

SENATE BILL No. 516

By Committee on Assessment and Taxation

2-3

9 AN ACT concerning taxation; relating to tax upon cigarettes and tobacco
10 products, rates; rate of sales taxation; amending K.S.A. 79-3371 and
11 79-3378 and K.S.A. 2009 Supp. 79-3301, 79-3310, 79-3310c, 79-3311,
12 79-3312, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the
13 existing sections.
14

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

16 Section 1. K.S.A. 2009 Supp. 79-3301 is hereby amended to read as
17 follows: 79-3301. As used in this act:

18 (a) "Carrier" means one who transports cigarettes from a manufac-
19 turer to a wholesale dealer or from one wholesale dealer to another.

20 (b) "Carton" means the container used by the manufacturer of cig-
21 arettes in which no more than 10 packages of cigarettes are placed prior
22 to shipment from such manufacturer.

23 (c) "*Cigar*" means any roll of tobacco wrapped in leaf tobacco or in
24 any substance containing tobacco other than any roll of tobacco which is
25 a cigarette as defined in this section.

26 (d) "Cigarette" means any roll for smoking, made wholly or in part
27 of tobacco, irrespective of size or shape, and irrespective of tobacco being
28 flavored, adulterated or mixed with any other ingredient ~~if the wrapper~~
29 ~~is in greater part made of any material except tobacco wrapped in paper~~
30 *or any substance not containing tobacco or any roll of tobacco wrapped*
31 *in any substance containing tobacco that because of appearance, the type*
32 *of tobacco used in the filler, or packaging and labeling, is likely to be*
33 *offered to, or purchased by consumers as a cigarette as described in this*
34 *subsection. Cigarettes include little cigars.*

35 ~~(e)~~ (e) "Consumer" means the person purchasing or receiving ciga-
36 rettes or tobacco products for final use.

37 ~~(f)~~ (f) "Dealer" means any person who engages in the sale or man-
38 ufacture of cigarettes in the state of Kansas, and who is required to be
39 licensed under the provisions of this act.

40 ~~(g)~~ (g) "Dealer establishment" means any location or premises, other
41 than vending machine locations, at or from which cigarettes are sold, and
42 where records are kept.

43 ~~(h)~~ (h) "Director" means the director of taxation.

- 1 ~~(h)~~ (i) “Distributor” means: (1) Any person engaged in the business
2 of selling tobacco products in this state who brings, or causes to be
3 brought, into this state from without the state any tobacco products for
4 sale; (2) any person who makes, manufactures, fabricates or stores tobacco
5 products in this state for sale in this state; or (3) any person engaged in
6 the business of selling tobacco products without this state who ships or
7 transports tobacco products to any person in the business of selling to-
8 bacco products in this state.
- 9 ~~(i)~~ (j) “Division” means the division of taxation.
- 10 ~~(j)~~ (k) “License” means, in addition to the privilege of a licensee to
11 sell cigarettes or tobacco products in the state of Kansas, the written
12 evidence of such authority or privilege to so operate as evidenced by any
13 license issued by the director of taxation.
- 14 ~~(k)~~ (l) “Licensee” means any person holding a current license issued
15 pursuant to this act.
- 16 ~~(l)~~ (m) “*Little cigar*” means any roll of tobacco wrapped in leaf to-
17 bacco or any substance containing tobacco and as to which 1,000 units
18 weigh not more than three pounds.
- 19 (n) “Manufacturer’s salesperson” means a person employed by a cig-
20 arette manufacturer who sells cigarettes, manufactured by such employer
21 and procured from wholesale dealers.
- 22 ~~(m)~~ (o) “Meter imprints” means tax indicia applied by means of ink
23 printing machines.
- 24 ~~(n)~~ (p) (1) “Package” means a container in which no more than 25
25 individual cigarettes are wrapped and sealed by the manufacturer of cig-
26 arettes prior to shipment to a wholesale dealer.
- 27 (2) For the purposes of subsections (u), (v) and (w) of K.S.A. 79-
28 3321, and amendments thereto, “package” ~~shall have the meaning as-~~
29 ~~cribed thereto~~ means the same as provided in 15 U.S.C. §1332(4).
- 30 ~~(o)~~ (q) “Person” means any individual, partnership, society, associa-
31 tion, joint-stock company, corporation, estate, receiver, trustee, assignee,
32 referee or any other person acting in a fiduciary or representative capacity
33 whether appointed by a court or otherwise and any combination of
34 individuals.
- 35 ~~(p)~~ (r) “Received” means the coming to rest of cigarettes for sale by
36 any dealer in the state of Kansas.
- 37 ~~(q)~~ (s) “Retail dealer” means a person, other than a vending machine
38 operator, in possession of cigarettes for the purpose of sale to a consumer.
- 39 ~~(r)~~ (t) “Sale” means any transfer of title or possession or both,
40 exchange, barter, distribution or gift of cigarettes or tobacco products,
41 with or without consideration.
- 42 ~~(s)~~ (u) “Sample” means cigarettes or tobacco products distributed to
43 members of the general public at no cost for purposes of promoting the

1 product.

2 ~~(t)~~ (v) “Stamps” means tax indicia applied either by means of water
3 applied gummed paper or heat process.

4 ~~(u)~~ (w) “Tax indicia” means visible evidence of tax payment in the
5 form of stamps or meter imprints.

6 ~~(v)~~ (x) “Tobacco products” means cigars, cheroots, stogies, periques;
7 granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco;
8 snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other
9 chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings
10 of tobacco, *cigarette wrappers made of tobacco* and other kinds and forms
11 of tobacco, prepared in such manner as to be suitable for chewing or
12 smoking in a pipe or otherwise, or both for chewing and smoking. To-
13 bacco products does not include cigarettes *or little cigars*.

14 ~~(w)~~ (y) “Vending machine” means any coin operated machine, con-
15 trivance or device, by means of which merchandise may be sold.

16 ~~(x)~~ (z) “Vending machine distributor” means any person who sells
17 cigarette vending machines to a vending machine operator operating
18 vending machines in the state of Kansas.

19 ~~(y)~~ (aa) “Vending machine operator” means any person who places a
20 vending machine, owned, leased or operated by such person, at locations
21 where cigarettes are sold from the machine. The owner or lessee of the
22 premises upon which a vending machine is placed shall not be considered
23 the operator of the machine, nor shall the owner or lessee, or any em-
24 ployee or agent of the owner or lessee be considered an authorized agent
25 of the vending machine operator, if the owner or lessee does not own or
26 lease the machine and the owner’s or lessee’s sole remuneration from the
27 machine is a flat rental fee or commission based upon the number or
28 value of cigarettes sold from the machine, or a combination of both.

29 ~~(z)~~ (bb) “Wholesale dealer” means any person who sells cigarettes to
30 other wholesale dealers, retail dealers, vending machine operators and
31 manufacturer’s salespersons for the purpose of resale in the state of
32 Kansas.

33 ~~(aa)~~ (cc) “Wholesale sales price” means the original net invoice price
34 for which a manufacturer sells a tobacco product to a distributor, as shown
35 by the manufacturer’s original invoice.

36 ~~(bb)~~ (dd) “Importer” ~~shall have the same meaning ascribed thereto~~
37 ~~means the same as provided in 26 U.S.C. §5702(k).~~

38 ~~(cc)~~ (ee) “Manufacturer” ~~shall have the same meaning ascribed~~
39 ~~thereto means the same as provided in 26 U.S.C. §5702(d).~~

40 Sec. 2. K.S.A. 2009 Supp. 79-3310 is hereby amended to read as
41 follows: 79-3310. There is imposed a tax upon all cigarettes sold, distrib-
42 uted or given away within the state of Kansas. ~~On and after July 1, 2002,~~
43 ~~and before January 1, 2003, the rate of such tax shall be \$.70 on each 20~~

1 ~~cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the~~
2 ~~case requires. On and after January 1, 2003~~ *July 1, 2010*, the rate of such
3 tax shall be ~~\$.70~~ *\$1.34* on each 20 cigarettes or fractional part thereof or
4 ~~\$.09~~ *\$1.675* on each 25 cigarettes, as the case requires. Such tax shall be
5 collected and paid to the director as provided in this act. Such tax shall
6 be paid only once and shall be paid by the wholesale dealer first receiving
7 the cigarettes as herein provided.

8 The taxes imposed by this act are hereby levied upon all sales of ciga-
9 rattes made to any department, institution or agency of the state of Kan-
10 sas, and to the political subdivisions thereof and their departments, insti-
11 tutions and agencies.

12 Sec. 3. K.S.A. 2009 Supp. 79-3310c is hereby amended to read as
13 follows: 79-3310c. ~~(1)~~ On or before July 30, ~~2002~~ *2010*, each wholesale
14 dealer, retail dealer and vending machine operator shall file a report with
15 the director in such form as the director may prescribe showing cigarettes,
16 cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2002~~
17 *2010*. A tax of ~~\$.46~~ *\$.55* on each 20 cigarettes or fractional part thereof
18 or ~~\$.575~~ *\$.6875* on each 25 cigarettes, as the case requires and ~~\$.46 or~~
19 ~~\$.575~~ *\$.55 or \$.6875*, as the case requires upon all tax stamps and all
20 meter imprints purchased from the director and not affixed to cigarettes
21 prior to July 1, ~~2002~~ *2010*, is hereby imposed and shall be due and payable
22 in equal installments on or before July 30, ~~2002~~ *2010*, on or before Sep-
23 tember 30, ~~2002~~ *2010*, and on or before December 30, ~~2002~~ *2010*. The
24 tax imposed upon such cigarettes, tax stamps and meter imprints shall be
25 imposed only once under this act. The director shall remit all moneys
26 collected pursuant to this section to the state treasurer who shall credit
27 the entire amount thereof to the state general fund.

28 ~~(2) On or before January 30, 2003, each wholesale dealer, retail~~
29 ~~dealer and vending machine operator shall file a report with the director~~
30 ~~in such form as the director may prescribe showing cigarettes, cigarette~~
31 ~~stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A~~
32 ~~tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on~~
33 ~~each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case~~
34 ~~requires upon all tax stamps and all meter imprints purchased from the~~
35 ~~director and not affixed to cigarettes prior to January 1, 2003, is hereby~~
36 ~~imposed and shall be due and payable in equal installments on or before~~
37 ~~January 30, 2003, on or before March 30, 2003, and on or before June~~
38 ~~30, 2003. The tax imposed upon such cigarettes, tax stamps and meter~~
39 ~~imprints shall be imposed only once under this act. The director shall~~
40 ~~remit all moneys collected pursuant to this section to the state treasurer~~
41 ~~who shall credit the entire amount thereof to the state general fund.~~

42 Sec. 4. K.S.A. 2009 Supp. 79-3311 is hereby amended to read as
43 follows: 79-3311. The director shall design and designate indicia of tax

1 payment to be affixed to each package of cigarettes as provided by this
2 act. The director shall sell water applied stamps only to licensed wholesale
3 dealers in the amounts of 1,000 or multiples thereof. Stamps applied by
4 the heat process shall be sold only in amounts of 30,000 or multiples
5 thereof, except that such stamps which are suitable for packages contain-
6 ing 25 cigarettes each shall be sold in amounts prescribed by the director.
7 Meter imprints shall be sold only in amounts of 10,000 or multiples
8 thereof. Water applied stamps in amounts of 10,000 or multiples thereof
9 and stamps applied by the heat process and meter imprints shall be sup-
10 plied to wholesale dealers at a discount of ~~.90%~~ .53% on and after July
11 1, ~~2002~~ 2010, and before January 1, 2003, and ~~.80%~~ thereafter from the
12 face value thereof, and shall be deducted at the time of purchase or from
13 the remittance therefor as hereinafter provided. Any wholesale cigarette
14 dealer who shall file with the director a bond, of acceptable form, payable
15 to the state of Kansas with a corporate surety authorized to do business
16 in Kansas, shall be permitted to purchase stamps, and remit therefor to
17 the director within 30 days after each such purchase, up to a maximum
18 outstanding at any one time of 85% of the amount of the bond. Failure
19 on the part of any wholesale dealer to remit as herein specified shall be
20 cause for forfeiture of such dealer's bond. All revenue received from the
21 sale of such stamps or meter imprints shall be remitted to the state trea-
22 surer in accordance with the provisions of K.S.A. 75-4215, and amend-
23 ments thereto. Upon receipt of each such remittance, the state treasurer
24 shall deposit the entire amount in the state treasury. The state treasurer
25 shall first credit such amount as the director shall order to the cigarette
26 tax refund fund and shall credit the remaining balance to the state general
27 fund. A refund fund designated the cigarette tax refund fund not to ex-
28 ceed \$10,000 at any time shall be set apart and maintained by the director
29 from taxes collected under this act and held by the state treasurer for
30 prompt payment of all refunds authorized by this act. Such cigarette tax
31 refund fund shall be in such amount as the director shall determine is
32 necessary to meet current refunding requirements under this act.

33 The wholesale cigarette dealer shall affix to each package of cigarettes
34 stamps or tax meter imprints required by this act prior to the sale of
35 cigarettes to any person, by such dealer or such dealer's agent or agents,
36 within the state of Kansas. The director is empowered to authorize whole-
37 sale dealers to affix revenue tax meter imprints upon original packages of
38 cigarettes and is charged with the duty of regulating the use of tax meters
39 to secure payment of the proper taxes. No wholesale dealer shall affix
40 revenue tax meter imprints to original packages of cigarettes without first
41 having obtained permission from the director to employ this method of
42 affixation. If the director approves the wholesale dealer's application for
43 permission to affix revenue tax meter imprints to original packages of

1 cigarettes, the director shall require such dealer to file a suitable bond
2 payable to the state of Kansas executed by a corporate surety authorized
3 to do business in Kansas. The director may, to assure the proper collection
4 of taxes imposed by the act, revoke or suspend the privilege of imprinting
5 tax meter imprints upon original packages of cigarettes. All meters shall
6 be under the direct control of the director, and all transfer assignments
7 or anything pertaining thereto must first be authorized by the director.
8 All inks used in the stamping of cigarettes must be of a special type
9 devised for use in connection with the machine employed and approved
10 by the director. All repairs to the meter are strictly prohibited except by
11 a duly authorized representative of the director. Requests for service shall
12 be directed to the director. Meter machine ink imprints on all packages
13 shall be clear and legible. If a wholesale dealer continuously issues illeg-
14 ible cigarette tax meter imprints, it shall be considered sufficient cause
15 for revocation of such dealer's permit to use a cigarette tax meter.

16 A licensed wholesale dealer may, for the purpose of sale in another
17 state, transport cigarettes not bearing Kansas indicia of tax payment
18 through the state of Kansas provided such cigarettes are contained in
19 sealed and original cartons.

20 Sec. 5. K.S.A. 2009 Supp. 79-3312 is hereby amended to read as
21 follows: 79-3312. The director shall redeem any unused stamps or meter
22 imprints that any wholesale dealer presents for redemption within six
23 months after the purchase thereof, at the face value less ~~.90%~~ .53% on
24 and after July 1, ~~2002~~ 2010, and before January 1, ~~2003~~, and ~~.80%~~ there-
25 ~~after thereof~~ if such stamps or meter imprints have been purchased from
26 the director. The director shall prepare a voucher showing the net amount
27 of such refund due, and the director of accounts and reports shall draw
28 a warrant on the state treasurer for the same. Wholesale dealers shall be
29 entitled to a refund of the tax paid on cigarettes which have become unfit
30 for sale upon proof thereof less ~~.90%~~ .53% on and after July 1, ~~2002~~, and
31 before January 1, ~~2003~~, and ~~.80%~~ thereafter 2010, of such tax.

32 Sec. 6. K.S.A. 79-3371 is hereby amended to read as follows: 79-
33 3371. A tax is hereby imposed upon the privilege of selling or dealing in
34 tobacco products in this state by any person engaged in business as a
35 distributor thereof, at the rate of ~~ten percent (10%)~~ 40% of the wholesale
36 sales price of such tobacco products. Such tax shall be imposed at the
37 time the distributor: (a) Brings or causes to be brought into this state
38 from without the state tobacco products for sale; (b) makes, manufac-
39 tures, or fabricates tobacco products in this state for sale in this state; or
40 (c) ships or transports tobacco products to retailers in this state to be sold
41 by those retailers.

42 New Sec. 7. On or before July 31, 2010, each distributor and retail
43 business selling tobacco products having a place of business in this state

1 shall file a report with the director in such form as the director may
2 prescribe, showing the tobacco products on hand at 12:01 a.m. on July 1,
3 2010. For distributors, a tax at a rate equal to 30% of the wholesale sales
4 price of such tobacco products, and for a retail business selling tobacco
5 products, a tax at a rate of 30% of the retail invoice price to the consumer,
6 is hereby imposed upon such tobacco products and shall be due and
7 payable on or before July 31, 2010. The tax upon such tobacco products
8 shall be imposed only once under this act. The director shall remit all
9 moneys collected pursuant to this section to the state treasurer who shall
10 credit the entire amount thereof to the state general fund.

11 Sec. 8. K.S.A. 79-3378 is hereby amended to read as follows: 79-
12 3378. On or before the ~~twentieth~~ 20th day of each calendar month every
13 distributor with a place of business in this state shall file a return with
14 the director showing the quantity and wholesale sales price of each to-
15 bacco product (1) brought, or caused to be brought, into this state for
16 sale; and (2) made, manufactured, or fabricated in this state for sale in
17 this state during the preceding calendar month. Every licensed distributor
18 outside this state shall in like manner file a return showing the quantity
19 and wholesale sales price of each tobacco product shipped or transported
20 to retailers in this state to be sold by those retailers, during the preceding
21 calendar month. Returns shall be made upon forms furnished and pre-
22 scribed by the director. Each return shall be accompanied by a remittance
23 for the full tax liability shown therein, less ~~four percent (4%)~~ 1% of such
24 liability as compensation to reimburse the distributor for ~~his or her~~
25 expenses incurred in the administration of this act. As soon as practicable
26 after any return is filed, the director shall examine the return. If the
27 director finds that, in ~~his or her~~ the director's judgment, the return is
28 incorrect and any amount of tax is due from the distributor and unpaid,
29 ~~he or she~~ the director shall notify the distributor of the deficiency. If a
30 deficiency disclosed by the director's examination cannot be allocated by
31 ~~him~~ the director to a particular month or months, ~~he or she~~ the director
32 may nevertheless notify the distributor that a deficiency exists and state
33 the amount of tax due. Such notice shall be given to the distributor by
34 registered or certified mail.

35 Sec. 9. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as
36 follows: 79-3603. For the privilege of engaging in the business of selling
37 tangible personal property at retail in this state or rendering or furnishing
38 any of the services taxable under this act, there is hereby levied and there
39 shall be collected and paid a tax at the rate of 5.3%, *and commencing July*
40 *1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of*
41 *5.5%*. Within a redevelopment district established pursuant to K.S.A. 74-
42 8921, and amendments thereto, there is hereby levied and there shall be
43 collected and paid an additional tax at the rate of 2% until the earlier of

- 1 the date the bonds issued to finance or refinance the redevelopment
2 project have been paid in full or the final scheduled maturity of the first
3 series of bonds issued to finance any part of the project upon:
- 4 (a) The gross receipts received from the sale of tangible personal
5 property at retail within this state;
- 6 (b) the gross receipts from intrastate, interstate or international tel-
7 ecommunications services and any ancillary services sourced to this state
8 in accordance with K.S.A. 2009 Supp. 79-3673, and amendments thereto,
9 except that telecommunications service does not include: (1) Any inter-
10 state or international 800 or 900 service; (2) any interstate or international
11 private communications service as defined in K.S.A. 2009 Supp. 79-3673,
12 and amendments thereto; (3) any value-added nonvoice data service; (4)
13 any telecommunication service to a provider of telecommunication serv-
14 ices which will be used to render telecommunications services, including
15 carrier access services; or (5) any service or transaction defined in this
16 section among entities classified as members of an affiliated group as
17 provided by section 1504 of the federal internal revenue code of 1986, as
18 in effect on January 1, 2001;
- 19 (c) the gross receipts from the sale or furnishing of gas, water, elec-
20 tricity and heat, which sale is not otherwise exempt from taxation under
21 the provisions of this act, and whether furnished by municipally or pri-
22 vately owned utilities, except that, on and after January 1, 2006, for sales
23 of gas, electricity and heat delivered through mains, lines or pipes to
24 residential premises for noncommercial use by the occupant of such
25 premises, and for agricultural use and also, for such use, all sales of pro-
26 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP
27 gas, coal, wood and other fuel sources for the production of heat or light-
28 ing for noncommercial use of an occupant of residential premises, the
29 state rate shall be 0%, but such tax shall not be levied and collected upon
30 the gross receipts from: (1) The sale of a rural water district benefit unit;
31 (2) a water system impact fee, system enhancement fee or similar fee
32 collected by a water supplier as a condition for establishing service; or (3)
33 connection or reconnection fees collected by a water supplier;
- 34 (d) the gross receipts from the sale of meals or drinks furnished at
35 any private club, drinking establishment, catered event, restaurant, eating
36 house, dining car, hotel, drugstore or other place where meals or drinks
37 are regularly sold to the public;
- 38 (e) the gross receipts from the sale of admissions to any place pro-
39 viding amusement, entertainment or recreation services including admis-
40 sions to state, county, district and local fairs, but such tax shall not be
41 levied and collected upon the gross receipts received from sales of ad-
42 missions to any cultural and historical event which occurs triennially;
- 43 (f) the gross receipts from the operation of any coin-operated device

- 1 dispensing or providing tangible personal property, amusement or other
2 services except laundry services, whether automatic or manually operated;
- 3 (g) the gross receipts from the service of renting of rooms by hotels,
4 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
5 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
6 but such tax shall not be levied and collected upon the gross receipts
7 received from sales of such service to the federal government and any
8 agency, officer or employee thereof in association with the performance
9 of official government duties;
- 10 (h) the gross receipts from the service of renting or leasing of tangible
11 personal property except such tax shall not apply to the renting or leasing
12 of machinery, equipment or other personal property owned by a city and
13 purchased from the proceeds of industrial revenue bonds issued prior to
14 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
15 12-1749, and amendments thereto, and any city or lessee renting or leas-
16 ing such machinery, equipment or other personal property purchased
17 with the proceeds of such bonds who shall have paid a tax under the
18 provisions of this section upon sales made prior to July 1, 1973, shall be
19 entitled to a refund from the sales tax refund fund of all taxes paid
20 thereon;
- 21 (i) the gross receipts from the rendering of dry cleaning, pressing,
22 dyeing and laundry services except laundry services rendered through a
23 coin-operated device whether automatic or manually operated;
- 24 (j) the gross receipts from the rendering of the services of washing
25 and washing and waxing of vehicles;
- 26 (k) the gross receipts from cable, community antennae and other sub-
27 scriber radio and television services;
- 28 (l) (1) except as otherwise provided by paragraph (2), the gross re-
29 ceipts received from the sales of tangible personal property to all con-
30 tractors, subcontractors or repairmen for use by them in erecting struc-
31 tures, or building on, or otherwise improving, altering, or repairing real
32 or personal property.
- 33 (2) Any such contractor, subcontractor or repairman who maintains
34 an inventory of such property both for sale at retail and for use by them
35 for the purposes described by paragraph (1) shall be deemed a retailer
36 with respect to purchases for and sales from such inventory, except that
37 the gross receipts received from any such sale, other than a sale at retail,
38 shall be equal to the total purchase price paid for such property and the
39 tax imposed thereon shall be paid by the deemed retailer;
- 40 (m) the gross receipts received from fees and charges by public and
41 private clubs, drinking establishments, organizations and businesses for
42 participation in sports, games and other recreational activities, but such
43 tax shall not be levied and collected upon the gross receipts received from:

1 (1) Fees and charges by any political subdivision, by any organization
2 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
3 201, and amendments thereto, or by any youth recreation organization
4 exclusively providing services to persons 18 years of age or younger which
5 is exempt from federal income taxation pursuant to section 501(c)(3) of
6 the federal internal revenue code of 1986, for participation in sports,
7 games and other recreational activities; and (2) entry fees and charges for
8 participation in a special event or tournament sanctioned by a national
9 sporting association to which spectators are charged an admission which
10 is taxable pursuant to subsection (e);

11 (n) the gross receipts received from dues charged by public and pri-
12 vate clubs, drinking establishments, organizations and businesses, pay-
13 ment of which entitles a member to the use of facilities for recreation or
14 entertainment, but such tax shall not be levied and collected upon the
15 gross receipts received from: (1) Dues charged by any organization ex-
16 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
17 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
18 in a nonprofit organization which is exempt from federal income taxation
19 pursuant to section 501 (c)(3) of the federal internal revenue code of
20 1986, and whose purpose is to support the operation of a nonprofit zoo;

21 (o) the gross receipts received from the isolated or occasional sale of
22 motor vehicles or trailers but not including: (1) The transfer of motor
23 vehicles or trailers by a person to a corporation or limited liability com-
24 pany solely in exchange for stock securities or membership interest in
25 such corporation or limited liability company; or (2) the transfer of motor
26 vehicles or trailers by one corporation or limited liability company to
27 another when all of the assets of such corporation or limited liability
28 company are transferred to such other corporation or limited liability
29 company; or (3) the sale of motor vehicles or trailers which are subject
30 to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
31 amendments thereto, by an immediate family member to another im-
32 mediate family member. For the purposes of clause (3), immediate family
33 member means lineal ascendants or descendants, and their spouses. Any
34 amount of sales tax paid pursuant to the Kansas retailers sales tax act on
35 the isolated or occasional sale of motor vehicles or trailers on and after
36 July 1, 2004, which the base for computing the tax was the value pursuant
37 to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments
38 thereto, when such amount was higher than the amount of sales tax which
39 would have been paid under the law as it existed on June 30, 2004, shall
40 be refunded to the taxpayer pursuant to the procedure prescribed by this
41 section. Such refund shall be in an amount equal to the difference be-
42 tween the amount of sales tax paid by the taxpayer and the amount of
43 sales tax which would have been paid by the taxpayer under the law as it

1 existed on June 30, 2004. Each claim for a sales tax refund shall be verified
2 and submitted not later than six months from the effective date of this
3 act to the director of taxation upon forms furnished by the director and
4 shall be accompanied by any additional documentation required by the
5 director. The director shall review each claim and shall refund that
6 amount of tax paid as provided by this act. All such refunds shall be paid
7 from the sales tax refund fund, upon warrants of the director of accounts
8 and reports pursuant to vouchers approved by the director of taxation or
9 the director's designee. No refund for an amount less than \$10 shall be
10 paid pursuant to this act. In determining the base for computing the tax
11 on such isolated or occasional sale, the fair market value of any motor
12 vehicle or trailer traded in by the purchaser to the seller may be deducted
13 from the selling price;

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

24 For the purposes of this subsection:

25 (1) "Original construction" shall mean the first or initial construction
26 of a new building or facility. The term "original construction" shall include
27 the addition of an entire room or floor to any existing building or facility,
28 the completion of any unfinished portion of any existing building or fa-
29 cility and the restoration, reconstruction or replacement of a building,
30 facility or utility structure damaged or destroyed by fire, flood, tornado,
31 lightning, explosion, windstorm, ice loading and attendant winds, terror-
32 ism or earthquake, but such term, except with regard to a residence, shall
33 not include replacement, remodeling, restoration, renovation or recon-
34 struction under any other circumstances;

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

39 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
40 well, feedlot or any conveyance, transmission or distribution line of any
41 cooperative, nonprofit, membership corporation organized under or sub-
42 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,
43 or municipal or quasi-municipal corporation, including the land improve-

- 1 ments immediately surrounding such facility;
- 2 (4) “residence” shall mean only those enclosures within which indi-
3 viduals customarily live;
- 4 (5) “utility structure” shall mean transmission and distribution lines
5 owned by an independent transmission company or cooperative, the Kan-
6 sas electric transmission authority or natural gas or electric public utility;
7 and
- 8 (6) “windstorm” shall mean straight line winds of at least 80 miles
9 per hour as determined by a recognized meteorological reporting agency
10 or organization;
- 11 (q) the gross receipts received for the service of repairing, servicing,
12 altering or maintaining tangible personal property which when such serv-
13 ices are rendered is not being held for sale in the regular course of busi-
14 ness, and whether or not any tangible personal property is transferred in
15 connection therewith. The tax imposed by this subsection shall be appli-
16 cable to the services of repairing, servicing, altering or maintaining an
17 item of tangible personal property which has been and is fastened to,
18 connected with or built into real property;
- 19 (r) the gross receipts from fees or charges made under service or
20 maintenance agreement contracts for services, charges for the providing
21 of which are taxable under the provisions of subsection (p) or (q);
- 22 (s) on and after January 1, 2005, the gross receipts received from the
23 sale of prewritten computer software and the sale of the services of mod-
24 ifying, altering, updating or maintaining prewritten computer software,
25 whether the prewritten computer software is installed or delivered elec-
26 tronically by tangible storage media physically transferred to the pur-
27 chaser or by load and leave;
- 28 (t) the gross receipts received for telephone answering services;
- 29 (u) the gross receipts received from the sale of prepaid calling service
30 and prepaid wireless calling service as defined in K.S.A. 2009 Supp. 79-
31 3673, and amendments thereto; and
- 32 (v) the gross receipts received from the sales of bingo cards, bingo
33 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,
34 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
35 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
36 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
37 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,
38 and amendments thereto, shall be exempt from taxes imposed pursuant
39 to this section.
- 40 Sec. 10. K.S.A. 2009 Supp. 79-3620 is hereby amended to read as
41 follows: 79-3620. (a) All revenue collected or received by the director of
42 taxation from the taxes imposed by this act shall be remitted to the state
43 treasurer in accordance with the provisions of K.S.A. 75-4215, and

1 amendments thereto. Upon receipt of each such remittance, the state
2 treasurer shall deposit the entire amount in the state treasury, less
3 amounts withheld as provided in subsection (b) and amounts credited as
4 provided in subsection (c) and (d), to the credit of the state general fund.

5 (b) A refund fund, designated as “sales tax refund fund” not to exceed
6 \$100,000 shall be set apart and maintained by the director from sales tax
7 collections and estimated tax collections and held by the state treasurer
8 for prompt payment of all sales tax refunds including refunds authorized
9 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
10 fund shall be in such amount, within the limit set by this section, as the
11 director shall determine is necessary to meet current refunding require-
12 ments under this act. In the event such fund as established by this section
13 is, at any time, insufficient to provide for the payment of refunds due
14 claimants thereof, the director shall certify the amount of additional funds
15 required to the director of accounts and reports who shall promptly trans-
16 fer the required amount from the state general fund to the sales tax refund
17 fund, and notify the state treasurer, who shall make proper entry in the
18 records.

19 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
20 or received from the tax imposed by K.S.A. 79-3603, and amendments
21 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
22 exclusive of amounts credited pursuant to subsection (d), in the state
23 highway fund.

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

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

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

39 (5) *On July 1, 2013, and thereafter, the state treasurer shall credit*
40 *$\frac{17}{110}$ of the revenue collected and received from the tax imposed by K.S.A.*
41 *79-3603, and amendments thereto, at the rate of 5.5%, and deposited as*
42 *provided by subsection (a), exclusive of amounts credited pursuant to*
43 *subsection (d), in the state highway fund.*

1 (d) The state treasurer shall credit all revenue collected or received
2 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
3 certified by the director, from taxpayers doing business within that por-
4 tion of a STAR bond project district occupied by a STAR bond project
5 or taxpayers doing business with such entity financed by a STAR bond
6 project as defined in K.S.A. 2009 Supp. 12-17,162, and amendments
7 thereto, that was determined by the secretary of commerce to be of state-
8 wide as well as local importance or will create a major tourism area for
9 the state or the project was designated as a STAR bond project as defined
10 in K.S.A. 2009 Supp. 12-17,162, and amendments thereto, to the city
11 bond finance fund, which fund is hereby created. The provisions of this
12 subsection shall expire when the total of all amounts credited hereunder
13 and under subsection (d) of K.S.A. 79-3710, and amendments thereto, is
14 sufficient to retire the special obligation bonds issued for the purpose of
15 financing all or a portion of the costs of such STAR bond project.

16 Sec. 11. K.S.A. 2009 Supp. 79-3703 is hereby amended to read as
17 follows: 79-3703. There is hereby levied and there shall be collected from
18 every person in this state a tax or excise for the privilege of using, storing,
19 or consuming within this state any article of tangible personal property.
20 Such tax shall be levied and collected in an amount equal to the consid-
21 eration paid by the taxpayer multiplied by the rate of 5.3%, *and com-*
22 *mencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013,*
23 *at the rate of 5.5%.* Within a redevelopment district established pursuant
24 to K.S.A. 74-8921, and amendments thereto, there is hereby levied and
25 there shall be collected and paid an additional tax of 2% until the earlier
26 of: (1) The date the bonds issued to finance or refinance the redevelop-
27 ment project undertaken in the district have been paid in full; or (2) the
28 final scheduled maturity of the first series of bonds issued to finance the
29 redevelopment project. All property purchased or leased within or with-
30 out this state and subsequently used, stored or consumed in this state
31 shall be subject to the compensating tax if the same property or trans-
32 action would have been subject to the Kansas retailers' sales tax had the
33 transaction been wholly within this state.

34 Sec. 12. K.S.A. 2009 Supp. 79-3710 is hereby amended to read as
35 follows: 79-3710. (a) All revenue collected or received by the director
36 under the provisions of this act shall be remitted to the state treasurer in
37 accordance with the provisions of K.S.A. 75-4215, and amendments
38 thereto. Upon receipt of each such remittance, the state treasurer shall
39 deposit the entire amount in the state treasury, less amounts set apart as
40 provided in subsection (b) and amounts credited as provided in subsection
41 (c) and (d), to the credit of the state general fund.

42 (b) A revolving fund, designated as "compensating tax refund fund"
43 not to exceed \$10,000 shall be set apart and maintained by the director

1 from compensating tax collections and estimated tax collections and held
2 by the state treasurer for prompt payment of all compensating tax refunds.
3 Such fund shall be in such amount, within the limit set by this section,
4 as the director shall determine is necessary to meet current refunding
5 requirements under this act.

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

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

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

21 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the rev-
22 enue collected or received from the tax imposed by K.S.A. 79-3703, and
23 amendments thereto, at the rate of 5.3%, *and on and after July 1, 2010,*
24 *at the rate of 6.3%*, and deposited as provided by subsection (a), exclusive
25 of amounts credited pursuant to subsection (d), in the state highway fund.

26 (5) *On July 1, 2013, and thereafter, the state treasurer shall credit*
27 *$\frac{17}{110}$ of the revenue collected and received from the tax imposed by K.S.A.*
28 *79-3703, and amendments thereto, at the rate of 5.5%, and deposited as*
29 *provided by subsection (a), exclusive of amounts credited pursuant to*
30 *subsection (d), in the state highway fund.*

31 (d) The state treasurer shall credit all revenue collected or received
32 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
33 certified by the director, from taxpayers doing business within that por-
34 tion of a redevelopment district occupied by a redevelopment project that
35 was determined by the secretary of commerce to be of statewide as well
36 as local importance or will create a major tourism area for the state as
37 defined in K.S.A. 12-1770a, and amendments thereto, to the city bond
38 finance fund created by subsection (d) of K.S.A. 79-3620, and amend-
39 ments thereto. The provisions of this subsection shall expire when the
40 total of all amounts credited hereunder and under subsection (d) of K.S.A.
41 79-3620, and amendments thereto, is sufficient to retire the special ob-
42 ligation bonds issued for the purpose of financing all or a portion of the
43 costs of such redevelopment project.

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

4 Sec. 13. K.S.A. 79-3371 and 79-3378 and K.S.A. 2009 Supp. 79-3301,
5 79-3310, 79-3310c, 79-3311, 79-3312, 79-3603, 79-3620, 79-3703 and 79-
6 3710 are hereby repealed.

7 Sec. 14. This act shall take effect and be in force from and after its
8 publication in the statute book.