Approved: January 26, 2005
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 20, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present: Chris Courtwright, Legislative Research Department
Gordon Self, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Richard Cram, Director of Policy and Research, Department of Revenue
Secretary Joan Wagnon, Department of Revenue

Others attending:
See attached list.

The Chairman opened the floor for bill introductions

Representative O'Malley requested that a bill be introduced that would create a regional taxing authority for the Kansas district of Kansas City metropolitan area. The motion was seconded by Representative Owens. The motion carried.

Representative Siegfreid requested that a bill be re-introduced relating to the Streamlined Sales Tax Moratorium. Representative Carlson seconded the motion. The motion carried.

The Chairman invited Richard Cram to give the Committee an overview on sales tax. He introduced staff members in attendance: Steven Brunkan, Financial Economist, Ronald Grant, Education Tax Specialist, Tom Hatten, Tax Specialist-Policy and Research, Tom Brown, Project Exemption Specialist.

He reviewed the *Kansas Sales & Use Tax Jurisdiction Code Booklet* (copy of booklet on file at Department of Revenue) that contained current local sales tax rates and city/county jurisdiction codes. It is updated quarterly. He stated that the most up-to-date information is on their website - www.ksrevenue.org.
The *Kansas Sales Tax and Compensating Use Tax* guide (copy of booklet on file at Department of Revenue) was distributed. This booklet is sent to all new retailers for information on Kansas' tax processes.

Excerpts from the Department of Revenue Annual Report relating to Sales Tax (Attachment 1) were distributed. This handout provides a summary of the total amount of sales and use tax for the past six years. The second handout (Attachment 2) reflects the total amount of sales tax collected by county. He explained the Standard Industrial Classification System (SIC) and the North American Industry Classification System (NAICS) illustrated on pages 38-40. A *State Sales Tax Exemptions Summary* (Attachment 3) was distributed. It is a spreadsheet providing the fiscal estimate of the revenue foregone for each of the sales tax exemptions. An excerpt from the latest version of HOUSE Substitute for Senate Bill 147 was distributed (Attachment 4),

Mr. Cram defined sales tax as an excise tax on gross receipts on retail sales. It has been collected in Kansas since 1937, when it was proven to be a popular revenue raising tool for the state during the depression. The initial state rate was 2% and currently is 5.3%. There are 45 states, plus the District of Columbia that currently impose sales tax. In Kansas the state and local sales and use tax represents 42% of the total tax collected in Kansas. The sales tax is paid by the consumer, however the retailer is obligated to collect and remit the tax to the state.

The use tax is imposed on goods purchased out of state and are stored, used or consumed in Kansas. If the other state imposed a tax, Kansas tax liability would be offset. Its purpose is to protect both the state and local retailers from providing an artificial advantage to out-of-state retailers. He explained the process of collection of use tax, and the NAICS agreements in place between states. The consumer bears the responsibility for reporting and paying the use tax. A new mechanism has been added to state income tax forms this year, (line 18) that invites consumers to report use tax on their out-of-state purchases.

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Representative Kinzer called attention to the chart that reflected the total amount of dollars collected for use tax and questioned whether there was a breakdown in terms of amounts that were collected based upon business transactions verses the amount collected from individuals. Steve Brunkan stated that it was classified by whether it was paid by a consumer or retailer, and he agreed to provide that information to the committee.

Mr. Cram spoke briefly on the 1988 Federal Government "Moratorium on Internet Taxation", that prohibited states from collecting taxes on internet access fees. There is a misconception on this issue and many people think that this imposed moratorium is placed on states imposing taxes on retail transactions that take place over the internet, however that is false. A retail transaction that takes place on the internet is just as taxable as one that takes place over a counter. He explained how the NAICS applied in this circumstance. The Internet Tax Freedom Act prohibits states from imposing a tax on the monthly fees for internet service providers. In response to a question, Mr. Cram explained affiliate NAICS and its application to internet sales.

Secretary Wagnon, Department of Revenue, introduced David Corbin, Special Assistant to the Secretary, stating that he would be available to answer any committee members questions on tax related issues during the session.

The Secretary explained data on the State General Fund Total Collections and by Source handout (see Attachment 1). She called attention to the two principal sources of taxes, Income Tax and Sales Tax. She spoke of the Legislature's responsibility in setting taxes and the ramifications of those tax changes from the revenue standpoint.

She called attention to **SB 147** and reviewed Section 7, 79-3603, on page 5 of Attachment 4, which reads: *For the privilege of engaging in the business in selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%.* Taxes are divided into twenty-one categories. The exemptions from taxation are listed in Section 8, 79-3606, which she invited committee members to peruse. She noted that the State Sales Tax Exemptions Summary, that had been distributed to the Committee, provided important data on all the exemptions.

She referred to several excerpts from a policy document that was developed by the Hodge Commission in 1970. This group, in the course of the summer interim, studied Kansas taxes and questioned the current status and what the ideal status would be. The process they put in place to evaluate tax policy gave guidance for many years to the Legislature on how to treat all exemption requests. She suggested that the tax committee needed a common understanding of what tax policies should be going forward into the new century in order to evaluate the myriads of tax requests that come before the committee. She spoke of the difficulties in administering exemptions based on varying percentages, and the concerns of sales rebate on food. She stated she would provide additional information from advocacy organizations regarding ease in obtaining help with food rebates.

Representative Menghini moved that the January 12 and 13 minutes be approved. Representative Thull seconded the motion. The motion carried.

The meeting was adjourned at 10:25 a.m. The next meeting is January 21, 2005.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.