Approved: February 24, 2010
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:07 a.m. on January 20, 2010, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Marla Morris, Committee Assistant

Conferees appearing before the Committee:
Richard Cram, Director of Policy and Research, Kansas Department of Revenue
Jeff Scott, Chief Compliance Enforcement Officer, Kansas Department of Revenue
Eric Stafford, Director of Government Affairs, Associated General Contractors of Kansas, Inc.

Others attending:
See attached list.

Representative Kleeb introduced his intern Coleen Carlson, a student from the University of Kansas.

Introduction of Bills:

Representative Siegfreid requested the introduction of a bill to make adjustments to the historic tax credit. Representative Carlson seconded the motion. The motion carried.

Representative Siegfreid requested the introduction of a bill to make adjustments to the tax credits for medical insurance. The motion was seconded by Representative Carlson. The motion carried.

Representative King requested the introduction of a bill concerning the use of five year rolling averages for valuation of residential property. Seconded by Representative Schwartz. The motion carried.

Representative King requested a machinery equipment tax exemption bill allowing 5 year interest free loans for counties of local government that have more than 5% of their property tax base tied up in dispute with the court of tax appeals in which they eventually did not prevail. Seconded by Representative Schwartz. The motion carried.

Chairman Carlson opened the hearing on:

HB 2464 - Establishing service fee for taxpayer with delinquent taxes who enter into installment payment plans with the Kansas department of revenue.

Staff Chris Courtright gave an overview of **HB 2464.** The bill allows a tax payer to enter into an installment payment plan with the department of revenue when the taxpayer has a delinquent tax liability. The department is then authorized to charge the tax payer an application service fee of $10. He stood for questions.

Proponents:

Richard Cram, Director of Policy and Research, Kansas Department of Revenue (Attachment 1), spoke in favor of **HB 2464**. The Department strongly urges enactment of the bill, which would impose an administrative fee of $10 when a tax payer with delinquent tax liability applies to the Department's Compliance and Enforcement Staff to enter into an installment plan to pay off the delinquent tax liability. He stood for questions.

Director Cram introduced Jeff Scott, Chief Compliance Officer, Kansas Department of Revenue and staff, Robin Harris and Aron Montaini. Mr. Scott summarized a report on the history of the Department's accounts receivable recoveries and a current report on the status of the accounts receivable recoveries (Attachment 2). He stood for questions.

There were no opponents to **HB 2464**.

Chairman Carlson closed the hearing on **HB 2464.**

The Chairman opened the hearing on:

HB 2465 - Limitations on certain income tax credits.

Staff Chris Courtright gave a brief overview of **HB 2465**. He stated the revisions in the bill would make technical corrections involving the distinction between "refundable" and "non-refundable" income tax credits, and explained the differences between the two types of credits. He stood for questions.

Proponents:

Richard Cram, Kansas Department of Revenue (Attachment 3), presented testimony in favor of the passage of **HB 2465**. In summation, he stated the Department strongly urges passage of **HB 2465**, and asked that the Department balloon amendments be included in **HB 2465** (Attachment 4).

Opponents:

Eric Stafford, Associated General Contractors of Kansas, Inc. (AGC) (Attachment 5), presented testimony in opposition to **HB 2465**. Based on input received from a tax professional the AIG was unclear on the intent of the bill. He stated several questions had been answered in the course of the hearing.

The Chair closed the hearing on **HB 2465**.

The next meeting is scheduled for January 21, 2010.

The meeting was adjourned at 10:20 a.m.

HOUSE TAXATION COMMITTEE

DATE: January 20, 2010

NAME	REPRESENTING
Michelle Bowles	Cap. Strategies
Eric Stafford	AGC of KS
Kent Eckles	KS Chamber of Commerce
Marlee Carpenter	KS CPA
Ron Seeber	KGFA
Jeff Scott	KDOR
Robin Harris	"
Aron Montaini	"
James Harrel	"
Mia Payne	"
Larry R Baer	LKM
Chris Wiebe	KTEC
Leigh Keck	Hein Law firm
Sandy Braden	GBA
Ashley Sherard	Lenexa Chamber
Ken Daniel	TIBA

Mark Parkinson, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

House Taxation Committee

Richard Cram
Jeff Scott, Chief Compliance Enforcement Officer

January 20, 2010

Testimony in Support of House Bill 2464

Representative Carlson, Chair, and Members of the Committee:

The Department strongly urges enactment of House Bill 2464, which would impose an administrative fee of $10 when a taxpayer with delinquent tax liability applies to the Department's Compliance and Enforcement Staff to enter into an installment plan to pay off the delinquent tax liability. The $10 fee would go into the Recovery Fund for Enforcement Actions and Attorney Fees for use by the Department in covering its compliance/enforcement costs. We estimate this could generate approximately $450,000 in FY 11 for use in the operating budget of the Department of Revenue to support the Department's collection and enforcement programs.

The Department projects that approximately 45,000 installment payment plan agreements for delinquent tax liability will be entered into with taxpayers in FY 11. The $10 administrative fee would be used to cover the different administrative costs associated with processing the payment plan agreement request form CM15 for individuals, and the CM16 request form for businesses and any corresponding documentation required. This source could also be used to fund currently vacant positions in our compliance and enforcement staff, furthering enhancing collections. The fees will provide revenues to stay abreast of technology upgrades and advancements for data-warehousing / data-mining, our Business Intelligence Team tools, to improve collections and Quality Assurance Program maintenance.

Currently, the Recovery Fund for Enforcement Actions and Attorney Fees receives bad check charges, which are collection costs of $30.00 plus postage charges of $10.04 for a total of $40.04 per bad check. This amounts to approximately $90,000 per year in bad check charges. These funds are used to cover other operating expenses in the Department's collection and enforcement activities, such as paper, postage, collection agent travel expenses, etc. Receipts of an additional $450,000 per year into this fund from the proposed $10 administrative fee for installment pay plans would greatly facilitate and strengthen the Department's tax collection programs.

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Attachment: # 1

Provided below is general information about installment payment plans and our compliance and enforcement programs. Also, included is a history and current report on the status of the Department's accounts receivable recoveries.

- **How many delinquent taxpayers are there?**
    - At any one given time there are approximately 150,000 cases in the collection activity stream from first contacts, to tax warrant execution activities.
- **What is the process for entering into a pay plan**
    - The Payment Agreement application is on-line at the Department website http://www.ksrevenue.org/payplanbus.htm A taxpayer can fill one out and mail or fax it to the Department for review and approval.
- **Who qualifies for one and who does not?**
    - Any delinquent debtor is qualified to enter into a repayment agreement. If a debtor breaks more than a few pay agreements, the terms become progressively more demanding.
    - The first payment plan is allowed for up to a 12-month repayment period without issuance of a tax warrant;
    - If taxpayer needs more than a 12-month payment plan and has a balance of greater than $500, a tax warrant will be issued, and the taxpayer's situation will be reviewed every 12 months; and if the balance is greater than $2,500 a partial financial disclosure is required; if the balance is greater than $20,000 a full financial disclosure is required (provided on website);
    - After the first broken promise, the taxpayer is allowed a payment plan with a maximum repayment period of six (6) months without the issuance of a tax warrant; a payment plan could be granted for a longer period but securing the debts with a tax warrant would be required.
    - A taxpayer who has previously defaulted on a payment plan on the same debt(s) **twice** would not qualify for another payment plan with the Department unless the taxpayer agrees to establish a Wage Assignment through the employer;
    - A taxpayer whose debt has been placed with our 3rd party collection agency would not qualify for a payment plan;
    - A taxpayer whose debt has been placed with Kansas Dept of Admin. Debtor Setoff Program with a recent setoff having occurred would not qualify for a payment plan.
- **How many pay plans are currently being entered into per year?**
    - An average of 26,970 annually over the past 4 years, however, 2007 was 15,223; 2008 was 19,561; 2009 was 33,090; and currently in 2010 we are projecting a growth of over 40,000 pay agreements. Pay agreements are increasing in number as discovery and recovery grow, and the current economic climate indicates a greater number of debtors are entering into pay agreements rather than being able to pay their debts without installment payments.
- **How much tax does that represent?**
    - Active pay agreements represents a total of $24,869,262; of which $16,598,273 is Tax; $8,270,988 is Interest and Penalty

1-2

- **How much tax is coming in from pay plans?**
    - See bullet above
- Currently, approximately 50% of pay agreements default for a multitude of reasons. Missed payments, new debt enters into collections requiring a new pay agreement to be determined. For each defaulted pay agreement, the terms of the next agreement, if permitted, become more demanding. In some cases, no voluntary pay agreements would be allowed, and the Department would require a wage assignment, or might garnish wages in a forced court action, and possibly an execution of a tax warrant to seize assets to apply toward the payment of the tax, interest, and penalty. If there is a question of debt validity, a need to file original returns, financial insolvency, the Department advises the taxpayer to prepare a Petition for Abatement Request, which allows Staff to analyze the taxpayer's current financial situation and determine a debt reduction agreement, or based on certain statutes, a possible total abatement in the case of a person becoming disabled and unable to pay.

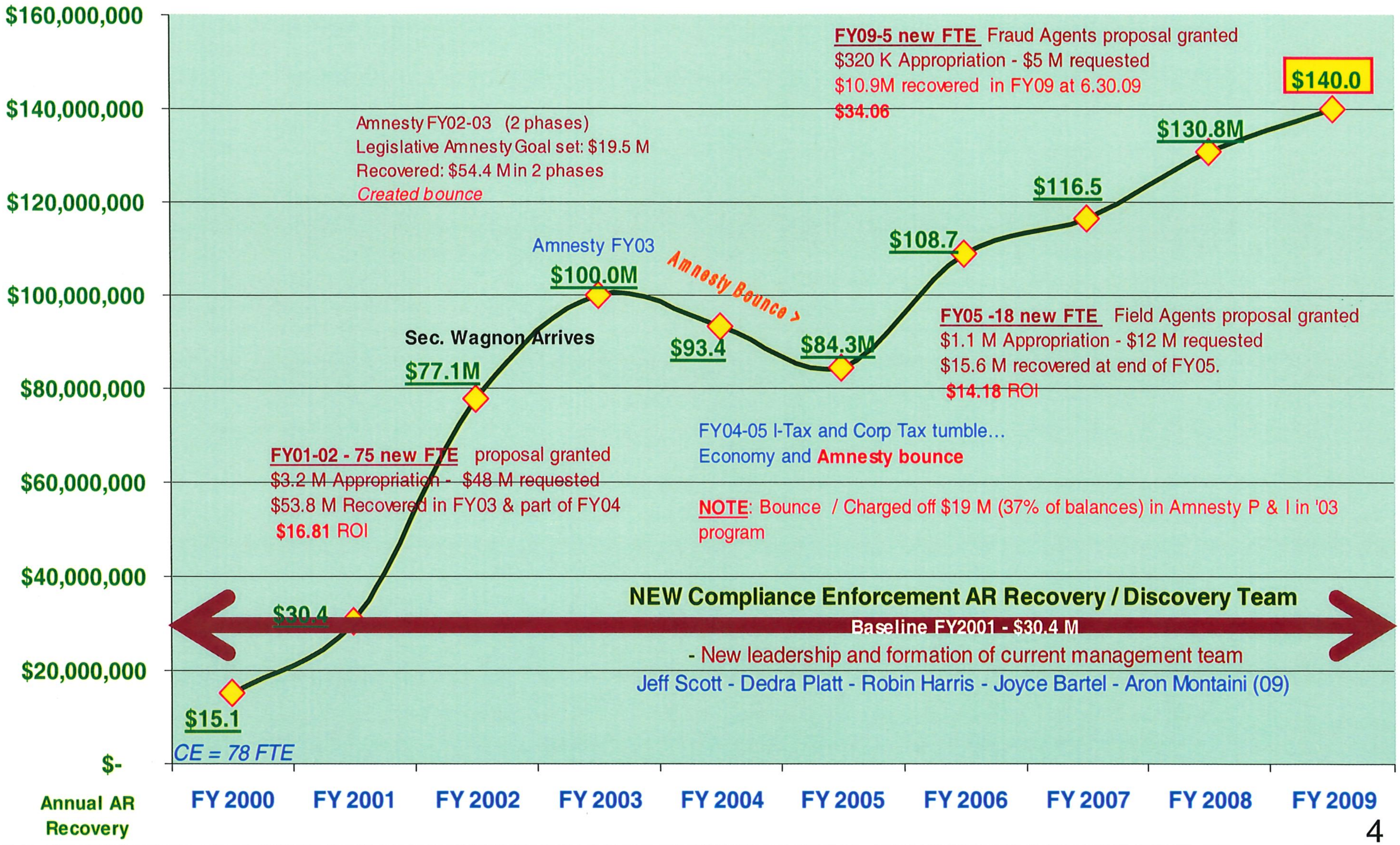
Compliance Enforcement - Taxation

10 Fiscal Year History

AR Recovery & Discovery FY2000 *through* FY2009

10 YR Notable - FY2000 vs FY2009 :
CE = 214 FTE equivalent
+174% FTE increase from FY00
+822% $ increase since FY00

House Taxation
Date: 1-20-10
Attachment: #2



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Kansas Department of Revenue - Accounts Receivable Analysis / Breakdown

Report updated 1.19.2010, JS

Information from 12.31.2009 AR Report

NRV = Net Realizable Value (formula applied with 1,400 attributes researched likelihood of collection based on information and age)

Major Tax Type AR's	Gross Balance	< (includes Tax-Interest-Penalty)
Total ACM AR balance:	$617,891,697	% of Gross Bal
KDOR Set-Up Return Assessments:	$415,849,209	67%	**Assessed debts are Discovery/Non-Filed Set-Up returns
Filed Returns Debt	$202,042,488	33%	Filed debts are actual returns filed with a balance due
			** - inflated tax liabilites without documentation

Organization of Major Debt Type Inventories		% of Gross Bal	These debt balances are basically frozen due to the reasons noted left - some statute restrictive - some missing information
BK Debt Frozen	$ 18,229,595	3%	Federal Law prohibits collection activity
Suspended - Appeals/Audit/Fraud	$ 4,707,313	1%	Cannot pursue collection activities
Deemed Uncollectable	$ 41,990,778	7%	Statute critieria driven
Pending Skiptracing - AS	$ 21,647,936	4%	Missing phone/good address - collection stopped to research
FROZEN DEBT	$ 86,575,623	14%	CANNOT PURSUE COLLECTIONS (see reasons listed above)

3rd Party Balances are a subset of Gross Balances farmed out under contract

With 3rd Party Contracted Collections	$ 218,786,250	35%	Is a mix of both filed debt and assessed debt trying to collect
Actual Collection Inventory Debt Value	$312,529,824	51%	of Gross AR
NET REALIZABLE VALUE	$103,134,842	33%	NRV of Collectable Debt Value

Other Tax Type Receivables	Gross Balance	NRV Balance	% of Gross	(mainly legacy tax types)
Cigarette	$ 3,454,133	$ 1,458,458	42%	
Drug	$ 48,514,721	$ 317,965	1%	100% Jeopardy Assessments - HIGHLY inflated
Dry Cleaning	$ 13,460	$ 4,294	32%	
Industrial Water	$ 137,883	$ 116,786	85%	
Inheritance	$ 115,660	$ 11,868	10%	
Interstate Motor Fuel	$ 2,086,751	$ 1,753,079	84%	
Motor Carrier	$ 47,494,528	$ 2,330,419	5%	Motor Carrier Ad Valorem Assessments (annual)
Motor Fuel Distributors	$ 8,927,259	$ 1,728,302	19%	
Public Water	$ 232,530	$ 207,385	89%	
Rental Vehicle	$ 6,679	$ 3,187	48%	
Severance Oil and Gas	$ 618,885	$ 605,839	98%	
Stock Water	$ 43,704	$ 38,708	89%	
Waste Tire	$ 27,380	$ 8,762	32%	
Total	$ 111,673,573	$ 8,585,052	8%	8% likely realizable value in these tax debt AR's

	GROSS	NRV (net)		
TOTAL GROSS AR ON BOOKS	$ 729,565,270	$ 111,719,894	15%	< Net realizable value - projected achievable
		Realizable Value		

Tip for HOW payments are applied: Payments are applied to the taxpayers account in the T-I-P statutory heirarchy. Meaning, unless otherwise directly specified on the payment/check for a specific period, the payment will automatically apply to the oldest debt period first and will apply toward the debt paying the TAX first, then INTEREST, then PENALTY (per period in that order) then if there is more money, it moves to the next oldest period and repeats the appliaction heirachry.

prepared 1.14.2010
Compliance Enforcement

2009 "Calendar Year" Assessment Summary **

Non-Legacy Tax Types

Tax Type	Tax Type GROSS Balance	Percent Assessed	Value of Assessments	Percent FILED DEBT	ACTUAL Filed Tax Return Debt Value
INCOME	$316,790,031.10	74%	$ 234,986,618	26%	$81,803,412.70
FIDUCIARY	$159,190.73	1%	$ 1,084	99%	$158,106.71
HOMESTEAD	$105,876.81	92%	$ 96,946	8%	$8,930.58
SALES	$170,476,878.14	78%	$ 132,706,454	22%	$37,770,423.86
RETAILER COMP	$1,770,081.70	74%	$ 1,316,663	26%	$453,418.42
CONSUMER COMP	$3,240,351.03	94%	$ 3,056,056	6%	$184,295.41
CORPORATE	$50,782,658.18	12%	$ 6,055,632	88%	$44,727,025.86
PRIVILEGE	$5,157.10	1%	$ 69	99%	$5,088.29
FRANCHISE	$399,992.90	42%	$ 169,414	58%	$230,578.90
WITHHOLDING	$54,850,723.84	68%	$ 37,456,777	32%	$17,393,946.68
LIQUOR ENF	$2,767,902.58	0%	N0 NRV	0%	$2,767,902.58
RETAIL LIQUOR	$5,496,990.51	0%	N0 NRV	0%	$5,496,990.51
TRANS GUEST	$3,688,492.93	0%	N0 NRV	0%	$3,688,492.93
NON RESIDENT WH	$331,594.48	1%	$ 3,495	99%	$328,099.48
	$610,865,922.03	68%	$ 415,849,209	32%	$195,016,712.91

** The slight difference in this reports totals compared to the other report is timing and report parameters. This is a calendar year snapshot, the other is the entire inventory ongoing.

prepared 1.14.2010
Compliance Enforcement

House Taxation Committee

Richard Cram

January 20, 2010

Testimony in Support of House Bill 2465

Representative Carlson, Chair, and Members of the Committee:

Required Revision to 10% Tax Credit Reduction Provisions in 2009 HB 2365

As part of the final package to balance the FY 2010 budget, the 2009 Legislature imposed a 10% reduction on most tax credits in Section 2 of House Bill 2365 for tax years 2009 and 2010, in order to generate an anticipated $9.2 million in additional revenue for FY 2010 and $8.8 million in FY 2011. A copy of references to the "10% haircut" and the spreadsheet showing the fiscal note from the Supplemental Note for Senate Substitute for 2009 House Bill 2365 is attached. To work properly, the 10% "haircut" mechanism needs to apply differently for refundable tax credits than for non-refundable credits. A non-refundable credit is claimed only if there is tax liability to claim that credit against. If there is no tax liability to begin with, then the credit cannot be claimed. Certain non-refundable credits can be carried forward and claimed in future years, subject to various restrictions. Some cannot be carried forward. For non-refundable tax credits, the 10% reduction applies to the amount of the credit that is claimed. That 10% reduction in the amount of the non-refundable credit claimed is also subtracted from the carryforward amount (if any) to be claimed in future tax years (if provided for by law). For refundable credits, the 10% reduction simply applies to the total amount of the credit earned in the applicable tax year, because when there is no tax liability (or insufficient liability) to claim the credit against, the credit is refunded to the taxpayer. There is no carryforward.

To produce the intended revenue savings from the "10% haircut" on tax credits, Subsection 2(a) of 2009 House Bill 2365 (now K.S.A. 2009 Supp. 79-32,164(a)) should only have applied to non-refundable credits and Subsection 2(b) (now K.S.A. 2009 Supp. 79-32,164(b)) should only have applied to the refundable credits. However, the following refundable credits were listed in Section 2(a) (now K.S.A. 2009 Supp. 79-32,164(a)) instead of Section 2(b) (now K.S.A. 2009 Supp. 79-32,164(b)): historic site contribution credit, K.S.A. 79-32,211a; declared disaster capital investment credit, K.S.A. 79-32,262; regional foundation credit, K.S.A. 74-50,154; small employer health benefit credit, K.S.A. 40-2246; child day care assistance credit, K.S.A. 79-32,190; individual development account credit, K.S.A. 74-50,208; and deferred maintenance credit, K.S.A. 79-32,261. These credits need to be deleted from K.S.A. 2009 Supp. 79-32,164(a) and instead be listed in K.S.A. 2009 Supp. 79-32,164(b), as shown in Sections 1 and 2 of

House Bill 2465, in order for the 10% credit reduction to properly apply. Without those changes, these refundable tax credits would largely avoid the 10% haircut.

The revisions in House Bill 2465 must apply retroactively to tax year 2009, as well as tax year 2010, to ensure that the refundable tax credits listed are subject to the full 10% haircut for tax years 2009 and 2010, which was the intent of Section 2, 2009 House Bill 2365. The Department is administering the "10% haircut" provisions as intended by the Legislature and has prepared the credit schedules for tax year 2009 for the refundable tax credits affected by 2009 HB 2365 to apply the full 10% reduction. Without the suggested revisions made in House Bill 2465, an estimated $535,340 of the projected revenue generation from "10% haircut" in Section 2 of 2009 House Bill 2365 will be lost in the form of additional refunds in FY 2010, broken out as follows:

Declared disaster capital investment credit	$250,000
Deferred maintenance education institution credit	$160,000
Regional foundation credit	$77,260
Small employer health benefit plan credit	$42,500
Child day care assistance credit	$5,580
Total	$535,340

A similar amount of revenue will be lost in FY 2011 unless House Bill 2465 is adopted.

Therefore, the Department strongly urges the passage of House Bill 2465, and that it apply retroactively to tax year 2009, as well as 2010, so that the anticipated and projected revenue savings from 2009 HB 2365, Section 2, will be realized.

taxpayer has three years from the date the original return is due, including any extensions allowed, to file a refund claim.

The proposed amendment to subsection (f) would provide that notwithstanding any otherwise applicable statute of limitations, the Department of Revenue would have 180 days after receipt of a revenue adjustment report to assess any additional tax.

The proposed amendment to subsection (g) would toll the 180-day period if a taxpayer has failed to timely report a revenue adjustment report to the Department.

Sales/Use Tax - Statute of Limitations

The statute of limitations for sales and use tax refund claims would be reduced from three years to one year, effective for all claims filed after June 15, 2009.

Tax Credit - Various Adjustments

A tax credit for direct production expenditures by eligible film production companies would be suspended for tax years 2009-2010.

Numerous other tax credits generally would be given a ten percent "haircut" for tax years 2009-2010, including credits for:

Individual development accounts; facility or residential modification for handicapped accessibility; certain employee child day care provision expenses; provision of financial assistance to persons eligible for aid to families with dependent children; provision of small employer health benefit plans; donations to regional economic development foundations; purchase of agritourism liability insurance; donations from community service "program" contributors; angel investor qualified securities investments; certain venture capital company investments; donations for Kansas Center for Entrepreneurship; selected investments in qualified business facilities; interest rate reductions on certain agricultural production loans; certain research and development expenditures; community service donations by business firms; certain alternative motor-fueled vehicle property expenditures; certain adoption expenses; improvements to qualified swine facilities; expenses associated with plugging abandoned oil or gas wells; retirement of bonded debt authorized by a city port authority; employer provision of health insurance for National Guard members; payment of salary to teachers by business firms pursuant to partnership agreements; certain oil refinery environmental compliance expenditures; "high performance" incentive program (HPIP) qualified investments; job expansion and investment program expenditures; certain nitrogen fertilizer plant expenditures; certain biomass-to-energy plant expenditures; certain power plant expenditures; contributions to the Kansas Law Enforcement Training Center; certain compensation paid to employees also in the National Guard; certain renewable electric cogeneration facility expenditures; certain storage and blending equipment expenditures; contributions for certain higher educational infrastructure programs; certain business capital investments made in or around disaster-area cities.

A specific statutory cap would be provided for historic preservation credits equivalent to 90 percent of the amount currently claimed.

Additional transitional provisions would assure that certain HPIP and job expansion and investment credits that otherwise could have been claimed during the haircut period could effectively be carried forward to future tax years.

Sales Tax Exemption – Goodwill

The bill also would clarify the sales-tax-exempt status of purchases made by or on behalf of Goodwill Industries Easter Seals of Kansas, Inc. and Goodwill Industries of Kansas, Inc. for the purpose of providing education, training, and employment opportunities for people with disabilities and other barriers to employment.

($ in millions)

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	5-yr total
Most Tax Credits – 10% Reduction for Two Years	$ 9.200	$ 8.800	$ (1.900)	$ (0.095)	$ -	$ 16.005
Suspend Film Credit for Two Years	$ 1.000	$ 1.000	$ -	$ -	$ -	$ 2.000
Statute of Limitations – Income Tax	$ 3.000	$ 3.000	$ 3.000	$ 3.000	$ 3.000	$ 15.000
Statute of Limitations – Sales and Use Tax	$ 13.700	$ 8.800	$ 4.400	$ 4.400	$ 4.400	$ 35.700
Settlement Authority	$ 35.000	$ (15.000)	$ (5.000)	$ -	$ -	$ 15.000
Estate Tax–Valuation of Agricultural Land	$ (0.500)	$ -	$ -	$ -	$ -	$ (0.500)
Sales Tax Exemption – Goodwill	$ (0.038)	$ (0.039)	$ (0.040)	$ (0.041)	$ (0.042)	$ (0.200)
Homestead Program – Expansion	$ (0.215)	$ (0.215)	$ (0.215)	$ (0.215)	$ (0.215)	$ (1.075)
Sales Tax Exemption – Beef Battalion	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.020)
Sales Tax Exemption – Sheltered Living	$ (0.030)	$ (0.031)	$ (0.031)	$ (0.032)	$ (0.032)	$ (0.156)
Sales Tax Exemption – Fairgrounds	minimal	minimal	minimal	minimal	minimal	minimal
Total	$ 61.113	$ 6.311	$ 0.210	$ 7.013	$ 7.107	$ 81.754

Department balloon amendment

Session of 2010

HOUSE BILL No. 2465

By Committee on Taxation

1-15

AN ACT concerning income taxation; relating to credits, limitations; amending K.S.A. 2009 Supp. 79-32,264 and repealing the existing section.

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

Section 1. K.S.A. 2009 Supp. 79-32,264 is hereby amended to read as follows: 79-32,264. (a) For tax years 2009 and 2010, for any tax credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176, 79-32,177~~, 79-32,190~~ and 79-32,200 and K.S.A. 2009 Supp. ~~40-2246, 74-50,154,~~ 74-50,173, ~~74-50,208,~~ 74-8133, 74-8205, 74-99c09, 79-32,153, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-32,202, 79-32,204, 79-32,207, ~~79-32,211a,~~ 79-32,212, 79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246~~, and~~ 79-32,252~~, 79-32,261 and 79-32,262~~, and amendments thereto, the total of any such credit or credits allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall not exceed the lesser of 90% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 90% of the tax as computed prior to the allowance of any such credit or credits. Except as otherwise provided by subsections (c) and (d), the amount of such credit or credits that may be carried forward in any succeeding taxable year shall be reduced by an amount equal to the lesser of 10% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 10% of the tax as computed prior to the allowance of any such credits.

and if non-refundable 79-32,261 and 79-32,262,

(b) For tax years 2009 and 2010, for any tax credit provided under *K.S.A. 40-2246 and 79-32,190 and* K.S.A. 2009 Supp. ~~79-32,206 and 79-32,210~~ *74-50,154, 74-50,208, 79-32,206, 79-32,210, 79-32,211a, 79-32,261 and 79-32.262*, and amendments thereto, the total amount of any credits refunded or allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-

and if refundable

House Taxation
Date: 1-20-10
Attachment: #4

AGC of KANSAS

Building a Better Kansas Since 1934

200 SW 33rd St. Topeka, KS 66611 785-266-4015

TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON TAXATION
HB 2465

January 20, 2010

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes House Bill 2465 and asks that you do not recommend it favorably for passage.

AGC, based on input from a tax professional, interprets HB 2465 to completely eliminate two key tax credit programs available today which continue to have a positive impact on the construction industry.

First, 79-32,261 was established with the Regents Deferred Maintenance program several years ago. This allows for up to a 60% tax credit for an individual or company that contributes toward the building fund of a community college or technical college. It also allows for up to a 50% tax credit for postsecondary educational institutions such as Regents institutions.

Just last month, this tax professional had a client contribute $100,000 toward a $2 million construction project at a state community college. Without this credit, this individual likely would not have offered as large of a personal contribution toward the building.

The second statute, 79-32,262 offers a 10% tax credit for companies or individuals who investment in counties destroyed by natural disasters. This statute is in place to encourage local businesses displaced by tornadoes or floods to reinvest in their community versus moving to another location.

While it is unclear to AGC and its members whether these credits are completely eliminated, or if they're simply reduced, AGC would ask that you not eliminate or reduce any tax credit currently available that could create an investment in building infrastructure across the state. AGC would respectfully ask for the Department of Revenue to offer clarification on their intent of these two statutes.

Again, the AGC of Kansas respectfully requests that you do not recommend HB 2465 favorably for passage. Thank you for your consideration.

House Taxation
Date: 1-20-10
Attachment: #5