

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 10, 2008 in Room 519-S of the Capitol.

All members were present except: Representative Brown - Excused
Representative Goyle - Excused

Committee staff present:

Chris Courtwright, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Ryan Hoffman, Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagnon, KDOR

Others attending:

See attached list.

HB 2938 - Sales tax exemption for certain 501 (3) (c) nonprofit organizations.

Chairman Wilk recognized Representative Whitham and advised the group they were back on page 2 of his balloon.

Representative Whitham made a motion to amend expanded language to include or for organizations that would be exempt from federal income taxation pursuant to section 501 (3)(c) to the bill. Representative King seconded the motion. Discussion followed over 501 (3) (c) process, and the kinds of organizations that would fit in the description. Representative Whitham moved his amendment. The motion carried.

Representative Whitham made the motion to adopt the fourth balloon that adds the following technical language to the bill - Page 2, line 20, (f) *The provisions of this section shall be part of and supplemental to the Kansas retailers' sales tax act.* Gordon Self requested that on Page 1, lines 15 and 24 the word, *tangible* be inserted before the phrase *personal property*. Representative Dillmore seconded the motion. The motion carried.

A balloon amendment was distributed (Attachment 1).

Representative Menghini made a motion to amend language to require organizations that are grandfathered into the bill to go through an application process after a three year period.. Representative Lukert seconded the motion. After discussion about the merit of the amendment. Representative Menghini closed her motion. The motion failed 7-12.

Representative McCray-Miller made a conceptual motion to include in new section 1, between lines 19 and 24, *homeless assistance and housing programs.* Representative Whitham seconded the conceptual motion. The motion failed.

Secretary Wagnon came to the podium to answer committee question and clarify current law.

Representative King made a motion to strike the remainder of the paragraph after 501(3) (c) of the federal internal revenue code, on page 1, line 18. Representative Kinzer seconded. The motion failed.

Representative Worley made a motion to strike language on sales tax exemption for bingo cards listed on page 7, section b, lines 20-25. Representative Menghini seconded. The motion failed.

Representative Holland made a motion to amend language to require organizations that are grandfathered into the bill to go through an application process after a five-year period. Representative Menghini

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 10, 2008 in Room 519-S of the Capitol.

seconded the motion. The motion failed.

Representative Peck made a conceptual motion that language be struck, on page 15, line 36-37, regarding certain lottery tickets Representative Kinzer seconded the motion. The motion failed 10-10.

Representative Whitham made a motion to pass out **HB 2938** favorably, as amended. Representative King seconded. The motion carried.

The Chairman thanked Representative Whitham for his hard work and the committee for their thoughtful discussions.

The meeting was adjourned at 10:40 A.M. The next meeting in March 11, 2008.

HOUSE BILL No. 2938

By Committee on Taxation

2-25

Proposed Amendment to
House Bill No. 2938

HS Taxation
3-10-08
Attachment 1

9 AN ACT concerning sales taxation; relating to certain exemptions; non-
10 profit organizations; amending K.S.A. 2007 Supp. 79-3603, 79-3606
11 and 79-3692 and repealing the existing sections.
12

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

14 New Section 1. (a) The following shall be exempt from the tax im-
15 posed under the Kansas retailers' sales tax act: (1) All sales of personal
16 property or services purchased by organizations which are exempt or
17 would be exempt from federal income taxation pursuant to section
18 501(c)(3) of the federal internal revenue code, and which such personal
19 property and services are used for the purpose of providing adoption and
20 foster care services, aging services, child and family disability and welfare
21 services, domestic violence services, drug abuse and alcohol addiction
22 counseling services, food bank services for persons of low income, health
23 care research and services and services for individuals who are deaf. Only
24 sales of personal property and services purchased by the organization for
25 programs of such organization which provide the services specified in the
26 subsection shall qualify for the exemption provided by this subsection;
27 and

28 (2) the gross receipts from the sale of admissions or tickets to fund
29 raising activities or events not exceeding one day and not exceeding two
30 such activities or events per year, all sales of tangible personal property
31 or services donated for fund raising purposes, and all sales of publications
32 developed by an organization for fund raising purposes, all by an organ-
33 ization which is exempt from federal income taxation pursuant to section
34 501(c)(3) of the federal internal revenue code, and which such sales are
35 dedicated to further the religious, charitable, scientific, testing for public
36 safety, literary or educational purpose, or any other purpose specified by
37 section 501(c)(3) of the federal internal revenue code, of the organization.

38 (b) Any organization which is denied an exemption to the tax imposed
39 by this act in which the organization believes that the organization should
40 have been provided such exemption may request an informal conference
41 with the secretary of revenue under K.S.A. 79-3226, and amendments
42 thereto, within 60 days of notice of such denial for a determination of
43 whether such organization should be provided an exemption under the

1-2

1 provisions of this section.

2 (c) ~~Nothing in this section shall affect the exemption status of any~~
3 ~~organization which was provided an exemption from the tax imposed by~~
4 ~~this act prior to January 1, 2009.~~

5 (d) The secretary of revenue shall adopt rules and regulations to carry
6 out the provisions of this act. Such rules and regulations shall include
7 provisions to: (1) Provide a clear procedure to be utilized by the organi-
8 zation to make application for an exemption, and the department of rev-
9 enue to review and make determinations to substantiate such organiza-
10 tion's qualification for exemption status, including proof of exempt status
11 under section 501(c)(3) of the federal internal revenue code or for or-
12 ganizations not required by the federal internal revenue service to have
13 a section 501(c)(3) determination letter, satisfactory verification that the
14 organization is not used or held for profit, proof that the organization has
15 registered with the office of secretary of state and has a current annual
16 report on file with such office, and other documentation needed by the
17 department to make a determination of exemption status; ~~and~~ (2) provide
18 a clear procedure for the organization to seek a review of any adverse
19 determination of exemption status.

20 (e) The provisions of this section shall apply on and after January 1,
21 2009.

22 Sec. 2. K.S.A. 2007 Supp. 79-3603 is hereby amended to read as
23 follows: 79-3603. For the privilege of engaging in the business of selling
24 tangible personal property at retail in this state or rendering or furnishing
25 any of the services taxable under this act, there is hereby levied and there
26 shall be collected and paid a tax at the rate of 5.3%. Within a redevel-
27 opment district established pursuant to K.S.A. 74-8921, and amendments
28 thereto, there is hereby levied and there shall be collected and paid an
29 additional tax at the rate of 2% until the earlier of the date the bonds
30 issued to finance or refinance the redevelopment project have been paid
31 in full or the final scheduled maturity of the first series of bonds issued
32 to finance any part of the project upon:

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

35 (b) the gross receipts from intrastate, interstate or international tel-
36 ecommunications services and any ancillary services sourced to this state
37 in accordance with K.S.A. 2007 Supp. 79-3673, and amendments thereto,
38 except that telecommunications service does not include: (1) Any inter-
39 state or international 800 or 900 service; (2) any interstate or international
40 private communications service as defined in K.S.A. 2007 Supp. 79-3673,
41 and amendments thereto; (3) any value-added nonvoice data service; (4)
42 any telecommunication service to a provider of telecommunication serv-
43 ices which will be used to render telecommunications services, including

Any nonprofit organization which was provided an exemption from the tax imposed by the Kansas retailers' sales tax act prior to January 1, 2009, shall retain such exemption until December 31, 2011. At such time any such organization shall be required to meet the requirements of this section to be allowed an exemption pursuant to this section. If the organization meets the requirements of this section, the organization shall be allowed an exemption subject to the requirements of this section. If the organization does not apply for an exemption or does not meet the requirements of this section, the secretary shall notify the organization of such denial and the exemption shall be forfeited.

; and (3) provide a clear procedure for the organization to reapply for an exemption every three years as provided in subsection (e)

Any organization allowed an exemption pursuant to this section or any organization described in subsection (c) shall reapply for such exemption every three years from the time of such organization's initial exemption allowance, and at such time of renewal, such organization shall be subject to all requirements of this section to be allowed to continue to have the exemption provided by this section.

1 connection therewith. The tax imposed by this subsection shall be appli-
2 cable to the services of repairing, servicing, altering or maintaining an
3 item of tangible personal property which has been and is fastened to,
4 connected with or built into real property;

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

8 (s) on and after January 1, 2005, the gross receipts received from the
9 sale of prewritten computer software and the sale of the services of mod-
10 ifying, altering, updating or maintaining prewritten computer software,
11 whether the prewritten computer software is installed or delivered elec-
12 tronically by tangible storage media physically transferred to the pur-
13 chaser or by load and leave;

14 (t) the gross receipts received for telephone answering services;

15 (u) the gross receipts received from the sale of prepaid calling service
16 and prepaid wireless calling service as defined in K.S.A. 2007 Supp. 79-
17 3673, and amendments thereto; and

18 (v) the gross receipts received from the sales of bingo cards, bingo
19 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,
20 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
21 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
22 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
23 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
24 and amendments thereto, shall be exempt from taxes imposed pursuant
25 to this section.

26 *Any nonprofit organization provided an exemption from the imposition*
27 *of the tax imposed by this act prior to January 1, 2009, shall retain such*
28 *exemption, and as such, any requirements imposed by the provisions of*
29 *section 1 et seq., and amendments thereto, shall have no effect on such*
30 *organization's exemption status pursuant to this section.*

31 Sec. 3. K.S.A. 2007 Supp. 79-3606 is hereby amended to read as
32 follows: 79-3606. *Any nonprofit organization provided an exemption from*
33 *the tax imposed by this act prior to January 1, 2009, shall retain such*
34 *exemption, and as such, any requirements imposed by the provisions of*
35 *section 1 et seq., and amendments thereto, shall have no effect on such*
36 *organization's exemption status pursuant to this section.* The following
37 shall be exempt from the tax imposed by this act:

38 (a) All sales of motor-vehicle fuel or other articles upon which a sales
39 or excise tax has been paid, not subject to refund, under the laws of this
40 state except cigarettes as defined by K.S.A. 79-3301 and amendments
41 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
42 3817 and amendments thereto, including wort, liquid malt, malt syrup
43 and malt extract, which is not subject to taxation under the provisions of

until December 31, 2011, and on and after January 1, 2012,
such organization shall be subject to the requirements of
subsection (c) and all other requirements of section 1, and
amendments thereto