

HOUSE BILL No. 2318

By Committee on Taxation

2-7

1 AN ACT concerning sales and compensating use tax; relating to rates;
2 decreasing rate of tax to 6.15%; amending K.S.A. 2022 Supp. 79-3603
3 and 79-3703 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2022 Supp. 79-3603 is hereby amended to read as
7 follows: 79-3603. For the privilege of engaging in the business of selling
8 tangible personal property at retail in this state or rendering or furnishing
9 any of the services taxable under this act, there is hereby levied and there
10 shall be collected and paid a tax at the rate of ~~6.5%~~ 6.15%. On and after
11 January 1, 2023, 17% and on and after January 1, 2025, 18% of the tax
12 rate imposed pursuant to this section and the rate provided in K.S.A. 2022
13 Supp. 79-3603d, and amendments thereto, shall be levied for the state
14 highway fund, the state highway fund purposes and those purposes
15 specified in K.S.A. 68-416, and amendments thereto, and all revenue
16 collected and received from such tax levy shall be deposited in the state
17 highway fund.

18 Within a redevelopment district established pursuant to K.S.A. 74-
19 8921, and amendments thereto, there is hereby levied and there shall be
20 collected and paid an additional tax at the rate of 2% until the earlier of the
21 date the bonds issued to finance or refinance the redevelopment project
22 have been paid in full or the final scheduled maturity of the first series of
23 bonds issued to finance any part of the project.

24 Such tax shall be imposed upon:

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

27 (b) the gross receipts from intrastate, interstate or international
28 telecommunications services and any ancillary services sourced to this
29 state in accordance with K.S.A. 79-3673, and amendments thereto, except
30 that telecommunications service does not include: (1) Any interstate or
31 international 800 or 900 service; (2) any interstate or international private
32 communications service as defined in K.S.A. 79-3673, and amendments
33 thereto; (3) any value-added nonvoice data service; (4) any
34 telecommunication service to a provider of telecommunication services
35 which will be used to render telecommunications services, including
36 carrier access services; or (5) any service or transaction defined in this

1 section among entities classified as members of an affiliated group as
2 provided by section 1504 of the federal internal revenue code of 1986, as
3 in effect on January 1, 2001;

4 (c) the gross receipts from the sale or furnishing of gas, water,
5 electricity and heat, which sale is not otherwise exempt from taxation
6 under the provisions of this act, and whether furnished by municipally or
7 privately owned utilities, except that, on and after January 1, 2006, for
8 sales of gas, electricity and heat delivered through mains, lines or pipes to
9 residential premises for noncommercial use by the occupant of such
10 premises, and for agricultural use and also, for such use, all sales of
11 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
12 gas, coal, wood and other fuel sources for the production of heat or
13 lighting for noncommercial use of an occupant of residential premises, the
14 state rate shall be 0%, but such tax shall not be levied and collected upon
15 the gross receipts from: (1) The sale of a rural water district benefit unit;
16 (2) a water system impact fee, system enhancement fee or similar fee
17 collected by a water supplier as a condition for establishing service; or (3)
18 connection or reconnection fees collected by a water supplier;

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

23 (e) the gross receipts from the sale of admissions to any place
24 providing amusement, entertainment or recreation services including
25 admissions to state, county, district and local fairs, but such tax shall not
26 be levied and collected upon the gross receipts received from sales of
27 admissions to any cultural and historical event which occurs triennially;

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

31 (g) the gross receipts from the service of renting of rooms by hotels,
32 as defined by K.S.A. 36-501, and amendments thereto, or by
33 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
34 thereto, but such tax shall not be levied and collected upon the gross
35 receipts received from sales of such service to the federal government and
36 any agency, officer or employee thereof in association with the
37 performance of official government duties;

38 (h) the gross receipts from the service of renting or leasing of tangible
39 personal property except such tax shall not apply to the renting or leasing
40 of machinery, equipment or other personal property owned by a city and
41 purchased from the proceeds of industrial revenue bonds issued prior to
42 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
43 12-1749, and amendments thereto, and any city or lessee renting or leasing

1 such machinery, equipment or other personal property purchased with the
2 proceeds of such bonds who shall have paid a tax under the provisions of
3 this section upon sales made prior to July 1, 1973, shall be entitled to a
4 refund from the sales tax refund fund of all taxes paid thereon;

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

8 (j) the gross receipts from the rendering of the services of washing
9 and washing and waxing of vehicles;

10 (k) the gross receipts from cable, community antennae and other
11 subscriber radio and television services;

12 (l) (1) except as otherwise provided by paragraph (2), the gross
13 receipts received from the sales of tangible personal property to all
14 contractors, subcontractors or repairmen for use by them in erecting
15 structures, or building on, or otherwise improving, altering, or repairing
16 real or personal property.

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

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

38 (n) the gross receipts received from dues charged by public and
39 private clubs, drinking establishments, organizations and businesses,
40 payment of which entitles a member to the use of facilities for recreation
41 or entertainment, but such tax shall not be levied and collected upon the
42 gross receipts received from: (1) Dues charged by any organization exempt
43 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and

1 amendments thereto; and (2) sales of memberships in a nonprofit
2 organization which is exempt from federal income taxation pursuant to
3 section 501(c)(3) of the federal internal revenue code of 1986, and whose
4 purpose is to support the operation of a nonprofit zoo;

5 (o) the gross receipts received from the isolated or occasional sale of
6 motor vehicles or trailers but not including: (1) The transfer of motor
7 vehicles or trailers by a person to a corporation or limited liability
8 company solely in exchange for stock securities or membership interest in
9 such corporation or limited liability company; (2) the transfer of motor
10 vehicles or trailers by one corporation or limited liability company to
11 another when all of the assets of such corporation or limited liability
12 company are transferred to such other corporation or limited liability
13 company; or (3) the sale of motor vehicles or trailers which are subject to
14 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
15 amendments thereto, by an immediate family member to another
16 immediate family member. For the purposes of paragraph (3), immediate
17 family member means lineal ascendants or descendants, and their spouses.
18 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
19 on the isolated or occasional sale of motor vehicles or trailers on and after
20 July 1, 2004, which the base for computing the tax was the value pursuant
21 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
22 such amount was higher than the amount of sales tax which would have
23 been paid under the law as it existed on June 30, 2004, shall be refunded to
24 the taxpayer pursuant to the procedure prescribed by this section. Such
25 refund shall be in an amount equal to the difference between the amount of
26 sales tax paid by the taxpayer and the amount of sales tax which would
27 have been paid by the taxpayer under the law as it existed on June 30,
28 2004. Each claim for a sales tax refund shall be verified and submitted not
29 later than six months from the effective date of this act to the director of
30 taxation upon forms furnished by the director and shall be accompanied by
31 any additional documentation required by the director. The director shall
32 review each claim and shall refund that amount of tax paid as provided by
33 this act. All such refunds shall be paid from the sales tax refund fund, upon
34 warrants of the director of accounts and reports pursuant to vouchers
35 approved by the director of taxation or the director's designee. No refund
36 for an amount less than \$10 shall be paid pursuant to this act. In
37 determining the base for computing the tax on such isolated or occasional
38 sale, the fair market value of any motor vehicle or trailer traded in by the
39 purchaser to the seller may be deducted from the selling price;

40 (p) the gross receipts received for the service of installing or applying
41 tangible personal property which when installed or applied is not being
42 held for sale in the regular course of business, and whether or not such
43 tangible personal property when installed or applied remains tangible

1 personal property or becomes a part of real estate, except that no tax shall
2 be imposed upon the service of installing or applying tangible personal
3 property in connection with the original construction of a building or
4 facility, the original construction, reconstruction, restoration, remodeling,
5 renovation, repair or replacement of a residence or the construction,
6 reconstruction, restoration, replacement or repair of a bridge or highway.

7 For the purposes of this subsection:

8 (1) "Original construction" means the first or initial construction of a
9 new building or facility. The term "original construction" shall include the
10 addition of an entire room or floor to any existing building or facility, the
11 completion of any unfinished portion of any existing building or facility
12 and the restoration, reconstruction or replacement of a building, facility or
13 utility structure damaged or destroyed by fire, flood, tornado, lightning,
14 explosion, windstorm, ice loading and attendant winds, terrorism or
15 earthquake, but such term, except with regard to a residence, shall not
16 include replacement, remodeling, restoration, renovation or reconstruction
17 under any other circumstances;

18 (2) "building" means only those enclosures within which individuals
19 customarily are employed, or which are customarily used to house
20 machinery, equipment or other property, and including the land
21 improvements immediately surrounding such building;

22 (3) "facility" means a mill, plant, refinery, oil or gas well, water well,
23 feedlot or any conveyance, transmission or distribution line of any
24 cooperative, nonprofit, membership corporation organized under or subject
25 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
26 municipal or quasi-municipal corporation, including the land
27 improvements immediately surrounding such facility;

28 (4) "residence" means only those enclosures within which individuals
29 customarily live;

30 (5) "utility structure" means transmission and distribution lines
31 owned by an independent transmission company or cooperative, the
32 Kansas electric transmission authority or natural gas or electric public
33 utility; and

34 (6) "windstorm" means straight line winds of at least 80 miles per
35 hour as determined by a recognized meteorological reporting agency or
36 organization;

37 (q) the gross receipts received for the service of repairing, servicing,
38 altering or maintaining tangible personal property which when such
39 services are rendered is not being held for sale in the regular course of
40 business, and whether or not any tangible personal property is transferred
41 in connection therewith. The tax imposed by this subsection shall be
42 applicable to the services of repairing, servicing, altering or maintaining an
43 item of tangible personal property which has been and is fastened to,

1 connected with or built into real property;

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

5 (s) on and after January 1, 2005, the gross receipts received from the
6 sale of prewritten computer software and the sale of the services of
7 modifying, altering, updating or maintaining prewritten computer
8 software, whether the prewritten computer software is installed or
9 delivered electronically by tangible storage media physically transferred to
10 the purchaser or by load and leave;

11 (t) the gross receipts received for telephone answering services;

12 (u) the gross receipts received from the sale of prepaid calling service
13 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
14 amendments thereto;

15 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
16 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
17 exempt from taxes imposed pursuant to this section;

18 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
19 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
20 pursuant to this section; and

21 (x) commencing on January 1, 2023, and thereafter, the state rate on
22 the gross receipts from the sale of food and food ingredients shall be as set
23 forth in K.S.A. 2022 Supp. 79-3603d, and amendments thereto.

24 Sec. 2. K.S.A. 2022 Supp. 79-3703 is hereby amended to read as
25 follows: 79-3703. (a) There is hereby levied and there shall be collected
26 from every person in this state a tax or excise for the privilege of using,
27 storing, or consuming within this state any article of tangible personal
28 property. Such tax shall be levied and collected in an amount equal to the
29 consideration paid by the taxpayer multiplied by the rate of ~~6.5%~~ 6.15%.

30 (b) Commencing on January 1, 2023, and thereafter, the state rate on
31 the amount equal to the consideration paid by the taxpayer from the sale of
32 food and food ingredients as provided in K.S.A. 79-3603, and amendments
33 thereto, shall be as set forth in K.S.A. 2022 Supp. 79-3603d, and
34 amendments thereto.

35 (c) On and after January 1, 2023, 17% and on and after January 1,
36 2025, 18% of the tax rate imposed pursuant to this section and the rate
37 provided in K.S.A. 2022 Supp. 79-3603d, and amendments thereto, shall
38 be levied for the state highway fund, the state highway fund purposes and
39 those purposes specified in K.S.A. 68-416, and amendments thereto, and
40 all revenue collected and received from such tax levy shall be deposited in
41 the state highway fund.

42 (d) Within a redevelopment district established pursuant to K.S.A.
43 74-8921, and amendments thereto, there is hereby levied and there shall be

1 collected and paid an additional tax of 2% until the earlier of: (1) The date
2 the bonds issued to finance or refinance the redevelopment project
3 undertaken in the district have been paid in full; or (2) the final scheduled
4 maturity of the first series of bonds issued to finance the redevelopment
5 project.

6 (e) All property purchased or leased within or without this state and
7 subsequently used, stored or consumed in this state shall be subject to the
8 compensating tax if the same property or transaction would have been
9 subject to the Kansas retailers' sales tax had the transaction been wholly
10 within this state.

11 Sec. 3. K.S.A. 2022 Supp. 79-3603 and 79-3703 are hereby repealed.

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