

HOUSE BILL No. 2109

By Committee on Taxation

1-29

AN ACT concerning taxation; relating to sales tax imposition and exemptions; motor vehicles and aircraft; amending K.S.A. 2002 Supp. 79-3603 and 79-3606 and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1, 2002, and before July 1, 2004, 5.2% on and after July 1, 2004, and before July 1, 2005, and 5% on and after July 1, 2005, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of

1 channels between exchanges; (C) any value-added nonvoice service in
2 which computer processing applications are used to act on the form, con-
3 tent, code or protocol of the information to be transmitted; (D) any tel-
4 ecommunication service to a provider of telecommunication services
5 which will be used to render telecommunications services, including car-
6 rier access services; or (E) any service or transaction defined in this sec-
7 tion among entities classified as members of an affiliated group as pro-
8 vided by section 1504 of the federal internal revenue code of 1986, as in
9 effect on January 1, 2001. For the purposes of this subsection the term
10 gross receipts does not include purchases of telephone, telegraph or tel-
11 ecommunications using a prepaid telephone calling card or prepaid au-
12 thorization number. As used in this subsection, a prepaid telephone call-
13 ing card or prepaid authorization number means the right to exclusively
14 make telephone calls, paid for in advance, that enables the origination of
15 calls using an access number or authorization code or both, whether man-
16 ually or electronically dialed; and (3) the gross receipts from the provision
17 of services taxable under this subsection which are billed on a combined
18 basis with nontaxable services, shall be accounted for and the tax remitted
19 as follows: The taxable portion of the selling price of those combined
20 services shall include only those charges for taxable services if the selling
21 price for the taxable services can be readily distinguishable in the retailer's
22 books and records from the selling price for the nontaxable services. Oth-
23 erwise, the gross receipts from the sale of both taxable and nontaxable
24 services billed on a combined basis shall be deemed attributable to the
25 taxable services included therein. Within 90 days of billing taxable services
26 on a combined basis with nontaxable services, the retailer shall enter into
27 a written agreement with the secretary identifying the methodology to be
28 used in determining the taxable portion of the selling price of those com-
29 bined services. The burden of proving that any receipt or charge is not
30 taxable shall be upon the retailer. Upon request from the customer, the
31 retailer shall disclose to the customer the selling price for the taxable
32 services included in the selling price for the taxable and nontaxable serv-
33 ices billed on a combined basis;

34 (c) the gross receipts from the sale or furnishing of gas, water, elec-
35 tricity and heat, which sale is not otherwise exempt from taxation under
36 the provisions of this act, and whether furnished by municipally or pri-
37 vately owned utilities but such tax shall not be levied and collected upon
38 the gross receipts from: (1) The sale of a rural water district benefit unit;
39 (2) a water system impact fee, system enhancement fee or similar fee
40 collected by a water supplier as a condition for establishing service; or (3)
41 connection or reconnection fees collected by a water supplier;

42 (d) the gross receipts from the sale of meals or drinks furnished at
43 any private club, drinking establishment, catered event, restaurant, eating

1 house, dining car, hotel, drugstore or other place where meals or drinks
2 are regularly sold to the public;

3 (e) the gross receipts from the sale of admissions to any place pro-
4 viding amusement, entertainment or recreation services including admis-
5 sions to state, county, district and local fairs, but such tax shall not be
6 levied and collected upon the gross receipts received from sales of ad-
7 missions to any cultural and historical event which occurs triennially;

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

11 (g) the gross receipts from the service of renting of rooms by hotels,
12 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
13 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
14 but such tax shall not be levied and collected upon the gross receipts
15 received from sales of such service to the federal government and any
16 agency, officer or employee thereof in association with the performance
17 of official government duties;

18 (h) the gross receipts from the service of renting or leasing of tangible
19 personal property except such tax shall not apply to the renting or leasing
20 of machinery, equipment or other personal property owned by a city and
21 purchased from the proceeds of industrial revenue bonds issued prior to
22 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
23 12-1749, and amendments thereto, and any city or lessee renting or leas-
24 ing such machinery, equipment or other personal property purchased
25 with the proceeds of such bonds who shall have paid a tax under the
26 provisions of this section upon sales made prior to July 1, 1973, shall be
27 entitled to a refund from the sales tax refund fund of all taxes paid
28 thereon;

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

32 (j) the gross receipts from the rendering of the services of washing
33 and washing and waxing of vehicles;

34 (k) the gross receipts from cable, community antennae and other sub-
35 scriber radio and television services;

36 (l) (1) except as otherwise provided by paragraph (2), the gross re-
37 cepts received from the sales of tangible personal property to all con-
38 tractors, subcontractors or repairmen for use by them in erecting struc-
39 tures, or building on, or otherwise improving, altering, or repairing real
40 or personal property.

41 (2) Any such contractor, subcontractor or repairman who maintains
42 an inventory of such property both for sale at retail and for use by them
43 for the purposes described by paragraph (1) shall be deemed a retailer

1 with respect to purchases for and sales from such inventory, except that
2 the gross receipts received from any such sale, other than a sale at retail,
3 shall be equal to the total purchase price paid for such property and the
4 tax imposed thereon shall be paid by the deemed retailer;

5 (m) the gross receipts received from fees and charges by public and
6 private clubs, drinking establishments, organizations and businesses for
7 participation in sports, games and other recreational activities, but such
8 tax shall not be levied and collected upon the gross receipts received from:

9 (1) Fees and charges by any political subdivision, by any organization
10 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
11 201, and amendments thereto, or by any youth recreation organization
12 exclusively providing services to persons 18 years of age or younger which
13 is exempt from federal income taxation pursuant to section 501(c)(3) of
14 the federal internal revenue code of 1986, for participation in sports,
15 games and other recreational activities; and (2) entry fees and charges for
16 participation in a special event or tournament sanctioned by a national
17 sporting association to which spectators are charged an admission which
18 is taxable pursuant to subsection (e);

19 (n) the gross receipts received from dues charged by public and pri-
20 vate clubs, drinking establishments, organizations and businesses, pay-
21 ment of which entitles a member to the use of facilities for recreation or
22 entertainment, but such tax shall not be levied and collected upon the
23 gross receipts received from: (1) Dues charged by any organization ex-
24 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
25 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
26 in a nonprofit organization which is exempt from federal income taxation
27 pursuant to section 501 (c)(3) of the federal internal revenue code of
28 1986, and whose purpose is to support the operation of a nonprofit zoo;

29 (o) the gross receipts received from the isolated or occasional sale of
30 motor vehicles or trailers ~~but not including: (1) The transfer of motor~~
31 ~~vehicles or trailers by a person to a corporation or limited liability com-~~
32 ~~pany solely in exchange for stock securities or membership interest in~~
33 ~~such corporation or limited liability company, or (2) the transfer of motor~~
34 ~~vehicles or trailers by one corporation or limited liability company to~~
35 ~~another when all of the assets of such corporation or limited liability~~
36 ~~company are transferred to such other corporation or limited liability~~
37 ~~company; or (3) the sale of motor vehicles or trailers which are subject~~
38 ~~to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and~~
39 ~~amendments thereto, by an immediate family member to another im-~~
40 ~~mediate family member. For the purposes of clause (3), immediate family~~
41 ~~member means lineal ascendants or descendants, and their spouses. In~~
42 determining the base for computing the tax on such isolated or occasional
43 sale, the fair market value of any motor vehicle or trailer traded in by the

1 purchaser to the seller may be deducted from the selling price;

2 (p) the gross receipts received for the service of installing or applying
3 tangible personal property which when installed or applied is not being
4 held for sale in the regular course of business, and whether or not such
5 tangible personal property when installed or applied remains tangible
6 personal property or becomes a part of real estate, except that no tax shall
7 be imposed upon the service of installing or applying tangible personal
8 property in connection with the original construction of a building or
9 facility, the original construction, reconstruction, restoration, remodeling,
10 renovation, repair or replacement of a residence or the construction, re-
11 construction, restoration, replacement or repair of a bridge or highway.

12 For the purposes of this subsection:

13 (1) "Original construction" shall mean the first or initial construction
14 of a new building or facility. The term "original construction" shall include
15 the addition of an entire room or floor to any existing building or facility,
16 the completion of any unfinished portion of any existing building or fa-
17 cility and the restoration, reconstruction or replacement of a building or
18 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
19 or earthquake, but such term, except with regard to a residence, shall not
20 include replacement, remodeling, restoration, renovation or reconstruc-
21 tion under any other circumstances;

22 (2) "building" shall mean only those enclosures within which individ-
23 uals customarily are employed, or which are customarily used to house
24 machinery, equipment or other property, and including the land improve-
25 ments immediately surrounding such building;

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

32 (4) "residence" shall mean only those enclosures within which indi-
33 viduals customarily live;

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

42 (r) the gross receipts from fees or charges made under service or
43 maintenance agreement contracts for services, charges for the providing

1 of which are taxable under the provisions of subsection (p) or (q);

2 (s) the gross receipts received from the sale of computer software,
3 and the sale of the services of modifying, altering, updating or maintaining
4 computer software. As used in this subsection, "computer software"
5 means information and directions loaded into a computer which dictate
6 different functions to be performed by the computer. Computer software
7 includes any canned or prewritten program which is held or existing for
8 general or repeated sale, even if the program was originally developed
9 for a single end user as custom computer software;

10 (t) the gross receipts received for telephone answering services, mo-
11 bile telecommunication services, beeper services and other similar serv-
12 ices. On and after August 1, 2002, the provisions of the federal mobile
13 telecommunications sourcing act as in effect on January 1, 2002, shall be
14 applicable to all sales of mobile telecommunication services taxable pur-
15 suant to this subsection. The secretary of revenue is hereby authorized
16 and directed to perform any act deemed necessary to properly implement
17 such provisions;

18 (u) the gross receipts received from the sale of prepaid telephone
19 calling cards or prepaid authorization numbers and the recharge of such
20 cards or numbers. A prepaid telephone calling card or prepaid authori-
21 zation number means the right to exclusively make telephone calls, paid
22 for in advance, that enables the origination of calls using an access number
23 or authorization code or both, whether manually or electronically dialed.
24 If the sale or recharge of such card or number does not take place at the
25 vendor's place of business, it shall be conclusively determined to take
26 place at the customer's shipping address; if there is no item shipped then
27 it shall be the customer's billing address; and

28 (v) the gross receipts received from the sales of bingo cards, bingo
29 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
30 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
31 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
32 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
33 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
34 and amendments thereto, shall be exempt from taxes imposed pursuant
35 to this section.

36 Sec. 2. K.S.A. 2002 Supp. 79-3606 is hereby amended to read as
37 follows: 79-3606. The following shall be exempt from the tax imposed by
38 this act:

39 (a) All sales of motor-vehicle fuel or other articles upon which a sales
40 or excise tax has been paid, not subject to refund, under the laws of this
41 state except cigarettes as defined by K.S.A. 79-3301 and amendments
42 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
43 3817 and amendments thereto, including wort, liquid malt, malt syrup

1 and malt extract, which is not subject to taxation under the provisions of
2 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
3 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
4 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
5 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

6 (b) all sales of tangible personal property or service, including the
7 renting and leasing of tangible personal property, purchased directly by
8 the state of Kansas, a political subdivision thereof, other than a school or
9 educational institution, or purchased by a public or private nonprofit hos-
10 pital or public hospital authority or nonprofit blood, tissue or organ bank
11 and used exclusively for state, political subdivision, hospital or public hos-
12 pital authority or nonprofit blood, tissue or organ bank purposes, except
13 when: (1) Such state, hospital or public hospital authority is engaged or
14 proposes to engage in any business specifically taxable under the provi-
15 sions of this act and such items of tangible personal property or service
16 are used or proposed to be used in such business, or (2) such political
17 subdivision is engaged or proposes to engage in the business of furnishing
18 gas, electricity or heat to others and such items of personal property or
19 service are used or proposed to be used in such business;

20 (c) all sales of tangible personal property or services, including the
21 renting and leasing of tangible personal property, purchased directly by
22 a public or private elementary or secondary school or public or private
23 nonprofit educational institution and used primarily by such school or
24 institution for nonsectarian programs and activities provided or sponsored
25 by such school or institution or in the erection, repair or enlargement of
26 buildings to be used for such purposes. The exemption herein provided
27 shall not apply to erection, construction, repair, enlargement or equip-
28 ment of buildings used primarily for human habitation;

29 (d) all sales of tangible personal property or services purchased by a
30 contractor for the purpose of constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling facilities for
32 any public or private nonprofit hospital or public hospital authority, public
33 or private elementary or secondary school or a public or private nonprofit
34 educational institution, which would be exempt from taxation under the
35 provisions of this act if purchased directly by such hospital or public hos-
36 pital authority, school or educational institution; and all sales of tangible
37 personal property or services purchased by a contractor for the purpose
38 of constructing, equipping, reconstructing, maintaining, repairing, en-
39 larging, furnishing or remodeling facilities for any political subdivision of
40 the state or district described in subsection (s), the total cost of which is
41 paid from funds of such political subdivision or district and which would
42 be exempt from taxation under the provisions of this act if purchased
43 directly by such political subdivision or district. Nothing in this subsection

1 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
2 deemed to exempt the purchase of any construction machinery, equip-
3 ment or tools used in the constructing, equipping, reconstructing, main-
4 taining, repairing, enlarging, furnishing or remodeling facilities for any
5 political subdivision of the state or any such district. As used in this sub-
6 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds
7 of a political subdivision" shall mean general tax revenues, the proceeds
8 of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used
9 for the purpose of constructing, equipping, reconstructing, repairing, en-
10 larging, furnishing or remodeling facilities which are to be leased to the
11 donor. When any political subdivision of the state, district described in
12 subsection (s), public or private nonprofit hospital or public hospital au-
13 thority, public or private elementary or secondary school or public or
14 private nonprofit educational institution shall contract for the purpose of
15 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
16 ing, furnishing or remodeling facilities, it shall obtain from the state and
17 furnish to the contractor an exemption certificate for the project involved,
18 and the contractor may purchase materials for incorporation in such pro-
19 ject. The contractor shall furnish the number of such certificate to all
20 suppliers from whom such purchases are made, and such suppliers shall
21 execute invoices covering the same bearing the number of such certifi-
22 cate. Upon completion of the project the contractor shall furnish to the
23 political subdivision, district described in subsection (s), hospital or public
24 hospital authority, school or educational institution concerned a sworn
25 statement, on a form to be provided by the director of taxation, that all
26 purchases so made were entitled to exemption under this subsection. As
27 an alternative to the foregoing procedure, any such contracting entity may
28 apply to the secretary of revenue for agent status for the sole purpose of
29 issuing and furnishing project exemption certificates to contractors pur-
30 suant to rules and regulations adopted by the secretary establishing con-
31 ditions and standards for the granting and maintaining of such status. All
32 invoices shall be held by the contractor for a period of five years and shall
33 be subject to audit by the director of taxation. If any materials purchased
34 under such a certificate are found not to have been incorporated in the
35 building or other project or not to have been returned for credit or the
36 sales or compensating tax otherwise imposed upon such materials which
37 will not be so incorporated in the building or other project reported and
38 paid by such contractor to the director of taxation not later than the 20th
39 day of the month following the close of the month in which it shall be
40 determined that such materials will not be used for the purpose for which
41 such certificate was issued, the political subdivision, district described in
42 subsection (s), hospital or public hospital authority, school or educational
43 institution concerned shall be liable for tax on all materials purchased for

1 the project, and upon payment thereof it may recover the same from the
2 contractor together with reasonable attorney fees. Any contractor or any
3 agent, employee or subcontractor thereof, who shall use or otherwise
4 dispose of any materials purchased under such a certificate for any pur-
5 pose other than that for which such a certificate is issued without the
6 payment of the sales or compensating tax otherwise imposed upon such
7 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
8 shall be subject to the penalties provided for in subsection (g) of K.S.A.
9 79-3615, and amendments thereto;

10 (e) all sales of tangible personal property or services purchased by a
11 contractor for the erection, repair or enlargement of buildings or other
12 projects for the government of the United States, its agencies or instru-
13 mentalities, which would be exempt from taxation if purchased directly
14 by the government of the United States, its agencies or instrumentalities.
15 When the government of the United States, its agencies or instrumen-
16 talities shall contract for the erection, repair, or enlargement of any build-
17 ing or other project, it shall obtain from the state and furnish to the
18 contractor an exemption certificate for the project involved, and the con-
19 tractor may purchase materials for incorporation in such project. The
20 contractor shall furnish the number of such certificates to all suppliers
21 from whom such purchases are made, and such suppliers shall execute
22 invoices covering the same bearing the number of such certificate. Upon
23 completion of the project the contractor shall furnish to the government
24 of the United States, its agencies or instrumentalities concerned a sworn
25 statement, on a form to be provided by the director of taxation, that all
26 purchases so made were entitled to exemption under this subsection. As
27 an alternative to the foregoing procedure, any such contracting entity may
28 apply to the secretary of revenue for agent status for the sole purpose of
29 issuing and furnishing project exemption certificates to contractors pur-
30 suant to rules and regulations adopted by the secretary establishing con-
31 ditions and standards for the granting and maintaining of such status. All
32 invoices shall be held by the contractor for a period of five years and shall
33 be subject to audit by the director of taxation. Any contractor or any agent,
34 employee or subcontractor thereof, who shall use or otherwise dispose of
35 any materials purchased under such a certificate for any purpose other
36 than that for which such a certificate is issued without the payment of
37 the sales or compensating tax otherwise imposed upon such materials,
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
39 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
40 and amendments thereto;

41 (f) tangible personal property purchased by a railroad or public utility
42 for consumption or movement directly and immediately in interstate
43 commerce;

1 (g) ~~sales of aircraft including remanufactured and modified aircraft,~~
2 ~~sales of aircraft repair, modification and replacement parts and sales of~~
3 ~~services employed in the remanufacture, modification and repair of air-~~
4 ~~craft sold to persons using directly or through an authorized agent such~~
5 ~~aircraft and aircraft repair, modification and replacement parts as certified~~
6 ~~or licensed carriers of persons or property in interstate or foreign com-~~
7 ~~mmerce under authority of the laws of the United States or any foreign~~
8 ~~government or sold to any foreign government or agency or instrumen-~~
9 ~~tality of such foreign government and all sales of aircraft, aircraft parts,~~
10 ~~replacement parts and services employed in the remanufacture, modifi-~~
11 ~~cation and repair of aircraft for use outside of the United States;~~

12 ~~—(h) all rentals of nonsectarian textbooks by public or private elemen-~~
13 ~~tary or secondary schools;~~

14 ~~(i) (h) the lease or rental of all films, records, tapes, or any type of~~
15 ~~sound or picture transcriptions used by motion picture exhibitors;~~

16 ~~(j) (i) meals served without charge or food used in the preparation of~~
17 ~~such meals to employees of any restaurant, eating house, dining car, hotel,~~
18 ~~drugstore or other place where meals or drinks are regularly sold to the~~
19 ~~public if such employees' duties are related to the furnishing or sale of~~
20 ~~such meals or drinks;~~

21 ~~(k) any motor vehicle, semitrailer or pole trailer, as such terms are~~
22 ~~defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and~~
23 ~~delivered in this state to a bona fide resident of another state, which motor~~
24 ~~vehicle, semitrailer, pole trailer or aircraft is not to be registered or based~~
25 ~~in this state and which vehicle, semitrailer, pole trailer or aircraft will not~~
26 ~~remain in this state more than 10 days;~~

27 ~~—(l) (j) all isolated or occasional sales of tangible personal property,~~
28 ~~services, substances or things, except isolated or occasional sale of motor~~
29 ~~vehicles specifically taxed under the provisions of subsection (o) of K.S.A.~~
30 ~~79-3603 and amendments thereto;~~

31 ~~(m) (k) all sales of tangible personal property which become an in-~~
32 ~~gredient or component part of tangible personal property or services pro-~~
33 ~~duced, manufactured or compounded for ultimate sale at retail within or~~
34 ~~without the state of Kansas; and any such producer, manufacturer or~~
35 ~~compounder may obtain from the director of taxation and furnish to the~~
36 ~~supplier an exemption certificate number for tangible personal property~~
37 ~~for use as an ingredient or component part of the property or services~~
38 ~~produced, manufactured or compounded;~~

39 ~~(n) (l) all sales of tangible personal property which is consumed in~~
40 ~~the production, manufacture, processing, mining, drilling, refining or~~
41 ~~compounding of tangible personal property, the treating of by-products~~
42 ~~or wastes derived from any such production process, the providing of~~
43 ~~services or the irrigation of crops for ultimate sale at retail within or~~

1 without the state of Kansas; and any purchaser of such property may
2 obtain from the director of taxation and furnish to the supplier an ex-
3 emption certificate number for tangible personal property for consump-
4 tion in such production, manufacture, processing, mining, drilling, refin-
5 ing, compounding, treating, irrigation and in providing such services;

6 ~~(e)~~ (m) all sales of animals, fowl and aquatic plants and animals, the
7 primary purpose of which is use in agriculture or aquaculture, as defined
8 in K.S.A. 47-1901, and amendments thereto, the production of food for
9 human consumption, the production of animal, dairy, poultry or aquatic
10 plant and animal products, fiber or fur, or the production of offspring for
11 use for any such purpose or purposes;

12 ~~(f)~~ (n) all sales of drugs, as defined by K.S.A. 65-1626 and amend-
13 ments thereto, dispensed pursuant to a prescription order, as defined by
14 K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a
15 mid-level practitioner as defined by K.S.A. 65-1626, and amendments
16 thereto;

17 ~~(g)~~ (o) all sales of insulin dispensed by a person licensed by the state
18 board of pharmacy to a person for treatment of diabetes at the direction
19 of a person licensed to practice medicine by the board of healing arts;

20 ~~(h)~~ (p) all sales of prosthetic and orthopedic appliances prescribed in
21 writing by a person licensed to practice the healing arts, dentistry or
22 optometry. For the purposes of this subsection, the term prosthetic and
23 orthopedic appliances means any apparatus, instrument, device, or equip-
24 ment used to replace or substitute for any missing part of the body; used
25 to alleviate the malfunction of any part of the body; or used to assist any
26 disabled person in leading a normal life by facilitating such person's mo-
27 bility; such term shall include accessories attached or to be attached to
28 motor vehicles, but such term shall not include motor vehicles or personal
29 property which when installed becomes a fixture to real property;

30 ~~(i)~~ (q) except as provided in K.S.A. 2002 Supp. 82a-2101, and amend-
31 ments thereto, all sales of tangible personal property or services pur-
32 chased directly or indirectly by a groundwater management district or-
33 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and
34 amendments thereto, by a rural water district organized or operating un-
35 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
36 water supply district organized or operating under the authority of K.S.A.
37 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,
38 which property or services are used in the construction activities, opera-
39 tion or maintenance of the district;

40 ~~(j)~~ (r) all sales of farm machinery and equipment or aquaculture ma-
41 chinery and equipment, repair and replacement parts therefor and serv-
42 ices performed in the repair and maintenance of such machinery and
43 equipment. For the purposes of this subsection the term "farm machinery

1 and equipment or aquaculture machinery and equipment” shall include
2 machinery and equipment used in the operation of Christmas tree farm-
3 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
4 semitrailer or pole trailer, other than a farm trailer, as such terms are
5 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
6 farm machinery and equipment or aquaculture machinery and equipment
7 exempted herein must certify in writing on the copy of the invoice or
8 sales ticket to be retained by the seller that the farm machinery and
9 equipment or aquaculture machinery and equipment purchased will be
10 used only in farming, ranching or aquaculture production. Farming or
11 ranching shall include the operation of a feedlot and farm and ranch work
12 for hire and the operation of a nursery;

13 ~~(tt)~~ (s) all leases or rentals of tangible personal property used as a
14 dwelling if such tangible personal property is leased or rented for a period
15 of more than 28 consecutive days;

16 ~~(tv)~~ (t) all sales of food products to any contractor for use in preparing
17 meals for delivery to homebound elderly persons over 60 years of age and
18 to homebound disabled persons or to be served at a group-sitting at a
19 location outside of the home to otherwise homebound elderly persons
20 over 60 years of age and to otherwise homebound disabled persons, as
21 all or part of any food service project funded in whole or in part by
22 government or as part of a private nonprofit food service project available
23 to all such elderly or disabled persons residing within an area of service
24 designated by the private nonprofit organization, and all sales of food
25 products for use in preparing meals for consumption by indigent or home-
26 less individuals whether or not such meals are consumed at a place des-
27 ignated for such purpose;

28 ~~(tw)~~ (u) all sales of natural gas, electricity, heat and water delivered
29 through mains, lines or pipes: (1) To residential premises for noncom-
30 mercial use by the occupant of such premises; (2) for agricultural use and
31 also, for such use, all sales of propane gas; (3) for use in the severing of
32 oil; and (4) to any property which is exempt from property taxation pur-
33 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
34 “severing” shall have the meaning ascribed thereto by subsection (k) of
35 K.S.A. 79-4216, and amendments thereto;

36 ~~(tx)~~ (v) all sales of propane gas, LP-gas, coal, wood and other fuel
37 sources for the production of heat or lighting for noncommercial use of
38 an occupant of residential premises;

39 ~~(ty)~~ (w) all sales of materials and services used in the repairing, serv-
40 icing, altering, maintaining, manufacturing, remanufacturing, or modifi-
41 cation of railroad rolling stock for use in interstate or foreign commerce
42 under authority of the laws of the United States;

43 ~~(tz)~~ (x) all sales of tangible personal property and services purchased

1 directly by a port authority or by a contractor therefor as provided by the
2 provisions of K.S.A. 12-3418 and amendments thereto;

3 ~~(aa)~~ (y) all sales of materials and services applied to equipment which
4 is transported into the state from without the state for repair, service,
5 alteration, maintenance, remanufacture or modification and which is sub-
6 sequently transported outside the state for use in the transmission of
7 liquids or natural gas by means of pipeline in interstate or foreign com-
8 merce under authority of the laws of the United States;

9 ~~(bb)~~ (z) all sales of used mobile homes or manufactured homes. As
10 used in this subsection: (1) "Mobile homes" and "manufactured homes"
11 shall have the meanings ascribed thereto by K.S.A. 58-4202 and amend-
12 ments thereto; and (2) "sales of used mobile homes or manufactured
13 homes" means sales other than the original retail sale thereof;

14 ~~(cc)~~ (aa) all sales of tangible personal property or services purchased
15 for the purpose of and in conjunction with constructing, reconstructing,
16 enlarging or remodeling a business or retail business which meets the
17 requirements established in K.S.A. 74-50,115 and amendments thereto,
18 and the sale and installation of machinery and equipment purchased for
19 installation at any such business or retail business. When a person shall
20 contract for the construction, reconstruction, enlargement or remodeling
21 of any such business or retail business, such person shall obtain from the
22 state and furnish to the contractor an exemption certificate for the project
23 involved, and the contractor may purchase materials, machinery and
24 equipment for incorporation in such project. The contractor shall furnish
25 the number of such certificates to all suppliers from whom such purchases
26 are made, and such suppliers shall execute invoices covering the same
27 bearing the number of such certificate. Upon completion of the project
28 the contractor shall furnish to the owner of the business or retail business
29 a sworn statement, on a form to be provided by the director of taxation,
30 that all purchases so made were entitled to exemption under this subsec-
31 tion. All invoices shall be held by the contractor for a period of five years
32 and shall be subject to audit by the director of taxation. Any contractor
33 or any agent, employee or subcontractor thereof, who shall use or oth-
34 erwise dispose of any materials, machinery or equipment purchased un-
35 der such a certificate for any purpose other than that for which such a
36 certificate is issued without the payment of the sales or compensating tax
37 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
38 conviction therefor, shall be subject to the penalties provided for in sub-
39 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
40 subsection, "business" and "retail business" have the meanings respec-
41 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

42 ~~(dd)~~ (bb) all sales of tangible personal property purchased with food
43 stamps issued by the United States department of agriculture;

1 ~~(cc)~~ (cc) all sales of lottery tickets and shares made as part of a lottery
2 operated by the state of Kansas;

3 ~~(dd)~~ (dd) on and after July 1, 1988, all sales of new mobile homes or
4 manufactured homes to the extent of 40% of the gross receipts, deter-
5 mined without regard to any trade-in allowance, received from such sale.
6 As used in this subsection, “mobile homes” and “manufactured homes”
7 shall have the meanings ascribed thereto by K.S.A. 58-4202 and amend-
8 ments thereto;

9 ~~(ee)~~ (ee) all sales of tangible personal property purchased in accord-
10 ance with vouchers issued pursuant to the federal special supplemental
11 food program for women, infants and children;

12 ~~(ff)~~ (ff) all sales of medical supplies and equipment purchased di-
13 rectly by a nonprofit skilled nursing home or nonprofit intermediate nurs-
14 ing care home, as defined by K.S.A. 39-923, and amendments thereto,
15 for the purpose of providing medical services to residents thereof. This
16 exemption shall not apply to tangible personal property customarily used
17 for human habitation purposes;

18 ~~(gg)~~ (gg) all sales of tangible personal property purchased directly by
19 a nonprofit organization for nonsectarian comprehensive multidiscipline
20 youth development programs and activities provided or sponsored by
21 such organization, and all sales of tangible personal property by or on
22 behalf of any such organization. This exemption shall not apply to tangible
23 personal property customarily used for human habitation purposes;

24 ~~(hh)~~ (hh) all sales of tangible personal property or services, including
25 the renting and leasing of tangible personal property, purchased directly
26 on behalf of a community-based mental retardation facility or mental
27 health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amend-
28 ments thereto, and licensed in accordance with the provisions of K.S.A.
29 75-3307b and amendments thereto. This exemption shall not apply to
30 tangible personal property customarily used for human habitation
31 purposes;

32 ~~(ii)~~ (ii) (1) (A) all sales of machinery and equipment which are
33 used in this state as an integral or essential part of an integrated produc-
34 tion operation by a manufacturing or processing plant or facility;

35 (B) all sales of installation, repair and maintenance services per-
36 formed on such machinery and equipment; and

37 (C) all sales of repair and replacement parts and accessories pur-
38 chased for such machinery and equipment.

39 (2) For purposes of this subsection:

40 (A) “Integrated production operation” means an integrated series of
41 operations engaged in at a manufacturing or processing plant or facility
42 to process, transform or convert tangible personal property by physical,
43 chemical or other means into a different form, composition or character

1 from that in which it originally existed. Integrated production operations
2 shall include: (i) Production line operations, including packaging opera-
3 tions; (ii) preproduction operations to handle, store and treat raw mate-
4 rials; (iii) post production handling, storage, warehousing and distribution
5 operations; and (iv) waste, pollution and environmental control opera-
6 tions, if any;

7 (B) “production line” means the assemblage of machinery and equip-
8 ment at a manufacturing or processing plant or facility where the actual
9 transformation or processing of tangible personal property occurs;

10 (C) “manufacturing or processing plant or facility” means a single,
11 fixed location owned or controlled by a manufacturing or processing busi-
12 ness that consists of one or more structures or buildings in a contiguous
13 area where integrated production operations are conducted to manufac-
14 ture or process tangible personal property to be ultimately sold at retail.
15 Such term shall not include any facility primarily operated for the purpose
16 of conveying or assisting in the conveyance of natural gas, electricity, oil
17 or water. A business may operate one or more manufacturing or process-
18 ing plants or facilities at different locations to manufacture or process
19 a single product of tangible personal property to be ultimately sold at
20 retail;

21 (D) “manufacturing or processing business” means a business that
22 utilizes an integrated production operation to manufacture, process, fab-
23 ricate, finish, or assemble items for wholesale and retail distribution as
24 part of what is commonly regarded by the general public as an industrial
25 manufacturing or processing operation or an agricultural commodity
26 processing operation. (i) Industrial manufacturing or processing opera-
27 tions include, by way of illustration but not of limitation, the fabrication
28 of automobiles, airplanes, machinery or transportation equipment, the
29 fabrication of metal, plastic, wood, or paper products, electricity power
30 generation, water treatment, petroleum refining, chemical production,
31 wholesale bottling, newspaper printing, ready mixed concrete production,
32 and the remanufacturing of used parts for wholesale or retail sale. Such
33 processing operations shall include operations at an oil well, gas well, mine
34 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
35 or gravel that has been extracted from the earth is cleaned, separated,
36 crushed, ground, milled, screened, washed, or otherwise treated or pre-
37 pared before its transmission to a refinery or before any other wholesale
38 or retail distribution. (ii) Agricultural commodity processing operations
39 include, by way of illustration but not of limitation, meat packing, poultry
40 slaughtering and dressing, processing and packaging farm and dairy prod-
41 ucts in sealed containers for wholesale and retail distribution, feed grind-
42 ing, grain milling, frozen food processing, and grain handling, cleaning,
43 blending, fumigation, drying and aeration operations engaged in by grain

1 elevators or other grain storage facilities. (iii) Manufacturing or processing
2 businesses do not include, by way of illustration but not of limitation,
3 nonindustrial businesses whose operations are primarily retail and that
4 produce or process tangible personal property as an incidental part of
5 conducting the retail business, such as retailers who bake, cook or prepare
6 food products in the regular course of their retail trade, grocery stores,
7 meat lockers and meat markets that butcher or dress livestock or poultry
8 in the regular course of their retail trade, contractors who alter, service,
9 repair or improve real property, and retail businesses that clean, service
10 or refurbish and repair tangible personal property for its owner;

11 (E) “repair and replacement parts and accessories” means all parts
12 and accessories for exempt machinery and equipment, including, but not
13 limited to, dies, jigs, molds, patterns and safety devices that are attached
14 to exempt machinery or that are otherwise used in production, and parts
15 and accessories that require periodic replacement such as belts, drill bits,
16 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
17 other refractory items for exempt kiln equipment used in production
18 operations;

19 (F) “primary” or “primarily” mean more than 50% of the time.

20 (3) For purposes of this subsection, machinery and equipment shall
21 be deemed to be used as an integral or essential part of an integrated
22 production operation when used:

23 (A) To receive, transport, convey, handle, treat or store raw materials
24 in preparation of its placement on the production line;

25 (B) to transport, convey, handle or store the property undergoing
26 manufacturing or processing at any point from the beginning of the pro-
27 duction line through any warehousing or distribution operation of the
28 final product that occurs at the plant or facility;

29 (C) to act upon, effect, promote or otherwise facilitate a physical
30 change to the property undergoing manufacturing or processing;

31 (D) to guide, control or direct the movement of property undergoing
32 manufacturing or processing;

33 (E) to test or measure raw materials, the property undergoing man-
34 ufacturing or processing or the finished product, as a necessary part of
35 the manufacturer’s integrated production operations;

36 (F) to plan, manage, control or record the receipt and flow of inven-
37 tories of raw materials, consumables and component parts, the flow of
38 the property undergoing manufacturing or processing and the manage-
39 ment of inventories of the finished product;

40 (G) to produce energy for, lubricate, control the operating of or oth-
41 erwise enable the functioning of other production machinery and equip-
42 ment and the continuation of production operations;

43 (H) to package the property being manufactured or processed in a

1 container or wrapping in which such property is normally sold or
2 transported;

3 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
4 ilar substances used in production operations from the point of genera-
5 tion, if produced by the manufacturer or processor at the plant site, to
6 that manufacturer's production operation; or, if purchased or delivered
7 from offsite, from the point where the substance enters the site of the
8 plant or facility to that manufacturer's production operations;

9 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
10 oil, solvents or other substances that are used in production operations;

11 (K) to provide and control an environment required to maintain cer-
12 tain levels of air quality, humidity or temperature in special and limited
13 areas of the plant or facility, where such regulation of temperature or
14 humidity is part of and essential to the production process;

15 (L) to treat, transport or store waste or other byproducts of produc-
16 tion operations at the plant or facility; or

17 (M) to control pollution at the plant or facility where the pollution is
18 produced by the manufacturing or processing operation.

19 (4) The following machinery, equipment and materials shall be
20 deemed to be exempt even though it may not otherwise qualify as ma-
21 chinery and equipment used as an integral or essential part of an inte-
22 grated production operation: (A) Computers and related peripheral
23 equipment that are utilized by a manufacturing or processing business
24 for engineering of the finished product or for research and development
25 or product design; (B) machinery and equipment that is utilized by a
26 manufacturing or processing business to manufacture or rebuild tangible
27 personal property that is used in manufacturing or processing operations,
28 including tools, dies, molds, forms and other parts of qualifying machinery
29 and equipment; (C) portable plants for aggregate concrete, bulk cement
30 and asphalt including cement mixing drums to be attached to a motor
31 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
32 dations necessary for manufacturing and production operations, and ma-
33 terials and other tangible personal property sold for the purpose of fab-
34 ricating such fixtures, devices, facilities and foundations. An exemption
35 certificate for such purchases shall be signed by the manufacturer or
36 processor. If the fabricator purchases such material, the fabricator shall
37 also sign the exemption certificate; and (E) a manufacturing or processing
38 business' laboratory equipment that is not located at the plant or facility,
39 but that would otherwise qualify for exemption under subsection (3)(E).

40 (5) "Machinery and equipment used as an integral or essential part
41 of an integrated production operation" shall not include:

42 (A) Machinery and equipment used for nonproduction purposes, in-
43 cluding, but not limited to, machinery and equipment used for plant se-

1 curity, fire prevention, first aid, accounting, administration, record keep-
2 ing, advertising, marketing, sales or other related activities, plant cleaning,
3 plant communications, and employee work scheduling;

4 (B) machinery, equipment and tools used primarily in maintaining
5 and repairing any type of machinery and equipment or the building and
6 plant;

7 (C) transportation, transmission and distribution equipment not pri-
8 marily used in a production, warehousing or material handling operation
9 at the plant or facility, including the means of conveyance of natural gas,
10 electricity, oil or water, and equipment related thereto, located outside
11 the plant or facility;

12 (D) office machines and equipment including computers and related
13 peripheral equipment not used directly and primarily to control or mea-
14 sure the manufacturing process;

15 (E) furniture and other furnishings;

16 (F) buildings, other than exempt machinery and equipment that is
17 permanently affixed to or becomes a physical part of the building, and
18 any other part of real estate that is not otherwise exempt;

19 (G) building fixtures that are not integral to the manufacturing op-
20 eration, such as utility systems for heating, ventilation, air conditioning,
21 communications, plumbing or electrical;

22 (H) machinery and equipment used for general plant heating, cooling
23 and lighting;

24 (I) motor vehicles that are registered for operation on public high-
25 ways; or

26 (J) employee apparel, except safety and protective apparel that is pur-
27 chased by an employer and furnished gratuitously to employees who are
28 involved in production or research activities.

29 (6) Subsections (3) and (5) shall not be construed as exclusive listings
30 of the machinery and equipment that qualify or do not qualify as an
31 integral or essential part of an integrated production operation. When
32 machinery or equipment is used as an integral or essential part of pro-
33 duction operations part of the time and for nonproduction purpose at
34 other times, the primary use of the machinery or equipment shall deter-
35 mine whether or not such machinery or equipment qualifies for
36 exemption.

37 (7) The secretary of revenue shall adopt rules and regulations nec-
38 essary to administer the provisions of this subsection;

39 ~~(H)~~ (jj) all sales of educational materials purchased for distribution to
40 the public at no charge by a nonprofit corporation organized for the pur-
41 pose of encouraging, fostering and conducting programs for the improve-
42 ment of public health;

43 ~~(mm)~~ (kk) all sales of seeds and tree seedlings; fertilizers, insecticides,

- 1 herbicides, germicides, pesticides and fungicides; and services, purchased
2 and used for the purpose of producing plants in order to prevent soil
3 erosion on land devoted to agricultural use;
- 4 ~~(mm)~~ (ll) except as otherwise provided in this act, all sales of services
5 rendered by an advertising agency or licensed broadcast station or any
6 member, agent or employee thereof;
- 7 ~~(oo)~~ (mm) all sales of tangible personal property purchased by a com-
8 munity action group or agency for the exclusive purpose of repairing or
9 weatherizing housing occupied by low income individuals;
- 10 ~~(pp)~~ (nn) all sales of drill bits and explosives actually utilized in the
11 exploration and production of oil or gas;
- 12 ~~(qq)~~ (oo) all sales of tangible personal property and services pur-
13 chased by a nonprofit museum or historical society or any combination
14 thereof, including a nonprofit organization which is organized for the
15 purpose of stimulating public interest in the exploration of space by pro-
16 viding educational information, exhibits and experiences, which is exempt
17 from federal income taxation pursuant to section 501(c)(3) of the federal
18 internal revenue code of 1986;
- 19 ~~(rr)~~ (pp) all sales of tangible personal property which will admit the
20 purchaser thereof to any annual event sponsored by a nonprofit organi-
21 zation which is exempt from federal income taxation pursuant to section
22 501(c)(3) of the federal internal revenue code of 1986;
- 23 ~~(ss)~~ (qq) all sales of tangible personal property and services purchased
24 by a public broadcasting station licensed by the federal communications
25 commission as a noncommercial educational television or radio station;
- 26 ~~(tt)~~ (rr) all sales of tangible personal property and services purchased
27 by or on behalf of a not-for-profit corporation which is exempt from fed-
28 eral income taxation pursuant to section 501(c)(3) of the federal internal
29 revenue code of 1986, for the sole purpose of constructing a Kansas Ko-
30 rean War memorial;
- 31 ~~(uu)~~ (ss) all sales of tangible personal property and services purchased
32 by or on behalf of any rural volunteer fire-fighting organization for use
33 exclusively in the performance of its duties and functions;
- 34 ~~(vv)~~ (tt) all sales of tangible personal property purchased by any of
35 the following organizations which are exempt from federal income taxa-
36 tion pursuant to section 501 (c)(3) of the federal internal revenue code
37 of 1986, for the following purposes, and all sales of any such property by
38 or on behalf of any such organization for any such purpose:
- 39 (1) The American Heart Association, Kansas Affiliate, Inc. for the
40 purposes of providing education, training, certification in emergency car-
41 diac care, research and other related services to reduce disability and
42 death from cardiovascular diseases and stroke;
- 43 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of

1 advocacy for persons with mental illness and to education, research and
2 support for their families;

3 (3) the Kansas Mental Illness Awareness Council for the purposes of
4 advocacy for persons who are mentally ill and to education, research and
5 support for them and their families;

6 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
7 purpose of eliminating diabetes through medical research, public edu-
8 cation focusing on disease prevention and education, patient education
9 including information on coping with diabetes, and professional education
10 and training;

11 (5) the American Lung Association of Kansas, Inc. for the purpose of
12 eliminating all lung diseases through medical research, public education
13 including information on coping with lung diseases, professional educa-
14 tion and training related to lung disease and other related services to
15 reduce the incidence of disability and death due to lung disease;

16 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
17 orders Association, Inc. for the purpose of providing assistance and sup-
18 port to persons in Kansas with Alzheimer's disease, and their families and
19 caregivers;

20 (7) the Kansas chapters of the Parkinson's disease association for the
21 purpose of eliminating Parkinson's disease through medical research and
22 public and professional education related to such disease; and

23 (8) the National Kidney Foundation of Kansas and Western Missouri
24 for the purpose of eliminating kidney disease through medical research
25 and public and private education related to such disease;

26 ~~(ww)~~ (uu) all sales of tangible personal property purchased by the
27 Habitat for Humanity for the exclusive use of being incorporated within
28 a housing project constructed by such organization;

29 ~~(xx)~~ (vv) all sales of tangible personal property and services purchased
30 by a nonprofit zoo which is exempt from federal income taxation pursuant
31 to section 501(c)(3) of the federal internal revenue code of 1986, or on
32 behalf of such zoo by an entity itself exempt from federal income taxation
33 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
34 contracted with to operate such zoo and all sales of tangible personal
35 property or services purchased by a contractor for the purpose of con-
36 structing, equipping, reconstructing, maintaining, repairing, enlarging,
37 furnishing or remodeling facilities for any nonprofit zoo which would be
38 exempt from taxation under the provisions of this section if purchased
39 directly by such nonprofit zoo or the entity operating such zoo. Nothing
40 in this subsection shall be deemed to exempt the purchase of any con-
41 struction machinery, equipment or tools used in the constructing, equip-
42 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
43 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall

1 contract for the purpose of constructing, equipping, reconstructing, main-
2 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
3 obtain from the state and furnish to the contractor an exemption certifi-
4 cate for the project involved, and the contractor may purchase materials
5 for incorporation in such project. The contractor shall furnish the number
6 of such certificate to all suppliers from whom such purchases are made,
7 and such suppliers shall execute invoices covering the same bearing the
8 number of such certificate. Upon completion of the project the contractor
9 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
10 to be provided by the director of taxation, that all purchases so made were
11 entitled to exemption under this subsection. All invoices shall be held by
12 the contractor for a period of five years and shall be subject to audit by
13 the director of taxation. If any materials purchased under such a certifi-
14 cate are found not to have been incorporated in the building or other
15 project or not to have been returned for credit or the sales or compen-
16 sating tax otherwise imposed upon such materials which will not be so
17 incorporated in the building or other project reported and paid by such
18 contractor to the director of taxation not later than the 20th day of the
19 month following the close of the month in which it shall be determined
20 that such materials will not be used for the purpose for which such cer-
21 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
22 all materials purchased for the project, and upon payment thereof it may
23 recover the same from the contractor together with reasonable attorney
24 fees. Any contractor or any agent, employee or subcontractor thereof,
25 who shall use or otherwise dispose of any materials purchased under such
26 a certificate for any purpose other than that for which such a certificate
27 is issued without the payment of the sales or compensating tax otherwise
28 imposed upon such materials, shall be guilty of a misdemeanor and, upon
29 conviction therefor, shall be subject to the penalties provided for in sub-
30 section (g) of K.S.A. 79-3615, and amendments thereto;

31 ~~(yy)~~ (ww) all sales of tangible personal property and services pur-
32 chased by a parent-teacher association or organization, and all sales of
33 tangible personal property by or on behalf of such association or
34 organization;

35 ~~(zz)~~ (xx) all sales of machinery and equipment purchased by over-the-
36 air, free access radio or television station which is used directly and pri-
37 marily for the purpose of producing a broadcast signal or is such that the
38 failure of the machinery or equipment to operate would cause broad-
39 casting to cease. For purposes of this subsection, machinery and equip-
40 ment shall include, but not be limited to, that required by rules and
41 regulations of the federal communications commission, and all sales of
42 electricity which are essential or necessary for the purpose of producing
43 a broadcast signal or is such that the failure of the electricity would cause

1 broadcasting to cease;
2 ~~(aaa)~~ (yy) all sales of tangible personal property and services pur-
3 chased by a religious organization which is exempt from federal income
4 taxation pursuant to section 501(c)(3) of the federal internal revenue
5 code, and used exclusively for religious purposes, and all sales of tangible
6 personal property or services purchased by a contractor for the purpose
7 of constructing, equipping, reconstructing, maintaining, repairing, en-
8 larging, furnishing or remodeling facilities for any such organization which
9 would be exempt from taxation under the provisions of this section if
10 purchased directly by such organization. Nothing in this subsection shall
11 be deemed to exempt the purchase of any construction machinery, equip-
12 ment or tools used in the constructing, equipping, reconstructing, main-
13 taining, repairing, enlarging, furnishing or remodeling facilities for any
14 such organization. When any such organization shall contract for the pur-
15 pose of constructing, equipping, reconstructing, maintaining, repairing,
16 enlarging, furnishing or remodeling facilities, it shall obtain from the state
17 and furnish to the contractor an exemption certificate for the project
18 involved, and the contractor may purchase materials for incorporation in
19 such project. The contractor shall furnish the number of such certificate
20 to all suppliers from whom such purchases are made, and such suppliers
21 shall execute invoices covering the same bearing the number of such
22 certificate. Upon completion of the project the contractor shall furnish to
23 such organization concerned a sworn statement, on a form to be provided
24 by the director of taxation, that all purchases so made were entitled to
25 exemption under this subsection. All invoices shall be held by the con-
26 tractor for a period of five years and shall be subject to audit by the
27 director of taxation. If any materials purchased under such a certificate
28 are found not to have been incorporated in the building or other project
29 or not to have been returned for credit or the sales or compensating tax
30 otherwise imposed upon such materials which will not be so incorporated
31 in the building or other project reported and paid by such contractor to
32 the director of taxation not later than the 20th day of the month following
33 the close of the month in which it shall be determined that such materials
34 will not be used for the purpose for which such certificate was issued,
35 such organization concerned shall be liable for tax on all materials pur-
36 chased for the project, and upon payment thereof it may recover the same
37 from the contractor together with reasonable attorney fees. Any contrac-
38 tor or any agent, employee or subcontractor thereof, who shall use or
39 otherwise dispose of any materials purchased under such a certificate for
40 any purpose other than that for which such a certificate is issued without
41 the payment of the sales or compensating tax otherwise imposed upon
42 such materials, shall be guilty of a misdemeanor and, upon conviction
43 therefor, shall be subject to the penalties provided for in subsection (g)

1 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
2 July 1, 1998, but prior to the effective date of this act upon the gross
3 receipts received from any sale exempted by the amendatory provisions
4 of this subsection shall be refunded. Each claim for a sales tax refund
5 shall be verified and submitted to the director of taxation upon forms
6 furnished by the director and shall be accompanied by any additional
7 documentation required by the director. The director shall review each
8 claim and shall refund that amount of sales tax paid as determined under
9 the provisions of this subsection. All refunds shall be paid from the sales
10 tax refund fund upon warrants of the director of accounts and reports
11 pursuant to vouchers approved by the director or the director's designee;
12 ~~(bb)~~ (zz) all sales of food for human consumption by an organization
13 which is exempt from federal income taxation pursuant to section 501
14 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
15 distribution program which offers such food at a price below cost in
16 exchange for the performance of community service by the purchaser
17 thereof;

18 ~~(cc)~~ (aaa) on and after July 1, 1999, all sales of tangible personal
19 property and services purchased by a primary care clinic or health center
20 the primary purpose of which is to provide services to medically under-
21 served individuals and families, and which is exempt from federal income
22 taxation pursuant to section 501 (c)(3) of the federal internal revenue
23 code, and all sales of tangible personal property or services purchased by
24 a contractor for the purpose of constructing, equipping, reconstructing,
25 maintaining, repairing, enlarging, furnishing or remodeling facilities for
26 any such clinic or center which would be exempt from taxation under the
27 provisions of this section if purchased directly by such clinic or center.
28 Nothing in this subsection shall be deemed to exempt the purchase of
29 any construction machinery, equipment or tools used in the constructing,
30 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
31 or remodeling facilities for any such clinic or center. When any such clinic
32 or center shall contract for the purpose of constructing, equipping, re-
33 constructing, maintaining, repairing, enlarging, furnishing or remodeling
34 facilities, it shall obtain from the state and furnish to the contractor an
35 exemption certificate for the project involved, and the contractor may
36 purchase materials for incorporation in such project. The contractor shall
37 furnish the number of such certificate to all suppliers from whom such
38 purchases are made, and such suppliers shall execute invoices covering
39 the same bearing the number of such certificate. Upon completion of the
40 project the contractor shall furnish to such clinic or center concerned a
41 sworn statement, on a form to be provided by the director of taxation,
42 that all purchases so made were entitled to exemption under this subsec-
43 tion. All invoices shall be held by the contractor for a period of five years

1 and shall be subject to audit by the director of taxation. If any materials
2 purchased under such a certificate are found not to have been incorpo-
3 rated in the building or other project or not to have been returned for
4 credit or the sales or compensating tax otherwise imposed upon such
5 materials which will not be so incorporated in the building or other pro-
6 ject reported and paid by such contractor to the director of taxation not
7 later than the 20th day of the month following the close of the month in
8 which it shall be determined that such materials will not be used for the
9 purpose for which such certificate was issued, such clinic or center con-
10 cerned shall be liable for tax on all materials purchased for the project,
11 and upon payment thereof it may recover the same from the contractor
12 together with reasonable attorney fees. Any contractor or any agent, em-
13 ployee or subcontractor thereof, who shall use or otherwise dispose of
14 any materials purchased under such a certificate for any purpose other
15 than that for which such a certificate is issued without the payment of
16 the sales or compensating tax otherwise imposed upon such materials,
17 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
18 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
19 and amendments thereto;

20 ~~(ddd)~~ (bbb) on and after January 1, 1999, and before January 1, 2000,
21 all sales of materials and services purchased by any class II or III railroad
22 as classified by the federal surface transportation board for the construc-
23 tion, renovation, repair or replacement of class II or III railroad track and
24 facilities used directly in interstate commerce. In the event any such track
25 or facility for which materials and services were purchased sales tax ex-
26 empt is not operational for five years succeeding the allowance of such
27 exemption, the total amount of sales tax which would have been payable
28 except for the operation of this subsection shall be recouped in accord-
29 ance with rules and regulations adopted for such purpose by the secretary
30 of revenue;

31 ~~(eee)~~ (ccc) on and after January 1, 1999, and before January 1, 2001,
32 all sales of materials and services purchased for the original construction,
33 reconstruction, repair or replacement of grain storage facilities, including
34 railroad sidings providing access thereto;

35 ~~(fff)~~ (ddd) all sales of material handling equipment, racking systems
36 and other related machinery and equipment that is used for the handling,
37 movement or storage of tangible personal property in a warehouse or
38 distribution facility in this state; all sales of installation, repair and main-
39 tenance services performed on such machinery and equipment; and all
40 sales of repair and replacement parts for such machinery and equipment.
41 For purposes of this subsection, a warehouse or distribution facility means
42 a single, fixed location that consists of buildings or structures in a contig-
43 uous area where storage or distribution operations are conducted that are

1 separate and apart from the business' retail operations, if any, and which
2 do not otherwise qualify for exemption as occurring at a manufacturing
3 or processing plant or facility. Material handling and storage equipment
4 shall include aeration, dust control, cleaning, handling and other such
5 equipment that is used in a public grain warehouse or other commercial
6 grain storage facility, whether used for grain handling, grain storage, grain
7 refining or processing, or other grain treatment operation; and

8 ~~(eee)~~ (eee) all sales of tangible personal property and services pur-
9 chased by or on behalf of the Kansas Academy of Science which is exempt
10 from federal income taxation pursuant to section 501(c)(3) of the federal
11 internal revenue code of 1986, and used solely by such academy for the
12 preparation, publication and dissemination of education materials.

13 Sec. 3. K.S.A. 2002 Supp. 79-3603 and 79-3606 are hereby repealed.

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

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