AN ACT concerning sales and compensating use tax; relating to rates, food and food ingredients; amending K.S.A. 2017 Supp. 79-3602, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:
Section 1. K.S.A. 2017 Supp. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:
(a) "Agent" means a person appointed by a seller to represent the seller before the member states.
(b) "Agreement" means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.
(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 0.05% or more of alcohol by volume.
(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.
(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.
(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.
(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the
charges are separately stated on an invoice or similar billing document
given to the purchaser.

(j) "Direct mail" means printed material delivered or distributed by
United States mail or other delivery services to a mass audience or to
addressees on a mailing list provided by the purchaser or at the direction of
the purchaser when the cost of the items are not billed directly to the
recipients. Direct mail includes tangible personal property supplied
directly or indirectly by the purchaser to the direct mail seller for inclusion
in the package containing the printed material. Direct mail does not
include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

(l) "Educational institution" means any nonprofit school, college and
university that offers education at a level above the 12th grade, and
conducts regular classes and courses of study required for accreditation by,
or membership in, the higher learning commission, the state board of
education, or that otherwise qualify as an "educational institution," as
defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall
include: (1) A group of educational institutions that operates exclusively
for an educational purpose; (2) nonprofit endowment associations and
foundations organized and operated exclusively to receive, hold, invest
and administer moneys and property as a permanent fund for the support
and sole benefit of an educational institution; (3) nonprofit trusts,
foundations and other entities organized and operated principally to hold
and own receipts from intercollegiate sporting events and to disburse such
receipts, as well as grants and gifts, in the interest of collegiate and
intercollegiate athletic programs for the support and sole benefit of an
educational institution; and (4) nonprofit trusts, foundations and other
entities organized and operated for the primary purpose of encouraging,
fostering and conducting scholarly investigations and industrial and other
types of research for the support and sole benefit of an educational
institution.

(m) "Electronic" means relating to technology having electrical,
digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid,
concentrated, solid, frozen, dried or dehydrated form, that are sold for
ingestion or chewing by humans and are consumed for their taste or
nutritional value. "Food and food ingredients" does not include alcoholic
beverages, candy, soft drinks, food sold through vending machines, dietary
supplements, or tobacco.

(o) "Gross receipts" means the total selling price or the amount
received as defined in this act, in money, credits, property or other
consideration valued in money from sales at retail within this state; and
embraced within the provisions of this act. The taxpayer, may take credit
in the report of gross receipts for: (1) An amount equal to the selling price
of property returned by the purchaser when the full sale price thereof,
including the tax collected, is refunded in cash or by credit; and (2) an
amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property
which is necessary or essential to, and which is actually used in and
becomes an integral and material part of tangible personal property or
services produced, manufactured or compounded for sale by the producer,
manufacturer or compounder in its regular course of business. The
following items of tangible personal property are hereby declared to be
ingredients or component parts, but the listing of such property shall not be
deemed to be exclusive nor shall such listing be construed to be a
restriction upon, or an indication of, the type or types of property to be
included within the definition of "ingredient or component part" as herein
set forth:

(1) Containers, labels and shipping cases used in the distribution of
property produced, manufactured or compounded for sale which are not to
be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws,
paper plates, paper cups, twine and wrapping paper used in the distribution
and sale of property taxable under the provisions of this act by wholesalers
and retailers and which is not to be returned to such wholesaler or retailer
for reuse.

(3) Seeds and seedlings for the production of plants and plant
products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products
produced for resale.

(6) Feed for animals, fowl and aquatic plants and animals, the
primary purpose of which is use in agriculture or aquaculture, as defined in
K.S.A. 47-1901, and amendments thereto, the production of food for
human consumption, the production of animal, dairy, poultry or aquatic
plant and animal products, fiber, fur, or the production of offspring for use
for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of
tangible personal property, or services taxable hereunder by a person not
engaged at the time of such sale in the business of selling such property or
services. Any religious organization which makes a nonrecurring sale of
tangible personal property acquired for the purpose of resale shall be
deemed to be not engaged at the time of such sale in the business of selling
such property. Such term shall include: (1) Any sale by a bank, savings and
loan institution, credit union or any finance company licensed under the
provisions of the Kansas uniform consumer credit code of tangible
personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(1) Lease or rental does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

(2) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq., and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to
perform part of its sales and use tax functions, but retains responsibility for
remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five
member states, has total annual sales revenue of at least $500,000,000, has
a proprietary system that calculates the amount of tax due each jurisdiction
and has entered into a performance agreement with the member states that
establishes a tax performance standard for the seller. As used in this
subsection a seller includes an affiliated group of sellers using the same
proprietary system.

(x) "Municipal corporation" means any city incorporated under the
laws of Kansas.

(y) "Nonprofit blood bank" means any nonprofit place, organization,
institution or establishment that is operated wholly or in part for the
purpose of obtaining, storing, processing, preparing for transfusing,
furnishing, donating or distributing human blood or parts or fractions of
single blood units or products derived from single blood units, whether or
not any remuneration is paid therefor, or whether such procedures are done
direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint
adventure, association, corporation, estate or trust, receiver or trustee, or
any group or combination acting as a unit, and the plural as well as the
singular number; and shall specifically mean any city or other political
subdivision of the state of Kansas engaging in a business or providing a
service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or
subdivision of the state which is, or shall hereafter be, authorized to levy
taxes upon tangible property within the state or which certifies a levy to a
municipality, agency or subdivision of the state which is, or shall hereafter
be, authorized to levy taxes upon tangible property within the state. Such
term also shall include any public building commission, housing, airport,
port, metropolitan transit or similar authority established pursuant to law
and the horsethief reservoir benefit district established pursuant to K.S.A.
82a-2201, and amendments thereto.

(bb) "Prescription" means an order, formula or recipe issued in any
form of oral, written, electronic or other means of transmission by a duly
licensed practitioner authorized by the laws of this state.

(cc) "Prewritten computer software" means computer software,
including prewritten upgrades, which is not designed and developed by the
author or other creator to the specifications of a specific purchaser. The
combining of two or more prewritten computer software programs or
prewritten portions thereof does not cause the combination to be other than
prewritten computer software. Prewritten computer software includes
software designed and developed by the author or other creator to the
specifications of a specific purchaser when it is sold to a person other than
the purchaser. Where a person modifies or enhances computer software of
which the person is not the author or creator, the person shall be deemed to
be the author or creator only of such person's modifications or
enhancements. Prewritten computer software or a prewritten portion
thereof that is modified or enhanced to any degree, where such
modification or enhancement is designed and developed to the
specifications of a specific purchaser, remains prewritten computer
software, except that where there is a reasonable, separately stated charge
or an invoice or other statement of the price given to the purchaser for
such modification or enhancement, such modification or enhancement
shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property
which is essential or necessary to and which is used in the actual process
of and consumed, depleted or dissipated within one year in: (1) The
production, manufacture, processing, mining, drilling, refining or
compounding of tangible personal property; (2) the providing of services;
(3) the irrigation of crops, for sale in the regular course of business; or (4)
the storage or processing of grain by a public grain warehouse or other
grain storage facility, and which is not reusable for such purpose. The
following is a listing of tangible personal property, included by way of
illustration but not of limitation, which qualifies as property which is
consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides,
fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and
chemicals for use in commercial or agricultural production, processing or
storage of fruit, vegetables, feeds, seeds, grains, animals or animal
products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and
catalysts.

(ee) "Purchase price" applies to the measure subject to use tax and
has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property
is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township,
school district, drainage district or any other governmental subdivision in
the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller
with the member states under the central registration system provided in
article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of
selling, leasing or renting tangible personal property at retail or furnishing
electrical energy, gas, water, services or entertainment, and selling only to
the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for
any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal
property, as well as the sale thereof for money, and every transaction,
conditional or otherwise, for a consideration, constituting a sale, including
the sale or furnishing of electrical energy, gas, water, services or
entertainment taxable under the terms of this act and including, except as
provided in the following provision, the sale of the use of tangible personal
property by way of a lease, license to use or the rental thereof regardless of
the method by which the title, possession or right to use the tangible
personal property is transferred. The term "sale" or "sales" shall not mean
the sale of the use of any tangible personal property used as a dwelling by
way of a lease or rental thereof for a term of more than 28 consecutive
days.

(II) (1) "Sales or selling price" applies to the measure subject to sales
tax and means the total amount of consideration, including cash, credit,
property and services, for which personal property or services are sold,
leased or rented, valued in money, whether received in money or
otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses,
all costs of transportation to the seller, all taxes imposed on the seller and
any other expense of the seller;

(C) charges by the seller for any services necessary to complete the
sale, other than delivery and installation charges;

(D) delivery charges; and

(E) installation charges.

(2) "Sales or selling price" includes consideration received by the
seller from third parties if:

(A) The seller actually receives consideration from a party other than
the purchaser and the consideration is directly related to a price reduction
or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount
through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed
and determinable by the seller at the time of the sale of the item to the
purchaser; and

(D) one of the following criteria is met:

(i) The purchaser presents a coupon, certificate or other
documentation to the seller to claim a price reduction or discount where
the coupon, certificate or documentation is authorized, distributed or
granted by a third party with the understanding that the third party will
reimburse any seller to whom the coupon, certificate or documentation is
presented;
(ii) the purchaser identifies to the seller that the purchaser is a
member of a group or organization entitled to a price reduction or
discount. A preferred customer card that is available to any patron does not
constitute membership in such a group; or
(iii) the price reduction or discount is identified as a third party price
reduction or discount on the invoice received by the purchaser or on a
coupon, certificate or other documentation presented by the purchaser.
(3) "Sales or selling price" shall not include:
(A) Discounts, including cash, term or coupons that are not
reimbursed by a third party that are allowed by a seller and taken by a
purchaser on a sale;
(B) interest, financing and carrying charges from credit extended on
the sale of personal property or services, if the amount is separately stated
on the invoice, bill of sale or similar document given to the purchaser;
(C) any taxes legally imposed directly on the consumer that are
separately stated on the invoice, bill of sale or similar document given to
the purchaser;
(D) the amount equal to the allowance given for the trade-in of
property, if separately stated on the invoice, billing or similar document
given to the purchaser; and
(E) commencing on July 1, 2006, and ending on June 30, 2009, cash
rebates granted by a manufacturer to a purchaser or lessee of a new motor
vehicle if paid directly to the retailer as a result of the original sale.
(mm) "Seller" means a person making sales, leases or rentals of
personal property or services.
(nn) "Service" means those services described in and taxed under the
provisions of K.S.A. 79-3603, and amendments thereto.
79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
thereto, which shall apply to identify and determine the state and local
taxing jurisdiction sales or use taxes to pay, or collect and remit on a
particular retail sale.
(pp) "Tangible personal property" means personal property that can
be seen, weighed, measured, felt or touched, or that is in any other manner
perceptible to the senses. Tangible personal property includes electricity,
water, gas, steam and prewritten computer software.
(qq) "Taxpayer" means any person obligated to account to the
director for taxes collected under the terms of this act.
(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or
any other item that contains tobacco.
(ss) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

(tt) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The over-the-counter drug label includes: (1) A drug facts panel; or (2) a statement of the active ingredients with a list of those ingredients contained in the compound, substance or preparation. Over-the-counter drugs do not include grooming and hygiene products such as soaps, cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan lotions and screens.

(uu) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail services.

(vv) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(ww) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(xx) "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

(yy) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(zz) "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(aaa) "Telecommunications service" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points. The term telecommunications service includes such transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmissions, conveyance or routing without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal
communications commission as enhanced or value added. Telecommunications service does not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(2) installation or maintenance of wiring or equipment on a customer's premises;

(3) tangible personal property;

(4) advertising, including, but not limited to, directory advertising;

(5) billing and collection services provided to third parties;

(6) internet access service;

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. § 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

(8) ancillary services; or

(9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

(bbb) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877 and 888 toll-free calling, and any subsequent numbers designated by the federal communications commission.

(ccc) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the federal communications commission.

(ddd) "Value-added non-voice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

(eee) "International" means a telecommunications service that originates or terminates in the United States and terminates or originates
outside the United States, respectively. United States includes the District
of Columbia or a U.S. territory or possession.

(ff) "Interstate" means a telecommunications service that originates
in one United States state, or a United States territory or possession, and
terminates in a different United States state or a United States territory or
possession.

(gg) "Intrastate" means a telecommunications service that originates
in one United States state or a United States territory or possession, and
terminates in the same United States state or a United States territory or
possession.

(hh) "Bottled water" means water that is placed in a safety sealed
container or package for human consumption. "Bottled water" is calorie
free and does not contain sweeteners or other additives, except that it may
contain:

(1) Antimicrobial agents;
(2) fluoride;
(3) carbonation;
(4) vitamins, minerals and electrolytes;
(5) oxygen;
(6) preservatives; and
(7) only those flavors, extracts or essences derived from a spice or
fruit.

"Bottled water" includes water that is delivered to the buyer in a
reusable container that is not sold with the water.

(iii) "Candy" means a preparation of sugar, honey or other natural or
artificial sweeteners in combination with chocolate, fruits, nuts or other
ingredients or flavorings in the form of bars, drops or pieces. "Candy"
shall not include any preparation containing flour and shall require no
refrigeration.

(jj) "Food sold through vending machines" means food dispensed
from a machine or other mechanical device that accepts payment.

(kk) "Prepared food" means:
(1) Food sold in a heated state or heated by the seller;
(2) two or more food ingredients mixed or combined by the seller for
sale as a single item; or
(3) food sold with eating utensils provided by the seller, including
plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does
not include a container or packaging used to transport the food.

"Prepared food" does not include food that is only cut, repackaged or
pasteurized by the seller, and eggs, fish, meat, poultry and foods
containing these raw animal foods requiring cooking by the consumer as
recommended by the food and drug administration in chapter 3, part
401.11 of its food code so as to prevent food borne illnesses.
(lll) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

(mmm) "Dietary supplement" shall have the same meaning ascribed to it as in K.S.A. 79-3606(jjj), and amendments thereto.

Sec. 2. K.S.A. 2017 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 6.15%, and commencing July 1, 2015, at the rate of 6.5%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2017 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2017 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the
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state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from:

1. The sale of a rural water district benefit unit;
2. A water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or
3. Connection or reconnection fees collected by a water supplier;

4. The gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;
5. The gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

6. The gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

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

8. The gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

9. The gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

10. The gross receipts from cable, community antennae and other subscriber radio and television services;

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

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

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

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

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

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

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

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

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

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

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

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

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

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

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

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

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2017 Supp. 79-
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3673, and amendments thereto;

(v) all sales of bingo cards, bingo faces and instant bingo tickets by
licensees under K.S.A. 2017 Supp. 75-5171 et seq., and amendments
thereto, shall be exempt from taxes imposed pursuant to this section; and

(w) all sales of charitable raffle tickets in accordance with K.S.A.
2017 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
from taxes imposed pursuant to this section; and

(x) commencing on July 1, 2018, and thereafter, the gross receipts
from the sale of food and food ingredients shall be taxed at the rate of
3.25%. The provisions of this subsection shall not apply to prepared food
unless sold without eating utensils provided by the seller and described
below:

(1) Food sold by a seller whose proper primary NAICS classification
is manufacturing in sector 311, except subsector 3118 (bakeries);

(2) food sold in an unheated state by weight or volume as a single
item;

(3) only meat or seafood sold in an unheated state by weight or
volume as a single item;

(4) bakery items, including bread, rolls, buns, biscuits, bagels,
croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
cookies and tortillas;

(5) food sold that ordinarily requires additional cooking (as opposed
to just reheating) by the consumer prior to consumption; or

(6) bottled water that is not otherwise sold as prepared food.

Sec. 3. K.S.A. 2017 Supp. 79-3620 is hereby amended to read as
follows: 79-3620. (a) All revenue collected or received by the director of
taxation from the taxes imposed by this act shall be remitted to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury, less amounts
withheld as provided in subsection (b) and amounts credited as provided in
subsections (c), (d) and (e), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed
$100,000 shall be set apart and maintained by the director from sales tax
collections and estimated tax collections and held by the state treasurer for
prompt payment of all sales tax refunds. Such fund shall be in such
amount, within the limit set by this section, as the director shall determine
is necessary to meet current refunding requirements under this act. In the
event such fund as established by this section is, at any time, insufficient to
provide for the payment of refunds due claimants thereof, the director shall
certify the amount of additional funds required to the director of accounts
and reports who shall promptly transfer the required amount from the state
general fund to the sales tax refund fund, and notify the state treasurer,
who shall make proper entry in the records.

(c) (1) On July 1, 2010, the state treasurer shall credit 11.427% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) On July 1, 2011, the state treasurer shall credit 11.26% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2012, the state treasurer shall credit 11.233% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2013, the state treasurer shall credit 17.073% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.15%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5)(2) On July 1, 2015, the state treasurer shall credit 16.226% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6)(3) On July 1, 2016, and thereafter, the state treasurer shall credit 16.154% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2018, and thereafter, the state treasurer shall credit 16.154% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rates of 6.5% and 3.25%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2017 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of
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statewide as well as local importance or will create a major tourism area
for the state or the project was designated as a STAR bond project as
defined in K.S.A. 2017 Supp. 12-17,162, and amendments thereto, to the
city bond finance fund, which fund is hereby created. The provisions of
this subsection shall expire when the total of all amounts credited
hereunder and under K.S.A. 79-3710(d), and amendments thereto, is
sufficient to retire the special obligation bonds issued for the purpose of
financing all or a portion of the costs of such STAR bond project.

(e) All revenue certified by the director of taxation as having been
collected or received from the tax imposed by K.S.A. 79-3603(c), and
amendments thereto, on the sale or furnishing of gas, water, electricity and
heat for use or consumption within the intermodal facility district
described in this subsection, shall be credited by the state treasurer to the
state highway fund. Such revenue may be transferred by the secretary of
transportation to the rail service improvement fund pursuant to law. The
provisions of this subsection shall take effect upon certification by the
secretary of transportation that a notice to proceed has been received for
the construction of the improvements within the intermodal facility
district, but not later than December 31, 2010, and shall expire when the
secretary of revenue determines that the total of all amounts credited
hereunder and pursuant to K.S.A. 79-3710(e), and amendments thereto, is
equal to $53,300,000, but not later than December 31, 2045. Thereafter, all
revenues shall be collected and distributed in accordance with applicable
law. For all tax reporting periods during which the provisions of this
subsection are in effect, none of the exemptions contained in K.S.A. 79-
3601 et seq., and amendments thereto, shall apply to the sale or furnishing
of any gas, water, electricity and heat for use or consumption within the
intermodal facility district. As used in this subsection, "intermodal facility
district" shall consist of an intermodal transportation area as defined by
K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county
within the polygonal-shaped area having Waverly Road as the eastern
boundary, 191st Street as the southern boundary, Four Corners Road as the
western boundary, and Highway 56 as the northern boundary, and the
polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
Street as the southern boundary, Waverly Road as the western boundary,
and the BNSF mainline track as the northern boundary, that includes
capital investment in an amount exceeding $150 million for the
construction of an intermodal facility to handle the transfer, storage and
distribution of freight through railway and trucking operations.

Sec. 4. K.S.A. 2017 Supp. 79-3703 is hereby amended to read as
follows: 79-3703. There is hereby levied and there shall be collected from
every person in this state a tax or excise for the privilege of using, storing,
or consuming within this state any article of tangible personal property.
Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 6.5% and the rate on food and food ingredients provided in K.S.A. 79-3603(x), and amendments thereto. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 5. K.S.A. 2017 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c), (d) and (e), to the credit of the state general fund.

(b) A revolving fund, designated as "compensating tax refund fund" not to exceed $10,000 shall be set apart and maintained by the director from compensating tax collections and estimated tax collections and held by the state treasurer for prompt payment of all compensating tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) (1) On July 1, 2010, the state treasurer shall credit 11.427% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(2) On July 1, 2011, the state treasurer shall credit 11.26% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(3) On July 1, 2012, the state treasurer shall credit 11.233% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in
the state highway fund.

(4) On July 1, 2013, the state treasurer shall credit 17.073% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.15%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5)(2) On July 1, 2015, the state treasurer shall credit 16.226% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6)(3) On July 1, 2016, and thereafter, the state treasurer shall credit 16.154% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) On July 1, 2018, and thereafter, the state treasurer shall credit 16.154% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rates of 6.5% and 3.25% and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by K.S.A. 79-3620(d), and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under K.S.A. 79-3620(d), and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

This subsection shall not apply to a project designated as a special bond project as defined in K.S.A. 12-1770a(z), and amendments thereto.

(e) All revenue certified by the director of taxation as having been collected or received from the tax imposed by K.S.A. 79-3603(c), and amendments thereto, on the sale or furnishing of gas, water, electricity and heat for use or consumption within the intermodal facility district described in this subsection, shall be credited by the state treasurer to the state highway fund. Such revenue may be transferred by the secretary of transportation to the rail service improvement fund pursuant to law. The provisions of this subsection shall take effect upon certification by the
secretary of transportation that a notice to proceed has been received for
the construction of the improvements within the intermodal facility
district, but not later than December 31, 2010, and shall expire when the
secretary of revenue determines that the total of all amounts credited
hereunder and pursuant to K.S.A. 79-3620(e), and amendments thereto, is
equal to $53,300,000, but not later than December 31, 2045. Thereafter, all
revenues shall be collected and distributed in accordance with applicable
law. For all tax reporting periods during which the provisions of this
subsection are in effect, none of the exemptions contained in K.S.A. 79-
3601 et seq., and amendments thereto, shall apply to the sale or furnishing
of any gas, water, electricity and heat for use or consumption within the
intermodal facility district. As used in this subsection, "intermodal facility
district" shall consist of an intermodal transportation area as defined by
K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county
within the polygonal-shaped area having Waverly Road as the eastern
boundary, 191st Street as the southern boundary, Four Corners Road as the
western boundary, and Highway 56 as the northern boundary, and the
polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
Street as the southern boundary, Waverly Road as the western boundary,
and the BNSF mainline track as the northern boundary, that includes
capital investment in an amount exceeding $150 million for the
construction of an intermodal facility to handle the transfer, storage and
distribution of freight through railway and trucking operations.

Sec. 6. K.S.A. 2017 Supp. 79-3602, 79-3603, 79-3620, 79-3703 and
79-3710 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its
publication in the statute book.