

House Committee on Taxation

**Neutral Testimony on House Bill 2584- Subjects Digital Goods to Sales Tax
Presented by Eric Stafford, VP of Government Affairs, Kansas Chamber**

Tuesday, February 6, 2024

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large-sized businesses across the state, advocating for policies which improve the economic climate in Kansas. We appreciate the opportunity to testify neutral on House Bill 2584, which would subject digital goods and subscriptions to sales tax.

First, I'd like to start with the positive and thank the sponsor of this bill for the provisions in New Section 1, which would use revenue generated by this change to lower the sales tax rate. Policymakers and various interest groups often debate and discuss the concept of "broaden the base, lower the rate." However, the second half of that strategy is usually left behind and we have a broader base at higher rates.

Second, feedback from our membership has largely focused on ensuring definitions are consistent with other state's and their application of sales tax for digital goods, specifically pointing to Washington state as a good state to look toward for guidance. We are awaiting specific language recommendations on this and will provide to the committee when received.

Additional member feedback has been lukewarm on the actual collection of more items subject to sales tax. Businesses simply are wary of adding more services or products subject to sales tax out of concern for compliance. That said, if language remains consistent with what other states have adopted, that should help some, but it's another item of responsibility government is asking from the private sector.

Finally, additional language sought along with this legislation is a business-to-business exemption for digital property. This sound policy suggestion is often mentioned by the Tax Foundation for states considering changes to tax policy and often recommend B2B transactions be exempt from sales tax as those costs are just passed on to consumers through higher prices. Proposed language for this recommendation has been provided below in italics.

A new subsection to be added to KSA § 79-3606

(rrrr) (1) All sales of digital property furnished to a commercial enterprise for use exclusively by the commercial enterprise. The use of digital property fails to qualify as use exclusively by the commercial enterprise if its use for noncommercial purposes is more than de minimis.

(2) For purposes of this subsection:

(A) "Commercial enterprise" means businesses, manufacturers, professions, and occupations conducted for profit, for-profit and nonprofit insurance companies, and for-profit and nonprofit financial institutions;

(B) "De minimis" means less than ten percent (10%) of the use of digital property as measured by time or other reasonable measure consistently applied by the purchaser.

In conclusion, if this bill were to move forward through the legislative process, we would ask for these two specific changes to the bill. Thank you for the opportunity to testify as a neutral party to House Bill 2584, and I'm happy to answer questions at the appropriate time.