

**MEMORANDUM**

**TO:** All County Appraisers, County Clerks, County Treasurers and Register of Deeds

**FROM:** Tony R. Folsom, Deputy Director, Division of Property Valuation

**DATE:** June 14, 2007

**SUBJECT:** 2007 Legislation Pertaining to Property Tax Laws

The 2007 Legislature made changes to the property tax laws that have a varied effect upon our offices. Below is a summary by bill number followed by an analysis of each bill.

**House Bill 2038**

- Providing property tax exemptions and other incentives for certain energy related industries. There are four energy related industries that are addressed:
  - New nuclear generation facility property;
  - waste heat utilization system property;
  - new or expanded biomass-to-energy plant property; and
  - biofuel storage and blending equipment.

**House Bill 2039**

- Thermal resources or technologies no longer qualify as a renewable energy resource or technology for property tax exemption.

### **House Bill 2044**

- Creates the authority for two or more counties to enter into an inter-local cooperation agreement to jointly promote economic development ;
- Amends the business, telecommunications and railroad machinery and equipment “slider” provisions for reimbursing taxing subdivisions for property tax reductions created by the exemption of commercial and industrial, telecommunication and railroad machinery and equipment;
- Provides authority for the board of county commissioners of Johnson county to cancel certain uncollected real estate taxes and penalties;
- Renews the 20-mill school levy for the 2007-2008 and 2008-2009 school years.
- Exemption of certain real property transferred by the city of Olathe to the Kansas State University Foundation and all tangible personal property, which is held, used or operated for educational and research purposes at the Kansas State University Olathe innovation campus located in Olathe.
- Exemption for all storage structures designed and predominantly used for the storage of cellulose matter or other related agriculturally derived material to be used in the production of cellulosic alcohol and co-products.
- Renews the \$20,000 exemption of the appraised value of residential property from the state school levy for tax years 2007 and 2008.
- Amends the notification requirements for the pro-ration of the valuation of boats.

### **House Bill 2419**

- Carbon dioxide reduction act.
  - Provides for Kansas Corporation Commission to adopt rules and regulations relating to procedures and standards for safe and secure injection of carbon dioxide and maintenance of underground storage of carbon dioxide.
  - Establishes the carbon dioxide injection well and underground storage fund in the state treasury.
  - Exemption for any carbon dioxide capture and sequestration or utilization property.
  - Exemption for any electric generation unit which captures and sequesters all carbon dioxide and other emissions.
  - Provides for income tax deductions with respect to the amortization of the amortizable costs of carbon dioxide capture, sequestration or utilization machinery and equipment.

### **House Bill 2476**

- Amends the homestead property tax refund act.
  - Creates an asset test for homestead filers.
  - Provides that if a homestead filer owes delinquent taxes on the homestead, any homestead refund is sent to the county treasurer for application to the delinquent taxes.
  - Excludes 50% of social security income from definition of “income.”
  - Reduces renter’s refund percentage from 20% to 15%.
  - Increases maximum homestead refund to \$700.
  - Property tax statement only need be provided if requested.
  - Provides for denial of refund if renter does not provide requested information.

### **Senate Bill 360**

- Amends the state certified and licensed real property appraiser’s act.
  - Allows individuals who have been issued a certificate or license to request that such certificate or license be placed on inactive status.
  - Authorizes the real estate appraisal board to apply to district court for issuance of subpoenas.
  - Amends the statute concerning assessment of costs of conducting proceedings before the real estate appraisal board.

## Analysis

### House Bill 2038

**House Bill 2038 has several provisions that relate to KCC powers concerning nuclear generation facilities and provisions relating to income tax credits & deductions that will not be addressed in this memo** *HB 2038 §§ 2-9; 10-14; 18; 21-36.*

**Energy related industry property tax exemptions:** There are four types of energy related properties that are addressed: Nuclear generation facilities; waste heat utilization systems; biomass-to-energy plants; and biofuel storage and blending equipment.

(1) Exemption for any **new nuclear generation facility** property, which is defined to mean:

- any real or tangible personal property;
- purchased, constructed or installed for incorporation in and used as part of a nuclear generation facility producing electricity or electric power;
- of which construction begins after December 31, 2006; and
- is within three miles of a nuclear generation facility that is in existence on January 1, 2007.

The exemption is:

- from and after purchase or commencement of construction or installation; and
- continuing for 10 taxable years immediately following the taxable year in which construction or installation is completed.

The owner or owners of any new nuclear generation facility property shall pay to the appropriate taxing subdivisions a payment in lieu of taxes in an amount equal to the amount which would have been levied upon the real property portion of such property.

*HB 2038 § 1.*

(2) Exemption for any **waste heat utilization system** property, which is defined to mean:

- any real or tangible personal property;
- purchased, constructed or installed after December 31, 2006, for incorporation in and used as part of a waste heat utilization system, which is defined to mean:
  - facilities and equipment for the recovery of waste heat generated in the process of generating electricity at an electric generation facility located in Kansas and the use of such heat is to generate additional electricity or to produce fuels from renewable energy resources or technologies as defined in K.S.A. 79-201 *Eleventh*. *HB 2038 § 16(c)*.

The exemption is:

- from and after purchase or commencement of construction or installation; and
- continuing for 10 taxable years immediately following the taxable year in which construction or installation is completed.

*HB 2038 § 17.*

(3) Exemption for **biomass-to-energy plant**, which is defined to be:

- an industrial process plant located in Kansas where biomass is processed to produce annually any of the following and co-products:
  - not less than 500,000 gallons of cellulosic alcohol;
  - liquid or gaseous fuel or energy in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol; or
  - oil produced for direct conversion into fuel in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol.

*HB 2038 §§ 20(a) & 27(b) amending K.S.A. 2006 Supp. 79-229 & 79-32,233.*

The exemption is for:

- any real or tangible personal property purchased, constructed or installed for incorporation in and used as part of a **new** biomass-to-energy plant, construction of which begins after December 31, 2005; and
- any real or tangible personal property purchased, constructed or installed for the **expansion** of an existing biomass-to-energy plant of which construction or expansion begins after December 31, 2005, if the capacity of the plant is increased by at least 10%.

The exemption is:

- from and after purchase or commencement of construction or installation of such property; and
- for the 10 taxable years immediately following the taxable year in which construction or installation is completed.

*HB 2038 § 20 amending K.S.A. 2006 Supp. 79-229.*

Biomass is defined to be:

- any organic matter available on a renewable or recurring basis, including solid and liquid organic waste, but excluding:
  - (1) petroleum oil, natural gas, coal in lignite, and any products thereof; and
  - (2) corn or grain sorghum suitable for human consumption.

*HB 2038 § 27(a) amending K.S.A. 2006 Supp. 79-32,233.*

(4) Exemption for any **storage and blending equipment**, which is defined to mean:

- any equipment which is used for storing and blending petroleum-based fuel and biodiesel, ethanol or other biofuel, and
- is installed at a fuel terminal, refinery or biofuel production plant after December 31, 2006.

Such equipment does not include equipment used only for denaturing ethyl alcohol.

The exemption is:

- from and after installation of such equipment; and
- continuing for 10 taxable years immediately following the taxable year in which installation is completed.

*HB 2038 §§ 37 & 32(e).*

### **Financing of energy related industry property:**

- Kansas Development Finance Authority is authorized to issue revenue bonds to construct:
  - new renewable electric cogeneration facilities. *HB 2038 § 15.*
  - new biomass-to-energy plants or expansion of existing plants. *HB 2038 § 19.*
- Kansas Development Finance Authority is authorized to issue revenue bonds to construct, purchase and install:
  - waste heat utilization systems at electric generation facilities. *HB 2038 § 16.*

### **House Bill 2039**

- Amends the Renewable Energy Electric Generation Cooperative Act to remove thermal resources or technologies as a renewable resource or technology under the act. *HB 2039 § 1, amending K.S.A. 2006 Supp. 17-4652.*
- Amends the statutes concerning the powers of the Kansas Corporation Commission relating to parallel generation services to remove thermal resources or technologies as a renewable resource or technology under the statutes. *HB 2039 § 2, amending K.S.A. 66-1,184a.*
- Amends K.S.A. 2006 Supp. 79-201 *Eleventh* to remove thermal resources or technologies as a renewable resource or technology that qualifies for the property tax exemption. *HB 2039 § 3.*

### **House Bill 2044**

#### **(1) Interlocal cooperation agreement to jointly promote economic development**

Creates the authority for two or more counties to enter into an inter-local cooperation agreement under K.S.A. 12-2901, *et seq.* to jointly promote economic development at any location or locations within the boundaries of the counties involved in the agreement in accordance with the provisions of K.S.A. 19-4101 *et seq.*

The inter-local agreement may provide:

- for the establishment of a strategic, multi-year economic development plan;
- for the creation of a separate legal entity that shall be authorized to exercise the powers set forth in K.S.A. 12-2904a and in K.S.A. 19-3808 within the boundaries of the counties that have entered into the agreement;
- that the separate legal entity shall use revenues from whatever source to further the economic development purposes set forth in the agreement; and
- that consideration for participation in the agreement may include a system of revenue-sharing assessments or transfers among and between the counties involved in the agreement based on the growth in assessed valuation of the property subject to the inter-local cooperation agreement.

A copy of the inter-local cooperation agreement is to be filed with the county clerk and a copy provided to the county or district appraiser of each county involved in the agreement.

The county or district appraiser of each county involved in the agreement shall certify the amount of any increase in assessed valuation of the property that is subject to the inter-local cooperation agreement to the county clerk of each county involved in the agreement on or before June 15<sup>th</sup> of each year.

*HB 2044 § 1.*

**(2) Slider amendment**

Amends the business, telecommunications and railroad machinery and equipment “slider” provisions for reimbursing taxing subdivisions for property tax reductions created by the exemption of commercial, industrial, telecommunication and railroad machinery and equipment. *HB 2044 §§ 2 & 3 amending K.S.A. 2006 Supp. 79-2978 and 79-2979.*

Pursuant to the slider, the secretary of revenue is to determine the amount of money that each county is to receive as reimbursement from the state. The calculation is based upon the difference between the amount of ad valorem taxes levied on commercial, industrial, telecommunication and railroad machinery and equipment by all taxing subdivisions in the county for tax year 2005 (base year) and the amount levied for the tax year of the apportionment (2007, 2008, 2009, 2010 or 2011) as certified by the county clerk to the director of property valuation prior to November 15<sup>th</sup> of the year of the apportionment. A copy of the certification is to be provided to the county treasurer to assist the county treasurer in determining the distribution of the money to the taxing subdivisions. *HB 2044 § 2(c) amending K.S.A. 2006 Supp. 79-2978.*

The primary amendment is to require the subtraction from the taxes levied for the tax year of the apportionment the total ad valorem taxes levied by the county on commercial, industrial, telecommunications and railroad machinery and equipment that had been previously exempted or abated prior to July 1, 2006, pursuant to an industrial revenue bond exemption (K.S.A. 2006 Supp. 79-201a *Second*) or an economic development exemption (Article 11 Section 13 of the Kansas Constitution), and which such abatement or exemption expires after July 1, 2006. *HB 2044 §§ 2(b)(1)-(5); 2(f); 3(b)(1)-(5) & 3(e) amending K.S.A. 2006 Supp. 79-2978 and 79-2979.*

Finally, language is inserted that is intended to clarify the distribution of the money received from the state to the taxing subdivisions. The distribution is to be made by the county treasurer according to the difference in total ad valorem taxes levied by such taxing subdivision for the tax year 2005 and the total ad valorem taxes levied by such taxing subdivision for the tax year of the apportionment, subject to the percentage reductions set forth in the statute (90% for tax year 2007; 70% for 2008; 50% for 2009; 30% for 2010; & 10% for 2011). *HB 2044 §§ 2(e)(2) & 3(d)(2) amending K.S.A. 2006 Supp. 79-2978 and 79-2979.*

**(3) Cancellation of certain uncollected real estate taxes and penalties**

The board of county commissioners of Johnson County, upon a majority vote, may cancel all or a part of any uncollected real estate taxes and penalties on a property known as the Kuhlman Diecasting property located at 16400 Mission Road, Johnson County, Kansas.

*HB 2044 § 4.*

**(4) Renewal of 20-mill school levy**

The 20-mill school levy is renewed for the 2007-2008 and 2008-2009 school years.  
*HB 2044 § 5 amending K.S.A. 2006 Supp. 72-6431.*

**(5) Property tax exemption of certain property in Olathe**

Exemption for:

- all real property from and after the date of its transfer by the city of Olathe to the Kansas State University Foundation;
- all buildings and improvements thereafter erected and located on such property; and
- all tangible personal property, which is held, used or operated for educational and research purposes at the Kansas State University Olathe innovation campus located in Olathe.

*HB 2044 § 6 amending K.S.A. 2006 Supp. 79-201a adding a subsection Twenty-First.*

**(6) Property tax exemption of structures used to store cellulose matter**

Exemption for:

- all storage structures designed and predominantly used for the storage of cellulose matter or other related agriculturally derived material;
- to be used in the production of cellulosic alcohol and co-products;
- for any eight of the 10 calendar years next following the calendar year in which such storage structure was newly constructed or first assembled;

Exemption is:

- limited to a total of eight years for each such individual storage structure; and
- only applies to storage structures newly constructed or first assembled after December 31, 2006.

*HB 2044 § 7 amending K.S.A. 2006 Supp. 79-201d adding a subsection Fourth.*

**(7) Renewal of \$20,000 residential property school levy exemption**

The \$20,000 exemption of the appraised value of residential property from the state school levy is extended for tax years 2007 and 2008. *HB 2044 § 8 amending K.S.A. 2006 Supp. 79-201x.*

**(8) Pro-ration of boat valuation**

On and after July 1, 2007, the requirement that notice of the acquisition or sale of a boat be provided to the county appraiser within 30 days of such acquisition or sale in order for the owner to have the valuation prorated is removed and replaced with the requirement that such notification be by December 20<sup>th</sup> of the year of acquisition or sale. *HB 2044 § 9 amending K.S.A. 2006 Supp. 79-306e.* The amendment applies to sales or purchases of boats that occur in 2007, even if the sale or purchase occurred prior to July 1, 2007.

**House Bill 2419**

**Carbon dioxide reduction act**

- The Kansas Corporation Commission (KCC) is required to establish rules and regulations by July 1, 2008 establishing requirements, procedures and standards for the safe and secure injection of carbon dioxide and maintenance of underground storage of carbon dioxide and may establish fees for permitting, monitoring and inspecting operators of carbon dioxide injection wells and underground storage. *HB 2419 § 2.*
- Establishes the carbon dioxide injection well and underground storage fund in the state treasury, which is to be administered by the KCC. *HB 2419 § 3.*
- Authorizes the KCC to impose a penalty not to exceed \$10,000 per violation to prevent the violation of any provision under the act or rules and regulations adopted by the KCC. *HB 2419 § 4.*
- Authorizes the KCC to enter any property or facility subject to the act for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to air pollution, water pollution, soil pollution or public health or safety. The representatives of the KCC shall also have the right of ingress and egress upon any lands to halt escape of carbon dioxide into the air. *HB 2419 § 5.*

- Creates an ad valorem property tax exemption for:
  - any carbon dioxide capture, sequestration or utilization property; and
  - any electric generation unit which captures and sequesters all carbon dioxide and other emissions.

Exemption is:

- from the date of purchase or commencement of construction or installation;
- for the 5 taxable years immediately following the taxable year in which construction or installation is completed; and
- applies to all taxable years commencing after December 31, 2007.

Carbon dioxide capture, sequestration or utilization property means:

- any machinery and equipment used to capture carbon dioxide from industrial and other anthropogenic sources or to convert such carbon dioxide into one or more products;
- any carbon dioxide injection well; and
- any machinery and equipment used to recover carbon dioxide from sequestration.

Carbon dioxide injection well means:

- any hole or penetration of the surface of the earth used to inject carbon dioxide for underground storage or for enhanced recovery of hydrocarbons;
- any associated machinery and equipment used for such injection of carbon dioxide; but
- does not include underground storage. *HB 2419 § 2.*

*HB 2419 § 6.*

- Provides for income tax deductions with respect to the amortization of the amortizable costs of carbon dioxide capture, sequestration or utilization machinery and equipment. *HB 2419 §§ 7-10.*

## House Bill 2476

### Homestead Property Tax Refund Act

- Provides for an asset test for homestead filers. In order to qualify for homestead refund, the fair market value of the filer's homestead must be less than \$350,000. *HB 2476 § 1.*
- Repeals the prohibition against persons with delinquent homestead property taxes from participating in the homestead refund program. Replaces with requirement that if there are delinquent taxes owed on the homestead, any homestead refund is sent to the county treasurer for application first to the delinquent taxes and subsequently to any other homestead taxes currently due. *HB 2476 § 2.*
- Excludes 50% of social security income from the definition of "income" for the homestead tax refund purpose. *HB 2476 § 3(a) amending K.S.A. 2006 Supp. 79-4502.*
- Reduces a renter's refund claim percentage from 20% to 15% of the rent paid in 2007 and subsequent years. *HB 2476 § 3(i) amending K.S.A. 2006 Supp. 79-4502.*
- Concerning payment of refund claims by the department of revenue, reference is added to new requirement that if there are delinquent taxes, such refund will be sent to the county treasurer. *HB 2476 § 4 amending K.S.A. 2006 Supp. 79-4504.*
- Increases maximum homestead refund from \$600 to \$700. *HB 2476 § 5 amending K.S.A. 79-4509.*
- Homestead filers only have to provide a copy of their property tax statement if the Director of Taxation requests a copy. *HB 2476 § 6 amending K.S.A. 79-4511(b).*
- Provides for denial of certain undocumented refund claims by renters. If a renter's household income is 150% or less of the homestead rental amount and the filer does not provide any documentation or information requested by the division of taxation to verify such household income within 30 days of the request, the filer's claim shall be denied. *HB 2476 § 6 amending K.S.A. 79-4511(c).*

## Senate Bill 360

- Amends the state certified and licensed real property appraiser's act. K.S.A. 58-4101 *et seq.*
- Allows individuals that have been issued a certificate or license by the Kansas Real Estate Appraisal Board (KREAB) to request that such certificate or license be placed on inactive status for a period not to exceed two years and to request that an inactive license be reinstated. *SB § 1(a) & (d).*
- While on inactive status, the individual shall not:
  - assume or use any abbreviations likely to create the impression that such person holds an active certificate or license;
  - describe or refer to any appraisal or evaluation of real estate by the term state certified or state licensed or words of substantially similar meaning; or
  - prepare real estate appraisals for federally related transactions which, under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 require the services of a state certified or licensed appraiser. *SB § 1(c).*
- If certificate or license has been placed on inactive status for more than two years, the individual is required to meet all the requirements for original issuance of the certificate or license before it will be reinstated. *SB § 1(e).*
- Amends K.S.A. 58-4105 to provide that in connection with any investigation KREAB may apply to district court in accordance with K.S.A. 60-245 or 60-245a for the issuance of subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to practices which may be grounds for disciplinary action. *SB § 2(d).*
- Amends K.S.A. 58-4119 to provide that the costs of conducting any proceeding under the Kansas administrative procedures act may be assessed against the appraiser or applicant in such proportion as KREAB determines upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties. *SB § 5(a).*
- If KREAB is the unsuccessful party, the costs shall be paid from the real estate appraisal board fee fund.
- Defines costs and provides that the assessment of costs shall be included in the final order rendered in the proceeding. *SB § 5(b)(c).*