

HOUSE BILL No. 2117

By Committee on Taxation

1-27

1 AN ACT concerning sales taxation; relating to imposition of tax;
2 exemptions; amending K.S.A. 2010 Supp. 79-3603 and repealing the
3 existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 79-3603 is hereby amended to read as
7 follows: 79-3603. For the privilege of engaging in the business of selling
8 tangible personal property at retail in this state or rendering or furnishing
9 any of the services taxable under this act, there is hereby levied and there
10 shall be collected and paid a tax at the rate of 5.3%, and commencing July
11 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of
12 5.7%. Within a redevelopment district established pursuant to K.S.A. 74-
13 8921, and amendments thereto, there is hereby levied and there shall be
14 collected and paid an additional tax at the rate of 2% until the earlier of
15 the date the bonds issued to finance or refinance the redevelopment
16 project have been paid in full or the final scheduled maturity of the first
17 series of bonds issued to finance any part of the project upon:

18 (a) The gross receipts received from the sale of tangible personal
19 property at retail within this state;

20 (b) the gross receipts from intrastate, interstate or international
21 telecommunications services and any ancillary services sourced to this
22 state in accordance with K.S.A. 2010 Supp. 79-3673, and amendments
23 thereto, except that telecommunications service does not include: (1) Any
24 interstate or international 800 or 900 service; (2) any interstate or
25 international private communications service as defined in K.S.A. 2010
26 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
27 data service; (4) any telecommunication service to a provider of
28 telecommunication services which will be used to render
29 telecommunications services, including carrier access services; or (5) any
30 service or transaction defined in this section among entities classified as
31 members of an affiliated group as provided by section 1504 of the federal
32 internal revenue code of 1986, as in effect on January 1, 2001;

33 (c) the gross receipts from the sale or furnishing of gas, water,
34 electricity and heat, which sale is not otherwise exempt from taxation
35 under the provisions of this act, and whether furnished by municipally or
36 privately owned utilities, except that, on and after January 1, 2006, for

1 sales of gas, electricity and heat delivered through mains, lines or pipes to
2 residential premises for noncommercial use by the occupant of such
3 premises, and for agricultural use and also, for such use, all sales of
4 propane gas, the state rate shall be 0%; and for all sales of propane gas,
5 LP gas, coal, wood and other fuel sources for the production of heat or
6 lighting for noncommercial use of an occupant of residential premises,
7 the state rate shall be 0%, but such tax shall not be levied and collected
8 upon the gross receipts from: (1) The sale of a rural water district benefit
9 unit; (2) a water system impact fee, system enhancement fee or similar
10 fee collected by a water supplier as a condition for establishing service; or
11 (3) connection or reconnection fees collected by a water supplier;

12 (d) the gross receipts from the sale of meals or drinks furnished at
13 any private club, drinking establishment, catered event, restaurant, eating
14 house, dining car, hotel, drugstore or other place where meals or drinks
15 are regularly sold to the public;

16 (e) the gross receipts from the sale of admissions to any place
17 providing amusement, entertainment or recreation services including
18 admissions to state, county, district and local fairs, but such tax shall not
19 be levied and collected upon the gross receipts received from sales of
20 admissions to any cultural and historical event which occurs triennially;

21 (f) the gross receipts from the operation of any coin-operated device
22 dispensing or providing tangible personal property, amusement or other
23 services except laundry services, whether automatic or manually
24 operated;

25 (g) the gross receipts from the service of renting of rooms by hotels,
26 as defined by K.S.A. 36-501, and amendments thereto, or by
27 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
28 thereto but such tax shall not be levied and collected upon the gross
29 receipts received from sales of such service to the federal government and
30 any agency, officer or employee thereof in association with the
31 performance of official government duties;

32 (h) the gross receipts from the service of renting or leasing of
33 tangible personal property except such tax shall not apply to the renting
34 or leasing of machinery, equipment or other personal property owned by a
35 city and purchased from the proceeds of industrial revenue bonds issued
36 prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-
37 1740 through 12-1749, and amendments thereto, and any city or lessee
38 renting or leasing such machinery, equipment or other personal property
39 purchased with the proceeds of such bonds who shall have paid a tax
40 under the provisions of this section upon sales made prior to July 1, 1973,
41 shall be entitled to a refund from the sales tax refund fund of all taxes
42 paid thereon;

43 (i) the gross receipts from the rendering of dry cleaning, pressing,

1 dyeing and laundry services except laundry services rendered through a
2 coin-operated device whether automatic or manually operated;

3 (j) the gross receipts from the rendering of the services of washing
4 and washing and waxing of vehicles;

5 (k) the gross receipts from cable, community antennae and other
6 subscriber radio and television services;

7 (l) (1) except as otherwise provided by paragraph (2), the gross
8 receipts received from the sales of tangible personal property to all
9 contractors, subcontractors or repairmen for use by them in erecting
10 structures, or building on, or otherwise improving, altering, or repairing
11 real or personal property.

12 (2) Any such contractor, subcontractor or repairman who maintains
13 an inventory of such property both for sale at retail and for use by them
14 for the purposes described by paragraph (1) shall be deemed a retailer
15 with respect to purchases for and sales from such inventory, except that
16 the gross receipts received from any such sale, other than a sale at retail,
17 shall be equal to the total purchase price paid for such property and the
18 tax imposed thereon shall be paid by the deemed retailer;

19 (m) the gross receipts received from fees and charges by public and
20 private clubs, drinking establishments, organizations and businesses for
21 participation in sports, games and other recreational activities, but such
22 tax shall not be levied and collected upon the gross receipts received
23 from: (1) Fees and charges by any political subdivision, by any
24 organization exempt from property taxation pursuant to paragraph *Ninth*
25 of K.S.A. 79-201, and amendments thereto, or by any youth recreation
26 organization exclusively providing services to persons 18 years of age or
27 younger which is exempt from federal income taxation pursuant to
28 section 501(c)(3) of the federal internal revenue code of 1986, for
29 participation in sports, games and other recreational activities; and (2)
30 entry fees and charges for participation in a special event or tournament
31 sanctioned by a national sporting association to which spectators are
32 charged an admission which is taxable pursuant to subsection (e);

33 (n) the gross receipts received from dues charged by public and
34 private clubs, drinking establishments, organizations and businesses,
35 payment of which entitles a member to the use of facilities for recreation
36 or entertainment, but such tax shall not be levied and collected upon the
37 gross receipts received from: (1) Dues charged by any organization
38 exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth*
39 of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
40 in a nonprofit organization which is exempt from federal income taxation
41 pursuant to section 501 (c)(3) of the federal internal revenue code of
42 1986, and whose purpose is to support the operation of a nonprofit zoo;

43 (o) the gross receipts received from the isolated or occasional sale of

1 motor vehicles or trailers but not including: (1) The transfer of motor
2 vehicles or trailers by a person to a corporation or limited liability
3 company solely in exchange for stock securities or membership interest
4 in such corporation or limited liability company; ~~or~~ (2) the transfer of
5 motor vehicles or trailers by one corporation or limited liability company
6 to another when all of the assets of such corporation or limited liability
7 company are transferred to such other corporation or limited liability
8 company; or (3) the sale of motor vehicles or trailers which are subject to
9 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
10 amendments thereto, by an immediate family member to another
11 immediate family member. For the purposes of clause (3), immediate
12 family member means lineal ascendants or descendants, and their
13 spouses. ~~Any amount of sales tax paid pursuant to the Kansas retailers
14 sales tax act on the isolated or occasional sale of motor vehicles or trailers
15 on and after July 1, 2004, which the base for computing the tax was the
16 value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105,
17 and amendments thereto, when such amount was higher than the amount
18 of sales tax which would have been paid under the law as it existed on
19 June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure
20 prescribed by this section. Such refund shall be in an amount equal to the
21 difference between the amount of sales tax paid by the taxpayer and the
22 amount of sales tax which would have been paid by the taxpayer under
23 the law as it existed on June 30, 2004. Each claim for a sales tax refund
24 shall be verified and submitted not later than six months from the
25 effective date of this act to the director of taxation upon forms furnished
26 by the director and shall be accompanied by any additional
27 documentation required by the director. The director shall review each
28 claim and shall refund that amount of tax paid as provided by this act. All
29 such refunds shall be paid from the sales tax refund fund, upon warrants
30 of the director of accounts and reports pursuant to vouchers approved by
31 the director of taxation or the director's designee. No refund for an
32 amount less than \$10 shall be paid pursuant to this act. In determining the
33 base for computing the tax on such isolated or occasional sale, the fair
34 market value of any motor vehicle or trailer traded in by the purchaser to
35 the seller may be deducted from the selling price;~~

36 (p) the gross receipts received for the service of installing or
37 applying tangible personal property which when installed or applied is
38 not being held for sale in the regular course of business, and whether or
39 not such tangible personal property when installed or applied remains
40 tangible personal property or becomes a part of real estate, except that no
41 tax shall be imposed upon the service of installing or applying tangible
42 personal property in connection with the original construction of a
43 building or facility, the original construction, reconstruction, restoration,

1 remodeling, renovation, repair or replacement of a residence or the
2 construction, reconstruction, restoration, replacement or repair of a bridge
3 or highway.

4 For the purposes of this subsection:

5 (1) "Original construction" shall mean the first or initial construction
6 of a new building or facility. The term "original construction" shall
7 include the addition of an entire room or floor to any existing building or
8 facility, the completion of any unfinished portion of any existing building
9 or facility and the restoration, reconstruction or replacement of a building,
10 facility or utility structure damaged or destroyed by fire, flood, tornado,
11 lightning, explosion, windstorm, ice loading and attendant winds,
12 terrorism or earthquake, but such term, except with regard to a residence,
13 shall not include replacement, remodeling, restoration, renovation or
14 reconstruction under any other circumstances;

15 (2) "building" shall mean only those enclosures within which
16 individuals customarily are employed, or which are customarily used to
17 house machinery, equipment or other property, and including the land
18 improvements immediately surrounding such building;

19 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
20 well, feedlot or any conveyance, transmission or distribution line of any
21 cooperative, nonprofit, membership corporation organized under or
22 subject to the provisions of K.S.A. 17-4601 et seq., and amendments
23 thereto, or municipal or quasi-municipal corporation, including the land
24 improvements immediately surrounding such facility;

25 (4) "residence" shall mean only those enclosures within which
26 individuals customarily live;

27 (5) "utility structure" shall mean transmission and distribution lines
28 owned by an independent transmission company or cooperative, the
29 Kansas electric transmission authority or natural gas or electric public
30 utility; and

31 (6) "windstorm" shall mean straight line winds of at least 80 miles
32 per hour as determined by a recognized meteorological reporting agency
33 or organization;

34 (q) the gross receipts received for the service of repairing, servicing,
35 altering or maintaining tangible personal property which when such
36 services are rendered is not being held for sale in the regular course of
37 business, and whether or not any tangible personal property is transferred
38 in connection therewith. The tax imposed by this subsection shall be
39 applicable to the services of repairing, servicing, altering or maintaining
40 an item of tangible personal property which has been and is fastened to,
41 connected with or built into real property;

42 (r) the gross receipts from fees or charges made under service or
43 maintenance agreement contracts for services, charges for the providing

1 of which are taxable under the provisions of subsection (p) or (q);

2 (s) ~~on and after January 1, 2005~~, the gross receipts received from the
3 sale of prewritten computer software and the sale of the services of
4 modifying, altering, updating or maintaining prewritten computer
5 software, whether the prewritten computer software is installed or
6 delivered electronically by tangible storage media physically transferred
7 to the purchaser or by load and leave;

8 (t) the gross receipts received for telephone answering services;

9 (u) the gross receipts received from the sale of prepaid calling
10 service and prepaid wireless calling service as defined in K.S.A. 2010
11 Supp. 79-3673, and amendments thereto; and

12 ~~(v) the gross receipts received from the sales of bingo cards, bingo~~
13 ~~faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,~~
14 ~~and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,~~
15 ~~2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before~~
16 ~~July 1, 2002.~~ from and after July 1, 2002, all sales of bingo cards, bingo
17 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
18 and amendments thereto, shall be exempt from taxes imposed pursuant to
19 this section.

20 Sec. 2. K.S.A. 2010 Supp. 79-3603 is hereby repealed.

21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.

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