

Notice

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Office of Policy & Research

NOTICE 05-02

2005 LEGISLATIVE HIGHLIGHTS

The following is a summary of the major 2005 legislative enactments relating to taxes and motor vehicles administered by the Kansas Department of Revenue.

Franchise Tax:

◆ Senate Bill 37 - Makes a number of changes to provisions relating to the report fee collected by the Kansas Secretary of State, effective January 1, 2006. The bill would rename the annual \$40 fee from "franchise fee" to "report fee"; would eliminate extensions of time for entities to file their annual reports with the Secretary of State; and would repeal requirements that annual reports need to reflect the financial condition of the entities. Section 31 - Amends K.S.A. 2004 Supp. 79-5401, the franchise tax provision, deleting the words "preceding" and "next preceding" from that statute, in reference to "tax year," for purposes of clarifying that in calculating net worth in order to determine franchise tax liability, valuation of assets in the tax year for which the tax is due should be used. The provisions of this section shall apply to all tax years commencing after December 31, 2003.

Homestead:

◆ Senate Bill 133 – Indexes "Household Income" to inflation. The upper "household income" limit is **\$27,000** for tax year 2005. **Homestead Advancement Program** - The bill would give claimants an election to receive the refund directly from the Kansas Department of Revenue or have the refund applied to the claimant's county tax bill for tax year 2006 and thereafter. The Bill also provides for electronic record transfer and record keeping and eliminates the requirement that the claimant appear physically in the county treasurer's office.

◆ House Bill 2308 - Excludes **railroad retirement disability payments** and **veteran's disability pensions** from "Household Income". Effective tax year 2005.

Income Tax:

◆ House Bill 2222 - Establishes the **Individual Development Account Program**. Provides that a program contributor is allowed a refundable credit against state income tax in an amount not to exceed 50% of the contribution amount. Additionally, interest earned on the account balance is exempt from Kansas Income Tax. Effective for all taxable years commencing after December 31, 2004. Claim this credit on **Schedule K-68**.

◆ House Bill 2518 – The state of Kansas shall provide an aggregate death benefit in the amount of

\$250,000 to the beneficiary or beneficiaries of each member of the Kansas national guard who, after November 1, 2004, and prior to July 1, 2007, dies as a result of federal active duty in a combat area in the line of duty. The death benefit provided by this section shall be exempt from any tax of the state of Kansas or any political subdivision or taxing body of the state.

◆ Senate Bill 138 - Provides an income tax credit to business firms that enter into a partnership agreement with a school district to **employ district science or math teachers** during the months when school is not in session. The credit will be available for tax years 2005-2007. The amount of credit would be 25% of the amount paid by a business firm to teachers as salary during the taxable year or 30% of the amount paid if the teachers are teaching in a school district located in a rural community, underserved area, or underperforming urban area. Claim credit on **Schedule K-71**.

◆ Senate Bill 257 - **Small Employer Health Insurance credit**. The bill increases tax credits for plans established after December 31, 2004 and adds health savings accounts to the employer contributions that qualify for a tax credit. Claim credit on **Schedule K-57**.

◆ Senate Bill 256 – A subtraction modification from federal adjusted gross income for amounts received by **members of the armed forces** of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received as an incentive to join, enlist or remain in the armed services of the United States, including the Kansas army and air national guard. Also excluded are amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and receive by such taxpayer as a result of service in the armed services of the United States, including the Kansas army and air national guard. For tax years beginning after December 31, 2004.

Motor fuel tax:

House Bill 2297 - Amends K.S.A. 79-34,120 relating to certain exemptions from the provisions of the Interstate Motor Fuel Use Act (IFTA). Specifically, the provisions allowing out of state carriers and farm-registered vehicles to operate in commercial zones without IFTA are removed. Effective July 1, 2005, out-of-state carriers and out-of-state farm-registered vehicles will have to have either an IFTA registration or a fuel trip permit, and the exemption from having an IFTA registration or a fuel trip permit in commercial zones has also been removed.

Property Tax:

House Bill 2082 - Exempts from all ad valorem taxation all real and tangible personal property actually and primarily used for housing for the elderly, persons with disabilities or persons with limited or low income, if the property is owned solely and operated by a not-for-profit community housing development organization (CHDO) as so certified by the Kansas Housing Resources Corporation. For all taxable years after December 31, 2004.

◆ Senate Bill 158 - Amends K.S.A. 79-201d, a property tax exemption statute concerning the exemption of hay, silage and certain farm storage and drying equipment – limits the amount of time (eight years) these items are exempt from property tax. Effective July 1, 2005.

◆ Senate Bill 192 - Exempts from ad valorem taxation all personal property actually and regularly used predominantly to collect, refine, and treat landfill gas and to transport landfill gas from a landfill to a transmission pipeline. It would also exempt the landfill gas produced. For all tax years commencing after December 31, 2001. The amendment deletes the original amendment to K.S.A. 79-201 *Eleventh* and instead creates a separate section *Twelfth* as a way to clarify the property that is to be exempted.

Sales Tax:

House Bill 2040 - Amends K.S.A. 79-3606(r) to exempt **repair services for hearing aids** as issued by a licensed practitioner as defined in K.S.A 74-5808. Effective April 14, 2005. The purchasing of hearing aids, replacement parts and batteries without prescription were exempted beginning January 1, 2005.

◆ House Bill 2102 - Amends K.S.A. 74-50,115 as it relates to qualifications for the sales tax enterprise

zone exemption. Currently, if a qualified business owns its own facility or will be leasing the facility for a period of 5 or more years the costs associated with the construction, reconstruction, remodeling or enlarging of the facility would qualify for the sales tax exemption. Under the amendment, any person constructing, reconstructing, remodeling, or enlarging a facility located in Saline County may qualify for a sales tax enterprise zone exemption if prior to April 1, 2007, the title is conveyed to a qualified business.

◆ House Bill 2144 - Amends various provisions of Tax Increment Financing (TIF) statutes. The TIF legislation enacted in 1976 and amendments thereto are intended to provide a financing tool for redevelopment projects in blighted areas, enterprise zones, conservation areas, environmentally contaminated areas, auto race track project, historic theaters, major tourism areas, bioscience development area, etc. House Bill 2144 adds, "major motorsports complex" to the list of projects eligible for Sales Tax and Revenue (STAR) bonds. The definition of "major motorsports complex" specifies that it is a project located in Shawnee County.

◆ House Bill 2164 - Amends K.S.A. 74-50,115 which specifies the requirements for the sales tax enterprise zone exemption contained in K.S.A. 79-3606(cc). The proposal extends the time frame for which a retail businesses in a city of 2,500 or less which locates or expands to a location outside a city in a county having a population of 10,000 or less can qualify for the exemption. The current expiration date is July 1, 2004 and the amendment extends it to July 1, 2010.

◆ House Bill 2288 - Removes the requirement that the person signing the exemption certificate for a Tax-Exempt Entity provide their **driver's license number and instead may provide the exempt entity's tax identification number**. Effective July 1, 2005.

◆ House Bill 2406 - Allows any three or more contiguous counties not located in a metropolitan area to create a public improvement district for the purposes of constructing, operating and maintaining public infrastructure improvements. In order to finance the public improvement district, the district is authorized to levy property tax upon all taxable real and tangible personal property in the district and may impose a sales tax not to exceed .50%. Such property tax and sales tax would be for a period not to exceed ten years and no such tax shall be imposed by a district until the authority to do so has been approved by the electors of such county, which is a member of the district. The bill would further clarify that any sales tax imposed would be subject to existing statutory and administrative provisions relating to local sales taxes.

◆ Senate Bill 23 - Concerns the **purchase of motor vehicles by private sales** and the charging of sales tax on these isolated and occasional sales. Amends K.S.A 8-135 to require the seller of the vehicle to certify on the form filed for application or reassignment of title the mileage and the purchase price of the vehicle. It also amends K.S.A 79-3603 to delete the requirement imposed by the 2004 Legislature that the tax be based the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5101, which are the values used in computing the property tax on vehicles, if greater than the purchase price stated by the purchaser. Provides for a **refund** of the difference between the tax paid and the amount that would have been paid prior to the revision of the statute by the 2004 legislature was removed. The refund must be applied for within six (6) months of March 3, 2005 – [thus, the application for refund must be postmarked to KDOR on or before **September 3, 2005**] and no refund for less than \$10 shall be paid.

◆ Senate Bill 58 - Amends local sales tax statutes to provide for a special local sales tax for Sedgwick County. The proposal would authorize a 1% tax approved by the voters of Sedgwick County for the purpose of constructing and equipping a new regional events center, improvements to the Kansas coliseum complex, and the maintenance of both. The tax is to commence on July 1, 2005 and terminate not later than 30 months later. This county sales tax has already been voted on and approved by the voters of Sedgwick County.

◆ Senate Bill 105 - amends K.S.A. 12-187 as it concerns the extension of a Miami County local sales tax. The voters of Miami County approved the extension of the local tax for financing the costs of roads at the election held November 2, 2004. This proposal would provide the authorization for the tax to be extended

an additional 5 years.

◆ Senate Bill 209 - Amends the transportation development district act, K.S.A. 12-17,144 and 12-17,145. The changes provide the municipality a more streamlined approach in levying the transportation development district sales tax. The changes do not affect how the tax is administered by the department of revenue. The change in the amended version requires that the maximum project costs be provided on petitions and notices and not the estimated cost.

◆ Senate Bill 295 - Amends local sales tax statutes to provide for a special local sales tax for Neosho County. The proposal would authorize a .5% tax for the purpose of constructing and improving roads.

Severance Tax:

◆ House Bill 2390 - Establishes the Oil and Gas Valuation Depletion Trust Fund. Beginning July 1, 2008, certain percentages of severance tax revenue shall be credited to separate trust accounts for each county which in fiscal year 2005 or any fiscal year thereafter had \$100,000 or more in receipts from the severance tax on oil and gas. Each county's trust account shall be credited in the proportion that the amount of oil and gas valuation depletion trust fund receipts collected from that county bears to the total amount of moneys credited to the oil and gas valuation depletion trust fund. Such moneys shall be credited in trust for such county for distributions as provided in this act. Effective July 1, 2005.

Withholding Tax:

◆ House Bill 2003 Amends the emerging industry (Bioscience) act – further defines what constitutes a “Bioscience Company”.

◆ House Bill 2265 - Creates the “qualified manufacturer act” which will allow the Secretary of Commerce to enter into an agreement to pay back 100% of the withholding from Kansas wages paid to employees at the qualified manufacturer for 3 to 4 years, not to exceed 1 million dollars to a qualified manufacturer engaged in the production of cellulose in Shawnee County.

Motor Vehicle Legislation:

◆ House Bill 2187 - Amends K.S.A. 2004 Supp. 79-5107 by exempting from **property tax motor vehicles owned by certain military individuals** – No tax shall be levied under the provisions of this act upon not more than two motor vehicles which are owned by a resident individual: *Who is in the full-time military service of the United States, is absent from this state solely by reason of military orders on the date of such individual's application for registration and such motor vehicles are maintained by such individual outside of this state; or*
(2) *who is a member of the military service of the United States and is mobilized or deployed on the date of such individual's application for registration.*

◆ House Bill 2215 - Creates the Hazmat Fee Fund and provides for the collection and deposit of all hazardous materials endorsement fees into the Hazmat Fee Fund.

◆ House Bill 2315 - Amends K.S.A. 2004 Supp. 8-1,134 allowing technical colleges and community colleges to be issued permanent registration plates for truck tractors, trailers or semitrailers leased by the technical college or community college and used exclusively for a truck driver training program.

◆ Senate Bill 41 - Amends K.S.A. 8-147, relating to the manufacture of motor vehicle license plates, by allowing for three number combinations followed by three letters rather than the letter/number combinations currently provided for in the statute.

◆ Senate Bill 60 - Amends K.S.A. 2004 Supp. 8-126 and 8-1402a relating to the definition of all-terrain vehicles. Both statutes are amended to increase the width and weight of **ATVs** from 45 inches and 650 pounds to 48 inches and 1,000 pounds.

◆ Senate Bill 148 - Amends K.S.A. 8-1013 concerning driving under the influence of alcohol or drugs and

relating to driving privileges. The bill removes the "5-year limitation" in the definition of "occurrence" which has the effect that prior test refusals, test failures, **DUI convictions** and DUI diversions more than 5 years prior to the present occurrence would also be used to determine the appropriate driver's license sanction.

◆ Senate Bill 252 - Amends K.S.A. 8-136 to allow trailer manufacturers or dealers to use a dealer license plate for the transportation of not more than four trailers.

Alcohol Beverage Control:

◆ Senate Bill 195 - As it concerns the department of revenue provides for the **sales of firearms seized by the department**. The proposal would enable the department to sell the firearms or dispose of the firearms by transferring the ownership to the historical society, local law enforcement, department of wildlife and parks, or Kansas bureau of investigation. Under current law, the department can only sell seized firearms at public auction. The proposal also contains provisions for local law enforcement as it concerns firearms in sections 1-4 and 10. These sections are not addressed in this fiscal note.

◆ Senate Bill 298 - Amends existing liquor statutes to bring them into conformity. The act restores the power to regulate the liquor statutes in the state, deletes or modifies existing language that was determined non-uniform, continues to allow Sunday sales of liquor in cities and counties where approved prior to the enactment of this act, and allows cities and counties the ability to allow Sunday sales of alcoholic liquor and cereal malt beverages. The act also makes the selling of cereal malt beverages legal in those cities and counties that had approved Sunday sales prior to this act. Effective July 1, 2005.

Manufactured Housing:

◆ Senate Bill 4 – Provides for the licensing of manufactured housing installers in the State of Kansas to be regulated by the Kansas Housing Resources Corporation.

Tax Administration:

◆ Senate Bill 13 - Modifies several taxation statutes as it **concerns confidentiality and disclosure of taxpayer information**. The proposal will allow reporting to local governments receiving local excise tax distributions, reporting of liquor, cigarette, dry cleaning, water protection fee, and enterprise zone sales tax information to other government agencies involved in the administration or regulation of the tax entities. Providing of data to Kansas, Inc. is removed from the statutes and additions for the reporting of certain tax credit data to the Secretary of Commerce has been included.

Taxpayer Assistance: If you have questions about this notice or its application, please contact the department at (785) 368-8222, or visit our web site at www.ksrevenue.org. Copies of all the above-sited bills are available from the Kansas Legislature's web site: <http://www.kslegislature.org/legsrv-legisportal/index.do>

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