

HOUSE BILL No. 2421

By Committee on Taxation

2-28

AN ACT concerning taxation; relating to imposition of sales tax on rendering or furnishing of all services; eliminating sales tax exemptions; amending K.S.A. 2002 Supp. 79-3602, 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. 79-3602 is hereby amended to read as follows: 79-3602. (a) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(b) "Director" means the state director of taxation.

(c) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(d) "Retailer" means a person regularly engaged in the business of selling tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale.

(e) "Retail sale" or "sale at retail" means all sales made within the state of tangible personal property or electrical energy, gas, water, services or entertainment for use or consumption and not for resale.

(f) "Tangible personal property" means corporeal personal property. Such term shall include: (1) Any computer software program which is not a custom computer software program, as described by subsection (s) of

1 K.S.A. 79-3603, and amendments thereto; and (2) any prepaid telephone
2 calling card or prepaid authorization number, or recharge of such card
3 or number, as described by subsection (b) of K.S.A. 79-3603, and amend-
4 ments thereto.

5 (g) “Selling price” means the total cost to the consumer exclusive of
6 discounts allowed and credited, but including freight and transportation
7 charges from retailer to consumer.

8 (h) “Gross receipts” means the total selling price or the amount re-
9 ceived as defined in this act, in money, credits, property or other consid-
10 eration valued in money from sales at retail within this state; and em-
11 braced within the provisions of this act. The taxpayer, may take credit in
12 the report of gross receipts for: (1) An amount equal to the selling price
13 of property returned by the purchaser when the full sale price thereof,
14 including the tax collected, is refunded in cash or by credit; and (2) an
15 amount equal to the allowance given for the trade-in of property.

16 (i) “Taxpayer” means any person obligated to account to the director
17 for taxes collected under the terms of this act.

18 (j) “Isolated or occasional sale” means the nonrecurring sale of tan-
19 gible personal property, or services taxable hereunder by a person not
20 engaged at the time of such sale in the business of selling such property
21 or services. Any religious organization which makes a nonrecurring sale
22 of tangible personal property acquired for the purpose of resale shall be
23 deemed to be not engaged at the time of such sale in the business of
24 selling such property. Such term shall include: (1) Any sale by a bank,
25 savings and loan institution, credit union or any finance company licensed
26 under the provisions of the Kansas uniform consumer credit code of tan-
27 gible personal property which has been repossessed by any such entity;
28 and (2) any sale of tangible personal property made by an auctioneer or
29 agent on behalf of not more than two principals or households if such
30 sale is nonrecurring and any such principal or household is not engaged
31 at the time of such sale in the business of selling tangible personal
32 property.

33 (k) ~~“Service” means those services described in and taxed under the~~
34 ~~provisions of K.S.A. 79-3603 and amendments thereto.~~

35 ~~(l)~~ “Ingredient or component part” means tangible personal property
36 which is necessary or essential to, and which is actually used in and be-
37 comes an integral and material part of tangible personal property or serv-
38 ices produced, manufactured or compounded for sale by the producer,
39 manufacturer or compounder in its regular course of business. The fol-
40 lowing items of tangible personal property are hereby declared to be
41 ingredients or component parts, but the listing of such property shall not
42 be deemed to be exclusive nor shall such listing be construed to be a
43 restriction upon, or an indication of, the type or types of property to be

1 included within the definition of “ingredient or component part” as
2 herein set forth:

3 (1) Containers, labels and shipping cases used in the distribution of
4 property produced, manufactured or compounded for sale which are not
5 to be returned to the producer, manufacturer or compounder for reuse.

6 (2) Containers, labels, shipping cases, paper bags, drinking straws,
7 paper plates, paper cups, twine and wrapping paper used in the distri-
8 bution and sale of property taxable under the provisions of this act by
9 wholesalers and retailers and which is not to be returned to such whole-
10 saler or retailer for reuse.

11 (3) Seeds and seedlings for the production of plants and plant prod-
12 ucts produced for resale.

13 (4) Paper and ink used in the publication of newspapers.

14 (5) Fertilizer used in the production of plants and plant products
15 produced for resale.

16 (6) Feed for animals, fowl and aquatic plants and animals, the primary
17 purpose of which is use in agriculture or aquaculture, as defined in K.S.A.
18 47-1901, and amendments thereto, the production of food for human
19 consumption, the production of animal, dairy, poultry or aquatic plant
20 and animal products, fiber, fur, or the production of offspring for use for
21 any such purpose or purposes.

22 ~~(n)~~ (l) “Property which is consumed” means tangible personal prop-
23 erty which is essential or necessary to and which is used in the actual
24 process of and consumed, depleted or dissipated within one year in (1)
25 the production, manufacture, processing, mining, drilling, refining or
26 compounding of tangible personal property, (2) the providing of services,
27 (3) the irrigation of crops, for sale in the regular course of business, or
28 (4) the storage or processing of grain by a public grain warehouse or other
29 grain storage facility, and which is not reusable for such purpose. The
30 following is a listing of tangible personal property, included by way of
31 illustration but not of limitation, which qualifies as property which is
32 consumed:

33 (A) Insecticides, herbicides, germicides, pesticides, fungicides, fu-
34 migants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals
35 for use in commercial or agricultural production, processing or storage of
36 fruit, vegetables, feeds, seeds, grains, animals or animal products whether
37 fed, injected, applied, combined with or otherwise used;

38 (B) electricity, gas and water; and

39 (C) petroleum products, lubricants, chemicals, solvents, reagents and
40 catalysts.

41 ~~(n)~~ (m) “Political subdivision” means any municipality, agency or sub-
42 division of the state which is, or shall hereafter be, authorized to levy taxes
43 upon tangible property within the state or which certifies a levy to a

1 municipality, agency or subdivision of the state which is, or shall hereafter
2 be, authorized to levy taxes upon tangible property within the state. Such
3 term also shall include any public building commission, housing, airport,
4 port, metropolitan transit or similar authority established pursuant to law.

5 ~~(n)~~ (n) "Municipal corporation" means any city incorporated under
6 the laws of Kansas.

7 ~~(o)~~ (o) "Quasi-municipal corporation" means any county, township,
8 school district, drainage district or any other governmental subdivision in
9 the state of Kansas having authority to receive or hold moneys or funds.

10 ~~(p)~~ (p) "Nonprofit blood bank" means any nonprofit place, organi-
11 zation, institution or establishment that is operated wholly or in part for
12 the purpose of obtaining, storing, processing, preparing for transfusing,
13 furnishing, donating or distributing human blood or parts or fractions of
14 single blood units or products derived from single blood units, whether
15 or not any remuneration is paid therefor, or whether such procedures are
16 done for direct therapeutic use or for storage for future use of such
17 products.

18 ~~(q)~~ (q) "Educational institution" means any nonprofit school, college
19 and university that offers education at a level above the twelfth grade,
20 and conducts regular classes and courses of study required for accredi-
21 tation by, or membership in, the North Central Association of Colleges
22 and Schools, the state board of education, or that otherwise qualify as an
23 "educational institution," as defined by K.S.A. 74-50,103, and amend-
24 ments thereto. Such phrase shall include: (1) A group of educational in-
25 stitutions that operates exclusively for an educational purpose; (2) non-
26 profit endowment associations and foundations organized and operated
27 exclusively to receive, hold, invest and administer moneys and property
28 as a permanent fund for the support and sole benefit of an educational
29 institution; (3) nonprofit trusts, foundations and other entities organized
30 and operated principally to hold and own receipts from intercollegiate
31 sporting events and to disburse such receipts, as well as grants and gifts,
32 in the interest of collegiate and intercollegiate athletic programs for the
33 support and sole benefit of an educational institution; and (4) nonprofit
34 trusts, foundations and other entities organized and operated for the pri-
35 mary purpose of encouraging, fostering and conducting scholarly inves-
36 tigation and industrial and other types of research for the support and
37 sole benefit of an educational institution.

38 Sec. 2. K.S.A. 2002 Supp. 79-3603 is hereby amended to read as
39 follows: 79-3603. *Unless specifically made exempt from the tax imposed*
40 *by this act*, for the privilege of engaging in the business of selling tangible
41 personal property at retail in this state or rendering or furnishing any of
42 the services taxable under this act, ~~whether specifically provided for in~~
43 *this section or otherwise*, there is hereby levied and there shall be col-

1 lected and paid a tax at the rate of 5.3% on and after July 1, 2002, and
2 before July 1, 2004, 5.2% on and after July 1, 2004, and before July 1,
3 2005, and 5% on and after July 1, 2005, and, within a redevelopment
4 district established pursuant to K.S.A. 74-8921, and amendments thereto,
5 there is hereby levied and there shall be collected and paid an additional
6 tax at the rate of 2% until the earlier of the date the bonds issued to
7 finance or refinance the redevelopment project have been paid in full or
8 the final scheduled maturity of the first series of bonds issued to finance
9 any part of the project upon:

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

12 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
13 ices; (2) the gross receipts received from the sale of interstate telephone
14 or telegraph services, which (A) originate within this state and terminate
15 outside the state and are billed to a customer's telephone number or
16 account in this state; or (B) originate outside this state and terminate
17 within this state and are billed to a customer's telephone number or ac-
18 count in this state ~~except that the sale of interstate telephone or telegraph~~
19 ~~service does not include: (A) Any interstate incoming or outgoing wide~~
20 ~~area telephone service or wide area transmission type service which en-~~
21 ~~titles the subscriber to make or receive an unlimited number of com-~~
22 ~~munications to or from persons having telephone service in a specified~~
23 ~~area which is outside the state in which the station provided this service~~
24 ~~is located; (B) any interstate private communications service to the per-~~
25 ~~sons contracting for the receipt of that service that entitles the purchaser~~
26 ~~to exclusive or priority use of a communications channel or group of~~
27 ~~channels between exchanges; (C) any value-added nonvoice service in~~
28 ~~which computer processing applications are used to act on the form, con-~~
29 ~~tent, code or protocol of the information to be transmitted; (D) any tel-~~
30 ~~ecommunication service to a provider of telecommunication services~~
31 ~~which will be used to render telecommunications services, including ear-~~
32 ~~rier access services; or (E) any service or transaction defined in this sec-~~
33 ~~tion among entities classified as members of an affiliated group as pro-~~
34 ~~vided by section 1504 of the federal internal revenue code of 1986, as in~~
35 ~~effect on January 1, 2001. For the purposes of this subsection the term~~
36 gross receipts does not include purchases of telephone, telegraph or tel-
37 ecommunications using a prepaid telephone calling card or prepaid au-
38 thorization number. As used in this subsection, a prepaid telephone call-
39 ing card or prepaid authorization number means the right to exclusively
40 make telephone calls, paid for in advance, that enables the origination of
41 calls using an access number or authorization code or both, whether man-
42 ually or electronically dialed; and (3) the gross receipts from the provision
43 of services taxable under this subsection which are billed on a combined

1 basis with nontaxable services, shall be accounted for and the tax remitted
2 as follows: The taxable portion of the selling price of those combined
3 services shall include only those charges for taxable services if the selling
4 price for the taxable services can be readily distinguishable in the retailer's
5 books and records from the selling price for the nontaxable services. Oth-
6 erwise, the gross receipts from the sale of both taxable and nontaxable
7 services billed on a combined basis shall be deemed attributable to the
8 taxable services included therein. Within 90 days of billing taxable services
9 on a combined basis with nontaxable services, the retailer shall enter into
10 a written agreement with the secretary identifying the methodology to be
11 used in determining the taxable portion of the selling price of those com-
12 bined services. The burden of proving that any receipt or charge is not
13 taxable shall be upon the retailer. Upon request from the customer, the
14 retailer shall disclose to the customer the selling price for the taxable
15 services included in the selling price for the taxable and nontaxable serv-
16 ices billed on a combined basis;

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

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

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

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

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

1 (h) the gross receipts from the service of renting or leasing of tangible
2 personal property ~~except such tax shall not apply to the renting or leasing~~
3 ~~of machinery, equipment or other personal property owned by a city and~~
4 ~~purchased from the proceeds of industrial revenue bonds issued prior to~~
5 ~~July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through~~
6 ~~12-1749, and amendments thereto, and any city or lessee renting or leas-~~
7 ~~ing such machinery, equipment or other personal property purchased~~
8 ~~with the proceeds of such bonds who shall have paid a tax under the~~
9 ~~provisions of this section upon sales made prior to July 1, 1973, shall be~~
10 ~~entitled to a refund from the sales tax refund fund of all taxes paid~~
11 ~~thereon;~~

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

15 (j) the gross receipts from the rendering of the services of washing
16 and washing and waxing of vehicles;

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

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

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

31 (m) the gross receipts received from fees and charges by public and
32 private clubs, drinking establishments, organizations and businesses for
33 participation in sports, games and other recreational activities, ~~but such~~
34 ~~tax shall not be levied and collected upon the gross receipts received from:~~
35 ~~(1) Fees and charges by any political subdivision, by any organization~~
36 ~~exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-~~
37 ~~201, and amendments thereto, or by any youth recreation organization~~
38 ~~exclusively providing services to persons 18 years of age or younger which~~
39 ~~is exempt from federal income taxation pursuant to section 501(c)(3) of~~
40 ~~the federal internal revenue code of 1986, for participation in sports,~~
41 ~~games and other recreational activities; and (2) entry fees and charges for~~
42 ~~participation in a special event or tournament sanctioned by a national~~
43 ~~sporting association to which spectators are charged an admission which~~

1 ~~is taxable pursuant to subsection (c);~~

2 (n) the gross receipts received from dues charged by public and pri-
3 vate clubs, drinking establishments, organizations and businesses, pay-
4 ment of which entitles a member to the use of facilities for recreation or
5 entertainment, ~~but such tax shall not be levied and collected upon the~~
6 ~~gross receipts received from: (1) Dues charged by any organization ex-~~
7 ~~empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of~~
8 ~~K.S.A. 79-201, and amendments thereto; and (2) sales of memberships~~
9 ~~in a nonprofit organization which is exempt from federal income taxation~~
10 ~~pursuant to section 501 (c)(3) of the federal internal revenue code of~~
11 ~~1986, and whose purpose is to support the operation of a nonprofit zoo;~~

12 (o) the gross receipts received from the isolated or occasional sale of
13 motor vehicles or trailers ~~but not including: (1) The transfer of motor~~
14 ~~vehicles or trailers by a person to a corporation or limited liability com-~~
15 ~~pany solely in exchange for stock securities or membership interest in~~
16 ~~such corporation or limited liability company; or (2) the transfer of motor~~
17 ~~vehicles or trailers by one corporation or limited liability company to~~
18 ~~another when all of the assets of such corporation or limited liability~~
19 ~~company are transferred to such other corporation or limited liability~~
20 ~~company; or (3) the sale of motor vehicles or trailers which are subject~~
21 ~~to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and~~
22 ~~amendments thereto, by an immediate family member to another im-~~
23 ~~mediate family member. For the purposes of clause (3), immediate family~~
24 ~~member means lineal ascendants or descendants, and their spouses. In~~
25 ~~determining the base for computing the tax on such isolated or occasional~~
26 ~~sale, the fair market value of any motor vehicle or trailer traded in by the~~
27 ~~purchaser to the seller may be deducted from the selling price;~~

28 (p) the gross receipts received for the service of installing or applying
29 tangible personal property which when installed or applied is not being
30 held for sale in the regular course of business, and whether or not such
31 tangible personal property when installed or applied remains tangible
32 personal property or becomes a part of real estate, ~~except that no tax shall~~
33 ~~be imposed upon the service of installing or applying tangible personal~~
34 ~~property in connection with the original construction of a building or~~
35 ~~facility, the original construction, reconstruction, restoration, remodeling,~~
36 ~~renovation, repair or replacement of a residence or the construction, re-~~
37 ~~construction, restoration, replacement or repair of a bridge or highway.~~

38 — For the purposes of this subsection:

39 — (1) — “Original construction” shall mean the first or initial construction
40 of a new building or facility. The term “original construction” shall include
41 the addition of an entire room or floor to any existing building or facility,
42 the completion of any unfinished portion of any existing building or fa-
43 cility and the restoration, reconstruction or replacement of a building or

1 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
2 or earthquake, but such term, except with regard to a residence, shall not
3 include replacement, remodeling, restoration, renovation or reconstruc-
4 tion under any other circumstances;

5 —(2) “building” shall mean only those enclosures within which individ-
6 uals customarily are employed, or which are customarily used to house
7 machinery, equipment or other property, and including the land improve-
8 ments immediately surrounding such building;

9 —(3) “facility” shall mean a mill, plant, refinery, oil or gas well, water
10 well, feedlot or any conveyance, transmission or distribution line of any
11 cooperative, nonprofit, membership corporation organized under or sub-
12 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,
13 or of any municipal or quasi-municipal corporation, including the land
14 improvements immediately surrounding such facility; and

15 —(4) “residence” shall mean only those enclosures within which indi-
16 viduals customarily live;

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

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

28 (s) the gross receipts received from the sale of computer software,
29 and the sale of the services of modifying, altering, updating or maintaining
30 computer software. As used in this subsection, “computer software”
31 means information and directions loaded into a computer which dictate
32 different functions to be performed by the computer. Computer software
33 includes any canned or prewritten program which is held or existing for
34 general or repeated sale, even if the program was originally developed
35 for a single end user as custom computer software;

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

1 (u) the gross receipts received from the sale of prepaid telephone
2 calling cards or prepaid authorization numbers and the recharge of such
3 cards or numbers. A prepaid telephone calling card or prepaid authori-
4 zation number means the right to exclusively make telephone calls, paid
5 for in advance, that enables the origination of calls using an access number
6 or authorization code or both, whether manually or electronically dialed.
7 If the sale or recharge of such card or number does not take place at the
8 vendor's place of business, it shall be conclusively determined to take
9 place at the customer's shipping address; if there is no item shipped then
10 it shall be the customer's billing address; and

11 (v) the gross receipts received from the sales of bingo cards, bingo
12 faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*,
13 and amendments thereto, ~~shall be taxed at a rate of: (1) 4.9% on July 1,
14 2000, and before July 1, 2001, and (2) 2.5% on July 1, 2001, and before
15 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
16 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
17 and amendments thereto, shall be exempt from taxes imposed pursuant
18 to this section.~~

19 Sec. 3. K.S.A. 2002 Supp. 79-3606 is hereby amended to read as
20 follows: 79-3606. The following shall be exempt from the tax imposed by
21 this act:

22 *All sales of tangible personal property, the taxation of which is prohib-*
23 *ited by the United States constitution or federal law.*

24 ~~(a) All sales of motor vehicle fuel or other articles upon which a sales
25 or excise tax has been paid, not subject to refund, under the laws of this
26 state except cigarettes as defined by K.S.A. 79-3301 and amendments
27 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
28 3817 and amendments thereto, including wort, liquid malt, malt syrup
29 and malt extract, which is not subject to taxation under the provisions of
30 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
31 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
32 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
33 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;~~

34 ~~(b) all sales of tangible personal property or service, including the
35 renting and leasing of tangible personal property, purchased directly by
36 the state of Kansas, a political subdivision thereof, other than a school or
37 educational institution, or purchased by a public or private nonprofit hos-
38 pital or public hospital authority or nonprofit blood, tissue or organ bank
39 and used exclusively for state, political subdivision, hospital or public hos-
40 pital authority or nonprofit blood, tissue or organ bank purposes, except
41 when: (1) Such state, hospital or public hospital authority is engaged or
42 proposes to engage in any business specifically taxable under the provi-
43 sions of this act and such items of tangible personal property or service~~

1 are used or proposed to be used in such business, or (2) such political
2 subdivision is engaged or proposes to engage in the business of furnishing
3 gas, electricity or heat to others and such items of personal property or
4 service are used or proposed to be used in such business;

5 —(c)—all sales of tangible personal property or services, including the
6 renting and leasing of tangible personal property, purchased directly by
7 a public or private elementary or secondary school or public or private
8 nonprofit educational institution and used primarily by such school or
9 institution for nonsectarian programs and activities provided or sponsored
10 by such school or institution or in the erection, repair or enlargement of
11 buildings to be used for such purposes. The exemption herein provided
12 shall not apply to erection, construction, repair, enlargement or equip-
13 ment of buildings used primarily for human habitation;

14 —(d)—all sales of tangible personal property or services purchased by a
15 contractor for the purpose of constructing, equipping, reconstructing,
16 maintaining, repairing, enlarging, furnishing or remodeling facilities for
17 any public or private nonprofit hospital or public hospital authority, public
18 or private elementary or secondary school or a public or private nonprofit
19 educational institution, which would be exempt from taxation under the
20 provisions of this act if purchased directly by such hospital or public hos-
21 pital authority, school or educational institution; and all sales of tangible
22 personal property or services purchased by a contractor for the purpose
23 of constructing, equipping, reconstructing, maintaining, repairing, en-
24 larging, furnishing or remodeling facilities for any political subdivision of
25 the state or district described in subsection (s), the total cost of which is
26 paid from funds of such political subdivision or district and which would
27 be exempt from taxation under the provisions of this act if purchased
28 directly by such political subdivision or district. Nothing in this subsection
29 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
30 deemed to exempt the purchase of any construction machinery, equip-
31 ment or tools used in the constructing, equipping, reconstructing, main-
32 taining, repairing, enlarging, furnishing or remodeling facilities for any
33 political subdivision of the state or any such district. As used in this sub-
34 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds
35 of a political subdivision” shall mean general tax revenues, the proceeds
36 of any bonds and gifts or grants in aid. Gifts shall not mean funds used
37 for the purpose of constructing, equipping, reconstructing, repairing, en-
38 larging, furnishing or remodeling facilities which are to be leased to the
39 donor. When any political subdivision of the state, district described in
40 subsection (s), public or private nonprofit hospital or public hospital au-
41 thority, public or private elementary or secondary school or public or
42 private nonprofit educational institution shall contract for the purpose of
43 constructing, equipping, reconstructing, maintaining, repairing, enlarg-

1 ing, furnishing or remodeling facilities, it shall obtain from the state and
2 furnish to the contractor an exemption certificate for the project involved,
3 and the contractor may purchase materials for incorporation in such pro-
4 ject. The contractor shall furnish the number of such certificate to all
5 suppliers from whom such purchases are made, and such suppliers shall
6 execute invoices covering the same bearing the number of such certifi-
7 cate. Upon completion of the project the contractor shall furnish to the
8 political subdivision, district described in subsection (s), hospital or public
9 hospital authority, school or educational institution concerned a sworn
10 statement, on a form to be provided by the director of taxation, that all
11 purchases so made were entitled to exemption under this subsection. As
12 an alternative to the foregoing procedure, any such contracting entity may
13 apply to the secretary of revenue for agent status for the sole purpose of
14 issuing and furnishing project exemption certificates to contractors pur-
15 suant to rules and regulations adopted by the secretary establishing con-
16 ditions and standards for the granting and maintaining of such status. All
17 invoices shall be held by the contractor for a period of five years and shall
18 be subject to audit by the director of taxation. If any materials purchased
19 under such a certificate are found not to have been incorporated in the
20 building or other project or not to have been returned for credit or the
21 sales or compensating tax otherwise imposed upon such materials which
22 will not be so incorporated in the building or other project reported and
23 paid by such contractor to the director of taxation not later than the 20th
24 day of the month following the close of the month in which it shall be
25 determined that such materials will not be used for the purpose for which
26 such certificate was issued, the political subdivision, district described in
27 subsection (s), hospital or public hospital authority, school or educational
28 institution concerned shall be liable for tax on all materials purchased for
29 the project, and upon payment thereof it may recover the same from the
30 contractor together with reasonable attorney fees. Any contractor or any
31 agent, employee or subcontractor thereof, who shall use or otherwise
32 dispose of any materials purchased under such a certificate for any pur-
33 pose other than that for which such a certificate is issued without the
34 payment of the sales or compensating tax otherwise imposed upon such
35 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
36 shall be subject to the penalties provided for in subsection (g) of K.S.A.
37 79-3615, and amendments thereto;

38 —(c)—all sales of tangible personal property or services purchased by a
39 contractor for the erection, repair or enlargement of buildings or other
40 projects for the government of the United States, its agencies or instru-
41 mentalities, which would be exempt from taxation if purchased directly
42 by the government of the United States, its agencies or instrumentalities.
43 When the government of the United States, its agencies or instrumen-

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

26 — (f) — tangible personal property purchased by a railroad or public utility
27 for consumption or movement directly and immediately in interstate
28 commerce;

29 — (g) — sales of aircraft including remanufactured and modified aircraft,
30 sales of aircraft repair, modification and replacement parts and sales of
31 services employed in the remanufacture, modification and repair of air-
32 craft sold to persons using directly or through an authorized agent such
33 aircraft and aircraft repair, modification and replacement parts as certified
34 or licensed carriers of persons or property in interstate or foreign com-
35 merce under authority of the laws of the United States or any foreign
36 government or sold to any foreign government or agency or instrumen-
37 tality of such foreign government and all sales of aircraft, aircraft parts,
38 replacement parts and services employed in the remanufacture, modifi-
39 cation and repair of aircraft for use outside of the United States;

40 — (h) — all rentals of nonsectarian textbooks by public or private elemen-
41 tary or secondary schools;

42 — (i) — the lease or rental of all films, records, tapes, or any type of sound
43 or picture transcriptions used by motion picture exhibitors;

- 1 —(j)— meals served without charge or food used in the preparation of
2 such meals to employees of any restaurant, eating house, dining car, hotel,
3 drugstore or other place where meals or drinks are regularly sold to the
4 public if such employees' duties are related to the furnishing or sale of
5 such meals or drinks;
- 6 —(k)— any motor vehicle, semitrailer or pole trailer, as such terms are
7 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
8 delivered in this state to a bona fide resident of another state, which motor
9 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
10 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
11 remain in this state more than 10 days;
- 12 —(l)— all isolated or occasional sales of tangible personal property, serv-
13 ices, substances or things, except isolated or occasional sale of motor
14 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
15 79-3603 and amendments thereto;
- 16 —(m)— all sales of tangible personal property which become an ingre-
17 dient or component part of tangible personal property or services pro-
18 duced, manufactured or compounded for ultimate sale at retail within or
19 without the state of Kansas, and any such producer, manufacturer or
20 compounder may obtain from the director of taxation and furnish to the
21 supplier an exemption certificate number for tangible personal property
22 for use as an ingredient or component part of the property or services
23 produced, manufactured or compounded;
- 24 —(n)— all sales of tangible personal property which is consumed in the
25 production, manufacture, processing, mining, drilling, refining or com-
26 pounding of tangible personal property, the treating of by-products or
27 wastes derived from any such production process, the providing of serv-
28 ices or the irrigation of crops for ultimate sale at retail within or without
29 the state of Kansas, and any purchaser of such property may obtain from
30 the director of taxation and furnish to the supplier an exemption certifi-
31 cate number for tangible personal property for consumption in such pro-
32 duction, manufacture, processing, mining, drilling, refining, compound-
33 ing, treating, irrigation and in providing such services;
- 34 —(o)— all sales of animals, fowl and aquatic plants and animals, the pri-
35 mary purpose of which is use in agriculture or aquaculture, as defined in
36 K.S.A. 47-1901, and amendments thereto, the production of food for
37 human consumption, the production of animal, dairy, poultry or aquatic
38 plant and animal products, fiber or fur, or the production of offspring for
39 use for any such purpose or purposes;
- 40 —(p)— all sales of drugs, as defined by K.S.A. 65-1626 and amendments
41 thereto, dispensed pursuant to a prescription order, as defined by K.S.A.
42 65-1626 and amendments thereto, by a licensed practitioner or a mid-
43 level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

- 1 ~~—(q) all sales of insulin dispensed by a person licensed by the state~~
2 ~~board of pharmacy to a person for treatment of diabetes at the direction~~
3 ~~of a person licensed to practice medicine by the board of healing arts;~~
4 ~~—(r) all sales of prosthetic and orthopedic appliances prescribed in~~
5 ~~writing by a person licensed to practice the healing arts, dentistry or~~
6 ~~optometry. For the purposes of this subsection, the term prosthetic and~~
7 ~~orthopedic appliances means any apparatus, instrument, device, or equip-~~
8 ~~ment used to replace or substitute for any missing part of the body; used~~
9 ~~to alleviate the malfunction of any part of the body; or used to assist any~~
10 ~~disabled person in leading a normal life by facilitating such person's mo-~~
11 ~~bility; such term shall include accessories attached or to be attached to~~
12 ~~motor vehicles, but such term shall not include motor vehicles or personal~~
13 ~~property which when installed becomes a fixture to real property;~~
14 ~~—(s) except as provided in K.S.A. 2002 Supp. §2a-2101, and amend-~~
15 ~~ments thereto, all sales of tangible personal property or services pur-~~
16 ~~chased directly or indirectly by a groundwater management district or-~~
17 ~~ganized or operating under the authority of K.S.A. §2a-1020 *et seq.* and~~
18 ~~amendments thereto, by a rural water district organized or operating un-~~
19 ~~der the authority of K.S.A. §2a-612, and amendments thereto, or by a~~
20 ~~water supply district organized or operating under the authority of K.S.A.~~
21 ~~19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,~~
22 ~~which property or services are used in the construction activities, opera-~~
23 ~~tion or maintenance of the district;~~
24 ~~—(t) all sales of farm machinery and equipment or aquaculture ma-~~
25 ~~chinery and equipment, repair and replacement parts therefor and serv-~~
26 ~~ices performed in the repair and maintenance of such machinery and~~
27 ~~equipment. For the purposes of this subsection the term “farm machinery~~
28 ~~and equipment or aquaculture machinery and equipment” shall include~~
29 ~~machinery and equipment used in the operation of Christmas tree farm-~~
30 ~~ing but shall not include any passenger vehicle, truck, truck tractor, trailer,~~
31 ~~semitrailer or pole trailer, other than a farm trailer, as such terms are~~
32 ~~defined by K.S.A. §-126 and amendments thereto. Each purchaser of~~
33 ~~farm machinery and equipment or aquaculture machinery and equipment~~
34 ~~exempted herein must certify in writing on the copy of the invoice or~~
35 ~~sales ticket to be retained by the seller that the farm machinery and~~
36 ~~equipment or aquaculture machinery and equipment purchased will be~~
37 ~~used only in farming, ranching or aquaculture production. Farming or~~
38 ~~ranching shall include the operation of a feedlot and farm and ranch work~~
39 ~~for hire and the operation of a nursery;~~
40 ~~—(u) all leases or rentals of tangible personal property used as a dwell-~~
41 ~~ing if such tangible personal property is leased or rented for a period of~~
42 ~~more than 29 consecutive days;~~
43 ~~—(v) all sales of food products to any contractor for use in preparing~~

1 meals for delivery to homebound elderly persons over 60 years of age and
2 to homebound disabled persons or to be served at a group-sitting at a
3 location outside of the home to otherwise homebound elderly persons
4 over 60 years of age and to otherwise homebound disabled persons, as
5 all or part of any food service project funded in whole or in part by
6 government or as part of a private nonprofit food service project available
7 to all such elderly or disabled persons residing within an area of service
8 designated by the private nonprofit organization, and all sales of food
9 products for use in preparing meals for consumption by indigent or home-
10 less individuals whether or not such meals are consumed at a place des-
11 ignated for such purpose;

12 —(w)—all sales of natural gas, electricity, heat and water delivered
13 through mains, lines or pipes: (1) To residential premises for noncom-
14 mercial use by the occupant of such premises; (2) for agricultural use and
15 also, for such use, all sales of propane gas; (3) for use in the severing of
16 oil; and (4) to any property which is exempt from property taxation pur-
17 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
18 “severing” shall have the meaning ascribed thereto by subsection (k) of
19 K.S.A. 79-4216, and amendments thereto;

20 —(x)—all sales of propane gas, LP-gas, coal, wood and other fuel sources
21 for the production of heat or lighting for noncommercial use of an oc-
22 cupant of residential premises;

23 —(y)—all sales of materials and services used in the repairing, servicing,
24 altering, maintaining, manufacturing, remanufacturing, or modification of
25 railroad rolling stock for use in interstate or foreign commerce under
26 authority of the laws of the United States;

27 —(z)—all sales of tangible personal property and services purchased di-
28 rectly by a port authority or by a contractor therefor as provided by the
29 provisions of K.S.A. 12-3418 and amendments thereto;

30 —(aa)—all sales of materials and services applied to equipment which is
31 transported into the state from without the state for repair, service, al-
32 teration, maintenance, remanufacture or modification and which is sub-
33 sequently transported outside the state for use in the transmission of
34 liquids or natural gas by means of pipeline in interstate or foreign com-
35 merce under authority of the laws of the United States;

36 —(bb)—all sales of used mobile homes or manufactured homes. As used
37 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
38 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
39 thereto; and (2) “sales of used mobile homes or manufactured homes”
40 means sales other than the original retail sale thereof;

41 —(cc)—all sales of tangible personal property or services purchased for
42 the purpose of and in conjunction with constructing, reconstructing, en-
43 larging or remodeling a business or retail business which meets the

1 requirements established in K.S.A. 74-50,115 and amendments thereto,
2 and the sale and installation of machinery and equipment purchased for
3 installation at any such business or retail business. When a person shall
4 contract for the construction, reconstruction, enlargement or remodeling
5 of any such business or retail business, such person shall obtain from the
6 state and furnish to the contractor an exemption certificate for the project
7 involved, and the contractor may purchase materials, machinery and
8 equipment for incorporation in such project. The contractor shall furnish
9 the number of such certificates to all suppliers from whom such purchases
10 are made, and such suppliers shall execute invoices covering the same
11 bearing the number of such certificate. Upon completion of the project
12 the contractor shall furnish to the owner of the business or retail business
13 a sworn statement, on a form to be provided by the director of taxation,
14 that all purchases so made were entitled to exemption under this subsec-
15 tion. All invoices shall be held by the contractor for a period of five years
16 and shall be subject to audit by the director of taxation. Any contractor
17 or any agent, employee or subcontractor thereof, who shall use or oth-
18 erwise dispose of any materials, machinery or equipment purchased un-
19 der such a certificate for any purpose other than that for which such a
20 certificate is issued without the payment of the sales or compensating tax
21 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
22 conviction therefor, shall be subject to the penalties provided for in sub-
23 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
24 subsection, "business" and "retail business" have the meanings respec-
25 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;
26 —(dd)—all sales of tangible personal property purchased with food
27 stamps issued by the United States department of agriculture;
28 —(cc)—all sales of lottery tickets and shares made as part of a lottery
29 operated by the state of Kansas;
30 —(ff)—on and after July 1, 1988, all sales of new mobile homes or man-
31 ufactured homes to the extent of 40% of the gross receipts, determined
32 without regard to any trade-in allowance, received from such sale. As used
33 in this subsection, "mobile homes" and "manufactured homes" shall have
34 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
35 thereto;
36 —(gg)—all sales of tangible personal property purchased in accordance
37 with vouchers issued pursuant to the federal special supplemental food
38 program for women, infants and children;
39 —(hh)—all sales of medical supplies and equipment purchased directly
40 by a nonprofit skilled nursing home or nonprofit intermediate nursing
41 care home, as defined by K.S.A. 39-923, and amendments thereto, for
42 the purpose of providing medical services to residents thereof. This ex-
43 emption shall not apply to tangible personal property customarily used

1 for human habitation purposes;
2 — (ii) — all sales of tangible personal property purchased directly by a non-
3 profit organization for nonsectarian comprehensive multidiscipline youth
4 development programs and activities provided or sponsored by such or-
5 ganization, and all sales of tangible personal property by or on behalf of
6 any such organization. This exemption shall not apply to tangible personal
7 property customarily used for human habitation purposes;
8 — (jj) — all sales of tangible personal property or services, including the
9 renting and leasing of tangible personal property, purchased directly on
10 behalf of a community-based mental retardation facility or mental health
11 center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments
12 thereto, and licensed in accordance with the provisions of K.S.A. 75-
13 3307b and amendments thereto. This exemption shall not apply to tan-
14 gible personal property customarily used for human habitation purposes;
15 — (kk) — (1) (A) — all sales of machinery and equipment which are used
16 in this state as an integral or essential part of an integrated production
17 operation by a manufacturing or processing plant or facility;
18 — (B) — all sales of installation, repair and maintenance services per-
19 formed on such machinery and equipment, and
20 — (C) — all sales of repair and replacement parts and accessories pur-
21 chased for such machinery and equipment.
22 — (2) — For purposes of this subsection:
23 — (A) — “Integrated production operation” means an integrated series of
24 operations engaged in at a manufacturing or processing plant or facility
25 to process, transform or convert tangible personal property by physical,
26 chemical or other means into a different form, composition or character
27 from that in which it originally existed. Integrated production operations
28 shall include: (i) Production line operations, including packaging opera-
29 tions; (ii) preproduction operations to handle, store and treat raw mate-
30 rials; (iii) post production handling, storage, warehousing and distribution
31 operations; and (iv) waste, pollution and environmental control opera-
32 tions, if any;
33 — (B) — “production line” means the assemblage of machinery and equip-
34 ment at a manufacturing or processing plant or facility where the actual
35 transformation or processing of tangible personal property occurs;
36 — (C) — “manufacturing or processing plant or facility” means a single,
37 fixed location owned or controlled by a manufacturing or processing busi-
38 ness that consists of one or more structures or buildings in a contiguous
39 area where integrated production operations are conducted to manufac-
40 ture or process tangible personal property to be ultimately sold at retail.
41 Such term shall not include any facility primarily operated for the purpose
42 of conveying or assisting in the conveyance of natural gas, electricity, oil
43 or water. A business may operate one or more manufacturing or proe-

1 essing plants or facilities at different locations to manufacture or process
2 a single product of tangible personal property to be ultimately sold at
3 retail;

4 —(D)— “manufacturing or processing business” means a business that
5 utilizes an integrated production operation to manufacture, process, fab-
6 ricate, finish, or assemble items for wholesale and retail distribution as
7 part of what is commonly regarded by the general public as an industrial
8 manufacturing or processing operation or an agricultural commodity
9 processing operation. (i) Industrial manufacturing or processing opera-
10 tions include, by way of illustration but not of limitation, the fabrication
11 of automobiles, airplanes, machinery or transportation equipment, the
12 fabrication of metal, plastic, wood, or paper products, electricity power
13 generation, water treatment, petroleum refining, chemical production,
14 wholesale bottling, newspaper printing, ready mixed concrete production,
15 and the remanufacturing of used parts for wholesale or retail sale. Such
16 processing operations shall include operations at an oil well, gas well, mine
17 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
18 or gravel that has been extracted from the earth is cleaned, separated,
19 crushed, ground, milled, screened, washed, or otherwise treated or pre-
20 pared before its transmission to a refinery or before any other wholesale
21 or retail distribution. (ii) Agricultural commodity processing operations
22 include, by way of illustration but not of limitation, meat packing, poultry
23 slaughtering and dressing, processing and packaging farm and dairy prod-
24 ucts in sealed containers for wholesale and retail distribution, feed grind-
25 ing, grain milling, frozen food processing, and grain handling, cleaning,
26 blending, fumigation, drying and aeration operations engaged in by grain
27 elevators or other grain storage facilities. (iii) Manufacturing or processing
28 businesses do not include, by way of illustration but not of limitation,
29 nonindustrial businesses whose operations are primarily retail and that
30 produce or process tangible personal property as an incidental part of
31 conducting the retail business, such as retailers who bake, cook or prepare
32 food products in the regular course of their retail trade, grocery stores,
33 meat lockers and meat markets that butcher or dress livestock or poultry
34 in the regular course of their retail trade, contractors who alter, service,
35 repair or improve real property, and retail businesses that clean, service
36 or refurbish and repair tangible personal property for its owner;

37 —(E)— “repair and replacement parts and accessories” means all parts
38 and accessories for exempt machinery and equipment, including, but not
39 limited to, dies, jigs, molds, patterns and safety devices that are attached
40 to exempt machinery or that are otherwise used in production, and parts
41 and accessories that require periodic replacement such as belts, drill bits,
42 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
43 other refractory items for exempt kiln equipment used in production

1 operations;

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

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

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

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

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

14 —(D) to guide, control or direct the movement of property undergoing
15 manufacturing or processing;

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

19 —(F) to plan, manage, control or record the receipt and flow of inven-
20 tories of raw materials, consumables and component parts, the flow of
21 the property undergoing manufacturing or processing and the manage-
22 ment of inventories of the finished product;

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

26 —(H) to package the property being manufactured or processed in a
27 container or wrapping in which such property is normally sold or
28 transported;

29 —(I) to transmit or transport electricity, coke, gas, water, steam or sim-
30 ilar substances used in production operations from the point of genera-
31 tion, if produced by the manufacturer or processor at the plant site, to
32 that manufacturer’s production operation; or, if purchased or delivered
33 from offsite, from the point where the substance enters the site of the
34 plant or facility to that manufacturer’s production operations;

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

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

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

43 —(M) to control pollution at the plant or facility where the pollution is

1 produced by the manufacturing or processing operation.

2 ~~—(4) The following machinery, equipment and materials shall be~~
3 ~~deemed to be exempt even though it may not otherwise qualify as ma-~~
4 ~~chinery and equipment used as an integral or essential part of an inte-~~
5 ~~grated production operation: (A) Computers and related peripheral~~
6 ~~equipment that are utilized by a manufacturing or processing business~~
7 ~~for engineering of the finished product or for research and development~~
8 ~~or product design; (B) machinery and equipment that is utilized by a~~
9 ~~manufacturing or processing business to manufacture or rebuild tangible~~
10 ~~personal property that is used in manufacturing or processing operations,~~
11 ~~including tools, dies, molds, forms and other parts of qualifying machinery~~
12 ~~and equipment; (C) portable plants for aggregate concrete, bulk cement~~
13 ~~and asphalt including cement mixing drums to be attached to a motor~~
14 ~~vehicle; (D) industrial fixtures, devices, support facilities and special foun-~~
15 ~~dations necessary for manufacturing and production operations, and ma-~~
16 ~~terials and other tangible personal property sold for the purpose of fab-~~
17 ~~ricating such fixtures, devices, facilities and foundations. An exemption~~
18 ~~certificate for such purchases shall be signed by the manufacturer or~~
19 ~~processor. If the fabricator purchases such material, the fabricator shall~~
20 ~~also sign the exemption certificate; and (E) a manufacturing or processing~~
21 ~~business' laboratory equipment that is not located at the plant or facility,~~
22 ~~but that would otherwise qualify for exemption under subsection (3)(E).~~

23 ~~—(5) “Machinery and equipment used as an integral or essential part~~
24 ~~of an integrated production operation” shall not include:~~

25 ~~—(A) Machinery and equipment used for nonproduction purposes, in-~~
26 ~~cluding, but not limited to, machinery and equipment used for plant se-~~
27 ~~curity, fire prevention, first aid, accounting, administration, record keep-~~
28 ~~ing, advertising, marketing, sales or other related activities, plant cleaning,~~
29 ~~plant communications, and employee work scheduling;~~

30 ~~—(B) machinery, equipment and tools used primarily in maintaining~~
31 ~~and repairing any type of machinery and equipment or the building and~~
32 ~~plant;~~

33 ~~—(C) transportation, transmission and distribution equipment not pri-~~
34 ~~marily used in a production, warehousing or material handling operation~~
35 ~~at the plant or facility, including the means of conveyance of natural gas,~~
36 ~~electricity, oil or water, and equipment related thereto, located outside~~
37 ~~the plant or facility;~~

38 ~~—(D) office machines and equipment including computers and related~~
39 ~~peripheral equipment not used directly and primarily to control or mea-~~
40 ~~sure the manufacturing process;~~

41 ~~—(E) furniture and other furnishings;~~

42 ~~—(F) buildings, other than exempt machinery and equipment that is~~
43 ~~permanently affixed to or becomes a physical part of the building, and~~

1 any other part of real estate that is not otherwise exempt;
2 —(G)— building fixtures that are not integral to the manufacturing op-
3 eration, such as utility systems for heating, ventilation, air conditioning,
4 communications, plumbing or electrical;
5 —(H)— machinery and equipment used for general plant heating, cooling
6 and lighting;
7 —(I)— motor vehicles that are registered for operation on public high-
8 ways; or
9 —(J)— employee apparel, except safety and protective apparel that is pur-
10 chased by an employer and furnished gratuitously to employees who are
11 involved in production or research activities.
12 —(6)— Subsections (3) and (5) shall not be construed as exclusive listings
13 of the machinery and equipment that qualify or do not qualify as an
14 integral or essential part of an integrated production operation. When
15 machinery or equipment is used as an integral or essential part of pro-
16 duction operations part of the time and for nonproduction purpose at
17 other times, the primary use of the machinery or equipment shall deter-
18 mine whether or not such machinery or equipment qualifies for
19 exemption.
20 —(7)— The secretary of revenue shall adopt rules and regulations nec-
21 essary to administer the provisions of this subsection;
22 —(ll)— all sales of educational materials purchased for distribution to the
23 public at no charge by a nonprofit corporation organized for the purpose
24 of encouraging, fostering and conducting programs for the improvement
25 of public health;
26 —(mm)— all sales of seeds and tree seedlings, fertilizers, insecticides,
27 herbicides, germicides, pesticides and fungicides, and services, purchased
28 and used for the purpose of producing plants in order to prevent soil
29 erosion on land devoted to agricultural use;
30 —(nn)— except as otherwise provided in this act, all sales of services ren-
31 dered by an advertising agency or licensed broadcast station or any mem-
32 ber, agent or employee thereof;
33 —(oo)— all sales of tangible personal property purchased by a community
34 action group or agency for the exclusive purpose of repairing or weath-
35 erizing housing occupied by low income individuals;
36 —(pp)— all sales of drill bits and explosives actually utilized in the explo-
37 ration and production of oil or gas;
38 —(qq)— all sales of tangible personal property and services purchased by
39 a nonprofit museum or historical society or any combination thereof, in-
40 cluding a nonprofit organization which is organized for the purpose of
41 stimulating public interest in the exploration of space by providing edu-
42 cational information, exhibits and experiences, which is exempt from fed-
43 eral income taxation pursuant to section 501(c)(3) of the federal internal

1 revenue code of 1986;
2 ~~—(rr)— all sales of tangible personal property which will admit the pur-~~
3 ~~chaser thereof to any annual event sponsored by a nonprofit organization~~
4 ~~which is exempt from federal income taxation pursuant to section~~
5 ~~501(c)(3) of the federal internal revenue code of 1986;~~
6 ~~—(ss)— all sales of tangible personal property and services purchased by~~
7 ~~a public broadcasting station licensed by the federal communications~~
8 ~~commission as a noncommercial educational television or radio station;~~
9 ~~—(tt)— all sales of tangible personal property and services purchased by~~
10 ~~or on behalf of a not-for-profit corporation which is exempt from federal~~
11 ~~income taxation pursuant to section 501(c)(3) of the federal internal rev-~~
12 ~~enue code of 1986, for the sole purpose of constructing a Kansas Korean~~
13 ~~War memorial;~~
14 ~~—(uu)— all sales of tangible personal property and services purchased by~~
15 ~~or on behalf of any rural volunteer fire-fighting organization for use ex-~~
16 ~~clusively in the performance of its duties and functions;~~
17 ~~—(vv)— all sales of tangible personal property purchased by any of the~~
18 ~~following organizations which are exempt from federal income taxation~~
19 ~~pursuant to section 501 (c)(3) of the federal internal revenue code of~~
20 ~~1986, for the following purposes, and all sales of any such property by or~~
21 ~~on behalf of any such organization for any such purpose:~~
22 ~~—(1)— The American Heart Association, Kansas Affiliate, Inc. for the~~
23 ~~purposes of providing education, training, certification in emergency car-~~
24 ~~diac care, research and other related services to reduce disability and~~
25 ~~death from cardiovascular diseases and stroke;~~
26 ~~—(2)— the Kansas Alliance for the Mentally Ill, Inc. for the purpose of~~
27 ~~advocacy for persons with mental illness and to education, research and~~
28 ~~support for their families;~~
29 ~~—(3)— the Kansas Mental Illness Awareness Council for the purposes of~~
30 ~~advocacy for persons who are mentally ill and to education, research and~~
31 ~~support for them and their families;~~
32 ~~—(4)— the American Diabetes Association Kansas Affiliate, Inc. for the~~
33 ~~purpose of eliminating diabetes through medical research, public edu-~~
34 ~~cation focusing on disease prevention and education, patient education~~
35 ~~including information on coping with diabetes, and professional education~~
36 ~~and training;~~
37 ~~—(5)— the American Lung Association of Kansas, Inc. for the purpose of~~
38 ~~eliminating all lung diseases through medical research, public education~~
39 ~~including information on coping with lung diseases, professional educa-~~
40 ~~tion and training related to lung disease and other related services to~~
41 ~~reduce the incidence of disability and death due to lung disease;~~
42 ~~—(6)— the Kansas chapters of the Alzheimer’s Disease and Related Dis-~~
43 ~~orders Association, Inc. for the purpose of providing assistance and sup-~~

1 port to persons in Kansas with Alzheimer's disease, and their families and
2 caregivers;

3 —(7)—the Kansas chapters of the Parkinson's disease association for the
4 purpose of eliminating Parkinson's disease through medical research and
5 public and professional education related to such disease; and

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

9 —(ww)—all sales of tangible personal property purchased by the Habitat
10 for Humanity for the exclusive use of being incorporated within a housing
11 project constructed by such organization;

12 —(xx)—all sales of tangible personal property and services purchased by
13 a nonprofit zoo which is exempt from federal income taxation pursuant
14 to section 501(c)(3) of the federal internal revenue code of 1986, or on
15 behalf of such zoo by an entity itself exempt from federal income taxation
16 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
17 contracted with to operate such zoo and all sales of tangible personal
18 property or services purchased by a contractor for the purpose of con-
19 structing, equipping, reconstructing, maintaining, repairing, enlarging,
20 furnishing or remodeling facilities for any nonprofit zoo which would be
21 exempt from taxation under the provisions of this section if purchased
22 directly by such nonprofit zoo or the entity operating such zoo. Nothing
23 in this subsection shall be deemed to exempt the purchase of any con-
24 struction machinery, equipment or tools used in the constructing, equip-
25 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
26 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
27 contract for the purpose of constructing, equipping, reconstructing, main-
28 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
29 obtain from the state and furnish to the contractor an exemption certifi-
30 cate for the project involved, and the contractor may purchase materials
31 for incorporation in such project. The contractor shall furnish the number
32 of such certificate to all suppliers from whom such purchases are made,
33 and such suppliers shall execute invoices covering the same bearing the
34 number of such certificate. Upon completion of the project the contractor
35 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
36 to be provided by the director of taxation, that all purchases so made were
37 entitled to exemption under this subsection. All invoices shall be held by
38 the contractor for a period of five years and shall be subject to audit by
39 the director of taxation. If any materials purchased under such a certifi-
40 cate are found not to have been incorporated in the building or other
41 project or not to have been returned for credit or the sales or compen-
42 sating tax otherwise imposed upon such materials which will not be so
43 incorporated in the building or other project reported and paid by such

1 contractor to the director of taxation not later than the 20th day of the
2 month following the close of the month in which it shall be determined
3 that such materials will not be used for the purpose for which such cer-
4 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
5 all materials purchased for the project, and upon payment thereof it may
6 recover the same from the contractor together with reasonable attorney
7 fees. Any contractor or any agent, employee or subcontractor thereof,
8 who shall use or otherwise dispose of any materials purchased under such
9 a certificate for any purpose other than that for which such a certificate
10 is issued without the payment of the sales or compensating tax otherwise
11 imposed upon such materials, shall be guilty of a misdemeanor and, upon
12 conviction therefor, shall be subject to the penalties provided for in sub-
13 section (g) of K.S.A. 79-3615, and amendments thereto;

14 ~~—(yy) all sales of tangible personal property and services purchased by~~
15 ~~a parent teacher association or organization, and all sales of tangible per-~~
16 ~~sonal property by or on behalf of such association or organization;~~

17 ~~—(zz) all sales of machinery and equipment purchased by over-the-air,~~
18 ~~free access radio or television station which is used directly and primarily~~
19 ~~for the purpose of producing a broadcast signal or is such that the failure~~
20 ~~of the machinery or equipment to operate would cause broadcasting to~~
21 ~~cease. For purposes of this subsection, machinery and equipment shall~~
22 ~~include, but not be limited to, that required by rules and regulations of~~
23 ~~the federal communications commission, and all sales of electricity which~~
24 ~~are essential or necessary for the purpose of producing a broadcast signal~~
25 ~~or is such that the failure of the electricity would cause broadcasting to~~
26 ~~cease;~~

27 ~~—(aaa) all sales of tangible personal property and services purchased~~
28 ~~by a religious organization which is exempt from federal income taxation~~
29 ~~pursuant to section 501(c)(3) of the federal internal revenue code, and~~
30 ~~used exclusively for religious purposes, and all sales of tangible personal~~
31 ~~property or services purchased by a contractor for the purpose of con-~~
32 ~~structing, equipping, reconstructing, maintaining, repairing, enlarging,~~
33 ~~furnishing or remodeling facilities for any such organization which would~~
34 ~~be exempt from taxation under the provisions of this section if purchased~~
35 ~~directly by such organization. Nothing in this subsection shall be deemed~~
36 ~~to exempt the purchase of any construction machinery, equipment or~~
37 ~~tools used in the constructing, equipping, reconstructing, maintaining,~~
38 ~~repairing, enlarging, furnishing or remodeling facilities for any such or-~~
39 ~~ganization. When any such organization shall contract for the purpose of~~
40 ~~constructing, equipping, reconstructing, maintaining, repairing, enlarg-~~
41 ~~ing, furnishing or remodeling facilities, it shall obtain from the state and~~
42 ~~furnish to the contractor an exemption certificate for the project involved,~~
43 ~~and the contractor may purchase materials for incorporation in such pro-~~

1 ~~ject. The contractor shall furnish the number of such certificate to all~~
2 ~~suppliers from whom such purchases are made, and such suppliers shall~~
3 ~~execute invoices covering the same bearing the number of such certifi-~~
4 ~~cate. Upon completion of the project the contractor shall furnish to such~~
5 ~~organization concerned a sworn statement, on a form to be provided by~~
6 ~~the director of taxation, that all purchases so made were entitled to ex-~~
7 ~~emption under this subsection. All invoices shall be held by the contractor~~
8 ~~for a period of five years and shall be subject to audit by the director of~~
9 ~~taxation. If any materials purchased under such a certificate are found~~
10 ~~not to have been incorporated in the building or other project or not to~~
11 ~~have been returned for credit or the sales or compensating tax otherwise~~
12 ~~imposed upon such materials which will not be so incorporated in the~~
13 ~~building or other project reported and paid by such contractor to the~~
14 ~~director of taxation not later than the 20th day of the month following~~
15 ~~the close of the month in which it shall be determined that such materials~~
16 ~~will not be used for the purpose for which such certificate was issued,~~
17 ~~such organization concerned shall be liable for tax on all materials pur-~~
18 ~~chased for the project, and upon payment thereof it may recover the same~~
19 ~~from the contractor together with reasonable attorney fees. Any contrac-~~
20 ~~tor or any agent, employee or subcontractor thereof, who shall use or~~
21 ~~otherwise dispose of any materials purchased under such a certificate for~~
22 ~~any purpose other than that for which such a certificate is issued without~~
23 ~~the payment of the sales or compensating tax otherwise imposed upon~~
24 ~~such materials, shall be guilty of a misdemeanor and, upon conviction~~
25 ~~therefor, shall be subject to the penalties provided for in subsection (g)~~
26 ~~of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after~~
27 ~~July 1, 1998, but prior to the effective date of this act upon the gross~~
28 ~~receipts received from any sale exempted by the amendatory provisions~~
29 ~~of this subsection shall be refunded. Each claim for a sales tax refund~~
30 ~~shall be verified and submitted to the director of taxation upon forms~~
31 ~~furnished by the director and shall be accompanied by any additional~~
32 ~~documentation required by the director. The director shall review each~~
33 ~~claim and shall refund that amount of sales tax paid as determined under~~
34 ~~the provisions of this subsection. All refunds shall be paid from the sales~~
35 ~~tax refund fund upon warrants of the director of accounts and reports~~
36 ~~pursuant to vouchers approved by the director or the director's designee;~~
37 ~~—(bbb)—all sales of food for human consumption by an organization~~
38 ~~which is exempt from federal income taxation pursuant to section 501~~
39 ~~(c)(3) of the federal internal revenue code of 1986, pursuant to a food~~
40 ~~distribution program which offers such food at a price below cost in~~
41 ~~exchange for the performance of community service by the purchaser~~
42 ~~thereof;~~
43 ~~—(ccc)—on and after July 1, 1999, all sales of tangible personal property~~

1 and services purchased by a primary care clinic or health center the pri-
2 mary purpose of which is to provide services to medically underserved
3 individuals and families, and which is exempt from federal income taxa-
4 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
5 and all sales of tangible personal property or services purchased by a
6 contractor for the purpose of constructing, equipping, reconstructing,
7 maintaining, repairing, enlarging, furnishing or remodeling facilities for
8 any such clinic or center which would be exempt from taxation under the
9 provisions of this section if purchased directly by such clinic or center.
10 Nothing in this subsection shall be deemed to exempt the purchase of
11 any construction machinery, equipment or tools used in the constructing,
12 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
13 or remodeling facilities for any such clinic or center. When any such clinic
14 or center shall contract for the purpose of constructing, equipping, re-
15 constructing, maintaining, repairing, enlarging, furnishing or remodeling
16 facilities, it shall obtain from the state and furnish to the contractor an
17 exemption certificate for the project involved, and the contractor may
18 purchase materials for incorporation in such project. The contractor shall
19 furnish the number of such certificate to all suppliers from whom such
20 purchases are made, and such suppliers shall execute invoices covering
21 the same bearing the number of such certificate. Upon completion of the
22 project the contractor shall furnish to such clinic or center concerned a
23 sworn statement, on a form to be provided by the director of taxation,
24 that all purchases so made were entitled to exemption under this subsec-
25 tion. All invoices shall be held by the contractor for a period of five years
26 and shall be subject to audit by the director of taxation. If any materials
27 purchased under such a certificate are found not to have been incorpo-
28 rated in the building or other project or not to have been returned for
29 credit or the sales or compensating tax otherwise imposed upon such
30 materials which will not be so incorporated in the building or other pro-
31 ject reported and paid by such contractor to the director of taxation not
32 later than the 20th day of the month following the close of the month in
33 which it shall be determined that such materials will not be used for the
34 purpose for which such certificate was issued, such clinic or center con-
35 cerned shall be liable for tax on all materials purchased for the project,
36 and upon payment thereof it may recover the same from the contractor
37 together with reasonable attorney fees. Any contractor or any agent, em-
38 ployee or subcontractor thereof, who shall use or otherwise dispose of
39 any materials purchased under such a certificate for any purpose other
40 than that for which such a certificate is issued without the payment of
41 the sales or compensating tax otherwise imposed upon such materials,
42 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
43 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,

1 and amendments thereto;

2 ~~—(ddd)— on and after January 1, 1999, and before January 1, 2000, all~~
3 ~~sales of materials and services purchased by any class II or III railroad as~~
4 ~~classified by the federal surface transportation board for the construction,~~
5 ~~renovation, repair or replacement of class II or III railroad track and~~
6 ~~facilities used directly in interstate commerce. In the event any such track~~
7 ~~or facility for which materials and services were purchased sales tax ex-~~
8 ~~empt is not operational for five years succeeding the allowance of such~~
9 ~~exemption, the total amount of sales tax which would have been payable~~
10 ~~except for the operation of this subsection shall be recouped in accord-~~
11 ~~ance with rules and regulations adopted for such purpose by the secretary~~
12 ~~of revenue;~~

13 ~~—(eee)— on and after January 1, 1999, and before January 1, 2001, all~~
14 ~~sales of materials and services purchased for the original construction,~~
15 ~~reconstruction, repair or replacement of grain storage facilities, including~~
16 ~~railroad sidings providing access thereto;~~

17 ~~—(fff)— all sales of material handling equipment, racking systems and~~
18 ~~other related machinery and equipment that is used for the handling,~~
19 ~~movement or storage of tangible personal property in a warehouse or~~
20 ~~distribution facility in this state, all sales of installation, repair and main-~~
21 ~~tenance services performed on such machinery and equipment, and all~~
22 ~~sales of repair and replacement parts for such machinery and equipment.~~
23 ~~For purposes of this subsection, a warehouse or distribution facility means~~
24 ~~a single, fixed location that consists of buildings or structures in a contig-~~
25 ~~uous area where storage or distribution operations are conducted that are~~
26 ~~separate and apart from the business' retail operations, if any, and which~~
27 ~~do not otherwise qualify for exemption as occurring at a manufacturing~~
28 ~~or processing plant or facility. Material handling and storage equipment~~
29 ~~shall include aeration, dust control, cleaning, handling and other such~~
30 ~~equipment that is used in a public grain warehouse or other commercial~~
31 ~~grain storage facility, whether used for grain handling, grain storage, grain~~
32 ~~refining or processing, or other grain treatment operation; and~~

33 ~~—(ggg)— all sales of tangible personal property and services purchased~~
34 ~~by or on behalf of the Kansas Academy of Science which is exempt from~~
35 ~~federal income taxation pursuant to section 501(c)(3) of the federal in-~~
36 ~~ternal revenue code of 1986, and used solely by such academy for the~~
37 ~~preparation, publication and dissemination of education materials.~~

38 Sec. 4. K.S.A. 2002 Supp. 79-3602, 79-3603 and 79-3606 are hereby
39 repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the statute book.

42
43