

Date: February 19, 2013

To: House Committee on Taxation

From: Charles Goad, Montgomery County Citizen and Banker

Re: House Bill No. 2285 – Commercial and industrial machinery and equipment.

Chairman Carlson and members of the House Standing Committee on Taxation, I am Charles Goad appearing as a Kansas taxpayer and business person in Montgomery County. Thank you for the opportunity to express my concern about the potential statewide impact of House Bill No. 2285. It is critical that a resolution fair to all parties can be developed and passed. With respect to the committee's time, I have summarized my concerns below.

### **DEFINITION**

The definition of commercial and industrial machinery and equipment (CIME) in the last revision I read contains the wording "*if the item may be disassembled, detached or removed from real property without causing significant damage to the item*". I believe "or real property" should be added to this sentence. If the removal of the asset does not impact the real property it is obviously CIME. The attempt to codify a definition of CIME versus using the three part fixtures test to distinguish them from fixtures is achieved. However, if the removal of the asset significantly damages the real property it is just as sure a fixture. In that case the wording without "or real property" has not clarified CIME but has created a new class of fixtures, renamed them, and exempted them from property taxes.

### **NEED**

The effort behind this new legislation is rooted in two new tax valuations in southeast Kansas, one in Neosho County and one in Montgomery County. In both cases there were substantial increases in overall property taxes. However, the increases were not related to increased valuations on existing assets or reclassification. The increases were related to new taxes being assessed on new, unclassified assets that had never been on the tax rolls before due to 10 year tax abatements. The root problem is that the law providing the process for a 10 year tax abatement requires a cost benefit analysis to be done but does not require any sort of agreement between the parties as to the input data. Generally the party preparing the cost benefit analysis inputs data provided by the company requesting the abatement and does not question their distinctions between CIME and real property. The county/city officials I have asked about this specifically state that they have not previously seen value in challenging this data since the only purpose would be to set valuations on assets that would be exempt from taxes for 10 years anyway. The accepted practice is to wait until the abatement expires and have the assets appraised by competent appraisers to set a fair market value at that time.

The two cases that prompted this effort could have been avoided altogether if the tax abatement process were amended to include a requirement that the County Appraiser and the company requesting the abatement agree to what assets in the proposed transaction are real property (including fixtures) and CIME prior to the tax exemption being granted. At that point the company can make an informed decision as to the economic viability of the project given the property tax implications and proceed, cancel, or move the project elsewhere.

Therefore I question the need for legislation that would impact the entire state due to a limited number of valuation disputes that are still in the process of working their way through the normal appeal process. However, based on conversations I have had with owners and managers of large commercial properties in the region, they intend to challenge their current property valuations using the new legislation if passed and if they can lower the property taxes they have been paying for years associated with fixtures. They are obligated to their shareholders to do so. Small business owners and homeowners are panicking over what a shift in the valuations from large commercial properties will do to the mill levy. They are looking into their options to relocate. So in these ways this statewide solution could in fact create a new statewide problem with tax revenues.