

HOUSE BILL No. 2384

By Committee on Taxation

3-9

1 AN ACT concerning the Kansas retailers' sales tax act; relating to the
2 imposition of tax upon certain services; amending K.S.A. 2016 Supp.
3 79-3603 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2016 Supp. 79-3603 is hereby amended to read as
7 follows: 79-3603. For the privilege of engaging in the business of selling
8 tangible personal property at retail in this state or rendering or furnishing
9 any of the services taxable under this act, there is hereby levied and there
10 shall be collected and paid a tax at the rate of 6.15%, and commencing
11 July 1, 2015, at the rate of 6.5%. Within a redevelopment district
12 established pursuant to K.S.A. 74-8921, and amendments thereto, there is
13 hereby levied and there shall be collected and paid an additional tax at the
14 rate of 2% until the earlier of the date the bonds issued to finance or
15 refinance the redevelopment project have been paid in full or the final
16 scheduled maturity of the first series of bonds issued to finance any part of
17 the project. *Such tax shall be levied upon:*

18 (a) The gross receipts received from the sale of tangible personal
19 property at retail within this state, *and commencing January 1, 2018, the*
20 *rendering or furnishing of any services within this state specifically named*
21 *by law prior to January 1, 2018, and services as described in subsectors*
22 *488410, 561611, 561612, 561621, non-residential cleaning services*
23 *described in 561720, 812111, 812112, 812113, 812199, 812910, 812930*
24 *and dating services described in 812990 of the North American industry*
25 *classification system, 2017 edition;*

26 (b) the gross receipts from intrastate, interstate or international
27 telecommunications services and any ancillary services sourced to this
28 state in accordance with K.S.A. 2016 Supp. 79-3673, and amendments
29 thereto, except that telecommunications service does not include: (1) Any
30 interstate or international 800 or 900 service; (2) any interstate or
31 international private communications service as defined in K.S.A. 2016
32 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
33 data service; (4) any telecommunication service to a provider of
34 telecommunication services which will be used to render
35 telecommunications services, including carrier access services; or (5) any
36 service or transaction defined in this section among entities classified as

1 members of an affiliated group as provided by section 1504 of the federal
2 internal revenue code of 1986, as in effect on January 1, 2001;

3 (c) the gross receipts from the sale or furnishing of gas, water,
4 electricity and heat, which sale is not otherwise exempt from taxation
5 under the provisions of this act, and whether furnished by municipally or
6 privately owned utilities, except that, on and after January 1, 2006, for
7 sales of gas, electricity and heat delivered through mains, lines or pipes to
8 residential premises for noncommercial use by the occupant of such
9 premises, and for agricultural use and also, for such use, all sales of
10 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
11 gas, coal, wood and other fuel sources for the production of heat or
12 lighting for noncommercial use of an occupant of residential premises, the
13 state rate shall be 0%, but such tax shall not be levied and collected upon
14 the gross receipts from: (1) The sale of a rural water district benefit unit;
15 (2) a water system impact fee, system enhancement fee or similar fee
16 collected by a water supplier as a condition for establishing service; or (3)
17 connection or reconnection fees collected by a water supplier;

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

22 (e) the gross receipts from the sale of admissions to any place
23 providing amusement, entertainment or recreation services including
24 admissions to state, county, district and local fairs, but such tax shall not
25 be levied and collected upon the gross receipts received from sales of
26 admissions to any cultural and historical event which occurs triennially;

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

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

37 (h) the gross receipts from the service of renting or leasing of tangible
38 personal property except such tax shall not apply to the renting or leasing
39 of machinery, equipment or other personal property owned by a city and
40 purchased from the proceeds of industrial revenue bonds issued prior to
41 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
42 12-1749, and amendments thereto, and any city or lessee renting or leasing
43 such machinery, equipment or other personal property purchased with the

1 proceeds of such bonds who shall have paid a tax under the provisions of
2 this section upon sales made prior to July 1, 1973, shall be entitled to a
3 refund from the sales tax refund fund of all taxes paid thereon;

4 (i) the gross receipts from the rendering of dry cleaning, pressing,
5 dyeing and laundry services except laundry services rendered through a
6 coin-operated device whether automatic or manually operated;

7 (j) the gross receipts from the rendering of the services of washing
8 and washing and waxing of vehicles;

9 (k) the gross receipts from cable, community antennae and other
10 subscriber radio and television services;

11 (l) (1) except as otherwise provided by paragraph (2), the gross
12 receipts received from the sales of tangible personal property to all
13 contractors, subcontractors or repairmen for use by them in erecting
14 structures, or building on, or otherwise improving, altering, or repairing
15 real or personal property.

16 (2) Any such contractor, subcontractor or repairman who maintains
17 an inventory of such property both for sale at retail and for use by them for
18 the purposes described by paragraph (1) shall be deemed a retailer with
19 respect to purchases for and sales from such inventory, except that the
20 gross receipts received from any such sale, other than a sale at retail, shall
21 be equal to the total purchase price paid for such property and the tax
22 imposed thereon shall be paid by the deemed retailer;

23 (m) the gross receipts received from fees and charges by public and
24 private clubs, drinking establishments, organizations and businesses for
25 participation in sports, games and other recreational activities, but such tax
26 shall not be levied and collected upon the gross receipts received from: (1)
27 Fees and charges by any political subdivision, ~~by any organization exempt~~
28 ~~from property taxation pursuant to K.S.A. 79-201 Ninth, and amendments~~
29 ~~thereto, or by any youth recreation organization exclusively providing~~
30 ~~services to persons 18 years of age or younger which is exempt from~~
31 ~~federal income taxation pursuant to section 501(c)(3) of the federal~~
32 ~~internal revenue code of 1986, for participation in sports, games and other~~
33 ~~recreational activities; and (2) entry fees and charges for participation in a~~
34 special event or tournament sanctioned by a national sporting association
35 to which spectators are charged an admission which is taxable pursuant to
36 subsection (e);

37 (n) the gross receipts received from dues charged by public and
38 private clubs, drinking establishments, organizations and businesses,
39 payment of which entitles a member to the use of facilities for recreation
40 or entertainment, but such tax shall not be levied and collected upon the
41 gross receipts received from: (1) Dues charged by any organization exempt
42 from property taxation pursuant to K.S.A. 79-201 ~~Eighth and Ninth~~, and
43 amendments thereto; and (2) sales of memberships in a nonprofit

1 organization which is exempt from federal income taxation pursuant to
2 section 501(c)(3) of the federal internal revenue code of 1986, and whose
3 purpose is to support the operation of a nonprofit zoo;

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

39 (p) the gross receipts received for the service of installing or applying
40 tangible personal property which when installed or applied is not being
41 held for sale in the regular course of business, and whether or not such
42 tangible personal property when installed or applied remains tangible
43 personal property or becomes a part of real estate, except that no tax shall

1 be imposed upon the service of installing or applying tangible personal
 2 property in connection with the original construction of a building or
 3 facility, the original construction, reconstruction, restoration, remodeling,
 4 renovation, repair or replacement of a residence or the construction,
 5 reconstruction, restoration, replacement or repair of a bridge or highway.

6 For the purposes of this subsection:

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

17 (2) "building" shall mean only those enclosures within which
 18 individuals customarily are employed, or which are customarily used to
 19 house machinery, equipment or other property, and including the land
 20 improvements immediately surrounding such building;

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

27 (4) "residence" shall mean only those enclosures within which
 28 individuals customarily live;

29 (5) "utility structure" shall mean transmission and distribution lines
 30 owned by an independent transmission company or cooperative, the
 31 Kansas electric transmission authority or natural gas or electric public
 32 utility; and

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

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

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

4 (s) on and after January 1, 2005, the gross receipts received from the
5 sale of prewritten computer software and the sale of the services of
6 modifying, altering, updating or maintaining prewritten computer
7 software, whether the prewritten computer software is installed or
8 delivered electronically by tangible storage media physically transferred to
9 the purchaser or by load and leave;

10 (t) the gross receipts received for telephone answering services;

11 (u) the gross receipts received from the sale of prepaid calling service
12 and prepaid wireless calling service as defined in K.S.A. 2016 Supp. 79-
13 3673, and amendments thereto;

14 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
15 licensees under K.S.A. 2016 Supp. 75-5171 et seq., and amendments
16 thereto, shall be exempt from taxes imposed pursuant to this section; and

17 (w) all sales of charitable raffle tickets in accordance with K.S.A.
18 2016 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
19 from taxes imposed pursuant to this section.

20 Sec. 2. K.S.A. 2016 Supp. 79-3603 is hereby repealed.

21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.