	6.3%
Mayfield	\$ 3,342.27	\$ 3,529.99	5.6%
McPherson	\$ 928,560.41	\$ 1,136,112.23	22.4%
Medicine Lodge	\$ 158,111.94	\$ 160,431.08	1.5%
Merriam	\$ 6,415,396.68	\$ 6,578,401.48	2.5%
Miltonvale	\$ 31,414.00	\$ 39,710.56	26.4%
Minneapolis	\$ 86,954.77	\$ 96,321.24	10.8%
Minneola	\$ 30,159.93	\$ 38,335.25	27.1%

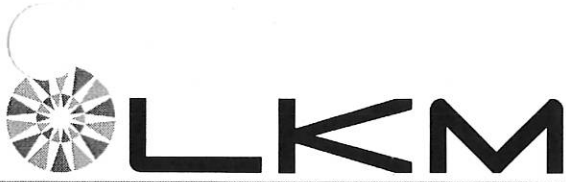


Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Mission	\$ 3,080,875.26	\$ 3,396,141.20	10.2%
Moran	\$ 18,961.47	\$ 20,157.12	6.3%
Morland	\$ 10,672.57	\$ 10,750.26	0.7%
* Moscow	\$ 1,523.41	\$ 29,137.37	1812.6%
Mound City	\$ 92,233.39	\$ 109,277.27	18.5%
Neodesha	\$ 372,539.83	\$ 441,227.76	18.4%
Ness City	\$ 161,447.26	\$ 186,096.68	15.3%
Norton	\$ 184,915.06	\$ 199,310.05	7.8%
Ogden	\$ 53,362.89	\$ 57,765.08	8.2%
Olathe	\$ 21,992,991.79	\$ 22,521,867.07	2.4%
Onaga	\$ 55,014.74	\$ 66,960.87	21.7%
* Osage City	\$ 22,892.60	\$ 366,321.65	1500.2%
Osawatomie	\$ 122,646.96	\$ 134,739.32	9.9%
Oswego	\$ 127,996.59	\$ 140,071.67	9.4%
Ottawa	\$ 1,197,228.95	\$ 1,303,852.47	8.9%
Overbrook	\$ 81,867.72	\$ 90,795.01	10.9%
Overland Park	\$ 39,031,449.85	\$ 48,667,796.21	24.7%
Oxford	\$ 59,982.25	\$ 65,966.89	10.0%
Paola	\$ 1,129,141.77	\$ 1,228,915.56	8.8%
* Parker	\$ 246.37	\$ 16,119.64	6442.9%
Parsons	\$ 1,376,625.20	\$ 1,454,461.06	5.7%
Paxico	\$ 12,514.26	\$ 12,099.62	-3.3%
Perry	\$ 39,948.36	\$ 45,043.54	12.8%
Phillipsburg	\$ 361,576.35	\$ 393,890.87	8.9%
Pittsburg	\$ 1,369,779.22	\$ 1,476,876.95	7.8%
Plainville	\$ 211,644.33	\$ 231,333.37	9.3%
Pleasanton	\$ 145,902.41	\$ 144,897.31	-0.7%
Pomona	\$ 46,182.98	\$ 46,024.91	-0.3%
Prairie Village	\$ 2,095,882.50	\$ 2,302,931.23	9.9%
* Pratt	\$ 580,767.16	\$ 1,007,612.61	73.5%
Princeton	\$ 6,341.45	\$ 7,028.03	10.8%
Protection	\$ 38,256.72	\$ 41,559.57	8.6%
Ransom	\$ 13,664.11	\$ 13,839.64	1.3%
Riley	\$ 45,718.28	\$ 50,467.60	10.4%
* Roeland Park	\$ 1,202,351.83	\$ 1,280,795.58	6.5%
Rolla	\$ 28,088.55	\$ 30,484.17	8.5%
Rose Hill	\$ 145,760.68	\$ 189,306.42	29.9%
Rossville	\$ 84,572.44	\$ 89,080.84	5.3%
Sabetha	\$ 175,558.17	\$ 193,959.02	10.5%
Saint Marys	\$ 244,508.04	\$ 288,253.79	17.9%
Saint Paul	\$ 45,912.34	\$ 60,906.65	32.7%
Salina	\$ 6,340,781.08	\$ 6,792,619.58	7.1%
Satanta	\$ 45,278.01	\$ 39,015.93	-13.8%
Scammon	\$ 20,476.02	\$ 19,571.43	-4.4%
Sedan	\$ 53,094.26	\$ 57,587.89	8.5%
Shawnee	\$ 9,052,816.64	\$ 10,508,403.40	16.1%
Smith Center	\$ 99,883.73	\$ 104,797.09	4.9%
South Hutchinson	\$ 172,706.89	\$ 177,397.28	2.7%
Spivey	\$ 23,286.56	\$ 28,521.70	22.5%
Spring Hill	\$ 347,192.06	\$ 515,830.18	48.6%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Stockton	\$ 192,426.57	\$ 203,852.03	5.9%
Strong City	\$ 51,994.31	\$ 61,904.02	19.1%
Sublette	\$ 57,471.35	\$ 62,493.59	8.7%
Syracuse	\$ 154,289.12	\$ 178,774.90	15.9%
Thayer	\$ 31,778.73	\$ 38,502.99	21.2%
Tonganoxie	\$ 364,131.11	\$ 442,668.52	21.6%
Topeka	\$ 23,583,015.54	\$ 26,170,828.44	11.0%
Toronto	\$ 7,449.23	\$ 8,215.21	10.3%
Towanda	\$ 74,682.85	\$ 82,173.79	10.0%
Ulysses	\$ 731,457.02	\$ 901,243.04	23.2%
Wakeeney	\$ 228,094.53	\$ 250,262.16	9.7%
Wakefield	\$ 30,030.35	\$ 36,137.11	20.3%
Wamego	\$ 792,959.45	\$ 901,260.63	13.7%
Weir	\$ 33,386.39	\$ 39,108.24	17.1%
Wellington	\$ 1,180,795.05	\$ 1,237,436.31	4.8%
Wellsville	\$ 57,056.22	\$ 69,758.35	22.3%
Westmoreland	\$ 35,071.34	\$ 46,920.01	33.8%
Westwood	\$ 205,089.57	\$ 259,847.44	26.7%
Westwood Hills	\$ 19,946.67	\$ 19,833.44	-0.6%
Williamsburg	\$ 16,967.09	\$ 16,972.88	0.0%
Wilson	\$ 48,036.34	\$ 59,906.37	24.7%
Winfield	\$ 1,382,348.64	\$ 1,515,877.36	9.7%
Yates Center	\$ 223,326.83	\$ 262,139.50	17.4%
	\$ 568,693,846.62	\$ 656,377,587.67	15.4%



League of Kansas Municipalities

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

Date: March 2, 2005  
To: House Committee on Taxation  
From: Larry R. Baer  
Assistant General Counsel  
Re: HB 2131 – Testimony in Opposition

Thank you for allowing me to appear before the Committee today on behalf of the League of Kansas Municipalities and its member cities to present testimony in opposition to HB 2131.

The League has been a long time supporter of the Streamlined Sales Tax Project. A statement to this regard appears in our 2005 *Statement of Municipal Policy*, adopted at our 2004 Fall Conference. This statement goes beyond support of the Streamlined Sales Tax Project (SST) to urge Congress to take action as soon as practicable to authorize the mandatory collection of sales and use tax on remote sales.

Destination based sourcing has been in place in Kansas since July, 2003. The change to destination based sourcing was a significant change to Kansas sales tax policy. But it was not an unknown change. Secretary Wagnon pointed out the change and detailed its nature in testimony to the Senate Assessment and Taxation Committee in January and February, 2003 during early discussions of SB192 (later part of HB 2005).

The Kansas Department of Revenue together with thousands of businesses in the State have expended much time, energy and money to facilitate this change and have successfully made the conversion. If HB 2131 should become law and the State would revert back to June 2003 sourcing rules, what does it say to those who have made the effort, who have made the expenditure and have followed the law? It tells the majority that have worked to come into compliance, either on their own or with assistance provided by KDOR, that their efforts are not appreciated. HB 2131 would present a confusing picture of the sales tax policy in Kansas.

The League has been a long time supporter of SST and continues to support it. Yes, SST has caused complex changes to tax policy and created confusion in its implementation. Both of these have been resolved, for the most part, by the KDOR and retailers working together. Nothing is truly broken – actually things are working quite well. What does delaying the implementation of destination sourcing accomplish for the State of Kansas? It would only reestablish confusion that has been resolved.

The League of Kansas Municipalities opposes HB 2131 and asks that you reject it.  
Thank you.



# K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

March 2, 2005

## Testimony to House Taxation Committee in Opposition to House Bill 2131

Joan Wagnon  
David Corbin

### Chairman Wilk and Members of the Committee:

House Bill 2131 proposes to suspend destination-based sourcing enacted in 2003 as part of the uniformity provisions required by the Streamlined Sales and Use Tax Agreement (Agreement), until such time as Congress authorizes states to impose use tax collection duties on remote sellers. If enacted, House Bill 2131 would throw Kansas out of compliance with the Agreement, barring Kansas from becoming a Member State of the Agreement and participating in the anticipated increased revenues from remote seller use tax collections. Kansas petitioned for membership in the Agreement on January 31, 2005 and is among the first group of States to do so.

House Bill 2131 further provides that retailers who have converted to destination-based sourcing must convert back to origin-based sourcing, once it is enacted. The time, effort and expense invested by retailers who have already converted to destination-based sourcing will be lost. The Department's expense in developing and making available on its website an address-based local sales tax rate locator will also have been wasted. Should Congress at a later date authorize states to require remote retailers to collect and remit use tax, retailers must then make a second conversion back to destination-based sourcing.

### Background --Taxation of Remote Sales

The purchaser is obligated to pay use tax to the State of residence on out-of-state purchases. Except for businesses subject to regular audits, unless the out-of-state retailer collects use tax from the purchaser and remits it to the State, as a practical matter, it will not be paid. The viability of both the sales and use tax depends primarily upon the collection, reporting and remittance functions that retailers perform. In order for States to obtain an acceptable compliance rate on payment of use tax on remote sales to consumers, out-of-state retailers must be obligated to collect and remit use tax on those sales.

Under Kansas law, an out-of-state retailer "doing business" in Kansas is obligated to collect and remit use tax on its sales to consumers in Kansas. K.S.A. 79-3705c. However, United States Supreme Court decisions have restricted the constitutional power of the States to

House Taxation Committee

subject interstate sales to sales or use tax. In *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), the Supreme Court held that the Commerce Clause bars a State from imposing a use tax collection duty on an out-of-state seller with no physical presence (nexus) in the State. Thus, an out-of-state merchant has no legal obligation to collect use tax on its sales to customers located in another State, if the sale is conducted by telephone, mail order, or in recent times, the Internet, and if the out-of-state merchant has no physical presence in that State.

Physical presence, or nexus, is established if the out-of-state retailer has agents, employees or a facility permanently located in the State. Temporary presence can be sufficient to establish nexus under certain circumstances (such as frequent deliveries into the state).

A “brick and mortar” retail store located in the taxing State obviously establishes nexus. What about an out-of-state dotcom affiliate of the in-state retail store? In 2003, Kansas enacted House Bill 2416, which provides for “affiliate nexus”: when a “brick and mortar” retail store in Kansas acts as an agent on behalf of an out-of-state dotcom affiliate retailer for purposes developing and maintaining the dotcom affiliate’s market, the dotcom affiliate has nexus with Kansas and should be collecting and remitting Kansas use tax on sales to Kansas customers. As noted in a recent Forrester Brief, multichannel retailing (online stores that also have offline physical store locations) is the growth model for online sales. Forrester indicates that multichannel retailers accounted for 75% of the online sales in 2003.

State governments and local merchants have long been concerned about the fact that mail-order consumer retail sales by out-of-state merchants essentially escape use tax. The rapid growth of remote retail sales over the Internet have heightened those concerns. The July 2004 update to the University of Tennessee study by Bruce and Fox estimates that the 2003 combined state and local revenue loss to Kansas from e-commerce retail sales was over \$82 million.

### **Streamlined Sales Tax Project**

The Streamlined Sales Tax Project (SSTP) responds to the concerns of merchants about the difficulties in dealing with different States’ sales tax laws, and to State and local government concerns about loss of revenues from remote retail sales by mail-order, telephone and the Internet. The SSTP also seeks to “level the playing field” between in-state and out-of-state merchants regarding the tax burden on retail sales to customers in the taxing State. The SSTP’s goal is to make administration of State sales and use tax laws more uniform, efficient, and less burdensome on multi-state merchants. The SSTP seeks to provide incentives for multi-state merchants to voluntarily collect and remit use tax on sales to customers in States where they may not have any physical presence or legal obligation to collect and remit. If the SSTP is successful in demonstrating to Congress significant reform in making sales tax laws more uniform and less administratively burdensome on multi-state retailers, then Congress could authorize those States to impose use tax collection duties upon remote retailers. The SSTP enjoys the strong support and active involvement of 34 participating States, as well as the National Governors Association (NGA), National Conference of State Legislatures (NCSL), Federation of Tax Administrators (FTA) and the Multistate Tax Commission (MTC). More information on this Project is available by visiting the following website: [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org).

#### Phase 1

Phase 1 of the Streamlined Sales Tax Project began in March, 2000 and involved the drafting and approval of the Uniform Sales and Use Tax Administration Act (“Act”) and



Streamline Sales and Use Tax Agreement (“Agreement”) (available on the website) by the participating States. The Act and Agreement were submitted to the participating States for consideration by their respective legislatures, beginning in January of 2001. However, two versions of the Agreement existed at that time, one version approved by the SSTP, and another, containing several changes, approved by the NCSL.

## Phase 2

Phase 2 encompassed the efforts by the legislatures of the participating States in adopting the Act and making the legislative changes necessary to conform to the uniformity requirements of the Agreement. Phase 2 also involved consideration and approval by the Implementing States of various amendments and additions to the Agreement, in order to produce one version of the Agreement acceptable to all. The NCSL and National Governors’ Association (NGA) worked closely with this group. The Implementing States finalized and approved the amendments, and one version of the Agreement was adopted at the Chicago meeting held November 12, 2002.

States enacting the required uniformity provisions in the Agreement are considered Conforming States (including Kansas). This group held several meetings, in conjunction with SSTP meetings, in order to develop the rules and organizational framework for the Governing Board, which will administer the Agreement once it is implemented, and to manage the process for Conforming States to formally become Members of the Agreement. The SSTP group now serves in an advisory capacity to the Implementing States and consists largely of tax administration officials and private sector groups. It continues to work on issues involving proposals for future additions to the Agreement. The next SSTP and Conforming States meetings will be in Atlanta on March 6-9, 2005. The next Implementing States meeting will be held in Washington, D.C. on April 16, 2005 to vote on several proposed amendments to the Agreement.

## Phase 3

Phase 3 involves implementation of the Agreement. The Conforming States have established a timeline to implement the Agreement by October 1, 2005. This should spur an increase in voluntary registration and use tax collections by remote retailers. The required threshold of at least 10 states (representing at least 20% of the population of states imposing sales tax) having implemented the Agreement uniformity provisions should exist by that time. By October 1, 2005, at least 15 states (exceeding the 20% population threshold) are expected to have reached the effective dates for their Agreement uniformity provisions. Those States will make the Streamlined Sales Tax System operational. Thus far, 5 states (Kansas, Iowa, Michigan, North Dakota, and Oklahoma) have formally submitted petitions for membership in the Agreement. These, and additional petitions to be submitted, will be reviewed for compliance with the Agreement and voted on in the coming months.

### **Kansas Legislative Action Concerning SSTP**

Since the 2000 legislative session, the Kansas Legislature has each year studied, debated, and enacted legislation concerning the Streamlined Sales Tax Project, in an effort to keep Kansas at the forefront of this vitally important effort. A chronology of Kansas legislative activities concerning the SSTP are listed below:



**May 2000**—Kansas authorizes participation via SB 59 - Streamlined Sales Tax System for 21st Century Act. The Act allows the Kansas Department of Revenue to enter into discussions and agreements with other states in an effort to collect taxes on transactions involving remote sellers.

**November 2000**-- Special Committee on Assessment and Taxation recommended: "The Committee encourages that legislation on [the Streamlined Sales Tax] topic be submitted to the standing committees as soon as possible in January 2001."

**May 2002**—SB 472 is enacted, authorizing the Kansas Department of Revenue to become a signatory to the multistate streamlined sales and use tax agreement and make preparations for its implementation.

**May 2003**—HB 2005 is enacted, making changes to state and local sales tax laws necessary to bring Kansas into compliance with requirements set forth in the multistate Streamlined Sales and Use Tax Agreement, including the change to destination-based sourcing.

**Summer/Fall 2003**—Governor Sebelius established a "period of relaxed enforcement," stating retailers should make a reasonable effort to convert to destination-based sourcing, but would not be penalized for failing to convert until the Department of Revenue was able to provide all the necessary tools for full implementation.. The Department of Revenue held businesses harmless from sanctions for errors in attempting to comply with the destination sourcing provisions of the new law. The Kansas Department of Revenue worked to develop tools, such as downloadable electronic databases and electronic filing capability for multi-jurisdiction returns, to assist retailers in complying with the new destination-based sourcing requirements of the Streamlined Sales Tax Law. The Department made these tools available to retailers during late 2003 and early 2004. In addition, the Department made many presentations, to groups of retailers and even worked with individual retailers to assist them in understanding the requirements and making the conversion to destination sourcing.

**May 2004**—Substitute for SB 147 is enacted, in which retailers are statutorily authorized, prior to January 1, 2005, to elect to use origin-based sales tax sourcing provisions in effect on June 30, 2003, as an alternative to the destination-based sourcing provisions which became effective July 1, 2003. The Secretary of Revenue was given authority to waive penalty and interest on retailers who are making errors in the use of destination sourcing.

### **Destination-Based Sourcing Implementation Progress**

The Department continues to work with retailers to facilitate their destination-based sourcing implementation efforts and their use of the database now available on the Department's website for matching customer addresses with correct rates and jurisdictions.

### **Voluntary Use Tax Remittance from Remote Retailers**

As of the end of February 2005, state general fund receipts for FY 05 from state use tax remittances are \$163.9 million, which is \$9.9 million, or 6.4%, above the November 2004 consensus revenue estimate. For the month of February 2005, state use tax receipts are \$20.2 million, which is \$4.2 million, or 26.5%, above the November 2004 consensus estimate for that month. We believe that part of this good news is attributable to increased participation by remote retailers voluntarily collecting and remitting use tax, as a result of this state's efforts to

join the Agreement. For CY 03, we estimated receiving \$500,000 in retailers' use tax (state and local) from non-border state retailers that were newly registered since January 1, 2003. In CY 2004, the amount of retailers' use tax from non-border state retailers who were new businesses as of January 1, 2003 amounted to \$5.1 million, and \$1.6 million of that amount (31%) came from formerly identified SSTP voluntary filers. Our efforts to join the Agreement are paying off.

### Sales Tax Returns Filed and Jurisdictions Reported

Retailers continue make progress in implementing destination-based sourcing. However, since retailers could elect either origin or destination sourcing until January 1, 2005, and since those returns from January, 2005 weren't filed until February 25, 2005, it will be the middle of March until an assessment of how many retailers have complied can be undertaken. Also, many of the smaller retailers now file only quarterly and those returns will not be received until the end of April. The department cautions against trying to measure the compliance rate too early. The following information is helpful in showing progress towards compliance.

Since the effective date of destination-based sourcing, July 1, 2003, the number of retailers filing returns reporting sales to only one local sales tax jurisdiction has decreased, and the number of retailers filing returns reporting sales to multiple local sales tax jurisdictions (consistent with destination-based sourcing) has significantly increased. The return filing information below illustrates that clearly. For monthly filers, there is a change of 3,500 accounts switching from single jurisdiction to multi-jurisdiction returns, indicating destination-based sourcing compliance.

#### Number of Monthly Returns Filed

	Oct 02	Oct 04	% Change
Single Jurisdiction	18,165	14,784	-18%
Multi Jurisdiction	9,145	12,755	39%
Total	27,310	27,629	1%

#### Number of Jurisdictions Reported

	Oct 02	Oct 04	% Change
From Single returns	18,619	15,240	-18%
From Multi returns	40,246	161,387	301%
Total	58,865	176,627	200%

The data reported below shows by NAICS codes the percentage of businesses expected to make deliveries that are filing multi-jurisdiction returns for November/December 2004. This indicates a high degree of compliance with destination-based sourcing.

Industry	Return Filings:			% Multi
	<u>Number</u> <u>Accounts</u>	<u>Single</u> <u>Jurisdictions</u>	<u>Multi</u> <u>Jurisdictions</u>	
442110, Furniture Stores	333	20	313	94%
443110, Appliance Stores	197	10	187	95%
443112, Radio, TV, Electronics	241	16	225	93%
444110, Home Centers	252	43	209	83%
811412, Appliance Repair	92	11	81	88%

Although destination-based sourcing did not become mandatory until January 1, 2005, returns filed in January 2005 (which included annual, quarterly and monthly returns for 2004) showed an increase by 878 in the number of new online multi-jurisdiction returns received. This number does not include paper returns filed.

### **Conclusion**

The hard work for Kansas to make the successful conversion to destination-based sourcing has essentially been completed, and Kansas is beginning to reap the benefits from those efforts through growing voluntary use tax remittances from remote retailers. House Bill 2131 will undo all that effort and move Kansas away from those benefits.

The Department has emphasized “service, not sanctions” and retailers have utilized its services and are largely compliant. Almost every retailer that testified last year in hearings, or spoke out in public meetings has received assistance from the department and is now in compliance. Trade groups have approached the Department, such as the Kansas Press Association, and retailers of all sizes have received technical assistance with their computer conversions or in developing alternative reporting strategies which meet their needs. The huge number of phone calls received in 2003 has subsided, and now the occasional call is for information on “how do I ...?”

The Department is not planning any extraordinary efforts to “discover” retailers who should be complying but are not. Should a retailer come to the attention of the Department through our normal means, audit, compliance, etc. and is found not to be in compliance with the sourcing provisions, then we will assist them to comply. Basically, the sourcing issue is being resolved and no further action is needed.

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Allen County	\$ 1,279,722.96	\$ 1,352,241.38	5.7%
Anderson County	\$ 642,711.49	\$ 693,900.37	8.0%
* Atchison County	\$ 2,216,621.57	\$ 2,577,229.81	16.3%
Barber County	\$ 538,089.60	\$ 641,995.51	19.3%
* Barton County	\$ 4,129,617.34	\$ 4,972,920.85	20.4%
Bourbon County	\$ 1,333,521.79	\$ 1,477,978.02	10.8%
Brown County	\$ 837,730.39	\$ 997,013.11	19.0%
* Chase County	\$ 172,715.95	\$ 55,676.72	-67.8%
Chautauqua County	\$ 223,288.82	\$ 269,247.10	20.6%
Cherokee County	\$ 1,856,911.46	\$ 2,370,516.45	27.7%
Cheyenne County	\$ 476,061.60	\$ 532,826.44	11.9%
Clay County	\$ 731,729.48	\$ 834,869.98	14.1%
Cloud County	\$ 1,070,625.96	\$ 1,201,155.18	12.2%
Crawford County	\$ 4,018,413.19	\$ 4,389,374.05	9.2%
Decatur County	\$ 223,147.09	\$ 248,083.01	11.2%
Dickinson County	\$ 1,737,120.88	\$ 1,957,585.16	12.7%
Doniphan County	\$ 438,684.89	\$ 556,573.28	26.9%
Douglas County	\$ 12,496,680.22	\$ 13,739,828.30	9.9%
Edwards County	\$ 189,826.50	\$ 245,285.83	29.2%
Elk County	\$ 188,417.79	\$ 207,980.81	10.4%
Ellsworth County	\$ 209,162.11	\$ 250,481.45	19.8%
Finney County	\$ 3,855,126.27	\$ 4,134,581.39	7.2%
Ford County	\$ 3,993,120.12	\$ 4,543,616.71	13.8%
Franklin County	\$ 3,916,125.10	\$ 4,309,652.86	10.0%
* Geary County	\$ 3,160,424.54	\$ 3,138,622.46	-0.7%
Gove County	\$ 284,379.11	\$ 320,585.56	12.7%
* Graham County	\$ 4,992.66	\$ 76,083.80	1423.9%
Gray County	\$ 424,737.23	\$ 460,388.57	8.4%
Greeley County	\$ 123,234.89	\$ 137,329.29	11.4%
Greenwood County	\$ 491,379.95	\$ 510,218.86	3.8%
Hamilton County	\$ 107,915.74	\$ 128,716.05	19.3%
Harvey County	\$ 3,350,404.20	\$ 3,522,217.65	5.1%
Haskell County	\$ 160,256.46	\$ 202,300.26	26.2%
Jackson County	\$ 1,067,172.57	\$ 1,191,334.72	11.6%
Jefferson County	\$ 899,360.25	\$ 1,032,517.03	14.8%
Jewell County	\$ 183,511.68	\$ 221,267.46	20.6%
Johnson County	\$ 98,397,469.01	\$ 119,965,269.20	21.9%
Kiowa County	\$ 268,110.10	\$ 438,335.68	63.5%
Labette County	\$ 2,424,026.48	\$ 2,588,053.59	6.8%
Leavenworth County	\$ 5,372,924.84	\$ 6,119,117.34	13.9%
Lincoln County	\$ 184,657.39	\$ 221,159.45	19.8%
Logan County	\$ 278,037.98	\$ 481,697.46	73.2%
Lyon County	\$ 1,988,787.46	\$ 2,099,958.68	5.6%
Marion County	\$ 833,556.17	\$ 961,038.95	15.3%
Mcperson County	\$ 3,152,892.27	\$ 3,923,031.10	24.4%
Meade County	\$ 311,090.29	\$ 374,779.17	20.5%
Miami County	\$ 3,535,577.41	\$ 4,007,640.78	13.4%
Mitchell County	\$ 774,312.11	\$ 829,392.40	7.1%
Montgomery County	\$ 60,256.69	\$ 3,672.47	-93.9%
Morris County	\$ 466,523.92	\$ 538,406.81	15.1%

Hs Taxation Committee  
March 2, 2005

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Nemaha County	\$ 873,106.47	\$ 989,668.50	13.4%
Neosho County	\$ 1,982,710.02	\$ 2,200,285.36	11.0%
* Norton County	\$ 28,157.90	\$ 444,837.61	1479.8%
Osage County	\$ 909,529.89	\$ 1,051,458.29	15.6%
Osborne County	\$ 181,254.13	\$ 192,003.65	5.9%
Ottawa County	\$ 304,568.62	\$ 346,042.20	13.6%
Pawnee County	\$ 512,601.33	\$ 551,563.92	7.6%
Pratt County	\$ 1,382,554.49	\$ 1,503,203.90	8.7%
Rawlins County	\$ 188,439.70	\$ 215,558.15	14.4%
Reno County	\$ 8,275,855.26	\$ 8,880,715.74	7.3%
* Republic County	\$ 561,448.26	\$ 947,698.69	68.8%
Rice County	\$ 696,422.43	\$ 836,914.12	20.2%
* Riley County	\$ 5,807,390.74	\$ 6,605,164.89	13.7%
Rooks County	\$ 857.93	\$ 1,120.26	30.6%
Russell County	\$ 1,007,468.24	\$ 1,168,962.13	16.0%
Saline County	\$ 8,986,952.54	\$ 9,589,219.06	6.7%
Scott County	\$ 527,562.12	\$ 568,879.70	7.8%
Sedgwick County	\$ 67,263,760.97	\$ 75,435,503.59	12.1%
Seward County	\$ 3,433,767.72	\$ 4,379,290.92	27.5%
* Shawnee County	\$ 23,471,140.56	\$ 28,939,712.08	23.3%
Sheridan County	\$ 209,228.35	\$ 238,502.15	14.0%
Sherman County	\$ 1,156,469.11	\$ 1,427,263.84	23.4%
Stafford County	\$ 278,255.86	\$ 374,830.05	34.7%
Stanton County	\$ 144,506.31	\$ 195,789.92	35.5%
Sumner County	\$ -	\$ 136,836.88	#DIV/0!
Thomas County	\$ 1,177,198.20	\$ 1,286,676.27	9.3%
Wabaunsee County	\$ 395,898.34	\$ 433,029.15	9.4%
Washington County	\$ 383,646.27	\$ 427,467.37	11.4%
Wichita County	\$ 370,189.42	\$ 432,258.31	16.8%
Wilson County	\$ 665,080.96	\$ 760,745.51	14.4%
Wyandotte County	\$ 16,755,868.25	\$ 19,953,917.96	19.1%
Abilene	\$ 787,411.18	\$ 883,685.05	12.2%
* Alma	\$ 5,982.69	\$ 11,282.20	88.6%
Altamont	\$ 56,798.84	\$ 61,608.93	8.5%
Americus	\$ 14,401.61	\$ 14,899.59	3.5%
Andover	\$ 920,357.25	\$ 1,027,083.13	11.6%
Anthony	\$ 358,276.79	\$ 398,286.08	11.2%
Argonia	\$ 26,047.60	\$ 29,804.47	14.4%
Arkansas City	\$ 1,338,588.56	\$ 1,482,895.80	10.8%
Arma	\$ 49,460.29	\$ 45,077.09	-8.9%
Atchison	\$ 1,251,029.81	\$ 1,459,087.69	16.6%
Auburn	\$ 118,719.61	\$ 66,574.82	-43.9%
Augusta	\$ 435,406.82	\$ 441,255.91	1.3%
Baldwin City	\$ 276,500.93	\$ 335,481.05	21.3%
Basehor	\$ 142,315.60	\$ 254,618.82	78.9%
Baxter Springs	\$ 359,439.86	\$ 406,052.66	13.0%
Belle Plaine	\$ 95,822.87	\$ 113,059.14	18.0%
Beloit	\$ 285,744.59	\$ 314,598.60	10.1%
Benton	\$ 41,015.66	\$ 44,269.64	7.9%
* Bonner Springs	\$ 1,704,581.54	\$ 2,248,565.92	31.9%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Bronson	\$ 12,180.65	\$ 13,781.85	13.1%
Burden	\$ 29,123.59	\$ 24,641.56	-15.4%
Caldwell	\$ 87,705.41	\$ 111,101.56	26.7%
* Caney	\$ 347,722.56	\$ 432,365.18	24.3%
Cedar Vale	\$ 29,254.16	\$ 40,355.10	37.9%
Chanute	\$ 1,602,474.68	\$ 1,720,302.54	7.4%
Cherryvale	\$ 265,487.99	\$ 306,592.69	15.5%
Chetopa	\$ 129,487.76	\$ 123,405.80	-4.7%
Clay Center	\$ 588,828.88	\$ 641,158.01	8.9%
Coffeyville	\$ 3,309,873.76	\$ 3,684,381.34	11.3%
Colby	\$ 3,636.85	\$ 80.80	-97.8%
Coldwater	\$ 86,536.49	\$ 97,556.31	12.7%
Collyer	\$ 3,685.42	\$ 6,546.77	77.6%
Columbus	\$ 426,996.99	\$ 513,038.96	20.2%
Concordia	\$ 881,359.68	\$ 946,583.88	7.4%
Conway Springs	\$ 55,928.92	\$ 69,263.80	23.8%
Cottonwood Falls	\$ 57,402.12	\$ 62,495.95	8.9%
* Council Grove	\$ 26,900.69	\$ 368,621.81	1270.3%
* Dearing	\$ 11,102.43	\$ 15,201.21	36.9%
Deerfield	\$ 22,209.02	\$ 21,790.86	-1.9%
Delphos	\$ 16,754.35	\$ 18,737.26	11.8%
* Derby	\$ 715,121.70	\$ 1,371,683.76	91.8%
DeSoto	\$ 585,226.93	\$ 679,372.33	16.1%
Dighton	\$ 96,957.91	\$ 107,788.96	11.2%
Dodge City	\$ 3,660,237.42	\$ 4,138,049.92	13.1%
Douglass	\$ 88,228.39	\$ 95,851.66	8.6%
Easton	\$ 15,070.57	\$ 21,949.73	45.6%
Edgerton	\$ 52,032.39	\$ 65,954.36	26.8%
Edna	\$ 26,445.07	\$ 26,940.72	1.9%
Edwardsville	\$ 161,318.16	\$ 256,340.06	58.9%
Effingham	\$ 31,161.47	\$ 32,576.50	4.5%
El Dorado	\$ 1,742,377.68	\$ 1,932,140.28	10.9%
Elkhart	\$ 251,604.45	\$ 235,840.63	-6.3%
Ellis	\$ 114,858.20	\$ 125,252.83	9.0%
Ellsworth	\$ 309,044.80	\$ 335,460.26	8.5%
Elwood	\$ 102,764.48	\$ 159,809.66	55.5%
Emporia	\$ 3,712,600.86	\$ 3,854,759.37	3.8%
Erie	\$ 100,076.29	\$ 103,846.52	3.8%
Eudora	\$ 107,900.54	\$ 142,290.63	31.9%
Fairway	\$ 355,177.86	\$ 390,740.33	10.0%
Fontana	\$ 2,811.78	\$ 3,921.07	39.5%
Fort Scott	\$ 1,128,266.66	\$ 1,207,670.06	7.0%
* Frankfort	\$ 41,131.04	\$ 86,426.42	110.1%
Fredonia	\$ 278,766.54	\$ 307,703.27	10.4%
Frontenac	\$ 381,603.28	\$ 386,489.56	1.3%
Galena	\$ 149,724.00	\$ 187,911.64	25.5%
Garden City	\$ 4,206,840.63	\$ 4,485,295.33	6.6%
Gardner	\$ 1,015,655.08	\$ 1,445,769.56	42.3%
Garnett	\$ 237,033.35	\$ 245,372.33	3.5%
Gas	\$ 66,396.47	\$ 27,600.31	-58.4%



Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Girard	\$ 265,615.34	\$ 335,024.01	26.1%
Glade	\$ 11,927.52	\$ 14,963.89	25.5%
Glasco	\$ 20,969.11	\$ 22,576.80	7.7%
Grandview Plaza	\$ 44,553.11	\$ 46,460.38	4.3%
Great Bend	\$ 1,322,794.95	\$ 1,486,185.01	12.4%
Grinnell	\$ 6,925.45	\$ 7,068.22	2.1%
Harper	\$ 224,512.13	\$ 255,053.90	13.6%
* Hays	\$ 4,955,139.69	\$ 4,313,081.79	-13.0%
Herington	\$ 182,971.54	\$ 210,895.42	15.3%
* Hiawatha	\$ 334,277.33	\$ 258,332.85	-22.7%
Hill City	\$ 187,401.26	\$ 206,445.09	10.2%
Hillsboro	\$ 168,960.89	\$ 195,419.40	15.7%
Holton	\$ 196,188.19	\$ 203,949.00	4.0%
Horton	\$ 114,550.79	\$ 127,527.05	11.3%
Hugoton	\$ 332,817.90	\$ 378,256.97	13.7%
* Humboldt	\$ 57,280.85	\$ 128,378.01	124.1%
Hutchinson	\$ 5,185,133.75	\$ 5,520,898.91	6.5%
Independence	\$ 3,879,372.15	\$ 4,034,549.29	4.0%
Iola	\$ 857,878.02	\$ 887,802.15	3.5%
Junction City	\$ 2,398,576.01	\$ 2,720,707.76	13.4%
Kanopolis	\$ 20,741.27	\$ 25,342.07	22.2%
* Kansas City	\$ 14,730,747.63	\$ 18,011,885.53	22.3%
Kincaid	\$ 7,927.62	\$ 6,307.69	-20.4%
Kiowa	\$ 89,856.53	\$ 115,024.98	28.0%
LaCrosse	\$ 90,415.96	\$ 100,326.04	11.0%
LaCygne	\$ 118,320.55	\$ 129,263.14	9.2%
Lakin	\$ 137,652.59	\$ 153,630.20	11.6%
Lansing	\$ 685,999.94	\$ 780,672.37	13.8%
Lawrence	\$ 11,349,116.88	\$ 12,297,676.89	8.4%
Leavenworth	\$ 3,503,206.53	\$ 3,777,669.28	7.8%
Leawood	\$ 5,399,394.45	\$ 6,530,624.85	21.0%
Lenexa	\$ 11,537,344.76	\$ 14,346,216.12	24.3%
Liberal	\$ 3,214,112.57	\$ 3,355,149.57	4.4%
Lindsborg	\$ 238,535.33	\$ 247,174.81	3.6%
* Linwood	\$ 12,824.66	\$ 24,727.73	92.8%
Longford	\$ 6,708.15	\$ 5,419.58	-19.2%
Louisburg	\$ 583,864.62	\$ 703,166.14	20.4%
Lyndon	\$ 80,828.46	\$ 98,768.14	22.2%
Lyons	\$ 165,983.04	\$ 182,441.06	9.9%
Manhattan	\$ 6,806,815.78	\$ 7,849,444.49	15.3%
Maple Hill	\$ 18,215.48	\$ 24,506.30	34.5%
Marion	\$ 133,041.14	\$ 135,336.40	1.7%
Marysville	\$ 621,498.18	\$ 660,547.20	6.3%
Mayfield	\$ 3,342.27	\$ 3,529.99	5.6%
McPherson	\$ 928,560.41	\$ 1,136,112.23	22.4%
Medicine Lodge	\$ 158,111.94	\$ 160,431.08	1.5%
Merriam	\$ 6,415,396.68	\$ 6,578,401.48	2.5%
Miltonvale	\$ 31,414.00	\$ 39,710.56	26.4%
Minneapolis	\$ 86,954.77	\$ 96,321.24	10.8%
Minneola	\$ 30,159.93	\$ 38,335.25	27.1%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Mission	\$ 3,080,875.26	\$ 3,396,141.20	10.2%
Moran	\$ 18,961.47	\$ 20,157.12	6.3%
Morland	\$ 10,672.57	\$ 10,750.26	0.7%
* Moscow	\$ 1,523.41	\$ 29,137.37	1812.6%
Mound City	\$ 92,233.39	\$ 109,277.27	18.5%
Neodesha	\$ 372,539.83	\$ 441,227.76	18.4%
Ness City	\$ 161,447.26	\$ 186,096.68	15.3%
Norton	\$ 184,915.06	\$ 199,310.05	7.8%
Ogden	\$ 53,362.89	\$ 57,765.08	8.2%
Olathe	\$ 21,992,991.79	\$ 22,521,867.07	2.4%
Onaga	\$ 55,014.74	\$ 66,960.87	21.7%
* Osage City	\$ 22,892.60	\$ 366,321.65	1500.2%
Osawatomie	\$ 122,646.96	\$ 134,739.32	9.9%
Oswego	\$ 127,996.59	\$ 140,071.67	9.4%
Ottawa	\$ 1,197,228.95	\$ 1,303,852.47	8.9%
Overbrook	\$ 81,867.72	\$ 90,795.01	10.9%
Overland Park	\$ 39,031,449.85	\$ 48,667,796.21	24.7%
Oxford	\$ 59,982.25	\$ 65,966.89	10.0%
Paola	\$ 1,129,141.77	\$ 1,228,915.56	8.8%
* Parker	\$ 246.37	\$ 16,119.64	6442.9%
Parsons	\$ 1,376,625.20	\$ 1,454,461.06	5.7%
Paxico	\$ 12,514.26	\$ 12,099.62	-3.3%
Perry	\$ 39,948.36	\$ 45,043.54	12.8%
Phillipsburg	\$ 361,576.35	\$ 393,890.87	8.9%
Pittsburg	\$ 1,369,779.22	\$ 1,476,876.95	7.8%
Plainville	\$ 211,644.33	\$ 231,333.37	9.3%
Pleasanton	\$ 145,902.41	\$ 144,897.31	-0.7%
Pomona	\$ 46,182.98	\$ 46,024.91	-0.3%
Prairie Village	\$ 2,095,882.50	\$ 2,302,931.23	9.9%
* Pratt	\$ 580,767.16	\$ 1,007,612.61	73.5%
Princeton	\$ 6,341.45	\$ 7,028.03	10.8%
Protection	\$ 38,256.72	\$ 41,559.57	8.6%
Ransom	\$ 13,664.11	\$ 13,839.64	1.3%
Riley	\$ 45,718.28	\$ 50,467.60	10.4%
* Roeland Park	\$ 1,202,351.83	\$ 1,280,795.58	6.5%
Rolla	\$ 28,088.55	\$ 30,484.17	8.5%
Rose Hill	\$ 145,760.68	\$ 189,306.42	29.9%
Rossville	\$ 84,572.44	\$ 89,080.84	5.3%
Sabetha	\$ 175,558.17	\$ 193,959.02	10.5%
Saint Marys	\$ 244,508.04	\$ 288,253.79	17.9%
Saint Paul	\$ 45,912.34	\$ 60,906.65	32.7%
Salina	\$ 6,340,781.08	\$ 6,792,619.58	7.1%
Satanta	\$ 45,278.01	\$ 39,015.93	-13.8%
Scammon	\$ 20,476.02	\$ 19,571.43	-4.4%
Sedan	\$ 53,094.26	\$ 57,587.89	8.5%
Shawnee	\$ 9,052,816.64	\$ 10,508,403.40	16.1%
Smith Center	\$ 99,883.73	\$ 104,797.09	4.9%
South Hutchinson	\$ 172,706.89	\$ 177,397.28	2.7%
Spivey	\$ 23,286.56	\$ 28,521.70	22.5%
Spring Hill	\$ 347,192.06	\$ 515,830.18	48.6%

Kansas Department of Revenue  
Office of Policy and Research  
Sales and Use Tax Distributed - CY 2003, 2004

County/City	Total Sales and Use Tax		% Change
	CY 2003	CY 2004	
Stockton	\$ 192,426.57	\$ 203,852.03	5.9%
Strong City	\$ 51,994.31	\$ 61,904.02	19.1%
Sublette	\$ 57,471.35	\$ 62,493.59	8.7%
Syracuse	\$ 154,289.12	\$ 178,774.90	15.9%
Thayer	\$ 31,778.73	\$ 38,502.99	21.2%
Tonganoxie	\$ 364,131.11	\$ 442,668.52	21.6%
Topeka	\$ 23,583,015.54	\$ 26,170,828.44	11.0%
Toronto	\$ 7,449.23	\$ 8,215.21	10.3%
Towanda	\$ 74,682.85	\$ 82,173.79	10.0%
Ulysses	\$ 731,457.02	\$ 901,243.04	23.2%
Wakeeney	\$ 228,094.53	\$ 250,262.16	9.7%
Wakefield	\$ 30,030.35	\$ 36,137.11	20.3%
Wamego	\$ 792,959.45	\$ 901,260.63	13.7%
Weir	\$ 33,386.39	\$ 39,108.24	17.1%
Wellington	\$ 1,180,795.05	\$ 1,237,436.31	4.8%
Wellsville	\$ 57,056.22	\$ 69,758.35	22.3%
Westmoreland	\$ 35,071.34	\$ 46,920.01	33.8%
Westwood	\$ 205,089.57	\$ 259,847.44	26.7%
Westwood Hills	\$ 19,946.67	\$ 19,833.44	-0.6%
Williamsburg	\$ 16,967.09	\$ 16,972.88	0.0%
Wilson	\$ 48,036.34	\$ 59,906.37	24.7%
Winfield	\$ 1,382,348.64	\$ 1,515,877.36	9.7%
Yates Center	\$ 223,326.83	\$ 262,139.50	17.4%
	\$ 568,693,846.62	\$ 656,377,587.67	15.4%

# The Growth of Multichannel Retailing

*A Forrester document prepared for: National Governor's Association  
and the National Conference of State Legislatures*

Prepared by: Carrie Johnson, Senior Analyst, Forrester Research, Inc.

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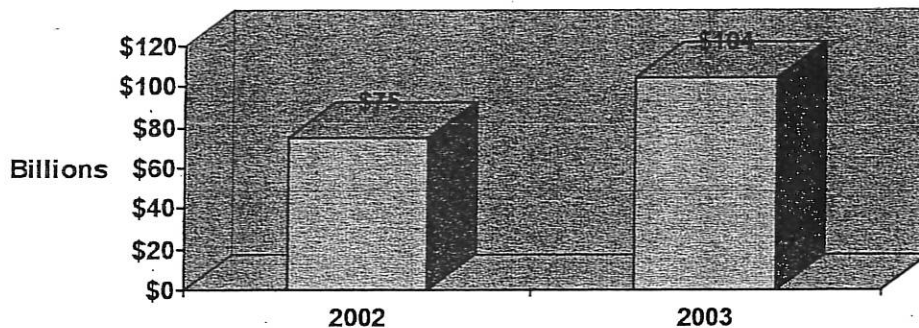
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## I. eCommerce in 2003: A bright spot in the retail industry

Despite a difficult economic environment, war, and waning consumer confidence, online consumers opened up their wallets and continued to shop online at record rates in 2003. Online business-to-consumer sales reached approximately \$104 billion in 2003, a 39% increase over 2002 sales of \$75 billion (see Figure 1).<sup>1</sup> Forrester's eCommerce numbers differ dramatically from the Department of Commerce numbers, which concluded that 2003 eCommerce sales reached \$54.9 billion because Forrester includes online travel and auction gross merchandise sales while the DOC does not. We estimate 2003 auction sales reached \$20 billion and that travel sales hit \$27 billion. Subtracting these sales puts Forrester's figure at \$57 billion, much closer to the DOC's \$54.9 billion.

Figure 1: 2002-2003 Online Business-To-Consumer Sales



The details of the year include: Online sales hit the ground running in Q1 and, unlike years past, never slowed down. Q1 sales totaled \$24 billion, Q2 matched that number, Q3 sales shocked nearly all online retailers, coming in at \$26 billion, and Q4 sales held strong at \$30 billion. What fueled the growth? Sales in new categories like apparel, home décor, sporting goods, and healthy and beauty. These categories benefited from the changing demographics of online shoppers: In 2003, women represented 52% of online buyers, outnumbering men and buying more items for the family and home.

To push online sales in Q4, online retailers pushed innovative, aggressive promotions out early this year. To urge consumers to shop early and make sure they weren't enticed to shop in stores, retailers looked beyond simple free shipping deals -- Brooksbrothers.com ran 48-hour sales, Homedepot.com ran one-day sales, and Walmart.com offered \$0.97 shipping on select toys. The promotions worked and bad weather helped: During the weekend after Thanksgiving, more consumers shopped online than in department stores.

<sup>1</sup> Source: The January 23, 2004 Forrester Brief "2003 eCommerce: The Year In Review." To compile quarterly sales results, we look at sales of leading online retailers like Amazon.com and eBay, as well as published eCommerce sales numbers from comScore.

**Figure 7: Broadband Creates Smarter Shoppers**

	Broadband tenure					All with broadband
	Less than 1 year	1-2 years	2-3 years	3-4 years	4 years or more	
Amount of time I spend online	53%	58%	60%	63%	59%	58%
Number of sites at which I research products	48%	57%	58%	58%	64%	56%
Amount of time I spend researching products online	43%	49%	53%	58%	59%	51%
Types of tools I use at retailer sites	30%	35%	38%	40%	47%	37%
Amount of money I spend online	20%	28%	48%	48%	54%	37%
Number of products I purchase online	20%	29%	40%	45%	52%	35%
Number of retailers from which I purchase products	19%	30%	43%	41%	49%	35%
Variety of products I purchase online	19%	24%	39%	39%	49%	32%

Base: North American online consumers with broadband access

### III. Multichannel retailing: Overview

Originally, Web sales were dominated by pure-play retailers – retailers that only sold goods online like Amazon.com and Pets.com. As many of these companies went out of business due to overspending and the stock market correction in 2000, multichannel retailers rose to fill the gap in sales left behind by those retailers. And as multichannel retailers fine-tuned their online selling strategies, consumers became comfortable shopping online with these retailers that they knew and trusted. Online sales now closely mirror offline sales: With the exception of online sellers Amazon.com and eBay, the majority of online sales are closed by the same retailers that dominate offline sales.

The percentage of total online sales attributed to multichannel retailers continues to rise: According to the *State Of Retailing Online 6.0*, a Shop.org survey conducted by Forrester, sales from multichannel retailers accounted for 72% of online sales in 2002 and 75% in 2003 (see Figure 8).<sup>3</sup> This trend will remain strong but mostly stable, with minimal growth each year as the trend of retailers adding channels continues: Most pure plays have launched catalogs and some have even opened stores, making the number of true online-only retailers quite small. Overall, multichannel retailer sales grew by 59% in 2002 over 2001, and held strong at 32% growth in 2003. In contrast, sales by Web-based retailers grew at a rate of just 13% in 2003.

Who are these multichannel retailers? They are the same retailers that succeed offline – Target, Wal-Mart, and Sears, for example. Offline, these retailers have average sales of approximately \$11.8 billion.<sup>4</sup> Of the top 100 retailers, 66% currently sell online, with average sales hitting the \$100 to \$250 million range. Over the past two years, these

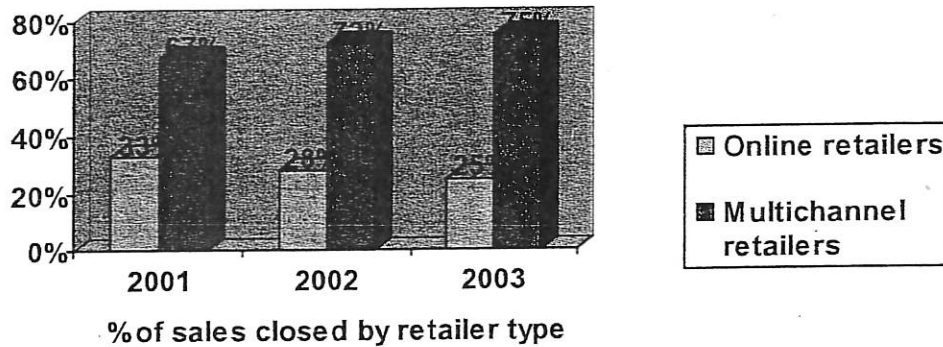
<sup>3</sup> Source: *The State of Retailing Online 6.0*, a Shop.org survey conducted by Forrester Research.

<sup>4</sup> We used the 2003 annual STORES magazine ranking of the top 100 retailers to arrive at this figure.



multichannel retailers have altered their online selling strategies dramatically in response to consumer demand, as discussed in the following sections.

**Figure 8: Multichannel retailers dominate Web sales**



#### **IV. Multichannel retailing: Consumers that research online and buy offline**

As a result of retailers' efforts to make consumers comfortable shopping with online stores that also have offline presences, consumers frequently research items online and buy them offline -- we call these consumers cross-channel shoppers. 51% of online consumers in North America participate in this behavior, or 32 million shoppers. These 32 million cross-channel shoppers are a great target for retailers. With an average age of 43 and an average household income of \$67,400, these consumers are three years younger and have a household income 18% higher than that of online consumers who haven't recently researched an item offline and subsequently purchased that product offline.

Consumers willing to take the time to research a specific product online before they purchase the product offline are careful about how they spend their money. In fact, 81% of cross-channel shoppers know the prices of most things they buy, and 81% also report that they carefully compare prices before they make a purchase.

Cross-channel shopping isn't limited to consumers who research cars or computers online to purchase those high-ticket items offline (see Figure 9). There's much more to this behavior: Most product categories draw millions of consumers who will research those products online and then buy them in their local stores.

**Figure 9: The products that consumers research online and buy offline**

<i>Percent of consumers that have researched these products online and bought offline</i>	
Consumer electronics	12.1%
Computer hardware	9.1%
Toys	6.0%
Books	5.9%
Automobiles	4.8%
Software	4.3%
Major appliances	4.0%
Home improvement	3.9%
Small appliances	3.8%
DVDs (not including DVD player)	3.6%
Travel arrangements	3.5%
Music	3.3%
Video games	3.1%
Office supplies	2.7%
Clothing accessories	2.1%
General apparel	1.7%
Movie tickets	1.7%
Automotive parts/accessories	1.5%
Sporting goods	1.5%
Nonprescription health and beauty	1.3%
Prescription medicines	1.2%
Linens/home décor	1.2%
Jewelry	1.1%
Furniture	1.1%
Footwear	1.1%
Lawn and garden supplies	1.0%
Concert/sports tickets	1.0%
Cosmetics/fragrances	0.9%
Videos	0.9%
Food and beverages/groceries	0.9%
Flowers	0.6%
Magazine/newspaper subscription	0.3%
Base: North American cross-channel shoppers	

Cross-channel shoppers have many demands: The ability to buy an item online and return it to the store is the number one multichannel feature that consumers consider to be important (see Figure 10). In a recent survey of online consumers, we have found that just 11% of consumers have bought an item online and picked it up in the store. However, proving again that cross-channel shoppers are the most valuable shoppers, these consumers are younger, wealthier, and spend more online than the general population (see Figure 11).

DRAFT

P. M.

**State and Local Sales Tax Revenue Losses from E-Commerce:  
Estimates as of July 2004**

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by

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**July 2004**

Table 3: Combined State and Local Revenue Losses from E-Commerce - 2003

(Millions)	Low-Growth Scenario		High Growth Scenario	
	Total	New	Total	New
AL	205.9	108.5	214.5	112.9
AR	165.8	87.4	172.8	90.9
AZ	377.3	198.9	393.2	206.9
CA	2,129.3	1,122.6	2,218.9	1,167.4
CO	248.2	130.8	258.6	136.1
CT	226.9	119.6	236.4	124.4
DC	43.9	23.2	45.8	24.1
FL	1,072.7	565.5	1,117.8	588.1
GA	511.4	269.6	532.9	280.4
HI	112.6	59.4	117.3	61.7
IA	125.4	66.1	130.7	68.8
ID	57.6	30.4	60.1	31.6
IL	501.3	264.3	522.4	274.8
IN	279.3	147.3	291.1	153.1
KS	156.8	82.6	163.4	85.9
KY	187.4	98.8	195.2	102.7
LA	366.5	193.2	381.9	200.9
MA	245.7	129.5	256.1	134.7
MD	232.8	122.7	242.6	127.6
ME	58.9	31.1	61.4	32.3
MI	500.6	263.9	521.7	274.5
MN	331.2	174.6	345.1	181.6
MO	272.8	143.8	284.3	149.6
MS	167.7	88.4	174.8	92.0
NC	341.8	180.2	356.2	187.4
ND	31.9	16.8	33.2	17.5
NE	109.4	57.7	114.0	60.0
NJ	404.6	213.3	421.7	221.8
NM	124.0	65.4	129.2	68.0
NV	159.1	83.9	165.8	87.2
NY	1,098.3	579.0	1,144.5	602.1
OH	525.7	277.1	547.8	288.2
OK	167.9	88.5	175.0	92.1
PA	509.1	268.4	530.5	279.1
RI	51.5	27.1	53.6	28.2
SC	179.4	94.6	186.9	98.3
SD	42.0	22.2	43.8	23.0
TN	436.3	230.0	454.7	239.2
TX	1,419.4	748.3	1,479.1	778.2
UT	129.1	68.1	134.6	70.8
VA	256.0	135.0	266.8	140.4
VT	25.4	13.4	26.4	13.9
WA	488.2	257.4	508.7	267.6
WI	264.3	139.3	275.4	144.9
WV	77.5	40.9	80.8	42.5
WY	36.8	19.4	38.4	20.2
US	15,455.7	8,148.2	16,106.1	8,473.6

Source: Authors' calculations.