

Kansas Department of Revenue
Office of Policy and Research
109 SW 9th St.
Topeka, KS 66601-3506
Mark Burghart, Secretary



Phone: 785-296-8042
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www.ksrevenue.org

Laura Kelly, Governor

**State of Kansas
Department of Revenue
Notice of Hearing on Proposed Administrative Regulation**

A public hearing will be conducted by the Department of Revenue on Monday, January 25th, 2021 at 9:00am to consider the revocation of 92-19-47 and 92-19-67, retailers' sales tax regulation. Due to continuing concerns over COVID-19, the hearing will be held by teleconference hearing instead of an in-person hearing. To participate in the teleconference hearing, a participant should call (877)400-9499 and enter conference code 9676129715. Copies of these proposed regulations and Economic Impact Statements may be found at <https://www.ksrevenue.org/prproposedregulations.html>.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Erin Starr, Office of Policy and Research, Mills Building, 109 SW 9th St., Topeka, Kansas 66601 or through e-mail at erin.l.starr@ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Erin Starr at (785) 296-8042 or TTY (785) 296-6461.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impact follows:

**Kansas Department of Revenue
Article 19. Kansas Retailers' Sales Tax**

Revocation of K.A.R. 92-19-47 provides that any person acquiring property for the purpose of resale is deemed to be a retailer and must collect sales tax on the gross receipts received from such sale even if those sales may be few or infrequent. The Department will revoke this regulation to allow for isolated or occasional sales by individuals, businesses, non-profit organizations and religious organizations. Any individual/entity that does not have more than two events per calendar year for which the two events in aggregate do not exceed seven calendar

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days meets the definition of nonrecurring for purposes of the isolated or occasional sale exemption and therefore is not subject to sales tax. KDOR is unable to determine the impact this may have on Kansas individuals/businesses.

Revocation of K.A.R. 92-19-67 provides that any person acquiring property for the purpose of resale is deemed to be a retailer and must collect sales tax on the gross receipts received from such sale even if those sales may be few or infrequent. The Department will revoke this regulation to allow for isolated or occasional sales by individuals, businesses, non-profit organizations and religious organizations. Any individual/entity that does not have more than two events per calendar year for which the two events in aggregate do not exceed seven calendar days meets the definition of nonrecurring for purposes of the isolated or occasional sale exemption and therefore is not subject to sales tax. KDOR is unable to determine the impact this may have on Kansas individuals/businesses.

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Proposed

92-19-47. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988; revoked P-_____.)

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ATTORNEY GENERAL

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Proposed

92-19-67. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988; revoked P-_____.)

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**KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-19-47**

I. Brief description of the proposed rule(s) and regulation(s).

K.A.R. 92-19-47 provides that any person acquiring property for the purpose of resale is deemed to be a retailer and must collect sales tax on the gross receipts received from such sale even if those sales may be few or infrequent. The Department will revoke this regulation to allow for isolated or occasional sales by individuals, businesses, non-profit organizations and religious organizations. Any individual/entity that does not have more than two events per calendar year for which the two events in aggregate do not exceed seven calendar days meet the definition of nonrecurring for purposes of the isolated or occasional sale exemption and therefore not subject to sales tax.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This policy is not mandated federally.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

No compliance costs associated with this revocation and policy.

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C. Businesses that would be directly affected by the proposed rule and regulation;
Any individual, business entity, or not for profit entity may be affected based on the number of selling events they have during the year.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;
KDOR receives multiple inquiries from entities regarding whether that entity should be collecting sales tax on a particular sale they may be organizing. Clear established guidelines defining a nonrecurring sale for purposes of an isolated or occasional sale will be advantageous for all taxpayers of Kansas.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

N/A

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

N/A

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

KDOR is unable to determine the impact this may have on Kansas individuals/businesses.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas

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Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

N/A

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

The regulation does not apply to an environmental rule.

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**KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-19-67**

I. Brief description of the proposed rule(s) and regulation(s).

K.A.R. 92-19-67 provides that any person acquiring property for the purpose of resale is deemed to be a retailer and must collect sales tax on the gross receipts received from such sale even if those sales may be few or infrequent. The Department will revoke this regulation to allow for isolated or occasional sales by individuals, businesses, non-profit organizations and religious organizations. Any individual/entity that does not have more than two events per calendar year for which the two events in aggregate do not exceed seven calendar days meet the definition of nonrecurring for purposes of the isolated or occasional sale exemption and therefore not subject to sales tax.

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N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

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C. **Businesses that would be directly affected by the proposed rule and regulation;**
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E. **Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**
N/A

F. **An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**
N/A

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

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- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

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