

MEMORANDUM

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KANSAS TAX FACTS

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Property Taxes

House Sub. S.B. 157 reduced the property tax assessment level from 30 percent to 12 percent starting in tax year 1994 on taxable real property owned and operated by groups or organizations chartered pursuant to subsections 501(c)(3), 501(c)(4), 501(c)(8), and 501(c)(10) of the Internal Revenue Code; taxable real property owned and operated by 501(c)(2) organizations if such property is leased to a 501(c)(8) organization; and certain land owned by 501(c)(7) organizations if such land is actually and regularly used for recreational purposes.

S.B. 459 permitted Wyandotte County to institute and administer, prior to July 1, 1995, a one-time property tax accumulated interest amnesty program. The bill also authorized the county treasurer of any county to accept partial payment of delinquent real property tax, in accordance with payment guidelines established by the county treasurer.

S.B. 462 amended the School District Finance and Quality Performance Act in response to a court decision to reenact the 35-mill uniform school district general fund property tax levy for the 1994-95 and 1995-96 school years.

S.B. 542 changed the requirement that a physical inspection be performed when a property's value is increased was removed in favor of a requirement that the record of the latest

physical inspection be reviewed, and that documentation exist to support the increase in valuation. Payments of taxes under protest on the basis of valuation or assessment were prohibited in cases where the valuation had been appealed in the spring, unless the property had been sold or a change in value had been rescinded by the Director of Property Valuation (PVD). The Director of PVD was granted authority to review changes made by appraisers or hearing officers or panels subsequent to appeals or protests, and to rescind the changes. The Kansas Real Estate Ratio Study Act was amended to define the terms “valid sale,” “invalid sale,” and “unvalidated sale.” The Director of PVD was allowed to select random sales samples from the residential subclass and use the samples to establish the residential ratios in certain counties. The filing date for oil and gas personal property renditions was changed from March 15 to April 1. Tangible personal property discovered by appraisers after January 1, 1994 and on or before March 14, 1995 was declared to be not liable for any taxes prior to tax year 1992 and no penalty was to be added, unless the taxpayer had fraudulently omitted or underreported the property, and the fraud was proven by clear and convincing evidence.

H.B. 2555 eliminated the ability of cities and counties, starting in 1995, to grant certain property tax exemptions through the issuance of industrial revenue bonds (IRBs) for those retail firms classified under standard industrial classification codes 52 through 59. The bill also required cities and counties to conduct public hearings and conduct cost-benefit analyses prior to the granting of property tax exemptions through the issuance of IRBs. County clerks were mandated to transmit copies of exempt real and personal property appraisal rolls and all property exemption claim forms for IRBs and EDXs to the Director of Property Valuation Division (PVD). The PVD Director was required to submit an annual report on the amount of valuation exempted by IRBs and EDXs.

H.B. 2557 required Kansas Inc. to adopt a uniform cost-benefit model for purposes of statewide data collection and for evaluating potential industrial revenue bond and economic development property tax exemptions under consideration by cities and counties.

H.B. 2623 allowed boards of county commissioners to waive penalties and interest on personal property which was discovered in 1993 or 1994 to have been omitted from the tax rolls or which was discovered to have had its value under-reported. Counties could waive the penalties and interest only when the appropriate total amount of current and back taxes due on the escaped or under-

reported personal property was paid in 1994. The bill also excluded penalties for the late filing of personal property renditions from consideration by county clerks when computing the final tax levy rate.

H.B. 2624 removed property used exclusively by the state or any political subdivision for right-of-way purposes from the requirements that property tax exemption applications be filed with county appraisers and that the exemptions be approved by the State Board of Tax Appeals.

H.B. 2774, as amended by H.B. 3093, provided a property tax exemption for certain property owned and leased by any municipality or political subdivision, or being acquired by the municipality or political subdivision pursuant to a lease-purchase agreement, when such property was used for the purpose of providing office space necessary for the performance of medical services by persons licensed to practice medicine and surgery by the Board of Healing Arts.

H.B. 3011 provided that when real property or improvements to real property were discovered to have been omitted from the tax rolls and the property had been sold in the same year, the new owners of such property were not to be liable for back years' tax liability if the tax for the tax year in which the property was discovered to have been omitted was paid within 45 days after the issuance of an added or escaped property tax bill. The bill also prohibited persons who own real estate upon which there are delinquent property taxes or delinquent special assessments from purchasing additional real estate at delinquent tax sales.

S.B. 436 expanded an existing law to allow any county to employ attorneys or other persons to assist in the collection of unpaid personal property taxes on a contingent fee basis not to exceed 50 percent of the amount collected. Counties were prohibited, however, from employing persons on a contingent fee basis to audit personal property tax returns for the purpose of discovering undervalued property or property which has escaped taxation. The bill also amended the law dealing with real property tax sales to prohibit the sale to: any person who had a right to redeem the property subject to sale even if the amount included all unpaid amounts; any person who held an interest in the property or any mortgagee or assignee; any parent, grandparent, child, grandchild, spouse, sibling,

trustee, or trust beneficiary of any person with an interest in the real estate; or any corporation, current or former stockholder, officer, or director of any person with an interest in the property.

Sub. S.B. 732 authorized any municipality covered by the cash basis law to designate areas within its boundaries as neighborhood revitalization areas and to provide rebates to taxpayers in the amount of the incremental increases in property taxes resulting from improvements made to the property.

S.B. 731 added a new category of licensee for real estate appraisers -- a state provisional licensed real property appraiser classification, and extended from two years to five years the time in which an applicant for licensure or certification has to meet requirements and pass the examination for the classification sought by the applicant.

Income and Privilege Taxes

S.B. 230, the Kansas Community Services Program Act, authorized income tax, financial institution privilege tax, and domestic insurance company privilege tax credits for contributions by business firms to community service organizations or governmental entities which engage in the activities of providing community services, beginning with tax year 1994. The credit granted a contributor could not exceed 50 percent of the amount contributed to a community service organization, or 70 percent of the amount contributed to a rural community service organization. The contribution was not to be deductible at the state level. The credits were limited to a total of \$5,000,000 per year for all business firms.

S.B. 463 extended the sunset on the income tax credit for research and development expenditures by two years, from December 31, 1993 to December 31, 1995.

H.B. 2687, as amended by H.B. 3088, expanded income and financial institution privilege tax credits for expenditures to make certain property accessible for persons with a disability,

beginning in tax year 1994. The bill also authorized domestic insurance company privilege tax credits for the same purpose.

H.B. 3068 directed the Secretary of Revenue to approve and recommend judicial approval of a settlement agreement to resolve income tax refund claims of military retirees pending in the class action, *Keyton E. Barker, et al. v. State of Kansas, et al.* The bill provided that the settlement, if approved by the Shawnee County District Court, would be an aggregate amount equal to the amount of tax paid by each military retiree on retirement benefits received in tax years 1984 through 1991, plus 5 percent interest through December 31, 1991. Eligible claimants were to receive refund payments in annual installments over a three-year period. Transfers over a three-year period were to be made into the Military Retirees Income Tax Refund Fund (MRITRF) based on an amount certified by the Secretary of Revenue. The FY 1995 transfer (December 20, 1994) was to be made from the State Budget Stabilization Fund, and the FYs 1996 and 1997 transfers (July 1, 1995 and July 1, 1996) were to be made from the State General Fund. The settlement agreement, which had to be submitted to the District Court by June 15, 1994, was required to contain provisions for joint administration under the supervision of the Secretary of Revenue and counsel for the class. The settlement agreement also was required to contain a stipulation that the plaintiffs dismiss, with prejudice, their motion pursuant to 42 U.S.C. § 1988 to have attorney's fees paid by the state. An additional stipulation authorized class counsel to submit applications to District Court for reasonable litigation costs and expenses. If the settlement agreement received judicial approval, the bill stated that the payment of refunds would represent a "final and complete" settlement of all refund claims of all military retired personnel for tax years 1984 through 1991, including any appeal or administrative process perfected pursuant to law. Refunds would not be allowed on claims made after 18 months from judicial approval of the settlement agreement, provided due diligence had been exercised in attempting to locate eligible claimants. Payment of the refunds would be subject to the jurisdiction and supervisory control of the District Court. All administrative appeals were held in abeyance for as long as the judicial process is active in regard to the settlement agreement. Upon final judicial approval of the settlement agreement, all the administrative appeals were to be deemed dismissed with prejudice to all parties. The MRITRF was to be administered by the Secretary of Revenue in accordance with the provisions of the bill. No expenditures were to be made from such fund unless: (1) the settlement agreement was approved by the District Court; and (2) eligible persons had been afforded "reasonable

notice and an opportunity to be heard.” Such expenditures were to be made pursuant to vouchers approved by the Secretary of Revenue in accordance with the settlement agreement. H.B. 3068 also provided that the refunds would be allowed on claims duly made on behalf of estates of the deceased, surviving spouses, or other heirs-at-law.

H.B. 2929, the welfare reform bill, authorized any resident of the state to deposit up to \$2,000 (in the first year) in an individual development account (IDA) for educational purposes, with the income earned on contributions deposited in an IDA exempt from state income taxation. Account holders also were authorized to contribute \$1,000 for each dependent child in such an account. The maximum allowable amount of deposit escalates in each subsequent year based on the previous year's increase in the consumer price index.

Sales Taxes

S.B. 253 exempted from the sales tax fees and charges levied for participation in sports, games, and other recreational activities by not-for-profit youth recreation organizations exclusively providing services to persons 18 years of age or younger. The bill also declared null and void assessments of sales tax liability made against not-for-profit youth recreation organizations.

S.B. 447 exempted utilities consumed in the severing of crude oil.

H.B. 2004 provided a sales tax exemption for entry fees in a special event or tournament sanctioned by a national sporting association if spectators to such events are charged admissions which are taxable under another subsection of the sales tax imposition statute.

H.B. 2622 exempted all sales of propane gas for agricultural use. The bill also authorized the City of Manhattan to levy an additional sales tax of up to 0.75 percent for the financing of economic development initiatives or public infrastructure projects. Such a tax is required to expire no later than five years from the date of imposition. Allen County was authorized to levy a 0.5 percent sales tax for the financing of a solid waste disposal area. The revenue would not have to be shared

with cities, and the tax would sunset upon the payment of all costs incurred in the financing of the project. Jefferson County was granted additional rate authority of 1.0 percent for financing a courthouse, jail, law enforcement facility, or other county administrative facility.

Severance Tax

House Sub. S.B. 324 enacted a phased-in expansion in the property tax credit allowed in the severance tax law on natural gas, reducing the effective rate from 7 percent to 4.33 percent. The effective rate on gas was reduced from 7 percent to 6 percent on July 1, 1994; to 5 percent on July 1, 1995; and to 4.33 percent on July 1, 1996.

S.B. 714 exempted from the severance tax all production of oil or gas from a “three-year inactive well” for a period of ten years.

Recreational Vehicle Tax

House Sub. for S.B. 191, as amended by H.B. 3090, established a new tax system starting in 1995 for recreational vehicles, which include those motorized vehicles and trailers “designed primarily as living quarters for recreational, camping, vacation, or travel use.” The bill removed such vehicles from the motor vehicle tax and personal property tax systems and imposed a new tax based on the age and weight of the vehicles. The bill contained an amnesty provision which eliminated back taxes, penalties, and interest for persons who had not paid taxes for any tax year or any registration period commencing prior to January 1, 1995.

Economic Development Tax Incentives

S.B. 461 provided additional economic development incentives for certain service sector firms by making such firms eligible for incentives under the Tax Incentives for High

Performance Firms Law (K.S.A. 74-50,131 *et seq.*), and qualified investments under the Kansas Certified Venture Capital Company Act (K.S.A. 74-8301 *et seq.*).

H.B. 2556 required Kansas Inc. to submit an annual report to various legislative committees evaluating the cost effectiveness of various economic development tax incentives, including certain income tax credits and sales tax exemptions.

Other Tax Measures

S.B. 479 authorized the Director of Taxation or any county treasurer to accept credit cards in payment for any taxes or fees.

S.B. 480 reduced the interest rate on delinquent state taxes from 18 percent to 12 percent, from January 1, 1995, until December 31, 1997. After that time, the rate will be the underpayment rate in effect on the previous July 1, as prescribed by Section 6621 of the federal Internal Revenue Code, plus 1 percent. The rate paid on refunds of overpayment of income tax was reduced from 12 percent to 6 percent from January 1, 1995, until December 31, 1997, and thereafter the rate will be the overpayment rate which is in effect on the previous July 1 as prescribed by Section 6621 of the federal Internal Revenue Code. A new section was enacted permitting taxpayers to make a deposit with the Director of Taxation of all or any part of additional taxes, interest and penalty assessed, and the amount deposited would not be subject to any interest or penalty from the time of the deposit until the liability is finally determined.

S.B. 494 amended the Kansas Inheritance Tax Act to make several technical changes. First, the class of beneficiaries of Qualified Terminable Interest Property (QTIP) for inheritance tax purposes was to be determined by their relationship to the predeceased spouse rather than with respect to the surviving spouse. Also, a fractional QTIP election was authorized. The term "distributee" was expanded to include a QTIP trustee or any other successor in interest. The bill also allowed a trustee to divide trusts into two or more separate trusts or merge two or more trusts into a single trust without

a judicial proceeding if the trustee has determined that such actions would result in a significant decrease in current or future federal income, gift, estate, or generation-skipping transfer tax liability.

S.B. 503 amended provisions relating to penalties for nonpayment and underpayment of, and interest on late payments of, state income and excise taxes.

The 10 percent penalty for underpayment of state income or excise tax was applied for six months rather than 60 days. Thereafter, the penalty was to be 25 percent, as under prior law. A penalty of 10 percent was imposed on assessments following an audit, unless it was determined that a taxpayer had failed to make a reasonable attempt at compliance. Under such circumstances, a 25 percent penalty would be assessed. Penalties could be waived and the interest rate could be reduced to the federal underpayment rate for reasonable cause. On valid extensions of time to file, the penalty was to be waived if 90 percent of the tax was paid by the original due date. When a taxpayer voluntarily amends a return, penalties were to be waived unless the taxpayer had been advised that the return was being examined at the time of filing.

S.B. 545 removed the July 1, 1994 sunset of the authority to conduct instant bingo games.

H.B. 2613 changed the distribution of the marijuana and controlled substance taxes and make a number of technical changes in the law. The bill reduced the share of drug tax assessments and penalties deposited in the State General Fund from 50 percent to 25 percent and increased the share distributed to law enforcement agencies from 50 percent to 75 percent. Amendments to K.S.A. 1993 Supp. 79-5205 clarified that the Department of Revenue may assess the tax immediately; codified the previous practice of not selling seized real and personal property until the completion of the hearing and appeals process; and provided that the Director of Taxation will not be bound by plea agreements or judicial determinations in criminal cases with respect to the quantity of illegal drugs involved.

H.B. 2809 exempted from special fuel tax the sale or delivery of special fuel dyed according to regulations prescribed under federal law and used only for nonhighway purposes.

H.B. 2726 authorized the Kansas Development Finance Authority to create subsidiary corporations for the purpose of establishing state tax credit equity funds to assist in the development of low-income and middle-income housing and to obtain financing through participation in the low income housing tax credit program pursuant to Section 42 of the Internal Revenue Code.

H.B. 2654 changed the amount of mortgage registration tax collected by the Register of Deeds from \$0.26 for each \$100 and major fraction thereof to .26 percent of principal debt or obligation which is secured by a mortgage on real property; and exempted for the payment of the mortgage registration fee, any mortgage given for the sole purpose of changing the trustee.