



Business Taxes *for Hotels, Motels* *and Restaurants*

A Kansas hotel or motel may be required to collect and remit up to six different business taxes administered by the Kansas Department of Revenue. For example, hotels and motels are required to collect the Kansas Retailers' Sales Tax on their rental of sleeping rooms and sales of tangible personal property. Many local taxing jurisdictions (counties or cities) have imposed a Transient Guest tax to be collected by hotels and motels. Furthermore, hotels often operate restaurants or clubs which sell alcoholic beverages, upon which a Liquor Drink Tax is due. When hotels, motels and restaurants make purchases the general rule is that they must pay sales or compensating use tax, while other purchases qualify for a tax exemption.

This publication is designed to help you understand how the various Kansas taxes apply to your daily business activities as a hotel, motel or restaurant operator. Businesses with an understanding of Kansas tax laws and regulations will save time and money by avoiding costly errors and omissions.

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If there is a conflict between the law and information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on the Kansas Department of Revenue's website at: ksrevenue.gov

KANSAS SALES TAX

This publication has been developed to address the Kansas retailers' sales, compensating use, liquor drink, cigarette and tobacco, dry cleaning and transient guest tax situations that you will encounter as a hotel, motel, bed and breakfast or restaurant operator. It should make collecting, reporting and paying these taxes more understandable and less burdensome. Points of law are illustrated using industry examples.

Many of the basic rules, regulations and helpful tips regarding Kansas sales and use taxes are explained in **Pub. KS-1510, Kansas Sales and Compensating Use Tax**. Another useful publication is **Pub. KS-1520, Kansas Exemption Certificates**. We refer to these publications often and recommend all retailers have copies of them in their tax files. Both are available on our website.

SALES TAX STRUCTURE AND SOURCING

Kansas retailers' sales tax was enacted in 1937 at the rate of 2%. The rate has increased to the current state rate of 6.5%. In addition to the 6.5% state sales tax, counties and cities in Kansas have had the option of imposing a local sales tax since 1978. Kansas retailers collect the combined rate of tax and remit it to the Kansas Department of Revenue. The Department of Revenue is charged with administering the Kansas Retailers' Sales Tax Act, including disbursement of the local sales tax to cities and counties.

Destination sourcing applies in determining the applicable local sales tax rate. The local rate in effect at the location where the purchaser first receives the tangible personal property or taxable services applies to the transaction. For a hotel, the local rate applicable to room charges would be the hotel location. If the hotel sells tangible personal property (such as a gift shop), the applicable rate would be that in effect where the purchaser receives the item. See page 5.

As a general rule, hotels and restaurants will collect the state and local rate in effect at your business location. A list of tax rates for all Kansas locations is in **Pub. KS-1700, Sales & Use Tax Jurisdiction Code Booklet**. When in doubt about a local city or county rate, contact the City or County Clerk for that area.

SALES THAT ARE TAXED

Generally, Kansas sales tax is collected on the gross receipts received from three types of taxable sales. Most hotels are engaged in making all three types:

- 1) retail sale or rental of tangible personal property*;
- 2) sale of admissions to places providing amusement, recreation or entertainment; and
- 3) sale of specifically enumerated services, including the service of renting of rooms by hotels or accommodation brokers. [K.S.A. 79-3603(g)]

* Tangible personal property is defined as items that can be touched or felt, have a value attached to them, and are movable.

RETAILERS RESPONSIBILITIES

As a retailer of taxable goods or services you are required to collect the sales tax from your customers and remit it to the Kansas Department of Revenue. For every taxable sale, the invoice, receipt or bill must show that the total amount of sales tax due was collected or must be accompanied by

a completed sales tax exemption certificate. An exemption certificate is a document completed by the buyer and kept in the seller's records that states why the sale was exempt (see **Pub. KS-1520**). In collecting sales tax, you act as an agent of the state in tax administration. It is at this point of sale that questions often arise about the application of sales tax to a particular transaction.

As a purchaser you are also responsible to accrue and remit use tax when your vendor (such as an out-of-state vendor) does not bill and collect the tax from you on your purchases. Use tax applies to the purchase price of the item and any shipping or handling charges imposed by the out-of-state vendor. See page 13 for details of use tax requirements.

SALES BY HOTELS

HOTEL DEFINED FOR RETAILERS' SALES TAX

Kansas sales tax is imposed on the total gross receipts received from the rental of rooms by *hotels* as defined by K.S.A. 36-501. For sales tax purposes, a hotel includes a bed and breakfast, cabin camp, hotel, motel, tourist cabin or court, and any other type of lodging unit with **at least** four sleeping rooms available for rent to the general public. Throughout this guide we will use the term *hotel* to mean any establishment that is required to collect Kansas sales tax on the rental of its sleeping rooms as described below.

ACCOMMODATION BROKERS

Accommodation Brokers are businesses maintaining an inventory of two or more rooms in one or more locations which are offered for pay to a person or persons. An accommodation broker's receipts are subject to sales tax regardless of the length of stay; whereas transient guest tax is not collected on rooms rented for more than 28 consecutive days to the same person or entity.

IMPORTANT: A different definition of a hotel is used for transient guest tax purposes (see page 9).

To summarize, you must collect sales tax on your rental of sleeping rooms when the number of sleeping rooms available for guests is at least:

- 4 – state & local sales tax for hotels
- 2 – state & local sales tax for accommodation brokers

SLEEPING ROOM RENTALS

As a general rule, sales tax is imposed on the total gross receipts received from the rental of **sleeping rooms** by hotels **at the rate in effect where the room is located**.

Sales tax does **not apply to the rental of non-sleeping rooms** such as ballrooms; banquet, meeting or reception rooms; office space, etc.

EXAMPLE: An Anycity, KS motel operator rents 20 sleeping rooms at \$60 each and one meeting room at \$50. The motel will collect sales tax on \$1,200 (20 X \$60 = \$1,200) and no sales tax on the \$50, when the charge for the meeting room is separately stated on the customer invoice. The sales tax rate is the combined state and local rate in effect for Anycity, KS (7.3%). \$1,200 X .073 = \$87.60 sales tax.

The rental of sleeping rooms is subject to sales tax regardless of the length of stay. A common misunderstanding is that the rental of sleeping rooms to a guest for more than

28 consecutive days is not subject to sales tax. Since 1992, the rental of sleeping rooms for more than 28 consecutive days **has been** subject to sales tax. A different rule applies to Transient Guest Tax. See page 9.

EXAMPLE: A bed and breakfast owner has five sleeping rooms for guests. One room is rented for 50 consecutive days to the same customer. Sales tax is due on the total amount received by the bed and breakfast for the room rental.

OTHER ROOM FEES

Gross receipts for sleeping rooms includes any additional fee charged upon check-in for roll-away beds, additional person in room, etc. Cleaning or damage charges, which are not part of the normal room fee for similar guests and are to cover costs to clean or repair damages occurring after the guest has begun to occupy the room are not taxable. Higher room charges imposed at check-in for any guests who occupy a smoking room or to have pets in the room are part of gross receipts and are taxable.

EXAMPLE: The charge for a smoking room is \$15 more than the charge for a non-smoking room. Such charge is taxable. After discovering a guest has damaged a room door, the hotel imposes a \$50 repair charge. Such charge is not taxable.

NO SHOW REVENUE

No show revenues (deposits, room guarantees, etc.) received by hotels for the rental of sleeping rooms are still subject to sales tax, even when the guest never takes possession of the room. Deposits that are returned to the guest are not subject to sales tax.

EXAMPLE: A guest guarantees a reservation by billing a sleeping room to his credit card. In a change of plans, the guest does not stay in the room and does not call the hotel to cancel the reservation. The hotel bills the guest for the sleeping room. The bill must include sales tax.

CONVENTION DEPOSITS

Convention deposits are not subject to sales tax until or unless they are applied toward taxable room charges.

EXEMPT ROOM RENTALS

As stated above, the general rule is that the rental of sleeping rooms by a hotel is subject to sales tax. There are, however, a number of entities that have been granted a sales tax exemption by Kansas law [K.S.A. 79-3606(a) et seq.]. These hotel guests are allowed to make a **direct** purchase (rental) of sleeping room(s) exempt from sales tax by providing a completed exemption certificate, discussed on page 25. To be exempt as a **direct** purchase, the room charge must be billed directly to the exempt buyer and paid for by cash, check, voucher or credit card from the exempt buyer.

Some of the more common entities exempt from sales tax are as follows. See **Pub. KS-1520** for a complete list.

- The U. S. Government, its agencies and instrumentalities
- The state of Kansas and its political subdivisions (Kansas cities, counties, school districts)
- Elementary and secondary schools
- Parent-teacher organizations (PTA or PTO)
- Nonprofit educational institutions
- Nonprofit hospitals
- Nonprofit blood, tissue and organ banks
- Nonprofit 501(c)(3) historical societies
- Nonprofit 501(c)(3) museums
- Nonprofit 501(c)(3) primary care clinics

- Nonprofit 501(c)(3) religious organizations
- Nonprofit 501(c)(3) zoos
- Rural volunteer fire departments

DIRECT PURCHASE EXCEPTIONS

Direct purchases (rentals) of sleeping rooms by hotels and accommodation brokers to the federal government and its agencies and instrumentalities are exempt from sales tax. Moreover, "indirect" rentals of sleeping rooms to **officers** and **employees** of the **federal government** (and its agencies and instrumentalities) are also exempt from sales tax when the room rental is made in association with the performance of official federal government duties, regardless of method of payment.

The sales tax exemption for rural volunteer fire departments exempts both direct and on behalf of (indirect) purchases. Thus, agents of rural volunteer fire departments may purchase exempt from sales tax when the rental of the room is used exclusively in the performance of its (the rural volunteer fire department's) duties and functions, regardless of method of payment.

CAUTION: The exemption for state agencies and political subdivisions is not applicable to other states, or their cities and counties. Only **Kansas** cities and counties are exempt from paying Kansas sales and use taxes on their direct purchases. Otherwise, if an exemption has been granted to an entity, such as a church, that exemption would apply whether the church was located in-state or out-of-state.

SALES TO EXEMPT ENTITIES NOT BASED IN KANSAS

Many of the exemptions granted under K.S.A. 79-3606 also apply to non-Kansas organizations. While a Kansas-based organization must provide its numbered certificate (or Form PR-78SSTA with a Department of Revenue-issued ID#) to make an exempt purchase of goods or taxable services in Kansas, many non-Kansas exempt organizations will not have been issued an Exempt Entity ID#. While encouraged to obtain (apply online) the Exempt Entity ID#, a non-Kansas exempt entity (such as a school located in another state) making a direct purchase in Kansas will simply need to complete an exemption certificate for the retailer. The form ST-28 Designated or Generic Exemption Certificate, has been designed for this purpose. May also use Form PR-78SSTA.

CREDIT CARDS

Many governmental agencies are issuing credit cards to their employees who travel or make purchases while on official business or on behalf of the agency. When the agency is responsible for payment of credit card charges, purchases made by employees with said credit card are exempt from Kansas sales or use tax. When someone **other** than the exempt entity is responsible for payment of credit card charges, the purchase is not exempt from sales tax.

EXAMPLE: A Ford County, KS employee travels to a city in Kansas on business and pays his hotel bill with a county-issued credit card. No sales tax is due on the bill as this purchase is exempt as a **direct** purchase by Ford County. This is because the credit card charge is billed directly to the county and the credit card bill is paid for with Ford County funds.

EXAMPLE: In contrast, this same employee travels to Hays, KS on official business and pays the hotel bill with a personal credit card. The employee is later reimbursed this expense by Ford County. The employee pays all applicable taxes on the hotel bill because it is **not** a direct purchase between Ford County and the hotel.

EXEMPTION CERTIFICATES

Hotels must follow the basic rule of sales tax for all retailers — either collect sales tax on the rental of sleeping rooms or obtain a completed exemption certificate from your customer. All sales tax exempt purchases (and rentals) by the tax exempt entities cited above should be accompanied by the appropriate exemption certificate. Hotels should retain a copy of all completed exemption certificates for at least 3 years after the date of the sale.

For exempt entity sales tax exemption claims, hotels may require that payment be made on the exempt entity's check, warrant or voucher or charged to the entity's account as a condition for honoring the entity's exemption claim.

General information about exemption certificates as well as the certificates most often used by the hotel and restaurant industries are included in this publication beginning on page 25. All blank exemption certificates currently available for use are in our **Pub. KS-1520, Kansas Exemption Certificates**.

LAUNDRY SERVICES

Taxable labor services in Kansas include servicing, altering or maintaining tangible personal property, such as clothing and shoes. Laundry services and dry cleaning are subject to sales tax. Sales tax is also due on any fees charged for washing, drying, pressing, folding, dry cleaning, mending and/or altering clothing for others. The rate of sales tax due is the rate in effect where the customer takes delivery of the laundry/dry cleaning services.

EXCEPTION FOR COIN OPERATED LAUNDRY

Kansas sales tax (or the Dry Cleaning Environmental Surcharge discussed below) is **not** due on coin operated laundry services - washers, dryers, irons. [K.S.A. 79-3603(f)]

DRY CLEANING ENVIRONMENTAL SURCHARGE

In addition to the state and local sales tax on dry cleaning or laundering services, there is also a Dry Cleaning Environmental Surcharge of 2.5%. If you provide dry cleaning and/or laundry services for your customers whether in-house or sent out, you must be registered to collect the Dry Cleaning Environmental Surcharge on these services.

EXAMPLE: An Anytown, KS hotel guest requests dry cleaning services provided by the hotel. The guest is charged \$10 **plus** 7.525% sales tax, **plus** the 2.5% Dry Cleaning Environmental Surcharge for the service. \$10 + \$0.75 sales tax + \$0.25 dry cleaning charge = \$11 total due.

NOTE: When a sale is subject to more than one tax, each tax should be separately stated on the bill. If the 2.5% dry cleaning surcharge is included in your charge for the service (\$10.25), then the \$10.25 becomes the tax base for computing the sales tax. \$10.25 X 7.525% sales tax = \$0.77, for a total due of \$11.02.

When a hotel sends its guests' clothing out to a third party laundry or dry cleaner, the hotel may purchase this service exempt from the sales tax and the surcharge with form ST-28X Dry Cleaning and Laundry Retailer Exemption Certificate on page 28. The hotel operator will collect the Dry Cleaning Environmental Surcharge and the sales tax on the total cleaning bill to its guest.

EXAMPLE: A hotel guest requests laundry services which the hotel sends out to Anne's Laundry. The hotel will give Anne's Laundry a completed Dry Cleaning and

Laundry Retailer Exemption Certificate (pay no sales tax or environmental surcharge to Anne's Laundry) and will charge its guest sales tax **plus** the Dry Cleaning Environmental Surcharge on the \$10 dry cleaning and/or laundry service.

The Dry Cleaning Environmental Surcharge is not collected on: services provided to the public through coin operated devices; laundering and rentals of uniforms, linens, dust control materials and other textiles for commercial purposes that are cleaned **without** using dry cleaning solvents; and services purchased directly by entities exempt from paying sales tax (see page 4).

More information about this surcharge is in the Kansas Department of Revenue's **Notice 99-10**, available in the **Policy Information Library** on our website.

GIFT SHOPS

Sales of items from gift shops, newsstands, etc. are subject to sales tax. All items a hotel purchases for the purpose of reselling to its guests (inventory) can be purchased tax free with a completed Kansas Resale Exemption Certificate (ST-28A), given to the hotel's supplier(s). You then collect sales tax on the total sales price received, including any shipping or handling fee charged by the hotel. The rate of tax due on the sale of tangible personal property is the rate in effect where the customer takes delivery/possession. If the customer takes possession of the purchased item in your hotel, the rate of tax due is the rate in effect at your hotel. If you ship the item, it is the rate in effect at the Kansas shipping address. See **Pub. KS-1700** for a list of Kansas jurisdictions.

Shipping, handling and freight charges themselves are not subject to sales tax. However, shipping fees charged in conjunction with the sale of tangible personal property are taxable **when shipped to a customer in Kansas**.

EXAMPLE: A guest buys a glass vase for \$50 plus a \$10 shipping charge from a hotel gift shop in Sample, KS, and requests that it be shipped to Anyplace, KS. The hotel will charge sales tax on the \$60; the Anyplace, KS rate (currently 6.50%), rather than the hotel's Sample, KS rate of 7.15%. The hotel has arranged for UPS to pick up packages every day. No sales tax is paid to UPS.

SHIPMENTS OUT OF STATE

Kansas sales tax is **not** due on the sale of the item (or any shipping or freight charge) if it is shipped, transported or delivered to a point **outside** of Kansas.

EXAMPLE: The guest buying the glass vase in the previous example requests that the item be shipped to Ozark, MO. Since it is being mailed outside Kansas, Kansas sales tax is not due on either the vase or the shipping. However, the **consumer** of the vase in Ozark, MO may owe a Missouri Use Tax — contact the Missouri Department of Revenue for that information.

AMUSEMENT AND ENTERTAINMENT

The sale of admissions to places providing amusement, entertainment or recreation is subject to Kansas sales tax. A cover charge is an example of a taxable admission.

EXAMPLE: An Anycity, KS hotel charges \$25 per couple to attend a New Year's Eve celebration. Food and drinks are billed separately. Kansas sales tax is due on the \$25 admission fee. The food and nonalcoholic drinks are also subject to sales tax.

EXAMPLE: An Anycity, KS hotel charges \$125 per couple to attend a New Year's Eve celebration. The separately stated items on the billing include two dinners (valued at \$40), a sleeping room (valued at \$70) and one bottle of champagne (valued at \$15). Kansas sales tax is due on the \$40 dinner and the \$70 sleeping room. Transient guest tax is also due on the \$70 sleeping room (see page 9). Liquor drink tax is due on the champagne (see page 11). The bill with tax separately stated would appear as:

1 Sales Tax \$ 70.00 Sleeping Room + 40.00 Dinners 110.00 x .072 Sales Tax Rate \$ 7.92 Sales Tax	2 Transient Guest Tax \$ 70.00 Sleeping Room x .50 Transient Guest Tax Rate \$ 3.50 Transient Guest Tax
3 Liquor Drink Tax \$ 15.00 Champagne x .10 Liquor Drink Tax Rate \$ 1.50 Liquor Drink Tax	4 Total Tax \$ 70.00 Sleeping Room + 40.00 Dinners + 15.00 Champagne + 7.92 Sales Tax + 3.50 Transient Guest Tax + 1.50 Liquor Drink Tax \$ 137.92 TOTAL

MISCELLANEOUS SALES

CABLE TV

Hotels purchasing cable TV subscriptions should pay sales tax on the subscription price as the final consumer of the service. However, a hotel that separately bills its customers for **premium** cable channels, special events and video games may purchase these services exempt from sales tax with a Resale Exemption Certificate, herein. The hotel will collect sales tax from its customers on the separately stated charge for the premium service, special events and/or video games at the rate in effect at the hotel. [K.A.R. 92-19-24(d)]

VENDING MACHINES

Kansas sales tax applies to retail sales made through coin-operated devices dispensing or providing tangible personal property (goods), amusement or services (except laundry services – see page 5). Thus, hotels and restaurants that own their own vending machines must collect sales tax on all these sales.

EXAMPLE: A hotel owns several coin-operated devices. Some dispense goods (e.g., soda, candy, laundry soap) and others provide amusement (e.g., video games). Sales tax is due on the gross receipts received from all these machines at the rate in effect at the hotel.

Sales tax is included in the selling price of an item or amusement sold through a coin operated device. To determine the gross receipts **without** the sales tax (sales tax base), divide the total amount collected by 1 plus the tax rate in effect where the device is located.

EXAMPLE: A Someplace, KS hotel owns a vending machine that dispenses soda cans for 75 cents each. One month's collections from the machine is \$281.25 (which includes the sales tax). Use the tax rate in Someplace (.0745) where the machine is located to determine the sales tax base: \$281.25/1.0745 = \$261.75. Sales tax of \$19.50 is due (\$261.75 X .0745 = \$19.50).

Many hotels and restaurants do not own the coin-operated machines located within their facilities. In such cases, the owner of the machines is responsible for remitting the sales

tax. Any fee or commission that a hotel or restaurant receives from the owner of coin-operated devices for allowing the owner to place the machine in its facility is not subject to sales tax.

HONOR PANTRIES AND MINI BARS

Sales made to guests of food, drinks, toiletries or other items of tangible personal property in a sleeping room *minibar* or *pantry* operated on the honor system are subject to sales tax. For convenience, the sales tax is usually included in the prices posted at the *pantry* or *minibar*, and would be recorded in your sales tax records like the vending machine sales in the previous example. Sales tax is **not** due on pantry items (or any other item held for sale) that a guest does not pay for – it is only imposed on retail sales. Hotels are not responsible for remitting sales tax on items that they hold for sale but that are stolen from them.

OTHER FEES AND CHARGES

The rental or lease of tangible personal property is subject to sales tax. If you rent equipment to guests or charge a fee for the use of equipment, you must collect sales tax on the gross receipts received at the rate where the customer takes delivery of the property. A hotel could purchase items to be rented to guests exempt for resale.

EXAMPLE: A Kansas hotel charges \$5 per day for the use of an projector, laptop computer, printer, etc. The \$5 fee is subject to sales tax unless the hotel receives a completed exemption certificate from an exempt customer (see page 24).

Health club fees are subject to sales tax. Sales tax is imposed on any fee charged that entitles the purchaser to the use of a facility for recreation or entertainment. Thus, when a hotel charges a fee for the use of its athletic club, pool, spa, sauna, etc., the fee is subject to sales tax at the rate where the facility is located.

Telephone charges that include any additional fee for local calls (such as 50 cents per local call) or long distance phone charge included and billed to the customer's room – sales tax is due on any hotel markup at the rate in effect at the hotel.

Other fees on which you must collect sales tax include: *lock-out fee, lost key fee, and photocopy fees.*

The following **fees are not subject to sales tax** because they do not involve the sale, application, installation, etc. of tangible personal property (see *Labor Services* herein).

- (physical) body – and not tangible personal property –such as haircuts, manicures, massages, shampoos, perms, styling and sculptured nails.
- Safe or security box fees.
- Shuttle or transportation fees.
- Return check fees.
- Parking fees.
- Fees to fax documents.
- Internet and computer fees. Each sleeping room has a computer jack. The hotel charges its guest a fee for its use – the fee is not subject to sales tax. Any fee the hotel charges its guest for Internet access is also not subject to sales tax.

PURCHASES MADE BY HOTELS

TAXABLE PURCHASES

Hotels are required to pay sales (or compensating use) tax on every purchase of tangible personal property and/or taxable

services, unless the purchase is specifically exempted from sales tax by law. Items and enumerated services purchased in Kansas are subject to retailers' sales tax. Items purchased from vendors located outside of Kansas are subject to a Kansas use tax. (See *Kansas Compensating Use Tax* herein.)

EXAMPLE: A Salina motel operator buys five television sets from a Kansas appliance store for installation in her motel. The motel operator must pay Kansas sales tax on the TVs and any installation charge.

A hotel must pay sales (or use) tax on its equipment fixtures and supplies. Examples of items a hotel would typically purchase that are subject to sales tax because the hotel is the final consumer include: air-conditioners, appliances, art work, ashtrays, bathtubs, beds, bedding, bed skirts, blankets, building materials, booster-chairs, carpet, chairs, cleaning supplies, clocks, coffee makers, comforters, computer equipment and software, cookware, contractor's labor, copiers, countertops, curtains, deep fryers, desks, dishes, dishwashers, drapes, drawers, dressers, equipment, exercise equipment, door knob hangers, floor cleaners, floor wax, flowers, freezers, furniture, furnaces, glassware, guest receipts, grills, hair-dyers, high-chairs, hot water heaters, ice machines, ice trays and tubs, keys, lamps, laundry soap, linens, locks, luggage racks and carts, magazine subscriptions, mattresses, mattress covers, menus, microwaves, mirrors, newspaper subscriptions, office furniture and supplies, ovens, paint, pillows, pillow covers, plants, pool tables, radios, ranges, refrigerators, registration cards, silverware, showers, shower curtains, sheets, signs, sinks, solvents, stoves, swimming pool chemicals, tables, telephones, televisions, toasters, toilets, towels, uniforms for employees, vacuum cleaners, vacuum cleaner bags, VCRs, wash cloths, water fountains, water heaters and wastebaskets.

Utilities such as water, gas, electricity and fuel, are subject to the state and local sales tax rate in effect at the customer's location. These utilities, as well as phone service, cable TV, etc., which are for a hotel's own use are subject to the state and local sales tax. This would include water, gas, electricity and fuel used in the hotel's common areas, offices, meeting rooms, banquet rooms, swimming pools, etc. Exceptions to this general rule are discussed under *Exempt Purchases – Consumed In Production* herein.

TELEPHONE SERVICE

Kansas sales tax is charged on all in-state calls, no matter where the customer is billed, and on interstate calls that either originate or terminate in Kansas and are billed to a Kansas customer. Therefore, hotels must pay sales tax on all of its phone services, including phone service used in the rooms it rents out for sleeping accommodations. Other telephone services that are taxed include telephone answering services, mobile phone, beeper, cellular phone and other similar services. See *Revenue Ruling 19-2010-04* herein.

Charges to guests by hotels for telephone access (local telephone calls) are taxable. For example, if a hotel charges 50 cents per local call, it is an access charge and is taxable – the phone company doesn't charge that amount for local calls, but the hotel charges the 50 cent fee to guests for accessing telephone service. When a hotel is charged for a guest's long distance call, the charge billed to the guest to reimburse the hotel for the cost of the call is not taxable if the charge equals the amount that the provider billed to the hotel for the call.

This charge includes the sales tax that the provider billed to the hotel on the charge for the call. Any mark-up that is added to a guest's charge for a long distance call is taxable as an access charge.

The services of an Internet provider are not subject to sales tax.

LABOR SERVICES

Generally, the labor services fee charged by contractors, subcontractors and repairmen is subject to sales tax. Specifically, the labor services of **installing** or **applying** tangible personal property and labor services of **repairing**, **altering**, **maintaining** or **servicing** tangible personal property – whether or not said tangible personal property is attached to or becomes part of real estate – are taxable.

EXAMPLE: A Hamlin, KS motel operator calls a heating company to repair a furnace in one of its sleeping rooms and a furnace which heats its offices. Since both labor fees charged for performing the repair work are subject to sales tax, the Hamlin motel must pay sales tax to the heating company for all repair work performed.

NOTE: Contractors are required to charge the rate of sales tax in effect where the work is performed.

EXAMPLE: An Iola, KS contractor performs a commercial remodel job in Topeka. The total cost of the materials that he supplies and the labor is \$15,000 (\$9,000 materials and \$6,000 labor). The contractor will charge the Topeka sales tax rate on the labor portion (\$6,000) of the job.

Other examples of taxable labor services purchased by the lodging industry include: building maintenance; carpet installation; elevator maintenance, repair or service; landscape maintenance; remodel of guest rooms or facility; painting; parking lot maintenance; pest control and extermination services; TV and appliance repair; vehicle maintenance and repair, and wallpapering.

EXCEPTION FOR ORIGINAL CONSTRUCTION

An exception to the general rule is that sales tax is **not** due when labor services of installing or applying tangible personal property are performed in connection with the original construction* of the hotel or restaurant. Original construction may be the first or initial construction of a building or the addition of a new wing or floor to an existing hotel, and includes land improvements immediately surrounding the new hotel or wing.

* Included in the definition of original construction is any reconstruction work to repair damage to an existing building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm (80 mph or more), ice loading and attendant winds, terrorism, or earthquake.

EXAMPLE: ABC Hospitality, Inc. is building a new hotel in Linn. Since this is the first or initial construction of a building, no sales tax is due on the contractors' labor fees for constructing the hotel. Also not taxable is the labor to construct land improvements immediately surrounding the building (i.e., parking lots, exterior lighting, and landscaping).

EXAMPLE: The ABC Hospitality, Inc. facility in Hays is damaged by a tornado. The contractor's labor services to repair it is not taxable.

CAUTION: Labor service fees for any reconstruction work **other than** fire, flood, tornado, lightning, explosion, windstorm (80 mph or more), ice loading and attendant winds, terrorism or earthquake is taxable.

EXAMPLE: The outdoor sign for the Newbuilt Hotel was hit by a car. The labor to repair or replace the hotel's sign is taxable.

In all the situations above, the materials used in the project are subject to sales tax, whether purchased by the hotel owner or by contractors working on the project. Contractors are still required to pay sales tax on their materials unless the project qualifies for a project exemption as economic development (see [Pub. KS-1520](#)). See our [Policy Information Library](#) for more information on construction labor and its tax treatment.

Other services often purchased by hotel operators are **not subject to sales tax** because they do not involve the installation or application of tangible personal property. Examples include: accounting, general cleaning, air duct cleaning, lawn mowing and edging, drain cleaning, security, excavating, and snow removal.

Some services have both taxable and nontaxable components. Your service provider should separate the taxable and nontaxable services on your invoice.

Landscaping services (i.e., mowing, edging and aeration) are **not taxable**. Planting trees, shrubs, flowers, or applying fertilizer or weed killer are **taxable** services. Janitorial services (i.e., carpet cleaning, dusting and vacuuming) are **not taxable**; applying fabric treatments or protective coating to furniture or carpets is **taxable**.

EXEMPT PURCHASES

Kansas sales tax is paid only once – by the final user or consumer of the taxable goods or services. Therefore, all Kansas retailers are entitled to purchase without tax those items that make up all or part of the taxable goods or services sold or provided. These are the sales tax exemptions for: 1) resale; 2) ingredient or component parts; and, 3) consumed in production.

To claim an exemption, the buyer completes and furnishes the seller with an exemption certificate. If you make recurring exempt purchases of the same type from the same vendor, you may use one completed certificate to cover future transactions (see *Blanket Exemption Certificates* herein). Also see [Pub. KS-1520](#) for more information.

What follows is an explanation of each type of sales tax exemption, illustrated by examples from the lodging industry. See also page 13.

EXEMPT PURCHASES – RESALE

The most widely used sales tax exemption is for items that will be resold. Hotels that operate gift shops and sell other items at retail to their guests (such as beverages or snacks) will purchase their inventory without tax using the ST-28A Resale Exemption Certificate. Complete and provide this certificate to each of your suppliers or vendors.

EXAMPLE: Your bed and breakfast has coffee mugs and T-shirts available for sale to guests and the public as mementos of their visit. When buying your inventory you will give your supplier a completed resale exemption certificate.

Items that are not sold to the final consumer, but that are **used exclusively for rental** to hotel guests may also be purchased without tax.

EXAMPLE: Your hotel rents microphones and sound equipment. Since the rental of this equipment is subject to sales tax, you may purchase the equipment without tax using a resale exemption certificate and charge sales tax each

time it is rented. (Other items that might be rented by hotels include tables, table skirts and chairs.)

CAUTION: You cannot purchase items exempt from tax that will not be sold, leased or rented in the normal course of the hotel operations.

EXAMPLE: Instead of an additional separately stated microphone rental charge, you allow customers use of the hotel's microphone and sound equipment when they rent the ballroom. Your hotel is **not** renting the equipment, but is the final consumer. You will, therefore, pay sales tax when buying the microphone and sound equipment.

PERSONAL USE OF TAX-EXEMPT INVENTORY

When you remove an item from your inventory of goods purchased without tax for use by the hotel itself, or to be given away, you have become the final user or consumer and must pay the sales tax on its **cost**.

EXAMPLE: You honor the employee of the month with a figurine from your gift shop's inventory. The figurine retails for \$50 but your cost is \$30. Since you are the final consumer of the item (it is a gift to the employee), you will pay (self-accrue) sales tax on your cost of \$30.

NOTE: To report and pay the tax on tax-exempt inventory used for a taxable purpose, use the line or column entitled *Merchandise Consumed* when filing your return.

EXEMPT PURCHASES - INGREDIENT/COMPONENT PART

Another exemption is applicable to hotels is the *Ingredient or component part* exemption found in K.S.A. 79-3606(m). This exemption allows items of tangible personal property to be purchased without sales tax because they become an ingredient or component part of a **taxable** product or service. In the hotel industry, items that are used in a hotel room by guests which are disposable in nature are considered to be an integral part of the taxable service of providing sleeping rooms by hotels, and as such, are exempt from sales tax.

Disposable items that a hotel may purchase without sales tax when they are provided free of charge to guests in sleeping rooms include: candy; facial tissue; in-room coffee; laundry bags for guests; lotions; map of hotel property; matches; paper cups, napkins or plates; pens and pencils; plastic cups, forks, knives, spoons; room deodorants; shampoo; shoe shine cloths; soap; shower caps; stationery; toilet tissue, seat bands; and wastepaper liners.

FOOD ITEMS

Hotels may also purchase food items exempt from sales tax when the food provided to guests is complimentary to the charge for the sleeping room.

EXAMPLE: ABC hotel offers a complimentary breakfast to all guests renting a sleeping room. ABC may purchase all food items used in preparation for the breakfast or served to its guests without sales tax.

To claim this exemption for such items, provide your vendors with a completed ST-28D Ingredient or Component Part Exemption Certificate – a copy of which is herein.

EXEMPT PURCHASES - CONSUMED IN PRODUCTION

The third sales tax exemption that is applicable to hotels is the *consumed in production* exemption found at K.S.A. 79-3606(n). This exemption allows retailers to purchase without tax those items of tangible personal property that are consumed or dissipated during the course of producing

or providing a **taxable** product or service. Included in the definition of tangible personal property for sales tax purposes are the utilities of electricity, gas, water and heat.

This exemption allows hotels to purchase without sales tax the electricity, gas, water or heat that is actually used in their **taxable** sales of sleeping room rentals, laundry services—see page 5, and *Amusement Utilities* that follows.

SLEEPING ROOM UTILITIES

Like the exemption for disposable items in guest sleeping rooms, the *consumed in production* exemption is available **only** for the electricity, gas, water or heat actually used in sleeping rooms rented by guests. As discussed earlier, a hotel is required to collect sales tax on the rental of its sleeping rooms.

The rental of banquet, convention and meeting rooms is not subject to sales tax, and therefore, the utilities used in these rooms are subject to sales tax. Moreover, hotels must pay sales tax on utilities used in hallways, offices, swimming pools, exercise rooms, saunas, parking lots, common areas, and other areas that are not rented as guest sleeping rooms. **Only** that portion of a hotel's total purchase of electricity, gas, water and heat that is actually used in guest sleeping rooms is exempt from sales tax.

EXAMPLE: 50% of a Wichita hotel's purchase of electricity is actually used for lighting, heating and cooling of its sleeping rooms. The remainder is used for lighting, cooling, and heating common areas, parking lots, swimming pool, etc. The hotel will receive a state and local sales tax exemption on 50% of its electrical purchases when it files a completed utility exemption with its utility provider.

EXAMPLE: Electricity used to power a refrigerator in a sleeping room is exempt from sales tax. Electricity used to power an ice machine located in a hallway (hotel's common area) is subject to sales tax.

LAUNDRY UTILITIES

Electricity, gas or water that a hotel purchases for use in its in-house laundry facility is subject to sales tax. This rule is based on the typical situation where the hotel is using its laundry facility exclusively for its own needs.

When a hotel does laundry for its guests, the hotel must charge sales tax; and when applicable the Dry Cleaning Environmental Surcharge on the fee it charges for this service (see page 5). In this case, the hotel may purchase the electricity, gas and/or water actually used to provide this taxable service of laundering articles for others exempt from sales tax as consumed in production.

EXAMPLE: XYZ Hotel purchases water and electricity for use in its laundry. 80% of the water and electricity is used for washing the hotel's own linen. 20% is used to wash its customers' laundry upon which is charged a fee and sales tax. XYZ is eligible to claim an exemption on 20% of its utilities as consumed in production.

AMUSEMENT UTILITIES

Electricity used to power vending machines that dispense candy, sodas, water, snacks, grooming items, etc. is subject to sales tax and **does not** qualify for the consumed in production exemption. The Kansas Supreme Court has ruled that electricity used to refrigerate items (i.e., sodas, water, juice) does not qualify for the consumed in production exemption. Likewise, electricity used to illuminate, power or dispense

items of tangible personal property is also taxable. However, electricity consumed in producing a product or providing a taxable amusement (i.e., coin-operated video machine) is exempt as consumed in production.

EXAMPLE: A hotel has an amusement room which contains coin-operated video games and pinball machines (taxable amusements) and vending machines for sodas and snacks. The hotel may claim a consumed in production exemption on the electricity used for the video games and pinball machines, but may not claim the exemption on the electricity used by the soda and snack machines.

HOW TO CLAIM A UTILITY EXEMPTION

To claim an exemption on its utility use, a hotel must measure the amount of each utility that qualifies for the exemption and express this as a percentage of its total utility purchase through that meter. Follow the guidelines in the instructions for form ST-28B (herein).

Once you calculate the percentage of exempt use, complete form ST-28B and submit it to your utility provider, along with your workpapers and calculations used to validate the exempt percentage. The utility provider may forward an exemption request to the Department of Revenue for review before granting the exemption. Following is a list of documentation required with a form ST-28B for a hotel or motel.

- 1) Formulas and computations must be complete and a copy of your worksheet (utility study), including the prior years' occupancy rate, must accompany your request. Your worksheet must list all taxable and non-taxable equipment that pulls energy from the meter for which you are seeking the exemption.
- 2) Form **ST-33** must be completed by the utility provider where the exemption is claimed.
- 3) If the meter for the exemption you are requesting is used for other than your exemption request, you must also provide all the other uses for that meter.
- 4) Include your federal Employer Identification Number (EIN) on your request.

Keep a copy of all worksheets and calculations used to determine the percentage of exempt utility usage. The Department of Revenue may ask to see the worksheets when auditing the utility exemption or approving a request. It is your responsibility to notify your utility provider whenever there is a change in your exempt percentage.

OBTAINING A REFUND OF SALES TAX

If you discover you paid tax on an item or service that qualifies for an exemption, you may request a refund of the tax paid. You should first request a refund or credit from your vendor, providing a completed exemption certificate to substantiate your exemption. You may claim a refund for all exempt purchases made within the last three years, or to when the exemption was granted, whichever is later.

If your vendor refuses to refund the tax or is no longer in business, you may apply for the refund directly from the Department of Revenue. Complete form **ST-21** (available on our website) and include the required documentation.

TRANSIENT GUEST TAX

Kansas law allows counties to impose a transient guest tax. The also allows cities to impose this tax if they are located within a county which has not already imposed such tax. This

rule of law generally prohibits a county and a city within that county from both imposing a transient guest tax. See our web site for a complete list of the Kansas cities and counties imposing this tax and the rates thereof.

Although the transient guest tax is a **local** tax, it is by law administered by the Department of Revenue and, like sales tax, is collected by hotels from their customers and remitted to the Department. 98% of the transient guest tax is returned to the cities and counties for use in promoting tourism. The remaining 2% is kept by the Department of Revenue (KDOR) to defray KDOR's expenses in administering the tax.

"HOTEL" DEFINED FOR TRANSIENT GUEST TAX

For transient guest tax purposes, a *hotel* (other than a hotel located within a *Redevelopment District*) is defined as an establishment having *more than two bedrooms*. Thus, a hotel, motel, tourist court or any other establishment renting out a minimum of three sleeping rooms within a city or county that has imposed a transient guest tax must collect and remit this tax on its room rentals.

Accommodation brokers (defined on page 3) must also collect any applicable transient guest tax on their sleeping room rentals, even though they may only have two or more rooms. [K.S.A. 12-1692(f)]

If you are located in an area that has levied a transient guest tax, you must collect it when the number of sleeping rooms available for guests is at least:

- 3 – local transient guest tax for hotels
- 2 – local transient guest tax for accommodation brokers
- 9 – state transient guest tax in a redevelopment district

EXAMPLE: A bed and breakfast in Topeka, KS has a total of three sleeping rooms that it rents out to guests. It is required to collect, report and remit transient guest tax, but not retailers' sales tax, on its room rentals (four or more rooms required for sales tax).

TRANSIENT GUEST TAX IMPOSED ON...

Transient guest tax is imposed on the gross receipts received for sleeping accommodations. The amount of money received for sleeping accommodations subject to this tax is the same amount subject to Kansas retailers' sales tax, including no show revenue and other taxable room fees discussed on page 4. Like sales tax, transient guest tax does **not** apply to the rental of non-sleeping rooms (i.e., ballrooms, banquet, meeting, reception rooms or office space). See *Revenue Ruling 19-2010-04*, herein.

EXAMPLE: A motel rents its sleeping rooms for \$67 per night – single occupancy. The retailers sales tax rate is 6.5% and the transient guest tax rate is 4%. The retailer sales tax due is \$4.36 (\$67 X .065= \$4.36), and the transient guest tax due is \$2.68 (\$67 X .04 = \$2.68).

NOTE: The transient guest and sales tax should be separately stated on the bill (see example on page 6). If the transient guest tax is not a separate line item, it is subject to sales tax because it becomes part of the sales tax base for calculation of sales tax on the room rental.

A *transient guest* is a person who occupies a room in a hotel, motel, or tourist court for not more than 28 consecutive days. Therefore, **unlike** sales tax, transient guest tax is **not** collected on the rental of sleeping rooms for more than 28 consecutive days to the same person or entity. So, a guest who occupies a room for 29 or more consecutive days is no longer a transient guest.

EXAMPLE: A hotel rents two of its sleeping rooms to American Life Inc. employees on a continuous basis (over 28 consecutive days). While sales tax is due on the gross receipts received, no transient guest tax is due.

The tax exempt entities listed on page 4 may purchase (rent) a sleeping room exempt from Kansas sales tax. However, for transient guest tax purposes, **only** the U.S. government, its agencies and instrumentalities is exempt from paying transient guest tax — provided that it is a **direct** purchase. This exemption is by operation of federal law.

EXAMPLE: The state of Kansas purchases hotel sleeping rooms in Hutchinson for Highway Patrol troopers during the week of the state fair. Although the room rentals are exempt from sales tax as a direct purchase by a state agency, the room rentals are subject to transient guest tax.

In summary, there are only two exemptions to charging transient guest tax: 1) the sleeping room(s) are rented as a direct purchase by the federal government, its agencies or instrumentalities, **or** 2) the room(s) are rented to the same guest for **more than** 28 consecutive days.

On all other sales (rental) of sleeping rooms by a hotel located in a city or county that has imposed a transient guest tax, the transient guest tax must be collected and remitted to the Department of Revenue.

EXAMPLE: You rent a room to a guest for \$50 per night, billed on a weekly basis of \$350, plus 6.5% sales tax and 6% transient guest tax. On the 29th rental day (beginning of the 5th week), you will credit the guest's account for the previously paid transient guest tax of 6%.

TRANSIENT GUEST TAX – REDEVELOPMENT DISTRICT

Current law also allows for a **state-imposed** transient guest tax for hotels located in a special, statutory-designated *redevelopment district*. The definition of *hotel* within a redevelopment district for purposes of this special state guest tax is any establishment that has *more than eight bedrooms* (nine or more sleeping rooms). The state transient guest tax rate in an area designated as a redevelopment district is 5% of the gross receipts derived from or paid by transient guests for sleeping accommodations.

When this guide was published, no redevelopment districts had been established. When a redevelopment district is established, hotels located within that district will be notified by the Department of Revenue of the tax and the steps to take to register to collect, report and remit this special state-imposed transient guest tax.

RESTAURANT SALES

The basic sales tax information discussed in the hotel section (starting on page 3 on this publication) is also applicable to restaurants. The following material explains how sales tax applies to those situations and transactions that are unique to your restaurant operations.

MEALS AND NONALCOHOLIC DRINKS

Kansas sales tax is imposed on the retail sale of meals and nonalcoholic drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or nonalcoholic drinks are regularly sold to the public. The

rate charged is the rate where the customer takes delivery/possession of the meal, drinks, etc.

EXAMPLE: An Alma, KS restaurant sells a buffet meal for \$7.99 with a separate drink charge of \$0.99. Sales tax is due on \$8.98 for 1 meal and 1 drink using the Alma rate.

When meals and drinks are catered at another location, a restaurant will charge the state and local rate in effect at the location of the catered event.

EXAMPLE: A Hays, KS restaurant is catering a wedding in Ellis, KS. The restaurant must charge the state and local sales tax rate for the city of Ellis on its catering fee, rather than the sales tax rate in Hays.

SALES TAX ON TIPS

Sales tax is due on the *gross receipts* received by the restaurant on the sale of meals and nonalcoholic drinks, including mandatory gratuities (tips). A tip that is at the discretion of the patron is **not** subject to sales tax.

EXAMPLE: A restaurant adds an 18% gratuity to customers' bills for groups of eight or more. The bill for a party of ten came to \$200 plus the 18% for a total of \$236. Sales tax is due on the \$236 ($\$236 \times .065 = \$15.34$ sales tax).

EMPLOYEE MEALS

Free meals furnished to employees of public eating places are not taxed if the employee's work is related to the furnishing or sale of such meals. This is a specific exception or exemption found in K.S.A. 79-3606(j).

Free meals furnished to employees not employed by the restaurant, or given away to customers, are subject to tax based upon your cost of the meal. Reduced cost employee meals are subject to tax based on the reduced price.

EXAMPLE: You allow your employees to eat one meal free when they work more than four consecutive hours at your restaurant. These meals are not subject to sales tax, even though the food used to prepare them was purchased without sales tax.

EXAMPLE: As a sales promotion, you give away four free meals each week to the winner of a business card drawing. These meals are subject to sales tax based upon your cost for each meal of \$3.50, not the meal's retail price of \$8 at the rate in effect at your restaurant.

EXAMPLE: You operate a hotel and a restaurant and allow all employees to eat one meal free each day they are working. Only the restaurant employees' meals are not subject to tax. The meals of hotel staff (housekeeping, maintenance, front desk, etc.) are subject to sales tax based upon your cost (\$3) of each meal at the rate in effect at your restaurant.

NOTE: Report the cost of free meals in the merchandise consumed column of your sales tax filing (see page 18).

EXAMPLE: A customer at your restaurant is not happy with his meal for which the menu price is \$16.99. To satisfy him, you reduce the price to \$10 and provide a free dessert. The menu price of the dessert is \$3.50, but your cost is \$1.25. The customer will pay sales tax on the \$10; the restaurant will pay (accrue) sales tax on its cost for the dessert of \$1.25.

Keep in mind that no sales tax is due on the cost of food that does not later become part of a meal sold due to spoilage, waste, trimmings, etc. Although purchased without tax, the food is not later used for a taxable purpose (i.e., sold or given away as a meal) and, therefore, is not subject to sales tax.

EXEMPT SALES OF MEALS, NONALCOHOLIC DRINKS AND MISCELLANEOUS ITEMS

The entities listed on page 4 may purchase meals and nonalcoholic drinks sold by restaurants without tax. Restaurants making tax-exempt sales to these exempt customers must obtain the appropriately completed sales tax exemption certificate from the entity to verify the exemption in their sales tax records.

SALE OF ALCOHOLIC DRINKS

The gross receipts received from the sale of alcoholic drinks (liquor, wine, beer and/or hard cider) is subject to a 10% liquor drink tax **instead of** sales tax. (Sales tax is collected on drinks that do not contain alcohol.)

Alcoholic drink sales is one example of an item commonly sold with the applicable tax included in the advertised price, rather than the tax added to the price as a separate line item. (Vending machine sales discussed on page 6 is another example.) To determine the tax base or gross receipts on your alcoholic drink sales without the tax, divide the total alcohol sales by 1.1 (1 plus the 10% tax rate).

Note: The tax may be included in the stated drink price only if a sign is conspicuously posted, stating the prices include the liquor drink tax. [K.A.R. 92-24-13]

EXAMPLE: A Baxter Springs, KS restaurant sells mixed drinks for \$3 and beer for \$2, taxes included. Liquor drink tax is due on the selling price of the drink of \$2.73 ($\$3/1.1$) and the beer of \$1.82 ($\$2/1.1$). The liquor drink tax is \$.27 and \$.18 respectively.

EXEMPTION FROM LIQUOR DRINK TAX

The entities listed on page 4 are exempt from paying sales tax on their direct purchases of meals and nonalcoholic beverages; but are **not** exempt from paying liquor drink tax on purchases of alcoholic drinks (also not exempt from paying transient guest tax on room rentals).

LIQUOR LICENSE

Before a Kansas restaurant or club may sell alcoholic beverages it must first hold a valid liquor license issued by the Division of Alcoholic Beverage Control (ABC). For information about licensing and other rules and regulations surrounding the sale of alcoholic beverages, contact ABC at 785-296-7015.

LIQUOR ENFORCEMENT TAX

Liquor sales are subject to two taxes. Restaurants and clubs selling alcoholic beverages must pay a liquor enforcement tax of 8% on their **purchases** of alcohol from the liquor store or distributor. This tax is in addition to the 10% liquor drink tax that restaurants and clubs are required to collect on their retail **sales** of alcoholic beverages. Liquor stores and farm wineries also collect the 8% liquor enforcement tax on liquor sales made to individual customers. For questions regarding liquor drink or liquor enforcement taxes, contact the Department of Revenue's Miscellaneous Tax Section at 785-368-8222.

CEREAL MALT BEVERAGE (CMB) LICENSE

Retailers selling cereal malt beverage (beer with an alcohol content of 3.2% or less by weight) must first secure a license for each place of business. The application for said license may be obtained from the city or county offices in which the business is located. Sales of 3.2% beer and other beverages by retailers holding a CMB license are subject only to the applicable state and local **sales** tax for their location.

The 10% Liquor Drink Tax is NOT due on 3.2% beer sold by those holding **only** a CMB license. However, those who hold an alcoholic liquor license must collect and remit the 10% Liquor Drink Tax on their sales of 3.2% beer and do not collect sales tax.

If selling other goods and services other than alcoholic and cereal malt beverages, the business must register for and collect Retailers' Sales Tax.

Effective April 1, 2019 CMB permit holders will be allowed to sell beer not more than 6% alcohol by volume in addition to CMB. These CMB permit holders will collect the applicable state and local sales tax on the sale of both CMB and beer. Retail liquor stores that sell beer will continue to collect the 8% liquor enforcement tax on those sales of beer. Other goods or services sold by a retail liquor store on their licensed premises (excluding the sale of lottery tickets) will be subject to state and local sales tax which includes the sale of cereal malt beverage. For additional information see **Notice 18-04**.

RESTAURANT PURCHASES

TAXABLE PURCHASES

Restaurants are deemed to be the final consumer of items and taxable services used in conducting the restaurant's business that are not for resale or exempt for another reason (see page 13). A restaurant or club must pay sales tax on purchases of taxable services, and sales or use tax when buying tangible personal property (i.e., equipment, fixtures and supplies).

EXAMPLE: A Salina restaurant owner buys 5 booths from a Wichita supplier for her restaurant. As the final consumer of the booths, the restaurant owner must pay the sales tax on the total cost to the Wichita supplier. The rate of tax charged will be the rate where Salina restaurant takes delivery of the booths.

Equipment, fixtures and supplies typically purchased by a restaurant or club that are subject to sales tax include: Air-conditioners, appliances, ashtrays, building materials, carpet, cash registers, chairs, clocks, cloth napkins, coffee makers, computers, cookware, countertops, curtains, desks, dishes, dishwashers, DVDs, furniture, furnaces, glassware, keys, kitchen equipment, lamps, locks, menus, microwaves, mirrors, mixers, napkin dispensers, office equipment, office supplies, ovens, paint, signs, silverware, sinks, stoves, tables, televisions, and water-heaters.

LABOR SERVICES

Following are representative examples for restaurants of the sales tax treatment of their purchases of taxable labor services as discussed on page 7.

REPAIR OF PROPERTY

EXAMPLE: A Pittsburg, Kansas restaurant operator calls an appliance repair company to repair a stove. Since the labor fee charged for performing the repair work is subject to sales tax (at the rate in effect where the customer takes delivery or first uses the repair service), the Pittsburg restaurant operator must pay sales tax on the total charge for parts and labor for the repair work.

ORIGINAL CONSTRUCTION

EXAMPLE: A restaurant contracts to have an additional seating area constructed. Since this project is the addition

of an entire room or floor to an existing building, no sales tax is due on the contractors' labor fees for constructing the new seating area.

EXAMPLE: A restaurant's kitchen is damaged by fire. Although commercial remodel labor is normally taxable, this labor is exempt since the repair is because of a fire.

EXEMPT PURCHASES

The three hotel exemptions discussed on pages 8 and 9 (resale, ingredient/component part, and consumed in production) apply in many ways to restaurant operations.

PURCHASES FOR RESALE

The most common exemption that a restaurant will claim is its purchase for resale of the food items served to customers. The restaurant will collect sales tax from its customers when the food is resold as a prepared meal. Restaurants would provide their food suppliers with a completed form ST-28A Kansas Resale Exemption Certificate.

EXAMPLE: Your restaurant buys most of the food items served from a wholesale grocer. You should provide your food vendor with a completed Resale Exemption Certificate and collect sales tax on the gross receipts received from the sale of the prepared meal.

Every food item that will be sold to a restaurant's customer as part of their meal or drink may be purchased tax exempt with a Kansas Resale Exemption Certificate. This includes not only the ingredients of the meal, but also any condiments (i.e., herbs, salt, pepper, catsup, mustard, relish, etc.).

EXEMPT PURCHASES – INGREDIENT/COMPONENT PART

This exemption allows items to be purchased without sales tax when the items are disposable in nature and are provided to the restaurant's customers when they purchase a meal or drink. When so used, these items are an ingredient or component part of the meal and as such, are exempt from sales tax. *Disposable* items that a restaurant typically purchases that are provided to their customers may include: plastic dinnerware (plates, cups, utensils); drinking straws, paper napkins, paper bags, and takeout boxes. To buy these items without tax, the restaurant must provide its vendor(s) with a completed ST-28D Ingredient or Component Part Exemption Certificate; a copy of which is in this publication.

CAUTION: To qualify for the exemption, the item must be disposable, and not returned or reused by the restaurant. Restaurants may purchase plastic silverware and paper napkins without tax, but restaurants buying china, silverware and cloth table linens that will be laundered and reused are buying a business asset and as the final consumer must pay the sales or use tax on them.

Water (a utility) may also be exempt as an ingredient/component part.

EXAMPLE: 5% of the water purchased by an Emporia restaurant actually becomes an ingredient or component part of beverages and meals served (soups, stews, etc.). This water usage is exempt. The remainder (95%) of its water usage is taxable — water used to wash dishes, in the rest rooms and for general cleaning.

Utility (water, electricity, gas or heat) exemptions are claimed by providing a completed form ST-28B instead of an Ingredient or Component Part Exemption Certificate (see *How to Claim A Utility Exemption* herein).

EXEMPT PURCHASES – CONSUMED IN PRODUCTION

This exemption, explained on page 12, allows restaurants to purchase electricity, gas and water **used** in food preparation exempt from sales tax. This exemption does not apply to utilities used to light, heat or cool the establishment; to keep the food hot or cold (refrigerators, steam tables, heat lamps, and salad bars); in restrooms; or for cleaning and washing.

EXAMPLE: 20% of electricity in a Kansas restaurant is actually used for meal preparation, supplying power to electric stoves, ovens, microwaves, mixers, etc. This usage is exempt from state and local sales tax because the electricity is consumed in producing the taxable product (the meal). The remainder of its electricity use, 80%, is for the refrigerators, salad bar, and to light, cool, and heat the entire facility. This usage is subject to the state and local sales tax in effect at the restaurant's location.

EXAMPLE: 30% of a Kansas restaurant's purchase of gas is actually used to power its gas ovens and stoves. This gas usage is exempt because it is used directly in meal preparation. However, the remaining 70%, is used by the water heater and is subject to state and local sales tax.

In order for the restaurant in the preceding examples to claim the appropriate exemptions for its exempt uses of water, electricity and gas, it must file a utility exemption request with each of its utility providers (see page 9).

OTHER TAXES FOR HOTELS AND RESTAURANTS

KANSAS COMPENSATING USE TAXES

Compensating Use Tax is a tax paid on goods and merchandise purchased from other states and used, stored, or consumed in Kansas on which no sales tax was paid. It is also due if the state and local sales tax paid at the time of purchase is less than the Kansas rate. This "use" tax *compensates* for the lack of sales tax paid at the time of purchase and protects Kansas businesses from unfair competition from out-of-state retailers who sell goods tax-free. There are two types of compensating use tax:

CONSUMERS' USE TAX — paid by Kansas consumers direct to the Kansas Department of Revenue.

RETAILERS' USE TAX — collected by retailers in other states from their Kansas customers.

Use tax is due on out-of-state purchases whether the property is shipped into Kansas or picked up in another state and brought back to Kansas. It applies only to tangible personal property — labor services are not subject to use tax. Like sales tax, compensating use tax is based on the total cost of the goods purchased, including postage, shipping, handling, or transportation charges.

Like instate sales tax transactions, the **use** tax rate imposed is the same rate as the **sales** tax rate in effect where the customer takes delivery or possession, according to the same "sourcing" rules discussed herein. The net effect is that for both sales and compensating use tax - the same rate of tax applies to a taxable item purchased by a Kansas consumer, whether purchased locally, delivered to the Kansas consumer by a Kansas retailer, or shipped by an out-of-state retailer.

For more information about Kansas use taxes, consult **Pub. KS-1510, Kansas Sales Tax and Compensating Use Tax**.

CONSUMERS' USE TAX

When a Kansas hotel or restaurant buys goods from a retailer in another state for use, storage, or consumption (**and not for resale**) in Kansas, on which sales tax equal to the Kansas state and local rate in effect where the Kansas hotel or restaurant takes delivery has not been paid, a Kansas use tax is due. Many Kansas hotels and restaurants are not aware of any this use tax obligation until they are audited by the Department of Revenue — a costly oversight. Hotels and restaurants owe use tax on the same items that they are required to pay sales tax on (equipment, fixtures and supplies) had they purchased the items in Kansas.

When buying an item from outside Kansas, a Kansas hotel or restaurant owes Kansas use tax on the total cost of the purchase (including shipping and handling charges) if the seller does not collect a sales tax equal to the Kansas state and local rate in effect where the Kansas hotel or restaurant takes delivery. If the state and local sales tax paid on the out-of-state purchase is less than the Kansas tax rate in effect where the Kansas resident takes delivery, the difference between the two rates is owed to Kansas.

EXAMPLE: A Whereas, KS restaurant buying china from a Kansas retailer must pay Kansas sales tax on this purchase of restaurant equipment. Therefore, when the Whereas restaurant orders the china from a vendor in Pennsylvania to be shipped via UPS to Whereas, the purchase is subject to a Kansas use tax. A use tax of 8.3% (the Whereas sales tax rate) is due on the total paid for the china (including any shipping, handling or freight charges). If the Pennsylvania retailer does not collect Kansas retailers' use tax of 8.3%, then it is the restaurant's responsibility to report and pay Kansas consumers' use tax of 8.3% on its purchase.

EXAMPLE: Sleep Easy Hotel in Mycity, KS buys 10 mattresses for \$2,600 (including shipping) from a retailer in Edmond, OK and has them shipped to Mycity. *Kansas consumers' use tax* of 7.3% is due on the amount paid for the mattresses (\$2,600 X .073 = \$189.80). Since the Oklahoma retailer did not collect Kansas retailers' use tax, then it is the hotel's responsibility to report and pay Kansas use tax.

EXAMPLE: The Sleep Easy Hotel also buys 10 desks from a retailer in Denver, CO. The total purchase price was \$2,750. To save shipping and handling charges, the hotel picked the desks up in Denver and paid a Colorado sales tax of 5% (3% state and 2% local). Kansas use tax is due on the difference between 7.15% (Mycity rate) and 5% (Colorado state and local rate) = 2.15%. The *Kansas consumers' use tax* due is \$63.25 (\$2,750 X .023 = \$63.25).

How to report the use tax due on these two purchases by Sleep Easy Hotel described above is illustrated in the steps for completing a CT-10U on page 20.

Kansas use tax applies when the item is used in Kansas, regardless of the location of the buyer or the billing address.

EXAMPLE: ABC Hotel Corporation's home office is in Sacramento, CA and operates hotels nationwide, including one in Mycity, KS. The hotel chain's supplier for guest room furniture is in North Carolina. Orders are transacted between the hotel's California headquarters and its furniture supplier in North Carolina and shipped to its hotel in Mycity, Kansas. ABC Hotel corporation must pay the 7.3% Kansas consumers' use tax in effect in Mycity on the total purchase price of the furniture (including freight or shipping).

Use tax does **not** apply to items purchased for resale, to ingredient parts, or when the state and local tax paid to another state is more than the Kansas state and local rate in effect at the delivery or ship-to address of the Kansas buyer.

EXAMPLE: A motel in Anytown, KS purchases 10 mattresses from a retailer in Dallas, TX. The motel picked up the mattresses in Dallas and paid Texas state and local sales tax of 7%. Since the Texas state and local sales tax rate is equal to or greater than the Anytown, KS state and local rate of 6.75%, the Kansas consumers' use tax is not due.

RETAILERS' COMPENSATING USE TAX

This is a tax collected by retailers in other states from their Kansas customers. These retailers are required to collect the Kansas retailers' use tax on their Kansas sales at the rate in effect where the item is shipped because they have a physical presence in Kansas (warehouse, retail outlet, salesmen, etc.), or they have voluntarily registered to collect the retailers' use tax as a convenience to their Kansas customers.

EXAMPLE: A hotel in Mytown, Kansas orders linens from a vendor in Joplin, MO costing \$300 plus \$14 shipping plus Kansas **retailers'** use tax of 7.3% (state and local tax rate in Mytown). The Joplin vendor is required to collect the Kansas retailers' use tax because it delivers into Kansas, and has a warehouse in Kansas City, Kansas.

CAUTION: Do not add tax to an invoice unless you are assured that the out-of-state vendor is registered with the Kansas Department of Revenue to collect the Kansas retailers' use tax.

In the situation above, if the Joplin vendor does not charge tax on the invoice, do not automatically add it because you know that your linen purchase is subject to use tax. If the Joplin vendor is not required to register to collect Kansas retailers' use tax, they may not have voluntarily registered to collect this Kansas tax either. In this case the Mytown hotel will pay the 7.3% Kansas consumers' use tax on its \$314 linen purchase.

CAUTION: When buying from an out-of-state vendor that charges tax on the invoice, be sure that the tax being charged is the correct state and local retailers' use tax for your Kansas delivery location, and not the state sales tax of the vendor's home state.

EXAMPLE: A bed and breakfast in Littletown, KS orders an antique table from a dealer in Amarillo, TX. The cost is \$500 plus \$20 shipping and an 8% Texas sales tax. The Littletown buyer should contact the Texas antique dealer and advise that Texas sales tax is not due on items shipped into Kansas. If the Texas vendor is registered in Kansas, the Kansas retailers' use tax will be 8.55%. If the vendor is not registered to collect Kansas use tax, no tax is due the vendor on the invoice — the bed and breakfast will owe 8.55% Kansas consumers' use tax on the order.

NOTE: If an out-of-state vendor collects the state and local **Kansas** retailers' compensating use tax on the selling price of an item, then the Kansas consumer is **not** required to remit Kansas consumers' use tax on this purchase.

CIGARETTES / ELECTRONIC CIGARETTES AND TOBACCO PRODUCTS

LICENSE REQUIREMENTS

The sale of cigarettes and tobacco products is subject to sales tax. However, in addition to a sales tax registration, all retailers of these products must have a **separate license** to sell cigarettes.

If you are sell cigarettes or electronic cigarettes over-the-counter, you will need a Retail Cigarette/E-Cigarette Dealer's License. The fee is \$25 for each retail location, and must be renewed every two years.

If you are a *distributor or manufacturer of consumable material*, or if you are a *retailer who sells consumable material* on which the consumable material tax has not been paid, you must complete and submit form **EC-1 Application for Consumable Material Tax Registration**, to the Department of Revenue. This form is available on our website.

If you are selling cigarettes via cigarette vending machine(s) that you own, each machine must have a permit. Permits are \$25 per machine, and must be renewed every two years. Cigarette vending machine owners must also have a cigarette vending machine operator's master license (no fee required).

The retail sale of tobacco products, such as cigars, pipe or chewing tobacco and snuff, is subject to sales tax. However, there are **no** additional licensing requirements for retailers of tobacco products.

CIGARETTE AND TOBACCO PRODUCTS TAX

Cigarettes sold, distributed or given away in Kansas are also subject to a cigarette tax. However, this tax is paid by the wholesale cigarette dealer before the cigarettes are sold to retailers (such as hotels and restaurants) for resale to the final customer. The cigarette tax applies only to cigarettes. Distributors of tobacco products (cigars, pipe and chewing tobacco and snuff) are subject to the tobacco products tax of 10% on the wholesale price of their products.

INCOME TAXES

CORPORATE INCOME TAX

Corporate income tax is imposed on the taxable income of every corporation doing business within, or deriving income from, sources within Kansas. The current normal tax rate is **4%** of the Kansas taxable income of a corporation with a surtax of **3%** on Kansas taxable income over \$50,000. Kansas Corporate Income Tax is reported on **Form K-120**.

PARTNERSHIPS, S CORPORATIONS

The taxable income of partnerships and S corporations is not taxed at the partnership or corporate level, but may be taxed on the individual partner's or shareholder's income tax return (see Individual Income Tax that follows). An informational return for the partnership or S corporation is also required (**K-120S**).

INDIVIDUAL INCOME TAX

Income tax on profits received by sole proprietors, partners in a partnership, or shareholders of S corporations and most LLCs is reported on the Kansas Individual Income Tax Return (K-40) residents, and nonresidents who receive income from Kansas sources, are required to file a Kansas income tax return. (Some exclusions may apply -- see instructions for form **K-40**.)

WITHHOLDING TAX

This tax is deducted by employers and payors from the wages and other taxable payments made to employees and payees to help pre-pay the income tax liability of that individual. Generally, you are required to withhold Kansas income tax from a payment if federal withholding is required. Withholding is also required on certain taxable non-wage payments. For more information see **KW-100, Kansas Withholding Tax Guide**. See also *Tax Registration* that follows.

KANSAS CUSTOMER SERVICE CENTER

FILE, PAY and MAKE UPDATES ELECTRONICALLY

Most businesses have chosen the **KDOR Customer Service Center (KCSC)** for their online filing and payment solution. To use this solution, you simply create a user login ID and select a password, then you can attach your business tax accounts. **Each tax account has a unique access code** that only needs to be entered once. This access code binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all filed returns and/or payments made is retained in the KCSC.

WHAT CAN I DO ELECTRONICALLY?

- Register to collect, file and pay taxes and fees
- Add new locations
- Complete and submit a Power of Attorney form
- Update contact information
- Update mailing address
- Upload W-2's and 1099's
- Upload and retain Sales and Compensating Use Tax jurisdictions
- File the following tax returns:
 - Clean Drinking Water Fee
 - Consumers' Compensating Use Tax
 - Consumable Material
 - Dry Cleaning
 - Liquor Drink and Liquor Enforcement Tax
 - Retail Water Protection
 - Retailers' Compensating Use Tax
 - Retailers' Sales Tax
 - Tire Excise Tax
 - Transient Guest Tax
 - Vehicle Rental ExciseTax
 - Withholding Tax
- Make payments for the following taxes:
 - ABC Taxes and Fees
 - Charitable Gaming
 - Cigarette Tax Stamp Payment
 - Cigarette Tax, Fees, Fines and Bonds
 - Cigarette/Tobacco Fine Payment
 - Cigarette/Tobacco License Fee
 - Clean Drinking Water Fee
 - Consumable Materials Return/Tax Payment
 - Consumable Material
 - Corporate Estimated Income tax
 - Corporate Income Tax
 - Dry Cleaning

- Environmental and Solvent Fee
- Fiduciary Income Tax
- Homestead Claim
- IFTA
- Individual Estimated Income Tax
- Individual Income Tax
- Industrial Water
- Liquor Drink and Liquor Enforcement
- Mineral Tax
- Motor Fuel
- Petition for Abatement Service Fee
- Privilege Tax
- Privilege Estimated Tax
- Retail Water Protection
- Sales and Use Tax
- Stock Water
- Tire Excise Tax
- Tobacco Return/Tax Payment
- Tobacco Tax, Fees, Fines and Bonds
- Transient Guest Tax
- Vehicle Rental Excise Tax
- Withholding Tax

REQUIREMENTS TO FILE and PAY

You must have the following in order to file and pay your taxes online:

- Internet Access
- Access Code(s) by calling 785-368-8222 or send an email to kdor_businessstaxeservice@ks.gov
- EIN
- ACH Debit: Kansas Department of Revenue debits the tax payment from your bank account
- ACH Credit: Complete an **EF-101** online to initiate a tax payment through your bank

Electronic tax payments must settle on or before the due date. Using the KCSC, you may have your tax payment electronically debited from your bank account (ACH Debit) or you may initiate your tax payment through your bank (ACH Credit). This payment method requires a completed authorization **EF-101**, available on our Customer Service Center.

Our FREE electronic systems are simple, safe, and conveniently **available 24 hours a day, 7 days a week**. You will receive immediate confirmation that your return is filed and/or payment is received. If you need assistance with your access code, you may call 785-368-8222 or email kdor_businessstaxeservice@ks.gov.

PAY BY CREDIT CARD

Payment by credit card is available online through third-party vendors. Visit our electronic services website at <https://www.ksrevenue.gov/taxpayment.html> for a current list of vendors authorized to accept individual income tax and business tax payments for Kansas. A convenience fee, based on the amount of tax you are paying, will be charged.

WIRE TRANSFERS

Wire Transfers are accepted from both domestic and foreign banking institutions as long as it is received as American currency. For more information call 785-368-8222.

REGISTRATION AND FILING KANSAS BUSINESS TAXES

TAX REGISTRATION

Before you open your hotel or restaurant, you must have all of the necessary tax registrations. To register with the Division of Taxation to collect all required taxes, visit ksrevenue.gov and sign in to the KDOR Customer Service Center. After you complete the application you will receive your account number and may print your Certificate of Registration. For complete instructions about the application process, obtain **Pub. KS-1216, Kansas Business Tax Application and Instructions**.

Retailers registering for the Liquor Drink Tax must post a bond with the Department of Revenue of either \$1,000 or 3 months estimated liquor drink tax liability, whichever is greater, and have a liquor license issued by our **Division of Alcoholic Beverage Control**. Follow the detailed instructions in **Pub. KS-1216** to complete an accurate application.

GENERAL FILING INFORMATION

How often you report and pay your taxes depends on the annual amount of taxes collected, with the exception of liquor tax returns, which are remitted monthly. Most hotels

and restaurants will remit their sales, withholding, liquor and transient guest taxes on a monthly basis, and file quarterly returns for use taxes. Retailers filing sales tax on a quarterly or annual basis can elect to file the Transient Guest Tax return at the same time. See **Pub. KS-1510** for more information.

Monthly sales, liquor, and transient guest tax returns are due on the 25th of the month following the close of the reporting period; monthly withholding tax returns are due on the 15th of the following month. Returns for other filing frequencies are generally due on the 25th of the month following the end of the reporting period.

IMPORTANT: You must file a tax return for **each** reporting period even if you have no taxable sales or tax to report. These returns are called zero-based and the Department of Revenue has a simple, online process for filing them. See information that follows.

EXAMPLE AND STEPS FOR FILING RETURNS

A hotel and/or restaurant business may be required to report and remit a number of different taxes administered by the Department of Revenue. To illustrate how to accurately report the amount of sales and taxes collected, examples and sample completed returns for Kansas Retailers' Sales, Transient Guest, Liquor Drink, and Consumers' Compensating Use Taxes and the Dry Cleaning Environmental Surcharge begin on the next page.

NOTE: The examples provided are for illustration purposes only and may not contain the most current tax rates.

EXAMPLE: ABC Corporation operates a hotel/restaurant combination business in Mycity, Kansas. The hotel operates under the “dba” name of *Sleep Easy Hotel* and the restaurant operates under the “dba” *Arthur’s*. In addition to sales tax collections on the rental of sleeping rooms and meals and nonalcoholic drinks all served in the restaurant, ABC Corporation also remits sales tax on retail sales made in its gift shop, from its own vending machines and from dry cleaning services. Arthur’s serves alcoholic beverages and is therefore remitting the liquor drink tax. Sleep Easy Hotel sends its guest’s laundry to a third party and collects the environmental dry cleaning surcharge (as well as sales tax) on the gross receipts it receives for this service. Finally, ABC Corporation purchases supplies, furniture and fixtures from vendors located outside of the state of Kansas that are consequently subject to consumers’ compensating use tax. The financial information needed to complete the returns follows. (All figures are without tax unless otherwise indicated.)

ABC Corporation	Federal Employer Identification Number:	48-1234567
2400 E Main Ave	Retailers' Sales Tax Account Number:	004-481234567-F01
Sample KS 67260	Consumers' Compensating Tax Account Number:	006-481234567-F01
	Liquor Drink Tax Account Number:	021-481234567-F01
	Dry Cleaning Tax Account Number:	018-481234567 -F01
	Transient Guest Tax Account Number:	015-481234567-F01

RETAILERS' SALES TAX (FORM ST-36):

Gross receipts	\$ 403,658.32
From sleeping rooms.....	\$ 242,656.23
From vending, gift shop, dry cleaning & restaurant.....	\$ 160,959.00
Vending machine (\$12,127.70/1.063 = \$11,408.94 without tax).....	\$ 11,408.94
Gift shop	\$ 5,657.43
Dry cleaning	\$ 892.85
Restaurant.....	\$ 142,999.78
Liquor sales	\$ 37,329.05
Restaurant food sales	\$ 105,670.73

Merchandise Consumed

Cost of merchandise consumed (purchased without tax)	\$ 5,392.88
Free meals to non-restaurant employees and guests	\$ 2,456.00
Consumables (toilet paper, facial tissue, etc.) used by hotel	\$ 2,936.88

Deductions

Sales to U.S. government, state of Kansas, or political subdivisions.....	\$ 28,933.51
Other allowable deductions (501(c)(3) zoos & religious organizations)	\$ 1,265.07
Alcoholic beverage sales	\$ 37,329.05

Tax

Sales tax due for current month	\$ 9,500.00
(The tax for the current month is the tax imposed on sales made for the first 15 days of this current month. A retailer will be in compliance with the requirements to pay the first 15 days liability for this current month if the retailer remits 90% of the liability for that 15 day period or if the retailer remits 50% of the total tax due for the same month of the prior year.)	
Sales tax paid from last month	\$ 10,500.00

TRANSIENT GUEST TAX (FORM TG-1):

Gross receipts from sleeping rooms:	\$ 242,656.23
Receipts from direct room rentals to the federal government	\$ 1,000.00
Receipts from room rentals of over 28 consecutive days	\$ 745.00

LIQUOR DRINK TAX (FORM LD-1):

Liquor sales \$41,061.95 including tax (\$41,061.95/1.1 = \$37,329.05 without tax)	\$ 37,329.05
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DRY CLEANING ENVIRONMENTAL SURCHARGE (FORM DC-36):

Dry Cleaning.....	\$ 892.85
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CONSUMERS' COMPENSATING USE TAX (FORM CT-10U):

Purchase price (from examples beginning on page 13).....	\$ 5,350.00
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ST-36 (Retailers' Sales Tax). The following steps illustrate how the sales tax information from the example on the previous page is reported using an electronic version of an accelerated monthly ST-36. Although this example is for a single jurisdiction filing, the ST-36 is also used to report sales for a business with multiple locations.

STEP 1

Go to ksrevenue.gov to begin the filing process. Sign into the KDOR Customer Service Center (KCSC). If you are a first time user click **Register Now**; if already registered, click **Sign In**.

STEP 2

After signing in to the KCSC, click **Account Management** to manage existing accounts or add new accounts to your current business accounts.

To add a new use tax account, click **Add an Existing or Register a New account to this login** and follow the instructions on the screen.

To file a return for a current account, locate that account in the list, then click **Manage Account** in the far right-hand column.

NOTE: Accounts that you add will be retained in the system for future filing periods.

STEP 3

To begin filing your return, click **File a sales tax return** under the **Account Management** heading. An informational page will appear with messages regarding important updates and/or tips for using the system. Please take the time to read this information before clicking **Continue**.

STEP 4

Review the information for the account you added. From the drop-down menu options, select your filing period, **July**, and tax year then click the radio button for the return type. In this example, select **Original**. You may choose to have the KCSC remember your jurisdictions by clicking that radio button, or you have the option to upload from another file or enter them manually. Make your selection and click **Continue**.

STEP 5

To add the applicable jurisdictions to this filing period, click **Add Jurisdictions**. Enter the jurisdiction code or the jurisdiction name, then click **Lookup Jurisdiction**. From the list, choose the appropriate jurisdiction (for example, Wichita is WICSG) and click **Add Selected**. Repeat this step until all applicable jurisdictions have been added, then click **Continue**.

STEP 6

Under *Kansas Gross Sales* enter the gross receipts (taxable and nontaxable) for the month in each local jurisdiction. For this example, the total gross sales is **\$403,658.32**. This includes gross receipts from all sales (taxable & nontaxable) by ABC Corporation.

STEP 7

Enter under *Merchandise Consumed By You* the cost of the goods consumed (used by ABC Corporation) upon which no sales tax has been paid. The merchandise consumed in this example is **\$5,392.88**. This figure represents the cost of free meals to non-restaurant employees and disposable items such as facial tissue and toilet paper used in common areas (non-sleeping rooms) of the hotel.

STEP 8

Enter under *(Non-Utility) Deductions* the total deductions - sales not subject to sales tax. Deductions include both nontaxable and exempt sales. In this example, the deductions are sales to exempt entities (government - \$28,933.51; zoos and religious organizations - \$1,265.07) and alcoholic beverage sales - \$37,329.05; total of **\$67,527.63**. Click **Calculate** and verify the net tax amounts, then click **Continue**.

STEP 9

Complete Part II. Itemize by category the deductions for all business locations on the applicable line. For this example, report on **line c** the **\$28,933.51** in direct sales of sleeping rooms and meals to exempt government entities. Report on **line h** the **\$1,265.07** in sales to qualifying exempt religious and nonprofit organizations. (ABC Corporation should have completed exemption certificates from each of these exempt buyers.) Finally, report the alcoholic beverage sales of **\$37,329.05** on **line k**. (This last figure is also the starting point for this month's Liquor Drink return on page 19). Click **Calculate** and **Continue**.

NOTE: Line O of Part II should equal the total of *(Non-Utility) Deductions from Part III*.

STEP 10

The Net Tax from Part III is displayed on the appropriate lines of Part I. Since ABC Corporation is on an accelerated monthly filing status, you must enter the estimate of next month's tax liability on line 4, which is **\$9,500**. Then enter the amount from line 4 of the previous month's return (**\$10,500**) on line 5. Click **Calculate** to get your Total Amount Due, then click **Continue**.

STEP 11

Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 15. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

TG-1 (Transient Guest Tax). Transient guest tax is imposed on the gross receipts received from the rental of sleeping rooms (in addition to Kansas retailers' sales tax). From our example on page 17, Sleep Easy Hotel had gross receipts from the rental of sleeping rooms totaling \$242,656.23 (line 1 of the return). Transient guest tax is due on all gross receipts except **direct** purchases by the United States government (\$1,000) and rentals for a period of more than 28 consecutive days (\$745), for total deductions on line 2 of \$1,745.

TG-1
(11-14)

**Kansas
Transient Guest
Tax Return**

FOR OFFICE USE ONLY

☐	☐	☐	☐	☐	☐	☐
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Part I

1. Gross Receipts	242656.23
2. Allowable Deductions	1745.00
3. Taxable Amount	240911.23
4. Tax Due	14454.67
5. Credit Memo	
6. Amount of Tax Due	14454.67
7. Penalty	
8. Interest	
9. Total Due	14454.67

Tax Rate
6.000%

Tax Account Number 015- 123456789 F 01		EIN 1 2 3 4 5 6 7 8 9	
Beginning Date 070117	Ending Date 073117	Due Date 082517	Jurisdiction Code MYCKS
Business Name ABC CORPORATION			
Mailing Address 2400 E MAIN ST			
City MYTOWN		State KS	Zip Code 67000

Date
Business
Closed

Amended
Return

☐

Additional
Return

☐

Name or
Address
Change

☐

Payment
Amount \$

14454.67

Please Sign The Back of This Return

490001

LD-1 (Liquor Drink Tax). Liquor drink tax is imposed on the gross receipts received from the sale of alcoholic beverages. From our example on page 17, ABC Hotel Corporation had total gross receipts of \$403,658.32 (line 1), and Arthur's gross receipts from the sale of alcoholic beverages of \$37,329.05 (line 2). Note that the \$37,329.05 is the same figure reported in Part II, line k of the ST-36 (see Step 9 on page 18). In this example, Arthur's had no direct purchases by the federal government. The Liquor drink tax is 10 percent of the gross receipts reported on line 2 which computes to \$3,732.91 (lines 3 and 10).

LD-1
Rev. 4-18

**Liquor Drink Tax
Return**

FOR OFFICE USE ONLY

☐	☐	☐	☐	☐	☐	☐
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Part I

1. Gross Receipts from all retail sales	403658.32
2. Gross Receipts from sales of alcoholic liquor	37329.03
3. Tax due on alcoholic liquor sales (10%)	3732.91
4. Tax Due on free samples* (10%)	
5. Total tax due (add lines 3 & 4)	
6. Credit Memo	
7. Amount of tax due (line 5 minus line 6)	
8. Penalty	
9. Interest	
10. Total amount due (add lines 7, 8, & 9)	3732.91

Tax Account Number 021- 123456789 F 01		EIN 123456789	
Beginning Date 070117	Ending Date 073117	Due Date 082517	Jurisdiction Code MYCKS
Business Name ABC CORPORATION			
Mailing Address 2400 E MAIN ST			
City MYCITY		State KS	Zip Code 67000
Signature		Contact Number	

Date
Business
Closed

Amended
Return

☐

Additional
Return

☐

Name or
Address
Change

☐

Payment
Amount \$

3732.91

Please Sign The Back of This Return

493017

CT-10U (Consumers' Compensating Use Tax). The following steps illustrate how the two use tax purchases by ABC Hotel Corporation from the example on page 17 is reported using an electronic version of a CT-10U.

STEP 1 Go to ksrevenue.gov to begin the filing process. Sign into the KDOR Customer Service Center (KCSC). If you are a first time user click **Register Now**; if already registered, click **Sign In**.

STEP 2 After signing in to the KCSC, click **Account Management** to manage existing accounts or add new accounts to your current business accounts.

To add a new use tax account, click **Add an Existing or Register a New account to this login** and follow the instructions on the screen.

To file a return for a current account, locate that account in the list, then click **Manage Account** in the far right-hand column.

NOTE: Accounts that you add will be retained in the system for future filing periods.

STEP 3 To begin filing your return, click **File a tax return** under the **Account Management** heading. An informational page will appear with messages regarding important updates and/or tips for using the system. Please take the time to read this information before clicking **Continue**.

STEP 4 Review the information for the account you added. From the drop-down menu options, select your filing period, **July**, and tax year then click the radio button for the return type. In this example, select **Original**. You may choose to have the KCSC remember your jurisdictions by clicking that radio button, or you have the option to upload from another file or enter them manually. Make your selection and click **Continue**.

STEP 5 To add the applicable jurisdictions to this filing period, click **Add Jurisdictions**. Enter the jurisdiction code or the jurisdiction name, then click **Lookup Jurisdiction**. From the list, choose the appropriate jurisdiction and click **Add Selected**. Repeat this step until all applicable jurisdictions have been added, then click **Continue**.

STEP 6 Enter under *Total Taxable* the total cost of out-of-state purchases subject to Kansas use tax. These are non-inventory items purchased without tax, or on which the state and local tax paid is less than the rate in your area.

Mattresses from Edmond, OK	\$2,600
Desks from Denver	<u>\$2,750</u>
Total purchases	\$5,350

STEP 7 Enter under *Tax Paid in Another State*, the amount of sales tax paid to another state for purchases. For this example enter **\$137.50** for the Colorado state and local tax (5 percent) paid on the desks purchased from Denver: $\$2,750 \times .05 = \$137.50$. Click **Calculate** and **Continue**.

STEP 8 Verify information shown in Part I. If correct, click **Calculate** and **Continue**.

STEP 9 Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 15. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

DC-36 (Environmental Surcharge and Solvent Fee). The dry cleaning environmental surcharge is imposed on the gross receipts from the sale of dry cleaning or laundering services (in addition to Kansas retailers' sales tax). From the example on page 17, Sleep Easy Hotel had gross receipts from the sale of dry cleaning services totaling \$892.85 (Line 1, Part I). The surcharge is due on all gross receipts except for the sales to exempt entities listed on page 5. In this example Sleep Easy Hotel had no exempt sales of dry cleaning or laundering services (Line 2, Part 1). The dry cleaning environmental surcharge is 2.5% of the gross receipts reported on Line 3, Part 1 which computes to \$22.32 (Line 4, Part I and Line 1, Part 3).

Kansas
Dry Cleaning and Solvent Fee Return (DC-36)

Tired of paper and postage?

Try our online business center – a secure, convenient, and simple way to manage all of your business tax accounts. Visit ksrevenue.gov and sign into the **KDOR Customer Service Center** to get started.

GENERAL INFORMATION

- The due date is the 25th day of the month following the ending date of this return. **The return must be filed even if no services subject to the surcharge were rendered or no dry cleaning solvent was sold during the reporting period.**
- Keep a copy of your return for your records.
- Write your Tax Account Number on your check or money order and make payable to Kansas Department of Revenue. Send your return and payment to: Kansas Department of Revenue, PO Box 3506, Topeka, KS 66625-3506.
- Complete your business name, mailing address, tax account number, EIN, period beginning and ending dates on all pages.
- If your business closed, enter the date.
- If you are filing an amended or additional return, check the appropriate box.
- If your name or address has changed, check the box and complete form **DO-5** which is located on our website.
- It is required that you complete the signature section.
- If you are filing a return for multiple locations, start with Part IV instructions on the next page.

PART I ENVIRONMENTAL SURCHARGE
(Retailers Only)

Line 1. Enter the total sales of all dry cleaning or laundering services made during the reporting period (both taxable and non-taxable). **DO NOT** include sales tax or the environmental surcharge collected. If you are reporting for more than one location, enter the amount on line 3, Part IV.

Line 2. If line 1 includes any tax-exempt sales, complete the deduction portion below. If all sales reported on line 1 were taxable, enter "0". Enter the total amount of deductions from line E.

Line 3. Line 1 minus line 2.

Line 4. Multiply line 3 by 2.5% and enter the result here.

PART II DRY CLEANING SOLVENT FEES
(Distributors Only)

Line 1. Enter the number of gallons of chlorinated dry cleaning solvent sold. If no dry cleaning solvent was sold during the reporting period, enter "0".

Line 2. Multiply line 1 by \$5.50 and enter the result.

Line 3. Enter the number of gallons of nonchlorinated dry cleaning solvent sold. If no nonchlorinated dry cleaning solvent was sold during this reporting period, enter "0".

Line 4. Multiply line 3 by \$.55 and enter the result.

Line 5. Sum of lines 2 and line 4.

*****Instructions continued on next page*****

(Rev. 1-23)

..... Detach here and send with payment

DC-36V

(Rev. 1-23)

**Kansas
Environmental Surcharge
and Solvent Fee
Payment Voucher**

FOR OFFICE USE ONLY

☐	☐	☐	☐	☐	☐	☐	☐
--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

DC-36V
4952



Business Name		
Mailing Address		
City	State	Zip Code

Tax Account Number

EIN

Period Beginning Date (mmddyy)

Period Ending Date (mmddyy)

Daytime Phone Number:

Payment
Amount



4952

PART III TOTAL AMOUNT OF FEES, PENALTY AND INTEREST DUE

- Line 1. Sum of line 4 from Part I and line 5 from Part II.
- Line 2. Enter the amount from any credit memorandum issued by the Kansas Department of Revenue. If filing an amended return, enter the amount previously paid for this filing.
- Line 3. Subtract line 2 from line 1 and enter the result here.
- Line 4. If remitting tax after the due date, enter the amount of penalty due (see ksrevenue.gov for current penalty rates).
- Line 5. If remitting tax after the due date, enter the amount of interest due (see ksrevenue.gov for current interest rates).
- Line 6. Add lines 3, 4 and 5. Enter the result on line 6. Complete the attached voucher and enclose your payment.

PART IV ENVIRONMENTAL SURCHARGE (Retailers Only) (Complete only if filing for more than one location)

- Complete the business name, tax account number, EIN and period beginning and ending dates.
- Column 1. Enter the name of the city/county for each location.
- Column 2. Enter the jurisdiction code that coincides with the name of the city/county from Column 1. (Refer to **Pub. KS-1700 Jurisdiction Code Booklet**, which is available on our website).
- Column 3. Enter the total gross receipts or sales of all dry cleaning or laundering services made during the reporting period (both taxable and non-taxable), for each location. **DO NOT** include sales tax or the environmental surcharge collected.
- Line 1. Add column 3 and enter the amount here.
- Line 2. Enter the total gross receipts or sales from all supplemental pages. Also enter the number of supplemental pages in the box provided.
- Line 3. Add lines 1 and 2. Enter the amount here and on line 1, Part I.

PART IV ENVIRONMENTAL SURCHARGE SUPPLEMENT (Retailers Only)

- Complete the business name, tax account number, EIN and period beginning and ending dates.
- Column 1. Enter the name of the city/county for each location.
- Column 2. Enter the jurisdiction code that coincides with the name of the city/county from Column 1. (Refer to Pub. KS-1700 Jurisdiction Code Booklet, which is available on our website).
- Column 3. Enter the total gross receipts or sales of all dry cleaning or laundering services made during the reporting period (both taxable and non-taxable), for each location. **DO NOT** include sales tax or the environmental surcharge collected.
- Line 1. Add column 3 and enter the amount here.

TAXPAYER ASSISTANCE

If you have questions or need assistance completing this form, contact our office.

Email

KDOR_Miscellaneous.Tax@ks.gov

By Phone

785-368-8222

By Mail

Tax Operations
PO Box 3506
Topeka, KS 66625-3506

By Appointment

Go to ksrevenue.gov to schedule an appointment.

Office hours are 8:00 a.m. to 4:45 p.m.,
Monday through Friday.

DC-36

(Rev. 1-23)

**Kansas
Environmental Surcharge
and Solvent Fee Return**

FOR OFFICE USE ONLY

DC-36
650023

Business Name			Tax Account Number	
Mailing Address			Employer ID Number	
City	State	Zip Code	Period Beginning Date (mmddyy)	
Date Business Closed (mmddyy)			Period Ending Date (mmddyy)	
Amended Return			Additional Return	
Name or Address Change				

PART I (Fees Due) - Environmental Surcharge - Retailers Only

1. Total gross receipts or sales (see instructions)											
2. Deductions (complete the section below A through E)											
<table border="1"><tr><td>A. Drycleaning or laundry services provided through an automatic or manual coin-operated device for use by the general public</td><td></td></tr><tr><td>B. Laundering or rental of uniforms, linens, dust control materials or other textiles for commercial purposes without the use of dry cleaning solvents</td><td></td></tr><tr><td>C. Dry cleaning or laundry services rendered to entities that qualify for exemption from retailer's sales tax on direct purchase of laundering and dry cleaning services pursuant to K.S.A. 79-3606</td><td></td></tr><tr><td>D. Sales to other retailers for purposes of resale</td><td></td></tr><tr><td>E. Total (add lines A through D and enter the result here)</td><td></td></tr></table>		A. Drycleaning or laundry services provided through an automatic or manual coin-operated device for use by the general public		B. Laundering or rental of uniforms, linens, dust control materials or other textiles for commercial purposes without the use of dry cleaning solvents		C. Dry cleaning or laundry services rendered to entities that qualify for exemption from retailer's sales tax on direct purchase of laundering and dry cleaning services pursuant to K.S.A. 79-3606		D. Sales to other retailers for purposes of resale		E. Total (add lines A through D and enter the result here)	
A. Drycleaning or laundry services provided through an automatic or manual coin-operated device for use by the general public											
B. Laundering or rental of uniforms, linens, dust control materials or other textiles for commercial purposes without the use of dry cleaning solvents											
C. Dry cleaning or laundry services rendered to entities that qualify for exemption from retailer's sales tax on direct purchase of laundering and dry cleaning services pursuant to K.S.A. 79-3606											
D. Sales to other retailers for purposes of resale											
E. Total (add lines A through D and enter the result here)											
3. Net taxable receipts (line 1 minus line 2)											
4. Environmental Surcharge Due (multiply line 3 by 2.5%)											

Part II - Dry Cleaning Solvent Fees - Distributor Only

1. Number of gallons of chlorinated dry cleaning solvent sold.....	
2. Total Fee for chlorinated dry cleaning solvent - (multiply line 1 by \$5.50).....	
3. Number of gallons of nonchlorinated dry cleaning solvent sold.....	
4. Total Fee for nonchlorinated dry cleaning solvent - (multiply line 3 by \$.55).....	
5. Total dry cleaning solvent fee due (line 2 plus line 4).....	

Part III - Total Amount of Fees, Penalty and Interest Due

1. Total amount of fees due (sum of lines 4 , Part I and line 5, Part II).....	
2. Credit Memo (see instructions).....	
3. Subtotal (subtract line 2 from line 1 and enter the result here).....	
4. Penalty (see instructions)	
5. Interest (see instructions)	
6. Total amount due (sum of lines 3, 4 and 5)	

Signature: _____ Printed Name: _____
Title: _____ Phone Number: _____
Email Address: _____

DC-36 Part IV
(Multiple locations only)
(Rev. 1-23)

Kansas
Environmental Surcharge
(Retailers only)

DC-36 Part IV
650123



Business Name	
Tax Account Number	EIN

Period Beginning Date (mmddyy)

Period Ending Date (mmddyy)

Column 1 City/County Name	Column 2 Jurisdiction Code	Column 3 Environmental Surcharge Gross Receipts or Sales

Line 1. Total gross receipts or sales (add Column 3 and enter here).

Line 2. Total gross receipts or sales from all Part IV Supplemental pages.

Total number of supplemental pages included with this return.

Line 3. Total gross receipts or sales (add lines 1 and 2 and enter the amount here and on line 1, Part I).

ADDITIONAL INFORMATION

WHEN IN DOUBT...

The application of Kansas tax laws can be complex at times. However, customers of the Kansas Department of Revenue have access to resources that can assist them in properly carrying out their tax obligations.

KANSAS LAWS AND REGULATIONS

Rules that govern sales and use tax and define the responsibilities of each business owner, taxpayer, and the Kansas Department of Revenue are contained in two sets of documents: **Kansas Statutes Annotated (K.S.A.)** and **Kansas Administrative Regulations (K.A.R.)**.

The K.S.A. is a collection of all the statutes of the state of Kansas. Statutes are bills that have been passed by both houses of the state Legislature, and signed into law by the Governor, or that become law within 10 days of passage without the Governor's signature. *Annotated* means the law contains commentaries and explanatory notes. K.S.A.'s are organized by Chapter and Article. Kansas retailers' sales and use tax statutes are in **Chapter 79**.

K.A.R.s are based on the law and have the same impact as a law, even though they are not enacted through the legislative process. Instead, each state agency submits proposed regulations to the Secretary of Administration and the Attorney General for approval, and a public hearing is held. The regulations (with approved revisions) are then adopted, published in the **Kansas Register**, and become effective 45 days later.

The purpose of most permanent regulations is to provide administrative solutions to common problems and situations, and to more clearly define how a statute applies to specific circumstances. Regulations are organized by state agency. The Department of Revenue Regulations are in **Chapter 92**.

IMPORTANT: Each regulation is based on or receives its authority from a statute, and does not conflict with the statute. However, regulations are not changed at the same time statutes are changed. When a change in the statute causes a regulation to be in conflict with the statute, the statute overrides the regulation.

Complete sets of the K.S.A. and K.A.R.s are available to the general public in libraries throughout the state. The tax laws and regulations are also a part of our **Policy Information Library** on our website.

KEY STATUTES AND REGULATIONS

The following list contains the statutes and regulations used to prepare this publication.

Statutes

- K.S.A. 12-189a – Local sales tax
- K.S.A. 12-191 – Situs of local sales tax
- K.S.A. 65-163 – Public water supply fee
- K.S.A. 79-3602 – Sales tax definitions
- K.S.A. 79-3603 – Taxing statute for sales tax
- K.S.A. 79-3606 – Exempting statute for sales tax
- K.S.A. 79-3609 – Sales tax records
- K.S.A. 79-3647 – Sales tax & water protection fee
- K.S.A. 79-3701 et seq. – Compensating tax
- K.S.A. 82a-954 – Water protection fee
- K.S.A. 82a-2101 – Clean drinking water fee

Regulations

- K.A.R. 92-19-25b – Exemption certificates
- K.A.R. 92-19-66e – Project exemptions
- K.A.R. 92-21-6 – Application of local sales tax
- K.A.R. 92-21-9 – Place of sale for utility sales

REVENUE NOTICES AND PRIVATE LETTER RULINGS

Despite the length and detail of the statutes and regulations, questions and situations frequently arise that require interpretation of the law. DO NOT rely upon a verbal opinion from the Kansas Department of Revenue on issues of taxability not specifically addressed in the law. To assist you in understanding how the law applies to your business, the Kansas Department of Revenue issues three types of written advice: **revenue notices, revenue rulings, and private letter rulings**. These written materials are binding on the department and may be relied upon as long as the statute or regulation on which they are based is not altered by the Legislature, changed by a court decision, or the ruling itself is modified or rescinded by the Kansas Department of Revenue.

Revenue notices and rulings are periodically provided to the general public — usually in response to a change in the law, recent court decisions, or areas of sales tax application affecting a large number of taxpayers. If you receive notices or rulings, keep them with this publication for future reference.

A **private letter ruling**, issued at the request of an individual taxpayer, interprets the law based on the circumstances of that taxpayer. Requests for private letter rulings must be in writing, and state specifically the circumstances and facts surrounding the issue. Address your request to:

Tax Policy Group
Kansas Department of Revenue
PO Box 3506
Topeka, KS 66601-3506
Fax: 785-296-7928

The ruling will be issued within 30 days after your request (and any additional information necessary for the ruling) is received. A private letter ruling applies **ONLY** to the taxpayer for whom it is issued. It cannot be cited or relied upon by any other taxpayer.

POLICY INFORMATION LIBRARY (PIL)

As a service to taxpayers, a **library of policy information** for all taxes administered by the Kansas Department of Revenue is available on our website. The policy library contains Kansas Statutes and Regulations, Revenue Notices, Revenue Rulings and other written advice issued by the Kansas Department of Revenue. Private letter rulings are also included but these letters have been “scrubbed” to protect taxpayers' privacy — information that might identify the taxpayer, (i.e., name, address, etc.) is blanked out.

FOOD AND LODGING REQUIREMENTS

Businesses that will engage in the distribution, manufacture, or preparation of food must meet a variety of requirements designed to protect the public and must apply for a license from the Kansas Department of Agriculture to operate. Lodging facilities must also comply with applicable regulations and obtain a license.

If you plan to build or remodel a restaurant or lodging establishment, you are required to submit plans to the Department of Agriculture **prior to** construction or remodeling.

Information about these responsibilities, license applications, and food service complaint forms can be found on their website: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging>

LOCAL LICENSE AND OCCUPATIONS TAXES

Kansas law (**Chapter 12**) allows localities to impose license or occupation taxes for the privilege of engaging in any business, trade, occupation or profession. The imposition and rates of such taxes are locally determined by home rule ordinance. Because each city has its own regulations, permits and taxes, contact the city hall where your hotel or restaurant is located for information about any local licenses, certifications or fees required.

CEREAL MALT BEVERAGE (CMB) LICENSE

On-premise cereal malt beverage (beer containing 3.2% alcohol or less) licenses may be obtained from the local unit of government. There are no food sales requirements for CMB licenses. CMB may be served between the hours of 6 a.m. and 12 midnight Monday through Saturday. Sunday sales are allowed only if the establishment meets a 30% food sales requirement identical to drinking establishments. CMB license fees are \$25. In addition to the CMB license, cities or counties may also levy an annual occupation or license tax from the licensee in an amount not less than \$100 but not more than \$250.

OTHER EMPLOYER RESPONSIBILITIES

KANSAS UNEMPLOYMENT TAX

The Kansas Employment Security Law was enacted to provide some income during limited unemployment for those who are out of work due to conditions in the economy and through no fault of their own. All Kansas employers are required to file a report with the Kansas Department of Labor, **Division of Employment Security** to determine their unemployment tax status. Although all employers doing business in Kansas are subject to the provisions of the Employment Security Law, not all employers are subject to the **taxing** provisions of the law.

Employers who begin business operations in Kansas are required to file a form **K-CNS 010 Employer Status Report within 15 days** of the date wages were first paid for employment. Upon receipt of the completed form, a determination of employer liability will be made and the employer will be notified if liability is established. For additional information about your responsibilities under the Kansas Employment Security Law or to obtain the Status Report, contact the Kansas Department of Labor by phone at 785-296-5000 or through their website: www.KansasEmployer.gov

KANSAS WORKERS COMPENSATION

Workers compensation is a private insurance plan where the benefits are not paid by the State of Kansas but rather by the employer, generally through an insurance carrier. For more information on Kansas Unemployment Tax or Kansas Workers Compensation contact the Kansas Department of Labor by phone at 785-296-5000 or through their website: www.dol.ks.gov

SAFETY AND HEALTH

The Occupational Safety and Health Administration (OSHA) outlines specific health and safety standards adopted by the

U.S. Department of Labor. For more information visit the following website: www.osha.gov

The Industrial Safety and Health Section of the Kansas Department of Labor offers free safety and health consultations. For additional information, visit the Kansas Department of Labor's website at: www.dol.ks.gov

U. S. DEPARTMENT OF LABOR

The Fair Labor Standards Act (FLSA) is the federal law that sets minimum wage, overtime, record keeping and child labor standards. For specific details regarding these laws, contact the Wage and Hour Division of the U.S. Department of Labor by phone at 1-866-487-9243 or through their website: www.dol.gov/whd/contact_us.htm

AMERICANS WITH DISABILITIES ACT (ADA)

The ADA prohibits discrimination on the basis of disability, providing coverage for employment, public services, government, telecommunications and transportation. Reasonable accommodations must be provided for known disabilities of applicants for employment and employees. For information about your responsibilities under this act, contact the Kansas Commission on Disability Concerns toll-free at 1-800-295-5232.

OTHER TAXES AND EXEMPTIONS

PERSONAL PROPERTY TAX

Hotels and restaurants in Kansas are also subject to the county personal property tax on business use property — equipment, fixtures, vehicles, etc. This county tax is an “ad valorem” tax — a tax that is based upon the value of the property. It is similar to the personal property tax paid each year by individual Kansans on their vehicles, boats and taxable personal property.

Anyone owning tangible personal property with the intent to establish a business (including home occupations) must file a Commercial Personal Property Statement with the County Appraisal office in the county in which the business is or will be located. This business property listing by type (called a rendition) is completed annually by March 15, with the tax billed in November. The first half of the tax is due on December 20 of that year and the second half is due the following May 10.

Contact the County Appraiser's office for the county in which your hotel or restaurant is located for more information.

PROJECT EXEMPTIONS

If you are building a new hotel or restaurant, or expanding an existing one, you may qualify to obtain a project exemption for that project under the economic development incentives present in the law at K.S.A. 74-50,115. A project exemption will allow you and all of the contractors on the project to purchase all the materials, equipment and labor for the project without sales tax.

BUSINESS RESOURCE DIRECTORY

Kansas Department of Commerce. This agency provides a wealth of resource and referral information for businesses. Contact them by phone at 785-296-3481 or visit their website: kansascommerce.gov

Kansas Secretary of State. Contact this office to register a corporation in Kansas or to obtain corporate annual reports. Call 785-296-4564 or visit their website: sos.ks.gov

Small Business Administration (SBA). The U.S. Small Business Administration is a federal agency dedicated to serving the needs of America's small businesses. Assistance is provided in the areas of business development, loans, exporting and procurement programs. There are two district offices for Kansas or you may visit their website: sba.gov

Wichita District Office 316-269-6166
Kansas City District Office 816-426-4900

Kansas Small Business Development Centers (KSBDCs). These campus-based centers specialize in providing direct one-on-one counseling on small business issues. There are 18 KSBDC locations throughout Kansas. For more information call the main office (785-296-6514 or 877-625-7232) or visit their website: kansassbdc.net/

KANSAS EXEMPTION CERTIFICATES

WHAT ARE EXEMPTION CERTIFICATES

Exemption certificates are an important part of sales and use tax record keeping, but are often found lacking by our auditors. The information in this section will help you properly complete and accept exemption certificates. **Pub. KS-1520, Kansas Exemption Certificates**, is also a helpful resource. This publication contains all the exemption certificates currently in use and provides detailed information about each exemption. The publication is available on our website.

Before accepting any certificate, carefully read the exemption statement and the accompanying explanation and instructions. Most certificates contain a restatement of the Kansas law (K.S.A. – Kansas Statutes Annotated), or regulation (K.A.R. – Kansas Administrative Regulations) authorizing the exemption. If your customer or the purchase does not fit the definition in the certificate or the exempt examples given, the sale is probably not exempt.

The Kansas Exempt Entity Identification Number and Certificate are designed to help retailers and exempt customers complete the certificate process, not to replace it. See **NOTICE 04-10** on our website.

COMPLETING AN EXEMPTION CERTIFICATE

Follow these three rules when completing any exemption certificate.

- 1) **Print or type all information, except for the authorized signature.** The information on the certificate must be legible both to you and to our auditors. Do not print a signature on paper forms, although it is often helpful to print or type the name below the signature. (A signature is not required on an electronic exemption certificate.)
- 2) **Fill in all the blanks.** A certificate is complete only when all the information is provided. If there is a blank on the form, it must be filled in. Addresses must include the street or PO Box, city, state, and zip code.

When the certificate requires a tax registration number, be sure your customer provides it. An exemption certificate is not complete unless the customer supplies the proper registration number(s). A seller may lawfully require a copy of the buyer's sales tax certificate of registration as a condition of honoring the ST-28A Resale Exemption Certificate. [K.A. R. 92-19-25b]

- 3) **Give specific descriptions.** Be as precise as possible when describing the property or services purchased. You may use an itemized list, refer to an itemized invoice number, or at the very least provide a general description of the items. When describing a business activity, include the principal product(s) sold or manufactured.

BLANKET EXEMPTION CERTIFICATES

If you make recurring exempt sales of the same type to the same purchaser, it is not necessary to have an exemption certificate for each transaction. You may accept a blanket exemption certificate to cover future sales. **ST-28M** and ST-28A on page 30 may be used as a blanket certificate.

IMPORTANT: When you use a blanket exemption certificate for your regular exempt customers, ask them to verify or renew this document **every year**. Renewing yearly will help guarantee that the exempt customer's information (i.e., exact business name and location, tax account number, etc.) remains accurate and up-to-date.

CAUTION: When you use blanket exemption certificates, you should segregate any taxable purchases from that vendor and pay for them separately. Each buyer signs the exemption certificate acknowledging responsibility for payment of the tax if:

"... the tangible personal property or service is used other than as stated ... or for any other purpose that is not exempt from sales or compensating tax ..."

RECORD KEEPING

Keep all sales tax records, including exemption certificates and copies of tax exemption cards (Kansas or diplomatic), for your current year of business and at least three prior years.

PENALTIES FOR MISUSE

A buyer who issues an exemption certificate in order to unlawfully avoid payment of the tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to \$1,000 or imprisoned for up to a year, or both. When a buyer is found to have used a ST-28A Resale Exemption Certificate to avoid payment of the tax, the director may also increase any penalty due on the tax by \$250 or 10 times the tax due, whichever is greater, for each transaction where the misuse of a Resale Exemption Certificate occurred.

FORMS AND CERTIFICATES

The following pages have many of the sales and use tax forms and exemption certificates used by Hotels, Motels and Restaurants. You may reproduce any form in this publication as needed or download the certificates from our website at ksrevenue.gov

SALES AND/OR TRANSIENT GUEST TAX EXEMPTION CERTIFICATE FOR LODGING

The undersigned purchaser certifies that all information provided below is true and correct, and that the tangible personal property or services purchased from the seller is exempt from Kansas sales tax or Kansas transient guest tax for the reason(s) stated below (check applicable box(es)). The undersigned understands and agrees that if the tangible personal property or services are used other than as stated, or for any other purpose that is not exempt from sales or transient guest tax, the undersigned purchaser becomes liable for the tax.

Seller (hotel) Name: _____

Address: _____
Street, P.O. Box or Rural Route City State ZIP Code

Guest Name: _____ Room Number: _____

Address: _____
Street, P.O. Box or Rural Route City State ZIP Code

Arrival Date: ____ / ____ / ____ Anticipated Departure Date: ____ / ____ / ____

Hotel Guest Signature _____

- ☐ **State Exemption from Kansas Sales Tax** (*Tax exempt entity shall present the Kansas Department of Revenue-issued tax-exempt entity sales tax exemption certificate showing state-issued exempt organization ID number; Form PR-78SSTA; or ST-28 Designated or Generic Exemption Certificate.*)

Tax Exempt Entity Name: _____

Address: _____
Street, P.O. Box or Rural Route City State ZIP Code

Kansas Exempt Organization ID Number: _____ Expiration Date: ____ / ____ / ____

- ☐ **Federal Exemption from Kansas Sales Tax.** I certify that I am on official federal government business and the purpose of my stay is in conjunction with my performance of official duties as an officer or employee of the federal entity listed below.

- ☐ **Federal Exemption from Transient Guest Tax**

Tax Exempt Federal Entity Name: _____

Address: _____
Street, P.O. Box or Rural Route City State ZIP CodeIf you are paying with a GSA SmartPay Card, enter the 6th digit of the credit card number here: _____
(Note: The digit must be a 0, 6, 7, 8 or 9 to qualify for exemption from Transient Guest Tax.)

- ☐ **Direct Purchase** (*Complete on state sales tax and federal transient guest tax exemptions.*)

Complete this section as evidence of direct purchase for transient guest tax exemptions granted to the federal government. This section can also be completed to document direct purchase for sales tax exemptions granted by the state of Kansas to tax-exempt entities.

☐ Credit Card Name on credit card: _____ Last 4 digits: _____
Must be name of exempt organization

☐ Direct Bill Billing Account Name/Number: _____

☐ Check Check from _____ Check Number: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

PLEASE REFER TO THE INSTRUCTIONS FOR USE OF THIS CERTIFICATE ON THE REVERSE.

INSTRUCTIONS FOR THIS EXEMPTION CERTIFICATE, FORM ST-28H

WHO MAY USE THIS CERTIFICATE

Purchasers. Use this form to claim exemption from sales tax or transient guest tax. All hotel guests must sign the form where indicated. You must complete all fields on the exemption certificate and provide the fully completed certificate to the lodging facility in order to claim the exemption. You are responsible for ensuring that you are eligible for the exemption you are claiming. You will be held liable for any tax and interest, and applicable penalties imposed by the laws of this state on your purchase, if the purchase is not legally exempt.

Hotels. You are required to maintain proper records of exempt transactions and provide those records to the Kansas Department of Revenue when requested.

You are relieved of responsibility for collecting and remitting sales tax on the sale or sales for which the purchaser provided you this exemption certificate, even if it is ultimately determined that the purchaser improperly claimed an exemption, provided all of the following conditions are met.

- 1) All applicable fields on the exemption certificate are completed by the purchaser or the required information is captured and maintained. You have the option to require the "direct purchase" portion of the form to be completed to document direct purchase for sales tax exemptions granted to tax-exempt entities.
- 2) The fully completed exemption certificate (or the required information) is provided to you at the time of sale or within 90 days thereafter.
- 3) You do not fraudulently fail to collect the tax due.
- 4) You do not solicit customers to unlawfully claim an exemption.

An exemption certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of not more than 12 months elapses between sales transactions.

GENERAL EXEMPTION RULES

State Exemption from Kansas Sales Tax. The purchase must be made by the exempt organization to qualify for exemption. The exempt organization shall present the Kansas Department of Revenue-issued tax-exempt entity sales tax exemption certificate showing state-issued exempt organization ID number (**Form PR-78SSTA**); or ST-28 Designated or Generic Exemption Certificate that authorizes exempt purchases of services. The entire Form ST-28H, including the direct purchase portion, must be completed in full and signed by the guest. The name of the exempt organization must correspond to the name on the registration card or reservation. Exemptions granted by the State of Kansas do not include exemption from transient guest tax; therefore, transient guest tax must still be charged on lodging that is exempt from Kansas sales tax.

Federal Exemption from Transient Guest Tax. Only purchases made directly by the federal government are exempt from transient guest tax. The federal government charge card program currently includes the GSA SmartPay Card. Purchases made with a GSA SmartPay Card for a centrally billed account (CBA) (such as the GSA SmartPay Purchase Card) would be considered as a direct purchase by the federal government and exempt from transient guest tax. Purchases made with a GSA SmartPay Card for an individually billed account (IBA) (such as the GSA SmartPay Travel Card) would not be exempt from transient guest tax. Information on how to identify a GSA SmartPay Card and determine whether it is for a CBA or IBA can be found on the U.S. General Services Administration website for the GSA SmartPay Card program, smartpay.gsa.gov, and look for the *SmartTax Vendor Guide*. Indirect purchases by government travelers are not exempt from transient guest tax. The name of the exempt federal agency/instrumentality must be shown on the registration card or reservation of the guest exempted from transient guest tax. The direct purchase section must also be completed to validate the direct purchase requirement.

Federal Exemption from Kansas Sales Tax. The rental of sleeping rooms by hotels, motels, accommodation brokers, etc. to the federal government, its agencies, officers or employees is exempt from sales tax when the room rental is made in association with the performance of official federal government duties. This sales tax exemption on indirect purchases by federal employees applies **ONLY** to the rental of sleeping rooms. Evidence of proper form of payment by the exempt agency is not required since direct purchase is not required for this exemption. Transient guest tax is still due when a federal government employee pays for the sleeping room.

Foreign Diplomats. Foreign diplomats must provide their foreign diplomat number issued by the Office of Foreign Missions of the U. S. State Department on this exemption certificate. Additional information about this exemption is in our **Notice 04-09** on our website.

TAXPAYER ASSISTANCE

Additional information about this exemption is in **Pub. KS-1540, Business Taxes for Hotels, Motels and Restaurants**. All publications, notices and other written advice on Kansas taxes and exemptions are available from the Policy Information Library on our website ksrevenue.gov

If you have questions, you may contact the Kansas Department of Revenue:

By Phone
785-368-8222

By Mail
Tax Operations
PO Box 3506
Topeka KS 66625-3506

By Appointment

Go to ksrevenue.gov to set up an appointment at the Topeka or Overland Park office by using the Appointment Scheduler.

CONSUMED IN PRODUCTION EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(n) exempts all sales of tangible personal property consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treatment of waste or by-products derived from any such production process, the providing of services, or the irrigation of crops for ultimate sale at retail within or without the state of Kansas.

Description of tangible personal property or services purchased: _____

The undersigned understands and agrees that if the tangible personal property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser is liable for the tax.

Purchaser: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Any business buying goods or merchandise that qualifies as "property which is consumed" will use this certificate. Whether the item qualifies for exemption is determined by **how the item is used** in production or processing. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each item and its use must be separately measured against the definition to determine if the sale is taxable or exempt.

WHAT IS "PROPERTY WHICH IS CONSUMED?" To be exempt, the item must be essential and necessary to the process, used in the actual process, not reusable and be consumed, depleted or dissipated within one year. The fact that property may be used for only one production or processing activity and then discarded, or that it becomes obsolete or worthless in a short time is not the determining factor. Items that break, depreciate, wear out or become obsolete, even in a very short time, may not qualify to be exempt as "consumed in production." Included as a process qualifying for the exemption is the storage or processing of grain by a public grain warehouse or other grain storage facility.

EXAMPLES: The following are exempt as "property which is consumed" when used in these industries or applications.

- Liquid oxygen used in the production of fiberglass.
- Diesel fuel and oil, drilling fluids, and chemicals (such as acid and drilling mud) that are consumed in drilling wells.
- Coal used to generate electricity.
- Graphite, E.D.M. oil, and abrasives consumed in manufacturing die impressions, forge dies and forgings.
- Refrigerant used in the production of aircraft.

PROVIDING OF SERVICES: The term "service" in the law above refers only to TAXABLE services. Businesses providing services that are not taxable (such as accountants, doctors, lawyers, architects, etc.) must pay sales tax on items purchased for their business, and may not claim any exemption from sales tax.

CONTRACTORS: This certificate may NOT be used by contractors to purchase their materials. All materials and parts purchased by contractors, subcontractors, and repairmen to be incorporated into any structure or consumed in altering, servicing, repairing, or maintaining personal property (or personal property that has been attached to real property) are TAXABLE unless a Project Exemption Certificate has been furnished to the contractor by the customer.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

DRY CLEANING AND LAUNDRY EXEMPTION CERTIFICATE

The undersigned purchaser certifies that **dry cleaning or laundry services** purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State ZIP + 4

are exempt from **Kansas dry cleaning environmental surcharge** for the following reason:

The dry cleaning or laundry services purchased with this exemption certificate will be resold by a retailer registered by the Kansas Department of Revenue to collect the dry cleaning environmental surcharge.

Description of dry cleaning or laundry services purchased: _____

The undersigned understands and agrees that if the tangible personal property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax.

Purchaser: _____
Business Name

Dry Cleaning
Registration No.: _____ Kansas Sales Tax No.: _____

Address: _____
Street, RR, or P. O. Box City State ZIP + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHAT IS THE DRY CLEANING ENVIRONMENTAL SURCHARGE? The dry cleaning environmental surcharge is a 2.5% tax on all dry cleaning and laundering services. It is paid by the customer in addition to the Kansas Retailers' Sales tax due on these services.

WHO MAY USE THIS CERTIFICATE? Only those businesses that are registered with the Kansas Department of Revenue to collect the environmental surcharge may use this certificate.

WHAT PURCHASES ARE EXEMPT? Only purchases of dry cleaning and/or laundry services for RESALE are exempt from the dry cleaning environmental surcharge (and sales tax) with this certificate. For example, a hotel would be registered to collect the tax on dry cleaning & laundry "sent out" for guests. The hotel would use this certificate to purchase the laundry or dry cleaning services for guests without tax. The hotel resells the dry cleaning or laundry service to the hotel guest and collects the dry cleaning environment surcharge and sales tax from the final consumer (hotel guest). A hotel may not use this certificate for its own linens or other hotel property.

TAX REGISTRATION NUMBERS. This certificate is an exemption from the dry cleaning environmental surcharge and also acts as a resale exemption certificate. In order for the sale of services to be exempt, the buyer must have a current Kansas dry cleaning registration number AND a current Kansas sales tax number. This certificate is not complete unless both numbers are given. Information on how to recognize a Kansas sales tax number is in Publication KS-1520, Kansas Exemption Certificates.

RETAINING THIS CERTIFICATE. Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

INGREDIENT OR COMPONENT PART EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(m) exempts all sales of tangible personal property that becomes an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas.

Description of tangible personal property or services purchased: _____

The undersigned understands and agrees that if the tangible personal property is used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax.

Purchaser: _____
Business Name

Kansas Tax Registration Number: _____
Kansas Sales Tax Number or Kansas Manufacturers' or Processors' Exemption Number

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Any business registered with the Kansas Department of Revenue buying raw materials or parts that meet the definition of an ingredient or component part may use this certificate. The buyer must have either a Kansas sales tax number or a Kansas Manufacturers' or Processors' Sales Tax Exemption Certificate Number. Buyers from other states that are not registered in Kansas should use the **ST-28M Multi-Jurisdiction Exemption Certificate**, to buy ingredient or component parts.

WHAT PURCHASES ARE EXEMPT? Only items that meet the definition of an ingredient or component part are exempt. Whether or not the item qualifies for exemption depends on **how it is used** in production or processing. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each item and its use must be separately measured against the definition to determine whether the sale is taxable or exempt.

CONTAINERS AND SHIPPING CASES: Included as ingredient or component parts are containers, labels, and shipping cases used to distribute property manufactured or produced for sale. To be exempt, the container or other shipping or handling material must actually accompany the product sold, and must NOT be returned for reuse to the manufacturer or producer. Containers, wrappers and other similar materials are TAXABLE when purchased by a business providing a nontaxable service or when used for any purpose other than the distribution and sale of taxable property.

EXAMPLES: The following items are exempt as ingredient or component parts when used in these industries or applications.

- Clay, paints, & glazes used to make pottery or china.
- Frames, springs, foam, & fabric used to make mattresses or furniture.
- Gold, silver, gems and beads used to make jewelry.
- Paper and ink used in the publication of newspapers.
- Styrofoam plates, cups, paper napkins, plastic silverware and take-out containers purchased by a restaurant.

PROVIDING OF SERVICES: The term "service" refers only to TAXABLE services. Businesses providing nontaxable services (accountants, doctors, lawyers, day care centers, etc.) must pay sales tax on all property used to provide their services.

CONTRACTORS: Contractors, subcontractors, and repairmen may NOT use this certificate to purchase their materials. Materials and parts purchased by contractors are TAXABLE unless purchased or removed from a tax-exempt inventory with a Project Exemption Certificate.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

RESALE EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

will be **resold** by me in the form of tangible personal property or repair service. I hereby certify that I hold valid Kansas sales tax registration number _____, and I am in the business of selling _____
(May attach a copy of registration certificate)

(Description of product(s) sold; food clothing, furniture, etc.)

Description of tangible personal property or services purchased: _____

I understand and agree that if the items purchased with this certificate are used for any purpose other than retention, demonstration, or display while being held for sale in the regular course of business, I am required to report and pay the sales tax, based upon the purchase price of the items.

Purchaser: _____
Name of Kansas Retailer

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Only those businesses and organizations that are registered to collect Kansas sales tax and provide their Kansas sales tax registration number on this form may use it to purchase inventory without tax. For additional information see **Pub. KS-1520, Kansas Exemption Certificates**.

Nonprofit groups or organizations exempt by law from collecting tax on their retail sales of tangible personal property (such as a PTA or a nonprofit youth development organization) should use the exemption certificate issued to it by the Kansas Department of Revenue when buying items for resale.

Wholesalers and buyers from other states not registered in Kansas should use the Multi-Jurisdiction Exemption Certificate, Form ST-28M, to purchase their inventory. HOWEVER, if the inventory item purchased by an out-of-state retailer who has sales tax nexus with Kansas is drop shipped to a Kansas location, the out-of-state retailer must provide to the third party vendor a Kansas sales tax registration number, either on this certificate or the Multi-Jurisdiction Exemption Certificate, for the sale to be exempt. If the out-of-state retailer DOES NOT have sales tax nexus with Kansas, it may provide the third party vendor a resale exemption certificate evidencing qualification for a resale exemption, **regardless** of the state in which the retailer is registered for sales tax.

Contractors, subcontractors, or repairmen may not use this certificate to purchase their materials, parts, or tools. Retailer/Contractors should use a **ST-28W Retailer/Contractor Exemption Certificate**, to purchase their resale inventory.

WHAT PURCHASES ARE EXEMPT? Only goods or merchandise intended for resale (inventory) are exempt. Tools, equipment, fixtures, supplies, and other items purchased for business or personal use are TAXABLE since the buyer is the final consumer of the property.

The items purchased with this certificate must correspond to the type of business buying them. For example, a retail clothing store may only reasonably purchase items of wearing apparel and accessories with this certificate. All other kinds of items are not usually sold by a clothing store to their customers and, therefore, cannot be purchased with this certificate.

LABOR SERVICES. This certificate applies ONLY to items of tangible personal property. A contractor may not use an exemption certificate to purchase the labor services of another contractor or subcontractor. Taxable labor services performed by a contractor can ONLY be purchased without tax with a Project Exemption Certificate issued by the department or its authorized agent.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

**KANSAS DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY**

Revised Revenue Ruling 19-2010-04

August 8, 2012

**Tax Base for Kansas Transient Guest Taxes
and the Sales Tax Imposed at K.S.A. 2009 Supp. 79-3603(g)**

Kansas law contains two transient guest tax statutes that levy tax on charges to transient guests for sleeping accommodations. K.S.A. 12-1693 authorizes Sedgwick County, or a qualifying city within the county, to levy local transient guest tax. K.S.A. 12-1697 authorizes other qualifying Kansas cities and counties to levy the local tax. The rate of a city or county tax may not exceed 2%.

Kansas sales tax is imposed on charges for renting rooms to transient guests for use as sleeping accommodations. *K.S.A. 2009 Supp. 79-3603(g); K.S.A. 36-501(a)*. The tax rate for this levy is the combined state and local sales tax rate in place where the room is located.

A business is required to collect transient guest tax if it maintains three or more rooms to rent to transient guests as sleeping accommodations. A business is required to collect sales tax if it maintains four or more such rooms. These collection duties apply whether or not the sleeping rooms are in one or more buildings denominated a hotel, motel, tourist court, camp cabins, rooming house, boarding house, apartment, or something else, so long as the business advertises or otherwise holds itself out to the public as engaging in the business of renting sleeping accommodations to transient guests. For reasons of simplicity, this ruling will refer to these businesses collectively as "hotels."

The department implements transient guest tax and K.S.A. 2009 Supp. 79-3603(g) as taxing hotel charges to guests for "sleeping accommodations, exclusive of charges for incidental services or facilities." Because of this uniform treatment, any separately-stated charge that is subject to transient guest tax is subject to sales tax under K.S.A. 2009 Supp. 79-3603(g).

"Accommodation" means "something supplied . . . to satisfy a need," which suggests that a charge for "sleeping accommodations" includes more than simply the charge that gives a guest the right to occupy a hotel room. *Webster's Ninth Collegiate Dictionary*, p. 49. Because transient guest tax is imposed on charges for "sleeping accommodations," the department implements transient guest tax and K.S.A. 2009 Supp. 79-3603(g) as taxing separately-stated charges for cots, cribs, rollaway beds, extra bedding, and linens that are placed in a guest's sleeping room, in addition to the charge for the right to occupy the room. Charges for the right to occupy a hotel sleeping room, which is the principal charge for "sleeping accommodations," includes the charges for the room itself as well as any separately-stated charges for extra guests, lost keys, having pets in the sleeping room, and various other charges that are listed below.

Section I lists separately-stated charges billed to a guest's room that are considered to be charges for sleeping accommodations. These charges are subject to both transient guest tax and sales tax under K.S.A. 2009 Supp. 79-3603(g). Sections II and III list many but not all of the separately-stated guest charges that are considered to be charges "for incidental services or facilities." Because these charges are not for sleeping accommodations, they are not subject to either transient guest tax or the sales tax imposition at K.S.A. 2009 Supp. 79-3603(g). This doesn't mean that charges for "incidental services or facilities" are not subject to sales tax.

Many of these charges are taxed by sales tax impositions other than K.S.A. 2009 Supp. 79-3603(g). For example, charges to a guest for meals, rentals of tangible personal property, and laundry and dry cleaning services are specifically taxed under K.S.A. 2009 Supp. 79-3603(d) - (*sales of meals*), K.S.A. 2009 Supp. 79-3603(h) - (*rental services*), and K.S.A. 2009 Supp. 79-3603(i) - (*laundry and dry cleaning services*). There are many other sales tax impositions that can apply to a separately-stated guest charge, even though the charge isn't for "sleeping accommodations."

Hotels need to know how to charge tax on the separately-stated charges they bill to guests. Section I of this Revenue Ruling lists separately-stated charges for "sleeping accommodations" that are subject to both transient guest tax and the sales tax imposed at K.S.A. 2009 Supp. 79-3603(g). Section II lists separately-stated charges for "incidental services or facilities" that are not subject to transient guest tax or K.S.A. 2009 Supp. 79-3603(g), but are subject to sales tax under imposition sections other than K.S.A. 2009 Supp. 79-3603(g). Section III lists charges that are not subject to either transient guest tax or sales tax.

The list in Section I includes separately-stated charges that are taxed as a charge for sleeping accommodations. Sections II and III are not all inclusive.

I. SEPARATELY-STATED CHARGES FOR SLEEPING ACCOMMODATIONS THAT ARE SUBJECT TO BOTH TRANSIENT GUEST AND SALES TAX.

- Charges for a sleeping room.
- Charges for additional guests in a sleeping room.
- Charges for pets in a sleeping room.
- Charges for placing a cot, roll-away bed, or a crib in a guest's room.

Charges for providing additional bedding or linens to a guest's room.

Lost key and lock-out charges.

No-show charges.

Early departure charges.

A flat, non-negotiable separately-stated charge for having a telephone or television in a sleeping room.

Charges for package-deals, unless charges for meals, drinks, admissions, or other items in the package are invoiced separately from charges for the sleeping accommodations.

The cost of "incidental services and facilities" and other non-taxable services when the costs are not recovered as separately-listed charges on an invoice for a sleeping room.

II. SEPARATELY-STATED CHARGES FOR INCIDENTAL SERVICES THAT ARE SUBJECT TO KANSAS SALES TAX BUT NOT TRANSIENT GUEST TAX.

Charges for meal service provided to a guest's room.

Charges for food, non-alcoholic drinks, and cereal malt liquor as defined by K.S.A. 41-2701(a) that a guest removes from an in-room refrigerator or bar and consumes.

Dry cleaning and laundry charges.

Charges for telephone access in a guest's room.

Rental charges for placing a small refrigerator, exercise equipment, an in-room safe, or other equipment in a guest's room. (*Note: Separately-stated charges for cots, cribs, extra bedding and linens are also subject to transient guest tax; See Section I.*)

Charges for pay-per-view or on-demand television programming.

Charges to a guest for use of a hotel's athletic club, pool, spa, sauna, or exercise room.

Photocopy fees.

III. SEPARATELY-STATED CHARGES FOR INCIDENTAL SERVICES THAT ARE NOT SUBJECT TO EITHER TRANSIENT GUEST TAX OR KANSAS SALES TAX.

Charges for ballrooms, banquet rooms, meeting rooms, office space, or other areas not use as sleeping accommodations. Charges for a guest room that is converted for use as a display room, meeting room, or other use provided the room is not also used for sleeping.

Fees for personal services, such as haircuts, manicures, and massages.

Charges for use of a hotel safe or security box located outside a guest's room.

Charges for valet service.

Shuttle and other transportation fees.

Parking fees.

Charges for returned checks.

Charges to fax documents.

Internet access charges.

Guest charges for mixed alcoholic drinks are not subject to sales or transient guest tax but are subject to the liquor drink tax, K.S.A. 79-41a01 et seq.

Damage charges, whether for damage to real property or tangible personal property in a guest's room, which are not part of the normal room fee for similar guests and are damages occurring after the guest has begun to occupy the room.

Additional fees for special cleaning services, such as pet clean-up fees and fumigation fees for smoking in a non-smoking sleeping room, which are not part of the normal room fee for similar guests and represent special cleaning fees due to improper actions by the guests(s) or pet.

DISCUSSION. In general. When a hotel bills a guest for sleeping accommodations, any costs associated with providing services to the guest's room are taxed as part of the charge for the sleeping accommodations, unless the costs are recovered as a separately-stated line-item charge on the guest's invoice. How separately-stated charges are taxed is explained in the lists above. A hotel may not bundle a guest's charges for a sleeping accommodation with nontaxable services, and tax less than the total amount billed as a bundled charge.

Both transient guest tax and K.S.A. 79-2009 Supp. 79-3603(g) are imposed on hotel charges to guests for sleeping accommodations "exclusive of charges for incidental services or facilities." Many charges are billed to a guest in accordance with: (1) the contractual agreement between a guest and a hotel; or (2) published hotel policy. Charges billed pursuant to a rental agreement or hotel policy almost always are directly related to a guest's right to occupy a sleeping room and are subject to both transient guest tax and the sales tax imposed at K.S.A. 79-2009 Supp. 79-3603(g).

Separately-stated charges for cots, rollaway beds, cribs, additional bedding, and additional linens that a hotel places in a sleeping room are taxed as charges for sleeping accommodations. These charges are subject to both transient guest tax statutes and K.S.A. 2009 Supp. 79-3603(g). As explained above, the two impositions on "sleeping accommodations" tax more than just the charge that gives a guest the right to occupy a sleeping room.

Cancellation vs. "no show" charges for sleeping rooms. Cancellation charges are not taxable. Since the room reservation was cancelled, no sale occurred and no sales or transient guest tax is due. A forfeited "no show" charge is taxable. This charge is for the guest's right to occupy a hotel room on a specific date, whether the guest arrives to use the room or not.

Early departure charges. These charges are provided for by hotel policy or by the agreement between the guest and the hotel. The charges are billed after a guest has occupied a room. K.S.A. 2009 Supp. 79-3603(g) and transient guest tax apply to these charges because they are a condition placed on the guest's right to occupy the room by the parties' agreement or by hotel policy.

Separate line-item charges for equipment placed in meeting rooms. While charges for ballrooms, banquet rooms, meeting rooms, or office space are not subject to sales or transient guest tax, sales tax applies to separate line-item charges for audio-visual equipment, computers, public address systems, tables, chairs, flowers, decorations, and other items that are placed in the rooms. These are taxable rental charges:

Standard room furnishings. Some hotels charge more for rooms with televisions or telephones than for rooms without them. Charges for standard room furnishings like televisions or telephones are taxable even when separately stated.

Telephone. Hotels are required to pay sales tax on all of the telephone services they buy. This includes charges for local, intrastate, interstate, and international calls that are billed to the hotel, whether the calls were made by hotel guests or by hotel employees in the course of business.

Most guests pay for their long distance calls as a prepaid or postpaid telephone services. Sales tax on these calls is collected by the telephone service provider. Guest access to these service providers is gained by placing a local telephone call.

Charges to guests by hotels for telephone access (charges for making local telephone calls) are taxable. For example, if a hotel charges 50 cents per local call, it is an access charge and is taxable - the phone company doesn't charge that amount for local calls, but the hotel charges the 50 cent fee to guests for accessing telephone service.

When a hotel is charged for a guest's long distance call, the charge billed to the guest to reimburse the hotel for the cost of the call is not taxable if the charge equals the amount that the provider billed to the hotel for the call. This charge includes the sales tax that the provider billed to the hotel on the charge for the telephone call. Any mark-up that is added to a guest's charge for a long distance call is taxable as an access charge.

Charges for liquor. Charges billed to a guest's room for mixed drinks containing liquor are subject to the liquor drink tax imposed at K.S.A. 79-41a01 *et seq.* These charges are not subject to either sales or transient guest tax.

This ruling clarifies the department's existing policy on the application of transient guest tax and K.S.A. 79-3603(g) to charges for sleeping accommodations. This ruling clarifies and supersedes all prior advice given in information guides that have been issued on this subject.

Secretary of Revenue

Nick Jordan

KANSAS DEPARTMENT OF REVENUE
DESIGNATED OR GENERIC EXEMPTION CERTIFICATE

465618

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Business Address: _____
Street, RR, or P.O. Box City State ZIP + 4

is exempt from Kansas sales and compensating use tax under K.S.A. 79-3606. The undersigned understands and agrees that if the tangible personal property or services are used other than as stated in its statutory exemption, or are used for any other purpose that is not exempt from sales or compensating use tax, the undersigned purchaser becomes liable for the tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

This certificate shall apply to (check one):

☐ Single Purchase Certificate. Enter the invoice or purchase order #: _____

☐ Blanket Certificate.

Name of Purchaser: _____

Purchaser's EIN: _____ Foreign Diplomat Number: _____

Business Address: _____
Street, RR, or P.O. Box City State ZIP + 4

Reason for Exemption. Check the appropriate box for the exemption. Since this is a multi-entity form, not all entities are exempt on all purchases. Only those entities that do not have a Kansas Tax-Exempt Entity Exemption Number may use this certificate to claim an exemption. Kansas-based tax-exempt entities are required to have a Kansas Tax Exempt Entity Exemption Number; non-Kansas tax-exempt entities who regularly do business in Kansas are encouraged to apply for a Kansas Tax-Exempt Entity Exemption Number through our website at ksrevenue.gov. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) must use their numbered **PR-78 Tax-Exempt Entity Exemption Certificate** issued by the Kansas Department of Revenue to claim their exemption; they cannot use this certificate.

- | | |
|---|--|
| ☐ Drill bits & explosives actually used in oil and gas exploration and production, K.S.A. 79-3606(pp). | ☐ Community-based facility for people with intellectual disability or mental health center, K.S.A. 79-3606(jj). |
| ☐ Educational materials purchased for free public distribution by a nonprofit corporation organized to encourage, foster, and conduct programs for the improvement of public health, K.S.A. 79-3606(II). | ☐ Elementary or secondary school (public, private or parochial), K.S.A. 79-3606(c). |
| ☐ Materials purchased by community action groups or agencies to repair or weatherize housing occupied by low income individuals, K.S.A. 79-3606(oo). | ☐ Habitat for Humanity, K.S.A. 79-3606(ww). |
| ☐ Medical supplies and equipment purchased by a nonprofit skilled nursing home or intermediate nursing care home, K.S.A. 79-3606(hh). | ☐ Noncommercial educational TV or radio station, K.S.A. 79-3606(ss). |
| ☐ Qualified machinery and equipment purchased by an over-the-air free access radio or TV Station, K.S.A. 79-3606(zz). | ☐ Nonprofit blood, tissue or organ bank, K.S.A. 79-3606(b). |
| ☐ Seeds, tree seedlings, fertilizers and other chemicals, and services used to grow plants to prevent soil erosion on agricultural land, K.S.A. 79-3606(mm). | ☐ Nonprofit public or private educational institution, K.S.A. 79-3606(c). |
| ☐ Foreign Diplomat. | ☐ Nonprofit hospital or public hospital authority, K.S.A. 79-3606(b). |
| ☐ Newly Legislated Exemption. Briefly describe the exemption and enter the statute reference or enter the year and number of the Bill authorizing the exemption. _____ | ☐ Nonprofit museum or historical society, K.S.A. 79-3606(qq). |
| | ☐ Nonprofit, nonsectarian youth development organization, K.S.A. 79-3606(ii). |
| | ☐ Nonprofit religious organization, K.S.A. 79-3606(aaa). |
| | ☐ Nonprofit zoo, K.S.A. 79-3606(xx). |
| | ☐ Parent-Teacher Association or Organization, K.S.A. 79-3606(yy). |
| | ☐ Primary care clinics and health centers serving the medically underserved, K.S.A. 79-3606(ccc). |
| | ☐ Rural volunteer fire fighting organization, K.S.A. 79-3606(uu). |

Authorized Signature: _____ Officer, Office Manager, or Administrator
Employer ID Number (EIN): _____

Printed Name: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.
PLEASE REFER TO THE INSTRUCTIONS FOR USE OF THIS CERTIFICATE ON THE REVERSE.

ABOUT THE DESIGNATED EXEMPTION CERTIFICATE, FORM ST-28

IMPORTANT: This is a multi-entity form; not all entities are exempt on all purchases.

WHO MAY USE THIS CERTIFICATE

This exemption certificate is used either to claim a sales and use tax-exemption present in Kansas law not covered by other certificates, or by a non-Kansas tax-exempt entity not in possession of a form **PR-78 Kansas Tax-Exempt Entity Exemption Certificate** discussed below.

FOREIGN DIPLOMATS

Foreign diplomats must provide their foreign diplomat number issued by the Office of Foreign Missions of the U. S. Department of State on this exemption certificate. Additional information about this exemption is in our **Notice 04-09** on our website.

Buyers claiming exemption based on how the item will be used (Resale, Retailer/Contractor, Ingredient or Component Part, Agricultural, etc.) must use the specific certificate (form type ST-28) designed for each of those exempt uses under the law. The U.S. Government, its agencies and instrumentalities must also continue to use form **ST-28G** designed for their exemption.

TAX-EXEMPT ENTITY EXEMPTION CERTIFICATES (FORMS PR-78)

To assist retailers in identifying the nonprofit entities exempt from paying Kansas sales and use tax, the Kansas Department of Revenue has issued Tax-Exempt Entity Exemption Certificates effective January 1, 2005. Issued first to Kansas-based entities, these are individual, uniquely numbered exemption certificates issued only by the department. Each certificate contains the entity's name and address, the statute cite of the exemption and the entity's Kansas Exemption Number. This number is separate and apart from any sales tax registration number used to collect tax from their customers. To claim its exemption, the registered exempt entity must merely provide a completed, signed copy of its PR-78 to the retailer. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) **may NOT use the Designated or Generic Exemption Certificate (Form ST-28) to claim exemption.**

Kansas-based tax-exempt entities are required to obtain a Kansas Tax-Exempt Entity Exemption Number. Tax-exempt entities (schools, nonprofit hospitals, etc.) from other states who regularly do business in Kansas are encouraged to obtain a Kansas Tax-Exempt Entity Exemption Certificate from the Kansas Department of Revenue. To obtain a uniquely numbered certificate, complete the application on our website at ksrevenue.gov.

GENERAL EXEMPTION RULES

An exemption certificate is complete only when all the requested information is provided. Please print or type all information, except for the authorized signature. Addresses must include the street or PO Box, city, state and zip code.

DIRECT PURCHASE

Generally, an exemption applies only to direct purchases of tangible personal property or taxable repair services by an exempt entity for its exclusive use. A direct purchase is one that is billed directly to the exempt entity, and/or paid for with entity funds (check or credit card). Purchases made by employees or agents of the exempt entity with their personal funds are fully taxable, even when the employee/agent is reimbursed the expense by the exempt entity.

A direct "purchase" of tangible personal property includes the rental or lease of tangible personal property. The direct

purchase of "services" are the taxable labor services of repairing, servicing, altering or maintaining tangible personal property, and the labor services (not materials) of a contractor on a real property project.

CONSTRUCTION, REMODEL OR REPAIR PROJECTS

Qualifying entities may purchase the labor services of a contractor (whether working on tangible personal property or real property) without tax using this certificate. However, *indirect* purchases of materials and labor on real property projects are taxable. Materials furnished by or through a contractor or the materials and/or labor furnished by a subcontractor for the construction, reconstruction or repair of *real property* are not exempt with this certificate, as they are not a direct purchase by the entity. Therefore a contractor's invoice will include (and the entity must pay) the sales tax paid or accrued by the contractor on any materials, parts and subcontractor invoices for the project.

PROJECT EXEMPTION CERTIFICATES (PECs)

A PEC is a numbered document issued only by the Kansas Department of Revenue or its authorized agent. As the name implies, a PEC exempts the entire project – materials and labor – from sales or use tax. Not all entities are eligible to obtain a PEC. Contact the department at 785-368-8222 for more information.

RETAILER RECORD KEEPING

Retailers must keep a copy of this completed certificate with your other sales tax records for a period of at least three years from the date the certificate is signed and presented to you. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

PENALTIES FOR MISUSE

A buyer who issues an exemption certificate in order to unlawfully avoid payment of the tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to \$1,000 or imprisoned for up to a year, or both.

TAXPAYER ASSISTANCE

Additional information about each exemption is in **Pub. KS-1520, Kansas Exemption Certificates**. This publication, as well as Notices and other written advice on Kansas taxes and exemptions are available from the Policy Information Library on the department's website at ksrevenue.gov. Since Kansas exemptions are not always of general application, you are encouraged to consult the website or the department with specific taxability issues.

If you have questions you may contact the Kansas Department of Revenue:

By Phone
785-368-8222

By Mail
Tax Operations
PO Box 3506
Topeka, KS 66612-1588

By Appointment

Go to ksrevenue.gov to set up an appointment at the Topeka or Overland Park office by using the Appointment Scheduler.

ST-28B (Rev. 5-20)

INSTRUCTIONS FOR COMPLETING FORM ST-28B

When gas, water, or electricity is furnished through one meter for both taxable and exempt purposes, the purchaser is responsible for determining the percentage of use exempt from sales tax. The sample worksheet provided below will help you to determine the percent of electricity, gas, or water that qualifies for exemption. The worksheet you provide should list **all** taxable and exempt equipment. If you have questions about this form, contact Audit Services/Sales Tax Refunds, Kansas Department of Revenue, 109 SW 9th St., PO Box 3506, Topeka, KS, 66601-3506, email KDOR_Audit.Funds@ks.gov or call 785-296-7108.

***Authorized Signature:** The Owner, Partner, Company Officer signing this form authorizes KDOR to discuss this statement for sales tax utility exemption with any employee of the company and not only the individual signing this exemption request. A **DO-10 (POA)** is still required documentation if the request is prepared/filed by a 3rd party.

AGRICULTURAL: Electricity and gas for agricultural use is exempt from the state sales tax but **not** exempt from the local taxes. Agricultural use does **not** include commercial operations such as processing food or dairy products, off-farm grain storage and marketing, lumbering, or use by a stockyard, slaughter house, floral shop, or turf farm.

CERTAIN NONPROFIT CORPORATIONS: Sales of electricity, gas, or water to properties which are exempt from property taxation under K.S.A. 79-201b Second through Sixth are exempt from state and local sales tax. Once the property is determined to be exempt, copies of the "order" from the Board of Tax Appeals and this completed exemption certificate (ST-28B) must be provided to the utility company and the Kansas Department of Revenue.

CONSUMABLES: The portion of electricity, gas, or water you use that meets the following requirements is exempt from state and local taxes: 1) essential or necessary to the process; 2) used in

the actual process at the location during the production activity; 3) immediately consumed or dissipated in the process; and, 4) used in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property or the treatment of by-products or wastes of any above processes. The following uses of electricity, gas, or water are **not** exempt from sales tax: shipping, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing.

INGREDIENT OR COMPONENT PART: An example of electricity, gas, or water which becomes an ingredient or component part and qualifies for exemption is "water" that is part of the ingredient in a beverage which is bottled and sold to a retailer for resale.

RESIDENTIAL: If the electricity, gas, or water you consume is for residential use only, you do not need to file this form. The utility company automatically exempts you from paying state sales tax (city and county sales tax still applies). However, if the electricity, gas, or water you consume is partly for residential purposes and partly for commercial use, you must determine the percent of usage that is residential and file copies of your worksheets and this completed form with your utility company and the Department of Revenue. Utilities consumed in commercial common areas such as an office, lounge, hallway, laundry facility, storage area, swimming pool, etc., **do not** qualify for exemption.

HOW MUCH OF MY UTILITY USE QUALIFIES FOR EXEMPTION? You will probably need several sheets of paper as worksheets. If your facility is serviced by more than one meter, you need to complete a separate chart to determine the percent of usage for each meter. If the facility is heated and air-conditioned by a central unit, you may use the square footage method to arrive at the residential percent of consumption for heating and cooling. You may need the assistance of a plumber or electrician to complete the formulas. Refer to the following example and steps to determine your exempt percent.

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Type of Device		Rating of Device	Estimated Hours of Use Per Day	Load Factor	Number of Days the Device is Used Per Year	Usage Per Year stated in kWh, BTU, or Gallons
20 - light bulbs	T	40 watts	10	1.00	324	2,592 kWh
1 - production machinery	E	500 watts	10	.50	255	637.5 kW

1. At the top of each page, place the headers as noted in the example and complete the following information per column:

COLUMN 1—List each device that is pulling the utility.

COLUMN 2—Rating of each device.

COLUMN 3—Estimate the number of hours of use per day (i.e., on average, twenty 40 watt light bulbs are on ten hours per day, therefore, enter "10").

COLUMN 4—Determine and enter load factor (i.e., when a light bulb is on it pulls the full rate of 100% power but a burner on the stove on "low" may only pull 30% load factor).

COLUMN 5—Number of days the device is used per year.

COLUMN 6—Determine usage per year stated in kilowatt-hours (kWh), BTU, or gallons.

1000 watts = 1 kWh

Horsepower = .746 X H.P. = watts

Ten 100-watt bulbs burning 1 hour will use 1 kWh

1,000,000 BTU in 1 MCF

2. Indicate beside each type of device an "E" for exempt or a "T" for taxable.

3. Multiply the quantity in column 1 by column 2 by column 3 by column 4 by column 5 to arrive at the sum for column 6.

4. Add the usage per year (column 6) for all of the devices you have indicated as "exempt" then add all of the usage per year (column 6) for all the devices that you have indicated as being "taxable." Adding the exempt and taxable usage should equal the total consumption per year as shown on your utility bills for the last 12 months.

5. Divide the total number of exempt kWh by the total number of kWh consumed in the last 12 months. This is the percent of usage that is exempt from tax. Enter this amount on line 5 on the front of this form (ST-28B).

The instructions provided are intended to help consumers of electricity, gas, or water complete this form.
In case of discrepancies, the applicable law prevails.

ATTN: Hotels, Motels and Nursing Homes: Please include the occupancy rate for the last 12 months of business with your study.

TAXPAYER ASSISTANCE

This publication is a general guide and will not address every situation. If you have questions, you may contact the Kansas Department of Revenue:

By Phone

785-368-8222

By Mail

Tax Operations
PO Box 3506
Topeka KS 66625-3506

By Appointment

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Office hours are 8 a.m. to 4:45 p.m., Monday through Friday.

PUBLICATIONS

Below is a **list of publications available on the Kansas Department of Revenue's website**. These publications contain instructions applicable to specific business industries and general information for all business owners.

- Publication KS-1216, Kansas Business Tax Application
- Publication KS-1510, Kansas Sales Tax and Compensating Use Tax
- Publication KS-1515, Kansas Tax Calendar of Due Dates
- Publication KS-1520, Kansas Exemption Certificates
- Publication KS-1525, Kansas Sales and Use Tax for Contractors, Subcontractors and Repairmen
- Publication KS-1526, Kansas Business Taxes for Motor Vehicle Transactions
- Publication KS-1527, Kansas Business Taxes for Political Subdivisions
- Publication KS-1530, Kansas Tire Excise Tax
- Publication KS-1540, Kansas Business Taxes for Hotels, Motels and Restaurants
- Publication KS-1550, Kansas Business Taxes for Agricultural Industries
- Publication KS-1560, Kansas Business Taxes for Schools and Educational Institutions
- Publication KS-1700, Kansas Sales & Use Tax Jurisdiction Code Booklet
- KW-100, Kansas Withholding Tax Guide

STATE SMALL BUSINESS WORKSHOPS

As part of our commitment to provide tax assistance to the business community, Tax Specialists within the Kansas Department of Revenue conduct small business workshops on Kansas taxes at various locations throughout Kansas. Whether you are a new business owner, an existing business owner, or an accountant, these workshops will give you the tools and understanding necessary to make Kansas taxes easier and less time consuming for you. Topics covered include filing and reporting requirements and methods, what is taxable, what is exempt and how to work with the department in collecting and remitting Kansas taxes.

For a **[schedule of our workshops, visit our website](#)**. Pre-registration is required and a fee may be charged by the sponsoring Small Business Development Center (SBDC).