

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

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**BRIAN BERGKAMP**  
93RD DISTRICT

February 6<sup>th</sup>, 2024

Dear Chairman Smith and members of House Taxation,

Thank you for taking the time to dive into the topic of sales tax on digital goods. For historical context, this bill is nearly identical to HB\_2230 that the House Tax Committee had a hearing on Feb 18<sup>th</sup>, 2021 ([http://kslegislature.org/li\\_2022/b2021\\_22/measures/minutes/agenda\\_item\\_2021021051203559591](http://kslegislature.org/li_2022/b2021_22/measures/minutes/agenda_item_2021021051203559591)). This bill differs in that it offers a corresponding .1% rate reduction to the existing 6.5% overall sales tax rate to have a net tax reduction. It then requires KDOR to annually look at the sales tax collections and as certain thresholds are met, to further reduce the overall rate (lowest can go 6.0%) due to increased sales tax collections from digital goods.

The last significant change to broaden the sales tax base was in 2021. SB 50 (marketplace facilitator) passed by veto override which related to the Supreme Courts 2018 Wayfair decision. SB 50 requires the collection and remittance of sales and compensating use tax by most marketplace facilitators beginning July 1, 2021. Such entities with annual gross receipts from sales sourced into Kansas in excess of \$100,000 are subject to the requirement, which also applies to out-of-state retailers with annual receipts from sales sourced into Kansas exceeding \$100,000.

As the world continues to evolve into further electrification, Kansas needs to continually update tax statutes to reflect the changing environment. Due to the complexities of digital commerce, we need to be careful not to tax business to business (B2B) transactions which leads to tax pyramiding. By creating a smart digital goods policy, we can lower the overall sales tax rate, keep a strong business environment, and establish fairness in our sales tax collections.

Possible changes to existing bill as written:

- 1) Consider blanket exemption for electronic purchases used for commercial purposes e.g. Iowa
- 2) Remove certain definitions of "digital property" that typically are purchased by businesses e.g. web applications, cloud-based applications etc.
- 3) Clarify language around "machine-readable formats"

Thank you for your consideration,

A handwritten signature in black ink that reads "Brian Bergkamp".

Representative Brian Bergkamp

House District 93 – Sedgwick County