

HOUSE BILL No. 2924

By Committee on Taxation

3-9

9 AN ACT concerning sales taxation; relating to contractors and subcon-
10 tractors; amending K.S.A. 2003 Supp. 79-3602, 79-3603 and 79-3606
11 and repealing the existing sections; also repealing K.S.A. 2003 Supp.
12 79-3603c.

13

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

15 Section 1. K.S.A. 2003 Supp. 79-3602 is hereby amended to read as
16 follows: 79-3602. Except as otherwise provided, as used in the Kansas
17 retailers' sales tax act:

18 (a) "Agent" means a person appointed by a seller to represent the
19 seller before the member states.

20 (b) "Agreement" means the multistate agreement entitled the
21 streamlined sales and use tax agreement approved by the streamlined
22 sales tax implementing states at Chicago, Illinois on November 12, 2002.

23 (c) "Alcoholic beverages" means beverages that are suitable for hu-
24 man consumption and contain .05% or more of alcohol by volume.

25 (d) "Certified automated system (CAS)" means software certified un-
26 der the agreement to calculate the tax imposed by each jurisdiction on a
27 transaction, determine the amount of tax to remit to the appropriate state
28 and maintain a record of the transaction.

29 (e) "Certified service provider (CSP)" means an agent certified under
30 the agreement to perform all the seller's sales and use tax functions, other
31 than the seller's obligation to remit tax on its own purchases.

32 (f) "Computer" means an electronic device that accepts information
33 in digital or similar form and manipulates it for a result based on a se-
34 quence of instructions.

35 (g) "Computer software" means a set of coded instructions designed
36 to cause a computer or automatic data processing equipment to perform
37 a task.

38 (h) "Delivered electronically" means delivered to the purchaser by
39 means other than tangible storage media.

40 (i) "Delivery charges" means charges by the seller of personal prop-
41 erty or services for preparation and delivery to a location designated by
42 the purchaser of personal property or services including, but not limited
43 to, transportation, shipping, postage, handling, crating and packing.

1 (j) “Direct mail” means printed material delivered or distributed by
2 United States mail or other delivery services to a mass audience or to
3 addressees on a mailing list provided by the purchaser or at the direction
4 of the purchaser when the cost of the items are not billed directly to the
5 recipients. Direct mail includes tangible personal property supplied di-
6 rectly or indirectly by the purchaser to the direct mail seller for inclusion
7 in the package containing the printed material. Direct mail does not in-
8 clude multiple items of printed material delivered to a single address.

9 (k) “Director” means the state director of taxation.

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

30 (m) “Electronic” means relating to technology having electrical, dig-
31 ital, magnetic, wireless, optical, electromagnetic or similar capabilities.

32 (n) “Food and food ingredients” means substances, whether in liquid,
33 concentrated, solid, frozen, dried or dehydrated form, that are sold for
34 ingestion or chewing by humans and are consumed for their taste or
35 nutritional value. “Food and food ingredients” does not include alcoholic
36 beverages or tobacco.

37 (o) “Gross receipts” means the total selling price or the amount re-
38 ceived as defined in this act, in money, credits, property or other consid-
39 eration valued in money from sales at retail within this state; and em-
40 braced within the provisions of this act. The taxpayer, may take credit in
41 the report of gross receipts for: (1) An amount equal to the selling price
42 of property returned by the purchaser when the full sale price thereof,
43 including the tax collected, is refunded in cash or by credit; and (2) an

1 amount equal to the allowance given for the trade-in of property.

2 (p) "Ingredient or component part" means tangible personal property
3 which is necessary or essential to, and which is actually used in and be-
4 comes an integral and material part of tangible personal property or serv-
5 ices produced, manufactured or compounded for sale by the producer,
6 manufacturer or compounder in its regular course of business. The fol-
7 lowing items of tangible personal property are hereby declared to be
8 ingredients or component parts, but the listing of such property shall not
9 be deemed to be exclusive nor shall such listing be construed to be a
10 restriction upon, or an indication of, the type or types of property to be
11 included within the definition of "ingredient or component part" as
12 herein set forth:

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

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

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

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

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

26 (6) Feed for animals, fowl and aquatic plants and animals, the primary
27 purpose of which is use in agriculture or aquaculture, as defined in K.S.A.
28 47-1901, and amendments thereto, the production of food for human
29 consumption, the production of animal, dairy, poultry or aquatic plant
30 and animal products, fiber, fur, or the production of offspring for use for
31 any such purpose or purposes.

32 (q) "Isolated or occasional sale" means the nonrecurring sale of tan-
33 gible personal property, or services taxable hereunder by a person not
34 engaged at the time of such sale in the business of selling such property
35 or services. Any religious organization which makes a nonrecurring sale
36 of tangible personal property acquired for the purpose of resale shall be
37 deemed to be not engaged at the time of such sale in the business of
38 selling such property. Such term shall include: (1) Any sale by a bank,
39 savings and loan institution, credit union or any finance company licensed
40 under the provisions of the Kansas uniform consumer credit code of tan-
41 gible personal property which has been repossessed by any such entity;
42 and (2) any sale of tangible personal property made by an auctioneer or
43 agent on behalf of not more than two principals or households if such

1 sale is nonrecurring and any such principal or household is not engaged
2 at the time of such sale in the business of selling tangible personal
3 property.

4 (r) “Lease or rental” means any transfer of possession or control of
5 tangible personal property for a fixed or indeterminate term for consid-
6 eration. A lease or rental may include future options to purchase or
7 extend.

8 (1) Lease or rental does not include: (A) A transfer of possession or
9 control of property under a security agreement or deferred payment plan
10 that requires the transfer of title upon completion of the required
11 payments;

12 (B) a transfer or possession or control of property under an agree-
13 ment that requires the transfer of title upon completion of required pay-
14 ments and payment of an option price does not exceed the greater of
15 \$100 or 1% of the total required payments; or

16 (C) providing tangible personal property along with an operator for
17 a fixed or indeterminate period of time. A condition of this exclusion is
18 that the operator is necessary for the equipment to perform as designed.
19 For the purpose of this subsection, an operator must do more than main-
20 tain, inspect or set-up the tangible personal property.

21 (2) Lease or rental does include agreements covering motor vehicles
22 and trailers where the amount of consideration may be increased or de-
23 creased by reference to the amount realized upon sale or disposition of
24 the property as defined in 26 U.S.C. 7701(h)(1).

25 (3) This definition shall be used for sales and use tax purposes re-
26 gardless if a transaction is characterized as a lease or rental under gen-
27 erally accepted accounting principles, the internal revenue code, the uni-
28 form commercial code, K.S.A. 84-1-101 *et seq.* and amendments thereto,
29 or other provisions of federal, state or local law.

30 (4) This definition will be applied only prospectively from the effec-
31 tive date of this act and will have no retroactive impact on existing leases
32 or rentals.

33 (s) “Load and leave” means delivery to the purchaser by use of a
34 tangible storage media where the tangible storage media is not physically
35 transferred to the purchaser.

36 (t) “Member state” means a state that has entered in the agreement,
37 pursuant to provisions of article VIII of the agreement.

38 (u) “Model 1 seller” means a seller that has selected a CSP as its
39 agent to perform all the seller’s sales and use tax functions, other than
40 the seller’s obligation to remit tax on its own purchases.

41 (v) “Model 2 seller” means a seller that has selected a CAS to perform
42 part of its sales and use tax functions, but retains responsibility for re-
43 mitting the tax.

1 (w) “Model 3 seller” means a seller that has sales in at least five
2 member states, has total annual sales revenue of at least \$500,000,000,
3 has a proprietary system that calculates the amount of tax due each juris-
4 diction and has entered into a performance agreement with the member
5 states that establishes a tax performance standard for the seller. As used
6 in this subsection a seller includes an affiliated group of sellers using the
7 same proprietary system.

8 (x) “Municipal corporation” means any city incorporated under the
9 laws of Kansas.

10 (y) “Nonprofit blood bank” means any nonprofit place, organization,
11 institution or establishment that is operated wholly or in part for the
12 purpose of obtaining, storing, processing, preparing for transfusing, fur-
13 nishing, 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 (z) “Persons” means any individual, firm, copartnership, joint adven-
19 ture, association, corporation, estate or trust, receiver or trustee, or any
20 group or combination acting as a unit, and the plural as well as the singular
21 number; and shall specifically mean any city or other political subdivision
22 of the state of Kansas engaging in a business or providing a service spe-
23 cifically taxable under the provisions of this act.

24 (aa) “Political subdivision” means any municipality, agency or sub-
25 division of the state which is, or shall hereafter be, authorized to levy taxes
26 upon tangible property within the state or which certifies a levy to a
27 municipality, agency or subdivision of the state which is, or shall hereafter
28 be, authorized to levy taxes upon tangible property within the state. Such
29 term also shall include any public building commission, housing, airport,
30 port, metropolitan transit or similar authority established pursuant to law.

31 (bb) “Prescription” means an order, formula or recipe issued in any
32 form of oral, written, electronic or other means of transmission by a duly
33 licensed practitioner authorized by the laws of this state.

34 (cc) “Prewritten computer software” means computer software, in-
35 cluding prewritten upgrades, which is not designed and developed by the
36 author or other creator to the specifications of a specific purchaser. The
37 combining of two or more prewritten computer software programs or
38 prewritten portions thereof does not cause the combination to be other
39 than prewritten computer software. Prewritten computer software in-
40 cludes software designed and developed by the author or other creator
41 to the specifications of a specific purchaser when it is sold to a person
42 other than the purchaser. Where a person modifies or enhances computer
43 software of which the person is not the author or creator, the person shall

1 be deemed to be the author or creator only of such person's modifications
2 or enhancements. Prewritten computer software or a prewritten portion
3 thereof that is modified or enhanced to any degree, where such modifi-
4 cation or enhancement is designed and developed to the specifications of
5 a specific purchaser, remains prewritten computer software, except that
6 where there is a reasonable, separately stated charge or an invoice or
7 other statement of the price given to the purchaser for such modification
8 or enhancement, such modification or enhancement shall not constitute
9 prewritten computer software.

10 (dd) "Property which is consumed" means tangible personal property
11 which is essential or necessary to and which is used in the actual process
12 of and consumed, depleted or dissipated within one year in (1) the pro-
13 duction, manufacture, processing, mining, drilling, refining or compound-
14 ing of tangible personal property, (2) the providing of services, (3) the
15 irrigation of crops, for sale in the regular course of business, or (4) the
16 storage or processing of grain by a public grain warehouse or other grain
17 storage facility, and which is not reusable for such purpose. The following
18 is a listing of tangible personal property, included by way of illustration
19 but not of limitation, which qualifies as property which is consumed:

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

25 (B) electricity, gas and water; and

26 (C) petroleum products, lubricants, chemicals, solvents, reagents and
27 catalysts.

28 (ee) "Purchase price" applies to the measure subject to use tax and
29 has the same meaning as sales price.

30 (ff) "Purchaser" means a person to whom a sale of personal property
31 is made or to whom a service is furnished.

32 (gg) "Quasi-municipal corporation" means any county, township,
33 school district, drainage district or any other governmental subdivision in
34 the state of Kansas having authority to receive or hold moneys or funds.

35 (hh) "Registered under this agreement" means registration by a seller
36 with the member states under the central registration system provided in
37 article IV of the agreement.

38 (ii) "Retailer" means a seller regularly engaged in the business of
39 selling, leasing or renting tangible personal property at retail or furnishing
40 electrical energy, gas, water, services or entertainment, and selling only
41 to the user or consumer and not for resale. *Retailer shall include con-*
42 *tractors, subcontractors and repairpersons. When a contractor, subcon-*
43 *tractor or repairperson purchases tangible personal property for use in*

1 *erecting structures, or building on, or otherwise improving, altering or*
2 *repairing real or personal property such purchases shall be considered*
3 *purchases for resale. When a contractor, subcontractor or repairperson*
4 *uses such purchased tangible personal property in erecting structures, or*
5 *building on, or otherwise improving, altering or repairing real or personal*
6 *property, such purchased tangible personal property shall be considered*
7 *sold at retail at the time payment is due under the contract to the person*
8 *contracted with by the contractor, subcontractor or repairperson. If such*
9 *contract is part of a multi-contract project, the labor and materials fur-*
10 *nished pursuant to such a contract shall be subject to sales tax only once.*
11 *When the labor services for any contractor, subcontractor or repairperson*
12 *project are exempt from sales tax and the materials for the project are not,*
13 *the contractor, subcontractor or repairperson shall separately state on*
14 *the invoice or billing to the purchaser the sales price of all tangible per-*
15 *sonal property purchased for resale by the contractor, subcontractor or*
16 *repairperson for the project and the selling price of all labor services*
17 *furnished for the project. Otherwise, the entire sales price billed by the*
18 *contractor, subcontractor or repairperson for the project shall be deemed*
19 *attributable to the retail sale of tangible personal property.*

20 (jj) “Retail sale” or “sale at retail” means any sale, lease or rental for
21 any purpose other than for resale, sublease or subrent.

22 (kk) “Sale” or “sales” means the exchange of tangible personal prop-
23 erty, as well as the sale thereof for money, and every transaction, condi-
24 tional or otherwise, for a consideration, constituting a sale, including the
25 sale or furnishing of electrical energy, gas, water, services or entertain-
26 ment taxable under the terms of this act and including, except as provided
27 in the following provision, the sale of the use of tangible personal property
28 by way of a lease, license to use or the rental thereof regardless of the
29 method by which the title, possession or right to use the tangible personal
30 property is transferred. The term “sale” or “sales” shall not mean the sale
31 of the use of any tangible personal property used as a dwelling by way of
32 a lease or rental thereof for a term of more than 28 consecutive days.

33 (11) (1) “Sales or selling price” applies to the measure subject to
34 sales tax and means the total amount of consideration, including cash,
35 credit, property and services, for which personal property or services are
36 sold, leased or rented, valued in money, whether received in money or
37 otherwise, without any deduction for the following:

38 (A) The seller’s cost of the property sold;

39 (B) the cost of materials used, labor or service cost, interest, losses,
40 all costs of transportation to the seller, all taxes imposed on the seller and
41 any other expense of the seller;

42 (C) charges by the seller for any services necessary to complete the
43 sale, other than delivery and installation charges;

- 1 (D) delivery charges;
- 2 (E) installation charges; and
- 3 (F) the value of exempt personal property given to the purchaser
4 where taxable and exempt personal property have been bundled together
5 and sold by the seller as a single product or piece of merchandise.
- 6 (2) “Sales or selling price” shall not include:
- 7 (A) Discounts, including cash, term or coupons that are not reim-
8 bursed by a third party that are allowed by a seller and taken by a pur-
9 chaser on a sale;
- 10 (B) interest, financing and carrying charges from credit extended on
11 the sale of personal property or services, if the amount is separately stated
12 on the invoice, bill of sale or similar document given to the purchaser;
- 13 (C) any taxes legally imposed directly on the consumer that are sep-
14 arately stated on the invoice, bill of sale or similar document given to the
15 purchaser; and
- 16 (D) the amount equal to the allowance given for the trade-in of prop-
17 erty, if separately stated on the invoice, billing or similar document given
18 to the purchaser.
- 19 (mm) “Seller” means a person making sales, leases or rentals of per-
20 sonal property or services.
- 21 (nn) “Service” means those services described in and taxed under the
22 provisions of K.S.A. 79-3603 and amendments thereto.
- 23 (oo) “Sourcing rules” means the rules set forth in K.S.A. 2003 Supp.
24 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
25 thereto, which shall apply to identify and determine the state and local
26 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
27 particular retail sale.
- 28 (pp) “Tangible personal property” means personal property that can
29 be seen, weighed, measured, felt or touched, or that is in any other man-
30 ner perceptible to the senses. Tangible personal property includes elec-
31 tricity, water, gas, steam and prewritten computer software.
- 32 (qq) “Taxpayer” means any person obligated to account to the direc-
33 tor for taxes collected under the terms of this act.
- 34 (rr) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco or
35 any other item that contains tobacco.
- 36 Sec. 2. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as
37 follows: 79-3603. For the privilege of engaging in the business of selling
38 tangible personal property at retail in this state or rendering or furnishing
39 any of the services taxable under this act, there is hereby levied and there
40 shall be collected and paid a tax at the rate of 5.3% on and after July 1,
41 2002, and before July 1, ~~2004~~, ~~5.2% on and after July 1, 2004, and before~~
42 ~~July 1, 2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a
43 redevelopment district established pursuant to K.S.A. 74-8921, and

1 amendments thereto, there is hereby levied and there shall be collected
2 and paid an additional tax at the rate of 2% until the earlier of the date
3 the bonds issued to finance or refinance the redevelopment project have
4 been paid in full or the final scheduled maturity of the first series of bonds
5 issued to finance any part of the project upon:

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

8 (b) (1) the gross receipts from intrastate telephone or telegraph serv-
9 ices; (2) the gross receipts received from the sale of interstate telephone
10 or telegraph services, which (A) originate within this state and terminate
11 outside the state and are billed to a customer's telephone number or
12 account in this state; or (B) originate outside this state and terminate
13 within this state and are billed to a customer's telephone number or ac-
14 count in this state except that the sale of interstate telephone or telegraph
15 service does not include: (A) Any interstate incoming or outgoing wide
16 area telephone service or wide area transmission type service which en-
17 titles the subscriber to make or receive an unlimited number of com-
18 munications to or from persons having telephone service in a specified
19 area which is outside the state in which the station provided this service
20 is located; (B) any interstate private communications service to the per-
21 sons contracting for the receipt of that service that entitles the purchaser
22 to exclusive or priority use of a communications channel or group of
23 channels between exchanges; (C) any value-added nonvoice service in
24 which computer processing applications are used to act on the form, con-
25 tent, code or protocol of the information to be transmitted; (D) any tel-
26 ecommunication service to a provider of telecommunication services
27 which will be used to render telecommunications services, including car-
28 rier access services; or (E) any service or transaction defined in this sec-
29 tion among entities classified as members of an affiliated group as pro-
30 vided by section 1504 of the federal internal revenue code of 1986, as in
31 effect on January 1, 2001; and (3) the gross receipts from the provision
32 of services taxable under this subsection which are billed on a combined
33 basis with nontaxable services, shall be accounted for and the tax remitted
34 as follows: The taxable portion of the selling price of those combined
35 services shall include only those charges for taxable services if the selling
36 price for the taxable services can be readily distinguishable in the retailer's
37 books and records from the selling price for the nontaxable services. Oth-
38 erwise, the gross receipts from the sale of both taxable and nontaxable
39 services billed on a combined basis shall be deemed attributable to the
40 taxable services included therein. Within 90 days of billing taxable services
41 on a combined basis with nontaxable services, the retailer shall enter into
42 a written agreement with the secretary identifying the methodology to be
43 used in determining the taxable portion of the selling price of those com-

- 1 bined services. The burden of proving that any receipt or charge is not
2 taxable shall be upon the retailer. Upon request from the customer, the
3 retailer shall disclose to the customer the selling price for the taxable
4 services included in the selling price for the taxable and nontaxable serv-
5 ices billed on a combined basis;
- 6 (c) the gross receipts from the sale or furnishing of gas, water, elec-
7 tricity and heat, which sale is not otherwise exempt from taxation under
8 the provisions of this act, and whether furnished by municipally or pri-
9 vately owned utilities, except that, on and after January 1, 2006, for sales
10 of gas, electricity and heat delivered through mains, lines or pipes to
11 residential premises for noncommercial use by the occupant of such
12 premises, and for agricultural use and also, for such use, all sales of pro-
13 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP
14 gas, coal, wood and other fuel sources for the production of heat or light-
15 ing for noncommercial use of an occupant of residential premises, the
16 state rate shall be 0%, but such tax shall not be levied and collected upon
17 the gross receipts from: (1) The sale of a rural water district benefit unit;
18 (2) a water system impact fee, system enhancement fee or similar fee
19 collected by a water supplier as a condition for establishing service; or (3)
20 connection or reconnection fees collected by a water supplier;
- 21 (d) the gross receipts from the sale of meals or drinks furnished at
22 any private club, drinking establishment, catered event, restaurant, eating
23 house, dining car, hotel, drugstore or other place where meals or drinks
24 are regularly sold to the public;
- 25 (e) the gross receipts from the sale of admissions to any place pro-
26 viding amusement, entertainment or recreation services including admis-
27 sions to state, county, district and local fairs, but such tax shall not be
28 levied and collected upon the gross receipts received from sales of ad-
29 missions to any cultural and historical event which occurs triennially;
- 30 (f) the gross receipts from the operation of any coin-operated device
31 dispensing or providing tangible personal property, amusement or other
32 services except laundry services, whether automatic or manually operated;
- 33 (g) the gross receipts from the service of renting of rooms by hotels,
34 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-
35 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto
36 but such tax shall not be levied and collected upon the gross receipts
37 received from sales of such service to the federal government and any
38 agency, officer or employee thereof in association with the performance
39 of official government duties;
- 40 (h) the gross receipts from the service of renting or leasing of tangible
41 personal property except such tax shall not apply to the renting or leasing
42 of machinery, equipment or other personal property owned by a city and
43 purchased from the proceeds of industrial revenue bonds issued prior to

1 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
2 12-1749, and amendments thereto, and any city or lessee renting or leas-
3 ing such machinery, equipment or other personal property purchased
4 with the proceeds of such bonds who shall have paid a tax under the
5 provisions of this section upon sales made prior to July 1, 1973, shall be
6 entitled to a refund from the sales tax refund fund of all taxes paid
7 thereon;

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

11 (j) the gross receipts from the rendering of the services of washing
12 and washing and waxing of vehicles;

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

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

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

27 ~~—(m) the gross receipts received from fees and charges by public and~~
28 ~~private clubs, drinking establishments, organizations and businesses for~~
29 ~~participation in sports, games and other recreational activities, but such~~
30 ~~tax shall not be levied and collected upon the gross receipts received from:~~

31 (1) Fees and charges by any political subdivision, by any organization
32 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-
33 201, and amendments thereto, or by any youth recreation organization
34 exclusively providing services to persons 18 years of age or younger which
35 is exempt from federal income taxation pursuant to section 501(c)(3) of
36 the federal internal revenue code of 1986, for participation in sports,
37 games and other recreational activities; and (2) entry fees and charges for
38 participation in a special event or tournament sanctioned by a national
39 sporting association to which spectators are charged an admission which
40 is taxable pursuant to subsection (e);

41 ~~(n) (m) the gross receipts received from dues charged by public and~~
42 ~~private clubs, drinking establishments, organizations and businesses, pay-~~
43 ~~ment of which entitles a member to the use of facilities for recreation or~~

1 entertainment, but such tax shall not be levied and collected upon the
2 gross receipts received from: (1) Dues charged by any organization ex-
3 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of
4 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships
5 in a nonprofit organization which is exempt from federal income taxation
6 pursuant to section 501 (c)(3) of the federal internal revenue code of
7 1986, and whose purpose is to support the operation of a nonprofit zoo;
8 ~~(n)~~ (n) the gross receipts received from the isolated or occasional sale
9 of motor vehicles or trailers but not including: (1) The transfer of motor
10 vehicles or trailers by a person to a corporation or limited liability com-
11 pany solely in exchange for stock securities or membership interest in
12 such corporation or limited liability company; or (2) the transfer of motor
13 vehicles or trailers by one corporation or limited liability company to
14 another when all of the assets of such corporation or limited liability
15 company are transferred to such other corporation or limited liability
16 company; or (3) the sale of motor vehicles or trailers which are subject
17 to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and
18 amendments thereto, by an immediate family member to another im-
19 mediate family member. For the purposes of clause (3), immediate family
20 member means lineal ascendants or descendants, and their spouses. In
21 determining the base for computing the tax on such isolated or occasional
22 sale, the fair market value of any motor vehicle or trailer traded in by the
23 purchaser to the seller may be deducted from the selling price;
24 ~~(o)~~ (o) the gross receipts received for the service of installing or ap-
25 plying tangible personal property which when installed or applied is not
26 being held for sale in the regular course of business, and whether or not
27 such tangible personal property when installed or applied remains tan-
28 gible personal property or becomes a part of real estate, except that no
29 tax shall be imposed upon the service of installing or applying tangible
30 personal property in connection with the original construction of a build-
31 ing or facility, the original construction, reconstruction, restoration, re-
32 modeling, renovation, repair or replacement of a residence or the con-
33 struction, reconstruction, restoration, replacement or repair of a bridge
34 or highway.

35 For the purposes of this subsection:

36 (1) "Original construction" shall mean the first or initial construction
37 of a new building or facility. The term "original construction" shall include
38 the addition of an entire room or floor to any existing building or facility,
39 the completion of any unfinished portion of any existing building or fa-
40 cility and the restoration, reconstruction or replacement of a building or
41 facility damaged or destroyed by fire, flood, tornado, lightning, explosion
42 or earthquake, but such term, except with regard to a residence, shall not
43 include replacement, remodeling, restoration, renovation or reconstruc-

1 tion under any other circumstances;

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

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

12 (4) “residence” shall mean only those enclosures within which indi-
13 viduals customarily live;

14 ~~(p)~~ (p) the gross receipts received for the service of repairing, serv-
15 icing, altering or maintaining tangible personal property which when such
16 services are rendered is not being held for sale in the regular course of
17 business, and whether or not any tangible personal property is transferred
18 in connection therewith. The tax imposed by this subsection shall be ap-
19 plicable to the services of repairing, servicing, altering or maintaining an
20 item of tangible personal property which has been and is fastened to,
21 connected with or built into real property;

22 ~~(q)~~ (q) the gross receipts from fees or charges made under service or
23 maintenance agreement contracts for services, charges for the providing
24 of which are taxable under the provisions of subsection (p) or (q);

25 ~~(r)~~ (r) the gross receipts received from the sale of computer software,
26 the sale of the service of providing computer software other than pre-
27 written computer software and the sale of the services of modifying, al-
28 tering, updating or maintaining computer software, whether the com-
29 puter software is installed or delivered electronically by tangible storage
30 media physically transferred to the purchaser or by load and leave;

31 ~~(s)~~ (s) the gross receipts received for telephone answering services,
32 mobile telecommunication services, beeper services and other similar
33 services. On and after August 1, 2002, the provisions of the federal mobile
34 telecommunications sourcing act as in effect on January 1, 2002, shall be
35 applicable to all sales of mobile telecommunication services taxable pur-
36 suant to this subsection. The secretary of revenue is hereby authorized
37 and directed to perform any act deemed necessary to properly implement
38 such provisions;

39 ~~(t)~~ (t) the gross receipts received from the sale of prepaid calling
40 service as defined in K.S.A. 2003 Supp. 79-3673, and amendments
41 thereto; and

42 ~~(u)~~ (u) the gross receipts received from the sales of bingo cards, bingo
43 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,

1 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,
2 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before
3 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo
4 faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*,
5 and amendments thereto, shall be exempt from taxes imposed pursuant
6 to this section.

7 Sec. 3. K.S.A. 2003 Supp. 79-3606 is hereby amended to read as
8 follows: 79-3606. The following shall be exempt from the tax imposed by
9 this act:

10 (a) All sales of motor-vehicle fuel or other articles upon which a sales
11 or excise tax has been paid, not subject to refund, under the laws of this
12 state except cigarettes as defined by K.S.A. 79-3301 and amendments
13 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
14 3817 and amendments thereto, including wort, liquid malt, malt syrup
15 and malt extract, which is not subject to taxation under the provisions of
16 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
17 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
18 K.S.A. 65-3424d, and amendments thereto, and drycleaning and laundry
19 services taxed pursuant to K.S.A. 65-34,150, and amendments thereto;

20 (b) all sales of tangible personal property or service, including the
21 renting and leasing of tangible personal property, purchased directly by
22 the state of Kansas, a political subdivision thereof, other than a school or
23 educational institution, or purchased by a public or private nonprofit hos-
24 pital or public hospital authority or nonprofit blood, tissue or organ bank
25 and used exclusively for state, political subdivision, hospital or public hos-
26 pital authority or nonprofit blood, tissue or organ bank purposes, except
27 when: (1) Such state, hospital or public hospital authority is engaged or
28 proposes to engage in any business specifically taxable under the provi-
29 sions of this act and such items of tangible personal property or service
30 are used or proposed to be used in such business, or (2) such political
31 subdivision is engaged or proposes to engage in the business of furnishing
32 gas, electricity or heat to others and such items of personal property or
33 service are used or proposed to be used in such business;

34 (c) all sales of tangible personal property or services, including the
35 renting and leasing of tangible personal property, purchased directly by
36 a public or private elementary or secondary school or public or private
37 nonprofit educational institution and used primarily by such school or
38 institution for nonsectarian programs and activities provided or sponsored
39 by such school or institution or in the erection, repair or enlargement of
40 buildings to be used for such purposes. The exemption herein provided
41 shall not apply to erection, construction, repair, enlargement or equip-
42 ment of buildings used primarily for human habitation;

43 (d) ~~all sales of tangible personal property or services purchased by a~~

1 contractor for the purpose of constructing, equipping, reconstructing,
2 maintaining, repairing, enlarging, furnishing or remodeling facilities for
3 any public or private nonprofit hospital or public hospital authority, public
4 or private elementary or secondary school or a public or private nonprofit
5 educational institution, which would be exempt from taxation under the
6 provisions of this act if purchased directly by such hospital or public hos-
7 pital authority, school or educational institution, and all sales of tangible
8 personal property or services purchased by a contractor for the purpose
9 of constructing, equipping, reconstructing, maintaining, repairing, en-
10 larging, furnishing or remodeling facilities for any political subdivision of
11 the state or district described in subsection (s), the total cost of which is
12 paid from funds of such political subdivision or district and which would
13 be exempt from taxation under the provisions of this act if purchased
14 directly by such political subdivision or district. Nothing in this subsection
15 or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be
16 deemed to exempt the purchase of any construction machinery, equip-
17 ment or tools used in the constructing, equipping, reconstructing, main-
18 taining, repairing, enlarging, furnishing or remodeling facilities for any
19 political subdivision of the state or any such district. As used in this sub-
20 section, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds
21 of a political subdivision" shall mean general tax revenues, the proceeds
22 of any bonds and gifts or grants in aid. Gifts shall not mean funds used
23 for the purpose of constructing, equipping, reconstructing, repairing, en-
24 larging, furnishing or remodeling facilities which are to be leased to the
25 donor. When any political subdivision of the state, district described in
26 subsection (s), public or private nonprofit hospital or public hospital au-
27 thority, public or private elementary or secondary school or public or
28 private nonprofit educational institution shall contract for the purpose of
29 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
30 ing, furnishing or remodeling facilities, it shall obtain from the state and
31 furnish to the contractor an exemption certificate for the project involved,
32 and the contractor may purchase materials for incorporation in such pro-
33 ject. The contractor shall furnish the number of such certificate to all
34 suppliers from whom such purchases are made, and such suppliers shall
35 execute invoices covering the same bearing the number of such certifi-
36 cate. Upon completion of the project the contractor shall furnish to the
37 political subdivision, district described in subsection (s), hospital or public
38 hospital authority, school or educational institution concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. As
41 an alternative to the foregoing procedure, any such contracting entity may
42 apply to the secretary of revenue for agent status for the sole purpose of
43 issuing and furnishing project exemption certificates to contractors pur-

1 suant to rules and regulations adopted by the secretary establishing con-
2 ditions and standards for the granting and maintaining of such status. All
3 invoices shall be held by the contractor for a period of five years and shall
4 be subject to audit by the director of taxation. If any materials purchased
5 under such a certificate are found not to have been incorporated in the
6 building or other project or not to have been returned for credit or the
7 sales or compensating tax otherwise imposed upon such materials which
8 will not be so incorporated in the building or other project reported and
9 paid by such contractor to the director of taxation not later than the 20th
10 day of the month following the close of the month in which it shall be
11 determined that such materials will not be used for the purpose for which
12 such certificate was issued, the political subdivision, district described in
13 subsection (s), hospital or public hospital authority, school or educational
14 institution concerned shall be liable for tax on all materials purchased for
15 the project, and upon payment thereof it may recover the same from the
16 contractor together with reasonable attorney fees. Any contractor or any
17 agent, employee or subcontractor thereof, who shall use or otherwise
18 dispose of any materials purchased under such a certificate for any pur-
19 pose other than that for which such a certificate is issued without the
20 payment of the sales or compensating tax otherwise imposed upon such
21 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
22 shall be subject to the penalties provided for in subsection (g) of K.S.A.
23 79-3615, and amendments thereto;

24 — (c) — all sales of tangible personal property or services purchased by a
25 contractor for the erection, repair or enlargement of buildings or other
26 projects for the government of the United States, its agencies or instru-
27 mentalities, which would be exempt from taxation if purchased directly
28 by the government of the United States, its agencies or instrumentalities.
29 When the government of the United States, its agencies or instrumen-
30 talities shall contract for the erection, repair, or enlargement of any build-
31 ing or other project, it shall obtain from the state and furnish to the
32 contractor an exemption certificate for the project involved, and the con-
33 tractor may purchase materials for incorporation in such project. The
34 contractor shall furnish the number of such certificates to all suppliers
35 from whom such purchases are made, and such suppliers shall execute
36 invoices covering the same bearing the number of such certificate. Upon
37 completion of the project the contractor shall furnish to the government
38 of the United States, its agencies or instrumentalities concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. As
41 an alternative to the foregoing procedure, any such contracting entity may
42 apply to the secretary of revenue for agent status for the sole purpose of
43 issuing and furnishing project exemption certificates to contractors pur-

1 suant to rules and regulations adopted by the secretary establishing con-
2 ditions and standards for the granting and maintaining of such status. All
3 invoices shall be held by the contractor for a period of five years and shall
4 be subject to audit by the director of taxation. Any contractor or any agent,
5 employee or subcontractor thereof, who shall use or otherwise dispose of
6 any materials purchased under such a certificate for any purpose other
7 than that for which such a certificate is issued without the payment of
8 the sales or compensating tax otherwise imposed upon such materials,
9 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
10 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
11 and amendments thereto;

12 ~~(f)~~ tangible personal property purchased by a railroad or public utility
13 for consumption or movement directly and immediately in interstate
14 commerce;

15 ~~(g)~~ (e) sales of aircraft including remanufactured and modified air-
16 craft, sales of aircraft repair, modification and replacement parts and sales
17 of services employed in the remanufacture, modification and repair of
18 aircraft sold to persons using directly or through an authorized agent such
19 aircraft and aircraft repair, modification and replacement parts as certified
20 or licensed carriers of persons or property in interstate or foreign com-
21 merce under authority of the laws of the United States or any foreign
22 government or sold to any foreign government or agency or instrumen-
23 tality of such foreign government and all sales of aircraft, aircraft parts,
24 replacement parts and services employed in the remanufacture, modifi-
25 cation and repair of aircraft for use outside of the United States;

26 ~~(h)~~ (f) all rentals of nonsectarian textbooks by public or private ele-
27 mentary or secondary schools;

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

30 ~~(j)~~ (h) meals served without charge or food used in the preparation
31 of such meals to employees of any restaurant, eating house, dining car,
32 hotel, drugstore or other place where meals or drinks are regularly sold
33 to the public if such employees' duties are related to the furnishing or
34 sale of such meals or drinks;

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

41 ~~(l)~~ (j) all isolated or occasional sales of tangible personal property,
42 services, substances or things, except isolated or occasional sale of motor
43 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.

1 79-3603 and amendments thereto;

2 ~~(m)~~ (k) all sales of tangible personal property which become an in-
3 gredient or component part of tangible personal property or services pro-
4 duced, manufactured or compounded for ultimate sale at retail within or
5 without the state of Kansas; and any such producer, manufacturer or
6 compounder may obtain from the director of taxation and furnish to the
7 supplier an exemption certificate number for tangible personal property
8 for use as an ingredient or component part of the property or services
9 produced, manufactured or compounded;

10 ~~(n)~~ (l) all sales of tangible personal property which is consumed in
11 the production, manufacture, processing, mining, drilling, refining or
12 compounding of tangible personal property, the treating of by-products
13 or wastes derived from any such production process, the providing of
14 services or the irrigation of crops for ultimate sale at retail within or
15 without the state of Kansas; and any purchaser of such property may
16 obtain from the director of taxation and furnish to the supplier an ex-
17 emption certificate number for tangible personal property for consump-
18 tion in such production, manufacture, processing, mining, drilling, refin-
19 ing, compounding, treating, irrigation and in providing such services;

20 ~~(o)~~ (m) all sales of animals, fowl and aquatic plants and animals, the
21 primary purpose of which is use in agriculture or aquaculture, as defined
22 in K.S.A. 47-1901, and amendments thereto, the production of food for
23 human consumption, the production of animal, dairy, poultry or aquatic
24 plant and animal products, fiber or fur, or the production of offspring for
25 use for any such purpose or purposes;

26 ~~(p)~~ (n) all sales of drugs dispensed pursuant to a prescription order
27 by a licensed practitioner or a mid-level practitioner as defined by K.S.A.
28 65-1626, and amendments thereto. As used in this subsection, “drug”
29 means a compound, substance or preparation and any component of a
30 compound, substance or preparation, other than food and food ingredi-
31 ents, dietary supplements or alcoholic beverages, recognized in the offi-
32 cial United States pharmacopoeia, official homeopathic pharmacopoeia
33 of the United States or official national formulary, and supplement to any
34 of them, intended for use in the diagnosis, cure, mitigation, treatment or
35 prevention of disease or intended to affect the structure or any function
36 of the body;

37 ~~(q)~~ (o) all sales of insulin dispensed by a person licensed by the state
38 board of pharmacy to a person for treatment of diabetes at the direction
39 of a person licensed to practice medicine by the board of healing arts;

40 ~~(r)~~ (p) all sales of prosthetic devices and mobility enhancing equip-
41 ment prescribed in writing by a person licensed to practice the healing
42 arts, dentistry or optometry. For the purposes of this subsection: (1) “Mo-
43 bility enhancing equipment” means equipment including repair and re-

1 placement parts to same, but does not include durable medical equip-
2 ment, which is primarily and customarily used to provide or increase the
3 ability to move from one place to another and which is appropriate for
4 use either in a home or a motor vehicle; is not generally used by persons
5 with normal mobility; and does not include any motor vehicle or equip-
6 ment on a motor vehicle normally provided by a motor vehicle manufac-
7 turer; and (2) “prosthetic device” means a replacement, corrective or
8 supportive device including repair and replacement parts for same worn
9 on or in the body to artificially replace a missing portion of the body,
10 prevent or correct physical deformity or malfunction or support a weak
11 or deformed portion of the body;

12 ~~(s)~~(q) except as provided in K.S.A. 2003 Supp. 82a-2101, and amend-
13 ments thereto, all sales of tangible personal property or services pur-
14 chased directly or indirectly by a groundwater management district or-
15 ganized or operating under the authority of K.S.A. 82a-1020 *et seq.* and
16 amendments thereto, by a rural water district organized or operating un-
17 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
18 water supply district organized or operating under the authority of K.S.A.
19 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto,
20 which property or services are used in the construction activities, opera-
21 tion or maintenance of the district;

22 ~~(t)~~(r) all sales of farm machinery and equipment or aquaculture ma-
23 chinery and equipment, repair and replacement parts therefor and serv-
24 ices performed in the repair and maintenance of such machinery and
25 equipment. For the purposes of this subsection the term “farm machinery
26 and equipment or aquaculture machinery and equipment” shall include
27 machinery and equipment used in the operation of Christmas tree farm-
28 ing but shall not include any passenger vehicle, truck, truck tractor, trailer,
29 semitrailer or pole trailer, other than a farm trailer, as such terms are
30 defined by K.S.A. 8-126 and amendments thereto. Each purchaser of
31 farm machinery and equipment or aquaculture machinery and equipment
32 exempted herein must certify in writing on the copy of the invoice or
33 sales ticket to be retained by the seller that the farm machinery and
34 equipment or aquaculture machinery and equipment purchased will be
35 used only in farming, ranching or aquaculture production. Farming or
36 ranching shall include the operation of a feedlot and farm and ranch work
37 for hire and the operation of a nursery;

38 ~~(u)~~(s) all leases or rentals of tangible personal property used as a
39 dwelling if such tangible personal property is leased or rented for a period
40 of more than 28 consecutive days;

41 ~~(v)~~(t) all sales of food products to any contractor for use in preparing
42 meals for delivery to homebound elderly persons over 60 years of age and
43 to homebound disabled persons or to be served at a group-sitting at a

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

10 ~~(w)~~ (u) all sales of natural gas, electricity, heat and water delivered
11 through mains, lines or pipes: (1) To residential premises for noncom-
12 mercial use by the occupant of such premises; (2) for agricultural use and
13 also, for such use, all sales of propane gas; (3) for use in the severing of
14 oil; and (4) to any property which is exempt from property taxation pur-
15 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
16 “severing” shall have the meaning ascribed thereto by subsection (k) of
17 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
18 electricity and heat delivered through mains, lines or pipes pursuant to
19 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
20 section shall expire on December 31, 2005;

21 ~~(x)~~ (v) all sales of propane gas, LP-gas, coal, wood and other fuel
22 sources for the production of heat or lighting for noncommercial use of
23 an occupant of residential premises occurring prior to January 1, 2006;

24 ~~(y)~~ (w) all sales of materials and services used in the repairing, serv-
25 icing, altering, maintaining, manufacturing, remanufacturing, or modifi-
26 cation of railroad rolling stock for use in interstate or foreign commerce
27 under authority of the laws of the United States;

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

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

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

42 ~~(cc)~~ (aa) all sales of tangible personal property or services purchased
43 for the purpose of and in conjunction with constructing, reconstructing,

1 enlarging or remodeling a business or retail business which meets the
2 requirements established in K.S.A. 74-50,115 and amendments thereto,
3 and the sale and installation of machinery and equipment purchased for
4 installation at any such business or retail business. ~~When a person shall~~
5 ~~contract for the construction, reconstruction, enlargement or remodeling~~
6 ~~of any such business or retail business, such person shall obtain from the~~
7 ~~state and furnish to the contractor an exemption certificate for the project~~
8 ~~involved, and the contractor may purchase materials, machinery and~~
9 ~~equipment for incorporation in such project. The contractor shall furnish~~
10 ~~the number of such certificates to all suppliers from whom such purchases~~
11 ~~are made, and such suppliers shall execute invoices covering the same~~
12 ~~bearing the number of such certificate. Upon completion of the project~~
13 ~~the contractor shall furnish to the owner of the business or retail business~~
14 ~~a sworn statement, on a form to be provided by the director of taxation,~~
15 ~~that all purchases so made were entitled to exemption under this subsection.~~
16 ~~All invoices shall be held by the contractor for a period of five years~~
17 ~~and shall be subject to audit by the director of taxation. Any contractor~~
18 ~~or any agent, employee or subcontractor thereof, who shall use or otherwise~~
19 ~~dispose of any materials, machinery or equipment purchased under~~
20 ~~such a certificate for any purpose other than that for which such a~~
21 ~~certificate is issued without the payment of the sales or compensating tax~~
22 ~~otherwise imposed thereon, shall be guilty of a misdemeanor and, upon~~
23 ~~conviction therefor, shall be subject to the penalties provided for in subsection~~
24 ~~(g) of K.S.A. 79-3615 and amendments thereto. As used in this~~
25 ~~subsection, "business" and "retail business" have the meanings respectively~~
26 ~~ascribed thereto by K.S.A. 74-50,114 and amendments thereto;~~
27 ~~(dd)~~ (bb) all sales of tangible personal property purchased with food
28 stamps issued by the United States department of agriculture;
29 ~~(ee)~~ (cc) all sales of lottery tickets and shares made as part of a lottery
30 operated by the state of Kansas;
31 ~~(ff)~~ (dd) on and after July 1, 1988, all sales of new mobile homes or
32 manufactured homes to the extent of 40% of the gross receipts, determined
33 without regard to any trade-in allowance, received from such sale.
34 As used in this subsection, "mobile homes" and "manufactured homes"
35 shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
36 thereto;
37 ~~(gg)~~ (ee) all sales of tangible personal property purchased in accordance
38 with vouchers issued pursuant to the federal special supplemental
39 food program for women, infants and children;
40 ~~(hh)~~ (ff) all sales of medical supplies and equipment, including durable
41 medical equipment, purchased directly by a nonprofit skilled nursing
42 home or nonprofit intermediate nursing care home, as defined by
43 K.S.A. 39-923, and amendments thereto, for the purpose of providing

1 medical services to residents thereof. This exemption shall not apply to
2 tangible personal property customarily used for human habitation pur-
3 poses. As used in this subsection, “durable medical equipment” means
4 equipment including repair and replacement parts for such equipment,
5 but does not include mobility enhancing equipment as defined in sub-
6 section (r) which can withstand repeated use, is primarily and customarily
7 used to serve a medical purpose, generally is not useful to a person in the
8 absence of illness or injury and is not worn in or on the body;

9 ~~(ii)~~ (gg) all sales of tangible personal property purchased directly by
10 a nonprofit organization for nonsectarian comprehensive multidiscipline
11 youth development programs and activities provided or sponsored by
12 such organization, and all sales of tangible personal property by or on
13 behalf of any such organization. This exemption shall not apply to tangible
14 personal property customarily used for human habitation purposes;

15 ~~(jj)~~ (hh) all sales of tangible personal property or services, including
16 the renting and leasing of tangible personal property, purchased directly
17 on behalf of a community-based mental retardation facility or mental
18 health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amend-
19 ments thereto, and licensed in accordance with the provisions of K.S.A.
20 75-3307b and amendments thereto. This exemption shall not apply to
21 tangible personal property customarily used for human habitation
22 purposes;

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

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

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

30 (2) For purposes of this subsection:

31 (A) “Integrated production operation” means an integrated series of
32 operations engaged in at a manufacturing or processing plant or facility
33 to process, transform or convert tangible personal property by physical,
34 chemical or other means into a different form, composition or character
35 from that in which it originally existed. Integrated production operations
36 shall include: (i) Production line operations, including packaging opera-
37 tions; (ii) preproduction operations to handle, store and treat raw mate-
38 rials; (iii) post production handling, storage, warehousing and distribution
39 operations; and (iv) waste, pollution and environmental control opera-
40 tions, if any;

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

1 (C) “manufacturing or processing plant or facility” means a single,
2 fixed location owned or controlled by a manufacturing or processing busi-
3 ness that consists of one or more structures or buildings in a contiguous
4 area where integrated production operations are conducted to manufac-
5 ture or process tangible personal property to be ultimately sold at retail.
6 Such term shall not include any facility primarily operated for the purpose
7 of conveying or assisting in the conveyance of natural gas, electricity, oil
8 or water. A business may operate one or more manufacturing or proc-
9 essing plants or facilities at different locations to manufacture or process
10 a single product of tangible personal property to be ultimately sold at
11 retail;

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

- 1 or refurbish and repair tangible personal property for its owner;
- 2 (E) “repair and replacement parts and accessories” means all parts
3 and accessories for exempt machinery and equipment, including, but not
4 limited to, dies, jigs, molds, patterns and safety devices that are attached
5 to exempt machinery or that are otherwise used in production, and parts
6 and accessories that require periodic replacement such as belts, drill bits,
7 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
8 other refractory items for exempt kiln equipment used in production
9 operations;
- 10 (F) “primary” or “primarily” mean more than 50% of the time.
- 11 (3) For purposes of this subsection, machinery and equipment shall
12 be deemed to be used as an integral or essential part of an integrated
13 production operation when used:
- 14 (A) To receive, transport, convey, handle, treat or store raw materials
15 in preparation of its placement on the production line;
- 16 (B) to transport, convey, handle or store the property undergoing
17 manufacturing or processing at any point from the beginning of the pro-
18 duction line through any warehousing or distribution operation of the
19 final product that occurs at the plant or facility;
- 20 (C) to act upon, effect, promote or otherwise facilitate a physical
21 change to the property undergoing manufacturing or processing;
- 22 (D) to guide, control or direct the movement of property undergoing
23 manufacturing or processing;
- 24 (E) to test or measure raw materials, the property undergoing man-
25 ufacturing or processing or the finished product, as a necessary part of
26 the manufacturer’s integrated production operations;
- 27 (F) to plan, manage, control or record the receipt and flow of inven-
28 tories of raw materials, consumables and component parts, the flow of
29 the property undergoing manufacturing or processing and the manage-
30 ment of inventories of the finished product;
- 31 (G) to produce energy for, lubricate, control the operating of or oth-
32 erwise enable the functioning of other production machinery and equip-
33 ment and the continuation of production operations;
- 34 (H) to package the property being manufactured or processed in a
35 container or wrapping in which such property is normally sold or
36 transported;
- 37 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
38 ilar substances used in production operations from the point of genera-
39 tion, if produced by the manufacturer or processor at the plant site, to
40 that manufacturer’s production operation; or, if purchased or delivered
41 from offsite, from the point where the substance enters the site of the
42 plant or facility to that manufacturer’s production operations;
- 43 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,

1 oil, solvents or other substances that are used in production operations;
2 (K) to provide and control an environment required to maintain cer-
3 tain levels of air quality, humidity or temperature in special and limited
4 areas of the plant or facility, where such regulation of temperature or
5 humidity is part of and essential to the production process;

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

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

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

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

33 (A) Machinery and equipment used for nonproduction purposes, in-
34 cluding, but not limited to, machinery and equipment used for plant se-
35 curity, fire prevention, first aid, accounting, administration, record keep-
36 ing, advertising, marketing, sales or other related activities, plant cleaning,
37 plant communications, and employee work scheduling;

38 (B) machinery, equipment and tools used primarily in maintaining
39 and repairing any type of machinery and equipment or the building and
40 plant;

41 (C) transportation, transmission and distribution equipment not pri-
42 marily used in a production, warehousing or material handling operation
43 at the plant or facility, including the means of conveyance of natural gas,

- 1 electricity, oil or water, and equipment related thereto, located outside
2 the plant or facility;
- 3 (D) office machines and equipment including computers and related
4 peripheral equipment not used directly and primarily to control or mea-
5 sure the manufacturing process;
- 6 (E) furniture and other furnishings;
- 7 (F) buildings, other than exempt machinery and equipment that is
8 permanently affixed to or becomes a physical part of the building, and
9 any other part of real estate that is not otherwise exempt;
- 10 (G) building fixtures that are not integral to the manufacturing op-
11 eration, such as utility systems for heating, ventilation, air conditioning,
12 communications, plumbing or electrical;
- 13 (H) machinery and equipment used for general plant heating, cooling
14 and lighting;
- 15 (I) motor vehicles that are registered for operation on public high-
16 ways; or
- 17 (J) employee apparel, except safety and protective apparel that is pur-
18 chased by an employer and furnished gratuitously to employees who are
19 involved in production or research activities.
- 20 (6) Subsections (3) and (5) shall not be construed as exclusive listings
21 of the machinery and equipment that qualify or do not qualify as an
22 integral or essential part of an integrated production operation. When
23 machinery or equipment is used as an integral or essential part of pro-
24 duction operations part of the time and for nonproduction purpose at
25 other times, the primary use of the machinery or equipment shall deter-
26 mine whether or not such machinery or equipment qualifies for
27 exemption.
- 28 (7) The secretary of revenue shall adopt rules and regulations nec-
29 essary to administer the provisions of this subsection;
- 30 ~~(H)~~ (jj) all sales of educational materials purchased for distribution to
31 the public at no charge by a nonprofit corporation organized for the pur-
32 pose of encouraging, fostering and conducting programs for the improve-
33 ment of public health;
- 34 ~~(mm)~~ (kk) all sales of seeds and tree seedlings; fertilizers, insecticides,
35 herbicides, germicides, pesticides and fungicides; and services, purchased
36 and used for the purpose of producing plants in order to prevent soil
37 erosion on land devoted to agricultural use;
- 38 ~~(nn)~~ (ll) except as otherwise provided in this act, all sales of services
39 rendered by an advertising agency or licensed broadcast station or any
40 member, agent or employee thereof;
- 41 ~~(oo)~~ (mm) all sales of tangible personal property purchased by a com-
42 munity action group or agency for the exclusive purpose of repairing or
43 weatherizing housing occupied by low income individuals;

- 1 ~~(pp)~~ *(nn)* all sales of drill bits and explosives actually utilized in the
2 exploration and production of oil or gas;
- 3 ~~(qq)~~ *(oo)* all sales of tangible personal property and services pur-
4 chased by a nonprofit museum or historical society or any combination
5 thereof, including a nonprofit organization which is organized for the
6 purpose of stimulating public interest in the exploration of space by pro-
7 viding educational information, exhibits and experiences, which is exempt
8 from federal income taxation pursuant to section 501(c)(3) of the federal
9 internal revenue code of 1986;
- 10 ~~(rr)~~ *(pp)* all sales of tangible personal property which will admit the
11 purchaser thereof to any annual event sponsored by a nonprofit organi-
12 zation which is exempt from federal income taxation pursuant to section
13 501(c)(3) of the federal internal revenue code of 1986;
- 14 ~~(ss)~~ *(qq)* all sales of tangible personal property and services purchased
15 by a public broadcasting station licensed by the federal communications
16 commission as a noncommercial educational television or radio station;
- 17 ~~(tt)~~ *(rr)* all sales of tangible personal property and services purchased
18 by or on behalf of a not-for-profit corporation which is exempt from fed-
19 eral income taxation pursuant to section 501(c)(3) of the federal internal
20 revenue code of 1986, for the sole purpose of constructing a Kansas Ko-
21 rean War memorial;
- 22 ~~(uu)~~ *(ss)* all sales of tangible personal property and services purchased
23 by or on behalf of any rural volunteer fire-fighting organization for use
24 exclusively in the performance of its duties and functions;
- 25 ~~(vv)~~ *(tt)* all sales of tangible personal property purchased by any of
26 the following organizations which are exempt from federal income taxa-
27 tion pursuant to section 501 (c)(3) of the federal internal revenue code
28 of 1986, for the following purposes, and all sales of any such property by
29 or on behalf of any such organization for any such purpose:
- 30 (1) The American Heart Association, Kansas Affiliate, Inc. for the
31 purposes of providing education, training, certification in emergency car-
32 diac care, research and other related services to reduce disability and
33 death from cardiovascular diseases and stroke;
- 34 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
35 advocacy for persons with mental illness and to education, research and
36 support for their families;
- 37 (3) the Kansas Mental Illness Awareness Council for the purposes of
38 advocacy for persons who are mentally ill and to education, research and
39 support for them and their families;
- 40 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
41 purpose of eliminating diabetes through medical research, public edu-
42 cation focusing on disease prevention and education, patient education
43 including information on coping with diabetes, and professional education

1 and training;

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

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

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

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

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

20 ~~(xx)~~ (vv) all sales of tangible personal property and services purchased
21 by a nonprofit zoo which is exempt from federal income taxation pursuant
22 to section 501(c)(3) of the federal internal revenue code of 1986, or on
23 behalf of such zoo by an entity itself exempt from federal income taxation
24 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
25 contracted with to operate such zoo ~~and all sales of tangible personal~~
26 ~~property or services purchased by a contractor for the purpose of con-~~
27 ~~structing, equipping, reconstructing, maintaining, repairing, enlarging,~~
28 ~~furnishing or remodeling facilities for any nonprofit zoo which would be~~
29 ~~exempt from taxation under the provisions of this section if purchased~~
30 ~~directly by such nonprofit zoo or the entity operating such zoo. Nothing~~
31 ~~in this subsection shall be deemed to exempt the purchase of any con-~~
32 ~~struction machinery, equipment or tools used in the constructing, equip-~~
33 ~~ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-~~
34 ~~modeling facilities for any nonprofit zoo. When any nonprofit zoo shall~~
35 ~~contract for the purpose of constructing, equipping, reconstructing, main-~~
36 ~~taining, repairing, enlarging, furnishing or remodeling facilities, it shall~~
37 ~~obtain from the state and furnish to the contractor an exemption certifi-~~
38 ~~cate for the project involved, and the contractor may purchase materials~~
39 ~~for incorporation in such project. The contractor shall furnish the number~~
40 ~~of such certificate to all suppliers from whom such purchases are made,~~
41 ~~and such suppliers shall execute invoices covering the same bearing the~~
42 ~~number of such certificate. Upon completion of the project the contractor~~
43 ~~shall furnish to the nonprofit zoo concerned a sworn statement, on a form~~

1 to be provided by the director of taxation, that all purchases so made were
2 entitled to exemption under this subsection. All invoices shall be held by
3 the contractor for a period of five years and shall be subject to audit by
4 the director of taxation. If any materials purchased under such a certifi-
5 cate are found not to have been incorporated in the building or other
6 project or not to have been returned for credit or the sales or compen-
7 sating tax otherwise imposed upon such materials which will not be so
8 incorporated in the building or other project reported and paid by such
9 contractor to the director of taxation not later than the 20th day of the
10 month following the close of the month in which it shall be determined
11 that such materials will not be used for the purpose for which such cer-
12 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
13 all materials purchased for the project, and upon payment thereof it may
14 recover the same from the contractor together with reasonable attorney
15 fees. Any contractor or any agent, employee or subcontractor thereof,
16 who shall use or otherwise dispose of any materials purchased under such
17 a certificate for any purpose other than that for which such a certificate
18 is issued without the payment of the sales or compensating tax otherwise
19 imposed upon such materials, shall be guilty of a misdemeanor and, upon
20 conviction therefor, shall be subject to the penalties provided for in sub-
21 section (g) of K.S.A. 79-3615, and amendments thereto;

22 ~~(yy)~~ (ww) all sales of tangible personal property and services pur-
23 chased by a parent-teacher association or organization, and all sales of
24 tangible personal property by or on behalf of such association or
25 organization;

26 ~~(zz)~~ (xx) all sales of machinery and equipment purchased by over-the-
27 air, free access radio or television station which is used directly and pri-
28 marily for the purpose of producing a broadcast signal or is such that the
29 failure of the machinery or equipment to operate would cause broad-
30 casting to cease. For purposes of this subsection, machinery and equip-
31 ment shall include, but not be limited to, that required by rules and
32 regulations of the federal communications commission, and all sales of
33 electricity which are essential or necessary for the purpose of producing
34 a broadcast signal or is such that the failure of the electricity would cause
35 broadcasting to cease;

36 ~~(aaa)~~ (yy) all sales of tangible personal property and services pur-
37 chased by a religious organization which is exempt from federal income
38 taxation pursuant to section 501(c)(3) of the federal internal revenue
39 code, and used exclusively for religious purposes, and all sales of tangible
40 personal property or services purchased by a contractor for the purpose
41 of constructing, equipping, reconstructing, maintaining, repairing, en-
42 larging, furnishing or remodeling facilities for any such organization which
43 would be exempt from taxation under the provisions of this section if

1 ~~purchased directly by such organization.~~ Nothing in this subsection shall
2 be 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 such organization. ~~When any such organization shall contract for the pur-~~
6 ~~pose of constructing, equipping, reconstructing, maintaining, repairing,~~
7 ~~enlarging, furnishing or remodeling facilities, it shall obtain from the state~~
8 ~~and furnish to the contractor an exemption certificate for the project~~
9 ~~involved, and the contractor may purchase materials for incorporation in~~
10 ~~such project. The contractor shall furnish the number of such certificate~~
11 ~~to all suppliers from whom such purchases are made, and such suppliers~~
12 ~~shall execute invoices covering the same bearing the number of such~~
13 ~~certificate. Upon completion of the project the contractor shall furnish to~~
14 ~~such organization concerned a sworn statement, on a form to be provided~~
15 ~~by the director of taxation, that all purchases so made were entitled to~~
16 ~~exemption under this subsection. All invoices shall be held by the con-~~
17 ~~tractor for a period of five years and shall be subject to audit by the~~
18 ~~director of taxation. If any materials purchased under such a certificate~~
19 ~~are found not to have been incorporated in the building or other project~~
20 ~~or not to have been returned for credit or the sales or compensating tax~~
21 ~~otherwise imposed upon such materials which will not be so incorporated~~
22 ~~in the building or other project reported and paid by such contractor to~~
23 ~~the director of taxation not later than the 20th day of the month following~~
24 ~~the close of the month in which it shall be determined that such materials~~
25 ~~will not be used for the purpose for which such certificate was issued,~~
26 ~~such organization concerned shall be liable for tax on all materials pur-~~
27 ~~chased for the project, and upon payment thereof it may recover the same~~
28 ~~from the contractor together with reasonable attorney fees. Any contrac-~~
29 ~~tor or any agent, employee or subcontractor thereof, who shall use or~~
30 ~~otherwise dispose of any materials purchased under such a certificate for~~
31 ~~any purpose other than that for which such a certificate is issued without~~
32 ~~the payment of the sales or compensating tax otherwise imposed upon~~
33 ~~such materials, shall be guilty of a misdemeanor and, upon conviction~~
34 ~~therefor, shall be subject to the penalties provided for in subsection (g)~~
35 ~~of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after~~
36 ~~July 1, 1998, but prior to the effective date of this act upon the gross~~
37 ~~receipts received from any sale exempted by the amendatory provisions~~
38 ~~of this subsection shall be refunded. Each claim for a sales tax refund~~
39 ~~shall be verified and submitted to the director of taxation upon forms~~
40 ~~furnished by the director and shall be accompanied by any additional~~
41 ~~documentation required by the director. The director shall review each~~
42 ~~claim and shall refund that amount of sales tax paid as determined under~~
43 ~~the provisions of this subsection. All refunds shall be paid from the sales~~

1 tax refund fund upon warrants of the director of accounts and reports
2 pursuant to vouchers approved by the director or the director's designee;
3 ~~(bb)~~(zz) all sales of food for human consumption by an organization
4 which is exempt from federal income taxation pursuant to section 501
5 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
6 distribution program which offers such food at a price below cost in
7 exchange for the performance of community service by the purchaser
8 thereof;

9 ~~(ccc)~~(aaa) on and after July 1, 1999, all sales of tangible personal
10 property and services purchased by a primary care clinic or health center
11 the primary purpose of which is to provide services to medically under-
12 served individuals and families, and which is exempt from federal income
13 taxation pursuant to section 501 (c)(3) of the federal internal revenue
14 code, ~~and all sales of tangible personal property or services purchased by~~
15 ~~a contractor for the purpose of constructing, equipping, reconstructing,~~
16 ~~maintaining, repairing, enlarging, furnishing or remodeling facilities for~~
17 ~~any such clinic or center which would be exempt from taxation under the~~
18 ~~provisions of this section if purchased directly by such clinic or center.~~
19 Nothing in this subsection shall be deemed to exempt the purchase of
20 any construction machinery, equipment or tools used in the constructing,
21 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
22 or remodeling facilities for any such clinic or center. ~~When any such clinic~~
23 ~~or center shall contract for the purpose of constructing, equipping, re-~~
24 ~~constructing, maintaining, repairing, enlarging, furnishing or remodeling~~
25 ~~facilities, it shall obtain from the state and furnish to the contractor an~~
26 ~~exemption certificate for the project involved, and the contractor may~~
27 ~~purchase materials for incorporation in such project. The contractor shall~~
28 ~~furnish the number of such certificate to all suppliers from whom such~~
29 ~~purchases are made, and such suppliers shall execute invoices covering~~
30 ~~the same bearing the number of such certificate. Upon completion of the~~
31 ~~project the contractor shall furnish to such clinic or center concerned a~~
32 ~~sworn statement, on a form to be provided by the director of taxation,~~
33 ~~that all purchases so made were entitled to exemption under this subsec-~~
34 ~~tion. All invoices shall be held by the contractor for a period of five years~~
35 ~~and shall be subject to audit by the director of taxation. If any materials~~
36 ~~purchased under such a certificate are found not to have been incorpo-~~
37 ~~rated in the building or other project or not to have been returned for~~
38 ~~credit or the sales or compensating tax otherwise imposed upon such~~
39 ~~materials which will not be so incorporated in the building or other pro-~~
40 ~~ject reported and paid by such contractor to the director of taxation not~~
41 ~~later than the 20th day of the month following the close of the month in~~
42 ~~which it shall be determined that such materials will not be used for the~~
43 ~~purpose for which such certificate was issued, such clinic or center con-~~

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

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

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

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

42 ~~(ggg)~~ (eee) all sales of tangible personal property and services pur-
43 chased by or on behalf of the Kansas Academy of Science which is exempt

1 from federal income taxation pursuant to section 501(c)(3) of the federal
2 internal revenue code of 1986, and used solely by such academy for the
3 preparation, publication and dissemination of education materials.

4 Sec. 4. K.S.A. 2003 Supp. 79-3602, 79-3603, 79-3603c and 79-3606
5 are hereby repealed.

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