



Sales & Use Tax for the Agricultural Industry

Agriculture, as conducted in farming and ranching operations throughout the state, is the primary basis of the Kansas economy. Communities, regions, and the state as a whole are materially dependent upon agricultural endeavors and derive substantial financial benefit from the success of Kansas agriculture. Considering this state's heavy reliance on agriculture, Kansas sales tax law provides several sales tax exemptions for those engaged in the agricultural industry, but these tax exemptions are specific in nature and do not apply to all aspects of your business. This publication will help you understand how Kansas sales and compensating use taxes apply to Kansas agribusiness. It will explain which items are taxable, which are exempt and how to properly claim the exemptions.

Also included is information about how to report and pay the taxes. By law, businesses are now required to submit their Sales and Compensating Use Tax returns electronically. This law was effective July 1, 2010. Kansas offers several electronic file and pay solutions – see page 23.

Use this publication as a supplement to KDOR's (Kansas Department of Revenue) basic sales tax guide, Pub. KS-1510, Kansas Sales and Compensating Use Tax.



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If there is a conflict between the law and information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on our web site: ksrevenue.org



INTRODUCTION TO KANSAS SALES TAX

This publication is designed to provide farmers, ranchers and others in agribusiness with the information and background you will need to determine which of your purchases are subject to sales or use tax, which are exempt and how to properly claim the exemptions. Throughout this publication we will cite or refer to the statute (K.S.A.) or regulation (K.A.R.) applicable to that section. The laws and regulations on which the information is based are listed on page 24.

WHAT SALES ARE TAXABLE?

Before we can begin any discussion of what is exempt from Kansas sales tax, we must first identify the transactions that are taxable in Kansas. Kansas sales tax applies to three general types of transactions.

- The **retail sale**, rental or lease of tangible personal property;
- The fees for **labor services** to install, apply, repair, service, alter or maintain tangible personal property; and
- The sale of **admissions** to places providing amusement, entertainment or recreation.

A **retail sale** is a sale to the final consumer or user. Tangible personal property is any item to which you can attach a monetary value, has a physical presence and can be moved. Tangible personal property is different from *intangible* property (stocks and bonds) or real property (land and buildings). Examples of tangible personal property used by the agricultural industry include: ATVs, combines, fencing, grain, hand tools, livestock, pipe, seed, tractors and trucks. Some of these items qualify for exemption from sales tax when purchased by a farmer or rancher, others do not.

The **labor services** that are taxable in Kansas are only those services enumerated in the law and listed above. Examples of taxable services used by the agricultural industry are irrigation system installation, machine and truck repair, welding, and well drilling. As with the purchase of tangible personal property, some of these services are exempt when purchased by agribusiness, others are not.

Examples of **admissions** subject to tax include movie tickets and admissions to a fair or trade show.

Farmers and ranchers who make retail sales of products or taxable services also must register to collect sales tax from their customers. For detailed information about sales and use tax, obtain a copy of our Pub. KS-1510, Kansas Sales and Compensating Use Tax, from our web site.

SALES TAX STRUCTURE

The Kansas sales tax rate is a combination of the state rate of 6.3% (since July 1, 2010), plus any local sales tax imposed by a city and/or county. Local sales (and use) tax rates vary by locality (jurisdiction), and may change quarterly. The law requires that these *local* taxes be administered by KDOR (Kansas Department of Revenue). Local sales tax generally applies whenever the state sales tax applies. **Exception:** Utilities (except water) used for agricultural or residential purposes are subject to local tax only – see page 15.

The combined tax rate collected on a retail sale of goods or taxable services is the rate in effect where the customer takes delivery of the merchandise or first makes use of the taxable service. This is called *destination based sourcing*. On over-the-counter sales, it will generally be the rate of tax at the location of the retailer; on delivered sales, it will be the rate of tax at the customer's (or customer's designee) location (*ship-to* address). For taxable labor services, it will be the rate in effect at the job site where the labor services are performed.

To assist retailers in collecting the correct sales tax rate for the destination or source of the sale, KDOR publishes a complete list of state and local tax jurisdictions and rates. Pub. KS-1700, Sales and Use Tax Jurisdiction Code Booklet, and its quarterly updates are available on our web site.

RETAILER AND CONSUMER RESPONSIBILITIES

Kansas **retailers** are required by law to **collect** the full amount of sales tax due on each sale to the final user or consumer, and remit it on a regular basis to KDOR. When added to the purchase price of taxable goods or services, the sales tax is a debt from the consumer to the retailer. As such, the sales tax is recoverable by the retailer from the customer in the same manner as any other debt.

Kansas **consumers** are likewise obligated to **pay** the full amount of sales or use tax due on all taxable purchases. If the purchase is from a Kansas retailer, the Kansas Retailers' Sales tax must be paid to the retailer. When tangible personal property is purchased from a retailer in another state, a Kansas Compensating Use Tax may be due (see page 21).

For every sale of merchandise or taxable services, a Kansas retailer must either collect the total amount of sales tax due or obtain documentation as to why a particular sale is exempt. A consumer who is entitled to an exemption from sales or use tax is obligated to provide this documentation and should not demand that a retailer exempt a sale without it. Information on how to properly claim the sales and use tax exemptions discussed in this guide begins on page 18.

HOW TO REGISTER

To apply for a tax number or to register for Kansas Retailers' Sales Tax, visit the *Business Tax* section of our web site (ksrevenue.org). You will be linked to the Kansas Business Center to complete the application, receive your account number and print your registration certificate. For complete instructions about the application process, obtain Pub. KS-1216, *Kansas Business Tax Application Booklet*, from our web site.

If you prefer, you may apply in person – it provides same-day registration service. An owner, partner, or a principal officer (president, vice-president, or secretary-treasurer) may bring the completed application to our assistance center. We will process your application, assign a registration number, and issue a Certificate of Registration if you have no outstanding tax liability.

Another option is to mail or fax your completed business tax application to our office 3-4 weeks prior to making retail sales. This will ensure that your tax account number and registration certificate are issued before your first tax payment is due.

SALES TAX EXEMPTIONS FOR AGRIBUSINESS

AGRIBUSINESS DEFINED FOR SALES TAX

For the purpose of applying sales tax, Kansas tax law defines farming or ranching as any activity which is ordinary and necessary for the: 1) growing or raising of agricultural products, 2) the operation of a feedlot; or, 3) farm and ranch work for hire. Therefore, anyone engaged in the production of agricultural commodities for resale may claim an agricultural exemption. Included are farmers, ranchers, feedlots, Christmas tree farms, plant nurseries, and the aquaculture industry – those who are engaged in the controlled cultivation and harvest of aquatic plants and animals.

Farming or ranching includes, but is not limited to, such enterprises producing:

- bees and apiary products
- dairy products
- fish
- forages
- fruits of all kinds, including grapes, nuts and berries
- fur animals
- grains and feed crops
- livestock, including beef and dairy cattle, sheep, swine, goats or rabbits, including the breeding, grazing and feeding of any or all such animals
- plant nursery operations, including bushes, flowers, grass, sod and trees

- maple syrup
- poultry and poultry products
- vegetables

To be considered as *farm and ranch work for hire*, the activity must be ordinary and necessary for the growing or raising of agricultural products or livestock. Persons engaged in farm and ranch work for hire include custom cutters, crop dusters, and fertilizer applicators.

NOTE: Throughout this guide we will use the terms farming, ranching or agribusiness to mean anyone engaged in any of the above enterprises and therefore eligible to claim an agribusiness exemption.



CAUTION: Farming or ranching does NOT include the growing or raising of agricultural products for personal use, or commercial operations such as processing food or dairy products, off-farm grain storage and marketing, the processing of lumber, the operation of a stockyard or slaughter house, or the retail sale of farm and ranch supplies or products.

A common misconception is that sales tax is not due on any item or service purchased for farm or ranch use. This is not the case; **farmers, per se, are not exempt from Kansas sales or use tax.** However, there are four sales and use tax exemptions specifically for agribusiness. These are the tax exemptions for: 1) agricultural animals, 2) farm machinery and equipment, 3) propane for agricultural use; and, 4) soil erosion prevention.

Like all Kansas businesses, persons engaged in agribusiness may also purchase without tax those items that make up all or part of the taxable goods or services produced or sold. These are the tax exemptions for: 1) resale, 2) ingredient or component parts; and, 3) consumed in production.

What follows is a general discussion of these seven sales and use tax exemptions with examples of items that qualify and those that do not. Other examples are in the industry application section beginning on page 9.

AGRICULTURAL ANIMALS

The sales of agricultural animals and fowl (cattle, chickens, hogs, ostriches, sheep, turkeys, etc.) and aquatic animals and plants are exempt when used in:

- agriculture or aquaculture;
- the production of food for human consumption;
- the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur; or
- the production of offspring for any of the above purposes. K.S.A. 79-3606(o)

Animals purchased for pleasure or pets are taxable.



The purchase of a horse for breeding purposes or to herd cattle is not taxed. A horse purchased for pleasure or show is subject to sales tax.



The purchase of fish to raise and sell for human consumption is exempt. The purchase of fish for an aquarium is taxable.

FARM MACHINERY AND EQUIPMENT

The sales tax exemption for farm or aquaculture machinery and equipment found in K.S.A. 79-3606(t) has three categories of exempt transactions: 1) the purchase, lease or rental of the equipment; 2) repair or replacement parts for the equipment; and, 3) labor services to repair and maintain the equipment.

Two conditions must be met to claim this exemption. The buyer must be engaged in farming or ranching as defined on page 4, and the property purchased, repaired or serviced must be used only in farming and ranching.

Farm Machinery & Equipment Defined

As with many terms, the definition of *farm machinery and equipment* present in sales tax law and our common everyday use of the phrase differs. Many types of equipment are used in a farming or ranching operation, but not all qualify for the exemption. For the purpose of the sales tax exemption, farm machinery and equipment is defined as all machinery and equipment which is ordinary and necessary for the growing or raising of agricultural products.

The first category of items that come to mind as farm machinery and equipment are *implements of husbandry*. As defined by vehicle law K.S.A. 8-126(cc), these are vehicles designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated on public highways. Implements include farm tractors, combines, and other self-propelled farm implements.

Also included are *aquaculture machinery and equipment*. This is personal property actually and regularly used in any aquaculture operation. An *aquaculture operation* includes the feeding out; breeding, growing or rearing; and, selling or transporting aquatic plants and animals.

Since July 1, 2007, the definition of *farm machinery and equipment* has included **precision farming equipment** that is portable or is installed or purchased to be installed on farm machinery and equipment. *Precision farming equipment* includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas.



IMPORTANT: The terms *farm machinery and equipment* and *aquaculture machinery and equipment* do not include buildings, building materials,

silos, fence, land, passenger vehicles, all terrain vehicles, motorcycles, trucks, truck tractors, trailers, semitrailers, or pole trailers, other than a farm trailer (see page 16).

EXCLUSIVE USE TEST

An item is considered to be *farm machinery and equipment* when it is used ONLY in farming, ranching or agricultural production as defined. If it is used for another purpose, an exemption cannot be claimed for farm machinery and equipment.



If a forklift will be used only for farming or ranching (which includes the operation of a feedlot, farm and ranch work for hire, and the operation of a Christmas tree farm or nursery) it may be purchased as exempt farm machinery and equipment. However, when the forklift is used in another business, such as seed or chemical sales, the purchase of the forklift is subject to sales tax.



If a skid loader is purchased by a farmer and used exclusively in farming operations, such as removing manure from a feedlot, removing snow near or in a pen or pasture to gain access to livestock, farm pond building/cleaning, filling holes or tire tracks that are hazardous to livestock in a pasture or pen, fence repair work, windmill repair, lifting equipment used in farming operations, or pasture or fence shrub clearing, the purchase would be exempt under the farm machinery and equipment exemption. If the skid loader was used in general snow removal, road grading, or building construction, its purchase would not be exempt under the farm machinery and equipment exemption.

On page 6 are representative listings of items used by agribusiness, and their usual tax treatment for sales tax purposes. Other examples are in the industry application section of this guide that begins on page 9.

Attachments

Attachments are defined as items that are essential to the operation of farm machinery and that contribute directly to the operation of the equipment. Attachments are exempt from sales tax if used for a qualifying agricultural purpose. Items that should be regarded as farm machinery attachments include:

- Tractor-mounted loader/scoop/grapple fork
- Tractor-mounted snow plow or snow blower
- Tractor or combine cab
- Combine head
- Combine pick-up
- Planter monitoring system
- Radar ground speed sensor
- Agricultural global positioning system
- Grain yield monitor
- Sprayer control
- Electronic wind monitor
- After market lighting

Repair and Replacement Parts

Once it has been determined that a piece of equipment qualifies for exemption as farm or aquaculture machinery or equipment, the repair and replacement parts for that item are also exempt from sales tax. However, not all items purchased for the equipment are considered to be repair and replacement parts.

Repair and replacement parts means any part which replaces an existing part, or which is necessary to maintain the working condition of a piece of farm machinery and equipment. Items which would be found on a manufacturer's parts list, service parts list, or similar parts listing for a given piece of machinery or equipment, or the generic equivalent of such listed part, are exempt.

Parts that are not included in such a listing do not qualify for exemption as repair and replacement parts of farm machinery and equipment.



Belts, bolts, cotter keys, hydraulic fluid, motor oil, nuts, and washers used in the repair of a combine or tractor are exempt when they are included on the original parts listing and the combine or tractor is used in farming and ranching.

Although repair and replacement parts for farm machinery and equipment are included in the exemption, tools and equipment used to maintain or repair farm machinery and equipment are not included in the farm machinery and equipment sales tax exemption.

USUALLY EXEMPT. These items are usually not subject to sales or use tax when used exclusively in farming or ranching:

Antifreeze, hydraulic fluid, lubricating oils and greases for farm machinery and equipment	Cultivators	Husking machines	Repair and replacement parts for exempt machinery
Artificial insemination equipment	Discs	Incubators (portable)	Root vegetable harvesters
Augers	Drags	Irrigation equipment	Rotary blade mowers
Balers	Dusters	Land clearing tree shears	Rotary hoes
Baling twine and wire	Ear tags	Livestock feeding, watering and handling equipment (portable)	Seeders
Barn ventilators	Egg handling equipment	Manure handling equipment (including front end and rear end loaders)	Seed cleaners
Binders	Ensilage cutters	Manure spreaders	Seed planters
Brooder houses	Farm wagons	Milk coolers	Shellers
Brush hogs	Farrowing houses (portable and crates)	Milk coolers	Silo unloaders (if part of feeding equipment)
Bulk milk coolers	Feed grinders	Milk strainers	Sorters
Bulk milk tanks	Feeders	Milking machine	Sowers
Calf weaners and feeders	Forage boxes	Mowers, hay and rotary blade	Sprayers
Catheters	Forage harvester	Pickers	Spreaders
Cattle currying and oiling machine	Fruit graters	Planters	Squeeze chutes
Cattle feeder (portable)	Fruit harvesters	Plows	Subsoilers
Chain saws used commercially to harvest timber, lumber and prune orchards	Global positioning systems	Poultry feeders (portable)	Tarps to cover farm machinery, grain
Combines	Grain augers (portable)	Poultry house equipment	Threshing machines
Conveyers (portable)	Grain binders	Precision farming equipment: soil testing sensors, yield monitors, GPS & mapping systems, guided systems, data communication equipment	Tillers
Corn pickers	Grain conveyors	Pruning and picking equipment	Tires for exempt machinery
Corral panels (portable)	Grain drills	Refrigerators used to cool raw milk	Tractors, farm
Crawlers, tractor	Grain dryers		Vacuum coolers
Crowding alley	Grain planters		Waxers
Crushers	Harrows		Weeders
Cultipackers	Hay loaders		Windmills
	Head gates		
	Hog feeders (portable)		

USUALLY TAXABLE. These items are usually subject to sales or use tax.

Antifreeze, hydraulic fluid, lubricating oils and greases for trucks and vehicles	Conveyors	Hammers	Road scraper
Air compressors and tanks	Cow stalls	Heaters	Roofing
ATVs	Drainage tile	Hog rings	Sanders
Automobiles	Electrical wiring	Hog ringers	Shipping containers used for storage
Axes	Equipment and supplies for home	Lamps	Shovels
Bale transportation equipment	Fans	Lawnmowers	Silos
Bins	Fence building tools	Light bulbs	Small tools
Brushes	Fencing materials	Marking chalk	Snow fence
Building materials and supplies	Field toilets	Nails	Snow plows and snow equipment
Bulldozers	Fire prevention equipment	Office supplies	Stalls
Cattle feeders (permanent)	Fuel additives	Post hole diggers	Stanchions
Cement	Garden hose	Pumps, gasoline	Staples
Cleansing agents and materials	Garden rakes	Pumps for household or lawn use	Tanks, air
Clothes washers and dryers	Gasoline tanks and pumps	Refrigerators for home use	Tanks, gasoline
Construction tools	Grain bins	Repair tools	Tools (personal use)
	Hand tools, syringes, branding irons	Road maintenance equipment	Tractors, garden

Labor services on farm machinery & equipment

Labor services performed to install a repair or replacement part or to maintain farm or aquaculture machinery and equipment in working order are also not subject to sales tax.



The air conditioning system on your combine fails and it is replaced. All charges for parts and labor would be exempt from Kansas sales tax since the air conditioning system was factory installed equipment on your combine.

However, if the labor service is to install or repair an item that is NOT considered to be a repair or replacement part as defined in the previous section, then that labor fee, like the item, is subject to sales tax. This is true even when the machinery or equipment qualifies as farm or aquaculture machinery and equipment.



You install a CD player and speakers in your tractor. This is not a repair or replacement part of the tractor, therefore the CD player and speakers (and the labor for its installation) are subject to sales tax. In contrast, work on the tractor's radio would be exempt if the radio was original equipment on the tractor.

PROPANE FOR AG USE

Propane used for an agricultural purpose is exempted from the state and local sales tax at K.S.A. 79-3606(w). Exempt agricultural uses of propane include, but are not limited to, propane used in:

- barns or sheds used to house livestock or agricultural machinery or equipment
- brooder or farrowing houses
- fire starters
- nurseries
- irrigation equipment
- tractors, combines and other farm implements



Propane used in a nursery where plants are produced from seed is exempt as an agricultural use of propane. Propane used to heat a retail flower shop is not exempt as an agricultural use of propane.

If the propane use is NOT agricultural in nature (as defined on page 4), the propane is subject to sales tax.



Sales tax is due on propane sold to heat a business (including farm or ranch buildings not devoted to agricultural production), to kennels that board animals for others and for recreational vehicles and barbecue grills.

Local Sales Tax on Propane

Propane for ag use is exempt from the state and local sales tax. Propane used in a commercial operation is generally subject to both the state and local sales tax (unless it's use qualifies as "consumed in production"). Propane used for a noncommercial residential purposes (home heat, cooking, hot water), is subject only to local sales tax, based on the location of the consumer (K.S.A. 12-189a(b)). How the state and local sales tax applies to propane sales is summarized in the following table.

Propane Use	State	Local	Tax Situs*
Ag Use	Exempt	Exempt	N/A
Commercial Use	Taxable	Taxable	Where customer takes delivery
Consumed in Production	Exempt	Exempt	N/A
Residential Use	Exempt	Taxable	Where customer takes delivery
Recreation Vehicles or BBQ grills	Taxable	Taxable	Where customer takes delivery

* *Tax situs* indicates which local tax is applicable to the retail sale of the propane. Sales of propane are taxed or "sourced" at the rate in effect where the customer takes delivery of the propane.

Propane Storage Tanks

The propane exemption applies only to the gas itself. Although a propane tank may house or store the propane for an agricultural use, the storage tank itself is not considered to be farm machinery and equipment. Farmers and ranchers must therefore pay sales tax when buying or renting a propane tank for farm, ranch or residential use. Also taxable are the materials and labor involved to install, service, paint, repair or maintain a nonresidential-use propane storage tank.



A farmer contracts with an LP company to lease a tank and regularly deliver propane. The tank lease is subject to state and local sales tax based on the property where the tank is located. The propane used for an agricultural purpose is exempt from state and local sales tax.

Different rules apply to residential propane storage tanks. See *Residential Labor Services* on page 11.

SOIL EROSION PREVENTION

K.S.A. 79-3606(mm) exempts the following from state and local sales tax.

"all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and

used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use; ...”

Therefore all the components of a shelter belt or wind break planted *on agricultural land* are exempt from sales tax. The trees, fertilizers and pest control chemicals, and any services purchased to plant the trees are not taxable.

This exemption is ONLY for those soil erosion projects on “land devoted to agricultural use.”



A farmer is buying 10 trees to plant on the north side of his residence as a windbreak. Since the land use is residential rather than agricultural, the farmer must pay sales tax on the purchase of the 10 trees. (The labor in this situation is not taxed because it is performed on residential property. See *Residential Labor Services* on page 11.)

RESALE EXEMPTION

Perhaps the most widely used sales tax exemption is for the purchase of items (inventory) intended for resale. Those engaged in agribusiness are often retailers as well as producers of agricultural products. (See also *Retail Sales by Agribusiness* on page 22.)

When buying your inventory from a wholesaler or another retailer, or selling inventory items to another retailer, you must use a Resale Exemption Certificate (ST-28A). In order to use a resale exemption certificate, the buyer must have a Kansas sales tax account number and the items purchased must be for resale in the usual course of the buyer’s business.



A Christmas tree farm not only grows and sells Christmas trees, but also sells tree stands, lights and prefabricated yard ornaments. As a registered retailer, it will purchase the stands, lights and other retail items without sales tax using a resale exemption certificate.



A co-op sells fertilizer, feed, tools, tires, batteries and other automotive supplies. As a registered retailer the co-op will use a resale exemption certificate to purchase its inventory of these items without sales tax.

INGREDIENT OR COMPONENT PART EXEMPTION

Kansas sales tax is designed to be paid only once by the final consumer or user. Therefore, items that become part of a finished product or taxable service to be sold to the final consumer are exempt as ingredient or component parts. To be considered an ingredient or compound part the item must:

- be necessary and essential to the finished product or service,
- be used in or on the finished product or service,
- become a physical part of the finished product or service, and
- become an ingredient or compound part of property or service for retail sale.

This exemption, found at K.S.A. 79-3606(m) and further explained and defined by K.A.R. 92-19-54, is available to many types of businesses. The statutory definition specifically includes these examples for the agricultural industry:

Seeds, seedlings and fertilizer used in the production of plants and plant products produced for resale, and

Feed for animals, fowl and aquatic plants and animals, the primary purpose of which is the production of food for human consumption; the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur; or the production of offspring for use for any such purpose.



CAUTION: The seed, fertilizer and feed must meet the intended use portion of the definition cited above (i.e., for agricultural animals or plants) in order to be exempt.

Whether a purchase qualifies for this exemption is determined SOLELY by **how the item is used** in the production activity. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each transaction must therefore be separately measured against the definition and guidelines in the law and regulation to determine the taxability of the transaction.



Seeds and fertilizer for a home garden or flower bed are taxable, while wheat and pumpkin seeds purchased to produce a crop for sale are exempt. Food, supplements and vitamins for animals or fish that are pets or pleasure animals are taxable.

Containers, Labels and Shipping Cases



Included in the definition of items that are considered to be ingredient or component parts are containers, labels, and shipping cases used to sell or distribute property produced for sale. To be exempt, the container or other shipping or handling materials must actually accompany the product and must not be returned for reuse by the manufacturer or producer.

Examples of exempt component parts include:

- Paper or plastic bags for produce sold at a farmer's market;
- Pots, crates and other containers sold with plants, shrubs or trees;
- Jars, lids and labels for honey, jams and jellies; or
- Bottles and labels for wine produced at a winery.



IMPORTANT: Boxes, crates and flats used to transport agricultural products that are returned to and/or retained and reused by the producer are taxable.

CONSUMED IN PRODUCTION EXEMPTION

Another exemption available to many types of Kansas businesses is the exemption for items that are consumed in a production process. This exemption is found at K.S.A. 79-3606(n) and in K.A.R. 92-19-53. A production process is defined as:

- producing, manufacturing, processing, mining, drilling, refining or compounding tangible personal property;
- the treatment of by-products or wastes from any such production process;
- the providing of taxable services,
- the irrigation of crops, or
- the storage and processing of grain.

To be exempt as consumed in production, the item must meet these four criteria. It must be:

- 1) used in the actual process;
- 2) essential or necessary to the process;
- 3) consumed, depleted or dissipated within one year; and
- 4) not reusable for such purpose.

Like the exemption for ingredient or component parts, it is not the buyer or the item itself that is exempt, but rather how the item is used in a production process that may qualify it for exemption. The law lists the following agricultural examples to illustrate this exemption.

- 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;
- electricity, gas and water; and
- petroleum products, lubricants, chemicals, solvents, reagents and catalysts.



The retail sale of weed herbicides which are sprayed or applied to crops, crop land, pasture grass and/or range land grass used for grazing commercial livestock, are exempt from sales tax as consumed in production.



Lubricating oils and greases, antifreeze and hydraulic fluids for a harvester are exempt. These same items purchased for your cattle truck are taxable.

INDUSTRY APPLICATIONS AND EXAMPLES

Although Kansas sales tax laws and regulations contain definitions and specific examples for the agricultural industry, they remain general in nature. This section will illustrate the practical application of the sales tax principles previously discussed to selected segments of agribusiness.

Most of these examples are taken from written departmental advice in notices and private letter rulings available to the general public as part of the Policy Information Library on our web site. If you are in doubt about the application of the law to a specific purchase or situation for your business, contact the department for advice. See *Taxation Resources*, page 24.

ANIMALS AND ANIMAL CARE

GENERAL RULE: ANIMALS USED IN PRODUCTION OR BREEDING OPERATIONS ARE EXEMPT.

If the animal is exempt as an agricultural animal (defined on page 4), the feed and care vitamins and chemicals, whether fed, injected, applied or otherwise used on animals for agricultural production are also exempt.

Bull Semen. The purchase of semen by persons engaged in the business of breeding and raising cattle for ultimate resale is exempt as an ingredient or component part. The delivery charge is exempt if the item purchased is exempt.

Insemination Service. The gross receipts from the service of performing insemination services in connection with production of cattle, sheep, hogs or other breeding stock for resale is exempt.

Artificial Insemination Supplies. The following items are exempt as consumed in production: Disposable plastic gloves, lubricants and paper toweling. Catheters and ear tags are exempt as farm machinery and equipment.

Artificial Insemination Equipment. The following items are exempt farm machinery and equipment: implanting guns, sheaths, thermometers and thaw units (used to thaw frozen semen straws).

Animal Care Products. These animal care products are exempt as consumed in production: antibiotics, wormers, hormones, insecticide (that is applied directly on animals), teat dip, detail tail paint and liquid nitrogen. These animal care items are exempt farm machinery and equipment: Kamar heat detectors, calf jackets and biostat tanks.

Animal Feed: Feed and feed supplements are exempt as an ingredient or component part if the animal is an *agricultural animal* as defined on page 4.



The cattle feed and any vitamin and mineral supplements mixed into the feed for feeder cattle may be purchased exempt from sales tax. Food, vitamins and minerals for a pet or pleasure animal are taxable.

CONSTRUCTION PROJECTS

GENERAL RULE: MATERIALS USED TO CONSTRUCT AND REPAIR BUILDINGS AND OTHER STRUCTURES FOR FARMERS AND RANCHERS **ARE TAXABLE SALES** OF TANGIBLE PERSONAL PROPERTY.

Also taxable is the sale or rental of construction equipment. The labor services to construct a new building or facility (feedlot or well) are not taxed. The labor services to repair or maintain an existing farm building, well or feedlot are taxable, unless the labor is to repair damage from a fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism, or earthquake. A *windstorm* means straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization.

Materials

The sale of construction materials to a farmer, rancher or contractor for use in improving real property are taxable retail sales of tangible personal property. This includes materials used to build barns, confinement buildings, corn cribs, drainage-tile systems, fences, grain storage bins, greenhouses, roads, silos, storage buildings and other buildings and structures.

Construction Equipment

The sale, rental or lease of construction equipment is taxable. This includes backhoes, graders, hand tools, post-hole diggers, and power tools.

Labor Services

As a general rule, the labor services fee charged by contractors, subcontractors and repairmen is subject to sales tax. Labor services are taxed in Kansas when they involve the **installation** or **application** of tangible personal property, or when the labor is to **repair, service, alter** or **maintain** tangible personal property, even when the tangible personal property is attached to real property.

Farmers and ranchers must generally pay sales tax on all taxable labor services purchased for use in their farming and ranching operations. Only the labor to repair or maintain those items considered to be farm machinery and equipment may be purchased without sales tax. (Original construction labor services are not taxable labor services.)



Labor to repair an auger, a dairy's milking equipment, or a harrow is exempt. Labor to repair a fence, grain truck, or storage building is taxable.

Original Construction Labor Services

An exception to the above general rule is that sales tax is not charged when the labor services of installing or applying tangible personal property are performed in connection with the *original construction* of a building or facility. The definition of a *facility* includes feedlots (page 11) and oil, gas or water wells (page 18).

Original construction is the first or initial construction of a building or the addition of a new wing or floor to an existing building, and includes the land improvements immediately surrounding the new structure.



You are building a new barn. Since this is the first or initial construction of a building, no sales tax is due the contractors on the labor fee they charge to build the new barn. Also not taxable is the labor to construct the land improvements immediately surrounding the barn, such as a driveway, ramp and exterior lighting.

Included in the definition of *original construction* is any reconstruction work to repair damage to an existing building, facility, or utility structure* damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm* (80 mph or more), ice loading and attendant winds*, terrorism*, or earthquake. *Utility structure* means transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility. The labor charge for reconstruction work done for any other reason is taxable.

* Effective July 1, 2007



The labor to repair a barn roof that was destroyed by a tornado is exempt as original construction, but the labor to repair a barn roof due to age is taxable.

and excavation charge for the lagoon is subject to sales tax.

CROP DUSTING

Crop dusting, fertilizer applicators and similar services performed in connection with the commercial production of fruit, vegetables, feeds, seeds, seedlings or plants for resale are exempt from sales tax. The items applied (herbicides, pesticides or fertilizer) are exempt as *consumed in production*, and the service of applying them, whether by air or ground application, is also exempt as consumed in production.

Diesel fuel used in crop spraying or dusting formula by these providers of farm and ranch work for hire is exempt from sales tax as an ingredient or component part of the spray or dusting formula.

FARRIERS

A farrier is someone who shoes horses and trims their hooves. Since a horse is considered to be tangible personal property, a farrier's services are generally taxable.

However, if the horse qualifies as an *agricultural animal* as defined on page 4, the farrier service is not taxed. Farrier services for horse-breeding operations are exempt only if the breeder is a registered Kansas retailer who is collecting tax on its horse sales.



Farrier services performed on race, competition or recreational (pet) horses are taxable. Farrier services performed on plow horses and on horses used primarily for herding are exempt.

FEEDLOTS

Construction Projects

As with any construction project, the materials used to build a new feedlot or to repair an existing feedlot are taxable. For the purpose of sales taxation of labor, a feedlot is considered to be a *facility*. Therefore the labor services for the "original construction" of a feedlot are not taxable as the original construction of a facility. *Original construction* is defined on page 10, and includes the labor to repair an existing feedlot damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake.



You operate a feedlot in Ford County and are adding 10 permanent pens to it. You must pay sales tax on the concrete, pipe, fencing and other materials used to

Residential Labor Services

Persons engaged in agribusiness often live in very close proximity to their business. Since July 1, 1998 labor services performed at a residence have been exempted from sales tax. A residence is defined as only those enclosures within which individuals customarily live, and includes the land improvements immediately surrounding the residence. To qualify as a residential land improvement it must be immediately near the residence and must principally serve the residence.



The labor to repair to a yard fence is exempt but the labor to repair the fence around a barn is taxable. The materials used for both fences are taxable.

Propane Storage Tanks

Included in the definition of residential property are the tanks used to store heating oil and propane, both inside and outside the home. Although you must pay sales tax on the purchase, lease or rental of the storage tank, the labor services to install, repair or maintain a propane tank used exclusively for residential purposes is not taxed. This tax treatment of the labor services on residential propane storage tanks is different than that for propane storage tanks used for agribusiness or other commercial purpose discussed on page 7.

Labor Services Not Taxed

Other services are not subject to sales tax because they do not involve the installation or application of tangible personal property. Examples of nontaxable services include:

- | | |
|------------------|---------------|
| Accounting | Barn Cleaning |
| Excavation | Grading |
| Leveling | Mowing |
| Pasture Cleaning | Security |
| Snow Removal | Tree Trimming |

Some contracts for labor services have both taxable and nontaxable components. In order to maintain their separate tax treatments, your service provider should bill the taxable and nontaxable portions separately on the invoice.



You are having excavation work done in conjunction with the construction of a lagoon. The materials to build the lagoon are taxable, but the labor and excavation work is not. However, if the labor and excavation work is not separately stated on the invoice, the entire labor

construct the pens, but the labor for this addition to an existing facility is exempt as original construction. The portable feed bunkers are exempt as farm machinery and equipment.



You must replace the permanent fenced pens and two feed silos at your feedlot that were destroyed by a tornado. The materials are taxable, but the labor to rebuild the pens and silos (normally taxable as part of an existing facility) is exempt, since labor to repair damage caused by a tornado is considered to be *original construction*.

Farm Machinery and Equipment

In addition to the portable equipment used to feed and house livestock listed on page 6, the following specialized pieces of equipment used by a feedlot are specifically listed as implements of husbandry in K.S.A. 8-126(cc), and are therefore considered to be exempt farm machinery and equipment.

- fertilizer spreaders, nurse tanks or trucks with permanently mounted spreaders that are used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals;
- a truck mounted with a fertilizer spreader used or manufactured principally to spread animal manure;
- a mixer-feed truck owned and used by a feedlot, that is specially designed and used exclusively for dispensing food to livestock in such feedlot.

Other examples of equipment that a feedlot may purchase without tax are a grinder that is used to recycle into feed the carcasses and remains of farm animals, or equipment used to mix or process the feed for livestock.

Consumed in Production

Feed yards may purchase the following items exempt because they are consumed in the production of livestock: antibiotics, biologicals, pharmaceuticals, vitamins and chemicals, whether fed, injected, applied or otherwise used on animals for agricultural production.

FUELS

The taxation of motor fuels in Kansas falls into three general categories: 1) fuel for highway (tagged) vehicles; 2) fuel for off-road vehicles; and, 3) fuels for other agricultural purposes.

Gasoline and diesel fuels used in highway vehicles are subject to the motor fuels tax (see page 22). Fuels used in off-road vehicles and equipment are not subject to the motor fuel tax, but ARE subject to sales tax

as the sale of tangible personal property. Fuels consumed by equipment used to construct farm ponds, lagoons, terraces and waterways; or in the grading, landscaping, and the preparation of building sites are subject to sales tax.



A co-op will collect the state and local sales tax on motor fuels sold for use in the off-highway operation of motor vehicles, excavation equipment, and construction equipment.



IMPORTANT: The sales or use tax applies to fuels that are exempt from the motor fuel tax, including fuels purchased with the motor fuel tax paid if such tax is refundable under the provisions of the Kansas Motor Fuel Tax Act. The sales tax will apply whenever the motor fuel tax does not apply unless the use of the fuel qualifies for a sales tax exemption (such as consumed in production).

Consumed in Production

Motor fuels consumed in the production or processing of agricultural products or the irrigation of crops for ultimate sale at retail are exempt from Kansas sales or use tax. Exempt uses include fuel consumed in plowing, disking, harrowing, irrigating, planting or seeding, cultivating and harvesting.

Bulk Fuel Purchases

Motor fuel purchased in bulk where it's taxable or nontaxable use cannot be determined until it is actually consumed should be purchased without retailers' sales tax. Persons buying motor fuel in bulk without retailers' sales tax are required to file Consumers' Compensating Use tax (CT-10U), reporting the cost of motor fuels withdrawn from storage for taxable off-highway uses and remit the tax due directly to KDOR. Information on how to register to report and pay use tax is on page 4.

Persons buying motor fuel in bulk solely for taxable non-highway use should pay sales tax to their supplying dealer.

GRAIN ELEVATORS

The application of sales tax to the operation of Kansas country and terminal elevators differs from a farming and ranching (production) operation. As a storage and processing facility, an elevator's machinery qualifies for exemption as either integrated production or warehouse machinery and equipment.

Integrated Production Machinery & Equipment

An integrated production operation is a plant or facility located in Kansas that manufactures, processes,

fabricates, finishes or assembles items for wholesale or retail distribution. The operation of a grain storage facility is considered to be an integrated production operation. As such, the purchase, installation or repair of the machinery and equipment that is an integral part of its grain processing operation is exempt from sales tax. Also exempt are the parts, materials and labor furnished by contractors and repairmen to install, service, repair or fabricate qualified equipment.

Exempt items include, but are not limited to:

- conveyors
- elevator legs
- manlifts
- railcar handling equipment
- sampling equipment
- spouting components
- testing equipment

To claim this exemption an elevator must furnish its supplier, vendor or contractor with a completed exemption certificate. KDOR designed the Integrated Production Machinery and Equipment Exemption Certificate (ST-201) for this purpose. This certificate is available from our web site.

Examples of items that are taxable when purchased by an elevator are: construction materials not used for special foundations for exempt equipment; cleaning equipment; communications equipment; office heating and cooling equipment; and, railroad materials.

Warehouse Machinery and Equipment

The material handling equipment, racking systems and other related machinery and equipment used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in Kansas are exempt from sales tax at K.S.A. 79-3606(fff). Also exempt are the repair and replacement parts and all services to install, repair or maintain the warehouse machinery and equipment. Exempt equipment includes the equipment used by a commercial grain storage facility to aerate, clean, control dust, handle, process, refine, store or otherwise treat the grain.

Items that do not qualify are those that are not directly used in the storage or handling of the grain. Taxable equipment includes but is not limited to:

- office furniture and equipment,
- equipment used to clean the building,
- equipment used to repair the machinery or equipment, or
- equipment to light, heat or cool the facility.

To claim this exemption, use the Warehouse Machinery and Equipment Exemption Certificate (ST-203). This form is available from our web site.

For more information about how sales tax applies to an elevator operation, obtain a copy of KDOR's Notice

01-07, Sales Taxation of Kansas Grain Elevator Purchases on and after January 1, 2001. It identifies purchases that are exempt under the integrated plant exemption provided at K.S.A. 79-3606(kk), the items and services that were exempt during calendar years 1999 and 2000 by special legislation, and the items that have been taxable since January 1, 2001. This notice is in the Policy Information Library on our web site.

Consumed in Production

The storage and processing of grain is one of the production processes that qualifies an item for the consumed in production exemption (page 9). Property and utilities that are necessary to grain storage and processing at an elevator qualify for the consumed in production exemption. Examples of exempt items include:

- fumigants
- lubricants for exempt equipment and
- electricity used by the equipment that turns and cleans the grain.

GRAIN STORAGE

Grain storage bins are farm buildings (improvements to real property). Like any other commercial use building, the materials to build it are taxed as a retail sale of tangible personal property. The labor services expended in the *original construction* (as defined on page 10) are exempt, while labor on an existing bin is taxable.

However, a grain bin may house exempt farm machinery and equipment. Equipment such as augers and blowers used to manage the extended storage of the grain are exempt as farm machinery and equipment.



You are building a new grain storage bin. The structural materials that make up the bin (corrugated siding, anchor bolts, access doors, foundations, ladders, roof and vents) are subject to sales tax. The grain storage bin accessories - such as augers, electric control panels, fans, stirring devices and spreaders - are exempt as farm machinery and equipment. The labor services to build the bin are not taxed since this is a new bin.

NOTE: Effective January 1, 1999, the Kansas legislature provided a one-year exemption for the materials and labor services used to construct or reconstruct grain storage facilities. This exemption was extended for another year by the 2000 Legislature. However, since January 1, 2001 all materials used and the labor fees charged to repair grain storage facilities are again subject to sales tax.

Portable Grain Bins

Portable bins mounted on wheels or work bins that are intended to be frequently moved along with wheel-mounted grain augers, dryers or other portable grain

handling equipment are exempt as farm machinery and equipment. A tarp used to cover the top of an agricultural gravity or hopper box is also exempt.

IRRIGATION EQUIPMENT

Irrigation equipment has two components for sales tax purposes – the parts that are considered to be farm machinery and equipment, and the items that are improvements to real property. The parts of an irrigation system that are considered to be farm machinery and equipment are exempt if purchased for farm use (i.e., none of the water pumped is used for human consumption and/or sanitation). Services to assemble or repair irrigation equipment for farm use are also not subject to sales tax.

Following are representative (but not exclusive) lists of exempt and taxable irrigation and well-related items.

EXEMPT (as farm machinery and equipment):

Pivot system, heat exchanger, flowmeter, gear drive, bowl units, column pipe, tubing and shaft assembly, check valve, and the discharge head, as well as submersible pumps and motors, gate and check valves and drop pipe.

The repair parts (including tires) and labor to install, repair or maintain these exempt components of irrigation equipment are also exempt from sales or use tax.

TAXABLE (improvements to real property): The cement base, underground discharge pipe, and underground plastic PVC irrigation pipe, along with the pressure tank, galvanized nipples and fittings, well pits and lids, well seals, and pitless units and/or adapters.

The labor to repair a taxable item is also taxable.

Any labor services performed in or on irrigation wells are subject to sales tax, unless the service of installing or applying tangible personal property is in connection with the original construction of the irrigation well. Original construction might be either the first or initial construction of the well, or the reconstruction or repair of a well damaged by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism, or earthquake. A *windstorm* means straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization. See also *Wells* on page 18.

MAINTENANCE AGREEMENTS

GENERAL RULE: IF THE TANGIBLE PERSONAL PROPERTY IS SUBJECT TO SALES TAX, THEN ANY MAINTENANCE AGREEMENT OR EXTENDED WARRANTY FOR THAT PROPERTY IS ALSO SUBJECT TO SALES TAX.



Extended warranties or maintenance agreements purchased for exempt farm machinery or equipment (combines, milking machines, etc.) are also exempt.

The extended warranty on your pickup is taxable because the pickup is taxable. (See *Vehicles & Trailers*, page 16.)

OTHER BUSINESS EQUIPMENT

Aside from the farm machinery and equipment sales tax exemption, farmers and ranchers must usually pay sales tax on all other items purchased for use in their farming and ranching operations. Therefore your purchases of boots, building materials, CB radios, cell phones, fencing materials, gloves, hand tools, hay tarps, office supplies, work clothes, vehicles etc., are subject to sales tax.

Computers and Software

Computers and software used by farmers and ranchers do not qualify as farm machinery and equipment, even though these items perform a valuable and necessary part of your operation and are tailored to agribusiness. The purchase of computer hardware, software, repair and replacement parts and the labor to install or maintain the hardware and software are taxable. Also taxable is the sale of warranty or maintenance agreements on these items.

Portable computers or computers that are installed or purchased to be installed on farm machinery and equipment are exempt from sales tax when used only in computer-assisted farming, ranching or aquaculture production operations.



The bunkreader and veterinary record keeping software used to track cattle feeding operations is not exempt as farm machinery and equipment.

Repair Equipment

Equipment purchased by a farmer or rancher in order to repair, maintain or service farm machinery and equipment is NOT exempt. The exemption for farm machinery and equipment extends only to the items actually used in the production process. Equipment used to repair or clean production equipment is not used directly in the production process, and is therefore not exempt.



You purchase tire repair equipment to mount and repair the tires on your irrigation equipment. You must pay sales tax on the tire repair equipment, as well as any repair or replacement parts or labor on the tire repair equipment.

Tools, high pressure washers and welding equipment (see page 18) are other examples of repair equipment on which farmers and ranchers must pay sales tax.

- Soil, peat, vermiculite or other plant medium
- peat pots, pots and other growing containers for trees and plants
- seeds and seedlings
- burlap to protect the root ball
- netting used to wrap a tree for transportation

PEST CONTROL

Pest control is exempt when used on land devoted to agricultural use, but is taxable for any other use.

You are buying bait to control the gopher population on your pasture land. Since this product is being used to control pests on agricultural land, its purchase qualifies for exemption as consumed in the production of an agricultural product (crops or livestock). As a result, the gopher bait is exempt from Kansas sales tax.

You purchase a pesticide to keep mice from entering an area where you store machinery and vehicles. Since this pest control product does not become a part of an agricultural product produced and does not qualify as farm equipment, it is taxable.

Crates and packaging for the sale or transportation of fruits or vegetables or the decorative pot wrapping, bows, sacks, etc. used in the sale of these items are exempt if they are not returned to the orchard or nursery for reuse.

Consumed in Production

Fertilizers, fuel for smudge pots to keep frost from fruit trees, fuels to heat a greenhouse growing plants from seed, insecticides and water are consumed in the production of plants and trees.

UTILITIES

GENERAL RULE: THE SALE OF NATURAL GAS, ELECTRICITY, HEAT AND WATER DELIVERED THROUGH MAINS, LINES OR PIPES FOR GENERAL AGRICULTURAL USE OR FOR NONCOMMERCIAL RESIDENTIAL USE IS NOT SUBJECT TO THE **STATE** SALES TAX. THE SALE OF NATURAL GAS, ELECTRICITY AND HEAT (BUT NOT WATER) DELIVERED THROUGH MAINS, LINES OF PIPES FOR AGRICULTURAL OR RESIDENTIAL USE IS SUBJECT TO **LOCAL** (CITY AND/OR COUNTY) SALES TAX.

Effective January 1, 2006 sales of water delivered through mains, lines or pipes for agricultural or residential use is not subject to state or local sales tax. When subject to sales tax, the rate that is due is the rate in effect at the utility user's location.

 Water used to clean dairy equipment would not be subject to state or local sales tax. Electricity used to light a dairy barn would be subject only to the local sales tax in effect where the dairy is located.

Electricity, gas and water are also often consumed in production (defined on page 9). In this capacity, the utility is not subject to either the state or a local sales tax.

 Electricity used to pump water for the irrigation of crops or electricity used to power an incubator at a turkey farm is exempt from both the state and local sales tax, as *consumed in production*.

Sales Taxation of Electricity and Gas

How state and local sales tax applies to electricity, gas, or heat delivered through mains, lines, or pipes is summarized in the following table.



PLANT NURSERIES/ CHRISTMAS TREE FARMS

The definition of farming and ranching was expanded in 1995 to include the operation of a plant nursery or Christmas tree farm. A nursery operation is the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale. The term Christmas tree operation includes the planting, cultivating and harvesting of Christmas trees and the sale or transportation of Christmas trees. (A greenhouse is a location where plants are stored and maintained while being held for sale – see also page 8.)

Machinery and Equipment

The term *Christmas tree machinery and equipment* means the personal property actually and regularly used in any Christmas tree operation. Specialized equipment used by a nursery to transplant mature trees from the growing site is exempt machinery and equipment.

Passenger vehicles, trucks, truck tractors, trailers, semitrailers or pole trailers are specifically listed as equipment that is not exempt. However, lawn-type trailers, gators and other small farm trailers may be purchased by Christmas tree farmers and plant nurseries without tax if they meet the requirements on page 16, *Farm Trailers*.

Ingredient or Component Parts

Among the items a nursery or tree farm may purchase without tax as ingredient or component parts are:

UTILITY USE	STATE	LOCAL	TAX SITUS
Ag Use	Exempt	Taxable	Consumer
Commercial Use	Taxable	Taxable	Consumer
Consumed in Production	Exempt	Exempt	N/A
Irrigation of Crops	Exempt	Exempt	N/A
Residential Use	Exempt	Taxable	Consumer

Sales Taxation of Water

How state and local sales tax applies to water delivered through mains, lines, or pipes is summarized as follows:

UTILITY USE	STATE	LOCAL	TAX SITUS
Ag Use	Exempt	Exempt	Consumer
Commercial Use	Taxable	Taxable	Consumer
Consumed in Production	Exempt	Exempt	N/A
Irrigation of Crops	Exempt	Exempt	N/A
Residential Use	Exempt	Exempt	Consumer

The sales tax exemptions for agricultural and consumed in production uses of utilities are not automatic. You must complete and file a Utility Exemption Request (ST-28B) with your utility provider to receive this exemption. More details are on page 20, *How to Claim a Utility Exemption*. Form ST-28B is on page 30.

VEHICLES & TRAILERS

Motor vehicles are a necessary and integral part of many types of businesses, including agribusiness. Trucks and trailers are needed to transport animals, grain, milk or other agricultural commodities. However the statutory definition of exempt farm machinery and equipment (K.S.A. 79-3606(t)) specifically EXCLUDES passenger vehicles, trucks, truck tractors, trailers, semitrailers, or pole trailers. Only farm trailers (as defined on this page) may be purchased without tax as farm machinery and equipment.

Property Installed or Mounted

Kansas state and local sales tax is imposed on the total selling price of each motor vehicle or trailer and includes all tangible personal property mounted, installed, applied or otherwise attached or affixed to the motor vehicle/trailer. K.A.R. 92-19-30a provides that, "the retailer shall not exclude or deduct for the tangible personal property, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately charged or segregated on the same contract or invoice."



A new truck is purchased with a dealer-installed grain box. The truck and the grain box are both subject to sales tax, despite the fact that the grain box by itself may qualify for farm machinery and equipment exemption.

The sales tax base for the sale of any vehicle includes, but is not limited to:

- 1) transportation and freight charges;
- 2) administrative fees, handling, dealer preparation and similar charges;
- 3) undercoating protection;
- 4) cost of all options; **and**,
- 5) cost of all warranties, including extended warranties, service contracts, maintenance contracts, etc.

Interest, finance or carrying charges on installment purchases are not subject to sales tax when separately stated on the invoice.

Farm Trailers

A trailer may be exempt from sales or use as farm machinery and equipment. K.S.A. 8-126(z) defines a farm trailer as any trailer or semitrailer *designed and used primarily as a farm vehicle*. As outlined in Revenue Ruling 19-1997-3, there are two tests that must be met for exemption of a trailer as a *farm trailer*. It must be:

- 1) used only in farming and ranching, **and**
- 2) designed to allow for farm or ranch use.

The criteria necessary to meet each of these tests is explained below.

USED ONLY IN FARMING AND RANCHING. The buyer's certification on the invoice or the Agricultural Exemption Certificate (ST-28A), is sufficient to satisfy the first test – see also *Claiming the Exemptions*, page 18. The trailer must be for the farmer's or rancher's own use in their farming or ranching operation. A trailer that qualifies for the *farm machinery and equipment* exemption is exempt from sales tax whether it is tagged for highway use or not. A trailer used to haul commodities, livestock or other goods for others or utilizing the trailer for a commercial use other than farming and ranching are uses that are incompatible with the exempt use.



CAUTION: Buyers using trailers for incompatible uses are required to pay sales or use tax and are not allowed to claim an exemption based on the exemption for farm and ranch machinery or equipment. Should an exemption later be disqualified, the buyer is subject to the retailers' sales or use tax on the original purchase price, plus penalty and interest.



You are a cattle rancher. Your purchase of a livestock trailer to haul cattle would be exempt from sales tax as a farm trailer provided you do not use it for any other commercial purpose. The purchase of a horse trailer to haul show horses is taxable.

DESIGNED FOR FARM AND RANCH USE. Semitrailers such as grain, flatbed, dump, tank, and van are designed to allow for farm and ranch work. When the buyer certifies that the purchase of these types of trailers will only be used in farming and ranching, the purchase is exempt from sales and use taxes. Converter gears that are utilized to facilitate the transport of farm trailers would also be exempt as farm machinery.

All Terrain Vehicles (ATVs)

ATVs are often used on a farm or ranch, however, ATVs are not farm machinery and equipment and are therefore subject to Kansas sales or use taxes (illustrated by the use tax example on page 21). An ATV is defined as:

Any motorized nonhighway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires, **having a seat designed to be straddled by the operator.** As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer. (Emphasis added).

Like the vehicle itself, accessories for an ATV are also taxable.



A box blade that can be pulled by all terrain vehicles and garden tractors and is used to level dirt and gravel driveways and for the removal of snow is taxable.

Work-Site Utility Vehicles

The sale of a “work-site utility vehicle” that is equipped with a bed or cargo box for hauling materials may be purchased exempt from sales tax under the farm machinery and equipment sales tax exemption.

K.S.A. 8-126 to defines a *work-site utility vehicle* as:

“Work-site utility vehicle” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, **of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side,** and may be equipped with a bed or cargo box for hauling materials. (Emphasis added).

The same law provides that a work-site utility vehicle that is equipped with a bed or cargo box for hauling materials, is included within the definition of *farm machinery and equipment or aquaculture machinery and equipment* (K.S.A. 7903606(t)). To qualify for the farm machinery and equipment exemption from Kansas retailers’ sales tax, the following must apply:

- 1) The purchase must be of a work-site utility vehicle, as defined above, that is equipped with a bed or cargo box for hauling materials, or for repair or replacement parts therefor, or services performed in the repair or maintenance thereon; **and**,
- 2) The work-site utility vehicle must be used only in farming, ranching, aquaculture production, farm and ranch work for hire, operation of a feed lot, nursery or for Christmas tree farming; **and**,
- 3) The retailer must retain in its records an Agricultural Exemption Certificate (ST-28F) completed by the purchaser. As an alternative to the Agriculture Exemption Certificate, the purchaser may certify in writing on a copy of the invoice or sales ticket to be retained by the seller that the work-site utility vehicle will be used only in farming, ranching or aquaculture production.

VETERINARIAN SERVICES

Medical services provided by veterinarians are not subject to sales tax, whether the animal is a pet or an agricultural animal (defined on page 4). Because the medical services are not taxed, a veterinarian must pay sales tax on all equipment and medical supplies used in the practice, except for those items used by the veterinarian in the professional treatment of animals raised for human consumption or for producing dairy products. The latter may be purchased by a veterinarian exempt from sales tax with a completed Veterinarian Exemption Certificate (Form ST-28V). This certificate is available from our web site.



Vaccines for pets are subject to sales or use tax when they are purchased by a veterinarian. Vaccines for livestock intended for resale or breeding are exempt when purchased by a veterinarian with a completed Veterinarian Exemption Certificate (ST-28V). The medical service of vaccinating an animal (pet or agricultural animal) is not taxable.

The drugs and pharmaceuticals dispensed by a veterinarian pursuant to a prescription order are exempt regardless of whether the animal is an agricultural animal or a pet or pleasure animal (K.S.A. 79-3606(p)).

Boarding services for animals are not subject to sales tax since this service is not enumerated in the law as a taxable service.

WELLS



A well is an improvement to real property, and as such is not *farm machinery & equipment* even though the well is for farm or ranch use. However, an oil, gas or water well is a *facility* for purposes of the sales taxation of labor services.

NEW WELLS. The service of drilling a new well is exempt from sales tax as the *original construction of a facility*. Materials expended or installed in a new well are taxable. These rules apply regardless of the type or use of the well or the identity of the buyer.

EXISTING WELLS. Materials and services on an existing well are subject to sales tax, even when the well has an agricultural use. Exception: No tax on the labor services performed on an existing well that principally serves a residence.

Pipe & Well Materials

Materials are taxable - whether sold for an old well, new well, residential well or dry hole. Structural pipe purchased by farmers or ranchers for other uses such as cattle guards, fencing and gates is TAXABLE: the pipe becomes an improvement to and part of real property and is not exempt as farm machinery or equipment.

WELDING

The purchase of welding equipment, rods, oxygen and acetylene by a farmer or rancher is taxable. Also taxable are the cylinder rental and delivery charge for the gases. These items are repair equipment and supplies and are not farm machinery and equipment or repair or replacement parts for farm machinery or equipment.

When a farmer or rancher also performs welding services for others for a fee, that person is engaged in the retail business of providing a taxable service, and as such must register to collect sales tax on the gross receipts received from providing this taxable service (see *Retail Sales by Agribusiness*, page 22). However, as a registered retailer, a welder is then eligible to claim the sales tax exemptions available to retailers of taxable services (such as the consumed in production exemption for rods, oxygen, etc.).

WINDMILLS

Effective January 1, 2008, the sale of windmills, windmill repair parts and services to install and repair windmills, used for agricultural purposes, are exempt from Kansas retailers' and compensating taxes as *farm machinery and equipment*.

Exempt property includes the wheel (blades) gear box, shaft, tail, tower, pump rod, packer head, discharge connector, sucker rod, piston pump and strainer. Services and parts to repair agricultural windmills are also exempt.

The sales and compensating (use) tax exemption does not apply to the materials or labor to install or repair the footing, pier, foundation or slab upon which the windmill is attached.



In order to claim an agribusiness-related exemption, two conditions must be met. First, the buyer must be engaged in farming or ranching (defined on page 4). Second, the property purchased, repaired or serviced must be used only in farming or ranching.

When making retail sales to customers, Kansas retailers are required to collect the full amount of sales tax due on each sales receipt, invoice or bill. When an exemption is being claimed, retailers are required to obtain documentation (usually an exemption certificate) that shows why a particular sale is exempt.

As an agribusiness customer eligible to claim one of the exemptions discussed in this guide, it is therefore your responsibility to provide the appropriate documentation to your suppliers and vendors when claiming an exemption. You may either:

- 1) provide a signed certification on the copy of the invoice or sales ticket which sets out the reason for the exemption; **or**,
- 2) complete an exemption certificate.

SIGNING THE INVOICE

The law allows those claiming a farm machinery and equipment exemption to complete a certification on the invoice instead of an exemption certificate.

Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. K.S.A. 79-3606(t).

Many retailers of farm and ranch supplies have a stamp or other printed certification statement on their

invoices for the farmer/rancher to sign. As a matter of practical application, this method is also often used by ranchers and others when buying livestock for ranching or breeding purposes.

 **IMPORTANT:** To claim the exemption, you must sign the invoice for each purchase made.

If you do not complete a certification on the invoice, you must complete an exemption certificate for the retailer in order for the sale to be exempt from sales tax.

USING AN EXEMPTION CERTIFICATE

An exemption certificate is a document that shows why sales or use tax was not charged on a retail sale of goods or taxable services. The buyer furnishes or completes the exemption certificate. The seller keeps the certificate on file with other sales tax records. When the appropriate certificate is used, and all the blanks are accurately filled out, the certificate may be accepted by a retailer.

Descriptions for the certificates most often used by agribusiness begin at the bottom of this page. Copies of each are included in this guide and are designed to be reproduced directly from this publication. For more information about all of the sales tax exemptions currently provided in Kansas law and the exemption certificates to use, go to our web site for a copy of Pub. KS-1520, Kansas Exemption Certificates.

Blanket Exemption Certificates

Unlike signing an invoice, one completed exemption certificate may be used to cover multiple exempt transactions. If you make recurring exempt purchases of the same type from the same vendor or supplier, it is not necessary to complete an exemption certificate for each transaction. You may instead use a completed exemption certificate as a blanket exemption certificate to cover future purchases of the same type. Most exemption certificates may be used as blanket exemption certificates.

NOTE: Although blanket exemption certificates may be valid, you may be asked by a retailer to verify or renew this document every year. This procedure helps a retailer to maintain accurate and up-to-date information about its exempt customers.

 **CAUTION:** When you rely on the use of blanket exemption certificates to make exempt purchases you must segregate the purchases that are taxable from those that are exempt.

When you sign an exemption certificate, you agree to do this. All of the exemption certificates have this statement above the buyer's signature:

"The undersigned purchaser understands and agrees that if the property or services are used

other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax."



You have a blanket agricultural exemption certificate on file at the farm supply store. While in the store to pick up a belt for your combine, you purchase a pair of work gloves and a case of motor oil for your truck. Since the gloves and motor oil are subject to sales tax, segregate these purchases and pay the sales tax on them.

Completing an Exemption Certificate

Follow these three rules when completing any exemption certificate.

1) PRINT OR TYPE ALL INFORMATION, EXCEPT FOR THE SIGNATURE.

Information on the certificate must be legible to you and to our auditors. Do not print a signature, although it is helpful to print or type the name below the signature.

2) FILL IN ALL THE BLANKS.

A certificate is complete only when all the information is provided, including any tax account numbers required by that certificate. If there is a blank on the form, it must be completed. Addresses must include the street or PO Box, city, state, and zip code.

3) GIVE SPECIFIC DESCRIPTIONS.

Be precise when describing the property or services purchased. You may use an itemized list, refer to an itemized invoice, or at least, provide a general description of the items. When describing your agribusiness, include the principal product(s) sold or produced.

Penalties for Misuse

A buyer who issues an exemption certificate in order to unlawfully avoid payment of the sales tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to \$1,000 or imprisoned for up to a year, or both. When a buyer is found to have used a resale exemption certificate to avoid payment of the tax, the director may also increase any penalty due on the tax by \$250 or 10 times the tax due, whichever is greater, for each transaction where the misuse of a resale exemption certificate occurred.

EXEMPTION CERTIFICATES FOR AGRIBUSINESS

Agricultural Exemption Certificate (ST-28F)

KDOR has designed the Agricultural Exemption Certificate (ST-28F) to assist those in agribusiness as well as their retailers and vendors in documenting exempt agribusiness sales. The certificate combines four of the seven exemptions available to agribusiness

on one form. This form may be used to claim the exemptions for farm machinery and equipment, ingredient or component parts, consumed in production and propane for agricultural use.

Designated or Generic Exemption Certificate (ST-28)

This certificate may be used to claim any sales or use tax exemption authorized by Kansas sales tax law. KDOR has developed separate certificates for many of the exemptions. This certificate is designed to cover the remaining exempt transactions that require an exemption certificate, and newly-legislated exemptions for which a specific exemption certificate has not yet been designed. However, whenever possible, it is recommended that exempt buyers use the exemption certificate designed especially for their exemption.

Although the designated certificate may be used to claim any of the exemptions available for agribusiness, it is especially useful for claiming the exemptions for agricultural animals and soil erosion prevention, since these two exemptions are not part of the Agricultural Exemption Certificate (ST-28F).

Resale Exemption Certificate (ST-28A)

When you are a retailer of taxable products or services, you must have a sales tax account number to collect tax from your customers (see page 4). A common misconception is that a sales tax account number is also a “tax-exempt” number, allowing you to purchase items without tax just by giving your vendor the registration number. A sales tax account number is only half of the requirement – it shows that the buyer is a registered retailer but it does not indicate or validate why the purchase is exempt. This is done on the resale exemption certificate. Therefore, when buying items for your resale inventory, you must use a resale exemption certificate, providing your sales tax account number as part of the certificate.

The items purchased with a resale exemption certificate must be for resale and not for personal or other non-exempt use. The property purchased must be of the type normally sold at retail in the usual course of your business. A resale exemption certificate cannot be used to buy equipment, fixtures and other non-inventory items without tax. As added protection for sellers accepting resale exemption certificates, the seller may demand a copy of the buyer’s sales tax certificate of registration as a condition of honoring a resale exemption certificate.

Multi-Jurisdiction Exemption Certificate (ST-28M)

If you are a wholesaler (never make a retail sale), you are not required to have a Kansas sales tax account

number, one of the requirements to use a resale exemption certificate. Wholesalers will use a Multi-Jurisdiction Exemption Certificate (ST-28M) instead of the resale certificate when buying their inventory from a Kansas vendor. The Multi-Jurisdiction Exemption Certificate is also used when a Kansas business is buying exempt items from an out-of-state company registered to collect Kansas sales or use tax. This form is available from our web site.



HOW TO CLAIM A UTILITY EXEMPTION

To claim a sales tax exemption on an exempt use of electricity, gas or water, you must first measure the amount of each utility that qualifies for the exemption and express this as a percentage of the total utility purchase through that meter. Once the percentage of exempt use has been calculated, complete the *utility* exemption request (ST-28B). See page 30.

An exemption request must be submitted for each meter on which you are requesting an exemption. Submit this form to your utility provider along with your workpapers and calculations to document the exempt percentage being claimed. The utility provider may forward an exemption request to KDOR for review and approval before granting the exemption.

Keep a copy of all worksheets and calculations used to determine the percentage of exempt utility usage. KDOR may ask to see the worksheets when auditing the utility exemption or approving a request.



IMPORTANT: When there is a change in your “exempt percent,” it is your responsibility to immediately file a revised utility exemption form with your utility provider.



You have one water meter that serves your dairy barn. You have analyzed your water usage in the dairy barn and arrived at these percentages:

- 65% is used to clean the milking machines, coolers, strainers, bulk milk tanks, and barn.
- 20% is used to water the dairy cattle.
- 10% is used to bathe and care for the dairy cattle.
- 5% is other use - outside faucet for washing vehicles and watering home garden.

Therefore, 80% of your water from this meter is exempt from the state sales tax because it is for an agricultural or residential use (subject to local sales tax). The other 20% of the water is exempt from the state and local sales tax because it is consumed in the production of the milk.



OTHER TAXES AND CREDITS

COMPENSATING USE TAX

Throughout this guide we have referred to *sales and use tax*. When an item is taxable or exempt, it applies to both the application of sales and of use tax. Probably a tax most often unpaid by Kansas individuals and businesses is the use tax. There are two types of use tax Consumers' Compensating Use and Retailers' Compensating Use tax.

Consumers' Compensating Use Tax

The consumer's compensating use tax is due when Kansas residents buy goods or merchandise for their use or consumption in Kansas from vendors in other states on which a state and local sales tax equal to the Kansas rate has not been paid. The Kansas use tax rate is the same as the Kansas state and local sales tax rate in effect where the item is used, stored or consumed. If the state and local sales tax paid in another state is less than the Kansas state and local sales rate, the difference is due to Kansas (illustrated by Situation 1, this page).

The use tax applies to any type of tangible personal property that would be subject to sales tax if purchased in Kansas (clothes, food, supplies), but is instead purchased in or from another state without a sales tax equal to the Kansas rate. Use tax does not apply to labor services.

The purpose of this tax imposed since 1937 is to protect Kansas businesses from unfair competition with retailers in other states. Individuals and businesses are subject to the use tax. This use tax is reported and paid using CT-10U, Consumers' Compensating Use Tax.



While on a trip to Nebraska, a Kansas rancher buys a new ATV and takes delivery at the store in Nebraska. Nebraska does not charge sales tax on ATVs. However, because this item would be subject to sales tax had it been purchased in Kansas, the ATV is subject to Kansas use tax. The Kansas rancher must pay the state and local consumers' compensating use tax on the ATV at the rate in effect at the rancher's location.

Retailers' Compensating Use Tax

This use tax is collected by retailers in other states who are registered with KDOR to collect this tax from their Kansas customers. Retailers in other states are required to register to collect this use tax if they have a

physical presence in Kansas (retail store, warehouse, delivery into Kansas, etc.), or they have voluntarily registered to collect the tax as a convenience to their Kansas customers. Retailers in other states that do not have a physical presence in Kansas are not required to collect Kansas sales or use tax.



You are a Sample County, Kansas rancher and order new fencing and cattle guards from a retailer in Guymon, Oklahoma. Following are the various tax treatments for this type of sale.

SITUATION 1: You pick up the items in Oklahoma. Since the sale was transacted in Oklahoma, you will pay Oklahoma sales tax if Oklahoma imposes tax on these items. The Oklahoma state and local sales tax rate is 5.5%. The Sample County state and local sales/use tax rate is 7.3%. As a Kansas consumer, you will owe the difference between the two rates ($7.3\% - 5.5\% = 1.8\%$) to Kansas as Consumers' Compensating Use Tax. (If Oklahoma does not tax these items, you would owe the full 7.3% Kansas Consumers' Compensating Use Tax on the purchase.)

SITUATION 2: The Oklahoma retailer delivers the items to your Kansas ranch. As a retailer delivering into Kansas, the Oklahoma retailer is in direct competition with a Kansas retailer providing the same items, and is therefore required to be registered to collect the state and local Kansas Retailers' Compensating Use tax. The Oklahoma retailer would charge the 7.3% state and local Sample County Retailers' Compensating Use Tax on the total invoice amount, including any delivery fee.

SITUATION 3: You place an order with the Oklahoma retailer through its Internet web site, and the items are shipped to your Sample County Kansas ranch by common carrier (UPS, freight company, etc.). Retailers shipping into Kansas do not have to register to collect the state and local Kansas Retailers' Compensating Use Tax, so there is no tax on the invoice. As a Kansas consumer you will owe the state and local Sample County Consumers' Compensating Use Tax of 7.3% on the total cost, including the charge for shipping.

To summarize, whether the fencing and cattle guards are purchased in Sample County or from outside Kansas and delivered to your location in Sample County, the sale is subject to a total tax equal to the state and local sales and use tax rate in effect for Sample County, currently 7.3%.

For more information about compensating use tax, obtain a copy of our Pub. KS-1510, Kansas Sales and Compensating Use Tax, from our web site.

To register for reporting and paying Use Tax as an individual or business, visit the *Your Business* section of our KDOR web site (ksrevenue.org). If you select *Business Registration On-line*, you will be linked to the Kansas Business Center to complete the application (CR-16). This is the same form used to apply for Kansas sales and/or withholding tax numbers. For more information see *How to Register* on page 4.



MOTOR FUEL TAX

This tax is imposed on the use, sale or delivery of all *motor vehicle fuels* (gasoline and gasohol) or *special fuels* (diesel and alcohol) in Kansas. Tax revenues are used to defray the cost of constructing Kansas public highways.

Although the tax is included in the price of every gallon of gasoline or diesel purchased by consumers at the *pump*, it is remitted to KDOR by fuel distributors. The tax on *motor vehicle fuels* is 24 cents per gallon; on *special fuels* it is 26 cents per gallon, and on LP gas it is 23 cents per gallon.

Sales of fuels subject to the motor fuel tax are not subject to sales tax. However, if the fuel is not subject to motor fuel tax (such as the sale of dyed diesel fuel used only for non-highway purposes), or if the fuel use qualifies for a refund of the motor fuels tax paid, the fuel is automatically subject to sales or use tax unless its use qualifies for another exemption (such as consumed in production). See also *Fuels* on page 12.

RETAIL SALES BY AGRIBUSINESS

Farmers and ranchers often not only produce agricultural products, but also make retail sales of the items or products produced. Others engaged in agribusiness may also provide taxable services, such as farrier or welding services. Examples of agribusiness producers who are also retailers include those who both produce and sell:

- flowers, plants, shrubs or trees
- fruits, nuts, and vegetables
- flour, honey, jams and jellies
- wine and flavorings

When you are making retail sales of goods or taxable services, you must register with KDOR to collect and remit the appropriate state and local sales taxes from your customers. See *How to Register* on page 4.

LIQUOR TAXES. If you are in the business of growing grapes and other fruits and produce and sell wine, you must register to collect Kansas liquor taxes on your retail wine sales. There is an 8% liquor enforcement tax collected on the sale of alcoholic beverages by a farm winery to Kansas consumers. There is also a retail liquor drink tax of 10% on sales of alcoholic drinks. Farm wineries and microbreweries selling to customers for on-premises consumption must collect the 10% liquor drink tax. To register for these two taxes, complete a Business Tax Application (CR-16). See *How to Register* on page 4.

In addition to a sales tax registration, farm wineries and microbreweries must also have a liquor license

issued by KDOR's Division of Alcoholic Beverage Control. Call (785) 296-7015 for more information.



TIRE EXCISE TAX

A tire excise tax of 25 cents per tire is imposed on the retail sale of new vehicle tires. The proceeds from this tax are used to clean up waste tire sites and provide funding to establish waste tire management programs, public education, permits and enforcement of laws regulating the storage, recycling, processing and disposal of used and waste tires.

The tax applies only to *vehicle* tires. A vehicle is any device by which persons or property may be transported on drawn upon a highway, including agricultural implements. Tires for devices powered by humans (i.e., bicycles) or those not authorized to operate on public highways (i.e., ATVs and garden tractors) are not subject to the tire excise tax. Used or recapped tires and a spare tire included in the sale of a new vehicle are also not subject to the tire tax.

Although you are exempt from paying sales tax on new tires for farm machinery, farmers and ranchers are not exempt from the tire excise tax. New tires for combines, construction equipment, farm machinery, tractors, trailers, trucks and truck tractors are subject to the tire excise tax.



The new tires you buy for your tractor or combine are subject to the tire excise tax. The new tires on a new tractor or combine are also subject to the tire excise tax. Both tire sales are exempt from sales tax.

WITHHOLDING TAX

This tax is deducted by employers and payors from the wages and other taxable payments made to employees and payees. Its purpose is to help pre-pay the income tax liability of that individual. As a general rule, if you are required to withhold federal income tax from the payment, Kansas withholding tax is also required. Withholding is also required on certain taxable non-wage payments, including certain gambling winnings and prizes awarded to non-resident professional athletes.

Additional information, the tables to compute withholding tax, and sample completed returns are in our Pub. KW-100, A Guide to Kansas Withholding Tax. This booklet is available from our web site.

To register to withhold Kansas tax complete a Kansas Business Tax Application (CR-16). See *How to Register* on page 4. Employers must also register with the Kansas Department of Labor and the Internal Revenue Service.

KANSAS INCOME TAX CREDITS

Information about Kansas income tax credits as well as the credit schedules necessary to claim them are available from our web site. Highlighted here are four credits applicable to Kansas businesses and landowners.

Business Machinery and Equipment Credit (K-64)

This income tax credit is 20% of the personal property tax levied and timely paid on qualifying business machinery and equipment. To qualify, the equipment must be required to be listed for property taxation on Schedule 2, 5 or 6 of the rendition form filed with the county appraiser. Qualifying property includes prescribed and/or itemized equipment used in mineral leasehold interests (Schedule 2); commercial and industrial machinery and equipment used for a business purpose (Schedule 5); and any other business related property not elsewhere classified (Schedule 6). The credit **does NOT apply** to any equipment exempt from personal property tax, to motor vehicles, or to property not used for a business purpose.

Plugging an Abandoned Oil or Gas Well (K-39)

This income tax credit is 50% of the expenditures made by a landowner during the tax year to plug an *abandoned oil or gas well* on their land in accordance with the rules and regulations of the Kansas Corporation Commission (KCC). This is any well:

- 1) the KCC has the authority to plug, replug or repair because it is polluting or is likely to pollute any usable water strata or supply, or is causing the loss of usable water; **and**,
- 2) on which drilling began prior to January 1, 1970.

Contact the KCC for information about the procedure and certification for plugging an abandoned oil or gas well on your land.

Kansas Corporation Commission
Conservation Division
130 S. Market, Room 2078
Wichita, KS 67202-3802
(316) 337-6200

Swine Facility Improvement Credit (K-38)

This income tax credit is equal to 50% of the costs incurred by certain taxpayers for required improvements to a qualified swine facility. To qualify for the credit the facility must be using its swine waste management system on January 1, 1998. Required improvements are capital improvements certified by the Secretary of Health and Environment as necessary to comply with the laws regulating the management and disposal of swine waste, and not merely as the result of an

expansion for which a permit had not been issued or applied for prior to May 7, 1998.

For information about swine facility requirements and improvements or your certification, contact:

Kansas Department of Health and Environment
Bureau of Water
1000 SW Jackson, Suite 420
Topeka, KS 66612-1367
(785) 296-5500

YOUR FILE AND PAY OPTIONS



Since July 1, 2010, it has been a requirement that businesses submit their Retailers' Sales, Compensating Use taxes, and Withholding Tax returns electronically.

Kansas offers several electronic filing solutions (see chart on next page). You can use **WebTax for on-line filing and payment** for most business tax accounts. First, create a user login ID and select a password then attach your business tax accounts. **Each tax account has a unique access code** that only needs to be entered once. This access code binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all returns filed or payments made is retained in WebTax.

You can also use **TeleFile**, the telephone option, **to file returns and make payments** for several tax accounts. Like WebTax, you will need your access code to begin. TeleFile requires that you use this access code each time you file or make payment.

Annual Sales and Use Tax zero filers: You may use your touch-tone telephone to file your annual multi-jurisdiction tax returns if you are reporting zero sales. Like the other telephone application, you will need your access code to complete your filing.

Your **access code** for our electronic filing systems is printed on the Sales Tax Rate Change postcard that annual filers receive each quarter. If you cannot locate your access code, call our Taxpayer Assistance line at 785-368-8222 and press 5. If you prefer you may email your request to: eservices@kdor.ks.gov

Electronic tax payments must be made on or before the due date. Using the WebTax system, you can have your tax payment electronically debited from your bank account (ACH Debit). You may choose to initiate your tax payment through your bank (ACH Credit*). Credit card payments are also accepted through third-party

vendors. Visit our web site at webtax.org for a current list of vendors and their services.

* A **Form EF-101**, Authorization for Electronic Funds Transfer, must be completed for **ACH Credit** before using the EFT payment method. This form is available on our web site at: ksrevenue.org

WebTax and **TeleFile** are *simple, safe, and FREE* and conveniently **available 24 hours a day, 7 days a week**. You also receive immediate confirmation that your return is filed. Refer to your tax type in the table on the following page to find the electronic filing and payment options available to you.

TAXATION RESOURCES

When there is a question that is not answered in this booklet, contact KDOR. **DO NOT GUESS**. Clarification of whether a purchase or sale is taxable or exempt will save you time in dealing with the issue in the future. Resolving issues of taxability could also save you money; you will be taking full advantage of the exemptions available and avoiding costly sales or use tax deficiencies on taxable purchases. Use the following KDOR resources to obtain information on Kansas tax matters and to resolve questions of taxability.

TAXPAYER ASSISTANCE CENTER – (785) 368-8222

Many questions can be answered by the customer representatives in Topeka. However, like many businesses, KDOR uses an automated answering system to direct incoming calls to the appropriate area. See the back cover of this publication for our taxpayer assistance center address and phone numbers.

WEB SITE - ksrevenue.org

Our web site contains information about all aspects of KDOR. Forms, informational publications, exemption certificates and information about all the taxes administered by KDOR are published here. Each division of KDOR is represented. Other divisions of special interest to agribusiness are the Division of Property Valuation which administers property valuation for agricultural, residential and commercial uses, and the Division of Vehicles, responsible for vehicle registrations and driver's licenses.

POLICY INFORMATION LIBRARY

Another service available to taxpayers on our web site is a library of policy information for all taxes administered by KDOR. This library contains the Kansas Statutes and Regulations, Revenue Notices, Revenue Rulings and other written advice issued by KDOR. It also includes Opinion Letters and Private Letter Rulings (see *Written Rulings*). For ease in locating information, the library may be searched by tax type and topic.

WRITTEN RULINGS

Despite the amount of written information available in our policy library, there are unique situations that may require an interpretation or clarification based upon the law, regulations, and specific facts of the case. **DO NOT** rely on a verbal opinion from KDOR on issues of taxability not specifically addressed in the law.

To assist you in understanding how the law applies to your business, KDOR issues three types of written advice: revenue notices, revenue rulings, and private letter rulings. This written advice is binding on KDOR and may be relied upon as long as the statute or regulation on which they are based is not altered by the Legislature, changed by a court decision, or the ruling itself modified or rescinded by KDOR. When an issue arises in your business that is not addressed in the law, document the problem or question in writing and request a Private Letter Ruling or an Opinion Letter from KDOR. Mail or fax your request to:

Office of Policy and Research
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66625-0001
Fax: (785) 296-7928

You will receive a written ruling within 30 days after your request (and any additional information necessary for the ruling) is received. Private letter rulings are published in our Policy Information Library. However, these letters have been "scrubbed" to protect the privacy of the taxpayer—any information that would identify the taxpayer, such as name, address, product, etc., is blanked out.



CAUTION: Although published as part of our policy library, a private letter ruling is limited to the requesting taxpayer and that taxpayer's specific factual situation. It cannot be relied upon or cited by any other person.

KEY STATUTES AND REGULATIONS

To prepare this guide we have used or cited the following laws and regulations. The full text of these are a part of the Policy Library on our web site.

Laws	K.S.A. 8-126 - Vehicle definitions K.S.A. 12-187 <i>et seq.</i> - Local sales tax K.S.A. 79-3201 <i>et seq.</i> - Income tax K.S.A. 79-3401 <i>et seq.</i> - Motor fuel tax K.S.A. 79-3601 <i>et seq.</i> - Retailers' sales tax K.S.A. 79-3606 <i>et seq.</i> - Sales tax exemptions K.S.A. 79-3701 <i>et seq.</i> - Compensating use tax
Regulations	K.A.R. 92-19-25b - Exemption certificates K.A.R. 92-19-53 - Consumed in production K.A.R. 92-19-54 - Ingredient or component part K.A.R. 92-19-66b - Labor services

ELECTRONIC FILE and PAY OPTIONS

For assistance with filing your return or making your payment electronically, contact our **Electronic Services** staff at **1-800-525-3901**. If in Topeka, call 296-6993. You may also e-mail Electronic Services at: eservices@kdor.ks.gov

Retailers' Sales and Compensating Use Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORM TYPES ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE webtax.org	Use WebTax to file <u>single</u> and <u>multiple jurisdiction</u> sales and use tax returns. WebTax allows filers to upload jurisdictions and tax payments directly into returns. Users can also copy jurisdiction information from previous returns into their current return saving time and improving accuracy.	<ul style="list-style-type: none"> ▪ ST-16 ▪ ST-36 ▪ CT-9U ▪ CT-10U 	<ul style="list-style-type: none"> ▪ Internet access ▪ Access Code(s) ▪ EIN ▪ EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use WebTax Now" button. ➤ Create a user login and a password. ➤ Contact KDOR for your access code. ➤ Connect your tax account to your login and begin filing.
BY PHONE 1-877-317-5639	This TeleFile system can be used to file <u>single jurisdiction</u> returns. It may also be used for <u>annual</u> filers with <u>multi-jurisdictions</u> and zero tax to report. Using a touch-tone phone, tax information is entered from a completed worksheet into the TeleFile system. Your assigned access code and federal Employer Identification Number (EIN) remains the same for each filing period.	<ul style="list-style-type: none"> ▪ ST-16 <p>With zero sales:</p> <ul style="list-style-type: none"> • ST-36 • CT-9U • CT-10U 	<ul style="list-style-type: none"> ▪ Touch-tone telephone ▪ TeleFile worksheet ▪ Access Code(s) ▪ EIN 	<ul style="list-style-type: none"> ➤ Complete a TeleFile worksheet. You may download it from our web site at ksrevenue.org/pdf/forms/st16tel.pdf or you may make copies of your current worksheet to use for filing future periods. ➤ Contact KDOR for your access code. ➤ Call 1-877-317-5639 and use your access code and your federal EIN to access the TeleFile system. Using the keypads of your touch-tone phone, enter the information from your worksheet.

Withholding Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORM TYPES ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE webtax.org	KW-5 Deposit Reports can be made using the WebTax application. After connecting to your Withholding account, simply click the "Make an EFT Payment" link to complete your filing and payment. WebTax also allows you to file your KW-3 Annual Withholding Tax return and W-2/1099 Withholding Reports electronically. A Form EF-101 , Authorization for Electronic Funds Transfer, must be completed for ACH Credit* before using the EFT payment method. This form is available on our web site at: ksrevenue.org	<ul style="list-style-type: none"> ▪ KW-3 ▪ KW-5 ▪ W-2 ▪ 1099 	<ul style="list-style-type: none"> ▪ Internet access ▪ Access Code(s) ▪ EIN ▪ EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use WebTax Now" button. ➤ Create a user login and a password. ➤ Contact KDOR for your access code. ➤ Connect your tax account to your login and begin filing. ➤ Go online and complete a Form EF-101 (ACH Credit* payers only).
BY PHONE 1-877-600-5640	A KW-5 return with payment can be made through the EFT payments telephone system. A Form EF-101, Authorization for Electronic Funds Transfer, must be submitted for ACH Debit* before using the EFT payment method. This form is available on our web site at: ksrevenue.org	<ul style="list-style-type: none"> ▪ KW-5 	<ul style="list-style-type: none"> ▪ Touch-tone telephone ▪ Access Code(s) ▪ EIN ▪ EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go online and complete a Form EF-101. ➤ Contact KDOR for your access code. ➤ Call 1-877-600-5640 and use your access code and your federal EIN to access the EFT Payments system. Using the keypads of your touch-tone phone, follow the phone prompts to complete your payment and submit your return.

* **ACH Debit:** Kansas Department of Revenue debits the tax payment from your bank account. **ACH Credit:** You initiate a tax payment through your bank.

KANSAS DEPARTMENT OF REVENUE
DESIGNATED OR GENERIC EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Business Address: _____
Street, RR, or P.O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax under K.S.A. 79-3606. The undersigned understands and agrees that if the tangible personal property or services are used other than as stated in its statutory exemption, or are used for any other purpose that is not exempt from sales or compensating use tax, the undersigned purchaser becomes liable for the tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

This certificate shall apply to (check one):

Single Purchase Certificate. Enter the invoice or purchase order #: _____

Blanket Certificate.

Name of Purchaser: _____

Purchaser's EIN: _____ Foreign Diplomat Number _____

Business Address: _____
Street, RR, or P.O. Box City State Zip + 4

Reason for Exemption. Check the appropriate box for the exemption. Since this is a multi-entity form, not all entities are exempt on all purchases. Only those entities that do not have a Kansas Tax-Exempt Entity Exemption Number may use this certificate to claim an exemption. Kansas-based tax-exempt entities are required to have a Kansas Tax Exempt Entity Exemption Number; non-Kansas tax-exempt entities who regularly do business in Kansas are encouraged to apply for a Kansas Tax-Exempt Entity Exemption Number through our web site at www.ksrevenue.org. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) must use their numbered Tax-Exempt Entity Exemption Certificate (Form PR-78) issued by the Kansas Department of Revenue to claim their exemption; they cannot use this certificate.

- | | |
|---|--|
| <input type="checkbox"/> Drill bits & explosives actually used in oil and gas exploration and production, K.S.A. 79-3606(pp). | <input type="checkbox"/> Community-based mental retardation facility or mental health center, K.S.A. 79-3606(jj). |
| <input type="checkbox"/> Educational materials purchased for free public distribution by a nonprofit corporation organized to encourage, foster, and conduct programs for the improvement of public health, K.S.A. 79-3606(ll). | <input type="checkbox"/> Elementary or secondary school (public, private or parochial), K.S.A. 79-3606(c). |
| <input type="checkbox"/> Materials purchased by community action groups or agencies to repair or weatherize housing occupied by low income individuals, K.S.A. 79-3606(oo). | <input type="checkbox"/> Habitat for Humanity, K.S.A. 79-3606(ww). |
| <input type="checkbox"/> Medical supplies and equipment purchased by a nonprofit skilled nursing home or intermediate nursing care home, K.S.A. 79-3606(hh). | <input type="checkbox"/> Noncommercial educational TV or radio station, K.S.A. 79-3606(ss). |
| <input type="checkbox"/> Qualified machinery and equipment purchased by an over-the-air free access radio or TV Station, K.S.A. 79-3606(zz). | <input type="checkbox"/> Nonprofit blood, tissue or organ bank, K.S.A. 79-3606(b). |
| <input type="checkbox"/> Seeds, tree seedlings, fertilizers and other chemicals, and services used to grow plants to prevent soil erosion on agricultural land, K.S.A. 79-3606(mm). | <input type="checkbox"/> Nonprofit public or private educational institution, K.S.A. 79-3606(c). |
| <input type="checkbox"/> Foreign Diplomat. | <input type="checkbox"/> Nonprofit hospital or public hospital authority, K.S.A. 79-3606(b). |
| <input type="checkbox"/> Newly Legislated Exemption. Briefly describe the exemption and enter the statute reference or enter the year and number of the Bill authorizing the exemption. _____ | <input type="checkbox"/> Nonprofit museum or historical society, K.S.A. 79-3606(qq). |
| | <input type="checkbox"/> Nonprofit, nonsectarian youth development organization, K.S.A. 79-3606(ii). |
| | <input type="checkbox"/> Nonprofit religious organization, K.S.A. 79-3606(aaa). |
| | <input type="checkbox"/> Nonprofit zoo, K.S.A. 79-3606(xx). |
| | <input type="checkbox"/> Parent-Teacher Association or Organization, K.S.A. 79-3606(yy). |
| | <input type="checkbox"/> Primary care clinics and health centers serving the medically underserved, K.S.A. 79-3606(ccc). |
| | <input type="checkbox"/> Rural volunteer fire fighting organization, K.S.A. 79-3606(uu). |

Authorized Signature: _____ Employer ID Number (EIN): _____
Officer, Office Manager or Administrator

Printed Name: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.
PLEASE REFER TO THE INSTRUCTIONS FOR USE OF THIS CERTIFICATE ON THE REVERSE.

ABOUT THE DESIGNATED EXEMPTION CERTIFICATE, FORM ST-28

IMPORTANT: This is a multi-entity form; not all entities are exempt on all purchases.

WHO MAY USE THIS CERTIFICATE

This exemption certificate is used either to claim a sales and use tax-exemption present in Kansas law not covered by other certificates, or by a non-Kansas tax-exempt entity not in possession of a Kansas Tax-Exempt Entity Exemption Certificate, Forms PR-78, discussed below.

FOREIGN DIPLOMATS. Foreign diplomats must provide their foreign diplomat number issued by the Office of Foreign Missions of the U. S. State Department on this exemption certificate. Additional information about this exemption is in our Notice 04-09 on our web site.

Buyers claiming exemption based on how the item will be used (Resale, Retailer/Contractor, Ingredient or Component Part, Agricultural, etc.) must use the specific certificate (form type ST-28) designed for each of those exempt uses under the law. The U.S. Government, its agencies and instrumentalities must also continue to use Form ST-28G designed for their exemption.

TAX-EXEMPT ENTITY EXEMPTION CERTIFICATES (FORMS PR-78)

To assist retailers in identifying the nonprofit entities exempt from paying Kansas sales and use tax, the Kansas Department of Revenue has issued Tax-Exempt Entity Exemption Certificates effective January 1, 2005. Issued first to Kansas-based entities, these are individual, uniquely numbered exemption certificates issued only by the department. Each certificate contains the entity's name and address, the statute cite of the exemption and the entity's Kansas Exemption Number. This number is separate and apart from any sales tax registration number used to collect tax from their customers. To claim its exemption, the registered exempt entity must merely provide a completed, signed copy of its PR-78 to the retailer. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) **may NOT use the Designated or Generic Exemption Certificate (Form ST-28) to claim exemption.**

Kansas-based tax-exempt entities are required to obtain a Kansas Tax-Exempt Entity Exemption Number. Tax-exempt entities (schools, nonprofit hospitals, etc.) from other states who regularly do business in Kansas are encouraged to obtain a Kansas Tax-Exempt Entity Exemption Certificate from the Kansas Department of Revenue. To obtain a uniquely numbered certificate, complete the application on our web site at www.ksrevenue.org.

GENERAL EXEMPTION RULES

Complete all parts of the form. An exemption certificate is complete only when all the requested information is provided. Please print or type all information, except for the authorized signature. Addresses must include the street or PO Box, city, state and zip code.

Direct Purchase. Generally, an exemption applies only to direct purchases of tangible personal property or taxable repair services by an exempt entity for its exclusive use. A direct purchase is one that is billed directly to the exempt entity, and/or paid for with entity funds (check or credit card). Purchases made by employees or agents of the exempt entity with their personal funds are fully

taxable, even when the employee/agent is reimbursed the expense by the exempt entity.

A direct "purchase" of tangible personal property includes the rental or lease of tangible personal property. The direct purchase of "services" are the taxable labor services of repairing, servicing, altering or maintaining tangible personal property, and the labor services (not materials) of a contractor on a real property project.

Construction, Remodel or Repair Projects. Qualifying entities may purchase the labor services of a contractor (whether working on tangible personal property or real property) without tax using this certificate. However, *indirect* purchases of materials and labor on real property projects are taxable. Materials furnished by or through a contractor or the materials and/or labor furnished by a subcontractor for the construction, reconstruction or repair of *real property* are not exempt with this certificate, as they are not a direct purchase by the entity. Therefore a contractor's invoice will include (and the entity must pay) the sales tax paid or accrued by the contractor on any materials, parts and subcontractor invoices for the project.

PROJECT EXEMPTION CERTIFICATES (PECs). A PEC is a numbered document issued only by the Kansas Department of Revenue or its authorized agent. As the name implies, a PEC exempts the entire project – materials and labor – from sales or use tax. Not all entities are eligible to obtain a PEC. Contact the department at (785) 368-8222 for more information.

Retailer Record Keeping. Retailers must keep a copy of this completed certificate with your other sales tax records for a period of at least three years from the date the certificate is signed and presented to you. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

Penalties for Misuse. A buyer who issues an exemption certificate in order to unlawfully avoid payment of the tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to \$1,000 or imprisoned for up to a year, or both.

TAXPAYER ASSISTANCE

Additional information about each exemption is in our Publication KS-1520, Kansas Exemption Certificates. This publication, as well as Notices and other written advice on Kansas taxes and exemptions are available from the Policy Information Library on the department's web site at www.ksrevenue.org. Since Kansas exemptions are not always of general application, you are encouraged to consult the web site or the department with specific taxability issues.

If you have questions or need additional information contact:

Taxpayer Assistance Center
Kansas Department of Revenue
Docking State Office Building, 1st Floor
915 SW Harrison, Topeka, KS 66625-2007

Phone: (785) 368-8222
Hearing-Impaired: (785) 296-6461

**KANSAS DEPARTMENT OF REVENUE
RESALE EXEMPTION CERTIFICATE**

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

will be **resold** by me in the form of tangible personal property or repair service. I hereby certify that I hold valid Kansas sales tax registration number _____, and I am in the business of selling _____
(May attach a copy of registration certificate)

(Description of product(s) sold; food clothing, furniture, etc.)

Description of tangible personal property or services purchased: _____

I understand and agree that if the items purchased with this certificate are used for any purpose other than retention, demonstration, or display while being held for sale in the regular course of business, I am required to report and pay the sales tax, based upon the purchase price of the items.

Purchaser: _____
Name of Kansas Retailer

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Only those businesses and organizations that are registered to collect Kansas sales tax and provide their Kansas sales tax registration number on this form may use it to purchase inventory without tax. For additional information see Publication KS-1520, *Kansas Exemption Certificates*.

Nonprofit groups or organizations exempt by law from collecting tax on their retail sales of tangible personal property (such as a PTA or a nonprofit youth development organization) should use the exemption certificate issued to it by the Department of Revenue when buying items for resale.

Wholesalers and buyers from other states not registered in Kansas should use the Multi-Jurisdiction Exemption Certificate, Form ST-28M, to purchase their inventory. **HOWEVER**, if the inventory item purchased by an out-of-state retailer who has sales tax nexus with Kansas is drop shipped to a Kansas location, the out-of-state retailer must provide to the third party vendor a Kansas sales tax registration number, either on this certificate or the Multi-Jurisdiction Exemption Certificate, for the sale to be exempt. If the out-of-state retailer **DOES NOT** have sales tax nexus with Kansas, it may provide the third party vendor a resale exemption certificate evidencing qualification for a resale exemption, **regardless** of the state in which the retailer is registered for sales tax.

Contractors, subcontractors, or repairmen may not use this certificate to purchase their materials, parts, or tools. Retailer/Contractors should use a Retailer/Contractor Exemption Certificate, Form ST-28W, to purchase their resale inventory.

WHAT PURCHASES ARE EXEMPT? Only goods or merchandise intended for resale (inventory) are exempt. Tools, equipment, fixtures, supplies, and other items purchased for business or personal use are **TAXABLE** since the buyer is the final consumer of the property.

The items purchased with this certificate must correspond to the type of business buying them. For example, a retail clothing store may only reasonably purchase items of wearing apparel and accessories with this certificate. All other kinds of items are not usually sold by a clothing store to their customers and, therefore, cannot be purchased with this certificate.

LABOR SERVICES. This certificate applies **ONLY** to items of tangible personal property. A contractor may not use an exemption certificate to purchase the labor services of another contractor or subcontractor. Taxable labor services performed by a contractor can **ONLY** be purchased without tax with a Project Exemption Certificate issued by the department or its authorized agent.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

INSTRUCTIONS FOR COMPLETING FORM ST-28B

When gas, water, or electricity is furnished through one meter for both taxable and exempt purposes, the purchaser is responsible for determining the percentage of use exempt from sales tax. The sample worksheet provided below will help you to determine the percent of electricity, gas, or water that qualifies for exemption. If you have questions about this form, contact our Taxpayer Assistance Center, Kansas Department of Revenue, 915 SW Harrison St., 1st Floor, Topeka, KS, 66625-0001, or call (785) 368-8222.

AGRICULTURAL: Electricity and gas for agricultural use is exempt from the state sales tax but **not** exempt from the local taxes. Agricultural use does **not** include commercial operations such as processing food or dairy products, off-farm grain storage and marketing, lumbering, or use by a stockyard, slaughter house, floral shop, or turf farm.

CERTAIN NONPROFIT CORPORATIONS: Sales of electricity, gas, or water to properties which are exempt from property taxation under K.S.A. 79-201b Second through Sixth are exempt from state and local sales tax. Once the property is determined to be exempt, copies of the "order" from the Board of Tax Appeals and this completed exemption certificate (ST-28B) must be provided to the utility company and the Kansas Department of Revenue.

CONSUMABLES: The portion of electricity, gas, or water you use that meets the following requirements is exempt from state and local taxes: 1) essential or necessary to the process; 2) used in the actual process at the location during the production activity; 3) immediately consumed or dissipated in the process; and, 4) used in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property or the treatment of by-products or wastes of any above

processes. The following uses of electricity, gas, or water are **not** exempt from sales tax: shipping, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing.

INGREDIENT OR COMPONENT PART: An example of electricity, gas, or water which becomes an ingredient or component part and qualifies for exemption is "water" that is part of the ingredient in a beverage which is bottled and sold to a retailer for resale.

RESIDENTIAL: If the electricity, gas, or water you consume is for residential use only, you do not need to file this form. The utility company automatically exempts you from paying state sales tax (city and county sales tax still applies). However, if the electricity, gas, or water you consume is partly for residential purposes and partly for commercial use, you must determine the percent of usage that is residential and file copies of your worksheets and this completed form with your utility company and the Department of Revenue. Utilities consumed in commercial common areas such as an office, lounge, hallway, laundry facility, storage area, swimming pool, etc., **do not** qualify for exemption.

HOW MUCH OF MY UTILITY USE QUALIFIES FOR EXEMPTION? You will probably need several sheets of paper as worksheets. If your facility is serviced by more than one meter, you need to complete a separate chart to determine the percent of usage for each meter. If the facility is heated and air-conditioned by a central unit, you may use the square footage method to arrive at the residential percent of consumption for heating and cooling. You may need the assistance of a plumber or electrician to complete the formulas. Refer to the following example and steps to determine your exempt percent.

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Type of Device		Rating of Device	Estimated Hours of Use Per Day	Load Factor	Number of Days the Device is Used Per Year	Usage Per Year stated in kWh, BTU, or Gallons
20 - light bulbs	T	40 watts	10	1.00	324	2,592 kWh
1 - production machinery	E	500 watts	10	.50	255	637.5 kWh

1. At the top of each page, place the headers as noted in the example and complete the following information per column:

- COLUMN 1**—List each device that is pulling the utility.
- COLUMN 2**—Rating of each device.
- COLUMN 3**—Estimate the number of hours of use per day (i.e., on average, twenty 40 watt light bulbs are on ten hours per day, therefore, enter "10").
- COLUMN 4**—Determine and enter load factor (i.e., when a light bulb is on it pulls the full rate of 100% power but a burner on the stove on "low" may only pull 30% load factor).
- COLUMN 5**—Number of days the device is used per year.
- COLUMN 6**—Determine usage per year stated in kilowatt-hours (kWh), BTU, or gallons.

$$1000 \text{ watts} = 1 \text{ kWh}$$

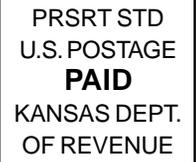
$$\text{Horsepower} = .746 \times \text{H.P.} = \text{watts}$$

$$\text{Ten 100-watt bulbs burning 1 hour will use 1 kWh}$$

$$1,000,000 \text{ BTU in 1 MCF}$$

- 2. Indicate beside each type of device an "E" for exempt or a "T" for taxable.
- 3. Multiply the quantity in column 1 by column 2 by column 3 by column 4 by column 5 to arrive at the sum for column 6.
- 4. Add the usage per year (column 6) for all of the devices you have indicated as "exempt" then add all of the usage per year (column 6) for all the devices that you have indicated as being "taxable." Adding the exempt and taxable usage should equal the total consumption per year as shown on your utility bills for the last 12 months.
- 5. Divide the total number of exempt kWh by the total number of kWh consumed in the last 12 months. This is the percent of usage that is exempt from tax. Enter this amount on line 5 on the front of this form (ST-28B).

The instructions provided are intended to help consumers of electricity, gas, or water complete this form. In case of discrepancies, the applicable law prevails.



TAXPAYER ASSISTANCE

This publication is a general guide and will not address every situation. If you have questions or need additional information, please contact taxpayer assistance at the Kansas Department of Revenue (KDOR).

Taxpayer Assistance Center
Docking State Office Building - 1st floor
915 SW Harrison St.
Topeka, KS 66625-2007

Phone: (785) 368-8222
Fax: (785) 291-3614
Web site: ksrevenue.org

Office hours are 8:00 a.m. to 4:45 p.m., Monday through Friday.

TAX FORMS

In addition to the publications listed below, KDOR's web site contains a library of policy information, press releases, and other notices. Due to limited state funding KDOR has discontinued the printing of these publications; however all are available from our web site.

- Publication KS-1216, Kansas Business Tax Application
- Publication KS-1500, North American Industry Classification System
- Publication KS-1510, Kansas Sales and Compensating Use Tax
- Publication KS-1515, Kansas Tax Calendar of Due Dates
- Publication KS-1520, Kansas Exemption Certificates
- Publication KS-1525, Kansas Sales and Use Tax for Contractors, Subcontractors and Repairmen
- Publication KS-1526, Kansas Sales and Use Tax for Motor Vehicle Transactions
- Publication KS-1527, Kansas Sales and Use Tax for Kansas Political Subdivisions
- Publication KS-1530, Kansas Tire Excise Tax
- Publication KS-1540, Kansas Business Taxes For Hotels, Motels and Restaurants
- Publication KS-1550, Kansas Sales and Use Tax for the Agricultural Industry
- Publication KS-1560, Kansas Tax Guide for Schools and Educational Institutions
- Publication KS-1700, Kansas Sales Tax Jurisdiction Code Booklet
- KW-100, Kansas Withholding Tax Guide

STATE SMALL BUSINESS WORKSHOPS

As part of our commitment to provide tax assistance to the business community, Tax Specialists within KDOR conduct small business workshops on Kansas taxes at various locations throughout Kansas. Whether you are a new business owner, an existing business owner, or an accountant, these workshops will give you the tools and understanding necessary to make Kansas taxes easier and less time consuming for you. Topics covered include filing and reporting requirements and methods, what is taxable, what is exempt and how to work with the department in collecting and remitting Kansas taxes.

For a schedule of our workshops, visit our web site. Pre-registration is required and a fee may be charged by the sponsoring Small Business Development Center (SBDC).



Your suggestions and comments on this publication are important to us. Please address them to: Taxpayer Education, Kansas Department of Revenue, 915 SW Harrison St., Topeka, KS 66625-1588 or call (785) 296-1048.