

HOUSE BILL No. 2162

By Committee on Taxation

Requested by Scott Schneider on behalf of Associated General Contractors of
Kansas

1-30

1 AN ACT concerning sales taxation; relating to the taxation of services;
2 excluding from taxation the service of installing or applying tangible
3 personal property for the reconstruction, restoration, remodeling,
4 renovation, repair or replacement of a building or facility; amending
5 K.S.A. 2024 Supp. 79-3603 and repealing the existing section.
6

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

8 Section 1. K.S.A. 2024 Supp. 79-3603 is hereby amended to read as
9 follows: 79-3603. For the privilege of engaging in the business of selling
10 tangible personal property at retail in this state or rendering or furnishing
11 any of the services taxable under this act, there is hereby levied and there
12 shall be collected and paid a tax at the rate of 6.5%. ~~On and after January~~
13 ~~1, 2023, 17% and~~ On and after January 1, 2025, 18% of the tax rate
14 imposed pursuant to this section and the rate provided in K.S.A. 2024
15 Supp. 79-3603d, and amendments thereto, shall be levied for the state
16 highway fund, the state highway fund purposes and those purposes
17 specified in K.S.A. 68-416, and amendments thereto, and all revenue
18 collected and received from such tax levy shall be deposited in the state
19 highway fund.

20 Within a redevelopment district established pursuant to K.S.A. 74-
21 8921, and amendments thereto, there is hereby levied and there shall be
22 collected and paid an additional tax at the rate of 2% until the earlier of the
23 date the bonds issued to finance or refinance the redevelopment project
24 have been paid in full or the final scheduled maturity of the first series of
25 bonds issued to finance any part of the project.

26 Such tax shall be imposed upon:

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

29 (b) the gross receipts from intrastate, interstate or international
30 telecommunications services and any ancillary services sourced to this
31 state in accordance with K.S.A. 79-3673, and amendments thereto, except
32 that telecommunications service does not include: (1) Any interstate or
33 international 800 or 900 service; (2) any interstate or international private
34 communications service as defined in K.S.A. 79-3673, and amendments

1 thereto; (3) any value-added nonvoice data service; (4) any
2 telecommunication service to a provider of telecommunication services
3 which will be used to render telecommunications services, including
4 carrier access services; or (5) any service or transaction defined in this
5 section among entities classified as members of an affiliated group as
6 provided by section 1504 of the federal internal revenue code of 1986, as
7 in effect on January 1, 2001;

8 (c) the gross receipts from the sale or furnishing of gas, water,
9 electricity and heat, which sale is not otherwise exempt from taxation
10 under the provisions of this act, and whether furnished by municipally or
11 privately owned utilities, except that, on and after January 1, 2006, for
12 sales of gas, electricity and heat delivered through mains, lines or pipes to
13 residential premises for noncommercial use by the occupant of such
14 premises, and for agricultural use and also, for such use, all sales of
15 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
16 gas, coal, wood and other fuel sources for the production of heat or
17 lighting for noncommercial use of an occupant of residential premises, the
18 state rate shall be 0%, but such tax shall not be levied and collected upon
19 the gross receipts from: (1) The sale of a rural water district benefit unit;
20 (2) a water system impact fee, system enhancement fee or similar fee
21 collected by a water supplier as a condition for establishing service; or (3)
22 connection or reconnection fees collected by a water supplier;

23 (d) the gross receipts from the sale of meals or drinks furnished at any
24 private club, drinking establishment, catered event, restaurant, eating
25 house, dining car, hotel, drugstore or other place where meals or drinks are
26 regularly sold to the public;

27 (e) the gross receipts from the sale of admissions to any place
28 providing amusement, entertainment or recreation services including
29 admissions to state, county, district and local fairs, but such tax shall not
30 be levied and collected upon the gross receipts received from sales of
31 admissions to any cultural and historical event which occurs triennially;

32 (f) the gross receipts from the operation of any coin-operated device
33 dispensing or providing tangible personal property, amusement or other
34 services except laundry services, whether automatic or manually operated;

35 (g) the gross receipts from the service of renting of rooms by hotels,
36 as defined by K.S.A. 36-501, and amendments thereto, or by
37 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
38 thereto, but such tax shall not be levied and collected upon the gross
39 receipts received from sales of such service to the federal government and
40 any agency, officer or employee thereof in association with the
41 performance of official government duties;

42 (h) the gross receipts from the service of renting or leasing of tangible
43 personal property except such tax shall not apply to the renting or leasing

1 of machinery, equipment or other personal property owned by a city and
2 purchased from the proceeds of industrial revenue bonds issued prior to
3 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
4 12-1749, and amendments thereto, and any city or lessee renting or leasing
5 such machinery, equipment or other personal property purchased with the
6 proceeds of such bonds who shall have paid a tax under the provisions of
7 this section upon sales made prior to July 1, 1973, shall be entitled to a
8 refund from the sales tax refund fund of all taxes paid thereon;

9 (i) the gross receipts from the rendering of dry cleaning, pressing,
10 dyeing and laundry services except laundry services rendered through a
11 coin-operated device whether automatic or manually operated;

12 (j) the gross receipts from the rendering of the services of washing
13 and washing and waxing of vehicles;

14 (k) the gross receipts from cable, community antennae and other
15 subscriber radio and television services;

16 (l) (1) except as otherwise provided by paragraph (2), the gross
17 receipts received from the sales of tangible personal property to all
18 contractors, subcontractors or repairmen for use by them in erecting
19 structures, or building on, or otherwise improving, altering, or repairing
20 real or personal property.

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

28 (m) the gross receipts received from fees and charges by public and
29 private clubs, drinking establishments, organizations and businesses for
30 participation in sports, games and other recreational activities, but such tax
31 shall not be levied and collected upon the gross receipts received from: (1)
32 Fees and charges by any political subdivision, by any organization exempt
33 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
34 thereto, or by any youth recreation organization exclusively providing
35 services to persons 18 years of age or younger which is exempt from
36 federal income taxation pursuant to section 501(c)(3) of the federal
37 internal revenue code of 1986, for participation in sports, games and other
38 recreational activities; and (2) entry fees and charges for participation in a
39 special event or tournament sanctioned by a national sporting association
40 to which spectators are charged an admission which is taxable pursuant to
41 subsection (e);

42 (n) the gross receipts received from dues charged by public and
43 private clubs, drinking establishments, organizations and businesses,

1 payment of which entitles a member to the use of facilities for recreation
2 or entertainment, but such tax shall not be levied and collected upon the
3 gross receipts received from: (1) Dues charged by any organization exempt
4 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
5 amendments thereto; and (2) sales of memberships in a nonprofit
6 organization which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, and whose
8 purpose is to support the operation of a nonprofit zoo;

9 (o) the gross receipts received from the isolated or occasional sale of
10 motor vehicles or trailers but not including: (1) The transfer of motor
11 vehicles or trailers by a person to a corporation or limited liability
12 company solely in exchange for stock securities or membership interest in
13 such corporation or limited liability company; (2) the transfer of motor
14 vehicles or trailers by one corporation or limited liability company to
15 another when all of the assets of such corporation or limited liability
16 company are transferred to such other corporation or limited liability
17 company; or (3) the sale of motor vehicles or trailers which are subject to
18 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
19 amendments thereto, by an immediate family member to another
20 immediate family member. For the purposes of paragraph (3), immediate
21 family member means lineal ascendants or descendants, and their spouses.
22 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
23 on the isolated or occasional sale of motor vehicles or trailers on and after
24 July 1, 2004, which the base for computing the tax was the value pursuant
25 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
26 such amount was higher than the amount of sales tax which would have
27 been paid under the law as it existed on June 30, 2004, shall be refunded to
28 the taxpayer pursuant to the procedure prescribed by this section. Such
29 refund shall be in an amount equal to the difference between the amount of
30 sales tax paid by the taxpayer and the amount of sales tax which would
31 have been paid by the taxpayer under the law as it existed on June 30,
32 2004. Each claim for a sales tax refund shall be verified and submitted not
33 later than six months from the effective date of this act to the director of
34 taxation upon forms furnished by the director and shall be accompanied by
35 any additional documentation required by the director. The director shall
36 review each claim and shall refund that amount of tax paid as provided by
37 this act. All such refunds shall be paid from the sales tax refund fund, upon
38 warrants of the director of accounts and reports pursuant to vouchers
39 approved by the director of taxation or the director's designee. No refund
40 for an amount less than \$10 shall be paid pursuant to this act. In
41 determining the base for computing the tax on such isolated or occasional
42 sale, the fair market value of any motor vehicle or trailer traded in by the
43 purchaser to the seller may be deducted from the selling price;

1 (p) (1) the gross receipts received for the service of installing or
 2 applying tangible personal property which when installed or applied is not
 3 being held for sale in the regular course of business, and whether or not
 4 such tangible personal property when installed or applied remains tangible
 5 personal property or becomes a part of real estate, ~~except that.~~

6 (2) No tax shall be imposed *pursuant to paragraph (1)* upon the
 7 service of installing or applying tangible personal property in connection
 8 with:

9 (A) The original construction, *reconstruction, restoration,*
 10 *remodeling, renovation, repair or replacement* of a building or facility;

11 (B) the original construction, reconstruction, restoration, remodeling,
 12 renovation, repair or replacement of a residence; or

13 (C) the construction, reconstruction, restoration, replacement or
 14 repair of a bridge or highway.

15 (3) For the purposes of this subsection:

16 ~~(A)~~ "Original construction" means the first or initial construction
 17 of a new building or facility. The term "original construction" shall include
 18 the addition of an entire room or floor to any existing building or facility,
 19 the completion of any unfinished portion of any existing building or
 20 facility and the restoration, reconstruction or replacement of a building,
 21 facility or utility structure damaged or destroyed by fire, flood, tornado,
 22 lightning, explosion, windstorm, ice loading and attendant winds,
 23 terrorism or earthquake, but such term, except with regard to a residence,
 24 shall not include replacement, remodeling, restoration, renovation or
 25 reconstruction under any other circumstances;

26 ~~(B)~~ "building" means only those enclosures within which
 27 individuals customarily are employed, or which are customarily used to
 28 house machinery, equipment or other property, and including the land
 29 improvements immediately surrounding such building;

30 ~~(C)~~ "facility" means a mill, plant, refinery, oil or gas well, water
 31 well, feedlot or any conveyance, transmission or distribution line of any
 32 cooperative, nonprofit, membership corporation organized under or subject
 33 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
 34 municipal or quasi-municipal corporation, including the land
 35 improvements immediately surrounding such facility;

36 ~~(D)~~ "residence" means only those enclosures within which
 37 individuals customarily live;

38 ~~(E)~~ "utility structure" means transmission and distribution lines
 39 owned by an independent transmission company or cooperative, the
 40 Kansas electric transmission authority or natural gas or electric public
 41 utility; and

42 ~~(F)~~ "windstorm" means straight line winds of at least 80 miles per
 43 hour as determined by a recognized meteorological reporting agency or

1 organization;

2 (q) the gross receipts received for the service of repairing, servicing,
3 altering or maintaining tangible personal property which when such
4 services are rendered is not being held for sale in the regular course of
5 business, and whether or not any tangible personal property is transferred
6 in connection therewith. The tax imposed by this subsection shall be
7 applicable to the services of repairing, servicing, altering or maintaining an
8 item of tangible personal property which has been and is fastened to,
9 connected with or built into real property;

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

13 (s) on and after January 1, 2005, the gross receipts received from the
14 sale of prewritten computer software and the sale of the services of
15 modifying, altering, updating or maintaining prewritten computer
16 software, whether the prewritten computer software is installed or
17 delivered electronically by tangible storage media physically transferred to
18 the purchaser or by load and leave;

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

20 (u) the gross receipts received from the sale of prepaid calling service
21 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
22 amendments thereto;

23 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
24 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
25 exempt from taxes imposed pursuant to this section;

26 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
27 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
28 pursuant to this section; and

29 (x) commencing on January 1, 2023, and thereafter, the state rate on
30 the gross receipts from the sale of food and food ingredients shall be as set
31 forth in K.S.A. 2024 Supp. 79-3603d, and amendments thereto.

32 Sec. 2. K.S.A. 2024 Supp. 79-3603 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the statute book.