

HOUSE BILL No. 2134

By Committee on Taxation

1-23

1 AN ACT concerning sales and compensating use tax; relating to motor
2 vehicles; providing for a deduction for calculating tax owed when
3 selling a recently purchased vehicle that is a wrecked or damaged
4 vehicle and purchasing a subsequent vehicle; amending K.S.A. 12-199
5 and repealing the existing section.
6

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

8 New Section 1. (a) In the event that an individual purchases a vehicle
9 and, within 365 days from the date the vehicle was purchased, such
10 vehicle is wrecked or damaged to the extent that the vehicle would qualify
11 as a salvage vehicle pursuant to K.S.A. 8-197, and amendments thereto,
12 and the salvaged vehicle is then sold or has the vehicle title transferred as
13 part of a settlement with an insurance company as a result of the wreck or
14 damage and a subsequent vehicle is purchased, the tax imposed by the
15 Kansas retailers' sales tax act pursuant to K.S.A. 79-3601 et seq., and
16 amendments thereto, or the Kansas compensating tax pursuant to K.S.A.
17 79-3701 et seq., and amendments thereto, shall be paid on the amount of
18 total consideration paid for the vehicle subsequently purchased by such
19 individual that exceeds the amount paid by such individual when the
20 wrecked or damage vehicle was originally purchased. The amount paid
21 shall include the full value of consideration paid for the originally
22 purchased vehicle regardless of whether paid in cash, credit or trade-in
23 value. In the event that the consideration paid for the subsequently
24 purchased vehicle is equal to or less than the amount paid on the purchase
25 of the salvaged motor vehicle, then the individual shall not owe any sales
26 or compensating use tax nor shall be entitled to a refund for such taxes
27 paid pursuant to this section.

28 (b) For purposes of subsection (a), the individual may either:

29 (1) Provide to the county treasurer the completed bill of sale for the
30 vehicle sold and the subsequent vehicle purchased at the time that the
31 purchased vehicle is registered. The county treasurer shall collect the tax
32 on the amount prescribed under subsection (a); or

33 (2) apply to the department of revenue for a refund of the amount of
34 tax paid by the individual that exceeds the tax amount owed pursuant to
35 subsection (a) by providing both the completed bills of sale for the vehicle
36 sold and the subsequent vehicle purchased.

1 (c) (1) The deduction provided by this section shall not be allowed
2 unless the taxpayer claiming the deduction provides a copy of the bills of
3 sale required pursuant to subsection (b), and such bills of sale are on
4 department of revenue form TR-312 or, at a minimum, include the:

- 5 (A) Seller's printed name and address;
- 6 (B) buyer's printed name and address;
- 7 (C) year, make and vehicle identification number of the vehicle;
- 8 (D) sale price and date of sale of the vehicle; and
- 9 (E) signatures of the seller and the buyer and the date signed.

10 (2) The sale price, date of sale and buyer and seller information on
11 the bill of sale shall match the information entered in the assignment of
12 title on the back of the certificate of title.

13 (3) If the taxpayer claiming such deduction fails to provide such
14 signed bills of sale, the tax shall be due on the total consideration paid for
15 the new or used vehicle.

16 (d) The department of revenue shall issue a refund pursuant to
17 subsection (b)(2) from the sales tax refund fund for any valid claims filed
18 within three years from the date of the purchase of the replacement
19 vehicle.

20 (e) The director of vehicles shall prescribe forms for compliance with
21 this section.

22 Sec. 2. K.S.A. 12-199 is hereby amended to read as follows: 12-199.

23 (a) *Except as otherwise provided by section 1, and amendments thereto*, a
24 compensating use tax for the privilege of using or storing within a city or
25 county any vehicle—~~which~~ *that* is required to be registered under the
26 provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and
27 amendments thereto, and—~~which~~ *that* is purchased within this state but
28 without the local retailers' sales taxing jurisdiction of such city or county,
29 is hereby imposed by every city or county imposing a retailers' sales tax.
30 The rate of any such tax shall be equal to the difference between the
31 aggregate rate of all local retailers' sales tax rates imposed by all local
32 retailers sales taxing jurisdictions of the situs of such vehicle less the
33 aggregate rate of all local retailers' sales tax rates imposed by all local
34 retailers' sales taxing jurisdictions of the situs of the purchase of such
35 vehicle. Except as otherwise provided in this section, any city or county
36 imposing a compensating use tax is prohibited from administering such tax
37 locally, but shall utilize the services of the state department of revenue to
38 administer and enforce such tax. All laws and rules and regulations of the
39 state department of revenue relating to the Kansas compensating tax shall
40 apply to such local compensating use tax insofar as the same may be made
41 applicable. Such tax shall be collected by the county treasurer at the time
42 the vehicle is registered in this state following a sale occurring within this
43 state. Registration of such vehicle within a taxing jurisdiction shall be

1 deemed to constitute use or storage thereof for compensating tax purposes
2 and the residence or place of business of the applicant shall be deemed to
3 be the situs of such use or storage for purposes of the collection and
4 distribution thereof.

5 (b) The secretary of revenue is authorized to administer and enforce a
6 city's or county's compensating use tax and to adopt such rules and
7 regulations necessary for the efficient and effective administration,
8 enforcement and collection thereof.

9 (c) All revenue received by any county treasurer from a countywide
10 compensating use tax shall be apportioned among the county and each city
11 located in such county in the same manner as provided in K.S.A. 12-192,
12 and amendments thereto, for the apportionment of revenue received from a
13 countywide retailers' sales tax, and all revenue received from a city
14 compensating use tax shall be remitted at least quarterly to the treasurer of
15 such city.

16 Sec. 3. K.S.A. 12-199 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.