

As Amended by House Committee

Session of 2006

HOUSE BILL No. 2618

By Committee on Taxation

1-17

10 AN ACT concerning property taxation; relating to exemptions and cred-
11 its; digital television and radio equipment; **amending K.S.A. 2005**
12 **Supp. 79-213 and repealing the existing section.**
13

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

15 **New** Section 1. (a) The following described property, to the extent
16 specified by this section, shall be exempt from all property or ad valorem
17 taxes levied under the laws of the state of Kansas:

18 Digital television equipment acquired on or after January 1, 2006, shall
19 be exempt from assessment until the following December 31 after the
20 federal communications commission has ended the broadcast of analog
21 television signals by all commercial television stations in Kansas.

22 (b) Television broadcasters shall receive a credit from the county
23 treasurer of the county in which the property is located, to apply only
24 towards payment of the broadcaster's personal property taxes, in an
25 amount equal to the broadcaster's personal property taxes on digital tel-
26 evision equipment acquired prior to January 1, 2006, multiplied by one
27 minus the digital television fraction. The digital television fraction shall
28 be a fraction the numerator of which is the total number of digital tele-
29 vision sets in the United States and the denominator of which is an
30 amount representing the total television sets in the United States as of
31 the assessment date. The digital television fraction will be determined on
32 an annual basis based upon sales data reported by the consumer elec-
33 tronics association or other national organization acceptable to the de-
34 partment of revenue. The Kansas association of broadcasters shall pro-
35 vide, by July 1 of each year, to the department an estimate of the digital
36 television fraction as of the preceding January 1. The department shall
37 communicate such estimate to each county appraiser. The credit shall not
38 be applicable to years after the federal communications commission has
39 ended the broadcast of analog television signals by all full power com-
40 mercial television stations in Kansas.

41 (c) As used in this section, "digital television equipment" means all
42 items of tangible personal property that are used directly or indirectly in
43 broadcasting television shows or commercials through the use of digital

1 technology including studio broadcast equipment, transmitter and an-
2 tenna equipment and broadcast towers.

3 **New Sec. 2.** (a) The following described property, to the extent spec-
4 ified by this section, shall be exempt from all property or ad valorem taxes
5 levied under the laws of the state of Kansas:

6 Digital radio equipment acquired on or after January 1, 2006, shall be
7 exempt from assessment until **December 31, 2013, or** the following
8 December 31 after more than 50% of the radio sets in the United States
9 are capable of receiving the digital radio signal, **whichever occurs first.**

10 (b) Radio broadcasters shall receive a credit from the county trea-
11 surer of the county in which the property is located to apply only towards
12 payment of the radio broadcaster's personal property taxes in an amount
13 equal to the personal property taxes on the radio broadcaster's digital
14 radio equipment acquired prior to January 1, 2006, multiplied by one
15 minus the digital radio fraction. The digital radio fraction shall be a frac-
16 tion, the numerator of which is the total number of digital radio sets in
17 the United States and the denominator of which is an amount repre-
18 senting the total radio sets in the United States as of the assessment date.
19 The digital radio fraction will be determined on an annual basis based
20 upon sales data reported by the consumer electronics association or other
21 national organization acceptable to the department of revenue. The Kan-
22 sas association of broadcasters shall provide, by July 1 of each year, **to**
23 **the department an estimate of the digital radio fraction as of the**
24 **preceding January 1. The department shall communicate such es-**
25 **timate to each county appraiser. The credit shall not be applicable**
26 **to years after December 31, 2013, or** until more than 50% of the
27 radio sets in the United States are capable of receiving the digital radio
28 signal, ~~to the department an estimate of the fraction as of the preceding~~
29 ~~January 1. The department shall communicate such estimate to each~~
30 ~~county appraiser~~ **whichever occurs first.**

31 (c) As used in this section, "digital radio equipment" means all items
32 of tangible personal property that are used directly or indirectly in broad-
33 casting radio programs or commercials through the use of digital tech-
34 nology including studio broadcast equipment, transmitter and antenna
35 equipment and broadcast towers.

36 **Sec. 3. K.S.A. 2005 Supp. 79-213 is hereby amended to read**
37 **as follows: 79-213. (a) Any property owner requesting an exemp-**
38 **tion from the payment of ad valorem property taxes assessed, or**
39 **to be assessed, against their property shall be required to file an**
40 **initial request for exemption, on forms approved by the board of**
41 **tax appeals and provided by the county appraiser.**

42 (b) **The initial exemption request shall identify the property for**
43 **which the exemption is requested and state, in detail, the legal and**

1 factual basis for the exemption claimed.

2 (c) The request for exemption shall be filed with the county
3 appraiser of the county where such property is principally located.

4 (d) After a review of the exemption request, and after a prelim-
5 inary examination of the facts as alleged, the county appraiser shall
6 recommend that the exemption request either be granted or den-
7 nied, and, if necessary, that a hearing be held. If a denial is rec-
8 ommended, a statement of the controlling facts and law relied
9 upon shall be included on the form.

10 (e) The county appraiser, after making such written recom-
11 mendation, shall file the request for exemption and the recom-
12 mendations of the county appraiser with the board of tax appeals.

13 (f) Upon receipt of the request for exemption, the board shall
14 docket the same and notify the applicant and the county appraiser
15 of such fact.

16 (g) After examination of the request for exemption, and the
17 county appraiser's recommendation related thereto, the board
18 may fix a time and place for hearing, and shall notify the applicant
19 and the county appraiser of the time and place so fixed. A request
20 for exemption pursuant to: (1) Section 13 of article 11 of the Kansas
21 constitution; or (2) K.S.A. 79-201a *Second*, and amendments
22 thereto, for property constructed or purchased, in whole or in part,
23 with the proceeds of revenue bonds under the authority of K.S.A.
24 12-1740 to 12-1749, inclusive, and amendments thereto, prepared
25 in accordance with instructions and assistance which shall be pro-
26 vided by the department of commerce, shall be deemed approved
27 unless scheduled for hearing within 30 days after the date of re-
28 ceipt of all required information and data relating to the request
29 for exemption, and such hearing shall be conducted within 90 days
30 after such date. Such time periods shall be determined without
31 regard to any extension or continuance allowed to either party to
32 such request. In any case where a party to such request for ex-
33 emption requests a hearing thereon, the same shall be granted.
34 Hearings shall be conducted in accordance with the provisions of
35 the Kansas administrative procedure act. In all instances where
36 the board sets a request for exemption for hearing, the county shall
37 be represented by its county attorney or county counselor.

38 (h) Except as otherwise provided by subsection (g), in the event
39 of a hearing, the same shall be originally set not later than 90 days
40 after the filing of the request for exemption with the board.

41 (i) During the pendency of a request for exemption, no person,
42 firm, unincorporated association, company or corporation charged
43 with real estate or personal property taxes pursuant to K.S.A. 79-

1 2004 and 79-2004a, and amendments thereto, on the tax books in
2 the hands of the county treasurer shall be required to pay the tax
3 from the date the request is filed with the county appraiser until
4 the expiration of 30 days after the board issued its order thereon
5 and the same becomes a final order. In the event that taxes have
6 been assessed against the subject property, no interest shall accrue
7 on any unpaid tax for the year or years in question nor shall the
8 unpaid tax be considered delinquent from the date the request is
9 filed with the county appraiser until the expiration of 30 days after
10 the board issued its order thereon. In the event the board deter-
11 mines an application for exemption is without merit and filed in
12 bad faith to delay the due date of the tax, the tax shall be consid-
13 ered delinquent as of the date the tax would have been due pur-
14 suant to K.S.A. 79-2004 and 79-2004a, and amendments thereto,
15 and interest shall accrue as prescribed therein.

16 (j) In the event the board grants the initial request for exemp-
17 tion, the same shall be effective beginning with the date of first
18 exempt use except that, with respect to property the construction
19 of which commenced not to exceed 24 months prior to the date of
20 first exempt use, the same shall be effective beginning with the
21 date of commencement of construction.

22 (k) In conjunction with its authority to grant exemptions, the
23 board shall have the authority to abate all unpaid taxes that have
24 accrued from and since the effective date of the exemption. In the
25 event that taxes have been paid during the period where the sub-
26 ject property has been determined to be exempt, the board shall
27 have the authority to order a refund of taxes for the year imme-
28 diately preceding the year in which the exemption application is
29 filed in accordance with subsection (a).

30 (l) The provisions of this section shall not apply to: (1) Farm
31 machinery and equipment exempted from ad valorem taxation by
32 K.S.A. 79-201j, and amendments thereto; (2) personal property ex-
33 empted from ad valorem taxation by K.S.A. 79-215, and amend-
34 ments thereto; (3) wearing apparel, household goods and personal
35 effects exempted from ad valorem taxation by K.S.A. 79-201c, and
36 amendments thereto; (4) livestock; (5) hay and silage exempted
37 from ad valorem taxation by K.S.A. 79-201d, and amendments
38 thereto; (6) merchants' and manufacturers' inventories exempted
39 from ad valorem taxation by K.S.A. 79-201m and amendments
40 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-
41 201n, and amendments thereto; (8) property exempted from ad
42 valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments
43 thereto, including all property previously acquired by the secre-

1 tary of transportation or a predecessor in interest, which is used
2 in the administration, construction, maintenance or operation of
3 the state system of highways. The secretary of transportation shall
4 at the time of acquisition of property notify the county appraiser
5 in the county in which the property is located that the acquisition
6 occurred and provide a legal description of the property acquired;
7 (9) property exempted from ad valorem taxation by K.S.A. 79-201a
8 *Ninth*, and amendments thereto, including all property previously
9 acquired by the Kansas turnpike authority which is used in the
10 administration, construction, maintenance or operation of the
11 Kansas turnpike. The Kansas turnpike authority shall at the time
12 of acquisition of property notify the county appraiser in the county
13 in which the property is located that the acquisition occurred and
14 provide a legal description of the property acquired; (10) aqua-
15 culture machinery and equipment exempted from ad valorem tax-
16 ation by K.S.A. 79-201j, and amendments thereto. As used in this
17 section, “aquaculture” has the same meaning ascribed thereto by
18 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree ma-
19 chinery and equipment exempted from ad valorem taxation by
20 K.S.A. 79-201j, and amendments thereto; (12) property used ex-
21 clusively by the state or any municipality or political subdivision
22 of the state for right-of-way purposes. The state agency or the gov-
23 erning body of the municipality or political subdivision shall at the
24 time of acquisition of property for right-of-way purposes notify the
25 county appraiser in the county in which the property is located
26 that the acquisition occurred and provide a legal description of the
27 property acquired; (13) machinery, equipment, materials and sup-
28 plies exempted from ad valorem taxation by K.S.A. 79-201w, and
29 amendments thereto; (14) vehicles owned by the state or by any
30 political or taxing subdivision thereof and used exclusively for gov-
31 ernmental purposes; (15) property used for residential purposes
32 which is exempted pursuant to K.S.A. 79-201x from the property
33 tax levied pursuant to K.S.A. 72-6431, and amendments thereto;
34 (16) from and after July 1, 1998, vehicles which are owned by an
35 organization having as one of its purposes the assistance by the
36 provision of transit services to the elderly and to disabled persons
37 and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17)
38 from and after July 1, 1998, motor vehicles exempted from taxation
39 by subsection (e) of K.S.A. 79-5107, and amendments thereto; and
40 (18) digital television equipment and digital radio equipment exempted
41 from property or ad valorem taxation by section 1 or 2, and amendments
42 thereto.

43 (m) The provisions of this section shall apply to property ex-

1 **empt pursuant to the provisions of section 13 of article 11 of the**
2 **Kansas constitution.**

3 **(n) The provisions of subsection (k) as amended by this act shall**
4 **be applicable to all exemption applications filed in accordance with**
5 **subsection (a) after December 31, 2001.**

6 **Sec. 4. K.S.A. 2005 Supp. 79-213 is hereby repealed.**

7 **Sec. ~~5~~.** This act shall take effect and be in force from and after its
8 publication in the Kansas register.