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MEMORANDUM

To: County Treasurers, County Clerks and County Appraisers
From: Roger Hamm, Deputy Director, Division of Property Valuation
Date: July 11, 2018
Subject: Property Tax Interest Rates for Calendar Year 2019

The interest rates counties pay and collect are tied to an annually updated interest rate prescribed in K.S.A. 79-2968. The interest rate developed in K.S.A. 79-2968 is the fundamental rate on which all other rates are established. The K.S.A. 79-2968 rate for calendar year 2019 is six percent (6%). The K.S.A. 79-2968 rate for calendar year 2019 for property tax delinquencies or underpayments of \$10,000 or more is eleven percent (11%).

Various statutes provide for percentage point adjustments to the K.S.A. 79-2968 rate for Kansas property tax purposes depending on the type of delinquency or refund. The 2016 legislature increased the interest rate on delinquent real property taxes by five percent (5%) beginning in tax year 2017 and after. Please carefully review the rates for the 2019 calendar year.

Interest Rate Applied when a County <i>Collects</i> Interest	<u>2019 Calendar Year</u>
Taxpayer's late payment of real property taxes:	11%
Taxpayer's late payment of personal property taxes:	6%
Taxpayer's late or underpayment of \$10,000 or more (real):	15%
Taxpayer's late or underpayment of \$10,000 or more (personal):	10%
Taxpayer's late unpaid portion of advanced payments:	6%

Interest Rates Applied when a County <i>Pays</i> Interest on Refunds:	<u>2019 Calendar Year</u>
Payment under protests and "equalization" appeals	4%
Tax grievance/clerical error refunds ordered by BOTAs	4%
Clerical error refunds ordered by the county	8%

The general rule is that the county is not liable for interest on refunds unless some statute expressly so provides. See *In re Protests of Midland Industries, Inc.*, 237 Kan. 867, 703 P.2d 840 (1985). You should also be aware of three Board of Tax Appeals decisions that were issued pertaining to the interest laws:

The Board ruled that when refunds are issued on or after July 1, 1997, as the result of a clerical error, interest should be paid to the taxpayer back from the date the applicant paid the taxes. (See, e.g., *In the Matter of the Application of Reynolds, Ernest and Darlene, for Relief from a Tax Grievance in Atchison County, Kansas*, Docket No. 97-3542-TG, Kansas Board of Tax Appeals Docket No. 97-3542-TG, November 6, 1997).

The Board of Tax Appeals held that interest is not paid on refunds ordered as the result of a taxpayer's request to reduce or abate personal property penalties on the basis of excusable neglect. (*See, e.g., In the Matter of the Application of Cross, Jerry/Cross Service for Relief from a Tax Grievance in Barton County, Kansas*, Board of Tax Appeals Docket No. 97-4953-TG, October 15, 1997).

The Board of Tax Appeals found that if there are delinquent taxes for the tax year at issue, no interest is to be paid on any refund for that year, even though a portion of the tax may have been paid in a timely fashion. (*See, e.g., In the Matter of the Protests of Inspec. USA, Inc. DBA Jayhawk Fine Chemicals Corp. for Taxes Paid for 1999, 2000 and 2001 in Cherokee County, Kansas and In the Matter of the Protests of Allco Chemical Corp. for Taxes Paid for 1998, 1999, 2000, and 2001 in Cherokee County, Kansas*, Board of Tax Appeals Docket Nos. 2002-9125-PR thru 2002-9131-PR, June 18, 2003.)

Below is a recapitulation of some commonly asked questions with answers.

1. Question: Must the Board of Tax Appeals or an appellate court specifically order interest before a county is required to pay it on a refund?
Answer: No. Thus, a county must be well versed on when interest should be paid.

2. Question: Is interest paid when a refund of delinquent taxes is made?
Answer: No. The law states that no interest shall be allowed where the tax paid under protest was inclusive of delinquent taxes. (K.S.A. 79-2005(1)(2))

3. Question: Is interest paid on a refund of personal property late filing or failure to file penalties made because the Board of Tax Appeals abated the penalty on the basis of excusable neglect?
Answer: No, see Board of Tax Appeals Docket No. 97-4953-TG, and the summary of the case in this memorandum. K.S.A. 79-1422, K.S.A. 79-1427a and K.S.A. 79-332a do not provide for interest to be paid on a refund of an abated penalty.

4. Question: Is interest paid on a payment under protest when a refund is issued as the result of an informal meeting with the county appraiser?
Answer: Yes, see the language in K.S.A. 79-2005(a).

5. Question: Can interest be reduced or eliminated?
Answer: Yes, if the Board of Tax Appeals or a court of competent jurisdiction orders the interest reduced upon a finding that an unreasonable delay was caused by the taxpayer in a payment under protest or equalization appeal. (K.S.A. 79-2005(1)).

6. Question: Is interest paid when the Kansas Board of Tax Appeals orders a refund on an application for exemption case?
Answer: No. K.S.A. 79-213, the law pertaining to exemption applications, was not amended to provide for the payment of interest. It should be noted that when an application for exemption is filed, the taxes normally due on December 20 and May 10 are not due until (and if) the Board of Tax Appeals issues a final order denying exemption. Then, the taxpayer has 30 days thereafter in which to pay the taxes, and no interest accrues on the year(s) in question. (K.S.A. 79-213(i)).

7. Question: Is interest paid on a Board of Tax Appeals ordered refund of tax paid by a public utility when a proper appeal has been filed pursuant to K.S.A. 74-2438?
Answer: No. K.S.A. 74-2438 does not provide for any interest to be paid on any refunded tax. See Board of Tax Appeals Docket No. 2005-4083-PV *In the Matter of the Appeal of Wheatland Electric Cooperative, Inc. from an Order of the Director of Property Valuation.*

8. Question: Is interest also refunded on a payment under protest appeal or equalization appeal where a refund is due in a case where the taxpayer paid interest because the tax at issue was paid late?

Answer: Yes. If a refund is ultimately due as the result of an appeal pursuant to K.S.A. 79-2005 or K.S.A. 79-1609, the interest paid by the taxpayer on the tax amount to be refunded is also refunded with the tax refund. (Example: Taxpayer pays \$1000 tax bill late with \$10 interest for a total payment of \$1010. The Board orders a reduction in value which lowers the tax to \$900. Taxpayer should be refunded the \$100 plus the \$1 in interest he or she paid on the \$100.) This is distinguishable from the issue of when interest is paid on a refund. As indicated in Question 2, no interest is paid by the county in any case where the tax paid was inclusive of delinquent taxes. (Example: Taxpayer is refunded \$101 in the above example, but the county does not pay interest on the \$101 because the tax refunded was inclusive of delinquent taxes.) (K.S.A. 79-2005(1))

Delinquent Real Property Tax Interest

K.S.A. 79-2004 (real property): The county collects interest when the taxpayer fails to pay their property taxes by the December 20th and May 10th deadlines. For 2017, this rate is developed by using the prescribed interest rate in K.S.A. 79-2968 plus five percentage points.

Year	Interest Rate
2010	7%
2011	7%
2012	7%
2013	6%
2014	6%
2015	4%
2016	4%
2017	10%
2018	10%
2019	11%

Delinquent Personal Property Tax Interest

K.S.A. 79-2004a (personal property): The county collects interest when the taxpayer fails to pay their property taxes by the December 20th and May 10th deadlines. This rate is developed by using the prescribed interest rate in K.S.A. 79-2968.

Year	Interest Rate
2010	7%
2011	7%
2012	7%
2013	6%
2014	6%
2015	4%
2016	4%
2017	5%
2018	5%
2019	6%

Delinquent Real Property Tax Interest for \$10,000 or more

K.S.A. 79-2004 (real property): The county collects interest when the taxpayer fails to pay their property taxes by the December 20th and May 10th deadlines. This rate applies to taxpayers paying late or underpaid of \$10,000 or more. For 2017, this rate is developed by using the prescribed interest rate in K.S.A. 79-2968 plus five percentage points for delinquencies of \$10,000 or more.

Year	Interest Rate
2012	12%
2013	12%
2014	12%
2015	10%
2016	10%
2017	15%
2018	15%
2019	15%

Delinquent Personal Property Tax Interest for \$10,000 or more

K.S.A. 79-2004a (personal property): The county collects interest when the taxpayer fails to pay their property taxes by the December 20th and May 10th deadlines. This rate applies to taxpayers paying late or underpaid of \$10,000 or more. This rate is developed by using the prescribed interest rate in K.S.A. 79-2968 for delinquencies of \$10,000 or more.

Year	Interest Rate
2012	12%
2013	12%
2014	12%
2015	10%
2016	10%
2017	10%
2018	10%
2019	10%

Delinquent Tax Interest for Advanced Payments

K.S.A. 19-1207: The county collects interest on the unpaid portion remaining unpaid after December 20th, using the interest rate prescribed in K.S.A. 79-2968.

Year	Interest Rate
2012	5%
2013	4%
2014	4%
2015	4%
2016	4%
2017	5%
2018	5%
2019	6%

Payment Under Protest and Equalization Appeals

K.S.A. 79-2005: Interest on refunds for protested and equalization appeals. Applies only for those appeals filed on July 1, 1997 and after. Note: No interest is paid by the county on refunds on delinquent protested tax. This rate is developed by using the prescribed interest rate in K.S.A. 79-2968, minus two percentage points.

Year	Interest Rate
2010	3%
2011	3%
2012	3%
2013	2%
2014	2%
2015	2%
2016	2%
2017	3%
2018	3%
2019	4%

Tax Grievance / Clerical Error Refunds ordered by BOTA

K.S.A. 79-1702: The Board of Tax Appeals does not specifically order interest to be paid on an ordered refund, therefore, the county must know when interest should be paid. This rate is developed by using the prescribed interest rate in K.S.A. 79-2968, minus two percentage points.

Year	Interest Rate
2010	3%
2011	3%
2012	3%
2013	2%
2014	2%
2015	2%
2016	2%
2017	3%
2018	3%
2019	4%

Clerical Error Refunds ordered by the County Commissioners

K.S.A. 79-1701a: When the County Commissioners direct a clerical error refund, the amount of the overpayment will include interest at the rate prescribed by K.S.A. 79-2968 plus two percentage points, from the date of payment and from tax moneys collected during the current year.

Year	Interest Rate
2010	5%
2011	5%
2012	7%
2013	6%
2014	6%
2015	6%
2016	6%
2017	7%
2018	7%
2019	8%