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House Committee on Taxation

Testimony of The Kansas Department of Revenue in Support of House Bill 2493

by Michael Hale

Chairman Johnson and Members of the Committee:

The Department of Revenue respectfully submits the following testimony to the Committee in support of House Bill 2493.

This bill allows the department, when necessary, to subpoena records and issue interrogatories to conduct sales and compensating tax audits.

While most taxpayers understand the need to allow the Department access to their books and records for sales and compensating tax audit, and do so without issue, from time to time, some taxpayers, refuse to open their records to the Department for audit. This results in a lengthy process of letters, phone calls, and emails back and forth in an attempt to conduct the audit, and then, when access has ultimately been denied, the Department making assessments based on best guess.

These assessments are frequently too high. Naturally, taxpayers appeal these assessments as being too high, and then, during the appeal process they begin submitting some documents in support of their position that the assessment is too high.

This drags the appeal process out unnecessarily costing the taxpayer, the Department, and often the Board of Tax Appeals time and resources. Eventually, the audit is performed in part or in whole through the discovery process of interrogatories, requests for production of documents, depositions, and so forth. Most, if not all, of this could be averted if the Department had been given full access to the records in the first instance.

As noted, this does not arise often, most taxpayers do provide access to their books and records. But in those instances, when the handful do not, the Department needs a meaningful way to

perform its audit without having to revert to the scenario laid out above. Most states have subpoena powers for sales and compensating tax purposes. So, this bill is not seeking extraordinary authority that other states do not already exercise.

This bill adopts language similar to the language in the Income Tax Act that allows the Department to perform income tax audits, so the process and manner in which the subpoenas and interrogatories would be performed for sales and compensating taxes would track with existing Income Tax law.