

HOUSE BILL No. 2501

By Committee on Taxation

2-12

9 AN ACT concerning sales taxation; relating to exemptions; certain sales
10 of school supplies, computers and clothing; amending K.S.A. 2006
11 Supp. 79-3606 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as
15 follows: 79-3606. The following shall be exempt from the tax imposed by
16 this act:

17 (a) All sales of motor-vehicle fuel or other articles upon which a sales
18 or excise tax has been paid, not subject to refund, under the laws of this
19 state except cigarettes as defined by K.S.A. 79-3301 and amendments
20 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
21 3817 and amendments thereto, including wort, liquid malt, malt syrup
22 and malt extract, which is not subject to taxation under the provisions of
23 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
24 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
25 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
26 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
27 gross receipts from regulated sports contests taxed pursuant to the Kansas
28 professional regulated sports act, and amendments thereto;

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

43 (c) all sales of tangible personal property or services, including the

1 renting and leasing of tangible personal property, purchased directly by
2 a public or private elementary or secondary school or public or private
3 nonprofit educational institution and used primarily by such school or
4 institution for nonsectarian programs and activities provided or sponsored
5 by such school or institution or in the erection, repair or enlargement of
6 buildings to be used for such purposes. The exemption herein provided
7 shall not apply to erection, construction, repair, enlargement or equip-
8 ment of buildings used primarily for human habitation;

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

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

33 (e) all sales of tangible personal property or services purchased by a
34 contractor for the erection, repair or enlargement of buildings or other
35 projects for the government of the United States, its agencies or instru-
36 mentalities, which would be exempt from taxation if purchased directly
37 by the government of the United States, its agencies or instrumentalities.
38 When the government of the United States, its agencies or instrumen-
39 talities shall contract for the erection, repair, or enlargement of any build-
40 ing or other project, it shall obtain from the state and furnish to the
41 contractor an exemption certificate for the project involved, and the con-
42 tractor may purchase materials for incorporation in such project. The
43 contractor shall furnish the number of such certificates to all suppliers

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

21 (f) tangible personal property purchased by a railroad or public utility
22 for consumption or movement directly and immediately in interstate
23 commerce;

24 (g) sales of aircraft including remanufactured and modified aircraft
25 sold to persons using directly or through an authorized agent such aircraft
26 as certified or licensed carriers of persons or property in interstate or
27 foreign commerce under authority of the laws of the United States or any
28 foreign government or sold to any foreign government or agency or in-
29 strumentality of such foreign government and all sales of aircraft for use
30 outside of the United States and sales of aircraft repair, modification and
31 replacement parts and sales of services employed in the remanufacture,
32 modification and repair of aircraft;

33 (h) all rentals of nonsectarian textbooks by public or private elemen-
34 tary or secondary schools;

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

37 (j) meals served without charge or food used in the preparation of
38 such meals to employees of any restaurant, eating house, dining car, hotel,
39 drugstore or other place where meals or drinks are regularly sold to the
40 public if such employees' duties are related to the furnishing or sale of
41 such meals or drinks;

42 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
43 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and

1 delivered in this state to a bona fide resident of another state, which motor
2 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
3 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
4 remain in this state more than 10 days;

5 (l) all isolated or occasional sales of tangible personal property, serv-
6 ices, substances or things, except isolated or occasional sale of motor
7 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
8 79-3603 and amendments thereto;

9 (m) all sales of tangible personal property which become an ingre-
10 dient or component part of tangible personal property or services pro-
11 duced, manufactured or compounded for ultimate sale at retail within or
12 without the state of Kansas; and any such producer, manufacturer or
13 compounder may obtain from the director of taxation and furnish to the
14 supplier an exemption certificate number for tangible personal property
15 for use as an ingredient or component part of the property or services
16 produced, manufactured or compounded;

17 (n) all sales of tangible personal property which is consumed in the
18 production, manufacture, processing, mining, drilling, refining or com-
19 pounding of tangible personal property, the treating of by-products or
20 wastes derived from any such production process, the providing of serv-
21 ices or the irrigation of crops for ultimate sale at retail within or without
22 the state of Kansas; and any purchaser of such property may obtain from
23 the director of taxation and furnish to the supplier an exemption certifi-
24 cate number for tangible personal property for consumption in such pro-
25 duction, manufacture, processing, mining, drilling, refining, compound-
26 ing, treating, irrigation and in providing such services;

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

33 (p) all sales of drugs dispensed pursuant to a prescription order by a
34 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
35 1626, and amendments thereto. As used in this subsection, "drug" means
36 a compound, substance or preparation and any component of a com-
37 pound, substance or preparation, other than food and food ingredients,
38 dietary supplements or alcoholic beverages, recognized in the official
39 United States pharmacopoeia, official homeopathic pharmacopoeia of the
40 United States or official national formulary, and supplement to any of
41 them, intended for use in the diagnosis, cure, mitigation, treatment or
42 prevention of disease or intended to affect the structure or any function
43 of the body;

1 (q) all sales of insulin dispensed by a person licensed by the state
2 board of pharmacy to a person for treatment of diabetes at the direction
3 of a person licensed to practice medicine by the board of healing arts;

4 (r) all sales of prosthetic devices and mobility enhancing equipment
5 prescribed in writing by a person licensed to practice the healing arts,
6 dentistry or optometry, and in addition to such sales, all sales of hearing
7 aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments
8 thereto, and repair and replacement parts therefor, including batteries,
9 by a person licensed in the practice of dispensing and fitting hearing aids
10 pursuant to the provisions of K.S.A. 74-5808, and amendments thereto.
11 For the purposes of this subsection: (1) "Mobility enhancing equipment"
12 means equipment including repair and replacement parts to same, but
13 does not include durable medical equipment, which is primarily and cus-
14 tomarily used to provide or increase the ability to move from one place
15 to another and which is appropriate for use either in a home or a motor
16 vehicle; is not generally used by persons with normal mobility; and does
17 not include any motor vehicle or equipment on a motor vehicle normally
18 provided by a motor vehicle manufacturer; and (2) "prosthetic device"
19 means a replacement, corrective or supportive device including repair
20 and replacement parts for same worn on or in the body to artificially
21 replace a missing portion of the body, prevent or correct physical defor-
22 mity or malfunction or support a weak or deformed portion of the body;

23 (s) except as provided in K.S.A. 2006 Supp. 82a-2101, and amend-
24 ments thereto, all sales of tangible personal property or services pur-
25 chased directly or indirectly by a groundwater management district or-
26 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
27 amendments thereto, by a rural water district organized or operating un-
28 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
29 water supply district organized or operating under the authority of K.S.A.
30 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
31 which property or services are used in the construction activities, opera-
32 tion or maintenance of the district;

33 (t) all sales of farm machinery and equipment or aquaculture ma-
34 chinery and equipment, repair and replacement parts therefor and serv-
35 ices performed in the repair and maintenance of such machinery and
36 equipment. For the purposes of this subsection the term "farm machinery
37 and equipment or aquaculture machinery and equipment" shall include
38 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
39 thereto, and is equipped with a bed or cargo box for hauling materials,
40 and shall also include machinery and equipment used in the operation of
41 Christmas tree farming but shall not include any passenger vehicle, truck,
42 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
43 as such terms are defined by K.S.A. 8-126 and amendments thereto. Each

1 purchaser of farm machinery and equipment or aquaculture machinery
2 and equipment exempted herein must certify in writing on the copy of
3 the invoice or sales ticket to be retained by the seller that the farm ma-
4 chinery and equipment or aquaculture machinery and equipment pur-
5 chased will be used only in farming, ranching or aquaculture production.
6 Farming or ranching shall include the operation of a feedlot and farm
7 and ranch work for hire and the operation of a nursery;

8 (u) all leases or rentals of tangible personal property used as a dwell-
9 ing if such tangible personal property is leased or rented for a period of
10 more than 28 consecutive days;

11 (v) all sales of tangible personal property to any contractor for use in
12 preparing meals for delivery to homebound elderly persons over 60 years
13 of age and to homebound disabled persons or to be served at a group-
14 sitting at a location outside of the home to otherwise homebound elderly
15 persons over 60 years of age and to otherwise homebound disabled per-
16 sons, as all or part of any food service project funded in whole or in part
17 by government or as part of a private nonprofit food service project avail-
18 able to all such elderly or disabled persons residing within an area of
19 service designated by the private nonprofit organization, and all sales of
20 tangible personal property for use in preparing meals for consumption by
21 indigent or homeless individuals whether or not such meals are consumed
22 at a place designated for such purpose, and all sales of food products by
23 or on behalf of any such contractor or organization for any such purpose;

24 (w) all sales of natural gas, electricity, heat and water delivered
25 through mains, lines or pipes: (1) To residential premises for noncom-
26 mercial use by the occupant of such premises; (2) for agricultural use and
27 also, for such use, all sales of propane gas; (3) for use in the severing of
28 oil; and (4) to any property which is exempt from property taxation pur-
29 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
30 “severing” shall have the meaning ascribed thereto by subsection (k) of
31 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
32 electricity and heat delivered through mains, lines or pipes pursuant to
33 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
34 section shall expire on December 31, 2005;

35 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
36 for the production of heat or lighting for noncommercial use of an oc-
37 cupant of residential premises occurring prior to January 1, 2006;

38 (y) all sales of materials and services used in the repairing, servicing,
39 altering, maintaining, manufacturing, remanufacturing, or modification of
40 railroad rolling stock for use in interstate or foreign commerce under
41 authority of the laws of the United States;

42 (z) all sales of tangible personal property and services purchased di-
43 rectly by a port authority or by a contractor therefor as provided by the

1 provisions of K.S.A. 12-3418 and amendments thereto;

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

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

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

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

43 (ee) all sales of lottery tickets and shares made as part of a lottery

1 operated by the state of Kansas;

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

8 (gg) all sales of tangible personal property purchased in accordance
9 with vouchers issued pursuant to the federal special supplemental food
10 program for women, infants and children;

11 (hh) all sales of medical supplies and equipment, including durable
12 medical equipment, purchased directly by a nonprofit skilled nursing
13 home or nonprofit intermediate nursing care home, as defined by K.S.A.
14 39-923, and amendments thereto, for the purpose of providing medical
15 services to residents thereof. This exemption shall not apply to tangible
16 personal property customarily used for human habitation purposes. As
17 used in this subsection, “durable medical equipment” means equipment
18 including repair and replacement parts for such equipment, but does not
19 include mobility enhancing equipment as defined in subsection (r) which
20 can withstand repeated use, is primarily and customarily used to serve a
21 medical purpose, generally is not useful to a person in the absence of
22 illness or injury and is not worn in or on the body;

23 (ii) all sales of tangible personal property purchased directly by a non-
24 profit organization for nonsectarian comprehensive multidiscipline youth
25 development programs and activities provided or sponsored by such or-
26 ganization, and all sales of tangible personal property by or on behalf of
27 any such organization. This exemption shall not apply to tangible personal
28 property customarily used for human habitation purposes;

29 (jj) all sales of tangible personal property or services, including the
30 renting and leasing of tangible personal property, purchased directly on
31 behalf of a community-based mental retardation facility or mental health
32 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
33 thereto, and licensed in accordance with the provisions of K.S.A. 75-
34 3307b and amendments thereto and all sales of tangible personal property
35 or services purchased by contractors during the time period from July,
36 2003, through June, 2006, for the purpose of constructing, equipping,
37 maintaining or furnishing a new facility for a community-based mental
38 retardation facility or mental health center located in Riverton, Cherokee
39 County, Kansas, which would have been eligible for sales tax exemption
40 pursuant to this subsection if purchased directly by such facility or center.
41 This exemption shall not apply to tangible personal property customarily
42 used for human habitation purposes;

43 (kk) (1) (A) all sales of machinery and equipment which are used in

1 this state as an integral or essential part of an integrated production op-
2 eration by a manufacturing or processing plant or facility;

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

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

7 (2) For purposes of this subsection:

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

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

21 (C) “manufacturing or processing plant or facility” means a single,
22 fixed location owned or controlled by a manufacturing or processing busi-
23 ness that consists of one or more structures or buildings in a contiguous
24 area where integrated production operations are conducted to manufac-
25 ture or process tangible personal property to be ultimately sold at retail.
26 Such term shall not include any facility primarily operated for the purpose
27 of conveying or assisting in the conveyance of natural gas, electricity, oil
28 or water. A business may operate one or more manufacturing or proc-
29 essing plants or facilities at different locations to manufacture or process
30 a single product of tangible personal property to be ultimately sold at
31 retail;

32 (D) “manufacturing or processing business” means a business that
33 utilizes an integrated production operation to manufacture, process, fab-
34 ricate, finish, or assemble items for wholesale and retail distribution as
35 part of what is commonly regarded by the general public as an industrial
36 manufacturing or processing operation or an agricultural commodity
37 processing operation. (i) Industrial manufacturing or processing opera-
38 tions include, by way of illustration but not of limitation, the fabrication
39 of automobiles, airplanes, machinery or transportation equipment, the
40 fabrication of metal, plastic, wood, or paper products, electricity power
41 generation, water treatment, petroleum refining, chemical production,
42 wholesale bottling, newspaper printing, ready mixed concrete production,
43 and the remanufacturing of used parts for wholesale or retail sale. Such

1 processing operations shall include operations at an oil well, gas well, mine
2 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
3 or gravel that has been extracted from the earth is cleaned, separated,
4 crushed, ground, milled, screened, washed, or otherwise treated or pre-
5 pared before its transmission to a refinery or before any other wholesale
6 or retail distribution. (ii) Agricultural commodity processing operations
7 include, by way of illustration but not of limitation, meat packing, poultry
8 slaughtering and dressing, processing and packaging farm and dairy prod-
9 ucts in sealed containers for wholesale and retail distribution, feed grind-
10 ing, grain milling, frozen food processing, and grain handling, cleaning,
11 blending, fumigation, drying and aeration operations engaged in by grain
12 elevators or other grain storage facilities. (iii) Manufacturing or processing
13 businesses do not include, by way of illustration but not of limitation,
14 nonindustrial businesses whose operations are primarily retail and that
15 produce or process tangible personal property as an incidental part of
16 conducting the retail business, such as retailers who bake, cook or prepare
17 food products in the regular course of their retail trade, grocery stores,
18 meat lockers and meat markets that butcher or dress livestock or poultry
19 in the regular course of their retail trade, contractors who alter, service,
20 repair or improve real property, and retail businesses that clean, service
21 or refurbish and repair tangible personal property for its owner;

22 (E) “repair and replacement parts and accessories” means all parts
23 and accessories for exempt machinery and equipment, including, but not
24 limited to, dies, jigs, molds, patterns and safety devices that are attached
25 to exempt machinery or that are otherwise used in production, and parts
26 and accessories that require periodic replacement such as belts, drill bits,
27 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
28 other refractory items for exempt kiln equipment used in production
29 operations;

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

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

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

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

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

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

- 1 (E) to test or measure raw materials, the property undergoing man-
2 ufacturing or processing or the finished product, as a necessary part of
3 the manufacturer's integrated production operations;
- 4 (F) to plan, manage, control or record the receipt and flow of inven-
5 tories of raw materials, consumables and component parts, the flow of
6 the property undergoing manufacturing or processing and the manage-
7 ment of inventories of the finished product;
- 8 (G) to produce energy for, lubricate, control the operating of or oth-
9 erwise enable the functioning of other production machinery and equip-
10 ment and the continuation of production operations;
- 11 (H) to package the property being manufactured or processed in a
12 container or wrapping in which such property is normally sold or
13 transported;
- 14 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
15 ilar substances used in production operations from the point of genera-
16 tion, if produced by the manufacturer or processor at the plant site, to
17 that manufacturer's production operation; or, if purchased or delivered
18 from offsite, from the point where the substance enters the site of the
19 plant or facility to that manufacturer's production operations;
- 20 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
21 oil, solvents or other substances that are used in production operations;
- 22 (K) to provide and control an environment required to maintain cer-
23 tain levels of air quality, humidity or temperature in special and limited
24 areas of the plant or facility, where such regulation of temperature or
25 humidity is part of and essential to the production process;
- 26 (L) to treat, transport or store waste or other byproducts of produc-
27 tion operations at the plant or facility; or
- 28 (M) to control pollution at the plant or facility where the pollution is
29 produced by the manufacturing or processing operation.
- 30 (4) The following machinery, equipment and materials shall be
31 deemed to be exempt even though it may not otherwise qualify as ma-
32 chinery and equipment used as an integral or essential part of an inte-
33 grated production operation: (A) Computers and related peripheral
34 equipment that are utilized by a manufacturing or processing business
35 for engineering of the finished product or for research and development
36 or product design; (B) machinery and equipment that is utilized by a
37 manufacturing or processing business to manufacture or rebuild tangible
38 personal property that is used in manufacturing or processing operations,
39 including tools, dies, molds, forms and other parts of qualifying machinery
40 and equipment; (C) portable plants for aggregate concrete, bulk cement
41 and asphalt including cement mixing drums to be attached to a motor
42 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
43 dations necessary for manufacturing and production operations, and ma-

1 materials and other tangible personal property sold for the purpose of fab-
2 ricating such fixtures, devices, facilities and foundations. An exemption
3 certificate for such purchases shall be signed by the manufacturer or
4 processor. If the fabricator purchases such material, the fabricator shall
5 also sign the exemption certificate; and (E) a manufacturing or processing
6 business' laboratory equipment that is not located at the plant or facility,
7 but that would otherwise qualify for exemption under subsection (3)(E).
8 (5) "Machinery and equipment used as an integral or essential part
9 of an integrated production operation" shall not include:
10 (A) Machinery and equipment used for nonproduction purposes, in-
11 cluding, but not limited to, machinery and equipment used for plant se-
12 curity, fire prevention, first aid, accounting, administration, record keep-
13 ing, advertising, marketing, sales or other related activities, plant cleaning,
14 plant communications, and employee work scheduling;
15 (B) machinery, equipment and tools used primarily in maintaining
16 and repairing any type of machinery and equipment or the building and
17 plant;
18 (C) transportation, transmission and distribution equipment not pri-
19 marily used in a production, warehousing or material handling operation
20 at the plant or facility, including the means of conveyance of natural gas,
21 electricity, oil or water, and equipment related thereto, located outside
22 the plant or facility;
23 (D) office machines and equipment including computers and related
24 peripheral equipment not used directly and primarily to control or mea-
25 sure the manufacturing process;
26 (E) furniture and other furnishings;
27 (F) buildings, other than exempt machinery and equipment that is
28 permanently affixed to or becomes a physical part of the building, and
29 any other part of real estate that is not otherwise exempt;
30 (G) building fixtures that are not integral to the manufacturing op-
31 eration, such as utility systems for heating, ventilation, air conditioning,
32 communications, plumbing or electrical;
33 (H) machinery and equipment used for general plant heating, cooling
34 and lighting;
35 (I) motor vehicles that are registered for operation on public high-
36 ways; or
37 (J) employee apparel, except safety and protective apparel that is pur-
38 chased by an employer and furnished gratuitously to employees who are
39 involved in production or research activities.
40 (6) Subsections (3) and (5) shall not be construed as exclusive listings
41 of the machinery and equipment that qualify or do not qualify as an
42 integral or essential part of an integrated production operation. When
43 machinery or equipment is used as an integral or essential part of pro-

- 1 duction operations part of the time and for nonproduction purpose at
2 other times, the primary use of the machinery or equipment shall deter-
3 mine whether or not such machinery or equipment qualifies for
4 exemption.
- 5 (7) The secretary of revenue shall adopt rules and regulations nec-
6 essary to administer the provisions of this subsection;
- 7 (ll) all sales of educational materials purchased for distribution to the
8 public at no charge by a nonprofit corporation organized for the purpose
9 of encouraging, fostering and conducting programs for the improvement
10 of public health;
- 11 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
12 herbicides, germicides, pesticides and fungicides; and services, purchased
13 and used for the purpose of producing plants in order to prevent soil
14 erosion on land devoted to agricultural use;
- 15 (nn) except as otherwise provided in this act, all sales of services ren-
16 dered by an advertising agency or licensed broadcast station or any mem-
17 ber, agent or employee thereof;
- 18 (oo) all sales of tangible personal property purchased by a community
19 action group or agency for the exclusive purpose of repairing or weath-
20 erizing housing occupied by low income individuals;
- 21 (pp) all sales of drill bits and explosives actually utilized in the explo-
22 ration and production of oil or gas;
- 23 (qq) all sales of tangible personal property and services purchased by
24 a nonprofit museum or historical society or any combination thereof, in-
25 cluding a nonprofit organization which is organized for the purpose of
26 stimulating public interest in the exploration of space by providing edu-
27 cational information, exhibits and experiences, which is exempt from fed-
28 eral income taxation pursuant to section 501(c)(3) of the federal internal
29 revenue code of 1986;
- 30 (rr) all sales of tangible personal property which will admit the pur-
31 chaser thereof to any annual event sponsored by a nonprofit organization
32 which is exempt from federal income taxation pursuant to section
33 501(c)(3) of the federal internal revenue code of 1986;
- 34 (ss) all sales of tangible personal property and services purchased by
35 a public broadcasting station licensed by the federal communications
36 commission as a noncommercial educational television or radio station;
- 37 (tt) all sales of tangible personal property and services purchased by
38 or on behalf of a not-for-profit corporation which is exempt from federal
39 income taxation pursuant to section 501(c)(3) of the federal internal rev-
40 enue code of 1986, for the sole purpose of constructing a Kansas Korean
41 War memorial;
- 42 (uu) all sales of tangible personal property and services purchased by
43 or on behalf of any rural volunteer fire-fighting organization for use ex-

1 clusively in the performance of its duties and functions;

2 (vv) all sales of tangible personal property purchased by any of the
3 following organizations which are exempt from federal income taxation
4 pursuant to section 501 (c)(3) of the federal internal revenue code of
5 1986, for the following purposes, and all sales of any such property by or
6 on behalf of any such organization for any such purpose:

7 (1) The American Heart Association, Kansas Affiliate, Inc. for the
8 purposes of providing education, training, certification in emergency car-
9 diac care, research and other related services to reduce disability and
10 death from cardiovascular diseases and stroke;

11 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
12 advocacy for persons with mental illness and to education, research and
13 support for their families;

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

17 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
18 purpose of eliminating diabetes through medical research, public edu-
19 cation focusing on disease prevention and education, patient education
20 including information on coping with diabetes, and professional education
21 and training;

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

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

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

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

37 (9) the heartstrings community foundation for the purpose of provid-
38 ing training, employment and activities for adults with developmental
39 disabilities;

40 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
41 the purposes of assuring the development of the means to cure and con-
42 trol cystic fibrosis and improving the quality of life for those with the
43 disease;

- 1 (11) the spina bifida association of Kansas for the purpose of provid-
2 ing financial, educational and practical aid to families and individuals with
3 spina bifida. Such aid includes, but is not limited to, funding for medical
4 devices, counseling and medical educational opportunities;
- 5 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
6 borhoods through the construction of new homes, acquiring and reno-
7 vating existing homes and other related activities, and promoting eco-
8 nomic development in such neighborhoods;
- 9 (13) the cross-lines cooperative council for the purpose of providing
10 social services to low income individuals and families;
- 11 (14) the Dreams Work, Inc., for the purpose of providing young adult
12 day services to individuals with developmental disabilities and assisting
13 families in avoiding institutional or nursing home care for a developmen-
14 tally disabled member of their family;
- 15 (15) the KSDS, Inc., for the purpose of promoting the independence
16 and inclusion of people with disabilities as fully participating and contrib-
17 uting members of their communities and society through the training and
18 providing of guide and service dogs to people with disabilities, and pro-
19 viding disability education and awareness to the general public; and
- 20 (16) the lyme association of greater Kansas City, Inc., for the purpose
21 of providing support to persons with lyme disease and public education
22 relating to the prevention, treatment and cure of lyme disease;
- 23 (ww) all sales of tangible personal property purchased by the Habitat
24 for Humanity for the exclusive use of being incorporated within a housing
25 project constructed by such organization;
- 26 (xx) all sales of tangible personal property and services purchased by
27 a nonprofit zoo which is exempt from federal income taxation pursuant
28 to section 501(c)(3) of the federal internal revenue code of 1986, or on
29 behalf of such zoo by an entity itself exempt from federal income taxation
30 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
31 contracted with to operate such zoo and all sales of tangible personal
32 property or services purchased by a contractor for the purpose of con-
33 structing, equipping, reconstructing, maintaining, repairing, enlarging,
34 furnishing or remodeling facilities for any nonprofit zoo which would be
35 exempt from taxation under the provisions of this section if purchased
36 directly by such nonprofit zoo or the entity operating such zoo. Nothing
37 in this subsection shall be deemed to exempt the purchase of any con-
38 struction machinery, equipment or tools used in the constructing, equip-
39 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
40 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
41 contract for the purpose of constructing, equipping, reconstructing, main-
42 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
43 obtain from the state and furnish to the contractor an exemption certifi-

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

28 (yy) all sales of tangible personal property and services purchased by
29 a parent-teacher association or organization, and all sales of tangible per-
30 sonal property by or on behalf of such association or organization;

31 (zz) all sales of machinery and equipment purchased by over-the-air,
32 free access radio or television station which is used directly and primarily
33 for the purpose of producing a broadcast signal or is such that the failure
34 of the machinery or equipment to operate would cause broadcasting to
35 cease. For purposes of this subsection, machinery and equipment shall
36 include, but not be limited to, that required by rules and regulations of
37 the federal communications commission, and all sales of electricity which
38 are essential or necessary for the purpose of producing a broadcast signal
39 or is such that the failure of the electricity would cause broadcasting to
40 cease;

41 (aaa) all sales of tangible personal property and services purchased
42 by a religious organization which is exempt from federal income taxation
43 pursuant to section 501(c)(3) of the federal internal revenue code, and

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

1 shall be verified and submitted to the director of taxation upon forms
2 furnished by the director and shall be accompanied by any additional
3 documentation required by the director. The director shall review each
4 claim and shall refund that amount of sales tax paid as determined under
5 the provisions of this subsection. All refunds shall be paid from the sales
6 tax refund fund upon warrants of the director of accounts and reports
7 pursuant to vouchers approved by the director or the director's designee;
8 (bbb) all sales of food for human consumption by an organization
9 which is exempt from federal income taxation pursuant to section 501
10 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
11 distribution program which offers such food at a price below cost in
12 exchange for the performance of community service by the purchaser
13 thereof;
14 (ccc) on and after July 1, 1999, all sales of tangible personal property
15 and services purchased by a primary care clinic or health center the pri-
16 mary purpose of which is to provide services to medically underserved
17 individuals and families, and which is exempt from federal income taxa-
18 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
19 and all sales of tangible personal property or services purchased by a
20 contractor for the purpose of constructing, equipping, reconstructing,
21 maintaining, repairing, enlarging, furnishing or remodeling facilities for
22 any such clinic or center which would be exempt from taxation under the
23 provisions of this section if purchased directly by such clinic or center.
24 Nothing in this subsection shall be deemed to exempt the purchase of
25 any construction machinery, equipment or tools used in the constructing,
26 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
27 or remodeling facilities for any such clinic or center. When any such clinic
28 or center shall contract for the purpose of constructing, equipping, re-
29 constructing, maintaining, repairing, enlarging, furnishing or remodeling
30 facilities, it shall obtain from the state and furnish to the contractor an
31 exemption certificate for the project involved, and the contractor may
32 purchase materials for incorporation in such project. The contractor shall
33 furnish the number of such certificate to all suppliers from whom such
34 purchases are made, and such suppliers shall execute invoices covering
35 the same bearing the number of such certificate. Upon completion of the
36 project the contractor shall furnish to such clinic or center concerned a
37 sworn statement, on a form to be provided by the director of taxation,
38 that all purchases so made were entitled to exemption under this subsec-
39 tion. All invoices shall be held by the contractor for a period of five years
40 and shall be subject to audit by the director of taxation. If any materials
41 purchased under such a certificate are found not to have been incorpo-
42 rated in the building or other project or not to have been returned for
43 credit or the sales or compensating tax otherwise imposed upon such

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

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

27 (eee) on and after January 1, 1999, and before January 1, 2001, all
28 sales of materials and services purchased for the original construction,
29 reconstruction, repair or replacement of grain storage facilities, including
30 railroad sidings providing access thereto;

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

1 equipment that is used in a public grain warehouse or other commercial
2 grain storage facility, whether used for grain handling, grain storage, grain
3 refining or processing, or other grain treatment operation;

4 (ggg) all sales of tangible personal property and services purchased
5 by or on behalf of the Kansas Academy of Science which is exempt from
6 federal income taxation pursuant to section 501(c)(3) of the federal in-
7 ternal revenue code of 1986, and used solely by such academy for the
8 preparation, publication and dissemination of education materials;

9 (hhh) all sales of tangible personal property and services purchased
10 by or on behalf of all domestic violence shelters that are member agencies
11 of the Kansas coalition against sexual and domestic violence;

12 (iii) all sales of personal property and services purchased by an or-
13 ganization which is exempt from federal income taxation pursuant to sec-
14 tion 501(c)(3) of the federal internal revenue code of 1986, and which
15 such personal property and services are used by any such organization in
16 the collection, storage and distribution of food products to nonprofit or-
17 ganizations which distribute such food products to persons pursuant to a
18 food distribution program on a charitable basis without fee or charge, and
19 all sales of tangible personal property or services purchased by a contrac-
20 tor for the purpose of constructing, equipping, reconstructing, maintain-
21 ing, repairing, enlarging, furnishing or remodeling facilities used for the
22 collection and storage of such food products for any such organization
23 which is exempt from federal income taxation pursuant to section
24 501(c)(3) of the federal internal revenue code of 1986, which would be
25 exempt from taxation under the provisions of this section if purchased
26 directly by such organization. Nothing in this subsection shall be deemed
27 to exempt the purchase of any construction machinery, equipment or
28 tools used in the constructing, equipping, reconstructing, maintaining,
29 repairing, enlarging, furnishing or remodeling facilities for any such or-
30 ganization. When any such organization shall contract for the purpose of
31 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
32 ing, furnishing or remodeling facilities, it shall obtain from the state and
33 furnish to the contractor an exemption certificate for the project involved,
34 and the contractor may purchase materials for incorporation in such pro-
35 ject. The contractor shall furnish the number of such certificate to all
36 suppliers from whom such purchases are made, and such suppliers shall
37 execute invoices covering the same bearing the number of such certifi-
38 cate. Upon completion of the project the contractor shall furnish to such
39 organization concerned a sworn statement, on a form to be provided by
40 the director of taxation, that all purchases so made were entitled to ex-
41 emption under this subsection. All invoices shall be held by the contractor
42 for a period of five years and shall be subject to audit by the director of
43 taxation. If any materials purchased under such a certificate are found

1 not to have been incorporated in such facilities or not to have been re-
2 turned for credit or the sales or compensating tax otherwise imposed upon
3 such materials which will not be so incorporated in such facilities reported
4 and paid by such contractor to the director of taxation not later than the
5 20th day of the month following the close of the month in which it shall
6 be determined that such materials will not be used for the purpose for
7 which such certificate was issued, such organization concerned shall be
8 liable for tax on all materials purchased for the project, and upon payment
9 thereof it may recover the same from the contractor together with rea-
10 sonable attorney fees. Any contractor or any agent, employee or subcon-
11 tractor thereof, who shall use or otherwise dispose of any materials pur-
12 chased under such a certificate for any purpose other than that for which
13 such a certificate is issued without the payment of the sales or compen-
14 sating tax otherwise imposed upon such materials, shall be guilty of a
15 misdemeanor and, upon conviction therefor, shall be subject to the pen-
16 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
17 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
18 date of this act upon the gross receipts received from any sale exempted
19 by the amendatory provisions of this subsection shall be refunded. Each
20 claim for a sales tax refund shall be verified and submitted to the director
21 of taxation upon forms furnished by the director and shall be accompanied
22 by any additional documentation required by the director. The director
23 shall review each claim and shall refund that amount of sales tax paid as
24 determined under the provisions of this subsection. All refunds shall be
25 paid from the sales tax refund fund upon warrants of the director of
26 accounts and reports pursuant to vouchers approved by the director or
27 the director's designee;

28 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
29 tion order by a licensed practitioner or a mid-level practitioner as defined
30 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
31 "dietary supplement" means any product, other than tobacco, intended
32 to supplement the diet that: (1) Contains one or more of the following
33 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
34 amino acid, a dietary substance for use by humans to supplement the diet
35 by increasing the total dietary intake or a concentrate, metabolite, con-
36 stituent, extract or combination of any such ingredient; (2) is intended
37 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
38 if not intended for ingestion, in such a form, is not represented as con-
39 ventional food and is not represented for use as a sole item of a meal or
40 of the diet; and (3) is required to be labeled as a dietary supplement,
41 identifiable by the supplemental facts box found on the label and as re-
42 quired pursuant to 21 C.F.R. § 101.36;

43 (lll) all sales of tangible personal property and services purchased by

1 special olympics Kansas, inc. for the purpose of providing year-round
2 sports training and athletic competition in a variety of olympic-type sports
3 for individuals with intellectual disabilities by giving them continuing op-
4 portunities to develop physical fitness, demonstrate courage, experience
5 joy and participate in a sharing of gifts, skills and friendship with their
6 families, other special olympics athletes and the community, and activities
7 provided or sponsored by such organization, and all sales of tangible per-
8 sonal property by or on behalf of any such organization;

9 (mmm) all sales of tangible personal property purchased by or on
10 behalf of the Marillac Center, Inc., which is exempt from federal income
11 taxation pursuant to section 501(c)(3) of the federal internal revenue
12 code, for the purpose of providing psycho-social-biological and special
13 education services to children, and all sales of any such property by or on
14 behalf of such organization for such purpose;

15 (nnn) all sales of tangible personal property and services purchased
16 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
17 itable Fund for the purpose of constructing a boundless playground which
18 is an integrated, barrier free and developmentally advantageous play en-
19 vironment for children of all abilities and disabilities;

20 (ooo) all sales of tangible personal property by or on behalf of a public
21 library serving the general public and supported in whole or in part with
22 tax money or a not-for-profit organization whose purpose is to raise funds
23 for or provide services or other benefits to any such public library;

24 (ppp) all sales of tangible personal property and services purchased
25 by or on behalf of a homeless shelter which is exempt from federal income
26 taxation pursuant to section 501(c)(3) of the federal income tax code of
27 1986, and used by any such homeless shelter to provide emergency and
28 transitional housing for individuals and families experiencing homeless-
29 ness, and all sales of any such property by or on behalf of any such home-
30 less shelter for any such purpose;

31 (qqq) all sales of tangible personal property and services purchased
32 by TLC for children and families, inc., hereinafter referred to as TLC,
33 which is exempt from federal income taxation pursuant to section
34 501(c)(3) of the federal internal revenue code of 1986, and which such
35 property and services are used for the purpose of providing emergency
36 shelter and treatment for abused and neglected children as well as meet-
37 ing additional critical needs for children, juveniles and family, and all sales
38 of any such property by or on behalf of TLC for any such purpose; and
39 all sales of tangible personal property or services purchased by a contrac-
40 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
41 nishing or remodeling facilities for the operation of services for TLC for
42 any such purpose which would be exempt from taxation under the pro-
43 visions of this section if purchased directly by TLC. Nothing in this sub-

1 section shall be deemed to exempt the purchase of any construction ma-
2 chinery, equipment or tools used in the constructing, maintaining,
3 repairing, enlarging, furnishing or remodeling such facilities for TLC.
4 When TLC contracts for the purpose of constructing, maintaining, re-
5 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
6 from the state and furnish to the contractor an exemption certificate for
7 the project involved, and the contractor may purchase materials for in-
8 corporation in such project. The contractor shall furnish the number of
9 such certificate to all suppliers from whom such purchases are made, and
10 such suppliers shall execute invoices covering the same bearing the num-
11 ber of such certificate. Upon completion of the project the contractor
12 shall furnish to TLC a sworn statement, on a form to be provided by the
13 director of taxation, that all purchases so made were entitled to exemption
14 under this subsection. All invoices shall be held by the contractor for a
15 period of five years and shall be subject to audit by the director of taxation.
16 If any materials purchased under such a certificate are found not to have
17 been incorporated in the building or other project or not to have been
18 returned for credit or the sales or compensating tax otherwise imposed
19 upon such materials which will not be so incorporated in the building or
20 other project reported and paid by such contractor to the director of
21 taxation not later than the 20th day of the month following the close of
22 the month in which it shall be determined that such materials will not be
23 used for the purpose for which such certificate was issued, TLC shall be
24 liable for tax on all materials purchased for the project, and upon payment
25 thereof it may recover the same from the contractor together with rea-
26 sonable attorney fees. Any contractor or any agent, employee or subcon-
27 tractor thereof, who shall use or otherwise dispose of any materials pur-
28 chased under such a certificate for any purpose other than that for which
29 such a certificate is issued without the payment of the sales or compen-
30 sating tax otherwise imposed upon such materials, shall be guilty of a
31 misdemeanor and, upon conviction therefor, shall be subject to the pen-
32 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
33 thereto;

34 (rrr) all sales of tangible personal property and services purchased by
35 any county law library maintained pursuant to law and sales of tangible
36 personal property and services purchased by an organization which would
37 have been exempt from taxation under the provisions of this subsection
38 if purchased directly by the county law library for the purpose of providing
39 legal resources to attorneys, judges, students and the general public, and
40 all sales of any such property by or on behalf of any such county law
41 library;

42 (sss) all sales of tangible personal property and services purchased by
43 catholic charities or youthville, hereinafter referred to as charitable family

1 providers, which is exempt from federal income taxation pursuant to sec-
2 tion 501(c)(3) of the federal internal revenue code of 1986, and which
3 such property and services are used for the purpose of providing emer-
4 gency shelter and treatment for abused and neglected children as well as
5 meeting additional critical needs for children, juveniles and family, and
6 all sales of any such property by or on behalf of charitable family providers
7 for any such purpose; and all sales of tangible personal property or serv-
8 ices purchased by a contractor for the purpose of constructing, maintain-
9 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
10 eration of services for charitable family providers for any such purpose
11 which would be exempt from taxation under the provisions of this section
12 if purchased directly by charitable family providers. Nothing in this sub-
13 section shall be deemed to exempt the purchase of any construction ma-
14 chinery, equipment or tools used in the constructing, maintaining, re-
15 pairing, enlarging, furnishing or remodeling such facilities for charitable
16 family providers. When charitable family providers contracts for the pur-
17 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
18 modeling such facilities, it shall obtain from the state and furnish to the
19 contractor an exemption certificate for the project involved, and the con-
20 tractor may purchase materials for incorporation in such project. The
21 contractor shall furnish the number of such certificate to all suppliers
22 from whom such purchases are made, and such suppliers shall execute
23 invoices covering the same bearing the number of such certificate. Upon
24 completion of the project the contractor shall furnish to charitable family
25 providers a sworn statement, on a form to be provided by the director of
26 taxation, that all purchases so made were entitled to exemption under
27 this subsection. All invoices shall be held by the contractor for a period
28 of five years and shall be subject to audit by the director of taxation. If
29 any materials purchased under such a certificate are found not to have
30 been incorporated in the building or other project or not to have been
31 returned for credit or the sales or compensating tax otherwise imposed
32 upon such materials which will not be so incorporated in the building or
33 other project reported and paid by such contractor to the director of
34 taxation not later than the 20th day of the month following the close of
35 the month in which it shall be determined that such materials will not be
36 used for the purpose for which such certificate was issued, charitable
37 family providers shall be liable for tax on all materials purchased for the
38 project, and upon payment thereof it may recover the same from the
39 contractor together with reasonable attorney fees. Any contractor or any
40 agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any pur-
42 pose other than that for which such a certificate is issued without the
43 payment of the sales or compensating tax otherwise imposed upon such

1 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
2 shall be subject to the penalties provided for in subsection (g) of K.S.A.
3 79-3615, and amendments thereto;

4 (ttt) all sales of tangible personal property or services purchased by
5 a contractor for a project for the purpose of restoring, constructing, equip-
6 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
7 modeling a home or facility owned by a nonprofit museum which has
8 been granted an exemption pursuant to subsection (qq), which such home
9 or facility is located in a city which has been designated as a qualified
10 hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and
11 amendments thereto, and which such project is related to the purposes
12 of K.S.A. 75-5071, et seq., and amendments thereto, and which would
13 be exempt from taxation under the provisions of this section if purchased
14 directly by such nonprofit museum. Nothing in this subsection shall be
15 deemed to exempt the purchase of any construction machinery, equip-
16 ment or tools used in the restoring, constructing, equipping, reconstruct-
17 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
18 or facility for any such nonprofit museum. When any such nonprofit mu-
19 seum shall contract for the purpose of restoring, constructing, equipping,
20 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
21 ing a home or facility, it shall obtain from the state and furnish to the
22 contractor an exemption certificate for the project involved, and the con-
23 tractor may purchase materials for incorporation in such project. The
24 contractor shall furnish the number of such certificates to all suppliers
25 from whom such purchases are made, and such suppliers shall execute
26 invoices covering the same bearing the number of such certificate. Upon
27 completion of the project, the contractor shall furnish to such nonprofit
28 museum a sworn statement on a form to be provided by the director of
29 taxation that all purchases so made were entitled to exemption under this
30 subsection. All invoices shall be held by the contractor for a period of five
31 years and shall be subject to audit by the director of taxation. If any
32 materials purchased under such a certificate are found not to have been
33 incorporated in the building or other project or not to have been returned
34 for credit or the sales or compensating tax otherwise imposed upon such
35 materials which will not be so incorporated in a home or facility or other
36 project reported and paid by such contractor to the director of taxation
37 not later than the 20th day of the month following the close of the month
38 in which it shall be determined that such materials will not be used for
39 the purpose for which such certificate was issued, such nonprofit museum
40 shall be liable for tax on all materials purchased for the project, and upon
41 payment thereof it may recover the same from the contractor together
42 with reasonable attorney fees. Any contractor or any agent, employee or
43 subcontractor thereof, who shall use or otherwise dispose of any materials

1 purchased under such a certificate for any purpose other than that for
2 which such a certificate is issued without the payment of the sales or
3 compensating tax otherwise imposed upon such materials, shall be guilty
4 of a misdemeanor and, upon conviction therefor, shall be subject to the
5 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
6 ments thereto; ~~and~~

7 (uuu) all sales of tangible personal property and services purchased
8 by Kansas children's service league, hereinafter referred to as KCSL,
9 which is exempt from federal income taxation pursuant to section
10 501(c)(3) of the federal internal revenue code of 1986, and which such
11 property and services are used for the purpose of providing for the pre-
12 vention and treatment of child abuse and maltreatment as well as meeting
13 additional critical needs for children, juveniles and family, and all sales of
14 any such property by or on behalf of KCSL for any such purpose; and all
15 sales of tangible personal property or services purchased by a contractor
16 for the purpose of constructing, maintaining, repairing, enlarging, fur-
17 nishing or remodeling facilities for the operation of services for KCSL
18 for any such purpose which would be exempt from taxation under the
19 provisions of this section if purchased directly by KCSL. Nothing in this
20 subsection shall be deemed to exempt the purchase of any construction
21 machinery, equipment or tools used in the constructing, maintaining, re-
22 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
23 When KCSL contracts for the purpose of constructing, maintaining, re-
24 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
25 from the state and furnish to the contractor an exemption certificate for
26 the project involved, and the contractor may purchase materials for in-
27 corporation in such project. The contractor shall furnish the number of
28 such certificate to all suppliers from whom such purchases are made, and
29 such suppliers shall execute invoices covering the same bearing the num-
30 ber of such certificate. Upon completion of the project the contractor
31 shall furnish to KCSL a sworn statement, on a form to be provided by
32 the director of taxation, that all purchases so made were entitled to ex-
33 emption under this subsection. All invoices shall be held by the contractor
34 for a period of five years and shall be subject to audit by the director of
35 taxation. If any materials purchased under such a certificate are found
36 not to have been incorporated in the building or other project or not to
37 have been returned for credit or the sales or compensating tax otherwise
38 imposed upon such materials which will not be so incorporated in the
39 building or other project reported and paid by such contractor to the
40 director of taxation not later than the 20th day of the month following
41 the close of the month in which it shall be determined that such materials
42 will not be used for the purpose for which such certificate was issued,
43 KCSL shall be liable for tax on all materials purchased for the project,

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

10 *(vvv) on and after July 1, 2007, all sales of clothing or clothing ac-*
11 *cessories or equipment having a taxable value of \$300 or less, school sup-*
12 *plies, school instructional materials or school art supplies not to exceed*
13 *\$100 per purchase, prewritten computer software with a taxable value of*
14 *\$300 or less and personal computers or school computer supplies not to*
15 *exceed \$2,000, during the period beginning at 12:01 a.m. on the first*
16 *Wednesday in August and ending at midnight on the Sunday following.*
17 *Only items priced below the price threshold established in this subsection*
18 *shall be exempt from taxation pursuant to this subsection. There shall be*
19 *no exemption pursuant to this subsection for only a portion of the price*
20 *of an individual item. The provisions of section 2, and amendments*
21 *thereto, shall apply to the exemption contained in this subsection.*

22 New Sec. 2. (a) As used in this section and subsection (vvv) of K.S.A.
23 79-3606, and amendments thereto:

24 (1) "Clothing" means all human wearing apparel suitable for general
25 use. Clothing includes, but is not limited to: Aprons, household and shop;
26 athletic supporters; baby receiving blankets; bathing suits and caps; beach
27 capes and coats; belts and suspenders; boots; coats and jackets; costumes;
28 diapers, children and adult, including disposable diapers; ear muffs; foot-
29 lets; formal wear; garters and garter belts; girdles; gloves and mittens for
30 general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties;
31 overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and
32 shoe laces; slippers; sneakers; socks and stockings; steel toed shoes; un-
33 derwear; uniforms, athletic and non-athletic; and wedding apparel. Cloth-
34 ing shall not include: Belt buckles sold separately; costume masks sold
35 separately; patches and emblems sold separately; sewing equipment and
36 supplies including, but not limited to, knitting needles, patterns, pins,
37 scissors, sewing machines, sewing needles, tape measures, and thimbles;
38 and sewing materials that become part of clothing including, but not
39 limited to, buttons, fabric, lace, thread, yarn, and zippers;

40 (2) "clothing accessories or equipment" means incidental items worn
41 on the person or in conjunction with clothing. Clothing accessories or
42 equipment includes, but is not limited to: Briefcases; cosmetics; hair no-
43 tions, including, but not limited to, barrettes, hair bows, and hair nets;

- 1 handbags; handkerchiefs; jewelry; sun glasses, non-prescription; umbrel-
2 las; wallets; watches and wigs and hair pieces;
- 3 (3) “eligible property” means an item of a type, such as clothing, that
4 qualifies for the sales tax exemption as provided in subsection (vvv) of
5 K.S.A. 79-3606, and amendments thereto;
- 6 (4) “layaway sale” means a transaction in which property is set aside
7 for future delivery to a customer who makes a deposit, agrees to pay the
8 balance of the purchase price over a period of time and, at the end of the
9 payment period, receives the property. An order is accepted for layaway
10 by the seller, when the seller removes the property from normal inventory
11 or clearly identifies the property as sold to the purchaser;
- 12 (5) “rain check” means the seller allows a customer to purchase an
13 item at a certain price at a later time because the particular item was out
14 of stock;
- 15 (6) “school art supply” means an item commonly used by a student
16 in a course of study for artwork. The following is an all-inclusive list: Clay
17 and glazes; paints, acrylic, tempora and oil; paintbrushes for artwork;
18 sketch and drawing pads; and watercolors;
- 19 (7) “school computer supply” means an item commonly used by a
20 student in a course of study in which a computer is used. The following
21 is an all-inclusive list: Computer storage media, diskettes, compact disks;
22 handheld electronic schedulers, except devices that are cellular phones;
23 personal digital assistants, except devices that are cellular phones; com-
24 puter printers; and printer supplies for computers, printer paper and
25 printer ink;
- 26 (8) “school instructional material” means written material commonly
27 used by a student in a course of study as a reference and to learn the
28 subject being taught. The following is an all-inclusive list: Reference
29 books; reference maps and globes; textbooks; and workbooks; and
- 30 (9) “school supply” means an item commonly used by a student in a
31 course of study. The following is an all-inclusive list: Binders; book bags;
32 calculators; cellophane tape; blackboard chalk; compasses; composition
33 books; crayons; erasers; folders, expandable, pocket, plastic and manila;
34 glue, paste and paste sticks; highlighters; index cards; index card boxes;
35 legal pads; lunch boxes; markers; notebooks; paper; loose leaf ruled note-
36 book paper, copy paper, graph paper, tracing paper, manila paper, colored
37 paper, poster board, and construction paper; pencil boxes and other
38 school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers;
39 scissors; and writing tablets.
- 40 (b) The secretary shall provide notice of the exemption period to
41 retailers at least 60 days prior to the first day of the calendar quarter in
42 which the exemption period established in subsection (vvv) of K.S.A. 79-
43 3606, and amendments thereto, commences.

- 1 (c) The following procedures are to be used in administering the ex-
2 emption as provided in subsection (vzv) of K.S.A. 79-3606, and amend-
3 ments thereto:
- 4 (1) A sale of eligible property under a layaway sale qualifies for the
5 exemption if:
- 6 (A) Final payment on a layaway order is made by, and the property
7 is given to, the purchaser during the exemption period; or
- 8 (B) the purchaser selects the property and the retailer accepts the
9 order for the item during the exemption period, for immediate delivery
10 upon full payment, even if delivery is made after the exemption period;
- 11 (2) there shall be no change during the period of exemption for the
12 handling of a bundled sale as treated for sales tax purposes at times other
13 than the exemption period;
- 14 (3) a discount by the seller reduces the sales price of the property
15 and the discounted sales price determines whether the sales price is
16 within the price threshold provided in subsection (vzv) of K.S.A. 79-3606,
17 and amendments thereto. A coupon that reduces the sales price is treated
18 as a discount if the seller is not reimbursed for the coupon amount by a
19 third party. If a discount applies to the total amount paid by a purchaser
20 rather than to the sales price of a particular item and the purchaser has
21 purchased both eligible property and taxable property, the seller should
22 allocate the discount based on the total sales prices of the taxable property
23 compared to the total sales prices of all property sold in that same
24 transaction;
- 25 (4) articles that are normally sold as a single unit must continue to be
26 sold in that manner. Such articles cannot be priced separately and sold
27 as individual items in order to obtain the exemption;
- 28 (5) a rain check allows a customer to purchase an item at a certain
29 price at a later time because the particular item was out of stock. Eligible
30 property that customers purchase during the exemption period with use
31 of a rain check will qualify for the exemption regardless of when the rain
32 check was issued. Issuance of a rain check during the exemption period
33 shall not qualify eligible property for the exemption if the property is
34 actually purchased after the exemption period;
- 35 (6) the procedure for an exchange in regards to an exemption is as
36 follows:
- 37 (A) If a customer purchases an item of eligible property during the
38 exemption period, but later exchanges the item for a similar eligible item,
39 even if a different size, different color or other feature, no additional tax
40 is due even if the exchange is made after the exemption period;
- 41 (B) if a customer purchases an item of eligible property during the
42 exemption period, but after the exemption period has ended, the cus-
43 tomer returns the item and receives credit on the purchase of a different

1 item, the appropriate sales tax is due on the sale of the newly purchased
2 item; and

3 (C) if a customer purchases an item of eligible property before the
4 exemption period, but during the exemption period the customer returns
5 the item and receives credit on the purchase of a different item of eligible
6 property, no sales tax is due on the sale of the new item if the new item
7 is purchased during the exemption period;

8 (7) delivery charges, including shipping, handling and service
9 charges, are part of the sales price of eligible property. For the purpose
10 of determining the price threshold, if all the property in a shipment qual-
11 ifies as eligible property and the sales price for each item in the shipment
12 is within the price threshold, then the seller does not have to allocate the
13 delivery, handling or service charge to determine if the price threshold
14 is exceeded. The shipment will be considered a sale of eligible products.
15 If the shipment includes eligible property and taxable property, including
16 an eligible item with a sales price in excess of the price threshold, the
17 seller should allocate the delivery charge by using:

18 (A) A percentage based on the total sales prices of the taxable prop-
19 erty compared to the total sales prices of all property in the shipment; or

20 (B) a percentage based on the total weight of the taxable property
21 compared to the total weight of all property in the shipment; and

22 (C) the seller must tax the percentage of the delivery charge allocated
23 to the taxable property but does not have to tax the percentage allocated
24 to the eligible property;

25 (8) for the purpose of an exemption, eligible property qualifies for
26 the exemption if:

27 (A) The item is both delivered to and paid for by the customer during
28 the exemption period; or

29 (B) the customer orders and pays for the item and the seller accepts
30 the order during the exemption period for immediate shipment, even if
31 delivery is made after the exemption period. The seller accepts an order
32 when the seller has taken action to fill the order for immediate shipment.
33 Actions to fill an order include placement of an in date stamp on a mail
34 order or assignment of an order number to a telephone order. An order
35 is for immediate shipment when the customer does not request delayed
36 shipment. An order is for immediate shipment notwithstanding that the
37 shipment may be delayed because of a backlog of orders or because stock
38 is currently unavailable to, or on back order by, the seller;

39 (9) for a 60-day period immediately after the exemption period, when
40 a customer returns an item that would qualify for the exemption, no credit
41 for or refund of sales tax shall be given unless the customer provides a
42 receipt or invoice that shows tax was paid, or the seller has sufficient
43 documentation to show that tax was paid on the specific item. This 60-

1 day period is set solely for the purpose of designating a time period during
2 which the customer must provide documentation that shows that sales
3 tax was paid on returned merchandise. The 60-day period is not intended
4 to change a seller's policy on the time period during which the seller will
5 accept returns; and
6 (10) the time zone of the seller's location determines the authorized
7 time period for a sales tax holiday when the purchaser is located in one
8 time zone and a seller is located in another.
9 Sec. 3. K.S.A. 2006 Supp. 79-3606 is hereby repealed.
10 Sec. 4. This act shall take effect and be in force from and after its
11 publication in the Kansas register.