

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 26, 2007 in Room 519-S of the Capitol.

All members were present except:
Representative Dillmore

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Bruce Larkin, KDOR
Marlee Carpenter, KS Chamber of Commerce

Others attending:
See attached list.

The Chairman called for bill introductions.

Representative Wilk made a motion to introduce a House Concurrent Resolution in support of National Bio-Agro Defense Facility (NBAF). Representative Menghini seconded the motion. The motion carried.

Representative Wilk made a motion to introduce legislation that would designate a specific regulatory commission to work with the NBAF project. Representative Owens seconded the motion. The motion carried.

HB 2171 - Requirements, procedures and penalties related to sales tax refund claims

The Chairman opened the public hearing and invited Bruce Larkin to the podium to explain the bill as well as answer questions as a proponent of the bill.

Bruce Larkin, Kansas Department of Revenue, introduced the Department staff in attendance - Chief Counsel Jim Bartel, Richard Cram, Director, Policy and Research, Steve Brunkan, Policy and Research. He said the bill was introduced at the request of KDOR to modify sales tax refund statutes, codify existing rules, eliminate administration complications, and reduce administrative costs and burdensome backlogs and litigation. The bill also imposes a penalty for filing for duplicate refund requests (Attachment 1).

He briefed the Committee on six points of the sales tax refund proposal.

- Clarifies that three-year statute of limitations for refund claims starts on the due date of the return for the reporting period that includes the transaction on which the refund claim is based.
- Clarifies that interest does not start to accrue until a complete and fully documented refund claim is filed, except no interest accrues if the claim is paid within 120 days after the filing.
- Requires that consumers must seek their refunds from the retailer instead of the Department, with limited exceptions.
- Defines the information and documentation requirements that must be met for a refund application to be considered a properly filed refund claim.
- Provides that a refund application will initially be reviewed for determination of whether it meets the informational and documentation requirements to be considered a properly filed refund claim.
- If it does not, the application will be returned, and the claimant advised of administrative appeals

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rights. Once a complete refund claim is filed, it will be reviewed on its merits as to whether a refund is due. If it is denied the claimant will be advised of administrative appeal rights.

- Persons submitting refund claims for sales or use tax that was never collected by the retailer and remitted to the Department, or that the retailer had already refunded to the claimant will be subject to a penalty of 50% of the amount of tax sought to be refunded.

The Chairman requested that staff identify what section of the bill each of the six points addressed and create a table that would list current law and the changes.

Marlee Carpenter, KS Chamber of Commerce, appeared in opposition to **HB 2171**. She expressed concern in New Section 5, as it provides that a consumer cannot apply to DOR for a sales tax refund claim unless the retailer in which they paid the sales tax to is no longer in business, and is unavailable to refund the tax. She gave several reasons why they believe this is not good policy and why New Section 5 violates principal/agent duty. She urged careful consideration of the bill (Attachment 2).

The Chairman closed the public hearing on **HB 2171**.

Chairman Wilk turned everyone's attention back to **HB 2018**, a bill that would increase the BOTA from three to five members. Discussion followed regarding options pertaining to the recommendation from Rebecca Crotty, Chairperson, BOTA. He said that leadership would discuss the options, and he invited members who would like to serve on a possible sub-committee to advise someone in leadership.

The meeting was adjourned at 10:25 a.m. The next meeting is January 30, 2007.