

Senate Assessment & Taxation Committee
Testimony on SB 376
Kansas Society of Certified Public Accountants

The Kansas Society of Certified Public Accountants believes that the state of Kansas should retain its current exclusion of professional services from sales taxes.

Over the years, many states including Kansas, have considered enacting taxes on professional services. In almost all cases, states have decided against doing so for good and valid reasons. The states of Florida, Iowa and Michigan have all passed legislation taxing professional services and have subsequently repealed the law. Florida repealed it six months after passage, Iowa repealed it one month after passage and Michigan repealed it before it became effective.

Under the Bill, section 4(a) imposes the sales tax on services provided by certain industries as enumerated. This section goes on to exempt services provided to business from the sales tax. Section 4 is ambiguous and will create significant issues in interpreting what are taxable services and what constitutes a business. Consider the following two examples:

- NAICS class 5412 includes accounting, tax preparation, and bookkeeping and payroll services. It is very common for certified public accountants to provide extensive services outside of the fields enumerated under this industry classification. Does the law intend to tax all services provided by accounting firms or only those services enumerated by the designated class code? The administrative complexities and burdens to the service providers to comply with this law will be onerous in relation to the revenue collected by the state.
- Providing an exemption for services sold to business is again subject to an interpretation issue. The Bill includes services sold to sole proprietorships under its exemption. Does the preparation of an income tax return for an individual who operates an unincorporated business (plumber, electrician, farmer, to name a few) constitute services to a sole proprietor? A strong argument can be made that the service should be exempt from taxation.

Our income tax system is based upon a system of self-assessment. Imposing a sales tax on professional services may discourage taxpayers from hiring qualified tax and legal counsel to assist them in the interpretation of the tax law, or any other law, when dealing with out of the ordinary issues or from seeking assistance to merely file their income tax return. This may then result in the taxpayers filing returns that are incorrect and/or incomplete, thereby increasing the state's enforcement cost and subjecting the taxpayers to increased compliance costs due to the failure to seek proper counsel in the first place. Further, many will consider it unfair to tax the very services that are necessary to comply with tax law. Both individuals and businesses depend on accounting services to comply with federal and state tax laws, taxing compliance with these laws compounds the tax burden borne by individuals in this state.

In today's professional service business model, professional services are purchased and provided across state lines. As an example, tax preparation services can be performed in any geographic location

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regardless of the residence of the taxpayer. Consumers already buy many products online from out of state retailers, and the non-compliance of the consumer declaring the out of state purchase and self-assessing the Kansas Use Tax is well documented.

Why wouldn't the Kansas taxpayer utilize an out-of-state tax professional to comply with their income tax reporting requirements and avoid the tax? Or, it is not unusual for accounting firms to have multiple offices in multiple states and to provide accounting services through a service bureau model where a critical mass of trained professionals provide tax compliance or accounting services to clients across the country. Is the sales tax to be assessed where the services are performed or where the taxpayer lives? The Bill indicates that the tax applies to *"rendering or furnishing of services within this state"*; accordingly, the services provided by out-of-state professionals are not subject to the tax. The Kansas tax system should not serve as an incentive to take business and jobs out of our state.

The exemption of professional services from the Kansas sales tax has been good policy in the past and should continue to be the policy of the state of Kansas for the future.