

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 9, 2007 in Room 519-S of the Capitol.

All members were present except:
Representative Kenny Wilk- E

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Representative Lee Tafanelli
Kathy K. Wagner, Jefferson County Appraiser
Paul Welcome, Kansas County Appraisers Association (KCAA) (written only)
Whitney Damron, ONEOK, Inc.
Thomas L. Byers, Magelian Midstream Partners (written only)
Mary Lyman, National Association of Publicly Traded Partnerships (written only)
David Kerr, KDOR

Others attending:
See attached list.

HB 2549 - Property taxation; relating to valuation of vessel

Chris Courtwright briefed the committee on the bill which deals only with a personal property taxation process, enacted in 2002, for watercrafts and vessels through a pro-ration scheme. He explained the background of the statute, 30-day window time line, and the assessed penalties and interests for delinquent taxes.

The Chairman opened the hearing on **HB 2549**.

Representative Lee Tafanelli, testified that the bill's intent is to simplify current law concerning property taxation of watercraft in Kansas. Eliminating the 30-day reporting window will not reduce the amount of property taxes collected but will serve both boat owners and country appraisers well by reducing the confusion surrounding this deadline. He concluded by saying that he would be glad to work with interested parties to draft a more definitive bill if necessary (Attachment 1).

Kathy K. Wagner, Jefferson County Appraiser explained that the current law is confusing at the county level, due to public unawareness of the 30-day limitation. They have made concerted efforts to educate the public through multiple methods, to achieve an accurate tax roll. She expressed concern that if that time frame is removed completely, the time line is totally open-ended and effectively alleviate that taxpayer of reporting responsibilities (Attachment 2).

It was noted that written testimony was received and submitted from Paul Welcome, KCAA, who made the suggestion the effective date and the time frame be changed (Attachment 3).

After discussion, Ms. Wagner responded that in her opinion repealing the pro-ration formula would be a better option. She voiced concern that if the bill was to become effective January 1, 2007 the information currently being distributed would be incorrect, thus creating more confusion, therefore she suggested January 1, 2008. She also suggested that December 1st or the 20th would be an more timely deadline.

David Kerr, reiterated the Committee's dilemma in 2002, and said that the problem basically can be tied to an lack of paper trail to the actual sale date of the watercraft, due to communication and process breakdown between state agencies.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 9, 2007 in Room 519-S of the Capitol.

The Vice-Chair closed the hearing on HB 2549.

HB 2529 - Exemption on publicly traded partnerships from certain income tax withholding requirements.

Chris briefed the committee on the bill, which is legislation similar to that approved by a number of other states to address business complexities. It has a minimal effect on the general budget.

The Vice-Chair opened the hearing on HB 2529.

Whitney Damron, ONEOK, Inc. said that on page 2, lines 5-7 is a proposed exemption for PTP's from the filing requirements for traditional partnerships. The proposed legislation is similar to amendments adopted by other states facing those same reporting requirements and has been drafted through efforts between the PTP's and the Kansas Department of Revenue. He introduced Steve Johnson, from ONEOK, Inc. who would be available to answer questions (Attachment 4)

It was noted that written testimony had been submitted and distributed in support of HB 2529 from Thomas L. Byers, Magellan Midstream Partners (Attachment 5) and Mary Lyman, National Association of Publicly Traded Partnerships (Attachment 6).

Richard Cram rose in support of HB 2529 and said the Department was in agreement with its intent.

The Vice-Chair closed the hearing on HB 2529.

HB 2430 - Increase of maximum refund and determination of the amount of claim under the homestead property tax refund act.

The Vice-Chair returned to discussion on the bill.

Chris Courtwright reviewed the bill, which would increase the refund from \$600 to \$750. He briefed on details and said the fiscal impact would be an additional \$22.3 million to current law, bringing the total to \$42.9 million for the total homestead program.

The Vice-Chair advised the Committee they would not vote on the bill today, but that further dialogue would result in a proposed substitute bill for review and final action at a later time. He reviewed previous amendments and motions from the March 6th meeting. Representative Tom Holland was given the floor.

Representative Holland said that in light of additional information gained from several conversations with department staff he believed it prudent to withdraw his motion that would have put a mechanism in place whereby the Department of Revenue would process Homestead refunds. Representative Goyle also withdrew his second. His motion was removed.

Representative Holland made a motion to amend this program be applicable only for homestead owners that have a maximum appraised property value of \$350,000 or less. Representative Davis seconded the motion.

Representative Treaster made a substitute motion that a five year sunset be added to the subsequent policy of Representative Hollands amendment. Representative Goyle seconded the motion. The motion carried. Representative Siegfroid requested that his yea vote be recorded.

The Vice-Chair requested staff draft a substitute bill that reflects the above changes as well as provide the fiscal impact of the new bill. This substitute bill would be reviewed at later time.

The Vice-Chair closed discussion on HB 2430 and adjourned the meeting at 10:20 a.m. The next meeting is March 12, 2007.

TAXATION COMMITTEE

DATE: MARCH ⁹ 12, 2007

NAME	REPRESENTING
Kathy K. Wagner	Jefferson County (Appraiser)
Jack Blawie	D C P Midstream
Steve Johnson	ONEOK PARTNERS
Whitney Damm	ONEOK, INC.

STATE OF KANSAS

House of Representatives

TOPEKA ADDRESS:

STATE CAPITOL—514-S

TOPEKA, KANSAS 66612

(785) 296-7639

TOPEKA HOTLINE

DURING SESSION: 1-800-432-3924

OZAWKIE ADDRESS:

7075 122nd STREET

OZAWKIE, KANSAS 66070

(785) 945-3808

E-Mail: tafanelli@house.state.ks.us



THE CAPITOL

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APPROPRIATIONS**CHAIRMAN**
TRANSPORTATION & PUBLIC SAFETY BUDGET**OTHER COMMITTEES**
GOVERNMENT EFFICIENCY & TECHNOLOGY
JOINT COMMITTEE ON KANSAS SECURITY**Lee Tafanelli***Representative, Forty Seventh District*

March 9, 2007

TESTIMONY IN SUPPORT OF HB 2549

Vice Chairman Carlson and Members of the Tax Committee

Thank you for the opportunity to testify here today in support of HB 22549. This legislation is to simplify current law concerning the property taxation of watercraft in Kansas. Currently, Kansans must notify their county appraisers within 30 days when they buy or sell a boat. This allows property taxes due on the vessel to be pro-rated between the seller and buyer. However, that pro-rating has been withheld when the 30-day reporting window is missed. This bill simply eliminates that reporting window.

Confusion about the current law came to light after the Kansas Board of Tax Appeals (BOTA) issued an order on a tax grievance case that lead the Kansas Department of Revenue to instruct county appraisers to not prorate the value of a watercraft when the owner fails to notify the county of its sale within the statutory time frame.

Eliminating the 30-day reporting window will not reduce the amount of property taxes collected but will serve both boat owners and county appraisers well by reducing the confusion surrounding this deadline.

Mr. Chairman, members of the Committee, thank you again for the opportunity to appear before you today and I ask for your support of HB 2549.

A handwritten signature in cursive script, appearing to read 'Lee Tafanelli'.

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ATTACHMENT 1

House Bill No. 2549

To: Members of the House Taxation Committee

From: Kathy K. Wagner, RMA
Jefferson County Appraiser

Date: Friday, March 9th, 2007

Time: 9:00AM

As Jefferson County is home to Lake Perry, the Appraiser's Office is responsible for listing and valuing approximately 5,900 watercraft items, which accounts for over \$5,300,000 in assessed valuation. So statutes concerning boats and watercraft are of great interest to those of us living in Jefferson County.

As an administrator of K.S.A. 79-306e concerning the pro-ration of watercraft, our office is continually trying to educate the public on the current 30-day rule regarding the pro-ration of watercraft for tax purposes.

To educate the public, and to help us in trying to achieve an accurate tax roll, our office has tried to be proactive by doing the following:

- Distributing flyers to marinas to be posted at their locations;
- Press releases have been placed in the local newspapers;
- Information has been added to the Jefferson County web-site;
- An insert has been enclosed with all tax bills;
- A letter is sent to property owners who currently have personal property listed with our office when we mail our Tangible Personal Property Ad Valorem Tax Returns (a.k.a. "renditions") which are due back into our office by March 15th;
- As we discover watercraft (typically from a quarterly list of registration data provided by the Kansas Department of Wildlife and Parks) the watercraft is added to our appraisal tax rolls and we mail a notice to the taxpayer informing them of their reporting responsibilities.

A major concern I have with House Bill No. 2549, *as it is currently proposed*, is that the time frame "within 30 days" has been removed. This leaves the timeline totally open-ended. And, as another County Appraiser pointed out to me, it effectively alleviates the taxpayer of any reporting responsibilities.

The statutory process of discovering, listing and valuing personal property accurately is already a difficult task. (Ask any County Appraiser) An open-ended reporting process will make the job much more difficult and potentially lead to administrative problems and a loss of revenue for the County.

An example that comes to mind is: What would happen when a watercraft owner brings in a bill-of-sale more than a year after it was sold?

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ATTACHMENT 2

This would typically mean that the property owner has let his or her tax bill go delinquent. If the proposed law went into effect, *as is*, an abatement of taxes would need to be processed. With an open-ended timetable this could possibly be *years* after the watercraft was sold. An abatement is initiated by our office, processed by the Clerk's Office, signed off by the County Commissioners, and finally sent onto the Treasurer's Office, where penalties and interest have been accruing since the delinquency started.

In a situation like this, I wonder if the property owner would still be responsible for penalties and interest that accrued on delinquent taxes because this was not handled in a timely manner?

Even without the added administrative burdens put on numerous County Offices, this delay in reporting potentially creates an inaccurate tax roll. The County has levied against those past years, which by abating the delinquent taxes would cause additional loss in revenue.

I believe it's very important that the Taxation Committee put some kind of timeline or date back into the proposed House Bill 2549. One option would be that the timeline could be extended to 60 or 90 days, to give the taxpayer more time to notify the Appraiser's Office. This would alleviate part of the problem of having to abate taxes on a class of properties after tax bills have already gone out, but unfortunately may not alleviate the current problem of taxpayers not getting the information to us timely.

Another option would be to simply establish a definitive reporting date within the current tax year. For example: December 1st *or* on or before December 20th.

Prior to prorating watercraft, the law was much simpler and straightforward. The taxpayer was required to report their watercraft as of January 1st, just as other personal property that must be reported to our office. Many County Appraisers that I have talked with recently have expressed that they preferred this reporting method to the current proration law.

I am sure that there are several valid, workable alternatives. But in the end, I just want to emphasize that I feel it would be a mistake to revise this Bill in a way that removes any notion of date, time or deadline. We really do need timely information in order to do our jobs.

In conclusion, I would ask that you take my testimony into consideration and would also like to thank the Chairman and members of the Committee for allowing me to provide testimony.

TO: House Taxation Subcommittee

FROM: Paul Welcome, CAE, ASA, RMA

RE: **House Bill No. 2549**

DATE: March 9, 2007

My name is Paul Welcome, KCAA Lobbyist and I am expressing concerns with HB 2549 in writing.

Paragraph (b) states:

(b) On or after July 1, 2007, notice of the acquisition or sale of any such vessel shall be provided by the record owner thereof to the appropriate county appraiser within 30 days after such acquisition or sale. Upon receipt of such notice, and after computation of the value of any such vessel in accordance with the provision of subsection (a), a notification or revised notification of value shall be mailed to the taxpayer.

It is suggested that the wording be changed as follows:

(b) On or after ~~July~~ *January* 1, 2007, notice of the acquisition or sale of any such vessel shall be provided by the record owner thereof to the appropriate county appraiser ~~within 30 days~~ *on or before December 31st* ~~after~~ *of the year of such* acquisition or sale. Upon receipt of such notice, and after computation of the value of any such vessel in accordance with the provision of subsection (a), a notification or revised notification of value shall be mailed to the taxpayer.

The effective date January 1, 2007 is suggested to clearly delineate the effective year and help eliminate confusion with a split-year concept. Other dates you may wish to consider are December 1st, December 20th (which is the date that the first half of the tax bill is due) and December 31st (calendar year end) as the final date for notification to the County Appraiser's Offices. These dates are important in preparing tax bills for our constituents and should be more easily remembered by them.

The resulting effects of these changes will aid County Appraiser's Offices in minimizing tax bill errors.



TESTIMONY

**TO: The Honorable Kenny Wilk, Chair
And Members of the House Taxation Committee**

**FROM: Whitney Damron
On behalf of
ONEOK, Inc. (ONEOK Partners, L.P.)**

**RE: HB 2529 - An Act concerning income tax; relating to withholding
thereof; publicly traded partnerships.**

DATE: March 9, 2007

Good morning Chairman Wilk and Members of the House Taxation Committee. I am Whitney Damron and I appear before you this morning on behalf of ONEOK, Inc., (NYSE: OKE) and its subsidiary partnership, ONEOK Partners, L.P. (NYSE: OKS) in support of HB 2529 that would exempt publicly traded partnerships from certain tax withholding and reporting requirements.

With me today is Mr. Steve Johnson with ONEOK, Inc., who will also be available to respond to the Committee's questions at the conclusion of my testimony.

Publicly traded partnerships (PTP's), also known as master limited partnerships or MLP's, are limited partnerships, the interests in which (units) are traded on public exchanges (i.e., NYSE, American & NASDAQ). Under section 7704 of the Federal Internal Revenue Code, PTP's are taxed as partnerships as long as they meet certain statutory requirements. Today, there are currently 70 publicly traded limited partnerships in the United States, of which 17 have operations in Kansas.

Under the Federal tax code, a partnership that is publicly traded must receive 90 percent of its income from specified sources in order to be treated as a partnership rather than a corporation. These qualified sources include mineral or natural resources activities, such as exploration, production, mining, refining, marketing and transportation of oil and gas (including pipelines), minerals, geothermal energy, timber and real property.

PTP's provide a structure for companies to raise large amounts of capital that are then used to build or buy capital-intensive assets like pipelines. However, PTP's must be able to attract investors by providing regular cash distributions to unitholders in addition to offering growth potential. This is possible because the PTP itself does not pay tax, as PTP's are pass-through entities for tax purposes.

Income is considered earned by all of the partners; it is allocated among all partners in proportion to their interests in the partnership; and, each partner pays tax on his or her share of the partnership. All the typical items that go into determining taxable income and tax owed are passed through to the partners – capital gains and losses, deductions, credits, etc. Individual unitholders are then required to remit any tax required under the tax laws of the states where that particular publicly traded partnership operates.

Under Kansas law, specifically in K.S.A. 2006 Supp. 79-32,100e, a partnership is required to file certain returns on behalf of non-resident partners and then withholding taxes on their distributions. That might be feasible if a PTP were a traditional partnership with a small number of partners. However, PTP's have tens of thousands of unitholders, perhaps many times that number. This is complicated further when one considers that a PTP only knows who these unitholders are on one day of the year. This is because most PTP's are held in a "street name" by brokers; and because of the fact that PTP's are traded, means that ownership changes daily. PTP's have no way of knowing at a given point in time during the year who owns their units, how many units they own or where they live.

Brokers furnish a PTP with unitholder information once a year to enable each PTP to send out K-1 forms for Federal tax filing. PTP's cannot send out quarterly withholding because they have no way of knowing with any degree of accuracy who owns the units or how many they own. This is further complicated due to the fact that as a partnership, partners pay tax on their allocated share of the partnership's income and gain, less their share of depreciation, losses and other offsets. This information is only available at the end of the year, not on a quarterly basis.

As a result of the virtual impossibility of complying with these kinds of statutes across the country, the National Association of Publicly Traded Partnerships has approached various states with laws similar to Kansas to seek a change in the reporting requirements for PTP's.

On behalf of ONEOK Partners and other PTP's operating in Kansas, we approached the Kansas Department of Revenue and inquired about a similar amendment to Kansas law. What you have before you in HB 2529, on page two of the bill on lines 5-7 is a proposed exemption for PTP's from the filing requirements for traditional partnerships that was worked out between the PTP's and the Kansas Department of Revenue.

Finally, the Division of Budget indicates the loss of revenue to the State General Fund "is expected to be insignificant".

Mr. Chairman and Members of the Committee, that concludes my remarks in support of HB 2529 and our reasoning behind our request for your favorable consideration of this legislation.

Mr. Johnson and I are available to respond to your questions. Thank you for your consideration of our testimony this morning.

Whitney Damron

Publicly Traded Partnerships currently with investments in Kansas:

CharterMac
Crosstex Energy, L.P.
Dorchester Energy Partners, L.P.
Enbridge Energy Partners, L.P.
Enterprise Products Partners, L.P.
Ferrellgas Partners, L.P.
Genesis Energy, L.P.
Kinder Morgan Energy Partners, L.P.
Magellan Midstream Partners, L.P.
ONEOK Partners, L.P.
Plains All American Pipeline, L.P.
Suburban Propane Partners, L.P.
TEPPCO Partners, L.P.
Universal Compression Partners, L.P.
Valero, L.P.
W. P. Carey & Co., LLC
Williams Partners, L.P.



SUBMITTED TESTIMONY

TO: The Honorable Kenny Wilk, Chair
And Members of the
House Taxation Committee

FROM: Thomas L. Byers
On behalf of
Magellan Midstream Partners, L. P.

RE: HB 2529 - Exemption of publicly traded partnerships from certain
income tax withholding requirements.

DATE: March 9, 2007

Chairman Wilk and Members of the House Taxation Committee:

On behalf of Magellan Midstream Partners, L. P., I am submitting this statement in support of HB 2529 that would exempt publicly-traded partnerships from certain state income tax withholding requirements.

Magellan Midstream Partners, L. P. is a publicly traded partnership headquartered in Tulsa, Oklahoma. We primarily transport, store and distribute refined petroleum products. We own and operate approximately 1,950 miles of refined products pipeline in Kansas along with 8 refined products terminals that are located throughout the state. Company-wide our assets include 8,500 miles of refined products pipeline and 81 terminals.

We have worked with representatives of other publicly traded partnerships in Kansas in drafting this legislation and will let those testifying today provide you with the substantive comments explaining why this change to K.S.A. 2006 Supp. 79-32,100e is needed.

Through this testimony, we wish to express our support for their comments and this legislation.

We appreciate the willingness of the Kansas Department of Revenue to work with publicly traded partnerships operating in Kansas on this legislation and also appreciate the Committee's willingness to consider HB 2529.

Thank you.

A handwritten signature in black ink, appearing to read "Thomas L. Byers", is written over a horizontal line.

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ATTACHMENT 5**

NATIONAL ASSOCIATION OF PUBLICLY TRADED PARTNERSHIPS

March 08, 2007

The Honorable Kenny Wilk &
Members of the Committee on Taxation
Kansas State Legislature
300 SW 10th Street
Topeka, KS 66612

RE: Support of HB 2529, an Act concerning income tax; relating to withholding thereof; publicly traded partnerships; amending K.S.A. 2006 Supp. 79-32,100e and repealing the existing section.

Dear Chairman Wilk & Members:

On behalf of the National Association of Publicly Traded Partnerships, I would like to express our gratitude for your consideration of HB 2529 and ask for the Committee's support of the legislation

The National Association of Publicly Traded Partnerships is a trade association representing the interests of publicly traded partnerships, their employees and their investors. Our membership includes several publicly traded partnerships with operations in Kansas.

Over the past several years, the Association has actively been working with publicly traded partnerships in those states with composite return and withholding requirements to address the unintended consequences of the provision that negatively impact publicly traded partnerships and potentially create a burdensome and costly administrative requirement for state Departments of Revenue.

The Association would like to thank the Committee on Taxation for its consideration of HB 2529. The bill as introduced will address our concerns in regard to the current composite return and withholding requirements. Further, the Association supports the testimony offered by Oneok Partners, L.P. and other publicly traded partnerships before the Committee.

Again, the Association appreciates the Committee's consideration and looks forward to working with the state on this issue over the coming months. I would be happy to address any questions you might have regarding this issue. I can be contacted at 202-973-4515.

Sincerely,

Mary Lyman
Executive Director
National Association of Publicly Traded Partnerships

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