

HOUSE BILL No. 2659

By Representative Hodge

2-7

1 AN ACT concerning sales and compensating use tax; relating to the sale of
2 certain motor vehicles, rate of tax; amending K.S.A. 2017 Supp. 79-
3 3603 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 79-3603 is hereby amended to read as
7 follows: 79-3603. For the privilege of engaging in the business of selling
8 tangible personal property at retail in this state or rendering or furnishing
9 any of the services taxable under this act, there is hereby levied and there
10 shall be collected and paid a tax at the rate of 6.15%, and commencing
11 July 1, 2015, at the rate of 6.5%. Within a redevelopment district
12 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
13 hereby levied and there shall be collected and paid an additional tax at the
14 rate of 2% until the earlier of the date the bonds issued to finance or
15 refinance the redevelopment project have been paid in full or the final
16 scheduled maturity of the first series of bonds issued to finance any part of
17 the project upon:

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

20 (b) the gross receipts from intrastate, interstate or international
21 telecommunications services and any ancillary services sourced to this
22 state in accordance with K.S.A. 2017 Supp. 79-3673, and amendments
23 thereto, except that telecommunications service does not include: (1) Any
24 interstate or international 800 or 900 service; (2) any interstate or
25 international private communications service as defined in K.S.A. 2017
26 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
27 data service; (4) any telecommunication service to a provider of
28 telecommunication services which will be used to render
29 telecommunications services, including carrier access services; or (5) any
30 service or transaction defined in this section among entities classified as
31 members of an affiliated group as provided by section 1504 of the federal
32 internal revenue code of 1986, as in effect on January 1, 2001;

33 (c) the gross receipts from the sale or furnishing of gas, water,
34 electricity and heat, which sale is not otherwise exempt from taxation
35 under the provisions of this act, and whether furnished by municipally or
36 privately owned utilities, except that, on and after January 1, 2006, for

1 sales of gas, electricity and heat delivered through mains, lines or pipes to
2 residential premises for noncommercial use by the occupant of such
3 premises, and for agricultural use and also, for such use, all sales of
4 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
5 gas, coal, wood and other fuel sources for the production of heat or
6 lighting for noncommercial use of an occupant of residential premises, the
7 state rate shall be 0%, but such tax shall not be levied and collected upon
8 the gross receipts from: (1) The sale of a rural water district benefit unit;
9 (2) a water system impact fee, system enhancement fee or similar fee
10 collected by a water supplier as a condition for establishing service; or (3)
11 connection or reconnection fees collected by a water supplier;

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

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

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

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

31 (h) the gross receipts from the service of renting or leasing of tangible
32 personal property except such tax shall not apply to the renting or leasing
33 of machinery, equipment or other personal property owned by a city and
34 purchased from the proceeds of industrial revenue bonds issued prior to
35 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
36 12-1749, and amendments thereto, and any city or lessee renting or leasing
37 such machinery, equipment or other personal property purchased with the
38 proceeds of such bonds who shall have paid a tax under the provisions of
39 this section upon sales made prior to July 1, 1973, shall be entitled to a
40 refund from the sales tax refund fund of all taxes paid thereon;

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

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

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

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

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

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

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

41 (o) the gross receipts received from the isolated or occasional sale of
42 motor vehicles or trailers but not including: (1) The transfer of motor
43 vehicles or trailers by a person to a corporation or limited liability

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

33 (p) the gross receipts received for the service of installing or applying
34 tangible personal property which when installed or applied is not being
35 held for sale in the regular course of business, and whether or not such
36 tangible personal property when installed or applied remains tangible
37 personal property or becomes a part of real estate, except that no tax shall
38 be imposed upon the service of installing or applying tangible personal
39 property in connection with the original construction of a building or
40 facility, the original construction, reconstruction, restoration, remodeling,
41 renovation, repair or replacement of a residence or the construction,
42 reconstruction, restoration, replacement or repair of a bridge or highway.

43 For the purposes of this subsection:

1 (1) "Original construction" shall mean the first or initial construction
2 of a new building or facility. The term "original construction" shall include
3 the addition of an entire room or floor to any existing building or facility,
4 the completion of any unfinished portion of any existing building or
5 facility and the restoration, reconstruction or replacement of a building,
6 facility or utility structure damaged or destroyed by fire, flood, tornado,
7 lightning, explosion, windstorm, ice loading and attendant winds,
8 terrorism or earthquake, but such term, except with regard to a residence,
9 shall not include replacement, remodeling, restoration, renovation or
10 reconstruction under any other circumstances;

11 (2) "building" shall mean only those enclosures within which
12 individuals customarily are employed, or which are customarily used to
13 house machinery, equipment or other property, and including the land
14 improvements immediately surrounding such building;

15 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
16 well, feedlot or any conveyance, transmission or distribution line of any
17 cooperative, nonprofit, membership corporation organized under or subject
18 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
19 municipal or quasi-municipal corporation, including the land
20 improvements immediately surrounding such facility;

21 (4) "residence" shall mean only those enclosures within which
22 individuals customarily live;

23 (5) "utility structure" shall mean transmission and distribution lines
24 owned by an independent transmission company or cooperative, the
25 Kansas electric transmission authority or natural gas or electric public
26 utility; and

27 (6) "windstorm" shall mean straight line winds of at least 80 miles per
28 hour as determined by a recognized meteorological reporting agency or
29 organization;

30 (q) the gross receipts received for the service of repairing, servicing,
31 altering or maintaining tangible personal property which when such
32 services are rendered is not being held for sale in the regular course of
33 business, and whether or not any tangible personal property is transferred
34 in connection therewith. The tax imposed by this subsection shall be
35 applicable to the services of repairing, servicing, altering or maintaining an
36 item of tangible personal property which has been and is fastened to,
37 connected with or built into real property;

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

41 (s) on and after January 1, 2005, the gross receipts received from the
42 sale of prewritten computer software and the sale of the services of
43 modifying, altering, updating or maintaining prewritten computer

1 software, whether the prewritten computer software is installed or
2 delivered electronically by tangible storage media physically transferred to
3 the purchaser or by load and leave;

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

5 (u) the gross receipts received from the sale of prepaid calling service
6 and prepaid wireless calling service as defined in K.S.A. 2017 Supp. 79-
7 3673, and amendments thereto;

8 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
9 licensees under K.S.A. 2017 Supp. 75-5171 et seq., and amendments
10 thereto, shall be exempt from taxes imposed pursuant to this section; ~~and~~

11 (w) all sales of charitable raffle tickets in accordance with K.S.A.
12 2017 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
13 from taxes imposed pursuant to this section; *and*

14 *(x) except that, on and after July 1, 2018, gross receipts received*
15 *from the sale of a motor vehicle with a selling price of more than \$100,000*
16 *shall be taxed at the state rate of 13%. As used in this subsection, the*
17 *selling price shall be calculated before taking into account the value of*
18 *any trade-in property received by the seller.*

19 Sec. 2. K.S.A. 2017 Supp. 79-3603 is hereby repealed.

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