

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 15, 2007 in Room 519-S of the Capitol.

All members were present except:

Representative Richard Carlson- E
 Representative Paul Davis- E
 Representative Gary Hayzlett- E

Committee staff present:

Chris Courtwright, Legislative Research Department
 Martha Dorsey, Legislative Research Department
 Gordon Self, Office of Revisor of Statutes
 Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagnon, KDOR

Others attending:

See attached list.

The Chairman invited Secretary Wagnon to the podium to present a briefing on Sales Tax Exemptions (Attachment 1).

Secretary Wagnon, KDOR, presented the background on the Hodge Commission recommendations, made in 1970, regarding an extensive revision on the sales tax exemptions.

She stated that the current trend is to approve every request, thus narrowing the tax base. The other problem that arises with the current practices of approving any and all who come forth, is the lack of consistency in state policy.

She proposed that the Committee may want to consider a new policy direction, and at the Chairman's request she has analyzed the current exemptions and provided some generic criteria that the legislature could consider to reverse this current practice.

The first step is figuring out what should be exempt.

The second is determining whether to exempt purchases only, or also sales, and things purchased by a contractor or similar on their behalf.

She proposed the following legislation:

- 1) This would apply to organizations that are recognized by the IRS as 501c3, and are registered with the Secretary of State.
- 2) The Revenue Department would need authority to promulgate rules and regulations on how agencies apply for exemptions, and how those exemptions are reviewed, and appealed.
- 3) Statute should give the authority to KDOR to issue an exemption based on the generic description of the kind of organizations and services that would be exempted.
- 4) In most cases, only purchases by the agency would be exempt; not things they sell.
- 5) She provided a list of suggested organizations to be included in the approved list:
 - Health Organizations *
 - Adoption and Foster Care Providers
 - Aging Services *
 - Disability Services *
 - Housing
 - Child & Family Welfare Agencies *
 - Food Banks and Food Programs
 - Domestic Violence programs *
 - Drug Abuse and Alcoholism Addiction Services *

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 15, 2007 in Room 519-S of the Capitol.

Homeless Assistance *
Youth programs
Zoo and Animal Shelters
* **purchases only**

She provided a list of organizations the Committee might want to exclude. Included in her testimony was a list of all statutes, descriptions of exemption or exclusion, date of recent revision, and percentage and dollar amounts for each statute.

Discussion followed regarding procedure options for the Committee's consideration. They could craft a new bill, or leave exemptions as they stand. With a show of hands, most Committee members voted to undertake a review and possible major revision of the current tax exemption laws. The Chairman advised that they would return to the subject at a later date.

A copy of the **Substitute for House Bill 2430** was distributed to the Committee (Attachment 2).

The meeting was adjourned at 9:55 a.m. The next meeting is March 16, 2007.

March 15, 2007

Memo to House Taxation Committee regarding Sales Tax Exemptions
From Secretary Joan Wagnon

Background

In 1970 when the Hodge Commission studied the tax system they tried to examine the philosophy, equity, effectiveness of administration, and the relationship of the taxes to the goal of adequately financing governmental needs without adversely affecting economic growth. They recommended extensive revisions including

- o eliminating all sales tax exemptions for purchases by religious, benevolent and charitable institutions.

These organizations are still exempt from federal and state income taxes and in many cases, Kansas property taxes. The committee found that the imposition of sales taxes represented a reasonable contribution to the costs of government by the otherwise tax exempt organizations.

Today the list of charitable exemptions has grown to about \$26 million annually. Each year more and more organizations request exemption. It becomes difficult to “draw the line” and say yes to some, and not to others.

One of the most difficult things for a legislator or legislature to do is turn down requests for exemptions, particularly if the request is for a worthy cause or organization.

The current trend is to approve every request, thus narrowing the tax base. Each of these requests, no matter how small, added to the others soon becomes a large amount – and represents money that won’t be available for other state priorities, like education, health care, etc.

The other problem that arises with the current practices of approving any and all who come forth, is the lack of consistency in state policy. For example, if one organization is taxed and another similar organization is exempt, is that fair? Desirable?. Some might even go further than raising questions of fairness, to raising constitutional questions of equal protection.

A new policy direction

However, if the legislature adopted criteria for measuring the eligibility of the organization for exemptions, then those exemption determinations can be made by the Department of Revenue thus relieving legislators of the problem of saying “no” to valued constituents. Of course, if the organization doesn’t like the department’s ruling, they can still appeal to the legislature for relief.

The committee asked me to try to analyze the current exemptions and give you some generic criteria that the legislature could consider to reverse this current practice. Here is a description of a proposed bill and a generic list of non-profit functions, from which you can choose priorities to include in a bill. It is probably not all-inclusive, but based on past legislative actions, and seems to represent those kinds of activities the legislature is inclined to support. At the end of this list of generic exemption criteria are some suggested repealers .

The first step is figuring out what should be exempt.

The second is determining whether to exempt purchases only, or also sales, and things purchased by a contractor or similar on their behalf.

Proposed Legislation

1. This would only apply to organizations that are recognized by the IRS as 501c3, and are registered with the Secretary of State , and have a current annual report on file with them. Proof of 501 c 3 status and current filing with Secretary of State would be required to obtain an exemption.

2. Revenue would need authority to promulgate rules and regulations on how agencies apply for an exemption, and how those exemptions are reviewed, and appealed, through our existing informal hearing process, to Secretary of Revenue, and appeal to BOTA. Agencies would have to verify in the application that they meet the statutory criteria. Rules and regs would further define the statutory criteria with specific examples of the kinds of services that would be exempt. Legislature would have the opportunity through the rule/reg process to review the agency's work. We would need an enactment date in the future far enough to get the regulations promulgated before starting. I would suggest January 1, 2008.

3. Statute should give the authority to KDOR to issue an exemption based on the generic description of the kind of organizations and a description of the kind of services that would be exempted. If the agency provides more than one type program, the exemption would only apply to the program meeting the criteria, rather than the entire agency. It could also specifically exclude some kinds of services if you wish to eliminate organizational sales, service clubs, etc. I have a couple of recommendations on that.

4. In most cases, only purchases by the agency would be exempt; not things they sell.

5. Suggested organizations to include in the approved list:

Health Organizations: (purchases only, not sales or "on behalf of")¹

- Indigent Health clinics (definition attached)
- Rural Health Clinics (see definitions attached)

¹ The "on behalf of" language allows an organization to get its purchases exempted even if purchased by someone other than the agency, such as a contractor to build facilities, etc. Usually construction-related.

- Faith Based Clinics (see definitions attached)
- Aids/HIV prevention programs
- Community Mental Health Centers and organizations serving mentally ill persons
- National Health Organizations raising money for research into various diseases: Cancer, Heart, Diabetes, etc. Many of these are exempted in 3606 vv.

Adoption and Foster Care Providers

If participating in state contract – both purchases, services and construction (on behalf of). This will leave out private agencies or services by social workers, lawyers, etc. that do private adoptions and will focus on kids in state custody.

Aging Services: purchases only

Area Agencies on Aging
 Congregate meal sites
 Home delivered meals (could be for elderly or disabled)

Disability Services, purchases only

Organizations providing either health, employment, recreation or social services to disabled children, adults, or veterans.

An example of one such organization that is already exempted by name is providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family. Another is Special Olympics.

Housing – purchases, either direct or on-behalf of

Organizations, such as Habitat for Humanity, Mennonite Housing that build, or purchase and repair, or weatherize homes for the poor or elderly or lower-income families. Habitat is currently exempt by name.

Child & Family Welfare Agencies-- purchases only, except “on-behalf of” for construction of emergency shelters for children or residential treatment facilities

Providers of child abuse prevention, family preservation, kinship care, family resource centers,
 Residential treatment centers for children with special emotional and behavioral needs

Food Banks and Food programs serving low-income people

Community based, or faith based

Domestic Violence programs , purchases only

Prevention of violence through public education
 Emergency shelter
 Batterers program
 Counseling and other supportive services
 Services to children in violent families

Safety programs for children and families

Drug Abuse and Alcoholism Addiction Services, purchases only

Do you want to include? This would broaden the base. Many are included under hospitals or other medical programs.

Homeless Assistance programs, including shelters , purchases only

Other Poverty assistance programs that aid low income people and help them get out of poverty – purchases only

Youth programs (multidisciplinary nonsectarian youth programs) –purchases only. This includes day care centers, Girl Scouts, Boys and Girls Clubs, etc. Currently exempted under (ii). May need to rework the language.

Zoos and Animal Shelters? Zoos are currently exempt; animal shelters are not.

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Here are some of the entity-specific exemptions that are in current law. I've drawn some of this generic description from these, to ensure that all similar institutions receive the same treatment. However, not all are included.

PTA's,(yy) all purchases by religious organizations (aaa).
(Definition in PTA's is too broad, includes sales, purchases and on behalf of).

K.S.A. 79-3606(ggg)—Kansas Academy of Science

Established in 1868, the foundation of Kansas Academy of Science is to support science and science education in the state of Kansas. The Academy is a member of the National Association of Academies of Science and is affiliated with the American Association for the Advancement of Science and the U. S. National Academy of Science. The mission of the Academy is:

To encourage education in the sciences and disseminate scientific information through the facilities of the Academy

To achieve closer cooperation and understanding between scientists and nonscientists, so that they may work together in a common cause of furthering science.

K.S.A. 79-3606(mmm)

Marillac Center is a residential treatment center for children with special emotional and behavioral needs that relocated from its mid-town Kansas City, Missouri location to Overland Park, Kansas.

K.S.A. 79-3606(vv)(12)—CHWC, Inc.

Recently, Catholic Housing of Wyandotte County, Inc and Neighborhood Housing Services of Kansas City, Kansas (NHS) “merged” to form CHWC, Inc. They took the best qualities of Catholic Housing, which is building new, single-family homes and

purchasing/rehabbing existing home and combined them with the best qualities of NHS, which is Homebuyer Education, Lending Services, and Minor Home Repair, to form CHWC, Inc.

K.S.A. 79-3606(vv)(13)—cross-lines cooperative council

The mission of this council is alleviate the suffering people in poverty in ways which offer hope and allow them to preserve their dignity. Further, they educate the broader community about poverty by offering opportunities to serve.

K.S.A. 79-3606(vv)(14)—The Dreams Work, Inc.

Is organized for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family.

K.S.A. 79-3606(vv)(15)—The KSDS, Inc.

Is organized to promote independence and inclusion of individuals who are visually impaired or physically disabled by providing highly-trained canine assistance and support. They also provide social dogs for professionals who could use some canine assistance in their speciality.

K.S.A 79-3606(vv)(16)—The Lyme Association of Greater Kansas City, Inc.

Is organized for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease.

K.S.A. 79-3606(iii) is for food banks and K.S.A 79-3606(v) is for an organization that prepares meals for the delivery to homebound

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This information came from KAMU and is an example of the kind of specificity we would put into rules/regs.

GENERAL PRIMARY CARE SAFETY NET CLINICS

Community Health Center/FQHC/Look-Alike

- A community health center (CHC) is defined as an entity that receives funding from Section 330 of the Health Center Consolidation Act and thus meets all of the requirements of 42 U.S.C. Section 254(b); generally meaning an entity that serves a population that is medically underserved, or a medically underserved population (MUP) comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing. Primary health care services are provided as defined by 42 USC Section 254(b), either through the staff and supporting resources of the center or through contracts or cooperative arrangements. Community Health Centers, also known as Federally Qualified Health Centers or FQHCs, are organized as non-profit, consumer-directed health care corporations

that provide a range of “enabling services” such as interpretation, transportation, and case management, in addition to primary health care. FQHCs accept all forms of insurance, provide reduced fee care to the uninsured, and are required to see all individuals regardless of ability to pay. Federal Torts Claims Act coverage and access to reduced priced prescription drugs through the 340B drug program are benefits of the FQHC program.

There are currently nine Kansas-based FQHCs and one Look-Alike.

- A federally qualified health center look-alike is defined as entity which has been determined by the Health Resources and Services Administration (HRSA) to meet the definition of an federally qualified health center as defined by the Social Security Act § 1905(l)(2))B), but does not receive funding from Section 330 of the Health Center Consolidation Act.

There is currently one FQHC Look-Alike in KS (GraceMed).

Primary Care Clinic

- Rural Health Clinics (RHC) are located in federally designated medically underserved areas (MUA) or health professional shortage areas (HPSA) in a non-urban locale. There are approximately 177 rural health clinics in Kansas. RHCs may be privately owned, a non-profit organization, or a public entity. It must be staffed at least 50% of the time by a mid-level provider, such as nurse practitioner or physician assistance, and provide outpatient primary health care. Cost-based reimbursement through Medicare and Medicaid is available but RHCs are not eligible for 330 grant funding. There is no legal mandate to see uninsured patients regardless of ability to pay, as there is with each other clinic model.

There are approximately 180 RHCs in KS. Cherryvale Rural Health Clinic is the only KAMU member that is an RHC.

- An indigent health care clinic is defined in the Kansas Administrative Regulations-Kansas Department of Health & Environment (KAR 28-53-1(d)) as an outpatient medical care clinic designed to provide direction of a qualified person licensed to practice medicine and surgery and licensed by the Kansas Board of Healing Arts. The type and scope of services provided may vary significantly from clinic to clinic. A number of indigent clinics employ administrative staff to coordinate donated services of health professionals, as well as providing assistance with prescriptions through samples and manufacture’s indigent drug programs. These clinics are eligible for malpractice coverage through the Kansas Torts Claims Act but do not receive cost-based reimbursement from Medicare or Medicaid. Several indigent clinics in Kansas are faith-based, while some are community-based.

- Faith-based clinics are not-for-profit organizations that provide care to uninsured and Medicaid beneficiaries. The organizations are generally affiliated with a faith-based organization and may rely upon that organization for financial support. Faith-based clinics basically mirror the make-up of indigent health care clinics.

There are approximately twenty Indigent Clinics in Kansas.

What might you want to Exclude?

I would recommend excluding all sales of organizations for fund-raising purposes. You have exempted sales by public libraries (ooo), Girl Scout cookies, PTA sales, homeless shelter's sales (ppp) etc. This needs to stop.

We could broaden the language in isolated sales or loosen up on our regs to allow occasional event ticket sales when it would be impractical to register for sales tax.

I would recommend excluding all service clubs, fraternal organizations and benevolent societies such as Rotary, Lions, Elks, Masonic lodges, etc., because I cannot think of a single reason to give them an exemption on their purchases or sales. These groups are often not 501 c 3, and may be excluded anyway, but may have a foundation that is 501 c 4. Their activities may have some community benefit. What they generally want is to exempt their sales or fund-raising activities.

We have a number of bills this year that expand the sales tax exemption (by name, or course) to groups that teach music (Ottawa Suzuki string program), dance, art, etc. These are all wonderful things to have in the community, but again, I cannot think of a compelling reason for the state to support them. I would recommend excluding all music, drama, arts, dance organizations, even if educational.

In 3603, the imposition statute, we have exempted triennial cultural events (e) and youth nonprofit recreation (m) admissions, and also swimming pool admissions by municipal pools, etc. If you want to raise a little money to offset the fiscal note, there is no good reason for the city of Topeka's pool admission to be exempt from sales tax, and not the movie theater's admission. You'll catch a little flack from this, but the organizations like YM, YW complained that city/county recreation facilities didn't charge sales tax, so they wanted to be exempted on reasons of unfair competition. (It was unfair.) However, cities collect sales tax on water bills, etc. so why not on youth soccer programs. But – I understand political realities.

State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2006 (\$ in Millions)	FY2007 (\$ in Millions)	FY2008 (\$ in Millions)	FY2009 (\$ in Millions)
Tax Rate			5.3%	5.3%	5.3%	5.3%
Annual Rate of Increase			3.50%	3.5%	3.5%	3.5%
3602 (e)	Definition of retail sales, exempting wholesale sales and sales for resale		\$ -	\$ -	\$ -	\$ -
3602 (ii)	Modified definition of sales or selling price to not include cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale. The exemption is granted from July 1, 2006 and ending June 30, 2009.	Rev 2006 SB 404		\$ 9.940	\$ 10.288	\$ 10.648
3603 (b)	Taxes telephone and telegraph services except creation WATS and private data lines. Bundling of services added in 2001. Modified pre-paid calling cards - revolved phrase dealing with sold in minutes (no fiscal impact).	Rev 2001 SB 1, Rev 2002 SB 39,	\$ 1.304	\$ 1.349	\$ 1.397	\$ 1.445
3603 (e)	Admission to any cultural and historical event which occurs triennially	Revised 1994	Minimal	Minimal	Minimal	Minimal
3603 (f)	Coin operated Laundry Services		\$ 0.331	\$ 0.342	\$ 0.354	\$ 0.367
3603 (g)	Service of renting of rooms by holds or accommodation brokers to federal government or any federal employee in performance of official government duties.	2002 SB39	\$ 0.108	\$ 0.111	\$ 0.115	\$ 0.119
3603 (h)	Service of leasing or renting machinery and equipment owned by city purchased with industrial revenue bonds prior to July 1, 1973		\$ -	\$ -	\$ -	\$ -
3603 (m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation.	Revised 1994 1998 SB493	\$ 0.816	\$ 0.845	\$ 0.874	\$ 0.905
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and zoos	1998 SB493	\$ 0.301	\$ 0.311	\$ 0.322	\$ 0.333
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales.		\$ 0.189	\$ 0.195	\$ 0.202	\$ 0.209
3603 (o)	In 2004, changed the way sales tax computed on isolated and occasional sales of vehicles. Estimated to generate \$2 million annually	2004 SB 147				
3603 (p)	Labor services of installing or applying property in original construction of a building or facility or the construction reconstruction, restoration, replacement or repair or a residence, bridge or highway	1998 SB493	\$ 163.982	\$ 169.721	\$ 175.661	\$ 181.809
3603 (q)	Exemption for Service of repairing, servicing, maintaining custom computer software as described in section 3603 (s)	1988 Amended 2002 SB39	\$ -	\$ -	\$ -	\$ -
3603 (s)	Customized computer software and services for modifying software for single end use and billed as a separate invoiced item. In 2004, amended to tax only prewritten software. Custom software is exempt	1988 Amended 2002 SB39, 2004SB 147	\$ 4.658	\$ 4.821	\$ 4.989	\$ 5.164
3603 (v)	Sales of bingo cards, bingo faces and instant bingo tickets. Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002	2000 HB 2013	\$ 2.464	\$ 2.551	\$ 2.640	\$ 2.732
3606 (a)	Motor fuels and items taxed by sales or excise tax	1999	\$ 209.721	\$ 217.061	\$ 224.659	\$ 232.522
3606 (b)	Property or services purchases by State of Kansas, political subdivision, nonprofit hospital or blood /donor bank. In 2001, deleted sales of water to make purchases for water suppliers exempt.(Neutral FN due to Clean Water Fee)	2001 SB 332	\$ 298.440	\$ 308.885	\$ 319.696	\$ 330.886
3606 (c)	Property or services purchased and leasing by elementary or secondary schools and educational institutions		\$ 52.738	\$ 54.584	\$ 56.495	\$ 58.472
3606 (d)	Property or services purchased by contractor for building or repair of buildings for nonprofit hospital, elementary or secondary schools or nonprofit educational institutions		\$ 107.288	\$ 111.043	\$ 114.930	\$ 118.952
3606 (e)	Property or services purchases by federal government, its agencies or instrumentality's		\$ 4.993	\$ 5.168	\$ 5.349	\$ 5.536
3606 (f)	Property purchased by railroad or public utility for use in the movement of interstate commerce		\$ 14.009	\$ 14.500	\$ 15.007	\$ 15.532
3606 (g)	Sales, repair or modification of aircraft sold for interstate commerce directly through an authorized agent. IN 2004, expanded aircraft exemption for repair, modification plus parts and labor	1998 SB493, 2004 SB 147	\$ 6.582	\$ 6.812	\$ 7.050	\$ 7.297
3606 (h)	Rental of nonsectarian textbooks by elementary or secondary schools		\$ 0.863	\$ 0.893	\$ 0.924	\$ 0.956
3606 (i)	Lease or rental of films, records, tapes, etc. by motion picture exhibitors		\$ 1.540	\$ 1.594	\$ 1.650	\$ 1.708
3606 (j)	Meals served without charge to employees if duties include furnishing or sale of such meals or drinks		\$ 3.413	\$ 3.533	\$ 3.656	\$ 3.784
3606 (k)	Vehicles, trailers or aircraft purchased and delivered out of state to a nonresident		\$ 13.924	\$ 14.411	\$ 14.916	\$ 15.438
3606 (l)	Isolated or occasional sales, except motor vehicles		\$ -	\$ -	\$ -	\$ -
3606 (m)	Property which becomes an ingredient or component part of property or services produced or manufactured for ultimate sale at retail		\$ 2,027.664	\$ 2,098.633	\$ 2,172.085	\$ 2,248.108
3606 (n)	Property consumed in the production, manufacturing, processing, mining, drilling, refining or compounding of property; or irrigation of crops for ultimate sale at retail. In 2000, added provision to eliminate refunds from the Johnson County Water case sav		\$ 266.039	\$ 275.351	\$ 284.988	\$ 294.962
3606 (o)	Sales of animals, fowl, aquatic plants, and animals used in agriculture or aquaculture, for production of food for human consumption, the production of animal, dairy, poultry, or aquatic products, fiber or fur or the production of offspring.		\$ 149.737	\$ 154.978	\$ 160.402	\$ 166.017
3606 (p)	Print Sales for prescription drugs	1998 SB 45	\$ 63.459	\$ 65.680	\$ 67.978	\$ 70.358

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State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2006 (\$ in Millions)	FY2007 (\$ in Millions)	FY2008 (\$ in Millions)	FY2009 (\$ in Millions)
Tax Rate			5.3%	5.3%	5.3%	5.3%
Annual Rate of Increase			3.50%	3.5%	3.5%	3.5%
3606 (q)	Sales of insulin dispensed by pharmacist for treatment of diabetes		\$ 0.490	\$ 0.507	\$ 0.525	\$ 0.543
3606 (r)	Sales of prosthetic or orthopedic appliances prescribed by a doctor. IN 2004, exempted all hearing aids, prats and batteries by licensed providers	Amended 1997, 2004 SB 147	\$ 7.462	\$ 7.724	\$ 7.994	\$ 8.274
3606 (s)	Sales of property or services purchased by a groundwater management district		\$ 0.038	\$ 0.039	\$ 0.041	\$ 0.042
3606 (t)	Sales of farm or aquaculture machinery and equipment, parts and services for repair and replacement. In 2006, added work-site utility vehicle as exempt	2006 SB 76	\$ 43.170	\$ 45.118	\$ 47.134	\$ 49.221
3606 (u)	Leases or rentals of property used as a dwelling for more than 28 consecutive days.		\$ 0.657	\$ 0.680	\$ 0.704	\$ 0.729
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization	2004 SB 147	\$ 0.750	\$ 0.777	\$ 0.804	\$ 0.832
3606 (w)	Sales of natural gas, electricity, heat, & water delivered through mains, lines or pipes to residential premises for noncommercial use, for agricultural use (to include propane gas), for use in severing oil and any property exempt from property taxation. (Updated Oct 06 based on return/stat data)		\$ 97.627	\$ 101.044	\$ 104.580	\$ 108.241
3606 (x)	Sales of propane, gas, LP-gas, coal, wood, and other fuel sources for the production of heat or lighting for noncommercial use in a residential premise		\$ 14.727	\$ 15.243	\$ 15.776	\$ 16.328
3606 (y)	Sales of materials and services used in repairing, maintaining, etc., of railroad rolling stock used in interstate commerce		\$ 0.845	\$ 0.874	\$ 0.905	\$ 0.936
3606 (z)	Property and services purchased directly by a port authority or a contractor therefor.		Minimal	Minimal	Minimal	Minimal
3606 (aa)	Materials and services brought into Kansas for usage outside of Kansas for repair, services, alteration, maintenance, etc. used for the transmission of liquids or national gas by a pipeline in interstate commerce		Minimal	Minimal	Minimal	Minimal
3606 (bb)	Used mobile and manufactured homes		\$ 3.999	\$ 4.139	\$ 4.284	\$ 4.433
3606 (cc)	Property or services purchased for constructing, reconstructing, enlarging or remodeling a business; sale and installation of machinery and equipment purchased for installation in such business. (Enterprise Zone Exemption)		\$ 59.146	\$ 61.216	\$ 63.358	\$ 65.576
3606 (dd)	Property purchased with food stamps issued by US Department of Agriculture		\$ 6.839	\$ 7.078	\$ 7.326	\$ 7.582
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas		\$ 12.729	\$ 13.174	\$ 13.636	\$ 14.113
3606 (ff)	New mobile or manufactured homes to the extent of 40% of the gross receipts		\$ 2.932	\$ 3.035	\$ 3.141	\$ 3.251
3606 (gg)	Property purchased with vouchers issued pursuant to the federal special supplemental food program for women, infants and children		n/a	n/a	n/a	n/a
3606 (hh)	Medical supplies and equipment purchased by nonprofit skilled nursing home or intermediate nursing care home for providing medical services to residents		\$ 0.939	\$ 0.972	\$ 1.006	\$ 1.041
3606 (ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization	1998 SB493	\$ 2.369	\$ 2.452	\$ 2.538	\$ 2.627
3606 (jj)	Property and services, includes leasing of property, purchased for community-based mental retardation facility or mental health center.	2004 SB 147	\$ 2.176	\$ 2.252	\$ 2.331	\$ 2.413
3606 (kk)	Machinery and equipment used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of property for resale by the plant or facility. In 2004, added exemption for building new facility in Riverton Ks (minimal impact)	1998 HB2584	\$ 104.453	\$ 108.109	\$ 111.893	\$ 115.809
3606 (ll)	Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation		\$ 0.073	\$ 0.076	\$ 0.078	\$ 0.081
3606 (mm)	Seeds, tree seedlings, fertilizers, insecticides, etc., and services purchased and used for producing plants to prevent soil erosion on land devoted to agricultural use.	1988 HB2626	\$ 0.862	\$ 0.892	\$ 0.924	\$ 0.956
3606 (nn)	Services rendered by advertising agency or broadcast station		\$ 3.820	\$ 3.954	\$ 4.092	\$ 4.235
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.		Minimal	Minimal	Minimal	Minimal
3606 (pp)	Drill bits and explosives used in the exploration and production of oil or gas		\$ 0.363	\$ 0.376	\$ 0.389	\$ 0.403
3606 (qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)		\$ 0.356	\$ 0.369	\$ 0.382	\$ 0.395
3606 (rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)		\$ 0.030	\$ 0.031	\$ 0.032	\$ 0.033
3606 (ss)	Property and services purchased by a public broadcasting station licensed by FCC as a noncommercial educational television or radio station.		Minimal	Minimal	Minimal	Minimal
3606 (tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)	1996 HB2656	\$ -	\$ -	\$ -	\$ -
3606 (uu)	Property and services purchased by rural fire fighting organization	1997 SB184	Minimal	Minimal	Minimal	Minimal

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State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2006 (\$ in Millions)	FY2007 (\$ in Millions)	FY2008 (\$ in Millions)	FY2009 (\$ in Millions)
Tax Rate			5.3%	5.3%	5.3%	5.3%
Annual Rate of Increase			3.50%	3.5%	3.5%	3.5%
3606 (vv)	Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; in 2004 added: Heartstrings Community Foundation, Cystic Fibrosis, Spina Bifida Assn, CHWC, Inc., Cross-lines Cooperative Council, Dreams Work, Inc., KSDS, Inc., Lyme Association of Grater Kansas City, Inc	1997 SB184, 2001 HB 2029, 2004 SB 147, 2006 SB 404	\$ 0.084	\$ 0.169	\$ 0.257	\$ 0.348
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project	1997 SB184	\$ 0.103	\$ 0.107	\$ 0.111	\$ 0.115
3606 (xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)	1998 SB493	\$ 0.544	\$ 0.563	\$ 0.583	\$ 0.603
3606 (yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association	1998 SB493	\$ 0.511	\$ 0.529	\$ 0.547	\$ 0.567
3606 (zz)	Machinery and equipment purchased by over-the-air free access radio or television station used directly and primarily for producing signal or the electricity essential for producing the signal.	1998 SB493	\$ 0.859	\$ 0.889	\$ 0.920	\$ 0.952
3606(aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes	1998 SB493	\$ 15.649	\$ 16.197	\$ 16.764	\$ 17.350
3606 (bbb)	Sales of food for human consumption by organizations exempt by 501(c)(3) pursuant to food distribution programs which offers such food at a price below cost in exchange for the performance of community service by the purchaser.	1998 SB493		\$ -	\$ -	\$ -
3606 (ccc)	Property and services purchases by health care centers and clinics who are serving the medically underserved.	1999 SB 45	\$ 0.341	\$ 0.353	\$ 0.365	\$ 0.378
3606 (ddd)	Property and services purchases by any class II or III railroad (shortline) for track and facilities used directly in interstate commerce. Only for calendar year 1999.	1999 SB 45	n/a	n/a	n/a	n/a
3606 (eee)	Property and services purchases for reconstruction, reconstruction, renovation, repair of grain storage facilities or railroad sidings. Only for calendar year 1999 and 2000.	1999 SB 45, 2000 SB 59	n/a	n/a	n/a	n/a
3606 (fff)	Material handling equipment, racking systems & other related machinery & equipment used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility; installation, repair, maintenance services, and replacement parts.	2000 HB 2011	\$ 5.656	\$ 5.854	\$ 6.059	\$ 6.271
3606 (ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.	2000 SB 59	Minimal	Minimal	Minimal	Minimal
3606 (hhh)	Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence	2004 SB 147	\$ 0.052	\$ 0.054	\$ 0.055	\$ 0.057
3606 (iii)	Property and services purchased by orgnaizations distributing food without charge to other nonprofit food distribution programs. Includes taxes paid on and after July 1, 2005 and prior to July 1, 2006.	2006 SB 404	\$ -	\$ 0.222	\$ 0.230	\$ 0.238
3606 (jjj)	Sales of dietary supplements dispensed by prescription order by a licensed practitioner or mid-level prectitioner.	2006 SB 404		Minimal	Minimal	Minimal
3606 (kkk)						
3606 (lll)	Property and services purchased by Special Olympics Kansas, Inc., and sales made by or on behalf of Special Olympics.	2006 SB 404		\$ 0.025	\$ 0.026	\$ 0.027
3606 (mmm)	Property and services purchased by Marillac Center, Inc. and sales made by or on behalf of the Marillac Center.	2006 SB 404		\$ 0.050	\$ 0.052	\$ 0.054
3606 (nnn)	Property and services purchased by West Sedgwick County - Sunrise Rotary Club for consturcting boundless playground.	2006 SB 404		\$ 0.020	\$ 0.021	\$ 0.021
3606 (ooo)	Sales made by or on behalf of a public library	2006 SB 404		\$ 0.010	\$ 0.010	\$ 0.011
3606 (ppp)	Property and services purchased by non-profit Homeless Shelters, and sales made by or on behalf of these organizations.	2006 SB 404		\$ 0.100	\$ 0.104	\$ 0.107
3606 (qqq)	Property and services purchased by TLC for Children and Families, Inc. and sales made by or on behalf of TLC	2006 SB 404		\$ 0.160	\$ 0.166	\$ 0.171
3606 (rrr)	Property and services purchased by county law library, and sales made by or on behalf of these organizations.	2006 SB 404		\$ 0.100	\$ 0.104	\$ 0.107
3606 (sss)	Property and services purchased by catholic charities or youthville and sales made by or on behalf of catholic charities or youthville	2006 SB 404		\$ 0.600	\$ 0.621	\$ 0.643
3606 (ttt)	Property and services purchased a contractor for a purpose of restoring, consturcting, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which is a qualified under the governor hometown heritage act (KSA 75-5071)	2006 SB 404		\$ 0.100	\$ 0.104	\$ 0.107
3606 (uuu)	Property and services purchased by Kansas Children's Service League and sales made by or on behalf of the KCSL	2006 SB 404		\$ 0.140	\$ 0.145	\$ 0.150
	Total		\$ 3,767.081	\$ 3,931.934	\$ 4,070.071	\$ 4,213.043

1-10

State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2006 (\$ in Millions)	FY2007 (\$ in Millions)	FY2008 (\$ in Millions)	FY2009 (\$ in Millions)
Tax Rate			5.3%	5.3%	5.3%	5.3%
Annual Rate of Increase			3.50%	3.5%	3.5%	3.5%

Updated through 2006 Legislative changes.

1-11

Substitute for HOUSE BILL NO. 2430

By Committee on Taxation

AN ACT concerning taxation; relating to homestead property tax refunds; amending K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp. 79-4502 and 79-4504 and repealing the existing sections.

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

New Section 1. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$350,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and supplemental to the homestead property tax refund act. The provisions of this section shall expire on June 30, 2012.

New Sec. 2. If there are delinquent property taxes on the claimant's homestead, the refund shall be paid to the county treasurer of the county in which such homestead is located and applied first to the oldest of such delinquent property taxes and applied forward to the most recent delinquent property taxes and then to any other property taxes due on the claimant's homestead. The provisions of this section shall be part of and supplemental to the homestead property tax refund act.

New Sec. 3. The provisions of K.S.A. 79-4501 through 79-4517, 79-4519, 79-4521, 79-4530 and 79-4531, section 1 and section 2, and amendments thereto, shall expire on June 30, 2012.

Sec. 4. K.S.A. 2006 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments and ~~all payments received under the federal social security act~~

~~except--disability--payments~~, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under

this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of

which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of

this paragraph as having a central visual acuity of 20/200 or less.

(i) "Rent constituting property taxes accrued" means ~~20%~~ 15% of the gross rent actually paid in cash or its equivalent in ~~1979~~ 2007 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

Sec. 5. K.S.A. 2006 Supp. 79-4504 is hereby amended to read as follows: 79-4504. Subject to the limitations provided in this act or the provisions of K.S.A. 79-4530, and amendments thereto, as the case requires, a claimant may claim property tax relief under the homestead property tax refund act or the provisions of K.S.A. 79-4530, and amendments thereto, with respect to property taxes accrued, and after audit by the division of taxation with respect to homestead property tax refund act, the allowable amount of such claim shall be paid, except as otherwise provided in K.S.A. 79-4506, 79-4521 and section 2, and amendments thereto, to the claimant from the income tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers

approved by the director of taxation or by any person designated by the claimant, but no warrant issued hereunder shall be drawn in an amount of less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

Sec. 6. K.S.A. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued, rent constituting property taxes accrued or their sum exceeds ~~\$600~~ \$750 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been ~~\$600~~ \$750.

Sec. 7. K.S.A. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (g) of K.S.A. 79-4502 and amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, ~~a copy of the statement~~ the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant ~~and that there are no delinquent property taxes on the homestead.~~ Upon request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time

during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full for that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and such claimant has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsections (b) or (c) shall be in addition to that required under subsection (a).

Sec. 8. K.S.A. 79-4509 and 79-4511 and K.S.A. 2006 Supp. 79-4502 and 79-4504 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.