

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson John Edmonds at 9:00 a.m. on March 21, 2003 in Room 519-S of the Capitol.

All members were present except:

Representative John Edmonds  
Representative Paul Davis  
Representative Jeff Goering  
Representative Steve Brunk  
Representative Ted Powers

Committee staff present:

Chris Courwright, Legislative Research Dept.  
April Holman, Legislative Research Dept.  
Gordon Self, Office of the Revisor of Statutes  
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Joan Wagon, Acting Secretary of Revenue  
Eileen King, Riley County Treasurer  
Marlee Carpenter, KCCI  
Christy Caldwell, Topeka Chamber of  
Commerce  
Hal Hudson, NFIB

Others attending:

See attached list

Vice-Chairman Huff opened the meeting requesting any bill introductions. Hearing none, he opened the meeting for public hearings on **HB 2430** - *relating to interest on overpayments; periods of limitation on refunds or credits*. The Vice-Chair requested an overview of the bill by Chris Courtwright from the Legislative Research Department followed by introduction of the Acting Secretary of Revenue, Joan Wagon who appeared before the committee in as a proponent of **HB 2430**. Her testimony stated that the bill includes a number of provisions that will save the State of Kansas substantial money. It reduces the interest rate on tax refunds to 2%, and shortens the statute of limitations on the filing of income tax and sales tax refund claims from three years to one year. It also makes clear that the interest clock only starts running on income tax refund claims if the Department does not pay them within six months. Pending sales tax refund claims based on exemptions, as well as pending income tax refund claims based on certain economic development incentive tax credits are terminated. (Attachment 1)

Eileen King, Riley County Treasurer was next to address the committee in support of **HB 2430**. Ms. King represented both the Treasurers Association and the Kansas Association of Counties. In her testimony, she stated that as noted in her written testimony, this bill would save Riley County \$5,196.28 over the last two years. They ask for support for the bill as the current statute is costly, complicated and difficult to explain. (Attachment 2) Also submitted by Ms. King was a State document on the Division of Property Valuation (Attachment 3).

KCCI (Kansas Chamber of Commerce and Industry) was represented by Marlee Carpenter as an opponent of **HB 2430**. Their testimony states that this bill would preclude refund claims for sales and use tax

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exemptions and exclusions. This would put an end to legitimate refund claims for taxes paid on transactions that were never intended to be taxed under the sales and use tax statutes. Also, this bill would preclude refund claims for income tax credits unless filed on the original income tax return. If enacted, this bill would put into statute one set of rule the Department of Revenue must follow for an audit and another set of rules a taxpayer must follow for a refund claim. ([Attachment 4](#))

Christy Caldwell of the Greater Topeka Chamber testified before the committee of **HB 2430**. Their testimony voiced the opinion that this bill reduces the statute of limitations for the refund of any overpayment of income, sales and use tax from three years to one year. If a tax payer overpays their income tax or remits too much sales/use tax and the error or omission is discovered a year later, the taxpayer is just out of luck. This policy change effects all taxpayers. ([Attachment 5](#))

NFIB (National Federation of Independent Business) was represented by Hal Hudson who testified in opposition of **HB 2430** as well as **HB 2449**. **HB 2430** would allow imposition of interest charges of up to 7% on any unpaid taxes, while rolling back the rate to only 2% on any overpayments. Second, it would roll back the time allowed for credit or refund of overpayment from three years to one year. Why should a taxpayer be required to pay a higher interest rate on overdue taxes than would be paid on taxpayer money held by the state as result of overpayment? Further the bill provides that if a refund is paid within six months (current law is two months) no interest shall be allowed or paid. When **HB 2430** is coupled with **HB 2449** it seems the taxpayer would get a double whammy. **HB 2449** would deny refund if a taxpayer claims income tax credits allowed by law in excess of the current tax liability. Such tax credits could be carried forward to the next tax year, but not refunded. ([Attachment 6](#))

With no further conferees regarding **HB 2430**, Chairman Edmonds closed the hearing and opened the meeting for hearing on **HB 2449**.

Acting Secretary of Revenue, Joan Wagon, testified in favor of **HB 2449** stating that this bill includes a number of provisions that will save the State of Kansas substantial money. The positive fiscal impact of this bill for FY 04 is estimated to be \$8.77 million. If a tax credit is refundable, the taxpayer can claim it, whether the taxpayer has any tax liability to apply the credit against or not. If the taxpayer has insufficient tax liability to apply the credit against, the taxpayer is entitled to receive a refund of the unused amount of credit. Refundable tax credits do not simply reduce a taxpayer's tax liability. Changing the listed tax credits from refundable to non-refundable does not mean that those credits cannot be claimed. It only means that tax liability must exist for the credit to be applied against. ([Attachment 7](#))

With no further proponents on **HB 2449**, Chairman Edmonds opened the meeting for opposition to the bill.

Marlee Carpenter, KCCI (Kansas Chamber of Commerce and Industry) testified in opposition to **HB 2449**. In her testimony, she stated that the Kansas Chamber has fought for many years to enhance the credit to offset the high property taxes on machinery and equipment. If refundability of this credit is removed, the incentive the legislature envisioned when it passed the income tax credit is removed. Even if a business has little or no taxable income, they must still pay the high property taxes on machinery and equipment. ([Attachment 8](#))

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Christy Caldwell, Greater Topeka Chamber, appeared before the committee as an opponent to **HB 2449**. This bill eliminates the refundability of tax credits now allowed in the statute. The availability of a tax credit refund is particularly important in an economy such as we have now. When Kansas a businesses succeed and grow, the state succeeds and revenues grow. (Attachment 9)

Assistant Vice-President of State and Local Tax for Sprint, Mark Beshears, also presented testimony in opposition to **HB 2449**. The enactment of the refundable tax credit put Sprint and other facility-based providers on a level playing field with other non-facility based providers. If the refundability feature of the current statute is removed, Sprint and other facility-based providers would once again be treated differently than other non-facility-based providers. **HB 2449** would penalize facility-based providers by effectively delaying the equalization that was the sole reason for enacting it in the first place. (Attachment 10)

There being no further conferees on **HB 2449**, Chairman Edmonds closed the bill for hearing.

The Chairman called to the attention of the committee, a submission from Karl Peterjohn. This was information explaining a booklet which the committee had requested entitled *50 State Comparisons* published by the Taxpayers Network Inc. (Attachment 11) (This booklet is available from Taxpayers Network, Inc. W 67 N 222 Evergreen Blvd #202 - Cedarburg, Wisconsin 53012)

Also submitted was a letter written to Representative Jack from Ronald Hein, legislative counsel for the Kansas Restaurant and Hospitality Association in answer to a question regarding **HB 2323** which was heard last week. (Attachment 11)

Submitted in response to a question by Representative Schwab, was the accounts receivable report for February of 2003 published by the Kansas Department of Revenue. (Attachment 12)

With no further business before the committee, Chairman Edmonds adjourned the meeting at 10:30 a.m.