

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:30 A.M. on January 17, 2008, in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Office of Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Richard Cram, Kansas Department of Revenue
David Corbin, Kansas Department of Revenue

Others attending:

See attached list.

Chairman Allen welcomed Committee members to the first Committee meeting of 2008. She introduced new Committee member Senator Anthony Hensley, new Research Assistant Ryan Hoffman, and new Revisor of Statutes Scott Wells. She expressed appreciation to former member Senator Greta Goodwin, Researcher Martha Dorsey, and Revisor Jason Thompson.

Chairman Allen distributed 2008 Conferee Guidelines. (Attachment 1)

Senator Schmidt said it was found there was very little help available to businesses that were damaged during the 2007 State disasters. Senator Schmidt made a motion to introduce a disaster relief package bill that would create an Authority in a properly-declared disaster area that would create a three-year 10% investment tax credit. Senator Jordan seconded the motion, and the motion carried.

Richard Cram, Kansas Department of Revenue, (KDOR) presented two bill requests from KDOR: (Attachment 2)

1. Comprehensive electronic filing/payment initiative and
2. Sales Tax Exemption for Research and Development

Senator Lee moved to introduce the two bills requested by KDOR. Senator Hensley seconded the motion, and the motion passed.

Chris Courtwright, Kansas Legislative Research Department (KLRD), reviewed the 2008 Special Committee on Assessment & Taxation Report. (Attachment 3) There were nine topics studied, and legislation was recommended on the two following topics.

The Interim Committee recommended the introduction of legislation that would clarify the definition of business income to add the functional test; clarify the definition of gross receipts to prevent churning; and reduce the surtax such that the overall corporation income tax remains revenue neutral. The second recommendation was for the introduction of new property tax deferral legislation for seniors that will contain a number of amendments relative to the original proposal in **HB 2298**. Both of these recommendations will be introduced in the House of Representatives.

Attorney General Opinion No. 2007-38 concerning property exempt from taxation on newly constructed residential property which has never been occupied was distributed to Committee members. (Attachment 4)

Richard Cram, KDOR, explained the December 20, 2007 Notice: Sales Tax Treatment of Charges for Participation in Guided vs. Non-guided Hunting and Retail sale of Game Birds, sales tax imposition on the gross receipts derived from the participation in guided and non-guided hunts. (Attachment 5) Senator Vratil requested legislation be introduced to grant a sales tax exemption if necessary. KDOR's Audit Bureau

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on in Room 519-S of the Capitol.

has initiated several sales tax self-audit programs in various industries during recent years. In implementing a self-audit initiative, Audit Bureau identifies retail businesses involved in a particular area and sends self-audit notices. In the fall of 2007, KDOR initiated a self-audit program for businesses involved in providing hunting. After receiving many complaints that KDOR had provided inconsistent guidance on the tax treatment of gross receipts, KDOR sent a notice that it would not assess any business receiving the self-audit notice for sales tax not collected before January 1, 2008 on gross receipts from guided or unguided hunts.

During discussion, Mr. Cram said it is KDOR's view that fees fall under this sales tax imposition. He introduced Mike Boekhaus, Director of KDOR Audit Bureau, Carol Moore and Herman Levitt. Groups or businesses who offer hunting packages will pay this tax. Mr. Cram said landowners who allow hunting on their land should also pay this sales tax. Senators Lee and Bruce expressed concerns on this issue, especially on how land use would be used for sales tax collection. In response to Chairman Allen, Mr. Cram said KDOR is working on the amount of fees that were expected to be collected. In response to Senator Schmidt, he said prior to the KDOR notice in December, KDOR was collecting tax from some hunting groups, but not from all hunting groups. Senator Schmidt expressed hope the fiscal note would be figured on new collections, not previous collections.

David Corbin, KDOR, stated the issue is that there is a group of people providing a service that should have sales tax collected on it. KDOR had caused the confusion because the tax was not collected properly. The leasing of land for hunting is included. In response to Senator Allen, Mr. Corbin said the tax that should have been collected, but was not collected in the past will be forgiven. Senator Donovan said this issue may be better left alone. Senator Bruce commented it appeared conceptually the term "recreation" was being used for hunting as opposed to "natural resources". He thought perhaps hunting should be classified under natural resources. In response to Senator Lee, Mr. Cram said services provided by individual personal trainers were not taxed. Senator Lee said she thought there was no difference between a hunting guide and a physical fitness guide. A list from KDOR on what is taxed under this statute would be beneficial to the Committee.

Senator Apple moved to introduce legislation that would rescind KDOR's new policy collecting sales tax on all "hunting" activities in the State by granting a sales tax exemption per Senator Vratil's request. Senator Schmidt seconded the motion, and the motion passed.

Being no further business, the meeting adjourned at 11:28 a.m. Next meeting is scheduled for January 24.