

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:30 A.M. on January 31, 2008 in Room 519-S of the Capitol.

All members were present except:

Tony Hensley- excused

Committee staff present:

Gordon Self, Office of Revisor of Statutes

Chris Courtwright, Kansas Legislative Research Department

Scott Wells, Office of Revisor of Statutes

Ryan Hoffman, Kansas Legislative Research Department

Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Senator John Vratil

John Donley, Kansas Livestock Association

Whitney Damron, Kansas Sporting Hunting Association and Flint Oak, LLC

Ken Corbet, Ravenwood Hunting Preserve

Brad Harrelson, Kansas Farm Bureau (Written only)

David Corbin, Kansas Department of Revenue (KDOR)

April Holman, Kansas Action for Children (Written only)

Joan Wagon, Secretary, Kansas Department of Revenue

Tony Scott, Kansas Society of Certified Public Accountants

Others attending:

See attached list.

Hearing on **SB 487, Sales tax exemption for fees for guided and non-guided hunting and sale of game birds for hunting**, was opened.

Senator John Vratil testified the language in **SB 487** would prevent the imposition of sales tax on certain hunting and hunting-related activities. (Attachment 1) The Legislature has devoted a considerable amount of effort to ensuring that agricultural-based tourism and related activities are encouraged in Kansas. Imposing a sales tax on these activities penalizes those who participate, and has the potential to discourage participation. Senator Vratil said sales tax on the rental or lease of ground is not included in the bill, but said the leasing of land for hunting would be appropriate to be added to this bill. There is not currently a sales tax on a farm for wind towers.

John Donley, Kansas Livestock Association (KLA), testified in support of **SB 487**. (Attachment 2) Hunts have become a significant portion of many KLA members' operations in recent years. The income generated from these activities is subject to income tax; therefore, it is KLA's belief these types of activities should not be subject to sales tax. It would only stifle the growth of this industry. Senator Allen requested Mr. Donley provide language to Staff clarifying the leasing of land for hunting exemption.

Whitney Damron, Kansas Sport Hunting Association and Flint Oak, LLC, testified in support of **SB 487**. (Attachment 3) The confusion of the leasing of land needs to be clarified. He said the State of Kansas should do all it can to encourage the growth of these kinds of operations, which increase revenues. Kansas should do more to encourage hunting and shooting sports in the state, not less. He provided an amendment with his testimony to include "clay shooting sports". He reviewed the economic impact of the hunting industry in Kansas from 1996 to 2006.

Discussion was held on Flint Oak, LLC. Senator Donovan pointed out that Flint Oak dues are taxed, and this bill would not change that taxation. Senator Schmidt said the game bird exemption is important to Flint Oak, and he questioned the taxation of fish caught there. Mr. Damron said the fish are caught on a catch & release basis. Deer on the Red Rock Preserve in Elk County were discussed, and Richard Cram, KDOR, said it would not be possible to distinguish between wild deer and domestic deer for taxation purposes.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 31, 2008 in Room 519-S of the Capitol.

Ken Corbet, Ravenwood Lodge, testified on behalf of Ravenwood and the Kansas Sport Hunting Association, in support of **SB 487**. (Attachment 4) He said out of state hunting licenses grow between 5% and 6% annually.

Brad Harrelson, Kansas Farm Bureau (KFB), testified KFB disagrees with KDOR's recent interpretation that sales tax should be remitted by business and individuals providing hunting services and property owners who charge access fees for hunting. (Attachment 5) He said he doesn't believe this dog will hunt!

David Corbin, KDOR, said fees and charges from participating in hunting is a growing business in Kansas, and this exemption will cause further shrinkage of the sales tax base. (Attachment 6) He distributed a copy of KDOR Notice 07-08 with his testimony. **SB 487** would reverse this Notice. The bill would apply to "fees", not land that is rented or leased. Joan Wagnon, Secretary of KDOR, concurred. Chairman Allen requested Secretary Wagnon give written confirmation of that statement to the Committee.

During Committee discussion, Mr. Corbin said Flint Oak's land is treated as agriculture land, but the facility itself is treated as commercial property. Senator Bruce asked for clarification of how skeet is treated. Blue Rock purchased for skeet shooting is tax exempt because it is a product for resale. The sales tax is collected on facilities and includes the blue rock. Green fees and golf cart fees are subject to sales tax. Mr. Cram said he felt little league baseball, soccer, etc. would fall within the imposition of the sales tax law. Mr. Corbin said this bill broadens the sales tax exemption base. Referring to the fiscal note, Mr. Cram said of the \$650,000 estimated to be collected in 2009, he could not estimate how much of this would be directly attributed to the sales tax collected on fees. Last year, the actual collections from hunting businesses were \$700,000. But that total was not broken down by fees, lodging, etc. Mr. Corbin said it was not the intent of KDOR to go retroactive to 2005 on collections. Senator Donovan said he did not think the fiscal note was accurate.

April Holman, Kansas Action for Children, submitted written testimony to the Committee in opposition to any erosion of the tax base. (Attachment 7)

The hearing was closed.

The hearing on **SB 471, Electronic filing of tax returns and reports**, was opened.

Secretary of KDOR Joan Wagnon said **SB 471** is a huge priority with KDOR because KDOR needs to be as efficient and cost effective as possible. (Attachment 8) She gave a Power Point presentation. Staffing would be cut dramatically if **SB 471** was enacted. Errors are easily identifiable and processing delays are virtually non-existent with electronic filing.

Secretary Wagnon said every dollar KDOR does not spend collecting taxes is a dollar that goes toward state priorities. She introduced Terry Hunt, Assistant Manager of the E-Filing Unit, who gave an overview of how electronic taxes are collected. In response to Senator Lee, Secretary Wagnon stated that computer program concerns from last year have been alleviated for the e-filing of tax returns. The KDOR website is now user-friendly to all software used for the filing of W2 and 1099 forms. Senator Donovan noted it would be a savings for taxpayers to transfer their funds electronically for payment of taxes. Last year 26% of filers remitted their taxes electronically, and 74% sent paper checks. Chairman Allen questioned the security of remitting electronically. Secretary Wagnon said there is no signature required, but a filer must put in a PIN number. The file system is encrypted, so the safety factor is good.

Secretary Wagnon said the language in the bill may need to be changed a bit to make sure the e-filing requirement does not apply to individual filers, and she will work on that issue.

In response to a constituent concern expressed to Senator Apple, Mr. Cram said KDOR will not process a sales tax refund of under \$50 if the application is sent directly to KDOR pursuant to HB 2171 from 2007 Session. The normal process is for consumers to seek their refund from the retailer from whom they purchased the item, and there is no minimum dollar limit on those claims.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 31, 2008 in Room 519-S of the Capitol.

Chairman Allen requested copies of Secretary Wagnon's Power Point presentation for the Committee and also a balloon amendment if KDOR requests any changes be made to the bill.

Tony Scott, Kansas Society of Certified Public Accountants (CPA's), testified as a cautious proponent of **SB 471**. (Attachment 9) Mr. Scott expressed several concerns. The CPA's want tax preparers who operate as small businesses to remain in business so they can perform professional client services. Mr. Scott could not support the imposition of penalties for failure to comply with the minimum threshold number in the bill. He recognizes some Kansas taxpayers worry about the security of electronic technology, and whether these concerns are based on fact or fiction, these taxpayers should have the right to direct their preparer to file their return the old-fashioned way – on paper.

The hearing was closed.

Senator Donovan moved to approve the Minutes of the January 29 Committee meeting. Senator Bruce seconded the motion, and the motion passed.

Being no further business, the meeting adjourned at 11:50 a.m. The next meeting will be February 1.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 1-31-08

| NAME | REPRESENTING |
|----------------------|---|
| David R. Corbin | KDOR |
| Brandon Yorkley | Budget |
| Craig Phillips | Flint Hills Regional Leadership Program |
| JAY KRAMER | CARTER GROWN |
| Emily Geier | Hein Law Firm |
| Brenda Koops | KDWP |
| RONALD RICHEY | NARFE |
| Shirley Safford | KS Grain & Feed Association |
| Troy Ledbetter | KDOR |
| Ken Rakestraw | KDOR |
| Whitney Damron | KS Sport Hunting Assn / Hit ⁰⁰¹⁰ |
| Ken Corbet | ✓ ✓ ✓ of Rowland Wood |
| Mark Tallman | KASB |
| Sheri Smiley | KS Sec. of State |
| LARRY R BAKER | Lkm |
| Sheila Fisher | KACCT |
| Cheryl Hayward | KSCPA |
| <u>Tony A. Scott</u> | KSCPA |

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 1-31-08

| NAME | REPRESENTING |
|----------------|--------------|
| Don McNeely | KADA |
| Brian Harrison | KFB |
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State of Kansas

JOHN VRATIL
SENATOR, ELEVENTH DISTRICT
JOHNSON COUNTY
LEGISLATIVE HOTLINE
1-800-432-3924



COMMITTEE ASSIGNMENTS
CHAIR: JUDICIARY
VICE CHAIR: EDUCATION
MEMBER: FEDERAL AND STATE AFFAIRS
ORGANIZATION, CALENDAR
AND RULES
SENTENCING COMMISSION
INTERSTATE COOPERATION

Vice President Kansas Senate

Testimony Presented to
The Senate Assessment & Taxation Committee
By Senator John Vratil
January 30, 2008
Concerning Senate Bill 487

Good morning. Thank you for the opportunity to appear before the Senate Assessment and Taxation Committee in support of Senate Bill (SB) 487. The language in SB 487 would prevent the imposition of sales tax on certain hunting and hunting related activities.

In December, 2007, it came to my attention that the Kansas Department of Revenue had decided to impose a tax on guided and non-guided hunts and on the fees and charges associated with the sport of "sporting clays." The tax was to begin January of this year. When I learned of the sales tax, I was perplexed. We, the members of the Kansas Legislature, have devoted a considerable amount of effort to ensure that agricultural-based tourism and related activities are encouraged. Our efforts have been based on the belief that certain activities, such as hunting and hunting related sports, draw people into Kansas and encourage them to spend money on hotels, food, Kansas products, etc.

Imposing a sales tax on hunting (guided and non-guided) and hunting related activities penalizes those who participate in those activities and it has the potential to discourage participation in the activities. The sales tax is counterproductive to our past efforts to develop agriculture-based tourism. Please support SB 487 which would excludes fees and charges related to hunting and hunting related activities from sales tax.

A handwritten signature in black ink that reads "Sen. John Vratil".

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vratil@senate.state.ks.us

Assessment & Taxation
Date 1-31-08
Attachment # 1



Since 1894

TESTIMONY

To: The Senate Committee on Assessment and Taxation
Sen. Barbara Allen, Chairperson

From: John Donley

Date: January 30, 2008

Subject: **Senate Bill 487** -Sales tax exemption for fees for guided and non-guided hunting and sale of game birds for hunting

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing approximately 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Good morning. My name is John Donley, and I am the Assistant General Counsel for the Kansas Livestock Association (KLA.) I am here today to extend KLA's support of SB 487.

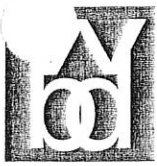
Guided and non guided hunts have become a significant portion of many of our members operations in recent years. These operations view this activity as a way to diversify their operation as well as an opportunity to provide additional income to their operation. In many cases, farmers and ranchers have used hunting and guide services as a means to provide enough additional income to allow a family member to become actively involved in the farming or ranching operation. All of the income generated from these activities is subject to income tax.

In other situations, farmers and ranchers have begun leasing the hunting rights on their property to individuals and/or to guides and outfitters. Once again, these leases are subject to income tax. It is my understanding that SB 487 would stipulate that these leases would not be subject to sales tax as well. However, I would encourage the committee to look at the language carefully to ensure that those types of arrangements are also included in this exemption language. I would be more than willing to work with the revisors to help make this intent clear in the language if the committee and the revisors so wish.

Assessment & Taxation
Date 1-31-08
Attachment # 2

In conclusion, hunting leases and guide services have become a vital part to many farming and ranching operations in the state of Kansas. The income generated off of these activities is subject to income tax; therefore, it is our belief that these types of activities should not be subject to sales tax in Kansas. This is a growing industry in Kansas and additional taxation will only stifle the growth of this potential income source for Kansas farmers and ranchers. Thus, we ask for your support in passing SB 487.

Thank you.



TESTIMONY

TO: The Honorable Barbara Allen, Chair
And Members of the
Senate Committee on Assessment and Taxation

FROM: Whitney Damron
On behalf of:

- The Kansas Sport Hunting Association
- Flint Oak, LLC

RE: SB 487 - An Act concerning sales taxation; relating to imposition
of tax; hunting and sale of game birds.

DATE: January 30, 2008

Good morning Madam Chair Allen and Members of the Senate Committee on Assessment and Taxation. On behalf of the Kansas Sport Hunting Association and Flint Oak, LLC, I appear before you today in support of SB 487 that would clarify the application of sales taxes on certain hunting and shooting-related activities in our state.

By way of information for the Committee, the Kansas Sport Hunting Association is a not-for-profit association of hunting service providers and game bird producers with members that offer the entire spectrum of hunting and shooting services, products and experiences in Kansas, including game bird breeding, hunting guide services, dog training, food and lodging, clay target sports and related services and recreational opportunities.

Flint Oak, LLC is privately-owned 5-star rated hunting, sport shooting, recreational resort located approximately 80 miles east of Wichita in the scenic Flint Hills of southeastern Kansas that is considered to be one of the finest establishments of its kind in the United States, with a worldwide clientele and reputation for quality and first class amenities. Flint Oak was the creation and vision of Ray and Winona Walton and represents an investment of over \$15 million. Mr. Walton passed away in 2007 shortly after the facility was sold to a group of Wichita area investors committed to expanding Flint Oak beyond even its current industry leading standards.

Collectively, both the KSHA and Flint Oak would like to express their appreciation to the Committee for introducing and scheduling hearings on SB 487.

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Assessment & Taxation
Date 1-31-08
Attachment # 3

As the Kansas Department of Revenue noted in its comments to the Committee on January 17 of this year, there has been some confusion or misunderstanding in the past as to whether sales taxes are applicable to certain activities and sales that are conducted at facilities like Flint Oak, Ravenwood Hunting Preserve or even farmers providing access to land for hunting as well as products and services offered for sale by the hunting industry, including game birds and hunting guide services. SB 487 is an attempt to clarify this area of law and codify in statute what the Legislature deems appropriate in this regard.

As I understand from the hearing on January 17, the Department indicated that prior to 2007, it was its opinion that certain hunting related products and services were not subject to a sales tax. However, sometime last year, a change in that determination was made and the Department sent out a Self-Audit Notice to 148 businesses involved with these kinds of products and services seeking a remittance of past due taxes.

If I understand the facts correctly, the action by the Department last year begs the question as to why, if the policy was changed in 2007 that certain services and items related to hunting were subject to sales tax, why it was appropriate to send out a Self Audit Notice for the preceding 36 months of sales. I am aware that the Department sent out a subsequent notice of intent to begin enforcing their revised policy effective January 1, 2008. But regardless of how or why we got to where we are today, we do believe SB 487 is sound public policy with significant benefits to the state that should be favorably considered by the Legislature.

Many of us in Kansas who have a history of opening day hunting weekends with family and friends will understand when I say there are fewer and fewer places for Kansans and non-Kansans to hunt now than there was when we were growing up. This is attributable to many things, including a steady migration of people from rural to urban areas, which produces fewer hunters, hunting land lost to private hunting leases, loss of wildlife and habitat and many other factors. But there continues to be a strong interest from the public at large with hunting, shooting sports and outdoor recreational opportunities. Entities such as Flint Oak, Ravenwood, Ringneck Ranch and perhaps as many as 200 more such facilities in our state cater to the outdoorsman and woman to provide quality hunting and shooting experiences for their customers.

The state of Kansas should do all it can to encourage the growth of these kinds of operations, which necessarily increase revenues to state and local governments and businesses in our state selling that sell firearms, ammunition, dog training and veterinarian services and supplies to those who participate in these kinds of activities.

Through controlled shooting areas working in conjunction with game bird breeders, patrons of these facilities have the ability to hunt pheasant, quail and other game birds in Kansas from September 1 through March 31. Without controlled shooting areas, hunting seasons are limited by Wildlife and Parks depending upon breeding patterns, wildlife populations and related factors that limit these seasons generally from November through January.

The imposition of a sales tax on the kinds of services exempted in SB 487 may or may not have a significant impact upon the industry going forward, particularly on the larger operations involved in this industry. However, it also would not have a significant impact on state revenues and would become a regulatory headache for farmers and ranchers and those who are in this business to make a few extra dollars when the crops are in and the cattle content, as they would have to obtain a sales tax number from the state, create a separate accounting process and submit their requisite sales taxes to the state on a periodic basis.

There is also concern with the precedent involved with applying a sales tax to a service; i.e., hunting guides, dog trainers, shooting lessons and related services.

I found the question and answer portion of this Committee's discussion on January 17 to be very interesting and probably raised more questions than it answered.

- If a farmer leases land to another farmer to graze cattle, is it subject to sales tax? I thought I heard the answer was "no."
- If a farmer leases land to a group of doctors for a duck lease, is the lease subject to sales tax? I thought I heard the answer was "yes".

What if the farmer who leases the land for his cattle in the first example can also hunt on the land?

We can go much further with these kinds of examples, but I believe the Committee has an understanding of some of our concerns and the need for clarity with this area of law. There appears to have been some subjectivity in the interpretations made in the past by the Department of Revenue, which leads us to the position of supporting legislation such as SB 487 to provide clarity for those involved in this industry.

To digress for just a minute, I would also note for the Committee that I have some personal experience with this issue. In 1993, when I was on the Board of Capital City Gun Club located west of Topeka, we received a notice of audit in regard to all of our shooting activities at the club, including trap, skeet and even pistol, rifle and black power shooting events similar to what the Department sent out in 2007. We were informed that we were required to collect sales taxes on all shooting events at our club, including trap and skeet, as well as any sales made at the club. Since that time, we have obliged the Department by collecting and remitting sales tax to the state for all "sales" at Capital City Gun Club. In the past 16 years, we have remitted approximately \$15,000.00 to the State of Kansas in sales taxes. It's not easy to find a person at a volunteer club to handle these kinds of transactions and the requisite paperwork, but fortunately we have done so and we hope he never turns in his resignation.

Kansas ought to be doing more to encourage hunting and the shooting sports in our state, not less. Most clubs in Kansas are non-profit and run by volunteers who contribute a significant amount of time and money to make their club work, just like we do at Capital City Gun Club. By and large, these clubs are open to the public and offer a public service that the Kansas Department of Wildlife and Parks only wish they could provide.

Most guide services and hunting preserves involve a farmer or rancher taking a few friends on a hunt, which expands over time to perhaps include lodging at the old homestead, meals cooked by the family and accommodations for hunting dogs and so on. Requiring those interested in getting into this business to collect sales taxes on each and every aspect of their venture seems counter productive to fostering this growing industry and opportunity.

Removing the requirement of collection of sales taxes on these kinds of services and transactions would be a reasonable step by the state to encourage further investment of this kind in our state.

Not all hunting clubs and preserves are as big and as extravagant as Flint Oak. But there are a lot of them in our state that are growing each and every year by providing a quality hunting and outdoor experience for their customers. These kinds of operations are located in rural areas of our state and provide opportunities for additional income for farmers and ranchers and those they employ or contract with. They provide recreational opportunities for hunting, shooting and gun dog enthusiasts who generally have substantial disposable income.

No one is here before the Committee asking for an exemption of traditional retail sales by those entities that routinely sell goods, such as ammunition, firearms, hunting and outdoor gear and related products. However, legislative clarity on certain goods and services that many people, including the Department thought were already exempt or should be is what this legislation is designed to address.

Finally, I would draw the Committee's attention to the amendatory language found on page 3, lines 31-33 that propose to exempt from the application of sales tax the fees collected for shooting sporting clays. I would respectfully suggest that this language be broadened to encompass all of the standard clay pigeon shooting sports, including trap, skeet and sporting clays or in the alternative, clay target shooting. We would respectfully suggest that they each have similar merit for an exemption and are directly related to hunting, fostering hunting safety and promoting the sport of hunting in general.

I have provided a balloon amendment for this proposed change.

On behalf of the Kansas Sport Hunting Association and Flint Oak, LLC, I thank you for your consideration of my testimony and respectfully request your support of SB 487 as we have proposed for amendment.

The Economic Importance of Hunting
International Association of Fish and Wildlife Agencies
Report prepared by Southwick Agency

Kansas

1996

| | |
|---|---------------|
| Number of Hunters (deer, migratory & upland): | 275,000 |
| Economic Impacts for All Hunting: | \$374,945,337 |
| Earnings: | \$169,746,410 |
| Jobs: | 9,553 |
| State and Local Tax Revenue: | \$20,962,922 |

2006

| | |
|---|---------------|
| Number of Hunters (deer, migratory & upland): | 271,175 |
| Economic Impacts for All Hunting: | \$270,981,258 |
| Earnings: | \$142,771,519 |
| Jobs: | 5,864 |
| State and Local Tax Revenue: | \$29,695,037 |

In ten years:

- Number of hunters declined by 4,000.
- Economic Impact declined by \$100 million.
- Earnings declined by \$15 million.
- Jobs declined by 3,700
- State and local revenues increased by \$9 million.

1 coin-operated device whether automatic or manually operated;

2 (j) the gross receipts from the rendering of the services of washing
3 and washing and waxing of vehicles;

4 (k) the gross receipts from cable, community antennae and other sub-
5 scriber radio and television services;

6 (l) (1) except as otherwise provided by paragraph (2), the gross re-
7 cepts received from the sales of tangible personal property to all con-
8 tractors, subcontractors or repairmen for use by them in erecting struc-
9 tures, or building on, or otherwise improving, altering, or repairing real
10 or personal property.

11 (2) Any such contractor, subcontractor or repairman who maintains
12 an inventory of such property both for sale at retail and for use by them
13 for the purposes described by paragraph (1) shall be deemed a retailer
14 with respect to purchases for and sales from such inventory, except that
15 the gross receipts received from any such sale, other than a sale at retail,
16 shall be equal to the total purchase price paid for such property and the
17 tax imposed thereon shall be paid by the deemed retailer;

18 (m) the gross receipts received from fees and charges by public and
19 private clubs, drinking establishments, organizations and businesses for
20 participation in sports, games and other recreational activities, but such
21 tax shall not be levied and collected upon the gross receipts received from:

22 (1) Fees and charges by ~~any~~ political subdivision, by any organization
23 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
24 201, and amendments thereto, or by any youth recreation organization
25 exclusively providing services to persons 18 years of age or younger which
26 is exempt from federal income taxation pursuant to section 501(c)(3) of
27 the federal internal revenue code of 1986, for participation in sports,
28 games and other recreational activities; ~~and~~ (2) entry fees and charges for
29 participation in a special event or tournament sanctioned by a national
30 sporting association to which spectators are charged an admission which
31 is taxable pursuant to subsection (e); ~~and~~ (3) *fees and charges for partic-*
32 *ipation in guided and non-guided hunts and fees and charges for sporting*
33 ~~clays;~~

34 (n) the gross receipts received from dues charged by public and pri-
35 vate clubs, drinking establishments, organizations and businesses, pay-
36 ment of which entitles a member to the use of facilities for recreation or
37 entertainment, but such tax shall not be levied and collected upon the
38 gross receipts received from: (1) Dues charged by any organization ex-
39 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
40 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
41 in a nonprofit organization which is exempt from federal income taxation
42 pursuant to section 501 (c)(3) of the federal internal revenue code of
43 1986, and whose purpose is to support the operation of a nonprofit zoo;

Proposed Amendment:

clay shooting sports

To: Senator Barbara Allen, Chair
And Members of the
Senate Committee on Assessment and Taxation

From: Ken Corbet
Ravenwood Lodge

Re: SB 487 – Sales tax on hunting and sale of game birds

Date: January 30, 2008


Dear Senator Allen and Members of the Senate Committee on Assessment and Taxation:

My name is Ken Corbet and I am the owner of Ravenwood Lodge located southwest of Topeka. At Ravenwood we provide guided field hunts and sporting clays.

I am the past president of the Kansas Sport Hunting Association and am currently on their board of directors. We have hunt providers and bird producers in over 80 counties in the state of Kansas. Without the support of these farmers and ranchers, there would be no opportunity for the outdoor legacy of hunting and sport shooting for which Kansas is known.

On behalf of Ravenwood and the KSHA, I appear before you today to support SB487.

Sincerely,



Kenneth L. Corbet

Assessment & Taxation
Date 1-31-08
Attachment # 4

Kansas sportsmen

425,000 hunters & anglers spending \$1.6 million a day



TOTAL SPENDING \$607 million

- Sportsmen support more jobs in Kansas than Scanlon's and Kansas State University combined (11,400 jobs vs. 9,030).
- Annual spending by Kansas sportsmen is more than the revenues of Alexander Open Systems, Crossland Construction and Enturia - the state's fastest growing companies (\$607 million vs. \$603 million).
- Annual spending by Kansas sportsmen is more than the cash receipts for soybeans, one of the state's top agricultural commodities (\$607 million vs. \$550 million).
- Kansas sportsmen outnumber the population of Wichita, the state's largest city (425,000 vs. 355,000).
- Sportsmen in Kansas could fill Kansas Speedway five times (425,000 vs. 82,000).

Casting benefits throughout the economy.

Lots of bang. Even more bucks.

| | |
|-----------------------|---------------|
| Jobs | 11,400 |
| Salaries and wages | \$300 million |
| Federal Taxes | \$67 million |
| State and Local Taxes | \$61 million |
| Ripple Effect | \$1 billion |



CSF and NASC are the most respected and trusted hunting and fishing organizations in the political arena. With support from every major hunting and fishing organization, we are the leader in promoting sportsmen's issues with elected officials. CSF works directly with the bi-partisan Congressional Sportsmen's Caucus in the U.S. Congress; NASC works with affiliated state sportsmen's caucuses in state legislatures around the country.

[Congressional Sportsmen's Foundation 202-543-6850 www.sportsmenslink.org](http://www.sportsmenslink.org)

In partnership with



4-2



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Kansas Farm Bureau POLICY STATEMENT

Senate Committee on Assessment and Taxation

SB 487 - an act concerning sales tax

**January 30, 2008
Submitted by:
Brad Harrelson
State Policy Director**

Chairperson Allen and members of the committee, thank you for this opportunity to provide testimony on Senate Bill 487 clarifying the application of sales tax to services provided in the hunting industry. I am Brad Harrelson, State Policy Director for Kansas Farm Bureau. KFB stands in support of SB 487.

KFB is concerned about and disagrees with the Department of Revenue's recent interpretation that sales tax should be remitted by business and individuals providing hunting services and property owners who charge access fees for hunting. KFB policy clearly opposes the application of sales tax to services, and further states that sales tax should only be applied at the retail level. Many of our members participate in these endeavors and pay the appropriate income tax on these services. By imposing an additional sales tax the Department is double-taxing these businesses and individuals. Other providers in the State are not required to remit sales tax on services provided, why should these businesses be singled-out?

We appreciate the Committee's efforts to correct this situation and look forward to resolution of the issue. Thank you for this opportunity to express the position of Kansas Farm Bureau.

Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.

Assessment & Taxation
Date 1-31-08
Attachment # 5

Testimony to the Senate Committee on Assessment and Taxation

David Corbin

January 31, 2008

Department Concerns with Senate Bill 487

Senator Allen, Chair, and Members of the Committee:

Senate Bill 487 would reverse the Department's interpretation stated in Notice 07-08 (attached) explaining the sales tax imposition in K.S.A. 79-3603(m) on the gross receipts derived from the participation in guided and non-guided hunts, the gross receipts from fees and charges for sporting clays, and the gross receipts for the sale of game birds. If Senate Bill 487 is enacted, such charges will be exempt after the effective date.

The Department of Wildlife and Parks reports that for 2006, the following number and types of hunting licenses were issued to non-residents:

| | |
|--------|---|
| 644 | non-resident combined hunting and fishing |
| 57,944 | non-resident hunting |
| 9,986 | controlled shooting area |
| 593 | 48-hour water fowl |
| 2,294 | non-resident junior (under 16) |

Fees and charges from participation in hunting—particularly from non-residents—is a growing business in Kansas. This exemption will cause further shrinkage of the sales tax base. The Department's fiscal note is attached.

Our neighbor state, Missouri, does impose sales tax on fees for participation in hunting.

Notice

Notice Number: 07-08
Tax Type: Kansas Retailers' Sales Tax
Brief Description: Sales Tax Treatment of Charges for Participation in Guided vs. Non-guided hunting and Retail Sale of Game Birds
Keywords:
Approval Date: 12/20/2007

Body:

KANSAS DEPARTMENT OF REVENUE

December 20, 2007

Notice 07-08

Sales Tax Treatment of Charges for Participation in Guided vs. Non-guided Hunting and Retail Sale of Game Birds

This notice sets forth the Department's guidance on the sales tax treatment of charges for guided and non-guided hunts, and on the retail sale of game birds. To the extent this guidance is inconsistent with prior statements or interpretations issued by the Department, this guidance shall control.

Charges for Participation in Guided vs. Non-guided Hunting

The gross receipts derived from the participation in guided and non-guided hunts, as well as sporting clays are subject to Kansas retailers' sales tax. Kansas law imposes tax on the gross receipts received from the sale of tangible personal property, enumerated services and certain admissions. K.S.A 79-3603(m) imposes sales tax on the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities. K.A.R 92-19-22b(a)(1) defines "sports, games, and other recreational activities" as follows:

diversions that restore or refresh strength and spirits by means of pastime, exercise, or similar activities that involve strength, speed, dexterity, stamina, or training. These activities shall include golf, pool, billiards, skating, bowling, swimming, skiing, baseball, softball, basketball, volleyball, racquetball, handball, squash, tennis, carnival rides, motor sports, batting practice, skeet, trap, target shooting, horse riding, pinball, darts, electronic games, physical fitness services, and all other similar activities.

Hunting falls within the category of "sports, games, and other recreational activities," and any fees or other charges for participation in hunting, whether a guide is or is not included, are subject to Kansas sales tax.

Gross receipts from non-guided hunts include any and all charges for access to property for the purpose of hunting.

Retail Sale of Game Birds

The retail sale of game birds within Kansas is subject to Kansas retailers' sales tax (the seller should collect sales tax on the selling price). Kansas sales tax is also due on the sale of game birds when sold as pets, when sold directly to the consumer who will use them as a food source, and when the purchaser cannot produce a valid Kansas Exemption Certificate.

The seller is not required to collect Kansas sales tax on sale of game birds shipped or delivered by common carrier to point outside of the State of Kansas. The seller should retain for audit purposes shipping documents, such as the bill of lading or invoice showing the shipping address indicating the out-of-state delivery.

If the buyer provides the seller with a Kansas Exemption Certificate indicating that the purchase of game birds is exempt for Kansas retailers' sales tax, then the seller is not required to collect sales tax. Some of the most common exemptions in the game bird industry are:

(1) Kansas Resale Exemption Certificate – This certificate indicates that the seller should not collect the sales tax because the buyer is going to resell the birds and collect sales tax. A prime example would be the purchase of birds by a sport hunting preserve. (See p. 43, Publication KS-1520).

(2) K.S.A. 79-3606(o) exempts all sales of fowl, the primary purpose of which is for use in the production of offspring or food production. A prime example would be the sale of birds to another producer who is going to use them to as breeding stock or, to a slaughter house that is going to process the birds for human consumption.

(3) Exempt Entity – No sales tax is due when birds are sold to an exempt entity such as a school, state of Kansas, federal government. Each of these exempt entities should have an Exemption Certificate issued to them similar to the one found on page 16 of Publication KS-1520.

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 01/29/2008

Subject: Senate Bill 487
Introduced as a Senate Bill

Brief of Bill

Senate Bill 487, as Introduced, amends K.S.A 79-3603 to include sales tax fees and charges for participation in guided an non-guided hunts, fees and charges for sporting clays as fees and charges that would be exempt from sales tax. It also amends K.S.A 79-3606 to add an exemption for sales of game birds the primary purpose of which is use in hunting.

The Act wold be effective July 1, 2008.

Fiscal Impact

The loss of state sales tax revenue in fiscal year 2009 is estimated at \$650,000. Loss to the state general fund would be \$470,000 and \$80,000 to the highway fund. Local sales tax lost is estimated at \$162,500. .

The 2006 National Survey of Fishing, Hunting and Wildlife Associated Recreation as published by the U.S. Fish & Wildlife Service provides expenditure data on hunting in Kansas. Total expenditures were \$245.4 million, which includes food and lodging, transportation, equipment, auxiliary, other trip costs and other items costs. The "other trip" expenditures amounted \$10 million and of that, 94% (\$9.4 M) are guide fees, pack trip or package fees. The loss of state sales tax from these fees and charges would be \$500,000 annually. With the fee and charges for participation in shooting sporting clays and game bird sales exempt, the total fiscal impact is estimated at \$650,000.

Estimate sales tax reductions are provided below.

| Fiscal Year | Total | SGF | Hwy | Local |
|-------------|-----------|-----------|----------|-----------|
| 2009 | \$650,000 | \$570,000 | \$80,000 | \$162,500 |
| 2010 | \$663,000 | \$581,451 | \$81,549 | \$165,750 |
| 2011 | \$676,260 | \$593,080 | \$83,180 | \$169,065 |

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| | | | | |
|------|-----------|-----------|----------|-----------|
| 2012 | \$689,785 | \$604,942 | \$84,844 | \$172,446 |
| 2013 | \$703,581 | \$617,040 | \$86,540 | \$175,895 |

Administrative Impact

Sales tax publications would require revision at a cost of \$26,300.

Administrative Problems and Comments

The proposal would exempt fees and charges for participation in guided and non-guided hunts. Other fees that may be associated with a hunt such as meals, lodging, equipment rental, and transportation charges would continue to be subject to sales tax. The department would require invoices to separately list fees and charges for the hunts separate from other taxable charges in order for the fees and charges for the guided or non-guided hunts to be exempt from tax.

The department respectively suggest the exemption for sporting clays be clarified to state that it is the fees and charges for participation in shooting sporting clays. As current written, there may be some question as to whether the participation is exempt or just the purchase of the sporting clays.

Taxpayer/Customer Impact

Hunters would not longer be required to pay sales tax on guided and non-guided hunts or the shooting of sporting clays. Sellers of game birds would no longer be required to collect sales tax on their sales.

Legal Impact

Approved By:



Joan Wagnon
Secretary of Revenue

FISCAL FOCUS

Budget and Tax Policy in  Perspective

April Holman
WRITTEN TESTIMONY ONLY
Senate Bill 487
Senate Committee on Assessment and Taxation
January 30, 2008

KAC is a not-for-profit child advocacy organization that has been in existence since 1979. KAC promotes policies that aid family economic stability because instability creates stress and the potential for harm to children through less consistent medical care, fewer opportunities for early learning and the potential for lower performance in school.

Our opposition to Senate Bill 487 is not specific to guided and non-guided hunting services, but is instead a reflection of our general concern about the erosion of the sales tax base. The sales tax is a key source of revenue to the State General Fund (SGF), which is in turn a key source of funding for state government and for programs and services vital to children and families. The number of sales tax exemptions in Kansas has more than doubled in the past 15 years, resulting in a significant reduction in possible SGF revenues.

We believe that instead of adopting more exemptions to the sales tax, a comprehensive modernization of the Kansas tax system is needed. Recent reports from the Kansas Department of Revenue show that Kansas taxes disproportionately impact the poor and that both the sales tax and property tax bases have been eroded significantly in recent years. This has resulted in tax shifts as well as revenue shortfalls and the need in some years to increase tax rates. In order to address these issues as well as the changing nature of the Kansas economy, we believe that a comprehensive plan should be created for modernizing Kansas taxes. If we can update and improve the efficiency of our tax system the need for exemptions will not longer be an issue. To this end, we respectfully oppose the passage of additional sales tax exemptions and request that the committee consider a broader solution to problems with the Kansas tax system.

Electronic Services vs. Channel Management

Loan Wagon

Staffing:

There are currently 68 full time employees in Channel Management. Temporary workers are employed year-round, a maximum of 100 that start the last week of January and work full time through the last week of May. Our temp budget is \$450,000, annually. During the mid 90's, there were 160 full time employees and 350 temporaries. With increased efficiencies, the number of employees has continually decreased as we realized gains in electronic commerce.

Excluding the manager, Electronic Services is staffed with 11 full time employees. Four are program specialists and the remaining seven are responsible for program administration and support. There were 6 full time employees during the mid 90's; four were responsible for admin and support.

Through continued growth in electronic commerce, it is our goal to reach a point when approximately 40 full time employees are required for Channel Management. The need for temporary employees would decrease, as well. Electronic Services would expect an addition of **two** full time employees by that time.

FY '07 Comparison (percent/actual):

Electronic Services processes 57% (822,944) of Individual Income tax returns received annually.

Channel processes the remaining 43% (636,652).

Channel Management processes 64% (366,403) of all Sales and Use tax returns received annually.

Electronic Services processes the remaining 36%. (204,946).

Electronic Services processes 26% (756,943) of payments received that account for 54% (4.2 billion dollars) of all funds.

Channel Management accounts for 46% (3.6 billion dollars) of all funds and 74% (2,128,638) of payment processing.

Additional information:

At peak processing periods, 17% of all tax returns that are filed on paper have reporting exceptions or contain errors that result in assignment to a work list. With minimal staffing in Customer Relations, backlogs are created as a result and there are significant delays to account resolution.

Electronically filed returns sustain a work list rate of 1.5%. Errors are easily identifiable and processing delays are virtually non-existent. With wider adoption of electronic filing, staffing issues would be close to absent, as well.



Kansas Society of Certified Public Accountants

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Tony A. Scott, JD, CPA
Executive Director

TESTIMONY

To: The Honorable Barbara Allen, Chair
Members, Senate Committee on Assessment and Taxation

From: Tony A. Scott, Executive Director, Kansas Society of Certified Public Accountants

Date: January 31, 2008

Re: Testimony as Proponent of SB 471

Ladies and Gentlemen of the Committee:

Approximately 2,600 members strong, the Kansas Society of Certified Public Accountants is the statewide professional association of CPAs *dedicated to implementing strategies that enhance the well-being of our members, the accounting profession and the general public.* My name is Tony A. Scott and I am Executive Director of the KSCPA. **Today I am here testifying as a proponent of SB 471.**

Several years ago members of the Society began working with Secretary of Revenue Joan Wagnon and staff of the Kansas Department of Revenue to encourage increased use of electronic filing for individual income tax returns on both a federal and state level. As a result of those efforts many of our members who were not already taking advantage of the e-file process successfully implemented same for their clients.

To encourage increased use of the e-file process, members of the Society's Tax Cabinet have participated in educational seminars sponsored by the IRS and KDOR. Secretary Wagnon and her staff are also regular presenters at the Society's Annual Conference on Kansas Taxes and Annual Kansas Tax Conference. In addition to other topics of interest to tax professionals, e-filing has been a recurring theme during those programs. The Department has also run television and other ads encouraging Kansans to request their tax advisors e-file their returns.

The Department and Society have worked well together in promoting voluntary e-filing. In fact, the rate of e-filed returns increased from 49% for calendar year 2005 to approximately 60% for 2006. Calendar year 2007 numbers are not yet available.

Because we represent CPAs who practice in firms of all sizes, however, we are "cautious proponents" of SB 471. As presented, the language of SB 471 is fine. As noted below, however, we are ever-aware of the potential for unintended consequences in this type of legislation.

January 31, 2008
The Honorable Barbara Allen, Chair
Members, Senate Committee on Assessment and Taxation
Testimony as Proponent of SB 471

First, we want tax preparers who operate as small businesses to remain in business so they can perform professional client services they are otherwise qualified to perform. In other words, we recognize that some individual income tax returns can't be e-filed with the IRS, and thus with the Department of Revenue, due to complexities and/or other technical issues inherent in the return. Examples of such returns include those reporting passive activity losses, hedge fund transactions, high volume securities trading, high percentages of withholding on pension distributions, and unmatched Social Security numbers.

We are also cautious because we can't support the imposition of penalties for failure to comply with the minimum threshold number (i.e. – 50 returns) and minimum compliance percentage (i.e. – 90%). As noted above, some returns can't be e-filed; in this case because not all software programs support all Kansas income tax credit forms. In other words, preparers required to e-file returns which claim credits not supported by the preparer's software must also submit parts of the return by paper. Such a hybrid e-file/hard-copy system would make e-filing administratively burdensome for the tax preparer and thus more expensive for Kansas tax payers.

Finally, we recognize that some Kansas taxpayers worry about the security of electronic technology. Whether those worries are based in fact or fiction, they are nevertheless real and those taxpayers should have the right to direct their preparer to file their return the old-fashioned way – on paper.

Based upon the foregoing, **we respectfully request members of the Committee vote in favor of SB 471 as presented.**

It is my honor and privilege to appear before you today. I will be pleased to stand for questions.

Respectfully submitted,

Tony A. Scott

TAS/mmi