

## HOUSE BILL No. 2475

By Committee on Taxation

1-19

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9 AN ACT concerning sales taxation; relating to rate of taxation; amending  
10 K.S.A. 2009 Supp. 79-3603, 79-3620, 79-3703 and 79-3710 and re-  
11 pealing the existing sections.  
12

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

14 Section 1. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as  
15 follows: 79-3603. For the privilege of engaging in the business of selling  
16 tangible personal property at retail in this state or rendering or furnishing  
17 any of the services taxable under this act, there is hereby levied and there  
18 shall be collected and paid a tax at the rate of 5.3%, *and commencing July*  
19 *1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of*  
20 *5.5%*. Within a redevelopment district established pursuant to K.S.A. 74-  
21 8921, and amendments thereto, there is hereby levied and there shall be  
22 collected and paid an additional tax at the rate of 2% until the earlier of  
23 the date the bonds issued to finance or refinance the redevelopment  
24 project have been paid in full or the final scheduled maturity of the first  
25 series of bonds issued to finance any part of the project upon:

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

28 (b) the gross receipts from intrastate, interstate or international tel-  
29 ecommunications services and any ancillary services sourced to this state  
30 in accordance with K.S.A. 2009 Supp. 79-3673, and amendments thereto,  
31 except that telecommunications service does not include: (1) Any inter-  
32 state or international 800 or 900 service; (2) any interstate or international  
33 private communications service as defined in K.S.A. 2009 Supp. 79-3673,  
34 and amendments thereto; (3) any value-added nonvoice data service; (4)  
35 any telecommunication service to a provider of telecommunication serv-  
36 ices which will be used to render telecommunications services, including  
37 carrier access services; or (5) any service or transaction defined in this  
38 section among entities classified as members of an affiliated group as  
39 provided by section 1504 of the federal internal revenue code of 1986, as  
40 in effect on January 1, 2001;

41 (c) the gross receipts from the sale or furnishing of gas, water, elec-  
42 tricity and heat, which sale is not otherwise exempt from taxation under  
43 the provisions of this act, and whether furnished by municipally or pri-

1 vately owned utilities, except that, on and after January 1, 2006, for sales  
2 of gas, electricity and heat delivered through mains, lines or pipes to  
3 residential premises for noncommercial use by the occupant of such  
4 premises, and for agricultural use and also, for such use, all sales of pro-  
5 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP  
6 gas, coal, wood and other fuel sources for the production of heat or light-  
7 ing for noncommercial use of an occupant of residential premises, the  
8 state rate shall be 0%, but such tax shall not be levied and collected upon  
9 the gross receipts from: (1) The sale of a rural water district benefit unit;  
10 (2) a water system impact fee, system enhancement fee or similar fee  
11 collected by a water supplier as a condition for establishing service; or (3)  
12 connection or reconnection fees collected by a water supplier;

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

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

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

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

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

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

- 1 dyeing and laundry services except laundry services rendered through a  
2 coin-operated device whether automatic or manually operated;
- 3 (j) the gross receipts from the rendering of the services of washing  
4 and washing and waxing of vehicles;
- 5 (k) the gross receipts from cable, community antennae and other sub-  
6 scriber radio and television services;
- 7 (l) (1) except as otherwise provided by paragraph (2), the gross re-  
8 cepts received from the sales of tangible personal property to all con-  
9 tractors, subcontractors or repairmen for use by them in erecting struc-  
10 tures, or building on, or otherwise improving, altering, or repairing real  
11 or personal property.
- 12 (2) Any such contractor, subcontractor or repairman who maintains  
13 an inventory of such property both for sale at retail and for use by them  
14 for the purposes described by paragraph (1) shall be deemed a retailer  
15 with respect to purchases for and sales from such inventory, except that  
16 the gross receipts received from any such sale, other than a sale at retail,  
17 shall be equal to the total purchase price paid for such property and the  
18 tax imposed thereon shall be paid by the deemed retailer;
- 19 (m) the gross receipts received from fees and charges by public and  
20 private clubs, drinking establishments, organizations and businesses for  
21 participation in sports, games and other recreational activities, but such  
22 tax shall not be levied and collected upon the gross receipts received from:
- 23 (1) Fees and charges by any political subdivision, by any organization  
24 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-  
25 201, and amendments thereto, or by any youth recreation organization  
26 exclusively providing services to persons 18 years of age or younger which  
27 is exempt from federal income taxation pursuant to section 501(c)(3) of  
28 the federal internal revenue code of 1986, for participation in sports,  
29 games and other recreational activities; and (2) entry fees and charges for  
30 participation in a special event or tournament sanctioned by a national  
31 sporting association to which spectators are charged an admission which  
32 is taxable pursuant to subsection (e);
- 33 (n) the gross receipts received from dues charged by public and pri-  
34 vate clubs, drinking establishments, organizations and businesses, pay-  
35 ment of which entitles a member to the use of facilities for recreation or  
36 entertainment, but such tax shall not be levied and collected upon the  
37 gross receipts received from: (1) Dues charged by any organization ex-  
38 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of  
39 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships  
40 in a nonprofit organization which is exempt from federal income taxation  
41 pursuant to section 501 (c)(3) of the federal internal revenue code of  
42 1986, and whose purpose is to support the operation of a nonprofit zoo;
- 43 (o) the gross receipts received from the isolated or occasional sale of

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

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

1 renovation, repair or replacement of a residence or the construction, re-  
2 construction, restoration, replacement or repair of a bridge or highway.

3 For the purposes of this subsection:

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

14 (2) "building" shall mean only those enclosures within which individ-  
15 uals customarily are employed, or which are customarily used to house  
16 machinery, equipment or other property, and including the land improve-  
17 ments immediately surrounding such building;

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

24 (4) "residence" shall mean only those enclosures within which indi-  
25 viduals customarily live;

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

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

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

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

- 1 (s) on and after January 1, 2005, the gross receipts received from the  
2 sale of prewritten computer software and the sale of the services of mod-  
3 ifying, altering, updating or maintaining prewritten computer software,  
4 whether the prewritten computer software is installed or delivered elec-  
5 tronically by tangible storage media physically transferred to the pur-  
6 chaser or by load and leave;
- 7 (t) the gross receipts received for telephone answering services;
- 8 (u) the gross receipts received from the sale of prepaid calling service  
9 and prepaid wireless calling service as defined in K.S.A. 2009 Supp. 79-  
10 3673, and amendments thereto; and
- 11 (v) the gross receipts received from the sales of bingo cards, bingo  
12 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,  
13 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,  
14 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before  
15 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo  
16 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,  
17 and amendments thereto, shall be exempt from taxes imposed pursuant  
18 to this section.
- 19 Sec. 2. K.S.A. 2009 Supp. 79-3620 is hereby amended to read as  
20 follows: 79-3620. (a) All revenue collected or received by the director of  
21 taxation from the taxes imposed by this act shall be remitted to the state  
22 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
23 amendments thereto. Upon receipt of each such remittance, the state  
24 treasurer shall deposit the entire amount in the state treasury, less  
25 amounts withheld as provided in subsection (b) and amounts credited as  
26 provided in subsection (c) and (d), to the credit of the state general fund.
- 27 (b) A refund fund, designated as "sales tax refund fund" not to exceed  
28 \$100,000 shall be set apart and maintained by the director from sales tax  
29 collections and estimated tax collections and held by the state treasurer  
30 for prompt payment of all sales tax refunds including refunds authorized  
31 under the provisions of K.S.A. 79-3635, and amendments thereto. Such  
32 fund shall be in such amount, within the limit set by this section, as the  
33 director shall determine is necessary to meet current refunding require-  
34 ments under this act. In the event such fund as established by this section  
35 is, at any time, insufficient to provide for the payment of refunds due  
36 claimants thereof, the director shall certify the amount of additional funds  
37 required to the director of accounts and reports who shall promptly trans-  
38 fer the required amount from the state general fund to the sales tax refund  
39 fund, and notify the state treasurer, who shall make proper entry in the  
40 records.
- 41 (c) (1) The state treasurer shall credit  $\frac{5}{9}$ s of the revenue collected  
42 or received from the tax imposed by K.S.A. 79-3603, and amendments  
43 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),

1 exclusive of amounts credited pursuant to subsection (d), in the state  
2 highway fund.

3 (2) The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or  
4 received from the tax imposed by K.S.A. 79-3603, and amendments  
5 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),  
6 exclusive of amounts credited pursuant to subsection (d), in the state  
7 highway fund.

8 (3) On July 1, 2006, the state treasurer shall credit  $\frac{19}{265}$  of the rev-  
9 enue collected and received from the tax imposed by K.S.A. 79-3603, and  
10 amendments thereto, at the rate of 5.3%, and deposited as provided by  
11 subsection (a), exclusive of amounts credited pursuant to subsection (d),  
12 in the state highway fund.

13 (4) On July 1, 2007, the state treasurer shall credit  $\frac{13}{106}$  of the rev-  
14 enue collected and received from the tax imposed by K.S.A. 79-3603, and  
15 amendments thereto, at the rate of 5.3%, *and on and after July 1, 2010,*  
16 *at the rate of 6.3%*, and deposited as provided by subsection (a), exclusive  
17 of amounts credited pursuant to subsection (d), in the state highway fund.

18 (5) *On July 1, 2013, and thereafter, the state treasurer shall credit*  
19  *$\frac{17}{110}$  of the revenue collected and received from the tax imposed by K.S.A.*  
20 *79-3603, and amendments thereto, at the rate of 5.5%, and deposited as*  
21 *provided by subsection (a), exclusive of amounts credited pursuant to*  
22 *subsection (d), in the state highway fund.*

23 (d) The state treasurer shall credit all revenue collected or received  
24 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as  
25 certified by the director, from taxpayers doing business within that por-  
26 tion of a STAR bond project district occupied by a STAR bond project  
27 or taxpayers doing business with such entity financed by a STAR bond  
28 project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments  
29 thereto, that was determined by the secretary of commerce to be of state-  
30 wide as well as local importance or will create a major tourism area for  
31 the state or the project was designated as a STAR bond project as defined  
32 in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, to the city  
33 bond finance fund, which fund is hereby created. The provisions of this  
34 subsection shall expire when the total of all amounts credited hereunder  
35 and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is  
36 sufficient to retire the special obligation bonds issued for the purpose of  
37 financing all or a portion of the costs of such STAR bond project.

38 Sec. 3. K.S.A. 2009 Supp. 79-3703 is hereby amended to read as  
39 follows: 79-3703. There is hereby levied and there shall be collected from  
40 every person in this state a tax or excise for the privilege of using, storing,  
41 or consuming within this state any article of tangible personal property.  
42 Such tax shall be levied and collected in an amount equal to the consid-  
43 eration paid by the taxpayer multiplied by the rate of 5.3%, *and com-*

1 *encing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013,*  
2 *at the rate of 5.5%.* Within a redevelopment district established pursuant  
3 to K.S.A. 74-8921, and amendments thereto, there is hereby levied and  
4 there shall be collected and paid an additional tax of 2% until the earlier  
5 of: (1) The date the bonds issued to finance or refinance the redevelop-  
6 ment project undertaken in the district have been paid in full; or (2) the  
7 final scheduled maturity of the first series of bonds issued to finance the  
8 redevelopment project. All property purchased or leased within or with-  
9 out this state and subsequently used, stored or consumed in this state  
10 shall be subject to the compensating tax if the same property or trans-  
11 action would have been subject to the Kansas retailers' sales tax had the  
12 transaction been wholly within this state.

13 Sec. 4. K.S.A. 2009 Supp. 79-3710 is hereby amended to read as  
14 follows: 79-3710. (a) All revenue collected or received by the director  
15 under the provisions of this act shall be remitted to the state treasurer in  
16 accordance with the provisions of K.S.A. 75-4215, and amendments  
17 thereto. Upon receipt of each such remittance, the state treasurer shall  
18 deposit the entire amount in the state treasury, less amounts set apart as  
19 provided in subsection (b) and amounts credited as provided in subsection  
20 (c) and (d), to the credit of the state general fund.

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

28 (c) (1) The state treasurer shall credit  $\frac{5}{98}$  of the revenue collected  
29 or received from the tax imposed by K.S.A. 79-3703, and amendments  
30 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),  
31 exclusive of amounts credited pursuant to subsection (d), in the state  
32 highway fund.

33 (2) The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or  
34 received from the tax imposed by K.S.A. 79-3703, and amendments  
35 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),  
36 exclusive of amounts credited pursuant to subsection (d), in the state  
37 highway fund.

38 (3) On July 1, 2006, the state treasurer shall credit  $\frac{19}{265}$  of the rev-  
39 enue collected or received from the tax imposed by K.S.A. 79-3703, and  
40 amendments thereto, at the rate of 5.3%, and deposited as provided by  
41 subsection (a), exclusive of amounts credited pursuant to subsection (d),  
42 in the state highway fund.

43 (4) On July 1, 2007, the state treasurer shall credit  $\frac{13}{106}$  of the rev-

1 enue collected or received from the tax imposed by K.S.A. 79-3703, and  
2 amendments thereto, at the rate of 5.3%, *and on and after July 1, 2010,*  
3 *at the rate of 6.3%*, and deposited as provided by subsection (a), exclusive  
4 of amounts credited pursuant to subsection (d), in the state highway fund.

5 (5) *On July 1, 2013, and thereafter, the state treasurer shall credit*  
6 *<sup>17/110</sup> of the revenue collected and received from the tax imposed by K.S.A.*  
7 *79-3703, and amendments thereto, at the rate of 5.5%, and deposited as*  
8 *provided by subsection (a), exclusive of amounts credited pursuant to*  
9 *subsection (d), in the state highway fund.*

10 (d) The state treasurer shall credit all revenue collected or received  
11 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as  
12 certified by the director, from taxpayers doing business within that por-  
13 tion of a redevelopment district occupied by a redevelopment project that  
14 was determined by the secretary of commerce to be of statewide as well  
15 as local importance or will create a major tourism area for the state as  
16 defined in K.S.A. 12-1770a, and amendments thereto, to the city bond  
17 finance fund created by subsection (d) of K.S.A. 79-3620, and amend-  
18 ments thereto. The provisions of this subsection shall expire when the  
19 total of all amounts credited hereunder and under subsection (d) of K.S.A.  
20 79-3620, and amendments thereto, is sufficient to retire the special ob-  
21 ligation bonds issued for the purpose of financing all or a portion of the  
22 costs of such redevelopment project.

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

26 Sec. 5. K.S.A. 2009 Supp. 79-3603, 79-3620, 79-3703 and 79-3710  
27 are hereby repealed.

28 Sec. 6. This act shall take effect and be in force from and after its  
29 publication in the statute book.