Sales & Use Tax for Motor Vehicle Transactions

This publication provides information as to how Kansas retailers' sales and compensating use taxes apply to the sale, rental or lease of motor vehicles and related transactions. Using common industry examples, it explains the transactions that are taxable and those that are exempt.

Also included is information about how to report and pay the taxes. By law, businesses are now required to submit their Sales and Compensating Use Tax returns electronically. This law was effective July 1, 2010. Kansas offers several electronic file and pay solutions – see page 22. For the most up-to-date electronic information, visit our web site.

You should use this publication as a supplement to KDOR's (Kansas Department of Revenue) basic sales tax guide, Pub. KS-1510, Kansas Sales and Compensating Use Tax. Motor vehicle dealers and other retailers will find our Pub. KS-1520, Kansas Exemption Certificates, very useful as well. Both can be found on our web site.

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ASSISTANCE ..... **Back Cover**

If there is a conflict between the law and information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on the Kansas Department of Revenue (KDOR) web site at: **ksrevenue.org**

INTRODUCTION

OVERVIEW AND DEFINITIONS

As a general rule the retail sale, rental or lease of automobiles, motorcycles, trailers, trucks, etc. within the state of Kansas is subject to state and local Kansas Retailers' Sales Tax. When vehicles are purchased outside of Kansas and subsequently registered in Kansas, they are subject to Kansas Compensating Use Tax. Vehicles sold in Kansas are also subject to a local compensating use tax when the rate at the seller's location is different than the rate at the buyer's location.

This publication will address whether sales or compensating use tax is due on a particular vehicle transaction, and if so, the rate that is due, to whom it is paid, when is it paid, and how it is paid. Throughout this publication we will cite or refer to the statute (K.S.A.), regulation (K.A.R.), or KDOR's (Kansas Department of Revenue) written advice (i.e., Notice 02-05) applicable to that section. A list of the laws and regulations on which this guide is based is provided herein. See *Taxation Resources* herein. All of these resources are available through the Policy Information Library on our web site.

Vehicle Defined

Throughout this guide the term *vehicle* will be used. Unless otherwise specifically noted, the term *vehicle* will include all automobiles, cars, motorcycles, motorized bicycles, pickups, trucks, SUVs, trailers, vans, etc. as defined by K.S.A. 8-126 cited below.

Vehicle - every device upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Motor vehicle - every vehicle, other than a motorized bicycle, or motorized wheelchair, which is self-propelled.

Truck - a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

Motorcycle - every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

Motorized bicycle - every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor (or both) and which has:

1) a motor which produces not more than 3.5 brake horsepower;
2) cylinder capacity or not more than 130 cubic centimeters;
3) an automatic transmission; and
4) the capability of a maximum design speed or no more than 30 miles per hour.

Farm tractor - every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

Trailer - every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

Semitrailer - every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

Farm trailer - every trailer ... and every semitrailer ... designed and used primarily as a farm vehicle.

Pole trailer - any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

SALES BY KANSAS DEALERS

A vehicle dealer is any individual, partnership, corporation or other entity actively engaged in the business of buying, selling or exchanging new or used motor vehicles, motorcycles, travel trailers, trailers or trucks and who has an established place of business in Kansas. Kansas law requires that any individual that sells five (5) or more vehicles within one (1) calendar year is required to be licensed as a vehicle dealer in the state of Kansas.

A dealer must meet certain requirements set forth by KDOR's (Kansas Department of Revenue) Division of Vehicles, and must also be registered with its Division of Taxation to collect sales tax from its customers. Additional information about dealer licensing requirements is provided herein. See *Related Transactions* herein.

WHAT ARE GROSS RECEIPTS?

As a general rule, sales tax is due on the *gross receipts* received by a dealer on the sale of a motor vehicle. *Gross receipts* is the total selling price or the total amount received in money, credits, property or other consideration valued in money, excluding discounts allowed and credited, but including freight and transportation charges.

For vehicle dealers this means that sales tax is collected on the total selling price of the vehicle whether specific items are separately stated on the invoice or not, including (but not limited to):

- Base selling price
- Options & add-ons
- Dealer prep fees
- Administrative & handling fees
- Transportation, delivery & freight charges
- Undercoating protection
- VIN Etch
- All warranties, maintenance or service agreements

The following are **NOT** subject to Kansas sales tax involving the sale of a motor vehicle when separately stated on the invoice: interest, finance or carrying charge on installment purchases and Guaranteed Auto Protection (GAP) insurance.

example

A Wichita, KS car dealer sells a new auto with a sticker price of $28,995 to a Kansas resident for $26,500 plus freight of $385. The dealer also charges an administrative fee of $75 for processing the title, paper work, etc., and installs a spoiler for an additional $950. Sales tax is due at the 7.3% Wichita sales tax rate on $27,910:

$26,500 + $385 + $75 + $950 = $27,910.
$27,910 X .073 = $2,037.43 sales tax

What follows is an explanation of the sales tax treatment of other common elements of the sale of a new or used motor vehicle.

In-House Rebates/Dealer Discounts

In-house rebates or dealer discounts are not subject to sales tax. These sales incentives are not subject to sales tax as they constitute a reduction in the amount of *gross receipts* received by the seller.

Manufacturer's Rebates

Since July 1, 2009 **all** manufacturer's rebates on new motor vehicles sold or leased in Kansas have been subject to Kansas retailers' sales or Kansas Compensating Use Tax including rebates paid directly to retailer (dealer) as a result of the original sale of the motor vehicle. See Notice 09-05 for more information. For the period July 1, 2006 until June 30, 2009, manufacturers rebates on new motor vehicles paid directly to the manufacturer were exempt from Kansas Sales and Compensating Use Tax.

TRADE-INS

A trade-in involves accepting a vehicle in exchange for credit against the purchase of another vehicle. Dealers should charge sales tax on the net price or trade difference — after the trade-in allowance.

example

A 2004 auto is taken in trade for a 2008 model. The dealer's invoice to the customer would read as follows:

2008 Model selling price	$ 26,000.00
Trade-in allowance	- 6,300.00
Trade difference	$ 19,700.00
7.3% tax rate	1,438.10
Customer payment	$ 21,138.10

Allowable Trade-ins

In general, the value of a trade-in to a Kansas dealer is an allowable deduction from the gross selling price of a vehicle. A *trade-in* means tangible personal property that is, or becomes, part of the dealer's inventory held for resale. When a dealer accepts property that is not tangible personal property which becomes part become part of its inventory the transaction shall be considered to be a taxable *barter* and not a *trade-in* that reduces the tax base for the customer. A trade-in allowance shall **not** be allowed:

1) On vehicle transactions between individuals since the trade-in property does not become a part of inventory held for resale;
2) on transactions where a dealer transfers merchandise in or out of its own resale inventory in exchange for other property it also owns;
3) when the purchase and trade-in are not part of a single transaction.
4) for insurance recoveries for damaged or destroyed property assigned or paid to a dealer;
5) when the trade-in vehicle is titled to a person or entity that is different from the buyer and the hypothetical transfer of the trade-in vehicle from the person or entity to the buyer would not qualify for one the exceptions set forth in K.S.A. 2003 Supp. 79-3603(o) and amendments thereto.

Trade-In Examples

example

Mrs. Whalen trades her 2006 Nissan, valued at $10,000, to Maarberg Motors for a 2008 model with a value of $21,000. Maarberg Motors should allow Mrs. Whalen a $10,000 trade-in allowance, and sales tax should be collected only on $11,000.

example

Mr. Thomas trades his 2008 pickup, valued at $21,000, to Maarberg Motors for a 2004 model with a value of $15,000. Maarberg Motors should allow Mr. Thomas a trade-in allowance limited to $15,000 since the value of the trade-in exceeds the value of vehicle received by Mr. Thomas. Mr. Thomas will not pay any sales tax on this transaction.

example

A Kansas motor vehicle dealer takes a boat and trailer valued at $5,000 in trade for a pickup with a retail selling price of $27,000. Since the dealer is going to place

the boat and trailer in his inventory for resale, a trade-in deduction of $5,000 should be allowed with the purchaser paying sales tax on a tax base of $22,000.

Farmer Jones trades a 2003 John Deere tractor to Holiday Motors - a Kansas motor vehicle dealer for a pickup truck. Since Holiday Motors is placing the tractor in inventory for resale, it may give farmer Jones a trade-in allowance for the value of the tractor even though no sales tax was paid on the selling price of the tractor when originally purchased by farmer Jones.

Mr. Brown wants to gift a car titled in his name to his grandson for use as a trade-in on a pickup truck offered by the local dealership. The dealership can not give a trade-in allowance on this car unless title to the vehicle is in the grandson's name at the time of the trade.

Ms. Black is leasing a 2008 Buick and wants to trade it for a 2011 model. Since she does not have an ownership interest in the 2008 Buick, a dealer can not give a trade-in allowance on the value of the 2011 Buick.

Mr. Allen sells his 2005 Honda to a neighbor, Mr. Jacobs and uses the proceeds of the sale ($6,000) as a down payment on a 2009 model offered by a local dealership for $24,000. The dealership can not give a $6,000 trade-in allowance to Mr. Allen as the sale to Mr. Jacobs and subsequent purchase from the dealership constitute two separate sales transactions.

Mrs. Contento totals her 2006 Chevrolet and her insurance company pays her $15,000 in settlement thereof. She desires to assign the $15,000 insurance check to Tarbell Motors as down payment on a replacement model that will sell for $20,000. Tarbell Motors can not give a trade-in allowance and must charge sales tax on the $20,000 sales price.

Warranties

The general rule is that sale of a warranty, service contract or maintenance contract for motor vehicles is subject to sales tax – K.S.A. 79-3603(r). A warranty or similar agreement is taxable whether purchased at the time a vehicle is purchased, or purchased separately at another time.

Effective July 1, 2007 the sale of warranty, service or maintenance agreements/contracts, are considered to be part of the selling price of a motor vehicle, semi-trailer, pole trailer or aircraft. Thus, a trade-in allowance may be applied to the cost of a warranty.

Mr. Marshall trades his 2006 pickup, valued at $18,000, to Palmerton Motors for a 2000 model with a value of $10,000. Mr. Marshall purchases an extended warranty for an additional $1,000 ($11,000 total purchase). Mr. Marshall may claim a trade-in allowance for the total purchase of $11,000 since the value Mr. Marshall's trade-in exceeds the value of vehicle received from the dealer, and the warranty is considered part of the gross receipts received from the sale of the pickup. See *Warranty Work* on page 15.

Additionally, sales of warranty/service contracts to nonresidents of Kansas are not subject to Kansas sales tax when purchased simultaneously with a motor vehicle, semitrailer, pole trailer or aircraft that will not be registered in Kansas and that the nonresident will removed it from Kansas within 10 days of the sale. Warranty contracts purchased in Kansas separate from the sale of a motor vehicle, semi-trailer, pole trailer or aircraft by a nonresident are subject to Kansas sales tax. See *Dealer Sales to Nonresidents* herein.

DEALER SALES TO RESIDENTS OF KANSAS

Retail sales of vehicles by Kansas dealers are subject to sales tax on the gross receipts (defined on page 3) received by the dealer. The sales tax rate charged is the combined state and local (city, county and/or special jurisdiction) rate in effect at the dealer's place of business.

A Sterling, Kansas new and used car dealer sells a pickup for $19,500 to a Kansas resident. The dealer is required to collect sales tax on $19,500, at the rate of sales tax in effect at the dealer's place of business (6.3% state tax and 2% local tax).

$19,500 X .083 = $1,618.50

Upon collection of the sales tax due, the dealer will give the buyer a completed Form ST-8B, Statement of Kansas State and Local Retail Sales Tax Paid, showing the sales tax base and the amount of sales tax paid to the dealer.

The buyer must submit a copy the ST-8B receipt to the County Treasurer when the automobile is registered in the Kansas county in which the buyer resides. If the buyer is a resident of another city or county, the buyer may owe a local compensating use tax on the sale. This tax is payable to the County Treasurer when the vehicle is registered. See *Local Compensating Use Tax - Intrastate Sales* herein.

DEALER SALES TO NONRESIDENTS OF KANSAS

Kansas law (K.S.A. 79-3606(k)) allows Kansas dealers to sell or lease motor vehicles, semitrailers, pole trailers and aircraft to nonresidents of the state of Kansas without collecting Kansas sales tax when all three of these requirements are met. See Revised Notice 04-13.

1) the buyer is a *bona fide* resident of another state.

2) the motor vehicle, semitrailer, pole trailer or aircraft will not be registered in Kansas or based in Kansas.
3) the motor vehicle, semitrailer, pole trailer or aircraft will be removed from the state of Kansas within ten (10) days.

To document the exempt sale of a motor vehicle, semitrailer, pole trailer or aircraft to a nonresident, an Affidavit of Delivery, Form ST-8B, must be completed and retained by the dealer. This form is commonly referred to as a 10-day drive out permit. Like any other exemption certificate, the original of this affidavit must be kept with the dealer's other sales tax records for at least three years, and is subject to audit by KDOR.

IMPORTANT: Motorized bicycles and **trailers** (other than semi-trailers and pole trailers defined earlier herein), or any other vehicle that is **not** self-propelled, cannot be sold exempt from sales tax to a nonresident of Kansas. Only motor vehicles, semitrailers, pole trailers or aircraft as defined by K.S.A.8-126, can be purchased sales tax exempt by nonresidents of Kansas under this exemption. See Revised Notice 04-13 for a further discussion of this issue. (Aircraft transactions are discussed herein).

example

A Kansas City, Kansas dealer sells a pickup for $19,500 to a Missouri resident. The dealer is not required to collect Kansas Retailers' Sales Tax on the $19,500, provided that the pickup will be removed from Kansas within ten (10) days and the pickup will not be registered in Kansas.

In the previous example, the Kansas dealer may issue the Missouri buyer a 30-day permit. The buyer would then register the pickup in his or her Missouri county of residence and pay applicable Missouri compensating use taxes. **If** the Missouri resident intends to register the pickup in Kansas, or if the vehicle is not removed from Kansas within ten (10) days of the sale, the dealer is required to collect sales tax.

LEMON LAW

Kansas law K.S.A. 50-645(c) provides that when a manufacturer or its authorized dealer is unable to conform a motor vehicle to any applicable warranty after a reasonable number of attempts, the purchaser is authorized to return the vehicle and obtain a refund of the full purchase price including all collateral charges, such as Kansas sales tax, less a reasonable allowance for the purchaser's use of the vehicle. This provision is commonly referred to as the *Lemon Law*.

example

A car, originally purchased for $20,000, is returned to a Kansas dealership pursuant to the provisions of the above-described L*emon Law*. $19,000 is refunded to the customer. Kansas sales tax is refunded on the $19,000.

VEHICLE TRANSACTIONS BETWEEN NON-DEALERS

ISOLATED or OCCASIONAL SALE

When any person (individual, partnership, corporation, etc.) other than a licensed Kansas motor vehicle dealer sells a vehicle it is referred to as an **isolated or occasional sale**. The seller is not responsible for collecting, reporting and remitting Kansas retailers' sales tax to KDOR on isolated or occasional sales of vehicles. Rather, the purchaser is required to pay the sales tax due to the County Treasurer when registering the vehicle in the Kansas county in which he or she is a resident.

Tax Base - Sales Price

The sales or use tax base for the **isolated or occasional sale** of a *motor vehicle* or *trailer* is the actual selling price of the vehicle. See K.S.A. 79-3603(o). The County Treasurer will calculate the sales tax due based on the sale price as entered on the vehicle title. A Bill of Sale is NOT required if the sale price is entered on the vehicle title.

Pursuant to the provisions of K.A.R. 92-19-30, the sales tax on the isolated or occasional sale of motor vehicles or trailers shall be computed on its fair market value by the Director of Taxation under either of the following circumstances: 1) The selling price of the vehicle is unknown; or, 2) the stated selling price is not indicative of, and bears no reasonable relationship to, the fair market value of the vehicle.

The actual selling price shall be the base for computing the tax on the sale of wrecked or damaged vehicles.

TRADE-IN ALLOWANCE

In an isolated or occasional sale (trade), the fair market value of any *motor vehicle* or *trailer* traded in by the purchaser to the seller may be deducted from the selling price.

example

Mrs. Able trades her vehicle plus $500 to Mrs. Brown. Mrs. Able owes sales tax to the County Treasurer only on the $500. Mrs. Brown does not owe any sales tax.

The Trade-in Allowance For Isolated or Occasional Sales Are Limited to *Motor Vehicles* and *Trailers*

K.S.A. 79-3603(o) provides that "in determining the base for computing the tax on such isolated or occasional sales, the fair market value of any motor vehicle or trailer

traded in by the purchaser to the seller may be deducted from the selling price."

Mrs. Able trades her 2005 Oldsmobile to Mr. Brown for a 2005 Ranger fishing boat and trailer. A trade-in allowance may be allowed to the extent of the fair market value of the trailer.

Each person claiming a sales tax credit for a vehicle or trailer traded for another vehicle or trailer must file an Affidavit to a Fact/Bill of Sale (Form TR-12) with the County Treasurer. **A Bill of Sale is NOT required if the sale price is entered on the vehicle title.**

NOTE: When an individual sells a vehicle and uses the proceeds thereof to purchase another vehicle, sales tax is due on the total purchase price of the purchased vehicle. The sale of one vehicle and the subsequent purchase of another does not constitute a trade for which a trade-in allowance is allowed.

RATE OF TAX (IN-STATE PURCHASE)

The general rule for isolated or occasional sales of vehicles or trailers is that they are subject to sales tax at the rate in effect **where the sale was made**. If the sale negotiations occur in different cities, the site of the sale (for local sales tax purposes) is the place where the vehicle was kept at the time negotiations were first entered into. K.A.R. 92-21-16.

A Wichita resident viewed, test drove and made an offer to purchase a car located in Salina. The exchange of money, title and the auto took place in Newton. At registration, the County Treasurer will use Salina as the location of the sale - where the vehicle was located when the negotiations first took place.

The above rule identifies **where the sale was made**. Once established, the County Treasurer will collect the highest sales tax rate between the rate in effect where the sale was made and the vehicle's registration address. See *Local Compensating Use Tax - Intrastate Sales* herein.

RATE OF TAX (OUT-OF-STATE PURCHASE)

A Kansas resident who purchases a vehicle from outside of Kansas is required to pay sales tax to the County Treasurer at the rate in effect at his place of residence and not the rate of tax in effect at the County Treasurer's Office.

A Shawnee County Kansas resident buys an automobile from a Nebraska resident (vehicle located in Nebraska). The rate of tax due is the rate in effect in Shawnee County – **where the purchaser lives,** and not the rate in effect in Topeka, Kansas – where the Shawnee County Treasurer is located.

VEHICLE LEASES AND RENTALS

GROSS RECEIPTS

Dealers are required to collect sales tax on the total amount of each lease/rental payment with no deduction for insurance, taxes, service or maintenance contracts, handling or administration charges, late fees, repair or service charges, or any other charges regardless of how any contract, invoice or other evidence of the transaction is stated or computed and whether separately billed or segregated on the same bill. K.A.R. 92-19-55a.

A Hays, KS dealer enters into a 36-month lease on a car to a Russell, KS resident for $450 per month plus property taxes of $50 and administrative fees of $25 per month. Sales tax is due each month on the total lease payment of $525 ($450 + $50 + $25 = $525).

No Trade-In Allowance For Lease Vehicles

When a leased/rented vehicle is traded for another leased/rented vehicle or for a purchased vehicle, no sales tax trade-in deduction is allowed.

Mr. Brown entered into a 48-month lease of a car. Ten months into the lease, Mr. Brown trades the car for a pickup truck. Mr. Brown is not allowed a trade-in deduction on the value of the leased automobile toward his purchase (or lease) of the pickup truck.

Kansas Vehicle Rental Excise Tax

Rentals, not exceeding 28 days, of vehicles with a gross vehicle weight not exceeding 12,000 pounds are also subject to the Kansas Vehicle Rental Excise Tax. This tax is **in addition to** the Kansas Retailers' Sales Tax, and is computed on the same tax base. A sample rental car bill may appear as follows:

Daily Rental Rate	$ 19.99
Excess Mileage Charge	7.50
Fuel Charge	8.25
Insurance	5.00
SUBTOTAL	**$ 40.74**
Kansas Sales Tax (7.3%)	2.97
Vehicle Rental Excise Tax (3.5%)	1.43
TOTAL	**$ 45.14**

RATE OF TAX ON LEASES AND RENTALS

The rate of sales tax due on leases and rentals of motor vehicles, trailers, semi-trailers or aircraft depends on whether or not the payment thereof involves periodic payments. See Notice 03-05 for further information.

Periodic Payments

Leases or rentals that involve periodic payments are subject to the rate of sales tax in effect at the primary property location. If during the term of the lease the lessee moves to another jurisdiction and registers the vehicle there, the state and local sales tax charged on the lease payments due after the move will be the rate in effect at the new primary property location (registration address). Down payments and cap cost reductions made at the dealership are considered to be part of the lease. Thus, these payments are sourced to the primary location of the vehicle.

example

A Pleasanton, KS dealership leases a pickup to an Overland Park resident for 48 months at $500 per month. The purchaser paid $2,000 down at the dealership. The rate of tax charged on the $2,000 down payment and each lease payment is the rate in effect at the primary property location – the Overland Park registration address. However, after 18 months the lessee moves to Topeka and registers the pickup there. The rate of tax charged by the Pleasanton dealership on each lease payment will now be the sales tax rate in effect at the new primary property location – Topeka.

No Periodic Payments

The rate of sales tax due on leases and rentals of motor vehicles, trailers, semi-trailers or aircraft that do not involve a periodic payment is subject to the rate of sales tax in effect at where the customer takes delivery.

example

Rent-A-Bomb, a Topeka used car rental company, rents a car for $100 a week. When the customer takes delivery of the car at Rent-A-Bomb's place of business - the rate of sales tax would be the rate in effect in Topeka.

RENTAL FLEET

Dealers and rental car companies may purchase the vehicles that they intend to lease or rent (rental inventory) free of sales tax because they will collect sales tax based on the gross receipts received from each lease or rental of the vehicle. Dealers should use a Kansas Resale Exemption Certificate to make a tax-exempt purchase of the vehicles that they intend to sell, rent or lease.

example

XYZ Autos, a new car dealer, purchases several new Fords that it intends to enter into long term leases with one of its commercial customers. The purchase of these cars is tax exempt with a Resale Exemption Certificate. XYZ Autos will collect sales tax on each of the lease payments.

Furthermore, all parts and labor services to repair, service or maintain a vehicle in a lease or rental inventory may be purchased exempt from sales tax by the lessor (dealer or rental agency) with a Resale Exemption Certificate.

example

Before placing a newly-acquired vehicle into service, Rent-A-Bomb, a used car rental company, has a local mechanic service the engine and perform some repair work. All of the parts and labor services are exempt from sales tax when Rent-A-Bomb provides the mechanic with a properly completed Resale Exemption Certificate. See also *Exempt Purchases* herein.

COMPENSATING USE TAX

WHAT IS COMPENSATING USE TAX?

Compensating Use Tax is a tax paid on goods and merchandise (including vehicles) purchased in other states and *used*, *consumed* or *stored* in Kansas upon which no sales tax was paid or, another state's (and local) sales tax was paid at the time of purchase, but the rate was less than the Kansas rate. In general, compensating use tax is due when an item is shipped from one state into another whereas, sales tax is due when the sale wholly takes place with the geographical boundaries of Kansas.

The Kansas Compensating Use Tax rate is equal to the Kansas sales tax rate. In the case of vehicles, the rate of compensating use tax due on a vehicle purchased outside Kansas is equal to the Kansas retailers' sales tax rate in effect at the registration address of the vehicle.

example

A Kansas City, KS resident buys a car in Missouri and registers it in Wyandotte County. Legally, the tax that is due is **Kansas Compensating Use Tax** and not Kansas Retailers' Sales Tax. The rate of Kansas Compensating Use Tax is equal to the rate of sales tax in effect at the vehicle registration address – in this case the Kansas City, KS sales tax rate.

Generally, the tax base for Kansas Compensating Use Tax on vehicles and vessels (boats) is the same tax base as for the Kansas Retailers' Sales Tax. However, compensating use tax is imposed on the *use, storage* or *consumption* of an article of *tangible personal property* within the state of Kansas, and not on the *sale of tangible personal property* as required by sales tax.

The import of this distinction is that compensating use tax is not due on labor services that are subject to Kansas sales tax. As a general rule, labor to service, repair, alter or maintain a motor vehicle is taxable - but

only when the labor is performed in Kansas. Thus, compensating use tax would not be due on the sale of labor services performed in another state that are separately stated on the invoice.

EXCEPTIONS TO COMPENSATING USE TAX

There are two instances when vehicles purchased outside of Kansas and subsequently registered in Kansas are not subject to the Kansas Compensating Use Tax. The first is when a sales/use tax equal to or greater than the Kansas rate has already been paid to another state, as outlined in K.A.R. 92-19-30(l)(2). The second is when the first actual use of the vehicle was outside the state of Kansas, as defined by K.A.R. 92-20-13. Each of these exceptions is explained and illustrated with examples below.

Taxes Legally Paid to Another State

When a person purchases a vehicle and legally pays a sales or use tax to another state, equal to or greater than the Kansas rate due, no Kansas compensating use tax is due when the vehicle is subsequently registered in Kansas.

example

Mr. Peacock buys a van and registers it in Kentucky, paying 8% Kentucky sales tax (6% state & 2% local). A week later, Mr. Peacock moves to Wichita, KS. Since the 8% Kentucky rate paid is equal to or greater than the Wichita combined rate of 7.3%, no Kansas Compensating Tax is due. K.A.R. 92-19-30(l)(2).

K.A.R. 92-19-30(l)(2) provides that when a purchaser has paid state and local sales tax to another state at a rate that is less than Kansas state and local use tax rates where the vehicle is registered, the purchaser shall pay Kansas state and local use tax to the county treasurer at a rate that is equal to the difference between the combined state and local tax rates for the Kansas location and the combined state and local tax rates that were used to determine the tax paid to the other state.

example

Mr. Jones buys a car in Missouri and pays the Missouri sales tax of 5%. Three months later he moves to Anytown, Kansas (tax rate of 7%). When he registers the vehicle with his Kansas address, he will pay the difference between the two rates (2%) to the County Treasurer. (The first use of the car was less than 6 months; see *First Actual Use* that follows.)

example

A car is bought in Alaska – a state that does not impose a sales tax. When the car is subsequently registered in Kansas, the full state and local rate of Kansas tax in effect at the registration address will be due, unless the *first actual use* test has been met.

First Actual Use

Under provisions of K.A.R. 92-20-13, Compensating Use Tax may not be due on an automobile purchased outside of the state of Kansas if: 1) when the motor vehicle was purchased, it was intended for bona fide use outside of the state of Kansas, 2) the first actual use of the automobile was outside of the state of Kansas, and 3) the first actual use of the motor vehicle was substantial and constituted the primary use for which the motor vehicle was purchased. KDOR's position is that **substantial** use in another state consists of a minimum of six months of use in the other state.

example

In January, an Ohio resident purchases a car in Cleveland for her use. In August of that year, she moves and registers the car in Kansas. No Kansas Use Tax is due since the first use of the car was **substantial** (more than six months).

example

A United States Air Force officer buys a car in Germany and pays no sales tax. A year later, the officer is reassigned to Wichita, KS. No Kansas Use Tax is due as the first actual substantial use of the automobile was outside of Kansas.

LOCAL COMPENSATING USE TAX – INTRASTATE SALES

Kansas law requires that intrastate (within Kansas) sales of vehicles that are required to be registered for operation on streets and highways (automobiles, trucks (regardless of gross weight), motorcycles, motorized bicycles and trailers) are subject to the highest local sales tax rate between:

1) the rate in effect where the sale took place

and

2) the rate in effect at the buyer's registration address (purchaser's residence or place of business).

This local compensating use tax law, K.S.A. 12-199, applies to all in-state vehicle **sales**; it does not apply to vehicle rentals or leases (see *IMPORTANT* on the next page). As with the collection and payment of sales tax, the only difference is how and to whom the tax is paid.

When a vehicle is purchased from a dealer, the dealer will collect the full rate of state and local sales tax in effect at the dealer's location. If the sales tax rate is higher at the dealer's place of business than at the purchaser's residence, there is no additional local compensating use tax to be paid to the County Treasurer by the purchaser when the vehicle is registered.

However, if the sales tax rate is higher at the purchaser's residence (or place of business if the

purchaser is purchasing the vehicle for a business use) than at the dealer's place of business, then the dealer collects the full amount of sales tax in effect at the dealer's location and the customer pays the difference to the County Treasurer when the vehicle is registered.

example

A car is purchased from a dealer located in Shawnee County by a customer from Lawrence. The dealer will collect the rate of sales tax in effect in Shawnee County, and the Douglas County Treasurer will collect the additional local use tax (the difference between the Shawnee County rate and the higher Lawrence rate) when the buyer registers the car in Douglas County.

CAUTION: Vehicle owners that attempt to register their vehicles in a county other than the one in which they reside may be subject to a fine of not less than $1,000 nor more than $5,000. (K.S.A. 8-149)

IMPORTANT: The local Compensating Use Tax on intrastate vehicle sales also applied to vehicles leased for over 28 consecutive days when it was imposed on July 1, 2002 (Notice 02-05). However, with the passage of the Streamlined Sales Tax Act effective July 1, 2003, leases and rentals of **motor vehicles** are no longer subject to the higher sales tax rate between lease location and vehicle registration address. The tax rate applied to the lease or rental of a vehicle is now determined by whether or not payment of the lease is by periodic payments. See *Rate Of Tax On Leases & Rentals* herein, and Notice 03-05.

NONTAXABLE VEHICLE TRANSACTIONS

This section explains each of the vehicle transactions that are not subject to Kansas sales tax by operation of statue or regulation (see *K.A.R. 92-19-30* on page 28).

TRANSFER SOLELY IN EXCHANGE FOR STOCK

No sales tax is due on the transfer of a vehicle by an individual to a corporation solely in exchange for stock in the corporation. If the individual receives any consideration other than stock in the corporation, the transfer is subject to sales tax based on the fair market value of the vehicle.

However, when a vehicle is transferred from a corporation back to an officer, shareholder, board member, or employee of the corporation, said transfer shall be presumed to be a taxable transfer. It is presumed to be made in consideration for services rendered by the officer, shareholder, board member, or employee to the corporation, and as such, is a taxable transfer.

SALES BETWEEN IMMEDIATE FAMILY MEMBERS

The sale or transfer of an automobile, light truck, trailer, or motorcycle between immediate family members is exempt from sales tax. A *light truck* (gross weight of 12,000 pounds or less). *Immediate family members* are defined in 92-19-30(h) as *lineal ascendants and descendants and their spouses*. Accordingly, every sale of a vehicle (with or without a lien thereon), between *immediate family members* is exempt from sales tax when an Affidavit of Relationship, Form TR-215 is completed. Vehicle sales that qualify include:

- parent to son or daughter (including adopted children and step children) and their spouses;
- son or daughter to mother or father (including step parents);
- son-in-law or daughter-in-law to parent-in-law;
- grandparent to a grandchild or to the grandchild's husband or wife; and
- grandchild to a grandparent or to the grandparent's spouse.

Sales between brothers, sisters, aunts, uncles, nieces, nephews and cousins are not sales between *immediate family members* and do not qualify for this exemption. See Notice 95-09.

example

Mrs. Lew transfers title to a 2005 Corvette to her son Lucky. The World-Wide Credit Union has agreed to assumption of the outstanding loan on the Corvette of $6,000 by Lucky. No Kansas sales tax is due as this is a transfer between *immediate family members*.

GIFTS

Certain vehicle transfers do not meet the definition of a *sale* for sales tax purposes, and are therefore, not subject to sales tax. A *bona fide gift* is such an example. To qualify as a tax-free *gift*, the transfer of the vehicle must be given without any consideration, and given with the intent of the donor that the transfer be a gift.

A transfer of a vehicle is **presumed** to be a gift when: 1) the transferee is the spouse, mother, father, brother, sister, child, grandmother, aunt, uncle, niece or nephew of the transferor, and 2) money is not exchanged as part of the trade or exchange.

If money is exchanged for the vehicle, the transfer is taxable, unless the transfer is between *immediate family members* as described above. Furthermore, the transfer will be subject to sales tax if the vehicle is subject to a lien and the recipient of the vehicle is legally obligated to satisfy the lien as this exchange constitutes *consideration* exchanged for the vehicle.

Edward Martin transfers title of a van to his nephew, Frank. The van is subject to a lien with the First National Bank and the bank has agreed to allow Frank to assume the loan. Sales tax is due on the selling price (typically, the amount of the assumed loan) of the van as this transfer is a *sale* and not a *gift*. NOTE: Had this transfer taken place between *immediate family members*, it would have been a nontaxable transfer.

When the transferee is not a spouse, mother, father, brother, sister, child, grandmother, aunt, uncle, niece or nephew, the person claiming that the transfer is a *gift* shall submit proof of this claim to the satisfaction of the County Treasurer or Director of Taxation.

INSURANCE SETTLEMENTS

When a totaled vehicle is purchased by an insurance company, the value of the vehicle is a negotiated transaction between the policy holder and the insurance company. As such, the insurance company is not obligated to reimburse sales tax to the policy holder, unless its policy so provides. No sales tax is due to KDOR on the transfer of the title from the policy holder to the insurance company. These rules are the same whether a private individual or a motor vehicle dealership owns the vehicle.

Mr. Jones has a car accident and the vehicle is totaled. The insurance company offers to pay him $5,000, but he thinks the same model in the same condition as his vehicle before the accident would be worth $5,500. The parties finally agree that the insurance company will pay him $5,250 for the auto. Whether the insurance company pays Mr. Jones sales tax on the $5,250 is between the parties, and/or subject to the terms of the insurance policy. When title is transferred to the insurance company, no sales tax is due to KDOR or County Treasurer.

In like manner, no sales tax is due when the owner of a totaled vehicle decides to retain the vehicle and the insurance company pays the owner for the totaled vehicle minus salvage value.

Mr. Jones and the insurance company agreed on $5,250 in the above example. In this case, Mr. Jones decides to keep title to the car and deduct the salvage value ($250) from the negotiated settlement. No sales tax is due.

In general, sales tax is due on the repair of a damaged vehicle when some or all of the bill will be *paid* for by an insurance company. Insurance companies are not entitled to claim a sales tax exemption under Kansas law. No sales tax is due on the repair of items (such as farm machinery) exempt under the provisions of K.S.A. 79-3606.

Bill Green's vehicle is damaged in a wreck. His insurance policy provides that the insurance company pay all expenses to repair the vehicle minus the $250 deductible. Sales tax is due on the total repair bill.

When a vehicle is purchased to replace a vehicle that has been stolen or destroyed by accident, fire, or other adversity, the purchase of the replacement vehicle is not exempt. The purchase of a replacement vehicle is taxable, whether the replacement vehicle is purchased by the owner of the vehicle that was stolen or destroyed, or by an insurance company that is obligated to provide a replacement vehicle.

Insurance Premiums

Insurance premiums paid to insure motor vehicles and/or drivers are not subject to Kansas sales tax. Likewise, the sale of GAP (Guaranteed Auto Protection) premiums are not subject to sales tax in Kansas.

ADDITIONAL TRANSFERS

Change of Name

A change of the owner's name on a title when there is no actual transfer of vehicle ownership to a different person or entity is not a *sale* and is not taxed. See Form TR-12, page 34.

Mary Jane Doe has elected to take back her maiden name as part of her recent divorce. This change of name is not a sale and therefore not subject to sales tax.

Inheritance

A transfer of a vehicle to an heir or legatee by will or pursuant to the inheritance or intestate laws of any state is not a *sale* and is not subject to Kansas sales or use tax. A certified copy of the probate court order making the distribution must be filed with the County Treasurer at the time of registration. See Form TR-12, page 34.

Raffles

The sale of a vehicle to a person or organization who will transfer it to the winner of a drawing or raffle is subject to sales tax. The subsequent transfer of the vehicle to the winner of the drawing or raffle is considered to be a *gift* and not subject to sales tax. However, when title to a vehicle is transferred from a motor vehicle dealer directly to the winner of a drawing or raffle, the winner is liable for the sales tax to be collected by the motor vehicle dealer. Moreover, whenever a vehicle is won as a prize and sales tax has not been paid to Kansas or another state, the winner of the vehicle shall pay Kansas Sales or Compensating Use Tax when the vehicle is registered with the County Treasurer.

example

A Kansas dealer donates a car to an annual charity auction. Title to the car will be transferred from the dealer to the highest bidder at the charity auction. The dealer will collect sales tax on the car from the highest bidder based on the auction price.

example

A fund raising organization obtains title to a car from a dealer (at cost) with the intent to raffle the car. Kansas sales tax is paid by the organization to the dealer. The subsequent transfer to the winner of the raffle is not subject to sales tax, as the transfer qualifies as a *gift*.

Repossession

When title to a vehicle is transferred to the holder of an encumbrance (lien) as a result of the buyer's failure to pay the installments due (repossession) under the terms of a written agreement entered into at the time of original purchase, the transfer is not a sale and is not taxable. However, any registration or subsequent sale of the vehicle by the encumbrance holder is taxable, unless the vehicle is redeemed by the original owner of the vehicle pursuant to the provisions of K.S.A. 84-9-506. See Revenue Ruling 19-1997-1.

Lien Foreclosure

A lien holder may also acquire title to a vehicle through a court-ordered foreclosure of a mechanic's lien, landlord's lien, storage lien, or other statutory lien. The sales tax rules for a lien foreclosure are the same as for a repossession.

1) The transfer of title to the lien holder is not taxed provided that the lien holder does not register the vehicle.
2) Any registration or subsequent sale of the vehicle by the lien holder is taxable.
3) The redemption of a vehicle from a lien holder by a debtor who satisfies the underlying debt is not considered to be a sale and therefore is not subject to sales tax.

The situations that follow illustrate the three types of title transfers that occur as a result of a repossession or lien foreclosure.

example

Mr. Gordon is making payments on his new car to The National Bank. Mr. Gordon has title to the vehicle; The National Bank is the lien holder on the title.

Situation 1. The National Bank repossesses the car from Mr. Gordon for failure to make the payments. No sales tax is due when The National Bank obtains a title for the repossessed vehicle in its name.

Situation 2. Mr. Gordon (the original owner) brings his payments current and redeems the car from The National Bank, whereby the title is transferred from the bank back to Mr. Gordon. This title transfer is not considered to be a sale and is therefore not subject to sales tax.

Situation 3. Mr. Gordon did not redeem the vehicle, and it was subsequently sold by the bank to Ms. Cruz. The bank will collect the state and local sales tax on the gross receipts it receives, and issue a sales tax receipt (ST-8) to Ms. Cruz. If the bank is not registered to collect sales tax, Ms. Cruz will pay the sales tax to the County Treasurer at the time of registration.

EXEMPT SALES

EXEMPTION CERTIFICATES

Kansas vehicle dealers are responsible for collecting the full amount of sales tax due on each vehicle sold to, or serviced for, the final user or consumer in Kansas. (See also *Retailer Responsibilities* herein.) A dealer is only relieved from collecting and remitting the sales tax if, at the time of the purchase, the dealer obtains the required information contained on an exemption certificate, and keeps the certificate as part of its sales tax records for three (3) years. (K.S.A. 79-3651).

An exemption certificate is a document completed by the buyer that shows why sales tax is not due on an otherwise taxable sale of goods or services. The certificates commonly needed for vehicle transactions are included in this guide. As discussed previously, the Affidavit of Delivery of a Motor Vehicle (ST-8B) serves as the exemption certificate when a motor vehicle, semitrailer, pole trailer or aircraft is sold to a nonresident who will register and title it outside Kansas.

You will also use exemption certificates when buying the vehicles, parts and labor services that you intend to sell, rent or lease to customers. See *Exempt Purchases* herein. Dealers should obtain a copy of Pub. KS-1520, Kansas Exemption Certificates, from our web site. This publication defines Kansas sales tax exemptions, how to use exemption certificates as a buyer and seller, and contains most, if not all, of the blank sales exemption certificates.

DIRECT PURCHASES BY EXEMPT ENTITIES

One of the most common types of exempt sales made by vehicle dealers is the sale to an entity that has been granted an exemption under Kansas law from paying sales (or use) tax on all of its direct purchases of tangible personal property or taxable services. (All sales tax exemptions are applicable to all compensating use tax situations.) The most common exempt entities are bulleted below. For a complete list of all sales tax exempt entities see Pub. KS-1520.

- The U. S. Government, its agencies and instrumentalities
- The state of Kansas and Kansas political sub-divisions – cities, counties, school districts, etc.

- Elementary and secondary schools
- Parent-Teacher Organizations (PTA or PTO)
- Nonprofit educational institutions
- Nonprofit hospitals
- Nonprofit blood, tissue and organ banks
- Nonprofit 501(c)(3) historical societies
- Nonprofit 501(c)(3) museums
- Nonprofit 501(c)(3) primary care clinics
- Nonprofit 501(c)(3) religious organizations
- Nonprofit 501(c)(3) zoos

The designation of 501(c)(3) refers to a section of the federal Internal Revenue Code exempting certain organizations from *income* tax. However, not all nonprofit organizations are exempt from sales tax. Only the above-cited entities are exempt from *sales* tax on their purchase (or lease) of a vehicle, or its repair, provided that the appropriate sales tax exemption certificate is obtained by the retailer or by the County Treasurer (when a vehicle is purchased from an individual).

To be exempt as a **direct** purchase, the sales price of the vehicle must be billed directly to the exempt buyer and paid for by funds from the exempt buyer. Loans from financial institutions paid directly to a dealer would constitute a **direct** purchase. Purchases made by agents or employees of an exempt buyer with their *personal* funds are taxable.

example

Ms. Feinstein, an employee of a 501(c)(3) religious organization, buys a car with funds from a personal loan. Ms. Feinstein will use the car in performing her employment duties, and she will be reimbursed the cost of the car by the 501(c)(3) religious organization. This sale is subject to sales tax because it is not a direct sale to the 501(c)(3) religious organization.

Exempt entities listed here may also purchase the parts and labor to repair or maintain their vehicles without sales tax when they provide a properly completed exemption certificate to the dealer or retailer. Your dealership has been awarded the annual contract to service the city's vehicles. The city should provide you with its KDOR-issued Tax Exempt Entity Exemption Certificate (PR-78KS).

NOTE: The city may complete one exemption certificate to cover all work done on the city's vehicles for the duration of the contract. This is called a blanket exemption certificate - one certificate covers multiple exempt transactions of the same type between the same parties. Additional information is in Pub. KS-1520 on our web site.

MOBILITY ENHANCING EQUIPMENT

An exemption exists for equipment and special accessories that qualify as *mobility enhancing* equipment. K.S.A. 79-3606(r) provides a sales tax exemption on the purchase price of said equipment, including repair and replacement parts for the equipment. To qualify, there must be a written prescription issued by a person licensed to practice the healing arts (e.g., a medical doctor, dentist, optometrist, etc.) and the accessory attached or to be attached to the motor vehicle must be:

1) used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle; and
2) not generally used by persons with normal mobility.

Examples of items that qualify are special hand and foot controls, wheel chair lifts, etc. The equipment on a motor vehicle normally provided by a motor vehicle manufacturer and the motor vehicle itself are not exempt.

This sales tax exemption is limited to the purchase price of the mobility enhancing equipment and repair and replacement parts for the mobility enhancing equipment. The exemption does not extend to the labor services to install, repair or service the accessory. A retailer who sells an accessory that qualifies for this exemption would retain a copy of the written prescription in its records as proof as to why sales tax was not collected on the selling price of the accessory(ies) sold.

example

A person confined to a wheelchair for mobility purposes purchases a conversion van. As part of the sale the dealer provides and installs a wheelchair lift on the van. If the dealer is provided a written prescription from a person licensed to practice the healing arts, the purchase price of the wheelchair lift is exempt from sales tax. The installation labor is subject to sales tax. Should the lift need repair at a later date, the repair labor would also taxable, but any parts for the wheelchair lift would still be exempt with a copy of the prescription order.

INTERSTATE COMMON CARRIERS

Kansas law exempts from Kansas Retailers' Sales Tax the sale of new or used rolling stock (including buses, trucks and trailers) and the repair or replacement materials and parts, **but not the labor**, purchased by a motor carrier for immediate and direct use in interstate commerce. To qualify for the sales exemption, the motor carrier may be engaged in interstate commerce and haul for the general public. A carrier must furnish the retailer with a properly completed Interstate Common Carrier Exemption Certificate (ST-28) to claim an exemption on a vehicle or its parts.

example

ABC Tire Service replaces a tire on a UPS truck (UPS hauls goods in interstate commerce for the general public). While sale of the tire is exempt from sales tax with the ICC Exemption certificate, any labor for removing the old tire and installing the new tire is **taxable**. (The tire sale is also subject to the Kansas Tire Excise Tax.)

The ICC exemption extends to purchasers who do not hold ICC authority themselves but lease to an entity that does hold ICC authority.

Joe Hauler purchases a semi and trailer which he will lease to Roadway, Inc. (an ICC holder). Joe Hauler does not have ICC authority however, he may purchase the semi and trailer exempt from sales tax by providing the dealer with a properly completed ICC Exemption Certificate (ST-28J) which will require him to obtain a Kansas retailers' sales tax registration.

SALES TO CERTAIN FOREIGN DIPLOMATS

Certain official personnel from foreign countries who are stationed in the United States are issued tax exemption cards by the U.S. State Department, Office of Foreign Missions (OFM). Their level of tax exemption while in the United States is determined by the level of tax exemption granted to our official personnel stationed in their country. The plastic tax exemption cards have a photo ID, are valid nationwide and identify the level of exemption.

However, the OFM enforces the exemption of eligible foreign missions and their members when buying or leasing a vehicle. The purchaser must first present an OFM tax exemption card. The dealer MUST retain a copy of this card and contact OFM at (202) 895-3500. OFM will determine the tax-exempt status of the purchaser and provide a letter to the seller as to whether or not the purchaser is eligible for exemption from sales or use tax on the vehicle sale. **Only authorization letters provided directly from OFM to the seller are valid for tax-exemption on a vehicle sale.**

Additional information is available from the OFM or its web site at: state.gov/ofm/tax/vehicles/.

VEHICLE REPAIR AND SERVICE

SERVICE DEPARTMENTS

Taxable Purchases

Many Kansas dealers not only sell vehicles but also operate service departments and body shops. As a general rule, the tools and equipment purchased by a dealership for use in its service department are subject to sales tax. These include, but are not limited to: alignment equipment, hand tools, power tools, vehicle lifts, welders, wrenches, etc.

Also taxable to a dealership/service department is all office equipment, supplies, uniforms, shop rags, safety glasses, safety shoes, and newspaper and magazine subscriptions. Refreshments, coffee and snacks provided free of charge to employees and/or customers are also taxable.

Exempt Purchases

Dealers are authorized to purchase some *consumables* exempt from sales tax with a properly completed Consumed In Production Exemption Certificate (ST-28C) found in Pub. KS-1520. Tax exempt consumables include sand paper, rubbing compounds, masking tape, thinners, etc. See NOTICE 93-04.

Of course, service departments and repair shops may always purchase items which they intend to resell exempt from sales tax with a properly completed Resale Exemption Certificate (ST-28A). This includes not only the parts that will be *sold over the counter*, but also the parts that will be installed in customer's vehicles by the dealer's service technicians. See NOTICE 93-4.

As discussed above, the resale exemption also applies when a dealer is having repairs done to the vehicles it has in inventory for resale, or when subcontracting out the repair of a customer's vehicle. This is because the dealer/service department is not the final consumer of the vehicle repair, but will collect sales tax from the vehicle buyer or the service department customer.

A dealer's service department sends a customer's radiator out to a radiator shop to be boiled out and repaired. The service department will provide the radiator repair shop with a completed Resale Exemption Certificate (ST-28A) in order not to pay sales tax on the radiator repair parts and labor. Once the service department has completed the vehicle repair, it will collect sales tax from the customer on its total charges, including its charge for the radiator work performed by someone else.

Sales

Kansas sales tax is due on any fees received for performing the labor service of repairing, servicing, altering or maintaining tangible personal property. Thus, all charges made to repair, service, alter or maintain a vehicle within the state of Kansas are subject to Kansas sales tax.

Mr. Crow takes his 2007 Jeep Cherokee to a local dealership for a wheel alignment, oil change, and body work on the passenger-side rear panel. Mr. Crow's itemized bill from the dealership is as follows.

Wheel Alignment	$ 89.00
Oil (5 quarts)	10.00
Oil Filter	8.00
Rear Panel	385.00
Shop Supplies	5.00
4 Hrs. Labor @ $45/hr	180.00
Sub-total	**677.00**
7.2% Sales tax	48.74
Total	**$725.74**

AUXILIARY SERVICES

Towing, winching, and jump-starting of vehicles, and the delivery of fuel are not specifically enumerated as taxable services in the sales tax act. Therefore, fees for performing these services are not subject to Kansas sales tax when they are se*parately stated on the invoice*. However, sales tax is due on all articles of tangible personal property and all labor services which involve repairing, servicing, altering or maintaining tangible personal property.

example

You tow a customer's car from his home to your service department for repair. If your towing fee is separately stated on the parts and labor repair bill, it is not subject to sales tax. However if your towing fee is not separately stated on the bill, it is subject to sales tax as a part of the *gross receipts* received for repair of the customer's car.

WARRANTY WORK

When repair work is performed under a warranty, maintenance or service contract without charge to the consumer, it is not subject to sales tax on the amount of the reimbursement received from the warrantor, whether reimbursement is in the form of money, credit or the replacement of parts used to perform the repair work.

However, any charge such as a deductible or similar charge which the consumer is obligated to pay under the warranty, maintenance or service contract is fully taxable, and each retailer shall collect sales tax on the total charge paid by the consumer.

example

A new car buyer also purchases a 100,000 mile extended warranty for $1,200. Sales tax is due on the $1,200 warranty. At 77,000 miles the oil pump fails and the cost of replacing the engine is covered by the warranty. However, the dealership charges $45 for new oil, oil filter, spark plugs, etc. (not covered under the warranty). This $45 charge is subject to sales tax.

Cancellation of a Warranty Contract

When a customer cancels a warranty contract before its expiration and the dealer/manufacturer issues a partial refund to the customer for the unused portion of the warrant, Kansas retailers' sales tax should be refunded to the customer.

example

Customer purchased a $1,000 extended warranty contract in January and then cancelled it in July – obtaining a $600 refund. Since the dealer collected sales tax at the time of purchase ($1,000 X .07 + $70.00), any amount refunded should include sales tax portion to the amount refunded ($600 X .07 + $42.00).

The dealer can take a deduction when they file their July sales tax return. By claiming the deduction for *returned goods*, the dealer will reduce the amount of sales tax due on the July return. In effect, reducing the sales tax due on its return equal to the amount of sales tax refunded the customer. Further guidance regarding warranty work is provided by K.A.R. 92-19-62:

... "(d) If a retailer does not perform repair services under a warranty, maintenance or service contract, but instead has a third party perform the repairs, the third party's gross receipts received from that retailer are not subject to sales tax. The third party shall secure an exemption certificate from the retailer which states:

(1) that the service performed by the third party was pursuant to a warranty, maintenance or service contract;

(2) that the retailer collected from the consumer sales tax on the total selling price of the warranty, maintenance or service contract; and

(3) the retailer's sales tax registration number.

If a retailer has collected a deductible or similar charge from the consumer, the retailer shall include the amount in the retailer's taxable gross receipts, even though a third party may actually perform the service under the warranty, maintenance or service contract.

(e) Each retailer gratuitously providing parts, services or both to a consumer, is deemed to be the consumer of any materials, parts and third party services used. In this instance, each retailer shall pay sales tax to any third party service provider, report the cost of materials and parts on the retailer's sales tax return, and pay the appropriate sales tax."

RECALL WORK

There is no sales tax due on work for which there is no fee/charge. Recall work, to include parts and labor, which is provided free to the customer is **not subject to sales tax**. Reimbursement from a manufacturer to a dealer for the recall work is also **not subject to sales tax**. However, any other work the customer has you do while the car is in for recall work (such as an oil change, etc.) **remains subject to sales tax**.

WASHING AND WAXING

Kansas sales tax law imposes a tax on the washing and waxing of vehicles. Thus, sales tax is due on the gross receipts received for the service of washing and waxing of vehicles.

Because it is a taxable service, car washing facilities qualify for a sales tax exemption on the water and electricity that is directly used or *consumed* in washing and waxing a vehicle. To claim the exemption, complete Form ST-28B, Statement for Sales Tax Exemption on Electricity, Gas, or Water Furnished Through One Meter, on page 40. Electricity used for heating, lighting and cooling is subject to sales tax.

RELATED TRANSACTIONS

SALES TO FARMERS AND RANCHERS

Motor vehicles are a necessary and integral part of agribusiness. Trucks and trailers are needed to transport animals, grain, milk or other agricultural commodities. However, the statutory definition of exempt farm machinery and equipment (K.S.A. 79-3606(t)) specifically EXCLUDES passenger vehicles, trucks, truck tractors, trailers, semitrailers, or pole trailers. Only farm trailers and an *implement of husbandry*, as defined below, may be purchased as farm machinery and equipment.

Farm Trailers

A trailer may be exempt from sales or use tax as farm machinery and equipment. K.S.A. 8-126(z) defines a farm trailer as *any trailer or semitrailer designed and used primarily as a farm vehicle*. As outlined in Revenue Ruling 19-1997-3, there are two tests that must be met for exemption of a trailer as a *farm trailer*. It must be: 1) used only in farming and ranching, and 2) designed to allow for farm or ranch use.

Used Only In Farming and Ranching

The buyer's certification on the Agricultural Exemption Certificate (ST-28F) is sufficient to satisfy the first test. The trailer must be for the farmer's or rancher's own use in their farming or ranching operation. A trailer used to haul commodities, livestock or other goods for others, or used for a commercial purpose other than farming and ranching are uses that are incompatible with the exempt use.

Buyers who will use a trailer for an incompatible use are required to pay sales or use tax on it, and are not allowed to claim an exemption based on the exemption for farm and ranch machinery or equipment. Should an exemption later be disqualified, the buyer will owe the retailers' sales or use tax on the original purchase price, plus penalty and interest.

example

A cattle rancher is buying a livestock trailer to haul cattle. This trailer will be exempt as a farm trailer provided the trailer will not be used for any other purpose. The farmer's use of this trailer to haul commodities for another would make the purchase taxable.

Designed For Farm and Ranch Use

Trailers such as grain, flatbed, dump, tank, and van are designed to allow for farm and ranch work. When only used in farming and ranching, the purchase is exempt from sales and use taxes. Converter gears that are utilized to facilitate the transport of farm trailers would also be exempt as farm machinery.

Farm Trucks

Kansas law does allow an exemption from sales tax for vehicles defined as an *implement of husbandry*. However, implements of husbandry are subject to sales tax when tagged for operation on streets and highways including *farm tags*:

... "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

IMPORTANT: The purchase of a truck that does not contain a fertilizer spreader, nurse tank, mixer-feed, etc. is not exempt from sales tax. For example, the purchase of a truck and a subsequent purchase (two separate transactions) and mounting of the spreader, tank, etc. does not exempt the original purchase of the truck.

Property Installed or Mounted

Kansas state and local sales tax is imposed on the total selling price of each motor vehicle or trailer and includes all tangible personal property mounted, installed, applied or otherwise attached or affixed to the motor vehicle/trailer. K.A.R. 92-19-30a provides that, *"the retailer shall not exclude or deduct for the tangible personal property, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately charged or segregated on the same contract or invoice."*

example

A farmer is buying a new truck with a dealer-installed grain box. The truck and the grain box are both subject to the applicable state and local sales tax, despite the fact that the grain box may qualify for exemption as farm machinery and equipment.

However, the sale of farm machinery and equipment is exempt from sales tax when the sale is not in connection with the sale of a motor vehicle.

example

A dealer sells and installs a grain box on a truck owned by a farmer. The sale and installation of the grain box are exempt from sales tax as farm machinery and

equipment. The dealer shall accept an Agricultural Exemption Certificate (ST-28F) from the farmer.

ALL TERRAIN VEHICLES (ATVs)

All-terrain vehicles **do not** qualify for the *farm machinery and equipment* sales tax exemption.

> *All-terrain vehicle* means any motorized nonhighway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires, **having a seat designed to be straddled by the operator**. As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer. (Emphasis added.)

Although often used on a farm or ranch, ATVs are not farm machinery/equipment and are therefore subject to Kansas sales or use taxes. See NOTICE 06-02.

example

A Kansas farmer purchases an ATV in Nebraska and has the dealer deliver it to him in Kansas. The farmer will use the ATV to *work* cattle. Kansas Compensating Use Tax is due on the total purchase price of the vehicle, including the delivery charge. If purchased within the state of Kansas, Kansas retailers' sales tax is due.

Like the vehicle itself, accessories for an ATV are also taxable because they generally do not directly contribute to a production process.

WORKSITE UTILITY VEHICLES

The sale of a *work-site utility vehicle* that is equipped with a bed or cargo box for hauling materials may be purchased exempt from sales tax under the farm machinery and equipment sales tax exemption if used only in farming, ranching or aquaculture production.

> *Work-site utility vehicle* means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, **of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side**, and may be equipped with a bed or cargo box for hauling materials. (Emphasis added).

AIRCRAFT

As a general rule, the retail sale (or rental) of an aircraft in the state of Kansas is subject to Kansas Retailers' Sales Tax. There are three general exceptions to this rule:

- Sale to ICC carrier or a foreign government
- Sale to a bona fide nonresident of Kansas registering the aircraft out of state within 10 days
- The isolated or occasional sale of an aircraft.

The major exception to the general rule is sales of aircraft, repair parts or labor services to a certified or licensed carrier (or its agent) of persons and/or property involved in interstate or foreign commerce, or to a foreign government.

example

Cessna sells an aircraft to U.S. Air, a licensed carrier in interstate commerce. The sale is exempt from sales tax. To document this exempt sale, Cessna will obtain a completed Aircraft Exemption Certificate (ST-28L) from the airline.

The second exception to the general rule is the sale of an aircraft to a nonresident of Kansas when the aircraft is not to be registered or based in Kansas, and the aircraft will not remain in Kansas more than 10 days from the date of purchase. This exception is identical to the motor vehicle exception for nonresidents.

example

A Hollywood actor comes to Wichita and buys a LearJet. She removes the LearJet within 10 days, registering it in California. No Kansas sales tax is due.

A third exception is the *isolated or occasional* sale exemption. The sale of an aircraft between individuals or entities may be exempt from sales tax if the requirements of an *isolated or occasional* sale are met. The definition of an isolated or occasional sale is that the SELLER cannot have more than two sales of that type in a 12 month period and the SELLER cannot have purchased the aircraft with the intent to resell it. If these two requirements are met, the *isolated or occasional* sale of an aircraft is exempt from sales tax.

NOTE: This *isolated/occasional* sales tax exemption is not available for "motor vehicles" or "trailers." K.S.A. 79-3603(o).

example

Mr. Carter, a Kansas resident, owns a plane that he uses for recreational purposes. He decides to sell the plane to a fellow pilot. The sale is not subject to sales tax, as Mr. Carter did not have more than one sale within a twelve-month period, and he did not acquire the plane for the purpose of reselling it.

Entities that are involved in the *aircraft rental* business should follow the advice contained in NOTICE 92-04. This Notice addresses the sales and use tax issues surrounding flight instruction, crop dusting, interstate and/or foreign commerce, and is available from the Policy Information Library on our web site.

TRAILERS

As noted earlier in this publication, the sale of a trailer is generally subject to sales tax.

In-State Sales By Dealers

Kansas trailer dealers are required to collect Kansas Retailers' Sales Tax (state plus any applicable local sales taxes) when the purchaser takes possession of a trailer in Kansas. The dealer will provide the purchaser with the same sales tax receipt form (ST-8) as a motor vehicle dealer. **This rule applies even when the purchaser is a *bona fide* resident of another state and the trailer will be removed from Kansas and registered in another state.** (Only motor vehicles, semi-trailers, pole trailers and aircraft can be purchased by nonresidents exempt from Kansas sales tax.)

example A resident of Missouri buys a motorcycle trailer from a Kansas dealer. Even though the trailer will be removed from Kansas within 10 days of the purchase date and be registered and tagged in Missouri, Kansas Retailers' Sales Tax must be collected on the trailer by the Kansas dealer. (NOTE: Had the Missouri resident also purchased a motorcycle from the same dealer, there would be no Kansas Sales Tax on the motorcycle because a it qualifies for a 10-day drive-out permit.)

example A Missouri resident buys a motorcycle trailer from a Kansas dealer. The Kansas dealer is obligated, as part of the sale, to deliver the trailer to a Missouri location. No Kansas sales tax is due; see K.A.R. 92-19-29. (NOTE: By making the delivery to Missouri in their own vehicle, the Kansas dealer may have established *nexus* or a physical presence in Missouri, and be obligated to register with Missouri to collect Missouri use tax on its trailer sales to Missouri customers.)

Out-of-State Trailer Purchases

Anyone who purchases a new or used trailer from an out-of-state dealer must pay the state and local Kansas Compensating Use Tax at the County Treasurer's office. Like Kansas Sales Tax, Kansas Compensating Use Tax is imposed on the dealer's *gross selling price*, less any trade-in or other allowable discount (such as a dealer's discount). *Gross selling price* includes every item of the sale: the trailer, accessories, manufacturer's rebate, extended warranties, optional warranties, freight and delivery charges. Credit against the compensating use tax is given for any state and local sales tax paid in the other state. K.A.R. 92-19-30(l)(2).

Isolated or Occasional Trailer Sales

The isolated or occasional sale of any trailer (including those with a gross weight of 2,000 pounds or less) **is** subject to Kansas sales or use tax, K.S.A. 79-3603(o). However, trailers with a gross weight of 2,000 pounds or less are not required to be tagged or registered, K.S.A. 8-143. *Gross weight* means the empty weight of the trailer plus the maximum cargo weight of the trailer. If the owner elects to tag and register the trailer, the tax is paid to the County Treasurer. If the trailer is not tagged and registered, the tax is to be paid to KDOR. See NOTICE 96-05 on our web site.

BOATS/WATERCRAFT

The retail sale, rental or lease of boats and watercraft (i.e., jet skis, etc.) is subject to Kansas sales and compensating use tax. The sale of a boat or watercraft by a Kansas dealer to a nonresident of Kansas is subject to Kansas sales tax when the buyer takes possession of the boat in Kansas (see examples in previous column). There is no 10-day drive-out permit for boats.

The purchase of a boat from a dealer located outside of Kansas is subject to both **state** and **local** Kansas Compensating Use Tax – K.S.A. 12-198. The tax situs is the owner's residence. The purchase of a boat from an individual located outside of Kansas may qualify for the isolated or occasional sales tax exemption. However, with the purchase of a boat and trailer sales tax is due the County Treasurer on the selling price or fair market value of the trailer, unless the trailer has a gross weight of less than 2,000 (see details above).

No Kansas sales tax is due on boat slip fees or rentals, or boat and/or trailer storage.

NATIVE AMERICAN RESERVATION SALES

The sale of a vehicle to a **member** of a Native American tribe which is negotiated, consummated and delivered within the boundaries of the federally recognized Native American Reservation in the state of Kansas occupied by his/her tribe is exempt from Kansas Retailers' Sales and Compensating Use Tax. To be exempt, the sale negotiations, signing of the purchase contract, exchange of consideration, and delivery all must be made within the boundaries of a federally recognized Native American Reservation, AND the Native American buyer must be a member of the tribe that occupies the federally recognized Native American Reservation on which the sale took place.

Before granting a tax exemption on a vehicle sale County Treasurers should obtain a notarized statement from the vehicle dealer stating that all negotiations, signing of contracts, exchange of consideration and delivery of the vehicle were made within the geographical boundaries of a federally recognized Native American Reservation, to a Native American who is a member of the tribe that occupies the Reservation upon which the sale of the vehicle took place.

Vehicles sold or leased to Native Americans are subject to sales tax when the sale is made in Kansas unless the dealer is located on the reservation. Kansas motor vehicle dealers are prohibited from conducting sales away from their established place of business. Kansas dealers, therefore, cannot lawfully deliver vehicles to the reservation without specific written permission from the Director of Motor Vehicles.

Native Americans are subject to use tax when purchasing a vehicle outside Kansas, to the extent provided by K.S.A. 79-3704(c) and K.S.A. 79-3705 and the vehicle is used off the reservation. Any vehicle that is licensed in Kansas shall be presumed to be used off the reservation. See also, Revenue Ruling 19-2002-1, and Kansas law involving the licensure of vehicle sales, K.S.A. 8-2401 *et seq*, specifically K.S.A. 8-2480.

IMPORTANT: Motor vehicle dealers are limited to specific geographical areas in which they may make sales of motor vehicles, which may or may not include Native American Reservations. Questions as to whether a specific motor vehicle dealer is authorized to make sales on a federally recognized Native American Reservation should be addressed to:

Director of Vehicles
Kansas Department of Revenue
915 SW Harrison
Topeka, Kansas 66612
Phone (785) 296-3621

REGISTRATION BY MANUFACTURERS

Automotive manufacturers may register a vehicle which they have manufactured in their own name – e.g., General Motors wants to title and register a new Chevrolet in its name. The County Treasurer will collect Kansas sales tax on the car, using 50% of the vehicle's suggested retail selling price as the sales tax base. This is because a manufacturer will not pay tax on its own labor to manufacture the vehicle; by agreement, 50% of the cost is materials and 50% is labor.

REGISTRATION BY DEALERS

The registration of a vehicle by a Kansas licensed motor vehicle dealer constitutes the taking of tangible personal property from inventory - a taxable transaction. When registering the vehicle in the dealership name, the dealer will pay the applicable state and local sales tax to the County Treasurer based on the cost of the vehicle to the dealer.

Whenever a vehicle is registered by a Kansas licensed motor vehicle dealer for the purpose of subsequently leasing the vehicle, the dealer will claim a resale exemption (see *Rental Fleet*, page 8). Sales tax is not due when the dealer registers the vehicle because the dealer will collect sales tax on each lease payment. To claim an exemption, the dealer must provide the County Treasurer with a Resale Exemption Certificate (ST-28A) or claim the resale exemption using the ST-8E on the County Treasurer's VIPS program. On the VIPS program, check the *purchased for rental or lease* box and provide the dealer's sales tax account number.

Whenever a vehicle which has been registered by a licensed dealer, upon which sales tax has been paid, is sold or title is otherwise transferred in a **taxable** transaction within 15 days from the date the vehicle was registered by the dealer, the taking of the vehicle from a stock of goods and the subsequent transfer shall constitute a single transaction for sales tax purposes. Upon the subsequent transfer, the dealer shall collect sales tax from the ultimate consumer and may apply for credit from the director of taxation for the sales tax paid by the dealer to the County Treasurer. Registration by a dealer and subsequent sale in excess of 15 days from the date the vehicle was registered by the dealer shall constitute 2 separate and taxable transactions.

example

On March 1 a licensed Kansas motor vehicle dealer takes a car out of inventory, registers it in her name and pays the sales tax on her cost ($19,000) to the County Treasurer. On March 16, the same dealer sells the car to a customer and collects sales tax on the selling price ($20,000). The dealer may not apply to the director of taxation for a refund of the sales that was paid by the dealer (on the $19,000) to the County Treasurer.

ADDITIONAL TAXES AND REQUIREMENTS

DEALER LICENSING

Kansas law requires that any individual that sells five or more vehicles within one calendar year is required to be licensed as a vehicle dealer in the state of Kansas. Dealer licensing is administered by the Division of Vehicles within KDOR. All inquiries about dealer licensing should be directed to Dealer Licensing at (785) 296-3621 or visit our web site and select *Your Vehicle*.

FEDERAL EXCISE OR "LUXURY" TAX

The federal excise tax (also referred to as the *luxury* tax) on **sales** of luxury passenger vehicles expired after December 31, 2002. However, this tax continues to apply to payments received for **long-term leases** of luxury passenger vehicles entered into before January 1, 2003. When due, this federal tax is in addition to the Kansas Retailers' Sales Tax and should be separately stated on the invoice. If the tax is not separately stated, it becomes part of the total gross receipts of the sale, and therefore part of the sales tax base subject to state and local sales tax.

For more information about this and other federal business taxes, contact the IRS (Internal Revenue Service).

VEHICLE RENTAL EXCISE TAX

Kansas also imposes a Vehicle Rental Excise Tax of 3.5% (.035) on the gross receipts received from the

rental or lease not exceeding twenty-eight (28) days of a **motor vehicle** having a gross vehicle weight not exceeding 12,000 pounds. This tax is in addition to the Kansas Retailers' Sales Tax and is computed on the same tax base (including taxes, insurance, etc.). The amount of the vehicle rental excise tax is not subject to sales tax if it is separately stated on the invoice.

example Auto Rentals, of Dwight, KS rents a midsize auto for $199 per week. Auto Rentals is required to collect Kansas Retailers' Sales Tax on the $199 ($199 X 7.3% = $14.53) and the separately stated Vehicle Rental Excise Tax ($199 X 3.5% = $7.76) for a total amount weekly payment of $221.29.

The Vehicle Rental Excise Tax is in lieu of ad-valorem (personal property) tax on these business assets. A rental car company collecting the Vehicle Rental Excise Tax on its gross receipts received from leases and rentals not exceeding 28 days is relieved of paying ad-valorem or property tax on its rental fleet when it furnishes the County Treasurer with: 1) proof that it has been issued a registration number for the Vehicle Rental Excise Tax by KDOR; and, 2) a list identifying each rental vehicle by license plate number, vehicle identification number (VIN), year, make and model.

Vehicles which are usually rented for periods exceeding 28 days are not subject to the Vehicle Rental Excise Tax, but are subject to the county ad-valorem (property) tax. The Vehicle Rental Excise Tax is not due on vehicles rented outside of Kansas.

TIRE EXCISE TAX

Kansas imposed a tire excise tax on the retail sale of new vehicle tires on July 1, 1990. There are two general types of **new** tire sales subject to the tire excise tax: 1) sale of new vehicle tires by a tire retailer; and, 2) sale of new tires mounted on a new or used vehicle sold at retail for the first time.

Therefore, all vehicle and implement dealers, as well as all tire retailers, must be registered with KDOR to collect this tax from its customers. Like Kansas sales tax, the tax is paid by the customer to the tire retailer or vehicle dealer. The retailer is responsible for collecting it from the final user or consumer. The retailer holds it in trust for the state and then remits it to KDOR on a regular basis using the Tire Excise Tax Return (TE-1) provided by KDOR.

The tire excise tax is 25 cents on each new vehicle tire sold. The tire excise tax is in addition to any federal tax or the Kansas sales tax due on these retail sales, and should be listed separately on the invoice for the new vehicle or new tires. Following are examples of sales that are subject to the tire excise tax.

- New tires sold to the final user or consumer, including, but not limited to: individuals and corporations; farmers and ranchers; and, entities exempt from Kansas sales tax.
- New tires mounted on new vehicles.
- New tires installed on vehicles in Kansas even though the buyer is a resident of another state.
- New tires sold to a vehicle, implement, or equipment dealer for installation on a used vehicle being held for resale.
- New tires sold for a truck mounted with a spreader or a mixer-feed truck used to dispense feed in a feedlot.
- Tires sold to persons in the business of leasing and renting vehicles, including vehicles leased to interstate common carriers.

The tire excise tax is separate from Kansas sales tax. Some tire sales that are exempt from Kansas sales tax are subject to the tire excise tax.

example New or used farm machinery and equipment, repair, and replacement parts (including new tires) are exempt from **sales tax** by law. However, when new tires for a combine are purchased, the tire excise tax is due. The new tires on a new combine are also subject to the tire excise tax.

Other tire sales that are exempt from sales tax but are subject to the tire excise tax include the new tires on a new vehicle, and new tires sold to interstate common carriers or to sales tax exempt buyers discussed previously. (Their exemption applies ONLY to the **sales tax** on their **direct** purchases of new tires; they are not exempt from paying the tire excise tax.) Only the U.S. Government is exempt from paying the tire excise tax. The tire excise tax does not apply to these tire sales:

- Used, recapped, or retreaded tires.
- A spare tire included in the sale of a new vehicle
- Innertubes.
- New tires for vehicles not authorized or allowed to operate on public streets and highways, such as garden tractors, ATVs and wheelbarrows.
- New tires for vehicles powered by humans, such as bicycles and tricycles.
- New tires for mobile homes or manufactured homes.
- New tires delivered by the retailer to a point outside Kansas or delivered to an interstate common carrier for transportation to a point outside the state. (These sales must be documented in the seller's records by a bill of lading or an invoice showing an out-of-state address.)
- New tires sold by one registered tire retailer to another registered tire retailer. The Tire Retailer Exemption Certificate (ST-28T) must be completed and kept in the seller's records for the exemption to be valid.

Vehicle and implement dealers as well as tire retailers should obtain Pub. KS-1530, Kansas Tire Excise Tax,

from our web site. This publication explains the tax and how to report and pay it in greater detail.

PERSONAL PROPERTY TAX

Vehicles are subject to an annual assessment of personal property tax. The property tax is administered by the county in which the vehicle is registered.

Businesses in general are also subject to personal property tax on their business use property to the county in which their business is located. Businesses paying this property tax may also qualify to claim the Kansas Business Machinery and Equipment Property Tax credit on their income tax return (see *Kansas Income Tax Credits* that follows).

Inventory property tax exemption. A property tax exemption exists for a merchant's inventory when the personal property, such as a vehicle, is held for sale in the ordinary course of business.

For more information about the personal property tax discussed here, contact the County Appraiser's office in the county in which your business is located.

KANSAS WITHHOLDING TAX

This tax is deducted by employers and payors from wages paid to employees to prepay the employee's income tax liability. Kansas withholding tax is also required on certain taxable non-wage payments by payors, on management and consulting fees paid to nonresidents, and on the Kansas taxable income of the nonresident owners of partnerships, S corporations and limited liability companies. In addition to being registered with KDOR (see *Reporting and Paying Sales Tax*), employers must register with the Kansas Department of Labor and the Internal Revenue Service.

For instructions and the computation of Kansas withholding tax, obtain a copy of Pub. KW-100, Kansas Withholding Tax Guide. This publication and the Kansas Form K-4 are available on our web site.

REPORTING AND PAYING SALES TAX

TAX REGISTRATION

In addition to your dealer's license from the Division of Vehicles, you must register for sales tax; tire excise tax; and if you have employees, withholding tax.

To register, visit the *Business Tax* section of our web site (ksrevenue.org). You will be linked to the Kansas Business Center to complete the application, receive your account number and print your registration certificate. For complete instructions about the application process, obtain Pub. KS-1216, Kansas Business Tax Application Booklet, from our web site.

Once your application is processed, reporting numbers will be assigned, and registration certificates issued. Your sales tax registration must be displayed in a conspicuous location in your business to let your customers know that you are duly registered to collect and remit the state and local sales tax.

RETAILER RESPONSIBILITIES

Kansas retailers (vehicle dealers) are responsible for collecting the full amount of sales tax due on each sale to the final user or consumer. All Kansas retailers should follow this cardinal rule:

ALL RETAIL SALES OF GOODS AND ENUMERATED SERVICES ARE CONSIDERED TAXABLE UNLESS SPECIFICALLY EXEMPT.

Therefore, for every sale of merchandise or taxable service in Kansas, the sales receipt, invoice, or bill must: 1) show that the total amount of sales tax due was collected; or, 2) be accompanied by a completed exemption certificate. Retailers who follow this rule will avoid the expense of having to pay sales tax on items they sold without collecting the tax or obtaining a completed exemption certificate.

COLLECTING TAX FROM YOUR CUSTOMERS

There are two acceptable ways to collect sales tax from your customers. The sales tax must either be *separately stated* as a line item on an invoice or *included in the price* of the item.

The most common method is to *separately state* the tax due on the invoice, bill, receipt, or other evidence of the transaction. If the tax is a line item it must be clearly stated to the public as sales tax and there must be a separate line on the invoice or receipt for the sales tax.

If the tax is *included in the price*, it must be clearly stated to the public that the price *includes all applicable sales taxes*. This method is often used when it is not practical to add the tax at the point of sale, such as vending machine sales or sales of concessions where a large volume of sales need to be made quickly.

CAUTION: When sales tax is included in the price, you must compute the total sales without tax before reporting the *gross sales* on the sales tax return.

Amounts collected as Kansas *sales tax* must be remitted to the state. If too much tax is collected, it must be refunded to the customer or remitted to the state.

IMPORTANT: It is **illegal** for a retailer to advertise to the public or any consumer (directly or indirectly) that the sales/use tax or any part of the tax will be paid or absorbed by the retailer; that the sales/use tax is not a part of the price to the consumer; *or*, that when sales/use tax is added to the price that all or part of it will be refunded.

RECORD KEEPING

It is important to keep adequate records of all aspects of your business operation. Good records allow you to accurately file the tax returns and claim any allowable deductions and exemptions. Your business tax records must contain the following documents and information:

- Gross receipts for the sale, rental or lease of all tangible personal property and all services provided in Kansas, regardless of whether considered taxable or nontaxable;
- all deductions allowed and claimed on sales tax returns;
- the cost of all inventory, equipment and fixtures;
- all exemption certificates; and
- a true and complete inventory taken at least once a year.

For sales and use tax purposes you must keep these records for your current year of business and three prior years. Some records, such as the purchase price of equipment and fixtures, must be kept longer for federal income tax purposes.

YOUR FILING FREQUENCY

How often you will file and pay your sales tax is determined by the volume of your retail business. The filing frequency for your first year of business is based on the estimated amount of tax liability you reported on your business tax application. **Most dealerships report their sales and tax collected on a monthly basis.** Sales tax returns are due on the 25th of the month following the end of the reporting period. For more information about filing frequencies, see Pub. KS-1510, available on our web site.

FILE AND PAY OPTIONS

Since July 1, 2010, it has been a requirement that businesses submit their Retailers' Sales, Compensating Use taxes, and Withholding Tax returns electronically.

Kansas offers several electronic filing solutions (see chart on next page). You can use **WebTax for on-line filing and payment** for most business tax accounts. First, create a user login ID and select a password then attach your business tax accounts. **Each tax account has a unique access code** that only needs to be entered once. This access code binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all returns filed or payments made is retained in WebTax.

You can also use **TeleFile**, the telephone option, to file returns and make payments for several tax accounts. Like WebTax, you will need your access code to begin. TeleFile requires that you use this access code each time you file or make payment.

Annual Sales and Use Tax zero filers: You may use your touch-tone telephone to file your annual multi-jurisdiction tax returns if you are reporting zero sales. Like the other telephone application, you will need your access code to complete your filing.

Your **access code** for our electronic filing systems is printed on the Sales Tax Rate Change postcard that annual filers receive each quarter. If you cannot locate your access code, call our Taxpayer Assistance line at 785-368-8222 and press 5. If you prefer you may email your request to: eservices@kdor.ks.gov

Electronic tax payments must be made on or before the due date. Using WebTax, you can have your tax payment electronically debited from your bank account (ACH Debit). You may choose to initiate your tax payment through your bank (ACH Credit*). Credit card payments are also accepted through third-party vendors. Visit our web site at **webtax.org** for a current list of vendors and their services.

* A Form EF-101, Authorization for Electronic Funds Transfer, must be completed for ACH Credit before using the EFT payment method. This form is available on our web site at: **ksrevenue.org**

WebTax and **TeleFile** are simple, safe, and FREE and conveniently **available 24 hours a day, 7 days a week**. You also receive immediate confirmation that your return is filed. Refer to your tax type in the table on the following page to find the electronic filing and payment options available to you.

Refer to your tax type in the table on the next page to find the electronic filing and payment options available to you.

ELECTRONIC FILE and PAY OPTIONS

For assistance with filing your return or making your payment electronically, contact our **Electronic Services** staff at **1-800-525-3901**. If in Topeka, call 296-6993. You may also e-mail Electronic Services at: **eservices@kdor.ks.gov**

Retailers' Sales *and* Compensating Use Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORMS ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE **webtax.org**	Use **WebTax** to file single and multiple jurisdiction sales and use tax returns. WebTax allows filers to upload jurisdictions and tax payments directly into returns. Users can also copy jurisdiction information from previous returns into their current return; saving time and improving accuracy.	• ST-16 • ST-36 • CT-9U • CT-10U	• Internet access • Access Code(s) • EIN • EF-101 form (ACH Credit Payments)	➢ Go to **webtax.org** and click the "Use WebTax Now" button. ➢ Create a user login and a password. ➢ Contact KDOR for your access code. ➢ Connect your tax account to your login and begin filing.
BY PHONE **877-317-5639**	This **TeleFile** system can be used to file single jurisdiction returns. It may also be used for annual filers with multi-jurisdictions and **zero tax** to report. Using a touch-tone phone, tax information is entered from a completed worksheet into the TeleFile system. Your assigned access code and federal Employer Identification Number (EIN) remains the same for each filing period.	• ST-16 With zero sales: • ST-36 • CT-9U • CT-10U	• Touch-tone telephone • TeleFile worksheet • Access Code(s) • EIN	➢ Complete a TeleFile worksheet. You may download it from our web site at: **http://ksrevenue.org/forms-btsales.html** or you may make copies of your current worksheet to use for filing future periods. ➢ Contact KDOR for your access code. ➢ Call 1-877-317-5639 and use your access code and your federal EIN to access the TeleFile system. Using the keypads on a touch-tone phone, enter the information from your worksheet.

Withholding Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORMS ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE **webtax.org**	**KW-5** Deposit Reports can be made using the **WebTax** application. After connecting to your withholding account, simply click the "Make an EFT Payment" link to complete your filing and make payment. WebTax also allows you to file your **KW-3** Annual Withholding Tax return and **W-2/1099** Withholding Reports electronically. A **Form EF-101**, Authorization for Electronic Funds Transfer, must be completed **for ACH Credit*** before using the EFT payment method. This form is available on our web site at: **ksrevenue.org**	• KW-3 • KW-5 • W-2 • 1099	• Internet access • Access Code(s) • EIN • EF-101 form (ACH Credit Payments)	➢ Go to **webtax.org** and click the "Use WebTax Now" button. ➢ Create a user login and a password. ➢ Contact KDOR for your access code. ➢ Connect your tax account to your login and begin filing. ➢ Go online and complete a form EF-101 (ACH Credit* payers only).
BY PHONE **877-600-5640**	A **KW-5 return with payment** can be made through the EFT payments telephone system. A Form EF-101, Authorization for Electronic Funds Transfer, must be submitted **for ACH Debit*** before using the EFT payment method. This form is available on our web site at: **ksrevenue.org**	• KW-5	• Touch-tone telephone • Access Code(s) • EIN • EF-101 form (ACH Credit Payments)	➢ Go online and complete a Form EF-101. ➢ Contact KDOR for your access code. ➢ Call 1-877-600-5640 and use your access code and your federal EIN to access the EFT Payment system. Using the keypads of your touch-tone phone, follow the phone prompts to complete your payment and submit your return.

** **ACH Debit:** Kansas Department of Revenue debits the tax payment from your bank account. **ACH Credit:** You initiate a tax payment through your bank.*

EXAMPLES AND STEPS FOR FILING RETURNS

This section contains examples and steps for completing Kansas Retailers' Sales Tax returns electronically. Two different return types are illustrated: **ST-16** – used by single jurisdiction filers whose filing status is not pre-paid monthly (annual tax over $32,000); and **ST-36** – used by dealers reporting for more than one location and/or jurisdiction, and/or whose filing status is pre-paid monthly.

Note that the examples shown in this section are for illustration purposes only and may not contain current sales tax rates. You can, however, use these examples to assist you in filing your return electronically. See page 23 or go to our web site at **webtax.org** to determine the electronic filing option that is best for you.

NOTE: Examples and steps for filing a Kansas Compensating Use Tax Return (CT-10U) electronically can be found in Pub. KS-1510, available on our web site.

example

David runs a small used car lot in Topeka with approximately $200,000 of gross sales per year. David is registered with KDOR and because his annual sales tax collection are over $1,600, he is required to remit and report Kansas retailers' sales tax on a monthly basis. During the month of August David sold four used cars to customers for a total **$33,500** (not including the tax). David also sold one car to another dealer for **$6,000**, and he took one vehicle out of inventory and gave it as a gift to his niece. David had purchased the gift car for **$2,400**. Finally, he took one vehicle out of inventory to tag for his personal use. This vehicle cost David $10,000. The sales tax calculations and the August return follows.

STEP 1 Figure the *total receipts* for the month, exclusive of tax: **$33,500 + $6,000 + $2,400 = $41,900**

STEP 2 Go to **webtax.org** to begin the filing process. Click **Use WebTax Now**. If you are a first time user click **Register Now**; if already registered, click **Sign In**.

STEP 3 After signing into WebTax, click **Business Accounts**. Then click **Add Account to this Login** and follow the instructions to add your tax account. After account appears, click on **Manage Account** and your account screen will appear. Click **Save**. *NOTE: Once you have added your account, it will be retained in the system for future filing periods.*

STEP 4 Click **File a Return**. An informational page will appear with messages regarding important updates and/or tips for using the system. Please take the time to read this information before clicking **Continue** at the bottom of the page.

STEP 5 Review the information for the account you added. From the drop-down menu options, select your filing period, **August**, and tax year, then click the radio button for the return type. In this example, select **Original**. Click **Continue** to proceed to Part II.

STEP 6 Enter the nontaxable and exempt sales deductions by category in Part II of the return – **$6,000** in line A and **$2,400** in line N. Click **Calculate** to get your total deductions, then click **Continue** to proceed to Part I. *NOTE: The system will carry over to Part I the information you entered in Part II.*

STEP 7 Enter your gross receipts on line 1 – **$41,900**. Enter the cost of the inventory used personally on line 2. Note that motor vehicle dealers are required to pay sales tax to the County Treasurer at the time of registration. Thus, the amount on line 2 is **$0.**

STEP 8 Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 19. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

LOCAL COMPENSATING USE TAX

In the example above, David sold three used cars. The sales price, customer's residence and sales tax rate for each are as follows:

$ 6,890	Silver Lake	6.45%
$11,610	Topeka	7.95%
$10,000	De Soto (JO CO)	8.15%

When David sold these cars, he was required to collect the sales tax rate in effect at his place of business within the city limits of Topeka - 7.95% when this guide was published. David has no local compensating use tax obligations.

However, the customers who do not live in Topeka and therefore will register their vehicles in another city or county may owe a local compensating use tax (payable to the county treasurer for that county). This local use tax is due when the state and local tax rate where the vehicle is registered is higher than the sales tax rate at the dealer's location.

The De Soto customer will pay Local Compensating Use Tax to the Johnson County Treasurer in the amount of $70. (8.15% - 7.45% = .7% X $10,000 = $70)

The Silver Lake and Topeka customers will not owe any Local Compensating Use Tax when they register their autos. Although the sales tax is lower in Silver Lake than at David's place of business, no rebate of tax is due the Silver Lake customer.

PRE-PAID MONTHLY FILING STATUS

Each year KDOR reviews the filing history of all sales tax accounts in order to make sure retailers report sales tax according to the filing frequencies established in the law (K.S.A. 79-3607). Monthly filers with an annual sales tax liability exceeding $32,000 are notified by mail that beginning January 1 of the coming year they must file on a "pre-paid monthly" basis.

This filing status requires a retailer to *pre-pay* its sales tax collections for the first 15 days of each month on or before the 25th of that same month. A *pre-paid monthly* filer will be in compliance if the amount of tax reported for the first 15 days of each month is either:

1) 90% of the actual amount of tax collected for the first 15 days of the following month, or
2) 50% of the tax liability for the same month of the previous year.

NOTE: Do not file on a *pre-paid monthly* basis unless KDOR has notified you in writing of the change in your filing frequency, or you were initially registered with KDOR as a *pre-paid monthly* filer.

Monthly to Pre-Paid Monthly Transition

When you are notified that your sales tax filing status will change January 1 from *monthly* to *pre-paid monthly*, you may no longer file a form type ST-16. You must begin using form type ST-36 to report your tax collections. Follow these steps to make the transition from monthly to pre-paid monthly reporting.

December reporting. File by January 25 in the same manner as all prior monthly filings.

January reporting. File by February 25 using form type ST-36. Report all of the January sales tax collections on line 1, Part I, and all of the sales tax collections for the first 15 days of February on line 4 of Part I.

February reporting. File not later than March 25, reporting all of the February sales tax collections on line 1, Part I. Enter on line 4, Part I the amount of sales tax collections for the first 15 days of March. Enter on line 5 of Part I, the amount from Line 4, Part I of the January return (i.e., the tax *pre-paid* for the first 15 days of February)**.**

example

A monthly filer has been notified by KDOR to begin filing *pre-paid monthly*. The total tax collected for January is $15,000. The total tax collected for the first 15 days of February is $7,500. Lines 1- 6 of Part I of the ST-36 for **January** would be completed as follows:

1.	Total Tax	$15,000
2.	Total Net Deduction	0
3.	Tax	15,000
4.	Estimated Tax Due for Next Month	7,500
5.	Estimated Tax Paid from Last Month	0
6.	Tax	22,500

The total sales tax collections for February are $14,000, and the total tax collected for the first 15 days of March is $7,000. Lines 1-6 of Part I of the ST-36 for **February** are:

1.	Total Tax	$14,000
2.	Total Net Deduction	0
3.	Tax	14,000
4.	Estimated Tax Due for Next Month	7,000
5.	Estimated Tax Paid from Last Month	7,500
6.	Tax	13,500

Reporting Sales for Multiple Locations and/or Pre-Paid Monthly Filing Status

The following example and corresponding steps illustrate how to correctly report for pre-paid monthly filing status and multiple locations on form type ST-36.

NOTE: Retailers reporting sales from more than one business location (whether permanent or temporary), or whose filing status is prepaid monthly must use form type ST-36.

example

ABC Corporation, headquartered in Chanute, Kansas, owns dealer ships in Fredonia and Chanute. Both locations sell new and used vehicles and have service departments. The gross sales (without tax), merchandise consumed, and deduction amounts by category for each location are listed below. ABC Corporation is a pre-paid monthly filer; its pre-payment for Sept 1-15 was $14,000; the tax collected October 1-15 is $13,000.

	CHANUTE	FREDONIA
Gross Sales	$ 247,598.28	$ 178,520.45
Merchandise Consumed	1,241.18	766.34
Total Deductions:	56,429.57	11,259.38
Deductions by Type:		
Resale	$ 3,129.57	$ 533.38
Trade-in Allowances	35,200.00	7,326.00
Exempt entities	15,100.00	3,400.00
Out of state sales	3,000.00	0.00

In the steps that follow, instructions are given for the first location, Chanute. Repeat these same steps for each location.

STEP 1 Go to **webtax.org** to begin the filing process. Click **Use WebTax Now**. If you are a first time user click **Register Now**; if already registered, click **Sign In**.

STEP 2 After signing into WebTax, click **Business Accounts**. Then click **Add Account to this Login** and follow the instructions to add your tax account. After account appears, click on **Manage Account** and your account screen will appear. Click **Save**. *NOTE: Once you have added your account, it will be retained in the system for future filing periods.*

STEP 3 Click **File a Return**. An informational page will appear with messages regarding important updates and/or tips for using the system. Please take the time to read this information before clicking **Continue** at the bottom of the page.

STEP 4 Review the information for the account you added. From the drop-down menu options, select your filing period, **July**, and tax year, **2011** then click the radio button for the return type. In this example, select **Original**. You may choose to have WebTax remember your jurisdictions by clicking that radio button, or you have the option to upload from another file or enter them manually. Make your selection and click **Continue**.

STEP 5 To add the applicable jurisdictions to this filing period, click **Add Jurisdictions**. Enter the jurisdiction code or the jurisdiction name, then click **Lookup Jurisdiction**. From the list, choose the appropriate jurisdiction (for this example, Chanute is CHANO) and click **Add Selected**. Repeat this step until all applicable jurisdictions have been added, then click **Continue**.

STEP 6 Enter under *Gross Sales*, the gross receipts (taxable and nontaxable) for the month in each local jurisdiction. For example, gross sales for Chanute is **$247,598.28.**

STEP 7 Enter under *Merchandise Consumed By You* the cost of the goods consumed at each location upon which no sales tax has been paid. For example, the cost of merchandise consumed in Chanute is **$1,241.18**.

STEP 8 Enter under *(Non-Utility) Deductions* the total deductions (nontaxable and exempt sales) for each jurisdiction. For example, the deductions for Chanute are **$56,429.57**. Click **Calculate** and verify the net tax amounts, then click **Continue**.

STEP 9 Complete Part II. Itemize by category the deductions for all business locations on the applicable line. For this example you will have entries on lines A, B, C and M. Note: Line O of Part II should equal the total of *(Non-Utility) Deductions* from Part III. Click **Calculate** and **Continue**.

STEP 10 Verify the information populated in Part I. As a pre-paid monthly filer, enter the tax collected for the first 15 days of September on line 4, and enter the tax pre-paid from line 4 of the July return on line 6. Click **Calculate** and **Continue**.

STEP 11 Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 19. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

TAXATION RESOURCES

When there is a question that is not answered in this publication, contact KDOR. **Do not guess**. Clarification of whether a purchase or sale is taxable or exempt will save you time in dealing with the issue in the future. Resolving issues of taxability could also save you money; you will be taking full advantage of the exemptions available and avoiding costly sales or use tax deficiencies on taxable purchases.

Use the following KDOR resources to obtain information and clarification on Kansas tax matters and to resolve questions of taxability.

1) Tax Assistance Center
2) Web Site
3) Policy Information Library
4) Written Rulings
5) Key Statutes and Regulations

TAX ASSISTANCE CENTER

Many questions can be answered by the customer representatives in our Taxpayer Assistance Center in Topeka. However, like many businesses, KDOR uses an automated answering system to direct incoming calls to the appropriate area. See the back cover of this publication for our taxpayer assistance center address and phone numbers.

WEB SITE – ksrevenue.org

Our web site contains information about all aspects of KDOR. Forms, informational publications, exemption certificates and information about all the taxes administered by KDOR are published here. Each division of KDOR is represented. Other divisions of interest to contractors are the Division of Property Valuation which administers property valuation for agricultural, residential and commercial uses, and the Division of Vehicles, responsible for vehicle registrations and driver's licenses.

ELECTRONIC SERVICES WEB SITE – **webtax.org** –This KDOR web site is devoted to the paperless options available to Kansas business and income taxpayers for returns and tax payments. Through this web site KDOR provides instructions and free software to web file several types of tax returns and your sales tax return may be TeleFiled using the key pads of your touch-tone telephone. We also offer electronic funds transfer (EFT) payment options through the Automated Clearing House (ACH) system used by banks and financial institutions. See also *Your File and Pay Options*.

POLICY INFORMATION LIBRARY

Another service available to taxpayers on our web site is a library of policy information for all taxes administered by KDOR. This policy library contains the Kansas Statutes and Regulations, Revenue Notices, Revenue Rulings and other written advice issued by KDOR. Opinion Letters and Private Letter Rulings (see *Written Rulings*) are also included. For ease in locating information, the library may be searched by tax type and topic.

WRITTEN RULINGS

Despite the amount of written information available in our policy library, there are unique situations that may require an interpretation or clarification based upon the law, regulations, and specific facts of the case.

NOTE: DO NOT rely on a verbal opinion from KDOR regarding issues of taxability not specifically addressed in the law.

To assist you in understanding how the law applies to your business, KDOR issues three types of written advice: revenue notices, revenue rulings, and private letter rulings. This written advice is binding on the department and may be relied upon as long as the statute or regulation on which they are based is not altered by the Legislature, changed by a court decision, or the ruling itself modified or rescinded by KDOR.

When an issue arises in your business that is not directly addressed in the law, document the problem or question in writing and request a Private Letter Ruling or an Opinion Letter from KDOR.

Mail or fax your request for a written ruling to:

Office of Policy and Research
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66625-0001
Fax: (785) 296-7928

You will receive a written ruling within 30 days after your request (and any additional information necessary for the ruling) is received.

Private letter rulings are published in our Policy Information Library. However, these letters have been "scrubbed" to protect the privacy of the taxpayer—any information that would identify the taxpayer, such as name, address, product, etc., is blanked out.

CAUTION: Although published as part of our policy library, a private letter ruling is limited to the requesting taxpayer and that taxpayer's specific factual situation. It cannot be relied upon or cited by any other person.

KEY STATUTES AND REGULATIONS

To prepare this guide we have used or cited the following laws and regulations. The full text of these are a part of the Policy Library on our web site and are also available in libraries throughout the state.

Statutes

K.S.A. 8-126 - Vehicle definitions
K.S.A. 12-187 *et seq.* - Local sales tax
K.S.A. 12-199 - Local compensating use tax
K.S.A. 79-3201 *et seq.* - Income tax
K.S.A. 79-3401 *et seq.* - Motor fuel tax
K.S.A. 79-3601 *et seq.* - Retailers' sales tax
K.S.A. 79-3606 *et seq.* - Sales tax exemptions
K.S.A. 79-3701 *et seq.* - Compensating use tax

Regulations

K.A.R. 92-19-25b - Exemption certificates
K.A.R. 92-19-30 - Motor Vehicles or Trailers *
K.A.R. 92-19-30a - Motor vehicles or Trailers *

* These important regulations are on the next two pages of this publication.

K.A.R. 92-19-30. Motor vehicles or trailers; isolated or occasional sale. (a)(1) An isolated or occasional sale of motor vehicle or trailer is a sale made between private individuals or other entities who, at the time of the sale, are not retailers registered to collect and remit sales or use tax on the sale of such a vehicle or trailer.

(2) Kansas motor vehicle dealers and trailer dealers are retailers and cannot make isolated or occasional sales of vehicles or trailers. These dealers shall collect sales tax at the time of the sale on each taxable retail sale of a motor vehicle or trailer.

(b)(1) Unless a sale is one that is excepted from the imposition of sales tax by K.S.A. 79-3603(o) or exempted from tax under K.S.A. 79-3606, and amendments thereto, sales tax shall be levied on the isolated or occasional sale of a motor vehicle or trailer. Tax on the isolated or occasional sale of a motor vehicle or trailer shall be paid to the county treasurer when the purchaser or other transferee applies for a certificate of title or a certificate of title and registration or to the director of taxation, as provided in paragraph (c)(3).

(2) When a person who has acquired a vehicle in an isolated or occasional sales transaction applies for a certificate of title or certificate of title and registration, the county treasurer shall collect the sales tax that is due along with a service fee of 50 cents, and give the applicant a receipt for the tax and fee paid. A certificate of title or certificate of title and registration shall not be issued until the transferee pays the tax and applicable fee or proves to the satisfaction of the county treasurer or the director of taxation that the transfer is not taxable.

(c)(1) County treasurers shall be assisted by the director of taxation or director of vehicles in determining whether or not a transaction is taxable or exempt. Refusal to issue a certificate of title or certificate of title and registration for a vehicle may be requested by the director of taxation or director of vehicles until sales tax is paid. Sales tax shall be collected by a county treasurer if any doubt exists as to an applicant's exemption claim. An applicant who pays sales tax may file a refund claim with the director of taxation if the applicant believes the tax has been erroneously collected by county treasurer or department of revenue.

(2) Each determination made by a county treasurer to exempt an isolated or occasional sale may be reviewed by the director of taxation. Following this review, a sales tax assessment may be issued to the vehicle registrant for any sales tax that is unpaid or underpaid because of clerical error, misinformation, or other cause.

(3) Any sales tax that is finally determined to be due under an assessment shall be paid to the director of taxation. Payment of sales or use tax on isolated or occasional sales of motor vehicles or trailers may be made to the director of taxation instead of the county treasurer, as provided in paragraph (b)(1), to correct any other underpayment or as an accommodation to the taxpayer.

(d) As a general rule, the base for computing the tax shall be the actual selling price of the vehicle. However, the tax shall be computed on the fair market value of the vehicle by the county treasurer or the director of taxation under either of the following circumstances:

(1) The selling price of the vehicle is unknown; or

(2) the stated selling price is not indicative of, and bears no reasonable relationship to, the fair market value of the vehicle or the average retail value as shown in the latest publication of the national automobile dealers' association official used car guide book.

(e) The actual selling price shall be the base for computing the tax on the sale of wrecked or damaged vehicles.

(f)(1) "Sale" or "sales" means the exchange of property, a sale for money, and every other transaction in which consideration is given, whether conditional or otherwise.

(2) "Vehicle" means motor vehicle or trailer.

(3) "Transferor" means the seller, donor, or other person who sells, gives away, or otherwise parts with the vehicle.

(4) "Transferee" means the purchaser, donee, or other person who purchases, is given, or otherwise acquires ownership of the vehicle.

(g) K.S.A. 79-3603(o), and amendments thereto, which imposes sales tax on isolated or occasional sale of trailers and motor vehicles, excepts the following transfers or sales from the tax imposition on these isolated or occasional sales:

(1) Transfers by an individual to a corporation solely in exchange for stock in the corporation;

(2) transfers from one corporation to another corporation when done as part of the transfer of all the corporate assets; and

(3) sales of automobiles, light trucks, trailers or motorcycles between immediate family members.

(h) "Immediate family member" is any person in a class that is defined by statute to mean lineal ascendants and descendants and their spouses. Since a person may have lineal ascendants and descendants and may also be the spouse of someone who has lineal ascendants and descendants, this class includes the grandfather, grandmother, father, mother, son, daughter, and adopted child of the person; the spouses of these ascendants and descendants; the grandfather, grandmother, father, mother, son, daughter, and adopted child of the person's spouse; and any other ascendants and descendants that are further removed, including great-grandparents and great-grandchildren. The sale or transfer of an automobile, light truck, trailer or motorcycle between members of this class shall be exempt from sales tax.

(i) Certain transfers of motor vehicles or trailers are not sales, as defined in paragraph (f)(1), and shall not be taxed. These include name changes, transfers by gift, and certain transfers made by operation of law. The following rules shall apply to these transfers.

(1) A transfer shall be presumed to be a gift when the transferee is the spouse, mother, father, brother, sister, child, grandmother or grandfather, aunt, uncle, niece, or nephew of the transferor and money is not exchanged for the vehicle. A gift shall also be presumed when these relatives trade or exchange vehicles and money is not exchanged as part of the trade or exchange. However, if money is exchanged for the vehicle, the transfer shall be taxable, unless the sale is exempted as set forth in subsection (h).

(2) A vehicle transfer by gift is not a sale and shall not be taxed. To qualify as a gift, the vehicle shall be given without any consideration and with an intention on the part of the donor that the transfer is a gift. When the relationship of the parties is not one of the relationships set forth above in paragraph (i)(1), the transferee claiming the transfer is a gift shall submit proof of this claim to the satisfaction of the county treasurer or director of taxation.

(3) The change of an owner's name on the title when there is no actual transfer of vehicle ownership to a different person or entity is not a sale and shall not be taxed. However, the transfer of a motor vehicle or trailer from a corporation to an individual shall be taxed since there is a change of ownership from one legal entity to another. The vehicle transfer shall be presumed to be the corporation's payment of a wage, dividend, bonus, or other benefit to the officer, employee, shareholder, or other transferee.

(4) A transfer to an heir or legatee by will or pursuant to the inheritance or intestacy laws of a state is not a sale and shall not be taxed. A certified copy of the probate court order making the distribution shall be filed with the county treasurer.

(5) The sale to a person who takes title to a vehicle with the intention of transferring it to the winner of a drawing or raffle shall be taxed. The subsequent transfer of the vehicle to the winner of a drawing or raffle is a gift from the donor to the winner and shall not be taxed. When a donor pays a motor vehicle dealer for a vehicle and the vehicle is transferred from the dealer directly to the winner of a drawing or raffle, the gift is considered to be the payment made for the automobile rather than the automobile itself, and the winner shall be liable for the sales tax that is charged by the dealer on the vehicle sale. Whenever a vehicle is won as a prize and sales tax has not been paid by either the vehicle donor or vehicle winner to this state or another state, the winner shall pay Kansas sales or use tax when the vehicle is registered with the county treasurer.

(6) When the title to a vehicle is transferred to the holder of an encumbrance as a result of repossession under the terms of a

written agreement entered into at the time of original purchase by the purchaser and encumbrance holder, the transfer is not a sale and shall not be taxed. However, any registration or subsequent sale of the vehicle by the encumbrance holder shall be taxed.

(7) When a lender grants a debtor permission to redeem a vehicle pursuant to K.S.A. 84-9-506, and amendments thereto, the redemption of the vehicle by the debtor is not a sale and shall not be taxed.

(8) When a lien holder acquires title to a vehicle through a court-ordered foreclosure of a mechanic's lien, landlord's lien, storage lien, or other statutory lien, the transfer of title to the lien holder shall be exempt if the lien holder does not register the vehicle. However, any registration or subsequent sale of the vehicle by the lien holder shall be taxed. The redemption of a vehicle from a lien holder by a debtor who satisfies the underlying debt is not a sale and shall not be taxed.

(j) The following transfers shall be considered sales, and shall be subject to sales tax.

(1) K.S.A. 79-3602(h)(2), and amendments thereto, allows a credit or discount for a vehicle that is traded for another vehicle. When vehicles of different value are traded by private individuals, the person who pays cash or tenders some other consideration in addition to the vehicle being traded or exchanged shall pay sales tax on the amount of the cash payment or on the fair market value of the consideration. In this trade, sales tax shall not be due from the person who traded or exchanged a vehicle but did not pay any additional cash or provide any additional consideration. Each person claiming a sales tax credit or discount for a vehicle that is traded shall file an affidavit with the county treasurer on a form furnished by the department of revenue that contains information necessary to support the credit or discount being claimed.

When the stated cash amount or stated value of the other consideration is not indicative of, and bears no reasonable relationship to, the difference between the fair market value of the vehicle traded and the fair market value of the vehicle received by the purchaser, the tax shall be computed by the county treasurer or the director of taxation on the difference between the fair market value of the vehicles or the difference between the average retail value of the vehicles as shown in the latest publication of the national automobile dealers' association official used car guide book.

(2) The purchase of a vehicle that the purchaser intends to give to someone else shall be taxed, even though tax is not due on the subsequent transfer from the purchaser to the donee.

(3) A transfer of a vehicle from a partner to the partnership or from a partnership to a partner shall be presumed to be a taxable transfer. A transfer from the partner to the partnership shall be presumed to be made in consideration of an increased partnership interest. A transfer from the partner to the partnership shall be presumed to be made for services rendered to the partnership or for other value passing between the partner and the partnership.

(4) If a donor gives a donee a gift of cash or other property for the purpose of purchasing a vehicle, the donee shall be liable for the tax, if the vehicle is purchased.

(5) The transfer of a vehicle in exchange for the transferee's assumption of an obligation to pay all or part of an encumbrance on the vehicle is a sale and shall be taxed, unless the sale is between immediate family members or is exempt under K.S.A. 79-3606, and amendments thereto. When the transfer does not involve a gift and is not otherwise exempt, the tax base shall be the sum of any payment made by the buyer to the seller plus the amount of the encumbrance being assumed. Sales tax shall be computed as set forth in subsection (d) of this regulation if this amount is not indicative of, or bears no reasonable relationship to the fair market value of the vehicle. When the transfer represents a gift of part of the value of the vehicle that has been established in accordance with paragraphs (i)(1) or (i)(2) of this regulation and is not otherwise exempt, the tax base shall be the sum of any payments made by the buyer to the seller plus the amount of the encumbrance being assumed, regardless of the fair market value of the vehicle.

(6) When a vehicle is purchased to replace a vehicle that has been stolen or destroyed by accident, fire, or other adversity, the purchase of the replacement vehicle is not exempt and shall be taxed. Each purchase of a replacement vehicle shall be taxed whether the replacement vehicle is purchased by the owner of the vehicle that was stolen or destroyed or by an insurance company that is obligated to provide a replacement vehicle.

(7) A transfer of a vehicle from a corporation to an officer, shareholder, board member, or employee shall be presumed to be a taxable transfer and shall be presumed to be made in consideration for services rendered to the corporation or for other value passing between the corporation and transferee.

(k)(1) Each transferee claiming an exemption shall complete an affidavit form furnished by the department of revenue and file it with the county treasurer when the vehicle is registered. The exemption affidavit shall be completed in its entirety and shall contain the names, addresses, and telephone numbers of the transferor and transferee; the make, year, model and body style of the motor vehicle or trailer; and any additional information that is needed to support the exemption claim. The affidavit shall contain facts in detail sufficient to clearly bring the transferee within the exemption being claimed.

(2) Each transferee claiming a family relationship as the basis for the exemption of a vehicle sale or as the basis for the presumption of a gift may be required to file an additional affidavit that establishes the relationship.

(3) Exemption affidavits that are not correct in both substance and form shall not be accepted by the county treasurer, and shall collect the tax shall be collected if any doubt exists as to the validity of the exemption claim.

(4) Any taxpayer may file a refund claim with the director of taxation if the taxpayer believes the tax has been erroneously collected by the county treasurer or the director.

(l)(1) When a motor vehicle or trailer is purchased out of state in an isolated or occasional sale, the purchaser shall pay Kansas state and local use tax to the county treasurer upon application for a certificate of title or certificate of title and registration. When a motor vehicle or trailer is purchased from an out-of-state dealer who is not registered to collect and remit Kansas state and local retailers' use tax and has not collected sales tax on the sale for the state of purchase, the purchaser shall pay Kansas state and local use tax to the county treasurer upon application for a certificate of title or certificate of title and registration.

(2) When the purchaser has paid state and local sales tax to another state at a rate that is less than Kansas state and local use tax rates where the vehicle is registered, the purchaser shall pay Kansas state and local use tax to the county treasurer at a rate that is equal to the difference between the combined state and local tax rates for the Kansas location and the combined state and local tax rates that were used to determine the tax paid to the other state.

K.A.R. 92-19-30a Motor vehicles or trailers. Sales tax shall be imposed on the total selling price of each motor vehicle or trailer to the ultimate user or consumer. The total selling price includes all tangible personal property mounted, installed, applied or otherwise attached or affixed to the motor vehicle or trailer. For sales tax purposes, tangible personal property is not separable from the motor vehicle or trailer to which it is mounted, installed, applied or otherwise attached or affixed. When calculating sales tax on the retail sale of a motor vehicle or trailer, the retailer shall not exclude or deduct for the tangible personal property, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately charged or segregated on the same contract or invoice. Any charge attributed to the tangible personal property mounted, installed, applied or otherwise attached or affixed to a motor vehicle or trailer cannot be separately billed or segregated on an invoice or contract in order to qualify for an isolated or occasional sale exemption.

KANSAS DEPARTMENT OF REVENUE

Notice #95-09

SOME VEHICLE SALES NOW EXEMPT

County treasurers should be aware of a new sales tax exemption on isolated and occasional sales of motor vehicles. This notice is intended to help county treasurers understand the exemption, who qualifies for it, and how it may be claimed.

Beginning July 1, 1995, sales of motor vehicles between immediate family members are exempt from sales tax. Immediate family members are defined as lineal ascendants and descendants and their spouses. Accordingly, the sale or gift of a vehicle on which there is a lien is exempt if the buyer and seller are immediate family members, as defined in the statute.

Vehicle sales that qualify for this exemption include, but are not limited to, sales from a:

- parent to son or daughter (including adopted children and step children) and their spouses;
- son or daughter to mother or father (including step parents);
- son-in-law or daughter-in-law to parent-in-law;
- grandparent to a grandchild or the grandchild's husband or wife; and
- grandchild to a grandparent or to the grandparent's spouse.

Sales between brothers and sisters, aunts, uncles, nieces, and nephews are not sales between "immediate family members" as defined by the new law and do not qualify for this exemption.

When one or more of the joint owners of a vehicle are not immediate family members, the sale is exempt only if the sellers' title is an "and/or" or "or" type of ownership. For example, Joe Brown and Mary Green are brother and sister and are selling their car to Susan Green, Mary's daughter. The sale is exempt if the car is currently titled to "Joe Brown **and/or** Mary Green" or "Joe Brown **or** Mary Green." The sale is taxable if the car is titled to "Joe Brown and Mary Green."

Vehicles that qualify for this exemption generally include cars, light trucks, and motorcycles. Vehicles that do not qualify for this exemption are trailers and vehicles defined under K.S.A. 79-5101. These are:

- all state assessed vehicles (including utility vehicles);
- motor vehicles having a gross weight of more than 12,000 pounds;
- motor vehicles owned by car rental companies;
- recreational vehicles; and
- all other vehicles which are exempted from property tax under the provisions of the Kansas Statutes Annotated or the Kansas Constitution.

To certify that a vehicle sale is exempt the enclosed Affidavit of Relationship (Form TR-215) must be completed. Both the buyer and seller must attest to their family relationship and each of their signatures must be notarized. Buyers must submit the affidavit to their county treasurer. The treasurer should forward the affidavit and title paperwork to the Department of Revenue.

If you have questions about this exemption or its application, please call (785) 368-8222, or write to the Office of Policy & Research, Kansas Department of Revenue, 915 SW Harrison St., Topeka, Kansas, 66625-0001.

Date Composed: 10/02/97 Date Modified: 11/05/97

NOTICE 93-04

TO: Automotive Wholesalers, Jobbers, Automobile Dealerships, Paint, Body & Repair Shops
FROM: Kansas Department of Revenue
RE: Consumables v. Non-consumables
DATE: November 15, 1993

The Kansas Department of Revenue has been asked to identify when charges for sales of tangible personal property to automobile dealerships, paint, body, and repair shops are exempt from sales tax.

K.S.A. 79-3606(n) exempts from sales tax: "all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas."

The following purchases of tangible personal property are generally exempt under K.S.A. 79-3606(n) when the purchases are consumed in the providing of a taxable service:

+ sand paper
+ rubbing compound
+ soaps and degreasers
+ tac rags
+ masking tape
+ emery cloth
+ windshield cleaner
+ masking paper/plastic
+ thinners
+ steel wool

K.S.A. 79-3606(m) exempts from sales tax: "all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas."

The following purchases of tangible personal property by automobile dealerships, paint, body, and repair shops are generally exempt under K.S.A. 79-3606(m) or as purchases for resale:

+ spark plugs
+ gasket seal
+ light bulbs for automobiles
+ automobile polish/wax
+ dressings and dyes
+ sealant
+ electrical wire for automobile repair
+ body fillers
+ upholstery cleaner
+ air fresheners for automobiles
+ automobile lubricants
+ antifreeze for automobile repair
+ paints
+ mastics
+ factory and/or aftermarket parts

The automobile dealerships, paint, body, and repair shops should collect sales tax on these items when they invoice their customer for the sale of the item or when the item is included as part of a service charge.

The lists provided contain only examples of sales of tangible personal property to automobile dealerships, paint, body, and repair shops that are generally exempt from sales tax. These examples are not all-inclusive but should be merely used as a guide. Additionally, when automobile dealerships, paint, body, and repair shops remove material from inventory for use in repairing their own vehicles which are not held for resale, the appropriate Kansas sales tax(es) shall be accrued and remitted to the state of Kansas on the cost of the materials.

The Kansas sales tax is due on all retail sales of tangible personal property taxable under the Kansas Retailers' Sales Tax Act, (hereinafter referred to as the Act). For the privilege of engaging in the business of selling tangible personal property at retail in the state of Kansas, each and every retailer shall have the duty to collect from the final consumer or user, the full amount of the tax imposed by the Act, unless the purchaser is specifically exempt from taxation under the Act.

Firms engaged in the repair, rebuilding or repainting of automobiles are the final consumer or user of the following:

+ floor sweep
+ car wash machines
+ pad washers
+ mops
+ buckets
+ paint strainers
+ building materials
+ razor blades
+ electric polishers
+ vacuums
+ chains
+ wheel covers
+ shop cleaning supplies
+ air filters for equipment
+ electric extension cords
+ disposable masks
+ paper/plastic seat covers
+ cloth/paper towels and rags
+ sales and/or bid sheets
+ pens, pencils, stationery
+ polishing pads
+ metal files
+ paint cans
+ tools
+ hoses
+ brooms
+ gloves
+ ropes
+ chamois
+ work clothes
+ brushes
+ metal disks
+ drill bits
+ drop cloths

Therefore, they must pay the appropriate Kansas sales/use tax at the time of purchase. The list provided contains only examples of sales of tangible personal property to automobile dealerships, paint, body, and repair shops that are generally subject to sales tax. These examples are not all-inclusive but should be merely used as a guide.

Automobile dealerships, paint, body, and repair shops that buy items such as tools, work clothes and work shoes that are purchased for resale to the ultimate consumer may purchase the items of tangible personal property exempt from sales tax. However, the automobile dealerships, paint, body, and repair shops are obligated to collect and remit the appropriate amount of Kansas sales tax(es) on the gross receipts from these respective items.

Audit Services
Kansas Department of Revenue
915 SW Harrison St
Topeka, KS 66625-7719

Phone: 785-296-7108
Fax: 785-296-0531
iwww.ksrevenue.org

Kansas

Department of Revenue

Nick Jordan, Secretary
Steve Stotts, Director of Taxations

Sam Brownback, Governor

AFFIDAVIT OF DELIVERY OF A MOTOR VEHICLE, SEMITRAILER, POLE TRAILER OR AIRCRAFT TO A NONRESIDENT OF KANSAS AND TO BE TITLED AND BASED OUTSIDE THE STATE OF KANSAS

STATE OF KANSAS)
) ss:
COUNTY OF)

AFFIDAVIT

I, _____ hereby swear that the purchase of the _____
(Dealer's Name) (Year) (Make)

_____ motor vehicle, semi-trailer, pole trailer or aircraft purchased by _____
(Identification No.) (Name of Purchaser)

_____ from _____
(Dealer's Name and Address)

evidenced by invoice number _____, dated _____, for a total selling price of $_____,

of which $ _____, was allowed as a trade-in making a net sales price of $ _____, and was

pursuant to K.S.A. 79-3606(k) exempt from the imposition of the Kansas sales tax as the motor vehicle, semi-trailer, pole trailer or

aircraft is to be registered and based in _____ and will not remain in this state more than ten (10) days. I
(City, State)

further swear that the purchaser is a bona fide resident of the state of _____ and that the purchaser's correct mailing
(State)

address is_____
(Purchaser's Street Address) (City, State, Zip Code) (Phone Number)

I hereby consent to and authorize the Director of Taxation to furnish to the appropriate officials of my home state charged with the enforcement of the excise tax laws of that state the information contained in this affidavit pertaining to this transaction. I understand that the purpose of providing this information to the taxing officials of my state of residence is to allow the imposition of any taxes due on the importation, use or storage of this vehicle or aircraft in the state of registration.

Further affiant says not.

_____
Purchaser's Name (Print)

_____
Purchaser's Driver's License Number

_____
Purchaser's Signature
(Give title if signing for company or organization)

Original Copy — Vehicle or Aircraft Dealer
Duplicate Copy — Audit Services
Triplicate Copy — Purchaser

(SEE REVERSE SIDE FOR INSTRUCTIONS)

EXEMPT FROM SALES TAX:

K.S.A. 79-3606(k) exempts from sales tax: *any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;*

A PURCHASER IS **NOT** REQUIRED TO PAY KANSAS SALES TAX UNDER THE "NONRESIDENT" EXEMPTION PROVIDED FOR BY K.S.A. 79-3606(k) WHEN ALL THREE (3) OF THE FOLLOWING ARE MET.

1. The purchaser is a bona fide resident of a state other than Kansas,
2. The motor vehicle, semitrailer, pole trailer, or aircraft will be removed from Kansas within 10 days of purchase, **and**
3. The motor vehicle, semitrailer, pole trailer, or aircraft will be registered in another state.

THIS "NONRESIDENT" EXEMPTION IS LIMITED TO THE SALE OF A **MOTOR VEHICLE**, **SEMITRAILER**, **POLE TRAILER, OR AIRCRAFT**, as defined by K.S.A. 8-126 as follows.

Motor Vehicle means every vehicle, other than a motorized bicycle, or motorized wheelchair, which is self-propelled.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Semitrailer means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle. NOTE: A Fifth-Wheel or Goose Neck trailer is included within the definition of "semitrailer".

Pole Trailer means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

THUS, Kansas retailers' sales tax **IS NOT** due when a nonresident purchases and takes delivery in Kansas for use and storage outside of Kansas of the following (non inclusive list):

- Car, Pick-up, Truck, Van & SUV
- Motorhome
- Motorcycle
- Fifth-wheel or Gooseneck trailer
- Tractor-trailer
- Pole trailer
- Aircraft

SUBJECT TO SALES TAX:

The sale of any vehicle or other tangible personal property that is **NOT** a **MOTOR VEHICLE, SEMITRAILER, POLE TRAILER, OR AIRCRAFT,** as defined above, **IS** subject to Kansas sales tax when a nonresident of Kansas takes delivery thereof within Kansas.

THUS, Kansas retailers' sales tax **IS** due when a nonresident purchases and takes delivery in Kansas on the following (non inclusive list):

- Trailers that are not within the definition of semitrailer or pole trailer as defined above
- ATVs (All Terrain Vehicles) & Utility Vehicles (such as John Deere Gator, Kawasaki Mule, Yamaha Side X Side, etc.)
- Dirt Bikes
- Motorized Bikes – defined as – every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has (1) a motor which produces not more than 3.5 brake horsepower; (2) a cylinder capacity of not more than 130 centimeters; (3) an automatic transmission; and (4) the capability of a maximum design speed of no more than 30 miles per hour.
- Boats
- Boat Trailers
- Personal Watercraft (Jet Skis, Wave Runners, etc.)
- All other tangible personal property not specifically exempted from Kansas sales tax by law.

KANSAS
DEPARTMENT OF REVENUE
DIVISION OF VEHICLES
www.ksrevenue.org

AFFIDAVIT TO A FACT

Complete vehicle information, check and complete appropriate statement(s). Must also complete the Affiant's Certification at the bottom of the form.

Please Type or Print Clearly

VEHICLE INFORMATION *Must be Completed*

Year _____ Make _____ ID # _____

☐ **VEHICLE GIFT CERTIFICATION** (Used when vehicle or trailer is given as a gift and the recipient is not a relative.)

I, the undersigned, certify that I am the owner of the above referenced vehicle was presented as a gift to:

_____ Owner's Handprinted Name: _____

☐ **ONE AND THE SAME PERSON** (Used when a person's name changed or is incorrect. EX: Jim/James; Name Changed by Marriage)

I, the undersigned, certify that _____

and _____ are one and the same person.

☐ **DISCLAIMING VEHICLE OWNERSHIP** (Used when the purchaser shown on the title **assignment** is renouncing ownership.)

I, the undersigned, certify that I am disclaiming ownership as shown on the assignment of title for the above referenced vehicle.

☐ **TITLE OR MSO ASSIGNMENT** (Used when adding a name(s) to the title assignment after the assignment was completed.)

We, the undersigned, certify the above referenced vehicle assignment was not properly completed at time of purchase.

Name of person to be added on assignment as purchaser: _____

(All parties to be listed as purchasers must sign below.)

☐ **VEHICLE NON-USE** (Used when registering or renewing vehicle registration and the vehicle was not operated for a full **registration** year. EX: A June expiration requires the vehicle to not be in operation from June of one year [sample 2001] until or after May of the following year [sample 2002])

I, the undersigned, certify that the above referenced vehicle was not at any time operated during the registration year(s) shown to the right: Beginning: Month _____ Year _____ Ending: Month _____ Year _____

☐ **RELATIVES OF A MEMBER OF THE MILITARY** (Used when a family member is renewing the registration for a member of the U.S. military who is serving in a foreign nation in which the United States is engaged at war and for a period of six months after cessation of hostilies.)

I, the undersigned, certify that I am the (Must Check One): ☐ Spouse; ☐ Parent; ☐ Brother; ☐ Sister

of _____, a member of (branch of service) _____.

☐ **ANTIQUE MODEL YEAR LICENSE PLATE** (Used when registering an antique vehicle with a model year Kansas license plate.)

License Plate Information: Year on Plate _____ Plate Number _____

All Letters and Numbers Must be Shown

I, the undersigned, certify that the license plate listed above is a legible and serviceable license plate, originally issued by the state of Kansas and the expiration year inscribed thereon corresponds to the model year when the antique vehicle was manufactured.

AFFIANT'S CERTIFICATION

I certify under penalty of perjury that all information and statement(s) made above are true to the best of my knowledge.

Affiant's Signature(s) _____ Date _____

_____ Date _____

BILL OF SALE *Must be fully completed*

This Bill of Sale is an affidavit of the amount of money or value that was exchange between the seller(s) and buyer(s) for the vehicle listed herein.

ONLY antique vehicles (vehicles 35 years old or older) can have the ownership transferred (sold) by bill of sales. All other vehicles sold by or purchased from a Kansas resident must have the ownership transferred (sold) by assigned title.

SELLER'S
Printed Name:_____

Address:_____

City: _____

State: _____

ZIP : _____

BUYER'S
Printed Name: _____

Address:_____

City: _____

State:_____

ZIP : _____

VEHICLE INFORMATION:

Year _____ Make _____ VIN _____

Purchase Price: $_____ Date of Sale: _____

By our signatures, we swear and affirm the above stated purchase price is true and accurate under penalty of perjury. I am aware that the law provides severe penalties for making false statements under oath.

Signature of Seller: _____ Date: _____

Signature of Buyer: _____ Date: _____

ANTIQUE VEHICLE TRANSFER OF OWNERSHIP

This section of the bill of sale is to be used to transfer ownership of an antique vehicle (vehicle that is 35 model years old or older) when there is no Kansas title for the vehicle in the name of the owner/seller. All information in the bill of sale above and the antique vehicle transfer of ownership below MUST be complete for this to be a valid assignment of ownership.

If a non-Kansas resident owns the antique vehicle and the vehicle is not maintained/garaged in Kansas, the ownership of the vehicle must be transferred according to the laws of the seller's home state of residence.

I, the undersigned, certify that I am the owner of this antique vehicle, which is listed above, and on this day I have sold and am transferring ownership of this vehicle to _____ listed above as buyer. To the best of my knowledge, no title has been issued in my name for this vehicle in any titling jurisdiction.

I further certify that I will guarantee this vehicle to be free and clear from all defects, liens or encumbrances of any nature whatsoever and that I will indemnify any subsequent purchaser of same for any loss sustained should anyone prove ownership of said vehicle superior to my title.

Date vehicle was sold and delivered: Month _____ Day _____ Year _____

Signature of Seller: _____

NOTICE TO BUYER: All 1950 or newer antique vehicles sold on a bill of sale must obtain an MVE-1, (Motor Vehicle Examination) issued by the Kansas Highway Patrol or their designee and submit the MVE-1 with this bill of sale when applying for antique title. Application for title must be made within 30 days of the purchase date in the county treasurer's motor vehicle office in the county in which the vehicle will be located/garaged. Penalty will be assessed on and after the 31st day.

KANSAS DEPARTMENT OF REVENUE

AIRCRAFT EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box | City | State | Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(g)exempts all sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft.

Description of tangible personal property or services purchased: _____

_____

Tail Number of Aircraft: _____

The undersigned understands and agrees that if the property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax.

Purchaser: _____
Business Name

Address: _____
Street, RR, or P. O. Box | City | State | Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS EXEMPTION?

The U.S. government and any of its agencies, foreign governments and their agencies, domestic airlines, foreign airlines, and charter companies qualify for this exemption. Persons licensed in interstate commerce (such as those licensed under a FAA part 135, air taxi certificate) also qualify for this exemption. A licensed or certified carrier of persons or property engaged in interstate or foreign commerce is exempt even though the aircraft never leaves Kansas (all flights are intrastate). The exemption also applies to sales made through an authorized agent of the air carrier for the eventual use in interstate or foreign commerce. Effective January 1, 2005 sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of all aircraft are exempt from Kansas retailers' sales and compensating use taxes.

WHAT PURCHASES ARE EXEMPT?

A purchaser meeting the above definitions may purchase new, used, rebuilt or modified aircraft, all repair or replacement parts, and the labor services to build, modify or repair any aircraft exempt from sales tax. In other words, a qualified purchaser may have a plane built, remanufactured, modified or repaired in Kansas, and all aspects of the sale are exempt from sales tax with this exemption certificate. Aircraft, repair parts and labor, and oil and gas are also exempt when the aircraft is used exclusively for resale, rental, or leasing purposes.

WHAT SALES ARE TAXABLE?

Persons and businesses whose aircraft is used for personal, company, recreational, or instructional purposes are NOT exempt and cannot use this exemption certificate to purchase aircraft. The January 1, 2005 amendment exempts only the repair parts and services. Purchasers must pay sales tax on the purchase price of aircraft. Those not licensed in interstate or foreign commerce are considered to be the final consumer of the aircraft and must pay sales tax when buying the aircraft and on purchases of aviation fuel and oil.

RETAINING THIS CERTIFICATE

Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE

INTERSTATE COMMON CARRIER EXEMPTION CERTIFICATE

The undersigned **motor carrier** certifies that the tangible personal property purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P.O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.A.R. 92-19-28 and K.A.R. 92-20-18 exempt the sale of rolling stock (including buses and trailers), repair or replacement materials and parts for rolling stock, gasoline, distillate and other motor fuels purchased for rolling stock when purchased by a motor carrier qualifying as a public utility, for immediate and direct use in interstate commerce. The qualifying motor carrier may be engaged in interstate commerce exclusively, or in both interstate and intrastate commerce.

Description of tangible personal property purchased: _____

_____

The undersigned motor carrier further certifies that he or she qualifies as a public utility on the following basis:

Check one box and complete the information requested.

❑ I have common carrier authority to haul regulated commodities. I will use the purchased item(s) as, or attached to, rolling stock for the purpose of hauling persons or commodities for hire in interstate commerce. My Motor Carrier authority is under the name of: _____. My Motor Carrier number is: _____. My USDOT number is: _____.

❑ I do not have common carrier authority but I am hauling exempt (unregulated) commodities. I will use the purchased item(s) as, or attached to, rolling stock for the purpose of hauling unregulated commodities for hire in interstate commerce. My USDOT number is under the name of: _____. My USDOT number is: _____.

❑ I do not have common carrier authority but I am leased to a holder thereof, and that I will use the purchased item(s) as, or attached to, rolling stock to haul persons or commodities for hire in interstate commerce.

My Kansas Sales Tax Registration Number is: _____ .

I am leased to: _____
Lessor's Name

Lessor's Address: _____
Street, RR or P.O. Box City State Zip + 4

Address: _____

Lessor's Motor Carrier Number: _____ Lessor's USDOT Number: _____

CHARGES FOR LABOR SERVICES TO SERVICE, MAINTAIN, OR REPAIR ROLLING STOCK, INCLUDING BUSES AND TRAILERS, ARE TAXABLE.

The undersigned understands and agrees that if the tangible personal property is not used in interstate commerce, which is exempt from sales or compensating use tax, the undersigned motor carrier becomes liable for the tax.

Purchaser: _____
Motor Carrier Name

Address: _____
Street, RR, or P.O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

(See reverse for additional information and instructions.)

ABOUT THE INTERSTATE COMMON CARRIER EXEMPTION

WHO MAY USE THIS EXEMPTION?

Only interstate common carriers, or those leased to an interstate common carrier, may use this exemption. Three types of interstate common carriers are exempt from sales tax:

- Common carriers that transport regulated goods or persons in interstate commerce.
- Common carriers engaged in the interstate transportation of goods exempt from regulation (such as livestock and grain).
- Common carriers that haul both Regulated and Exempt commodities.

WHO IS NOT EXEMPT?

Contract carriers that are not for hire to the general public. They are not common carriers and, therefore, are NOT exempt from sales tax. Also not exempt are common carriers that are intrastate carriers (operating only within the state). These carriers are not exempt from sales tax because they are not involved in interstate commerce.

WHAT PURCHASES ARE EXEMPT?

Only rolling stock, parts, motor fuels and other items used directly and immediately in interstate commerce are exempt. All other property purchased by a common carrier is taxable. The examples below illustrate the types of items a carrier may purchase without tax using this exemption certificate, and those that are taxable.

EXEMPT		TAXABLE	
Air and oil filters	Semi trucks/tractors	Building Materials	Office equipment
Fuel pumps	Spark plugs	Computers	Office supplies
Gasoline and diesel fuel	Tires	Labor Services	Furniture Pads
Hoses and belts	Trailers (all types)	Packing Supplies	Tape
Lubricants	Valves	Piano Boards	Ladders
Refrigerant	Windshields and mirrors	Straps	Boxes
Repair parts for trucks/tractors & trailers		Packing “Peanuts”	Lining Paper
Tarps		Fork Lifts	Gantries

LABOR SERVICES:

Only tangible personal property may be purchased exempt. Labor services to repair, replace, service, or maintain a carrier’s rolling stock are subject to sales tax.

Example: An common carrier has the engine in one of its trucks overhauled in Kansas. The parts used in the overhaul (water pump, spark plugs, oil and oil filter) are exempt. The repair shop would have the carrier complete this exemption certificate to exempt the sale of these parts from sales tax. However, the labor service fee charged by the mechanic or repair shop to do the work (such as a rate of $40/hr.) is subject to sales tax. The repair shop would charge the carrier sales tax on the total labor charges.

NUMBERS:

Motor Carrier Number. Carrier numbers are issued by the Federal Motor Carrier Safety Administration (FMCSA) granting authority for interstate operations.

USDOT Number. Companies that operate commercial vehicles transporting passengers or hauling cargo in interstate commerce must be registered with the FMCSA and must have a USDOT Number. Also, commercial intrastate hazardous materials carriers who haul quantities requiring a safety permit must register for a USDOT Number. http://www.fmcsa.dot.gov/

Kansas Sales Tax Registration Number. This is the number assigned to individuals and entities for the collection of sales tax. Owner/operators are required to obtain a Sales Tax Registration Number. Along with a Kansas Resale Exemption Certificate, Form ST-28A, an owner/operator may purchase a truck and/or trailer, and repair parts therefore, exempt from Kansas sales tax when the owner/operator does not have interstate common carrier authority themselves but, will lease to an interstate common carrier. Owner/operators leased to interstate common carriers will need to file Kansas retailers’ sales tax returns (typically on an annual basis) but will report no sales tax due.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE

RESALE EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

will be **resold** by me in the form of tangible personal property or repair service. I hereby certify that I hold valid Kansas sales tax registration number _____ , and I am in the business of selling _____
(May attach a copy of registration certificate)

_____
(Description of product(s) sold; food clothing, furniture, etc.)

Description of tangible personal property or services purchased: _____

_____

I understand and agree that if the items purchased with this certificate are used for any purpose other than retention, demonstration, or display while being held for sale in the regular course of business, I am required to report and pay the sales tax, based upon the purchase price of the items.

Purchaser: _____
Name of Kansas Retailer

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Only those businesses and organizations that are registered to collect Kansas sales tax and provide their Kansas sales tax registration number on this form may use it to purchase inventory without tax. For additional information see Publication KS-1520, *Kansas Exemption Certificates*.

Nonprofit groups or organizations exempt by law from collecting tax on their retail sales of tangible personal property (such as a PTA or a nonprofit youth development organization) should use the exemption certificate issued to it by the Department of Revenue when buying items for resale.

Wholesalers and buyers from other states not registered in Kansas should use the Multi-Jurisdiction Exemption Certificate, Form ST-28M, to purchase their inventory. HOWEVER, if the inventory item purchased by an out-of-state retailer who has sales tax nexus with Kansas is drop shipped to a Kansas location, the out-of-state retailer must provide to the third party vendor a Kansas sales tax registration number, either on this certificate or the Multi-Jurisdiction Exemption Certificate, for the sale to be exempt. If the out-of-state retailer DOES NOT have sales tax nexus with Kansas, it may provide the third party vendor a resale exemption certificate evidencing qualification for a resale exemption, ***regardless*** of the state in which the retailer is registered for sales tax.

Contractors, subcontractors, or repairmen may not use this certificate to purchase their materials, parts, or tools. Retailer/Contractors should use a Retailer/Contractor Exemption Certificate, Form ST-28W, to purchase their resale inventory.

WHAT PURCHASES ARE EXEMPT? Only goods or merchandise intended for resale (inventory) are exempt. Tools, equipment, fixtures, supplies, and other items purchased for business or personal use are TAXABLE since the buyer is the final consumer of the property.

The items purchased with this certificate must correspond to the type of business buying them. For example, a retail clothing store may only reasonably purchase items of wearing apparel and accessories with this certificate. All other kinds of items are not usually sold by a clothing store to their customers and, therefore, cannot be purchased with this certificate.

LABOR SERVICES. This certificate applies ONLY to items of tangible personal property. A contractor may not use an exemption certificate to purchase the labor services of another contractor or subcontractor. Taxable labor services performed by a contractor can ONLY be purchased without tax with a Project Exemption Certificate issued by the department or its authorized agent.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE

TIRE RETAILER EXEMPTION CERTIFICATE

The undersigned tire retailer certifies that the **new tires** purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

are exempt from **Kansas Tire Excise Tax** for the following reason:

The new tires purchased with this exemption certificate will be resold by the undersigned tire retailer who is duly registered by the Kansas Department of Revenue to collect the Kansas Tire Excise Tax levied by K.S.A. 65-3424d.

Description of tangible personal property or services purchased: _____

_____

The undersigned purchaser understands and agrees that if the new tires are used other than as stated above or for any other purpose not exempt from the tire excise tax, the undersigned tire retailer becomes liable for the tax.

Purchaser: _____
Business Name

Tire Excise
Tax Number: _____ Kansas Sales Tax Number: _____

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHAT IS THE TIRE EXCISE TAX?

The tire excise tax is 25 cents on each new vehicle tire sold. New tires for automobiles, motorcycles, trucks, truck tractors, trailers, buses, farm machinery, construction equipment, and other vehicles authorized or allowed to operate on Kansas public streets and highways are subject to the tire excise tax. The tax also applies to the tires mounted on a new or used vehicle when the vehicle is sold at retail. Therefore, most vehicle and implement dealers must also be registered to collect the tire excise tax. Additional information about the tire excise tax in our Publication KS-1530, Kansas Tire Excise Tax, available from our office or web site: **www.ksrevenue.org**.

WHO MAY USE THIS EXEMPTION?

Only those tire retailers that have a tire excise tax registration number and a Kansas Retailers' Sales Tax Registration Number (see explanation below) from the Kansas Department of Revenue may use this certificate.

WHAT TIRE PURCHASES ARE EXEMPT?

Only **new** tires intended for *resale* may be purchased exempt from the tire excise tax (as well as sales tax) with this certificate. A tire retailer or vehicle dealer will use this certificate to purchase new tires exempt from both the tire excise tax and sales tax. The tire retailer will collect the Kansas Retailers' Sales and Tire Excise Tax when the tires are sold to the final user or consumer.

Used, recapped and retreaded tires are not subject to tire excise tax. A business selling used tires should use the Resale Exemption Certificate, Form ST-28A, to purchase its inventory of used tires.

TAX REGISTRATION NUMBERS.

This certificate is an exemption from the tire excise tax and also acts as a resale exemption certificate. In order to be exempt, the buyer must provide its Kansas tire excise tax registration number and its Kansas sales tax number. This certificate is not complete unless both numbers are given. A tire excise tax registration number contains eleven digits, the last four of which are always "4000." A tire excise tax registration number format would be 000-0000-4000.

KANSAS DEPARTMENT OF REVENUE

STATEMENT FOR SALES TAX EXEMPTION ON ELECTRICITY, GAS, OR WATER FURNISHED THROUGH ONE METER

Please type or print this form and send a completed copy WITH worksheets to your utility company. Complete a form for each meter on which you are applying for an exemption.

1. _____ _____
Address of meter location — Utility account number

2. In accordance with the Kansas Retailers' Sales Tax Act, the undersigned purchaser states that the (circle one: electricity, gas, water) sold and furnished by (name of utility company) _____ through meter number _____ at the above location issued for the following purposes based on annual consumption.

3. _____ uses electricity, gas or water for the following purpose (check one):
PURCHASER (Name of individual, company, or organization)

Unless otherwise indicated, the uses below are exempt from state and local sales tax.

- ❑ Agricultural use. **(Electricity & gas subject to local sales tax.)**
- ❑ Certain nonprofit corporations exempt from real estate property tax – i.e., adult care homes (nursing homes); private children's homes (nursing home foster care, etc.); housing for low and limited income elderly and disabled persons (includes HUD housing projects); housing for the elderly; and group housing for mentally ill, retarded, and other disabled persons. ATTACH A COPY OF THE "ORDER" FROM THE BOARD OF TAX APPEALS.
- ❑ Consumed in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property, or treatment of by-products or wastes of any above processes.
- ❑ Domestic violence shelters.
- ❑ *Educational institutions and nonprofit trusts, nonprofit endowment associations and foundations operated for the sole benefit of an education institution.
- ❑ *Government entity.
- ❑ Severing of oil.
- ❑ Ingredient or component part.
- ❑ Irrigation of crops.
- ❑ Movement in interstate commerce by railroad or public utility.
- ❑ *Noncommercial educational radio or TV station.
- ❑ Noncommercial residential use. **(Electricity & gas subject to local sales tax.)**
- ❑ *Nonprofit hospital.
- ❑ *Nonprofit museum or historical society.
- ❑ *Nonprofit zoo.
- ❑ *Over-the-air free access radio or TV station. Only the electricity used to produce the broadcast signal is exempt. All other utility use is taxable.
- ❑ Providing taxable services.
- ❑ *Religious organization exempt from federal taxation under section 501(c)(3) of the federal Internal Revenue Code.
- ❑ *Other exempt entity

*** Enter Sales Tax Exemption Identification Number** _____

4. Kansas Sales Tax Registration Number _____ and/or Employer ID Number (EIN) _____
Type of business _____

5. Describe the taxable service; movement in interstate commerce; agricultural use; or property produced, manufactured, etc.
_____
_____

NOTE: Effective January 1, 2006 all sales of water are NOT subject to local (city/county) sales tax. However, all electricity and gas used to light, heat, cool, clean or maintain equipment, buildings or business facilities (offices, plants, shops, warehouses) are FULLY TAXABLE. This includes, but is not limited to, electricity and gas for air conditioners, all lighting (including production area), exhaust fans, freezers, heaters, refrigerators, other appliances and machines.

6. EXEMPT PERCENT _____ % (See instructions.)

The undersigned purchaser agrees and certifies that: a) this statement is true, correct, and complete; b) **the worksheets used to determine the "Exempt Percent" will be kept by the undersigned and copies of the worksheets and this completed form will be provided to the utility company)**; and, c) in the event there is a change in the "Exempt Percent", a revised statement will be filed immediately with the utility company. If the electricity, gas, or water exempted from taxation is determined to be taxable at a rate other than stated above, the undersigned purchaser agrees to reimburse the utility company or KDOR for any amounts assessed as retailers' sales or compensating tax, penalties, and/or interest.

Purchaser: _____ Phone No. ( ) _____
Individual, company, or organization name

Address: _____
Street, RR, or P.O. Box — City — State — Zip + 4

Authorized Signature: _____ Date: _____

ST-28B (Rev. 8/07)

INSTRUCTIONS FOR COMPLETING FORM ST-28B

When gas, water, or electricity is furnished through one meter for both taxable and exempt purposes, the purchaser is responsible for determining the percentage of use exempt from sales tax. The sample worksheet provided below will help you to determine the percent of electricity, gas, or water that qualifies for exemption. If you have questions about this form, contact our Taxpayer Assistance Center, Kansas Department of Revenue, 915 SW Harrison St., 1st Floor, Topeka, KS, 66625-0001, or call (785) 368-8222.

AGRICULTURAL: Electricity and gas for agricultural use is exempt from the state sales tax but **not** exempt from the local taxes. Agricultural use does not include commercial operations such as processing food or dairy products, off-farm grain storage and marketing, lumbering, or use by a stockyard, slaughter house, floral shop, or turf farm.

CERTAIN NONPROFIT CORPORATIONS: Sales of electricity, gas, or water to properties which are exempt from property taxation under K.S.A. 79-201b Second through Sixth are exempt from state and local sales tax. Once the property is determined to be exempt, copies of the "order" from the Board of Tax Appeals and this completed exemption certificate (ST-28B) must be provided to the utility company and the Kansas Department of Revenue.

CONSUMABLES: The portion of electricity, gas, or water you use that meets the following requirements is exempt from state and local taxes: 1) essential or necessary to the process; 2) used in the actual process at the location during the production activity; 3) immediately consumed or dissipated in the process; and, 4) used in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property or the treatment of by-products or wastes of any above processes. The following uses of electricity, gas, or water are not exempt from sales tax: shipping, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing.

INGREDIENT OR COMPONENT PART: An example of electricity, gas, or water which becomes an ingredient or component part and qualifies for exemption is "water" that is part of the ingredient in a beverage which is bottled and sold to a retailer for resale.

RESIDENTIAL: If the electricity, gas, or water you consume is for residential use only, you do not need to file this form. The utility company automatically exempts you from paying state sales tax (city and county sales tax still applies). However, if the electricity, gas, or water you consume is partly for residential purposes and partly for commercial use, you must determine the percent of usage that is residential and file copies of your worksheets and this completed form with your utility company and the Department of Revenue. Utilities consumed in commercial common areas such as an office, lounge, hallway, laundry facility, storage area, swimming pool, etc., **do not** qualify for exemption.

HOW MUCH OF MY UTILITY USE QUALIFIES FOR EXEMPTION? You will probably need several sheets of paper as worksheets. If your facility is serviced by more than one meter, you need to complete a separate chart to determine the percent of usage for each meter. If the facility is heated and air-conditioned by a central unit, you may use the square footage method to arrive at the residential percent of consumption for heating and cooling. You may need the assistance of a plumber or electrician to complete the formulas. Refer to the following example and steps to determine your exempt percent.

COLUMN 1 Type of Device		COLUMN 2 Rating of Device	COLUMN 3 Estimated Hours of Use Per Day	COLUMN 4 Load Factor	COLUMN 5 Number of Days the Device is Used Per Year	COLUMN 6 Usage Per Year stated in kWh, BTU, or Gallons
20 - light bulbs	T	40 watts	10	1.00	324	2,592 kWh
1 - production machinery	E	500 watts	10	.50	255	637.5 kWh

EXAMPLE

1. At the top of each page, place the headers as noted in the example and complete the following information per column:

   COLUMN 1—List each device that is pulling the utility.

   COLUMN 2—Rating of each device.

   COLUMN 3—Estimate the number of hours of use per day (i.e., on average, twenty 40 watt light bulbs are on ten hours per day, therefore, enter "10").

   COLUMN 4—Determine and enter load factor (i.e., when a light bulb is on it pulls the full rate of 100% power but a burner on the stove on "low" may only pull 30% load factor).

   COLUMN 5—Number of days the device is used per year.

   COLUMN 6—Determine usage per year stated in kilowatt-hours (kWh), BTU, or gallons.

   1000 watts = 1 kWh
   Horsepower = .746 X H.P. = watts
   Ten 100-watt bulbs burning 1 hour will use 1 kWh
   1,000,000 BTU in 1 MCF

2. Indicate beside each type of device an "E" for exempt or a "T" for taxable.

3. Multiply the quantity in column 1 by column 2 by column 3 by column 4 by column 5 to arrive at the sum for column 6.

4. Add the usage per year (column 6) for all of the devices you have indicated as "exempt" then add all of the usage per year (column 6) for all the devices that you have indicated as being "taxable." Adding the exempt and taxable usage should equal the total consumption per year as shown on your utility bills for the last 12 months.

5. Divide the total number of exempt kWh by the total number of kWh consumed in the last 12 months. This is the percent of usage that is exempt from tax. Enter this amount on line 5 on the front of this form (ST-28B).

The instructions provided are intended to help consumers of electricity, gas, or water complete this form.
In case of discrepancies, the applicable law prevails.

State of Kansas
Department of Revenue
915 SW Harrison
Topeka, KS 66612-1588

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TAXPAYER ASSISTANCE

This publication is a general guide and will not address every situation. If you have questions or need additional information, please contact taxpayer assistance at the Kansas Department of Revenue (KDOR).

TAXPAYER ASSISTANCE CENTER
Docking State Office Building - 1st floor
915 SW Harrison St.
Topeka, KS 66625-2007

Phone: (785) 368-8222
Fax: (785) 291-3614
Web site: ksrevenue.org

Office hours are 8:00 a.m. to 4:45 p.m., Monday through Friday.

TAX FORMS

In addition to the publications listed below, KDOR's web site contains a library of policy information, press releases, and other notices. Due to limited state funding KDOR has discontinued the printing of these publications; however all are available from our web site.

- Publication KS-1216, Kansas Business Tax Application
- Publication KS-1500, North American Industry Classification System
- Publication KS-1510, Kansas Sales and Compensating Use Tax
- Publication KS-1515, Kansas Tax Calendar of Due Dates
- Publication KS-1520, Kansas Exemption Certificates
- Publication KS-1525, Kansas Sales and Use Tax for Contractors, Subcontractors and Repairmen
- Publication KS-1526, Kansas Sales and Use Tax for Motor Vehicle Transactions
- Publication KS-1527, Kansas Sales and Use Tax for Kansas Political Subdivisions
- Publication KS-1530, Kansas Tire Excise Tax
- Publication KS-1540, Kansas Business Taxes For Hotels, Motels and Restaurants
- Publication KS-1550, Kansas Sales and Use Tax for the Agricultural Industry
- Publication KS-1560, Kansas Tax Guide for Schools and Educational Institutions
- Publication KS-1700, Kansas Sales Tax Jurisdiction Code Booklet
- KW-100, Kansas Withholding Tax Guide

STATE SMALL BUSINESS WORKSHOPS

As part of our commitment to provide tax assistance to the business community, Tax Specialists within KDOR conduct small business workshops on Kansas taxes at various locations throughout Kansas. Whether you are a new business owner, an existing business owner, or an accountant, these workshops will give you the tools and understanding necessary to make Kansas taxes easier and less time consuming for you. Topics covered include filing and reporting requirements and methods, what is taxable, what is exempt and how to work with the department in collecting and remitting Kansas taxes.

For a schedule of our workshops, visit our web site. Pre-registration is required and a fee may be charged by the sponsoring Small Business Development Center (SBDC).

Your suggestions and comments on this publication are important to us. Please address them to: Taxpayer Education, Kansas Department of Revenue, 915 SW Harrison St., Topeka, KS 66625-1588 or call (785) 296-1048.