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KANSAS DEPARTMENT OF REVENUE

Property Valuation Division

KANSAS PROPERTY TAX LAW

2026 COURSE GUIDE

Prepared by

Ted E. Smith

Chief Counsel, Kansas Department of Revenue

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A. Overview: History of the Property Tax & Our Responsibilities

A-1. Today in Kansas

The property tax is the largest, single source of revenue in Kansas. It is primarily used to fund local services. City and county governments use property taxes to fund roads, streets, parks, ambulances, fire and police protection and other services. Property taxes are also used to fund schools. Beginning in 2026, the State of Kansas receives no funding from property taxes.[2]

To put the size of the Kansas property tax system in perspective, in 2024 Kansas had approximately $366 billion in appraised value of real property. Approximately **$**54 billion, or 15%, was exempt from property taxation, leaving roughly $312 billion in non-exempt real property value. After application of the various constitutional assessment rates and including taxable personal property and state-assessed property, Kansas had approximately $51 billion in taxable assessed value. Approximately **$6.5 billion in ad valorem property taxes were levied statewide in 2024**.[3]

A-2. U.S. History

Property taxation has been an important source of local government revenue throughout much of American history. Early property taxes were often imposed using relatively simple measures, such as acreage. As property ownership and economic conditions became more complex, states increasingly moved toward systems in which property taxation was based upon value and subject to requirements intended to promote equality and uniformity among taxpayers.

[1] Presented by Ted E. Smith, Chief Counsel for the Kansas Department of Revenue. The information presented is intended for general informational purposes only. For more information about appropriate use and reliance, see Section N.
[2] See Senate Bill 35 (2025).
[3] Kansas Legislative Division of Post Audit, Reviewing Tax-Exempt Real Property and Property Donated to Universities, https://www.kslpa.gov/audit-report-library/reviewing-tax-exempt-real-property-and-property-donated-to-universities-2 (accessed Aug. 25, 2026).

Kansas incorporated this principle into its Constitution. Article 11, § 1 provides: "[T]he legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation." Remember the phrase "uniform and equal basis of valuation and rate of taxation." We will return to this constitutional requirement repeatedly throughout the course.

The federal Constitution also helps explain why property taxation developed primarily as a state and local tax. The Constitution treats taxes on property as "direct taxes," which Congress may impose only if the tax is apportioned among the states according to population. Because apportionment can require different effective tax rates among states having different amounts of property wealth, the requirement makes a federal property tax difficult to administer. The United States Supreme Court recently reviewed this history in *Moore v. United States*[4], observing that property taxes remain direct taxes subject to the apportionment requirement. As a practical result, property taxation has remained primarily a function of state and local government

A-3. The Nature of the Property Tax

In theory, the property tax spreads the cost of local governmental services across the value of taxable property. When administered correctly, the property tax produces no more and no less revenue than is needed for governmental services. (tax levies imposed by the applicable taxing subdivisions) P roperty tax is referred to as an *ad valorem* property tax.

"Ad valorem" means according to value. *The Dictionary of Real Estate Appraisal* (2nd ed., 1989) (American Institute of Real Estate Appraisers), p. 7. Ad valorem tax is a tax imposed proportionally on the value of something, rather than on its quantity or some other measure. *Black's Law Dictionary* (Abr. 8th Ed., 2005), p. 1220.

Property tax has become increasingly complex to administer. The Kansas Constitution and statutes require different valuation methods for different classes of property. Although most property is valued at fair market value, land devoted to agricultural use, commercial and industrial machinery and equipment and certain motor vehicles are valued based on formulas and not at fair market value. Further, many property tax exemptions exist, removing significant amounts of property from taxation. In addition, there are several avenues of appeal for taxpayers. Tax laws vary greatly from state to state and change from year to year. Taxation remains a major concern of the public and legislators, and property tax legislation is considered every legislative session.

[4] *Moore v. United States*, 602 U.S. 572, 581–84 (2024)

In short, property tax is not easy to administer. Yet, because property taxes remain an important source of funding for local government services, the property tax is likely to remain an important part of the Kansas' system of local government finance.

A-4. The County Appraiser: Qualifications, Appointment & Duties of the Office

Qualifications. The county appraiser must be well versed in appraisal concepts and have a thorough knowledge of property tax law. To be appointed for a full term as county appraiser, K.S.A. 19-430 requires a person currently be either:

(1) *Registered Mass Appraiser* ("RMA") under rules and regulations adopted by the Secretary of Revenue.[5]

(2) *General Certification* issued by the Kansas Real Estate Appraisal Board ("KREAB").[6]

The secretary of revenue has adopted regulations establishing qualifications for the designation of a Registered Mass Appraiser ("RMA") The qualifications for the RMA designation are established by K.A.R. 93-6-1 et seq. The regulations prescribe education, examination, experience, and continuing-education requirements. An RMA must complete at least 120 hours of continuing education during each four-year appointment cycle.

In addition, the county appraiser must have at least 3 years' mass appraisal experience. The county appraiser must be on the "eligibility list" maintained by the director of property valuation. Inclusion on the list requires the successful completion of an eligibility examination. In addition, the county appraiser must complete continuing education requirements (120 hours every 4 years).[7]

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[5] See K.A.R. 93-6-1 et seq.

[6] Historical Note: Since 2021 the CAE and RES designations no longer independently satisfy the professional designation requirement for appointment as county appraiser.2021 Senate Substitute for HB 2104, § 2.

[7] K.S.A. 19-430(c) now provides that, after July 1, 2023, qualifying RMA and continuing-education courses may either be developed by the Director of Property Valuation specifically for Kansas assessment and tax law or be approved by KREAB. The implementing RMA regulations were amended effective May 3, 2024. K.A.R. 93-6-2 now specifies 200 hours of qualifying coursework, and K.A.R. 93-6-3 retains the 120-hour

A Registered Mass Appraiser (RMA) is a professional designation specifically associated with mass appraisal, the process of valuing a large group of properties as of a common date using standardized methods, common data, and statistical testing.[8] Mass appraisal" is the process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing and will be further discussed in Sec. B-14.

After notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, the director may remove a person from the eligibility list for failing to meet the minimum qualifications, a conviction of any crime involving moral turpitude or a felony, or a civil judgment on grounds of fraud, misrepresentation, or deceit in the making of an appraisal. K.S.A. 19-432 amended by 2021 Senate Substitute for HOUSE BILL 2104, § 3(c)(1).

Pursuant to K.S.A. 19-425, the county appraiser may appoint a deputy appraiser, with the consent and approval of the board of county commissioners. Employees who perform appraisal-analysis functions must attend appraisal programs/courses conducted or approved by the Director of Property Valuation or otherwise establish to the Director's satisfaction that they have received the necessary training.[9] This requirement is slightly at odds with KREAB requirements.

Kansas formerly used elected county assessors, and in smaller counties the elected county clerk served as *ex officio* county assessor. The appointed county-appraiser system replaced that structure in the 1970s and was intended to professionalize the appraisal function and reduce the influence of local electoral pressures on property valuation.[10]

Appointment. The next appointment cycle commences July 1, 2029.

If a vacancy occurs in the office of county appraiser, the board of county commissioners or governing body of a unified government appoints an eligible Kansas appraiser to serve the remainder of the unexpired term. The board may also appoint an interim county

continuing-education requirement every four years. See Also K.S.A. 19-432.

[8] THE DICTIONARY OF REAL ESTATE APPRAISAL (2d ed. 1989), p. 193.

[9] K.S.A. 79-1411b.

[10] In 1974, K.S.A. 19-430 was enacted requiring county appraiser to be appointed on January 15, 1977, and on the 1st day of July every fourth year thereafter. L. 1974, ch. 112, § 1.

appraiser, subject to approval by the director of property valuation, for a period not to exceed six months while an eligible county appraiser is being appointed. K.S.A. 19-430.

In *Kennedy v. Board of Shawnee County Commissioners*, the Kansas Supreme Court held that appointment to the office of county appraiser is controlled by K.S.A. 19-430 and cannot take effect before the statutory July 1 appointment date.[11] An action taken by a board before July 1 does not give the prospective appointee an enforceable right to the upcoming four-year term.

The board of county commissioners must appoint the county appraiser by resolution and cannot use its county home-rule authority to impose qualifications for the office that conflict with the qualifications established by state law. In *Board of Trego County Commissioners v. Kansas Department of Revenue*, the Kansas Supreme Court held that K.S.A. 19-430 applies uniformly to all counties and that a county could not impose an additional qualification for appointment beyond those established by statute.[12]

The county appraiser is required to take and subscribe to an oath of office as a county official. K.S.A. 19-433.

When a person no longer holds the office of county appraiser, the board of county commissioners or governing body of a unified government must immediately notify the director of property valuation on a form provided by the director. If the person leaves office before completing the four-year term, the notification must include the reason, unless otherwise precluded by law. K.S.A. 19-432(d).

Suspension and Removal. A county appraiser does not serve "at the pleasure" of the board of county commissioners. Once appointed, suspension or removal is governed by K.S.A. 19-431. A board of county commissioners may enter an order suspending or terminating a county appraiser when it finds, based upon evidence satisfactory to the board, that the appraiser has failed or neglected to properly perform the duties of office because of incompetency or other cause. The order must state the reasons for the action. If the appraiser requests review within 15 days, the director of property valuation conducts a hearing under the Kansas Administrative Procedure Act and determines whether permanent removal is warranted. K.S.A. 19-431(a). Normally, the PVD Director will designate the Office of Administrative Hearings to consider such appeal. An Appraiser

[11] *Kennedy v. Board of Shawnee County Comm'rs*, 264 Kan. 776, 795, 958 P.2d 637 (1998).
[12] *Board of Trego County Comm'rs v. Kansas Dep't of Revenue*, 261 Kan. 927, 933 P.2d 691 (1997).

electing to challenge his/her suspension or termination to the PVD Director, is advised to email the Director at ***KDOR_PVD@KS.Gov***, or mail the review request to Division of Property Valuation, 300 SW 29th Street, P.O. Box 3506, Topeka, KS 66601-3506. Appraisers are encouraged to do both.

The director of property valuation may also initiate the suspension or termination of a county appraiser when, after inquiry, the director concludes that the appraiser has failed or neglected to discharge the duties required by law and that removal would promote the interests of the public service. In that circumstance, the appraiser may request a hearing before BOTA within 15 days. K.S.A. 19-431(b).

In *Miller v. Board of Wabaunsee County Commissioners*, the Kansas Supreme Court explained an important limitation on a county commission's authority. Although the commission may immediately relieve the county appraiser of the powers and duties of the office, the commission does not have final authority to terminate the appraiser's employment, salary, and benefits while the appraiser timely pursues review under K.S.A. 19-431.[13]

A county appraiser may also be subject to criminal penalties and forfeiture of office for certain knowing or willful failures to perform statutory appraisal duties. K.S.A. 79-1426; K.S.A. 79-1473. In this writer's personal experience going back twenty years, I am not aware of any criminal prosecutions.

"Assessor" Means "Appraiser." Kansas abolished the elected county-assessor system in the 1970s, but references to "assessor" remain in some older statutes. K.S.A. 19-425 expressly provides that statutory references to an "assessor" or "county assessor" are construed to mean the county or district appraiser

Duties of the Office. The county appraiser's responsibilities extend well beyond assigning values to property. The office is responsible for maintaining appraisal records, listing and appraising property, classifying property, complying with statewide valuation requirements, notifying taxpayers, investigating unlisted or inaccurately listed property, and preparing and certifying the appraisal rolls.

[13] *Miller v. Board of County Comm'rs, Wabaunsee County*, 305 Kan. 1056, Syl. ¶ 5, 390 P.3d 504 (2017).

K.S.A. 79-1412a sets forth several general duties of the county appraiser, including:

- installing and maintaining records and data concerning taxable and exempt property as required by the director of property valuation;
- annually, as of January 1, supervising the listing and appraisal of real and personal property subject to county appraisal;
- preparing the appraisal rolls and certifying the rolls to the county clerk;
- supervising employees involved in the appraisal process;
- conforming to the personal property appraisal guides prescribed by the director of property valuation; and
- carrying on continuously throughout the year the process of appraising real property.

The statute also requires the county appraiser to perform other duties imposed by law. K.S.A. 79-1412a.

Annual Valuation and Statewide Methodologies. Each year, taxable and exempt real and tangible personal property must be appraised as of January 1 at fair market value in accordance with K.S.A. 79-503a, unless another valuation method is specifically required by law. K.S.A. 79-1455. As discussed later, important exceptions include land devoted to agricultural use and certain categories of personal property.

The county appraiser must follow the policies, procedures, and guidelines of the director of property valuation. When the director has developed and adopted a methodology for valuing a particular type of property, the county appraiser is required to follow that methodology. K.S.A. 79-1456(a); see also Directive No. 19-048. In establishing values for personal property, the county appraiser must conform to the applicable personal property appraisal guides, although the appraiser may deviate from a guide value for an individual item for just cause and in a manner consistent with achieving fair market value. K.S.A. 79-1456(b).

The obligation to follow an adopted PVD methodology is particularly important in appeal. When the director has developed and adopted a methodology for the type of real property at issue, the county appraiser has the burden of demonstrating compliance with that methodology before BOTA. K.S.A. 74-2438(c)(2).

Limits on Information Requests. Although county appraisers have broad responsibilities to obtain the information necessary to properly value property, Kansas law places some express limits on what may be requested from a taxpayer. K.S.A. 79-1412a(c) provides that a county appraiser or the appraiser's designee may not request:

1. an appraisal conducted for the purpose of obtaining mortgage financing;
2. a fee appraisal having an effective date more than 12 months before January 1 of the valuation year under appeal; or
3. documents detailing individual lease agreements.

The statute does not prohibit the county appraiser from requesting a certified rent roll. K.S.A. 79-1412a(c).

A-5. Statewide Reappraisal and its Aftermath

Appraisal Records and Classification. K.S.A. 79-1459 requires the county appraiser to prepare and maintain appraisal maps and property-specific appraisal records. The statute also requires the appraiser, annually as of January 1, to classify taxable and exempt real and personal property as residential, commercial, agricultural, state appraised, or public service property and to further subclassify property as prescribed by the director of property valuation. Property classification and the constitutional assessment classifications are discussed in greater detail in Section C.

Notices to Taxpayers. The county appraiser must annually notify taxpayers of the classification and appraised valuation of their property on or before March 1 for real property and May 1 for personal property. K.S.A. 79-1460. The statute also imposes additional requirements when real property values are increased and, as amended in 2026, following certain final determinations made through the valuation appeal process. Those requirements are discussed later in this course.

At least 10 business days before mailing change-of-valuation notices, the county appraiser must publish the results of the prescribed market study analysis in the official county newspaper and on the official county website, if the county maintains a website. K.S.A. 79-1460a.

Investigation and Discovery of Property. If a taxpayer fails to file a required property statement, or if the county appraiser believes that a filed statement is inadequate or does not accurately represent the property to be appraised, the appraiser must investigate, identify, list, and value the property. K.S.A. 79-1461. When necessary, the appraiser may request assistance from the county or district attorney or county counselor to subpoena and examine persons, records, or documents reasonably believed to be useful in identifying and valuing property. See also K.S.A. 79-1462 and K.S.A. 79-1463. There does not have to be a pending appeal or lawsuit before the investigative subpoena authority can be used.[14]

Transmission and Certification of the Appraisal Rolls. Beginning January 1 of each year, the county appraiser transmits completed real and personal property appraisals to the county clerk as they are completed. On or before June 1, the county appraiser must certify that the transmitted appraisals constitute the complete appraisal rolls. K.S.A. 79-1466; K.S.A. 79-1467.

The distinction between **transmission** and **certification** is important. Before certification of the appraisal rolls, the county appraiser has both the authority and the duty to make any necessary changes to the classification or appraised value of property that has already been transmitted to the county clerk. K.S.A. 79-1465. After certification, changes to values or taxes must be authorized by an applicable statute, such as the valuation appeal or correction procedures discussed later in this course.

The "Tax Ferret." Kansas law permits a county, with the required approval, to obtain specialized assistance in assessing particular property. In *Dillon Stores v. Lovelady*, the Kansas Supreme Court rejected the old "tax ferret" label for a private accounting firm assisting a county with property-tax compliance work. Today, K.S.A. 19-425 continues to authorize specialized assistance when needed. *Dillon Stores v. Lovelady*, 253 Kan. 274, 855 P.2d 487 (1993).

The county clerk also provides the county appraiser with the taxing-unit map on or before January 15 each year. The county appraiser uses that information to identify the appropriate taxing-unit number on each appraisal record. K.S.A. 79-1468; K.S.A. 79-1469.

Limits on County Authority. County officials do not have general authority simply to forgive or alter taxes that have been lawfully assessed or levied. Except as otherwise specifically authorized by law, a board of county commissioners or other county officer may not release, discharge, or remit taxes. K.S.A. 79-1703. Accordingly, changes to property values, assessments, or taxes must be made through authority provided by the property tax statutes.

[14] Kan. Att'y Gen. Op. No. 96-18.

A-6. Uniformity and Accuracy and the County Appraiser

A county appraiser's central responsibility is to establish and maintain a fair and uniform property tax base. The county appraiser does not determine how much revenue a taxing subdivision will raise or what mill levy it will impose. Rather, the appraiser determines the value and classification of property upon which the property tax is ultimately spread.

Most taxable property must be appraised uniformly and equally at fair market value, unless the Kansas Constitution or statutes prescribe another method of valuation. When taxable property is appraised too high, it bears more than its proper share of the tax burden. When taxable property is appraised too low—or is omitted from the tax rolls, the remaining taxable property bears more than its proper share.

In carrying out this responsibility, the county appraiser should strive to:

1) appraise property accurately, uniformly, and according to law;
2) classify property correctly;
3) discover and list property that has been omitted or inaccurately reported; and
4) properly identify property that qualifies for exemption while ensuring that taxable property remains on the tax rolls.

Historical Aside - The requirement that real property valuation be based upon an "actual view and inspection" has roots in Kansas law dating to 1876. In Att'y Gen. Op. No. 82-7, the Attorney General traced that requirement to the earliest version of what is now K.S.A. 79-501. Modern mass appraisal does not, however, require a new physical inspection every time a property's value is updated. Real property is updated annually, while each parcel must be actually viewed and inspected at least once every six years. K.S.A. 79-1476.

Discovery and Listing. Property must first be identified and listed before it can be properly appraised and classified. The county appraiser is responsible for the listing and appraisal of real property. Owners of taxable personal property generally have statutory responsibilities to file property statements, but the county appraiser also has a duty to investigate and list personal property that has not been reported or has been inaccurately reported.

Kansas law imposes penalties for the late filing of, or failure to file, required personal property statements. See K.S.A. 79-1422; K.S.A. 79-1427a. As discussed in A-4, the county appraiser also has investigatory authority under K.S.A. 79-1461 to obtain information reasonably necessary to identify and value property.

Exempt Property. All property in Kansas is taxable unless expressly exempt by constitutional or statutory authority. K.S.A. 79-101. For most exemptions, the property owner must apply through the procedure established by K.S.A. 79-213. The county appraiser reviews the application, makes a recommendation, and forwards the matter to BOTA, which determines whether the property qualifies for exemption.

Some exemptions are excepted from the BOTA application requirement by K.S.A. 79-213(l) or other specific statutes. The county appraiser may recognize those exemptions when the property clearly qualifies. When there is reasonable doubt whether property qualifies for exemption, the appraiser should resolve the doubt in favor of taxation and allow the taxpayer to seek an exemption determination through BOTA. See Directive No. 92-025.

<u>Uniformity requires attention to both sides of the tax roll.</u> It is not enough to avoid valuing property too high. A sound property tax system also requires the appraiser to identify omitted property, correct undervaluation, apply classifications consistently, and ensure that exemptions are granted only when authorized by law. The objective is neither to maximize nor minimize property taxes, but to establish the fair and lawful tax base upon which local property taxes are imposed.

A-7. Uniformity and Accuracy and Duties of the Director of Property Valuation

Kansas property appraisal is locally administered within a statewide system. County appraisers determine the value and classification of most property within their counties, while the director of property valuation exercises general supervision over the administration of the state's property tax laws. The purpose of this state supervision is to promote fair, uniform, and lawful appraisal throughout Kansas. [15]

The director has broad statutory authority to advise and direct county appraisers concerning their duties, investigate appraisal practices, require information necessary to evaluate the administration of the property tax laws, and take appropriate action when those laws are not being properly administered. This can take the form of directives, ratio studies, and substantial compliance rating.

The Division of Property Valuation also provides much of the infrastructure necessary for a statewide appraisal system. The director develops or prescribes uniform appraisal records, maps, forms, personal property valuation guides, and other appraisal tools; assists county appraisers with property requiring specialized valuation knowledge; and compiles and analyzes sales-ratio data.[16]

The director also maintains the eligibility list for county appraisers and provides training necessary to obtain and maintain eligible Kansas appraiser status. K.S.A. 19-432. The Registered Mass Appraiser qualifications and continuing-education requirements are discussed in A-4.

Kansas law also provides for a statewide computer system to support the appraisal, assessment, and equalization of tangible property and the annual updating of appraisal data. The director chairs the statutory advisory committee that assists the secretary of revenue in administering that system. [17]

Appraisal Directives, Guidelines, and Methodologies. The director has statutory authority to adopt appraisal directives establishing standards for appraisal performed for Kansas ad valorem taxation. At a minimum under K.S.A. 79-505, those standards must require

[15] K.S.A. 79-1404.

[16] K.S.A. 75-5105a; See Also *Freestate Elec. Coop., Inc v. KDOR, Div. of Property Valuation*, 319 Kan. 377 (2024).

[17] K.S.A. 79-1477.

compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and require written appraisals.

County appraisers must follow the policies, procedures, and guidelines of the director of property valuation. (normally called "Directives") When the director has developed and adopted a methodology for valuing a particular type of property, the county appraiser is required to follow that methodology.[18] The law mandates county appraisers adhere to PVD Guides and Directives unless just cause is shown for deviation.[19]

An appraisal directive is therefore more than advisory guidance. Kansas appellate courts have recognized that PVD appraisal directives have binding effect when issued within the director's statutory authority and consistent with governing law. In *Wagner v. State of Kansas*, the Court of Appeals discussed appraisal directives as administrative requirements having the force and effect of law.[20] At the same time, a directive cannot expand the director's statutory authority or override contrary statutory law.[21]

Ratio Studies and Substantial Compliance. One of the director's principal tools for measuring statewide uniformity and accuracy is the annual Kansas real estate appraisal/sales ratio study. The study compares county appraisal results with qualifying market sales and provides statistical measures of appraisal performance. See K.S.A. 79-1485 *et seq*. Each year, the director must also determine whether every county is in substantial compliance with Kansas appraisal law and publish a list identifying counties that are and are not in substantial compliance.[22] PVD makes the link publicly available at https://www.ksrevenue.gov/pvdratiostats.html (accessed 8.26.2026)

If a county fails to meet the minimum requirements for substantial appraisal compliance, the director must present the most recent ratio-study results to the board of county commissioners at an open meeting. The presentation must also include information concerning valuation appeals filed in the county and the outcomes of appeals resulting in reduced valuations. K.S.A. 79-1404b.

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[18] K.S.A. 79-1456; see also Directive No. 19-048.
[19] See Directive 19-048; See Also *In re Tax Appeal of River Rock Energy Co*., 313 Kan. 936 (2021).
[20] *Wagner v. State of Kansas*, 46 Kan. App. 2d 858, 862, 265 P.3d 577 (2011), *rev. denied* 294 Kan. 948 (2012).
[21] See *Board of Sedgwick County Comm'rs v. Action Rent to Own, Inc*., 266 Kan. 293, 299–300, 969 P.2d 844 (1998).
[22] K.S.A. 79-1445.

Statewide Data and Reporting. County property-tax information also flows back to the state. The director collects appraisal, assessment, exemption, levy, and tax information and prepares reports used by the Governor and
Legislature in evaluating Kansas property tax policy. See, e.g., K.S.A. 79-1404, Fourteenth;

> **Statutory Aside** -- CAMA— Kansas law contains a specific quality-control procedure for commercial mass appraisal. If a county fails the minimum appraisal standards for commercial real property established by the prior year's official ratio study, the director must perform, or contract for, market-based appraisals of at least 1% of the commercial properties appraised by the county's computer-assisted mass-appraisal system. If those audits reveal a statistical deviation greater than 5% on more than 25% of the audited properties, the director must conduct additional audits and require corrective action. K.S.A. 79-1495.

K.S.A. 79-1467b; K.S.A. 79-1490; K.S.A. 79-1806.
Some property-tax valuation responsibilities are performed directly at the state level rather than independently by each county. This occurs when the business/utility operates over multiple counties. The director annually appraises public utility property subject to state assessment and apportions the resulting assessed value among the appropriate taxing jurisdictions. [23]

The director also plays a central role in valuing land devoted to agricultural use. Under the statutory agricultural-use formula, the director annually determines values for the various classes of agricultural land within each county or homogeneous region and furnishes those valuation schedules to the county appraisers. The county appraiser determines the property's current agricultural use and applies the applicable value established by the director. (this is addressed in more detail in Section C-2) [24]

Conclusion. The relationship between the director and county appraisers is therefore complementary. The director establishes statewide standards, methodologies, oversight, and certain statewide values; the county appraiser applies Kansas law and those statewide requirements to the property within the county. Together, those responsibilities are intended to produce the uniform and equal property tax base required by the Kansas Constitution.

[23] K.S.A. 79-5a01 *et seq.*
[24] K.S.A. 79-1476.

B. How is Property Valued in Kansas for Property Tax Purposes?

Fair Market Value

K.S.A. 79-503a

Most taxable property is valued based upon its **fair market value on January 1** each year under K.S.A. 79-501 and K.S.A. 79-1455. Fair market value is the general rule, but it is not universal. The Kansas Constitution and statutes prescribe different valuation methods for certain types of property, including land devoted to agricultural use and some categories of personal property. Those exceptions are discussed later.

K.S.A. 79-503a defines fair market value as:

> "*the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. For purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.*"

Thus, the appraisal question is not simply what the property might sell for at some point during the year, but what its fair market value was **as of the January 1 valuation date**.

K.S.A. 79-503a also sets forth factors to be considered when determining fair market value. These factors essentially describe the three approaches to estimate value, the sales comparison approach, income capitalization approach, and cost approach.

> **Remember:** *Appraised value* and *assessed value* are not the same thing. Part B addresses how property is **valued**. Part C addresses how that value is **assessed** by applying the classification and assessment percentages prescribed by Kansas law.

B-1. Three Approaches to Estimate Fair Market Value

Appraisers generally use three approaches to estimate the fair market value of property:

- **Sales Comparison Approach.** Value is estimated by comparing the subject property with recent sales of similar properties and making appropriate adjustments for relevant differences.

- **Income Capitalization Approach.** Value is estimated based upon the income-producing capacity of the property and the present worth of the future benefits of ownership.

- **Cost Approach.** Value is estimated by determining the cost of the improvements, less appropriate depreciation and obsolescence, and adding the value of the land.

Not every approach will be equally applicable or reliable for every property. The appraiser considers the approaches that are appropriate to the assignment and reconciles the resulting indications of value, giving greater weight to the approach or approaches that provide the most credible indication of fair market value.

The indications of value are **not simply averaged**. Reconciliation requires appraisal judgment.

B-2. Highest and Best Use

For purposes of determining fair market value, real property is generally valued according to its **highest and best use**, not necessarily its current use. The principal exception is land devoted to agricultural use, which is valued according to the special agricultural-use methodology prescribed by Kansas law.

A property's highest and best use must be:

1. **legally permissible;**
2. **physically possible;**
3. **financially feasible;** and
4. **maximally productive.**

In *In re Tax Appeal of Yellow Freight System, Inc.*, the Kansas Court of Appeals applied these four criteria in reviewing the highest and best use of a corporate headquarters property.[25] Current use may be the highest and best use, but the appraiser should consider whether market evidence reasonably supports a different use.

Highest and best use for **valuation** should not be confused with property **classification** for assessment purposes. A property may be classified according to its present use while its fair market value reflects a different highest and best use.

An Interesting Example — A Residence with Commercial Value. In *Board of Douglas County Commissioners v. Cashatt*, the property was a two-bedroom residence on Iowa Street in Lawrence in an area experiencing commercial development. Although the property continued to be used and classified as residential property, the Court of Appeals held that its fair market value could reflect its suitability for commercial development.[26] The court explained that Kansas property taxation is based upon the value of property, not the owner's ability to pay.

[25] *In re Tax Appeal of Yellow Freight System, Inc.*, 36 Kan. App. 2d 210, 217–18, (2006), *rev. denied* 282 Kan. 790 (2006).
[26] *Board of Douglas County Comm'rs v. Cashatt*, 23 Kan. App. 2d 532, 933 P.2d 167 (1997).

The lesson from *Cashatt* is that **classification and valuation answer different questions**. Classification generally concerns how property is being used for purposes of determining the

Practice Point — "Fair" Does Not Mean Ability to Pay

At informal hearings, taxpayers will sometimes argue that a valuation is unfair because the resulting tax is difficult to afford, because the property has been owned for many years, or because the owner has no intention of selling. Those concerns may be understandable, but they are not factors in determining fair market value.

> Kansas requires property taxation to be imposed on a **uniform and equal basis**, and the appraisal must reflect the value of the property under the standards established by law. In *Cashatt*, the Court of Appeals emphasized that ad valorem taxation is based upon the **value of the property, not the owner's ability to pay**.

This can be a difficult message to communicate. The appraiser should acknowledge the taxpayer's concern but explain that the appraiser's responsibility is to determine the lawful value and classification of the property consistently with similarly situated property. Questions concerning the amount of tax imposed, tax relief programs, or the taxpayer's ability to pay generally involve other parts of the property tax system and are **not** matters the county appraiser may correct by changing an otherwise supportable valuation.

applicable assessment rate. Highest and best use concerns what the market recognizes as the most valuable legally permissible and reasonably probable use of the property.

B-3. Fee Simple Interest

For Kansas ad valorem taxation, real property is generally valued based upon the fair market value of the fee simple interest. K.S.A. 74-2433(g) expressly provides that valuation appeals before BOTA are to be decided based upon the fair market value of the fee simple of the property.

Fee simple generally represents the complete bundle of private ownership rights in the real property, subject to governmental powers such as taxation, eminent domain, police power, and escheat. In *In re Equalization Appeal of Prieb Properties, L.L.C.*, the Court of Appeals explained that Kansas property tax law historically requires property to be appraised as if held in fee simple rather than valuing only a particular contractual interest, such as the rights created by an existing lease.[1]

This distinction becomes important when valuing leased property. Contract rent and market rent are not necessarily the same thing. A lease may reflect above-market or below-market terms, financing arrangements, relationships between the parties, or other considerations that do not represent the open and competitive market contemplated by K.S.A. 79-503a.

In *In re Equalization Appeal of Walmart Stores, Inc.*, however, the Kansas Supreme Court rejected the categorical rule previously stated in *Prieb* that unadjusted build-to-suit lease data could not be used in an appraisal.[2] Evidence involving leased property is not automatically excluded merely because a lease exists. Instead, the appraiser and ultimately the fact-finder must determine whether the evidence credibly reflects the market and what weight or adjustments are appropriate.

The practical question is therefore not simply whether a property is leased. The appraiser must determine whether the rents, sales, or other transaction data associated with the property reflect market evidence relevant to the fee simple value of the real estate.

B 3.1. Leased Fee Interest

Commercial real property is often subject to leases. This creates an important distinction between the **real property being valued** and the **contractual interests created by the lease**.

A **fee simple interest** generally represents complete ownership of the real property, unencumbered by private contractual interests. A **leased fee interest** is the ownership interest held by a landlord when the property is subject to a lease. It includes the right to receive the contract rent during the lease term and the right to recover possession of the property when lease expires. A tenant may separately hold a **leasehold interest**.

For Kansas ad valorem taxation, the property to be valued is the **fair market value of the fee simple interest**, not merely the value of the landlord's particular leased fee interest.[27] This distinction is important because **contract rent and market rent may be different**.

A lease negotiated in the open market at current market terms may provide strong evidence of market rent. But an existing lease may contain above-market or below-market rent, unusual lease terms, renewal options, tenant improvements, financing arrangements, or other contractual benefits and burdens that would not necessarily be replicated in the market as of January 1. Accordingly, the existence of a lease does not by itself establish the property's fair market value.

In *In re Equalization Appeal of Prieb Properties, L.L.C.*, the Court of Appeals explained the distinction between fee-simple and leased-fee valuation and emphasized that Kansas *ad valorem* taxation seeks to value real property rather than merely the value of a particular contractual arrangement.[28]

The treatment of lease evidence was clarified in *In re Equalization Appeal of Walmart Stores, Inc.* In *Walmart*, the Kansas Supreme Court overruled the portion of *Prieb* that categorically prohibited reliance upon unadjusted commercial build-to-suit lease data.[29] The Court held that the credibility and weight of of lease-related appraisal evidence generally factual questions rather than rules requiring automatic exclusion.

Thus, a county appraiser should not assume either that an existing lease establishes the property's fair market value; **or** that evidence involving leased property must automatically be disregarded.

Instead, the appraiser should determine whether the lease terms, rents, and related transaction evidence reflect the open and competitive market contemplated by K.S.A. 79-503a and whether adjustments or other analysis are necessary to develop a credible fee-simple value.

[27] K.S.A. 74-2433(g).

[28] *In re Equalization Appeal of Prieb Properties, L.L.C.*, 47 Kan. App. 2d 122, 130–36, 275 P.3d 56 (2012), abrogated in part by *In re Equalization Appeal of Walmart Stores, Inc.*, 316 Kan. 32, 513 P.3d 457 (2022).

[29] *In re Equalization Appeal of Walmart Stores, Inc.*, 316 Kan. 32, 513 P.3d 457 (2022).

This issue commonly arises in large commercial properties. A sale of occupied properties may reflect not only the underlying real estate but also the economic benefits of an existing lease, the creditworthiness of a tenant, or other contractual considerations. Conversely, an existing below-market lease may produce income substantially below what the real estate could command in the current market.

The appraiser's task is to identify and analyze those differences rather than simply equating the contract with the property.

Practice Point — "You Are Valuing My Lease, Not My Property"

Fee-simple and leased-fee disputes are a recurring flash point in commercial property appeals. Sophisticated taxpayers and their appraisers may argue that the county has relied upon rents or sales reflecting the value of an existing lease rather than the fee-simple value of the real estate.

Do not treat the phrase **"leased fee"** as either a magic objection, but do not automatically capitalize the landlord's actual contractual income either. The landlord's current contractual Net operating income does not necessarily equal the property's fee-simple earning capacity.

Ask:

- Is the contract rent consistent with market rent as of January 1?
- Was the lease negotiated in an open and competitive market?
- Are unusual lease terms, tenant credit, financing, or other contractual rights affecting the transaction?
- Would adjustments be necessary to make the transaction relevant to the fee-simple interest being valued?
- Can the appraiser explain why the evidence was accepted, adjusted, given less weight, or rejected?

K.S.A. 79-503a requires consider of both "earning capacity as indicated by lease price" and "rental or reasonable rental values." Thus, the existing lease is relevant evidence, but the statute does not provide the contract rent controls fair market value.

This is an area where a beginning RMA should seek assistance from an experienced commercial appraiser when necessary. Put another way, if you are new to appraisal and working toward your RMA, this may legitimately be an **"above my pay grade"** issue until you have the experience necessary to analyze it properly.

An Interesting Example — The $1,200 Lake Lot Lease

In *In re Equalization Appeal of City of Council Grove*, approximately 350 residential lots surrounding Council Grove Lake were subject to long-term leases charging $1,200 per year. The county appraiser considered the actual rent but concluded that it did not represent market rent because the rate had not been established through a market study and was intended in part to provide stability to the occupants.[30]

The Court of Appeals upheld BOTA's determination that the contract rent could be considered but did not have to control the fee-simple valuation. That the appraiser could substitute a market rent in the valuation process.

The example illustrates the basic rule: actual rent is evidence, but actual rent is not necessarily market rent.

Fee-simple valuation does not require the appraiser to pretend the lease does not exist. It requires the appraiser to determine what the lease tells us about the market value of the real estate, as distinguished from the value of the particular contractual rights created by that lease.

B-4. The Role of a Sales Price

A recent sale of the subject property can be important evidence of fair market value, particularly when the transaction occurred in an open and competitive market between a willing buyer and willing seller. But **sale price and fair market value are not automatically the same thing**.

K.S.A. 79-503a expressly provides that "[s]ales in and of themselves shall not be the sole criteria of fair market value" but are to be considered together with cost, income, and other relevant factors. Kansas appellate courts likewise have recognized that an arm's-length sale may be given substantial weight without necessarily controlling the property's fair market value.[31]

The reason is straightforward: before relying upon a sale, the appraiser must understand **what actually occurred in the transaction**. A recorded deed may establish that ownership changed, but the stated consideration alone does not establish that the transaction reflects the open and competitive market contemplated by K.S.A. 79-503a.

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[30] *In re Equalization Appeal of City of Council Grove*, No. 126,290 (Kan. App. Mar. 27, 2026) (unpublished memorandum opinion).

[31] See *Wolf Creek Golf Links, Inc. v. Johnson County Board of Comm'rs*, 18 Kan. App. 2d 263, 266, 853 P.2d 62 (1993); *Board of County Comm'rs v. Brookover*, 198 Kan. 71, 77, 422 P.2d 906 (1967).

Sales Validation Questionnaires

Kansas uses the **Real Estate Sales Validation Questionnaire (“SVQ”)** to obtain information about real estate transfers. Except for transfers specifically excluded by statute, a deed or other instrument transferring title is generally accompanied by a completed SVQ when it is presented to the register of deeds. K.S.A. 79-1437c; K.S.A. 79-1437e.

The SVQ helps the county determine whether a transaction provides reliable market evidence. Among other things, it obtains information concerning:

- the sale price and date of sale;
- whether the property was offered on the open market;
- whether the parties were related;
- whether the property was leased at the time of sale;
- whether personal property or an operating business was included;
- whether unusual financing or other obligations were involved;
- whether the transaction involved a build-to-suit or leaseback arrangement; and
- whether circumstances suggest a distressed, forced, or other non-arm's-length transaction.

The SVQ therefore is an important **starting point for sale validation**. It does not itself determine whether a transaction is a valid comparable. The appraiser must consider the circumstances disclosed by the questionnaire and any other available market information.

We will return later to the statutory restrictions governing access to and disclosure of SVQ information.

Practice Point — A Sale Is Not Automatically a Comparable

A useful distinction for a new appraiser is:

The sale price is a fact. Whether the sale is valid market evidence is an appraisal determination.

Do not reject a transaction merely because something about it appears unusual. First determine what happened. A family relationship, lease, auction, financing arrangement, personal property, business value, or other circumstance may affect the usefulness of the transaction—or may simply require further investigation or adjustment.

The SVQ helps answer the first question an appraiser should ask about every sale:

"What did the buyer actually buy, and under what circumstances?"

Section 1031 Exchanges

A Section 1031 exchange is a transaction permitted under federal tax law in which an owner sells investment or business real estate and reinvests the proceeds in other qualifying real estate, allowing recognition of the federal income-tax gain to be deferred if the statutory requirements are satisfied. These exchanges are more common in commercial real estate than many laypersons realize because investors frequently use them when moving capital from one income-producing property to another.

For Kansas property-tax purposes, however, K.S.A. 79-503a provides that the sale price or value involved in a §1031 exchange shall not be considered an indicator of fair market value or used as a comparable sale for valuation purposes. A §1031 exchange also may not be treated as a valid sale for purposes of the Kansas sales ratio study.

As a practical matter, this exclusion can remove a significant number of otherwise recent commercial transactions from the pool of usable comparable sales. Thus, while most unusual circumstances require the appraiser to investigate the transaction and determine what weight it deserves, the legislature has expressly directed that §1031 exchange transactions are not to be used as market sales for these purposes.

B-5. Auction and Foreclosure Sales

An auction, foreclosure, bankruptcy, or other forced sales are **not automatically excluded** from consideration in determining fair market value. The circumstances of the transaction determine how useful the sale is as market evidence.

K.S.A. 79-501 distinguishes between a **forced sale** and an **auction sale**. A forced-sale price may be considered as a factor in determining fair market value if the appraiser believes the price is a reasonable indicator of value in the market in which the sale occurred. An auction price may be used if the appraiser determines that the auction was an arm's-length transaction between a willing buyer and willing seller.

An auction should therefore not automatically be treated as a distressed sale. Some properties are deliberately marketed and sold through competitive auctions, with adequate exposure to the market and multiple willing bidders. Conversely, a foreclosure, bankruptcy, sheriff's sale, or other forced transaction may involve circumstances that distinguish the sale from the hypothetical willing-buyer/willing-seller transaction contemplated by fair market value.

When evaluating such a sale, the appraiser should consider matters such as:

- how and for how long the property was exposed to the market;
- whether multiple potential purchasers had an opportunity to bid;
- whether either party was under unusual compulsion to complete the transaction;
- whether the purchaser and seller were unrelated;
- whether unusual title, financing, possession, or property-condition issues affected the price;
- whether the transaction involved a single property or a bulk sale of numerous assets; and
- how close the sale occurred to the January 1 valuation date.

The important question is not simply **"Was this an auction or foreclosure?"** The question is **whether the circumstances of the transaction make its price reliable evidence of fair market value.**

B-5.1. County Property Tax Sales

A property-tax lien arises before the county can sell the property to a private purchaser. Real property taxes are due November 1, and the lien attaches to the real estate on that date. If the taxes remain unpaid after May 10 of the following year, the property enters the delinquent-tax-sale process and may be bid off to the county. That initial "sale" to the county does not transfer the property to a private buyer; it starts the statutory redemption period. K.S.A. 79-1804; K.S.A. 79-2301; K.S.A. 79-2302.

For most property, the owner then has a three-year redemption period after the property is sold to the county. Only after that period expires without redemption may the county proceed with judicial foreclosure and a public sale. Thus, taxes becoming delinquent in one year do not ordinarily result in a public tax sale that same year. **The usual sequence is: tax lien → sale to the county → three-year redemption period → judicial foreclosure → public sale.** K.S.A. 79-2401a; K.S.A. 79-2801 et seq. Special shorter redemption periods apply in some circumstances.

CASE STORY — RIVER ROCK'S $3.1 MILLION BANKRUPTCY PURCHASE

In re Tax Appeal of River Rock Energy Co. provides a useful example of why the circumstances surrounding a distressed transaction matter. River Rock acquired a large collection of producing gas wells, leases, equipment, and other assets through an expedited bankruptcy sale. Its total bid for assets located in Kansas and Oklahoma was approximately $3.1 million, with about $1.7 million allocated to the Kansas well properties. *In re Tax Appeal of River Rock Energy Co*., 313 Kan. 936 (2021).

The county appraisers had previously valued the Kansas properties substantially higher under the Kansas Oil and Gas Appraisal Guide. River Rock initially argued that its bankruptcy purchase price conclusively established the fair market value of the properties it acquired.

There were several problems with that argument. The transaction was an expedited bankruptcy sale involving a large group of assets rather than an ordinary sale of each individual well. The purchase price had to be allocated among numerous properties, and the sale occurred months after the January 1 valuation date. River Rock also provided little property-specific evidence that would permit the counties to determine a different value for a particular well. By the time the matter reached BOTA, River Rock no longer relied upon the bankruptcy sale as establishing fair market value.

The Kansas Supreme Court ultimately upheld the counties' use of the PVD Oil and Gas Appraisal Guide because River Rock had not supplied sufficient property-specific evidence establishing just cause to deviate from the Guide.

The lesson is not that a bankruptcy sale must be ignored. The lesson is that the words *"this is what I paid for it"* do not end the valuation inquiry. The appraiser must understand what was sold, under what circumstances, when it was sold, and whether the transaction reliably indicates the January 1 fair market value of the particular property being appraised.

Practice Point — Distressed Does Not Mean Worthless Evidence

Do not automatically code an auction, foreclosure, or bankruptcy transaction as unusable merely because of its label. Investigate the transaction first.

At the same time, do not assume that a low purchase price establishes fair market value merely because an actual buyer paid it. A transaction involving compulsion, abbreviated marketing, bulk assets, unusual financing, or other nonmarket circumstances may require substantial analysis before it can be used as a comparable sale.

This is another reason that **sales validation matters.**

B-6. Property Sold Subject to Special Assessments

A special assessment is a charge imposed against real property to pay for a public improvement that specially benefits that property, such as a street, sewer, water line, sidewalk, or similar local improvement. Unlike a general property tax, which is imposed to support governmental operations generally, a special assessment is tied to the cost of a particular improvement and is typically allocated among the properties determined to receive the benefit. The assessment may remain payable in installments over a number of years and can therefore affect the economics of a later sale of the property.

Special assessments may affect the price a buyer is willing to pay for real property. For example, otherwise similar properties may sell for different prices when one property remains subject to substantial special assessments for streets, sewers, or other improvements.

Kansas law, however, provides a specific rule for valuation. K.S.A. 79-503a states that, in determining the fair market value of real property subject to a special assessment, the present value of the special assessment may not simply be added to the sales price.

Thus, if property sells for $300,000 while subject to an outstanding special assessment, the appraiser may not automatically conclude that its fair market value is $300,000 plus the present value of the remaining assessment. The sale and the circumstances surrounding it should instead be analyzed under the ordinary fair-market-value principles of K.S.A. 79-503a.

> **Interesting Aside — The Buyer Is Supposed to Know**
> Kansas law generally requires a seller to disclose certain outstanding special assessments to the buyer before the sale. K.S.A. 12-6a20. Thus, the existence of the assessment ordinarily should not be a hidden condition discovered after closing.

B-7. Developer's Discount

When a developer owns numerous subdivision lots, the aggregate of the expected retail prices of all the individual lots may exceed what a purchaser would pay today for the development as a whole. The lots ordinarily cannot all be sold immediately, and a purchaser may have to hold the property for several years while the market absorbs the inventory. This concept is sometimes referred to as a developer's discount or absorption discount.

The issue reached the Kansas Supreme Court in *Hixon v. Lario Enterprises, Inc.* The taxpayer owned numerous subdivision lots and completed residences and argued that their values should be discounted because the market could not absorb all of the properties at their individual retail prices at once. The Court held that the developer's-discount methodology, as applied under the statutes then in effect, was inconsistent with the requirement that each parcel be valued at its fair market value.[32]

Following *Hixon*, K.S.A. 79-503a was amended to expressly provide that earning capacity may be considered through "lease price, by capitalization of net income or by absorption or sell-out period." PVD Directive No. 92-013 also provides procedures for use of a developer's-discount methodology when the county appraiser determines that such an analysis is appropriate.

The statutory amendment does not mean that every owner of multiple lots is entitled to a discount. The appraisal question remains whether market evidence demonstrates that the time, expense, and risk associated with selling the properties over an absorption period affect their present fair market value.

B-8. Listing Prices and Building Permits

Information about a property may provide useful evidence of value without itself establishing fair market value. Two common examples are listing prices and the values reported on building permits.

PVD Directive No. 98-033 provides that a county appraiser may consider the listing price of property but may not use the listing price alone as the property's fair market value. Current USPAP likewise requires an appraiser, when the information is available, to analyze a current listing of the subject property. A listing price may reflect an owner's view of value or expectations about the market, but it must be tested against other market evidence.

In *Wagner v. State*, the Kansas Court of Appeals upheld Directive No. 98-033 and confirmed that listing information may properly be considered in determining fair market value.[33] The important limitation is that a listing price is evidence to be analyzed, not a substitute for an appraisal.

Building permits should be treated similarly. PVD Directive No. 98-035 provides that the value stated on a building permit may not be used as the sole criterion of fair market value. Permit values may not accurately represent actual construction cost or the amount by which construction contributes to market value. Building permits are nevertheless valuable tools for identifying new construction, additions, remodeling, and construction in progress.

[32] *Hixon v. Lario Enterprises, Inc.*, 257 Kan. 377, 892 P.2d 507 (1995).

[33] *Wagner v. State*, 46 Kan. App. 2d 858, 265 P.3d 577 (2011).

Practice Point — "But Zillow Says My House Is Worth …"

Taxpayers sometimes bring a Zillow Zestimate or other online value estimate to an informal hearing. A Zestimate is an automated valuation model, not an appraisal, and its usefulness depends upon the accuracy of the data and market information used by the model. **B-9.**

The appraiser need not accept the Zestimate as evidence of fair market value. Instead, focus on whether the taxpayer has identified useful underlying information—such as incorrect property characteristics or relevant comparable sales—that warrants further review.

A number generated by an online model does not, by itself, establish fair market value.

Watercraft

This one is easy. Watercrafts are exempt from personal property tax and rendition requirements as of 2025.

B-10. Oil and Gas Leases – Fair Market Value

Kansas treats oil and gas leases, producing wells, and related well equipment as personal property for property-tax purposes. K.S.A. 79-329. Like other taxable property, oil and gas property generally must be appraised at fair market value, but Kansas has developed a specialized statutory and appraisal system for determining that value.

K.S.A. 79-331 requires the appraiser to consider factors particularly relevant to producing oil and gas property, including production, operating costs, the age and probable life of the wells, the market for the product, and other facts affecting the value of the lease. Unlike most personal property, the value of a producing oil and gas lease is largely based upon the present worth of its expected future production.[34]

Because oil and gas valuation requires specialized technical knowledge, the Director of Property Valuation issues a Kansas Oil and Gas Appraisal Guide each year. County appraisers are required to follow PVD's prescribed policies and methodologies, subject to the statutory authority to deviate on individual property for just cause and in a manner consistent with achieving fair market value. In *In re Tax Appeal of River Rock Energy Co.*, the Kansas Supreme Court upheld this framework and confirmed the importance of the PVD Oil and Gas Appraisal Guide in achieving uniform statewide valuation.[35]

Oil and gas property is valued as of January 1. However, current K.S.A. 79-331 permits limited use of production information occurring after January 1 for certain recently producing leases. The detailed rules governing production data, decline rates, operating expenses, and other oil and gas appraisal issues are addressed in K.S.A. 79-331 and the current PVD Oil and Gas Appraisal Guide.

B-11. Post-Valuation Data and the January 1 Valuation Date

Kansas property is generally valued as of **January 1**. K.S.A. 79-503a assumes that the hypothetical sale used to determine fair market value occurs on that date. The appraiser therefore should value the property based upon the facts, market conditions, and reasonable expectations applicable to January 1—not simply upon what later events reveal actually happened.

Later information is not necessarily irrelevant.[36] In appropriate circumstances, post-valuation data may help **confirm a trend or condition that existed or was reasonably anticipated as of**

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[34] *Board of Ness County Comm'rs v. Bankoff Oil Co.*, 265 Kan. 525, 541, 960 P.2d 1279 (1998)

[35] *In re Tax Appeal of River Rock Energy Co.*, 313 Kan. 936, 492 P.3d 1157 (2021).

[36] Oil and gas property provides a specific statutory exception. K.S.A. 79-331(d)(2) permits limited use of production information occurring after January 1 for certain newly producing leases, including information through March 31 and, for certain late-year new production, through June

January 1. It generally should not be used simply because hindsight later shows that an earlier forecast was right or wrong.

In *In re Tax Appeal of ANR Pipeline Co.*, the taxpayer sought to use actual income information that became available 28 and 40 months after the valuation dates to support its earlier income forecast. The Kansas Supreme Court rejected the evidence because sufficient information was available as of the valuation dates to make the necessary forecasts. The Court distinguished *Bankoff*, where limited post-January production data was relevant because it confirmed a production decline occurring near the valuation date.[37]

Current USPAP guidance follows a similar appraisal principle. Advisory Opinion 34 recognizes that subsequent data may be considered in a retrospective appraisal to confirm trends that buyers and sellers reasonably would have considered as of the effective date but cautions that the appraiser must establish a logical cutoff beyond which later information no longer reliably reflects conditions existing on that date.

Practice Point — Avoid Valuation by Hindsight

The question is not simply, **"Did this information become available after January 1?"** Ask instead:

"Does this information help establish what the market reasonably knew or anticipated on January 1, or am I using later events to change history?"

The January 1 valuation date remains the anchor.

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30. See also the current Kansas Oil and Gas Appraisal Guide.

[37] *In re Tax Appeal of ANR Pipeline Co.*, 276 Kan. 702, 721–22, 79 P.3d 751 (2003); see also *Board of Ness County Comm'rs v. Bankoff Oil Co.*, 265 Kan. 525, 960 P.2d 1279 (1998).

B-12. Low Income Housing

Certain affordable housing properties are subject to federal, state, or local restrictions on rents, tenant eligibility, or use of the property. These restrictions can affect the income the property is legally permitted to generate and therefore may affect its fair market value.

In *In re Equalization Appeal of Ottawa Housing Assoc., L.P.*, the Kansas Court of Appeals held that governmental restrictions associated with a low-income housing program must be considered because buyers and sellers would take those restrictions into account in determining the property's market value.[38]

Kansas law now expressly incorporates that principle. K.S.A. 79-503a requires consideration of governmental restrictions affecting productivity, rental value, and use of real property, including restrictions imposed upon property rented to low-income individuals and families under §42 of the Internal Revenue Code.

Affordable-housing valuation can involve specialized issues involving restricted rents, expenses, tax credits, capitalization rates, and the remaining term of the restrictions. PVD therefore publishes an Affordable Housing Appraisal Guide, which should be consulted when valuing this type of property.

Practice Point: Unlike an ordinary private below-market lease, a governmentally imposed rent restriction may constrain what the property itself can earn in the market and therefore must be considered in determining fair market value.

B-13. Director of Property Valuation Guides

Kansas property appraisal is performed locally, but it operates within a statewide system supervised by the Director of Property Valuation. The Director is authorized to develop appraisal tools and guides, particularly for property requiring specialized valuation knowledge. K.S.A. 75-5105a. County appraisers, in turn, are required to follow the Director's policies, procedures, and guidelines in performing their duties. K.S.A. 79-1456(a).

The requirement is especially clear when PVD has developed and adopted a methodology for valuing a specific type of property. K.S.A. 79-1456(a) provides that the county appraiser "shall be

[38] *In re Equalization Appeal of Ottawa Housing Assoc., L.P.*, 27 Kan. App. 2d 1008, 10 P.3d 777 (2000).

required to follow such methodologies." For personal property, the county appraiser must conform to the values shown in PVD's personal property appraisal guides, although an individual property may be valued differently for just cause when necessary to achieve fair market value. K.S.A. 79-1456(b); K.S.A. 79-1412a Sixth.

The Kansas Supreme Court emphasized these requirements in *In re Tax Appeal of River Rock Energy Co.*, holding that county appraisers must follow the PVD Oil and Gas Appraisal Guide unless property-specific facts establish just cause for deviation.[39] The Court recognized PVD guides as important statewide mass-appraisal tools used to promote uniform and equal valuation. The Court of Appeals later reinforced that principle in Alliance Well Service, Inc. v. Pratt County, again holding that county appraisers must adhere to the applicable PVD Guide unless just cause supports deviation.[40]

B-14. Appraisal Standards (USPAP)

USPAP stands for the Uniform Standards of Professional Appraisal Practice. USPAP grew out of the appraisal profession's response to the savings-and-loan crisis of the 1980s and the resulting concern over inconsistent appraisal practices. In 1986, major appraisal organizations formed a committee to develop uniform national standards; The Appraisal Foundation was established in 1987 to administer those standards, and Congress recognized that framework in 1989 as part of the federal financial-institution reforms. Today, USPAP is promulgated by the Appraisal Standards Board of The Appraisal Foundation and serves as the generally recognized ethical and performance standard for the appraisal profession.[41]

For purposes of this course, it may help to think of USPAP primarily as governing the process of appraisal—how the appraisal problem is identified, researched, analyzed, documented, and reported. USPAP requires competency, an appropriate scope of work, recognized appraisal methods and techniques, adequate supporting information, and credible reporting. It generally does not tell the appraiser what Kansas property must be taxed, what assessment classification applies, or prescribe the particular value that must result. Those substantive requirements come

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[39] *In re Tax Appeal of River Rock Energy Co*., 313 Kan. At 937-938.

[40] *Alliance Well Service, Inc. v. Pratt County*, 61 Kan. App. 2d 454, 474, 505 P.3d 757 (2022).

[41] The Appraisal Foundation, USPAP—Uniform Standards of Professional Appraisal Practice, History and Overview. The appraisal profession began developing USPAP in 1986; The Appraisal Foundation was established in 1987, and Congress recognized the appraisal regulatory framework in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)

principally from the Kansas Constitution and statutes, PVD directives and adopted valuation guides, and accepted appraisal methodology taught through sources such as IAAO and KREAB-approved appraisal education. **Put simply:** Kansas law and appraisal methodology tell the appraiser what is being valued and how value is measured; USPAP provides professional standards governing how that appraisal work is performed and reported.

Kansas makes USPAP compliance mandatory for property-tax appraisal. K.S.A. 79-503a requires the appraisal process used to value real and tangible personal property to conform to generally accepted appraisal procedures and standards consistent with fair market value unless otherwise provided by law. K.S.A. 79-505 further requires the Director of Property Valuation to prescribe appraisal standards requiring that all appraisals comply with USPAP and that the appraisals be written. The Director may impose additional standards when necessary to carry out statutory responsibilities, provided they do not conflict with USPAP.

PVD Directive No. 24-051 currently requires county and district appraisers to perform appraisal functions in conformity with the 2024 Edition of USPAP, which remains the current edition until superseded.[42]

Mass Appraisal

USPAP — Standards 5 and 6

> Most county appraisal work is performed through mass appraisal rather than through a separate individual appraisal of every parcel. IAAO defines mass appraisal as the process of valuing a group of properties as of a given date using common data, standardized methods, and statistical testing.[43] This is the basic concept underlying Kansas's Orion computer-assisted mass appraisal (CAMA) system.
>
> USPAP Standard 5 governs the development of a mass appraisal, and Standard 6 governs its reporting. PVD Directive No. 24-051 requires Standards 5 and 6 for Kansas ad valorem mass appraisal. These standards may also be used when the value of an individual property originally developed through mass appraisal is reconsidered during the hearing or appeal

[42] PVD Directive No. 24-051, Uniform Standards of Professional Appraisal Practice (requiring compliance with the 2024 Edition for valuation year 2024 and subsequent years until otherwise notified).
[43] International Association of Assessing Officers, Standard on Mass Appraisal of Real Property (2025).

process. Any model overrides or adjustments must be supported and documented.

Mass appraisal should not be confused with performing thousands of individual appraisals. The appraiser develops and tests models using market data and then applies those models consistently to a population of properties.

Single-Property Appraisal — Standards 1 and 2

Some properties do not lend themselves to credible valuation through a mass-appraisal model. When a single real property appraisal is required, USPAP Standard 1 governs development of the appraisal and Standard 2 governs reporting. PVD Directive No. 24-051 recognizes this distinction between mass appraisal and a single-property appraisal.

Appraisal Review — Standards 3 and 4

USPAP Standards 3 and 4 govern appraisal review. An appraisal review involves developing and reporting an opinion about the quality of another appraiser's work.

County appraisers frequently receive private appraisals during the appeal process and must analyze the evidence presented. Reviewing the taxpayer's appraisal, however, does not necessarily mean that the county has performed a formal USPAP Standard 3 appraisal review. Comparing the taxpayer's property data, comparable sales, and conclusions with the county's appraisal and explaining the differences may be part of the appeal process without constituting a formal appraisal-review assignment.

Why USPAP Matters

USPAP compliance is not merely a professional preference in Kansas property-tax appraisal; it is incorporated into the statutory appraisal system. Kansas appellate courts have recognized that failure to follow applicable USPAP standards may constitute a failure to follow prescribed appraisal procedure or an error of law. In Board of Saline County Commissioners v. Jensen and later in In re Tallgrass Prairie Holdings, LLC, the Court of Appeals rejected appraisal methodologies that did not comply with applicable USPAP requirements.[44]

[44] *Board of Saline County Comm'rs v. Jensen*, 32 Kan. App. 2d 730, 88 P.3d 242, *rev. denied* 278 Kan. 843 (2004); *In re Tallgrass Prairie Holdings*, LLC, 50 Kan. App. 2d 635, 650, 333 P.3d 899 (2014).

The practical lesson for the county appraiser is straightforward: a supportable value reached through an improper appraisal process may still be vulnerable on appeal. The appraiser must be prepared to explain both the resulting value and the appraisal process used to reach it.

B-15. Property Not Valued Based Upon Fair Market Value

Most property is valued based upon its fair market value each January 1 for property tax purposes. However, the following property is *not* valued based at fair market value (as defined by K.S.A. 79-503a) for property tax purposes in Kansas:

(a) **Land devoted to agricultural use** is valued based upon its agricultural income and productivity, pursuant to art. 11, § 1 of the Kansas Constitution and the methodology prescribed by K.S.A. 79-1476. Each year, the director of property valuation certifies agricultural use values to the counties. In *In re Protest of Smith*, 272 Kan. 1396, 39 P.3d 66 (2002), the Kansas Supreme Court upheld the use of statistical data to value agricultural land and rejected the contention that each landowner's actual income had to be used to value agricultural land.

(b) **Commercial and industrial machinery and equipment** Commercial and industrial machinery and equipment is an example of property that is **not valued at ordinary fair market value**. Instead, article 11, § 1 of the Kansas Constitution establishes a formula based upon the property's **retail cost when new**, reduced by straight-line depreciation. If the property's economic life is seven years or more, depreciation is calculated over seven years; if its economic life is less than seven years, depreciation is calculated over that shorter economic life. If the property continues to be used, its value may not fall below 20% of its retail cost when new. K.S.A. 79-1439(b)(2)(E). The detailed rules governing CIME, including exemptions and use of the PVD Personal Property Guide, are discussed later in C-10.

(c) Art. 11, § 1(a) of the Kansas Constitution allows the legislature to statutorily provide for the taxation of motor vehicles and recreational vehicles. Motor vehicles registered up to 12M are taxed and tagged pursuant to K.S.A. 79- 5101 et seq. Motor vehicles that are registered from 12M to 20M are listed and valued by the county appraiser using the same formula (K.S.A. 79- 5105a). The formula for computing the taxable value of these motor vehicles is set forth in K.S.A. 79-5105. Certain light passenger motor vehicles that are leased for 28 days or less are taxed based upon their gross receipts in K.S.A. 79-5117. Recreational vehicles are taxed and tagged based upon their weight and age pursuant to K.S.A. 79-5118 through 79-5125. On and after January 1, 2014, “commercial vehicles” pay an annual commercial vehicle fee instead of an ad valorem tax. K.S.A. 8-143m; K.S.A. 79-5101.

C. How is Property Assessed in Kansas for Property Tax Purposes?

Part B addressed how the value of property is determined. Part C addresses the next step: classification and assessment. These are different concepts. The appraised value is the value assigned to the property under Kansas law. The assessed value is generally determined by applying the assessment percentage assigned to the property's classification.

For example, if a residential property and a commercial property each have an appraised value of $200,000, they do not have the same assessed value. Residential real property is assessed at 11.5%, producing an assessed value of $23,000. Commercial and industrial real property is assessed at 25%, producing an assessed value of $50,000. The applicable mill levy is then applied to the assessed value to determine the property tax. Thus, an assessment percentage is not tax rate.

Kansas did not always classify property in this manner. Before statewide reappraisal, taxable property generally was subject to a single 30% assessment rate. As Kansas prepared for statewide reappraisal and the use of substantially more uniform market values beginning in 1989, policymakers anticipated that reappraisal could significantly shift the property-tax burden among different types of property. To address those shifts, Kansas voters approved a constitutional classification system in November 1986, effective with the 1989 reappraisal. The system was later revised, including significant changes approved in 1992.[45]

Today, article 11, § 1 of the Kansas Constitution divides taxable property into Class 1—Real Property and Class 2—Tangible Personal Property, with subclasses subject to different assessment percentages. K.S.A. 79-1439 implements those classifications and provides additional statutory definitions. Property within the same subclass must be assessed uniformly at the prescribed percentage.

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[45] See Kan. Const. art. 11, § 1; K.S.A. 79-1439. The classification amendment approved by Kansas voters in November 1986 became effective January 1, 1989, in conjunction with statewide reappraisal. The classification system was substantially revised by constitutional amendment in 1992.

The current classifications and assessment percentages are summarized below.

Class 1 — Real Property (2026)

Property Subclass	**Assessment Rate**
Residential real property, including multi-family residential property; qualifying mobile/manufactured-home communities; qualifying home day-care use; and qualifying bed-and-breakfast property	**11.5%**
Land devoted to agricultural use	**30%**
Vacant lots	**12%**
Qualifying not-for-profit real property	**12%**
Public utility real property*	**33%**
Commercial and industrial real property, including buildings and other improvements located on land devoted to agricultural use	**25%**
All other urban and rural real property not otherwise specifically classified	**30%**

* Railroad real property is assessed at the average assessment rate applicable to other commercial and industrial property.
Agricultural land: The 30% assessment rate is applied to agricultural-use value determined under K.S.A. 79-1476, rather than ordinary fair market value.
Not-for-profit property: The 12% subclass applies only to qualifying taxable real property included under K.S.A. 79-1439a; many nonprofit properties may instead qualify for exemption under other law.

Class 2 — Tangible Personal Property (2026)

Personal Property Subclass	**Assessment Rate**
Mobile homes used for residential purposes	**11.5%**
Mineral leasehold interests	**30%***
Public utility tangible personal property, including inventories	**33%****
Motor vehicles listed and taxed under K.S.A. 79-306d	**30%**
Commercial and industrial machinery and equipment, including qualifying rolling equipment	**25%*****
All other tangible personal property not otherwise specifically classified	**30%**

* Low-producing oil leasehold interests averaging five barrels or less per day and natural gas leasehold interests averaging 100 mcf or less per day are assessed at 25%.

** Railroad tangible personal property is assessed at the average rate applicable to other commercial and industrial property rather than 33%.
*** Taxable commercial and industrial machinery and equipment is valued under the constitutional straight-line depreciation formula, subject to the 20% floor while the property remains in use. Many items acquired after June 30, 2006, may qualify for exemption under K.S.A. 79-223.
2026 Exemption Note. Certain items that might otherwise fall within Class 2 are exempt beginning in tax year 2026, including qualifying off-road vehicles, certain personal-use trailers and marine equipment under K.S.A. 79-267, and all watercraft under K.S.A. 79-5501(e). These exempt items are not included in the taxable subclass table above.

C-1. Residential

The residential subclass includes real property used for residential purposes, including single-family homes and multi-family residential property such as apartment buildings. Residential real property is assessed at 11.5%. K.S.A. 79-1439(b)(1)(A).
Hotels and motels are generally classified as commercial property. Kansas law, however, specifically includes qualifying bed-and-breakfast property within the residential subclass. A bed and breakfast must have five or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days and must comply with applicable zoning and other laws governing facilities that lodge and feed guests. K.S.A. 79-1439(b)(1)(A); Directive No. 23-039.
Residential property used partially for a registered or licensed day-care home also remains within the residential subclass. K.S.A. 79-1439(b)(1)(A).
Real property may sometimes have more than one use. Under Directive No. 19-038, identifiable portions of mixed-use property may receive different classifications. If the uses are so intermingled that separate portions cannot reasonably be identified, predominant use generally controls. Classification ordinarily reflects the property's use as of January 1.
Classification and valuation should not be confused. Even where property is classified according to its residential use, fair market value generally continues to reflect the property's highest and best use. *Board of Douglas County Commissioners v. Cashatt*.[46]

C-2. Land Devoted to Agricultural Use

Land devoted to agricultural use is treated differently from most real property in Kansas. Article 11, § 12 of the Kansas Constitution authorizes agricultural land to be valued according to its agricultural income or productivity, actual or potential, rather than ordinary fair market

[46] See *Cashatt*, 23 Kan.App.2d 532 (1997).

value. K.S.A. 79-1476 establishes the agricultural-use valuation system, and qualifying agricultural land is assessed at 30%.

The Director of Property Valuation annually determines agricultural-use values based upon the inherent capabilities and current usage of the land, using soil and other productivity information developed under the statutory methodology. A landowner's individual income or profit does not determine the agricultural-use value. In *In re Tax Protest of Ann W. Smith Trust*, the Kansas Supreme Court upheld PVD's use of statewide statistical and productivity data rather than requiring valuation based upon each owner's actual income.[47]

For classification, the important question is how the land is actually being used. In *In re Equalization Appeal of Plaza Speedway Development, Inc*., seven parcels located within a planned commercial development were being used to grow and bale hay. The Court of Appeals held that the parcels qualified as land devoted to agricultural use even though the owner intended eventually to develop them commercially and did not itself receive the proceeds from the hay.[48] The statute does not require a minimum acreage, that the owner be a farmer, or that the agricultural activity produce income to the landowner.

Agricultural classification does, however, require actual agricultural use. In *In re Protests of Oakhill Land Co*., the Court of Appeals held that merely having an agreement permitting agricultural production was insufficient where the evidence did not establish that agricultural activity was actually occurring.[49]

[47] *In re Tax Protest of Ann W. Smith Trust*, 272 Kan. 1396, 39 P.3d 66 (2002).
[48] *In re Equalization Appeal of Plaza Speedway Development, Inc*., No. 127,085, 584 P.3d 702 (Kan. App. 2026).
[49] *In re Protests of Oakhill Land Co*., 46 Kan. App. 2d 1105, 269 P.3d 876 (2012).

A single parcel may also contain both agricultural and nonagricultural uses. K.S.A. 79-1476 requires the county appraiser to identify the portion devoted to agricultural purposes and value and assess that land accordingly, while separately classifying and valuing the remaining land according to its use.

K.S.A. 79-1476 also contains special provisions for certain property, including controlled shooting areas, qualifying zoo property, registered agritourism activities, and federal conservation-program land. In addition, K.S.A. 79-1476c provides specific procedures for agricultural land affected by certain adverse influences. Detailed agricultural-use valuation procedures and annual values are available through PVD's Agricultural Use Section.

Practice Point — Current Use Can Produce a Surprising Result

Land does not lose agricultural classification simply because it is located inside a city, is owned by a developer, or is eventually intended for commercial development. If the land is actually devoted to agricultural production, its present use—not the owner's future development plan—controls the classification.

The 2026 Plaza Speedway case illustrates the point: planned commercial-development parcels being used to produce hay were agricultural land for property-tax purposes.

C-3. Vacant Lots

Vacant lots are assessed at 12%. Whether land is truly "vacant," however, depends upon its actual condition and use as of January 1.

Under PVD Directive No. 98-031, land on which construction is underway is no longer classified as a vacant lot once the construction in progress adds value to the property. At that point, the property is classified according to its intended use.

Similarly, unimproved land may nevertheless be commercial or industrial property. Directive No. 99-034 provides that land actively used for commercial or industrial purpose is classified at 25%, even though no building or other improvement exists. A grass lot being actively used as a used-car lot, for example, does not become a 12% vacant lot merely because it is unpaved.

Practice Point: "Vacant" does not simply mean no building. Look at what is actually occurring on the property as of January 1.

C-4. Not-for-Profit Organizations

Certain real property owned and operated by qualifying not-for-profit organizations is assessed at 12% rather than the ordinary commercial or other-property assessment rate. K.S.A. 79-1439a identifies qualifying organizations under IRC §§501(c)(2), (3), (4), (7), (8), and (10).

This classification should not be confused with a property-tax exemption. Many charitable, religious, educational, or other nonprofit properties may qualify for complete exemption under separate Kansas law. K.S.A. 79-1439a applies when qualifying property remains taxable but is entitled to the preferential 12% assessment classification.

Both **ownership and operation** matter. In *Main Line, Inc. v. Board of Reno County Commissioners*, a §501(c)(3) organization owned real property but leased it under a passive triple-net lease to a for-profit business that exclusively occupied and operated the property. The Court of Appeals held that ownership alone was insufficient; the nonprofit did not "operate" the property as required by the statute.[50]

There are also special rules for particular organizations. For a §501(c)(7) recreational organization, such as a qualifying country club, the 12% classification applies only to land actually and regularly used for recreational purposes and excludes land accommodating buildings or other improvements associated with the recreational land. K.S.A. 79-

Practice Point — Nonprofit Does Not Automatically Mean Tax Exempt

When a taxpayer says, "We are a nonprofit," that does not answer the property-tax question.

Ask separately:

Is the property exempt under Kansas law?

If it is taxable, does the owner qualify under one of the §501(c) categories listed in K.S.A. 79-1439a?

Is the property both owned and operated in the manner required by the statute?

[50] *Main Line, Inc. v. Board of Reno County Comm'rs*, 33 Kan. App. 2d 875, 112 P.3d 951 (2004), rev. denied 279 Kan. 1006 (2005).

1439a. If qualifying §501(c)(7) recreational land changes to a nonrecreational use, K.S.A. 79-1439b provides for recoupment of certain prior tax benefits.

C-5. Public Utility Property

Most public utility property is different from the property ordinarily encountered by a county appraiser because it is centrally assessed by the State. Under K.S.A. 79-5a01 et seq., the Director of Property Valuation annually determines the fair market value of qualifying public utility property. Public utility real and tangible personal property is generally assessed at 33%, subject to the special constitutional treatment applicable to railroad property.

Central assessment makes practical sense because utilities such as electric companies, pipelines, and other regulated enterprises frequently operate as integrated systems crossing numerous county and state boundaries. Rather than having each county independently value the portion located within its borders, PVD generally values the utility as an operating unit, determines the portion attributable to Kansas, and distributes the resulting value among the appropriate taxing districts. K.S.A. 79-5a04.

For the county appraiser, the principal lesson is therefore to recognize centrally assessed property. The county ordinarily does not independently determine the value of property included in a PVD public-utility assessment. PVD is responsible for the valuation, while the resulting assessed value is ultimately distributed to the counties and taxing districts in which the property is located.

A Modern Public Utility Case — FreeState Electric

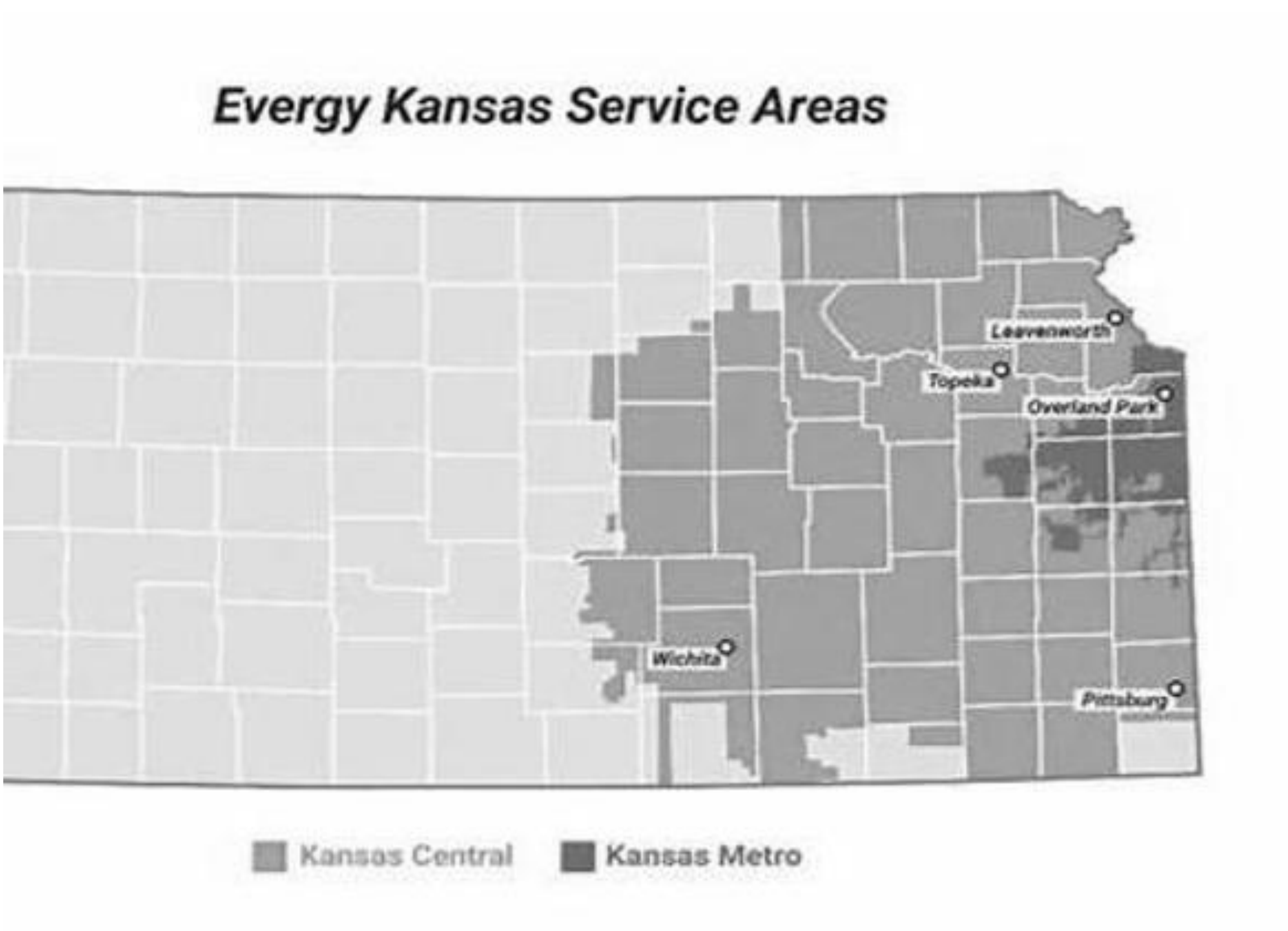
FreeState Electric Cooperative, Inc. v. Kansas Department of Revenue, Division of Property Valuation involved eight rural electric cooperatives challenging PVD's valuations for the 2019 and 2020 tax years. PVD had valued the cooperatives using the income approach under the specialized public-utility valuation statutes. The dispute eventually concerned how certain financial adjustments affected the cooperatives' net operating income and therefore their valuations.[51]

The Kansas Supreme Court ultimately resolved Freestate on a procedural issue rather than deciding whether PVD's valuation methodology was correct. The Court held that a taxpayer

[51] *FreeState Electric Cooperative, Inc. v. KDOR, PVD*, 319 Kan. 377, 555 P.3d 220 (2024).

seeking judicial review cannot use a district-court trial de novo to raise a valuation issue that was not first litigated before BOTA. The case is a useful reminder that public-utility valuation is a specialized PVD responsibility and that disputes with PVD's valuation must be properly developed through the administrative appeal process before reaching the courts.

Other State-Assessed Property. Public utilities are not the only property valued at the state level. Certain motor-carrier property is also centrally valued and assessed by PVD under K.S.A. 79-6a01 et seq. For a beginning county appraiser, the important point is to recognize property that is state assessed so that it is not independently valued as locally assessed property. Evergy is state assessed because it is valued as a unit over counties.



C-6. Other

If property cannot be otherwise classified, it falls in the other subclass and is assessed at 30%. One example is commercial and industrial machinery and equipment not being used to produce income by the owner thereof. K.S.A. 79-1439c.

The "other" subclass historically produced some unusual results because tangible personal property that did not fit within another classification could be assessed at the relatively high 30% rate. This was particularly noticeable for certain recreational or personal-use property. In 2025, the Legislature responded in part by exempting, beginning in tax year 2026, off-road vehicles such as ATVs, recreational off-highway vehicles, golf carts, off-road motorcycles and snowmobiles, as well as certain personal-use trailers and marine equipment. K.S.A. 79-267. Supporters of the legislation pointed to the inequity of taxing some of these items when used personally even though similar property could already be exempt when used for agricultural or commercial purposes. Watercraft were also exempted beginning in 2026, although they had previously been taxed under a separate statutory system rather than the 30% "other" subclass.

C-7. Residential Mobile Homes

Mobile homes that are personal property are defined by K.S.A. 79-340. In order to be considered real property, the property must have a permanent foundation, and the title must be in the name of the same person (or the person's spouse) as the underlying real property.

C-8. Motor Vehicles

This subclass applies to motor vehicles not valued and taxed pursuant to a law enacted prior to January 1, 1985. Thus, this subclass is defined by means of exclusion. The following motor vehicles are excluded from this subclass:

(1) tax and tag motor vehicles (K.S.A. 79-5101),

(2) motor vehicles having a gross vehicle weight of more than 12,000 pounds, but less than 20,001 pounds (K.S.A. 79-5105a),

(3) motor vehicles owned by public utilities, valued, and assessed as part of the public utility's interstate operating unit (K.S.A. 79-5a01 *et seq.*),

(4) motor vehicles owned by motor carriers, valued, assessed and taxed by the director of property valuation (K.S.A. 79-6a01 *et seq.*),

(5) recreational vehicles (K.S.A. 79-5118), and

(6) leased vehicles, which are taxed based upon their gross receipts (K.S.A. 79-5117).

In other words, the motor vehicles in this Class 2, Subclass 4 are those registered with a tag weight of 24,000 lbs. or more or are titled as a non-highway motor vehicle. These are commonly referred to as "tax roll" motor vehicles.

C-9. Watercraft

Kansas formerly taxed watercraft under a separate statutory system. From 2015 through 2025, taxable watercraft were generally appraised at fair market value and assessed at 5%.

Beginning January 1, 2026, all watercraft are exempt from Kansas property taxation. K.S.A. 79-5501(e). Accordingly, watercraft are no longer a taxable classification that county appraisers must value and assess for current tax years.

C-10. Commercial and Industrial Machinery and Equipment

Commercial and industrial machinery and equipment ("CIME") is tangible personal property used in a business or income-producing activity and classified within Class 2, Subclass 5 of the Kansas Constitution. Taxable CIME is assessed at 25%.

Unlike most taxable properties, CIME is not valued at ordinary fair market value. The Kansas Constitution establishes a formula based upon retail cost when new and straight-line depreciation. Property with an economic life of seven years or more is depreciated over seven years; property with a shorter economic life is depreciated over that shorter period. As long as the property remains in use, its value cannot fall below 20% of its retail cost when new. The basic concepts of straight-line depreciation and economic life were discussed earlier in Part B.

An important practical point is that much newer CIME is exempt from property taxation. K.S.A. 79-223 generally exempts qualifying commercial and industrial machinery and equipment acquired by purchase or lease, or brought into Kansas for business expansion or creation, after June 30, 2006. The exemption rules are discussed later in the course.

Sometimes the more difficult issue is whether machinery or equipment is actually personal property or part of the real estate. K.S.A. 79-261 directs county appraisers to follow Kansas law and the PVD Personal Property Guide. When classification is unclear, the appraiser applies the three-part fixture test involving annexation, adaptation, and intent. All three factors must be satisfied before the property is classified as real property.

Practice Point — Classification Comes First

Before asking how machinery or equipment should be valued or whether it is exempt, first determine what the property is. If an item has become a real-property fixture, the CIME rules applicable to personal property may not apply.

Complex machinery-and-equipment classifications can be fact intensive. Beginning RMAs should consult the current PVD Personal Property Guide and seek assistance from experienced personal-property staff when necessary.

C-11. Leasehold Improvements

Agricultural land and the improvements located on that land are treated differently for Kansas property-tax purposes. Land devoted to agricultural use is valued according to its agricultural income or productivity and assessed at 30%. Taxable buildings and other improvements located on agricultural land are generally valued at fair market value and assessed at 25%. Kan. Const. art. 11, § 1; K.S.A. 79-1439.

For property-tax purposes, an improvement is a physical addition or change to land that is treated as part of the real property rather than as separate personal property. K.S.A. 79-102 provides that real property includes the land itself together with buildings, fixtures, improvements, and other rights associated with the land. In practical terms, improvements may include buildings, structures, and permanent site improvements attached to or associated with the real estate. Whether a particular item is an improvement or instead personal property may require application of the real-property/personal-property rules discussed earlier.

A single farm parcel may therefore contain several different property tax components. The agricultural acreage may be valued at agricultural-use value and assessed at 30%; taxable farm buildings and improvements may be valued at fair market value and assessed at 25%; and a farm residence and its homesite may qualify for the 11.5% residential classification. The fact that these components appear on the same parcel does not require them to receive the same valuation method or assessment rate.

Practice Point — A Farm Is Not Necessarily One Classification. Do not think of a farm parcel as one indivisible item for classification purposes. Ask separately:

What is land? What are the improvements? How is each portion actually used? The answer may produce more than one classification and more than one valuation method on the same parcel.

The term **leasehold improvement** can be confusing. In this context, it generally means a building, structure, or other improvement constructed or paid for by a tenant on real property the tenant leases from someone else. The fact that the property is leased does not by itself determine how the improvement is classified or valued for property-tax purposes. The appraiser must still determine whether the improvement is real or personal property, how it is being used, and which statutory classification applies.

Agricultural leases also sometimes divide the economic burden of the property tax between the landowner and the tenant. For example, a farm tenant may agree to reimburse the owner for taxes attributable to buildings or improvements used in the tenant's operation, while the owner remains responsible for the taxes attributable to the land or other portions of the property. That allocation is a matter of the lease between the parties; it does not control the county appraiser's classification or valuation of the property. The appraiser should value and classify the land and improvements according to Kansas law regardless of which party ultimately agrees to pay the tax bill.

D. Special Rules for Personal Property

K.S.A. 79-301 provides that “[a]ll tangible personal property subject to taxation shall be listed and assessed as of the first day of January each year in the name of the owner thereof. Such listing and assessment shall be made as hereinafter provided.”

D-1. Self-Reporting Requirement

Unlike real estate, taxable personal property generally must initially be reported by the taxpayer. This self-reporting requirement reflects the practical nature of personal property: it may be movable, located inside buildings, frequently bought or sold, and more difficult for the county appraiser to discover independently.

K.S.A. 79-303 requires persons who own or control taxable tangible personal property to list that property for assessment. However, under current K.S.A. 79-306, once a taxpayer has filed an initial personal property statement, another annual statement is not required unless there is a change to report concerning the property previously listed. The Legislature made this change in 2024.

The taxpayer's reporting obligation does not eliminate the county appraiser's corresponding duty to discover and list taxable personal property. K.S.A. 79-1411b; K.S.A. 79-1412a Second.

D-2. Signing the Rendition

When a personal property statement is required, it must be personally signed and filed with the county appraiser on or before March 15, or the next business day if March 15 falls on a nonbusiness day. K.S.A. 79-306. After an initial statement has been filed, a subsequent annual statement is required only when there is a change to report concerning the property previously listed. If a personal property tax rendition preparer prepares the statement, the preparer must also sign and certify that the information is true and correct. K.S.A. 79-306; K.S.A. 79-305a.

Oil and gas property remains subject to a separate filing deadline of April 1. K.S.A. 79-332a.

D-3. Where to File the Rendition and Situs

For property tax purposes, personal property must generally be listed in the taxing district in which the property is located on January 1. K.S.A. 79-304. Kansas may still tax property that is in the state on January 1 even if the owner resides in another state. *Ray v. Board of Co. Comm'rs*, 173 Kan. 859, 252 P.2d 899 (1953). It is not unconstitutional for more than one state to tax tangible personal property. *V. S. Dicarlo Masonry Co. v. Higgins*, 178 Kan. 222, 284 P.2d 640 (1955). Special rules apply when personal property is removed from Kansas between November 1 and January 1 and then returned prior to March 1. The property is still listed in Kansas *unless* the owner submits proof under oath to the county appraiser that the property was removed for legitimate business purposes and was listed in another state. K.S.A. 79-304.

There are a few exceptions to the general rule that property is listed based upon where it was located on January 1. Personal property owned by a county resident and located on a municipal airport or airfield, within the county, is listed and taxed where the owner resides. If the owner is a non-resident of the county, the personal property is listed and taxed in the taxing district where the municipal airport or airfield is located. Personal property *in transit* is listed in the taxing district where the owner resides unless it is intended for a particular business, in which case it is listed in the taxing district where the business is to be transacted. K.S.A. 79-304.

The personal property rendition must include the name of the township, city, and school district in which the property is located, the residence address of the owner and any other information as required to establish the proper tax *situs* of the property. K.S.A. 79-308. Generally, if the taxpayer simply provides the address where the personal property is located, the county will determine the appropriate township, city, and school district. The situs information is necessary for two reasons: (1) to determine the appropriate mill levy for property tax purposes; and (2) to determine the appropriate districts entitled to the property tax that is collected.

D-4. Late Filing Penalties

When a personal property statement is required and is filed late, K.S.A. 79-1422 generally imposes a penalty of 2% of assessed value for each month or portion of a month the filing is late, up to a maximum of 10%. If, within one year after the filing deadline, the taxpayer fails to file or fails to file a full and complete statement, the penalty is 12.5%.

For good cause shown, the county appraiser shall grant a reasonable extension when the statutory requirements are satisfied. In addition, either the county appraiser or BOTA may abate a penalty imposed under K.S.A. 79-1422 when excusable neglect is shown. The Board of Tax Appeals may find that excusable neglect exists when a taxpayer makes legitimate efforts to correct problems once they are discovered.

Oil and gas renditions are subject to similar reduced penalties under K.S.A. 79-332a, but use the April 1 filing deadline.

K.S.A. 79-5a14 imposes penalties for public utilities that fail to file a property tax return by March 20 (the date public utility property tax returns are due K.S.A. 79-5a02). Like the penalty applied by the county appraiser, it is 5% of the assessed value for each month the return is late; however, it cannot exceed $100,000.00. In aggregate, the penalty cannot exceed 25% of the assessed value, or $500,000.00, whichever is less. Unlike the county appraiser, in the case of locally assessed penalties, the director of property valuation can abate or reduce the penalty for good cause shown. The director's penalty may be appealed to BOTA, which may abate or reduce the penalty whenever excusable neglect of the part of the public utility is shown.

The taxpayer may avoid penalties by requesting an extension in writing prior to the March 15 due date, and the county appraiser, for just reason, may approve the extension. K.S.A. 79-1422; K.S.A. 79-1457. The director of property valuation may grant a public utility one or more extensions in time to file a property tax return, not to exceed 30 days in aggregate. K.S.A. 79-5a14.

Interest is not a penalty. A penalty is punishment established by law or authority for an offense, or, in this context, the violation of the statutory requirement to timely file a property tax return. Interest, on the other hand, is a fixed charge for borrowing money or retaining an amount of money belonging to another, *e.g.,* not timely paying one's property taxes.

D-5. Failure to File Penalty

If the county appraiser discovers that taxable, tangible personal property was omitted or underreported for whatever reason from a rendition *for more than one year*, the property is deemed to have escaped taxation. A 12.5% penalty is applied, and the county appraiser has the duty to pick up the property for two additional years if the property had situs in the county and was omitted or underreported for those years as well. K.S.A. 79-1427a. Only the state Board of Tax Appeals has the authority to abate the failure to file penalty for excusable neglect. K.S.A. 79-1427a(b).

Where Do Penalties and Interest Go?

For **escaped personal property**, the 12.5% penalty under K.S.A. 79-1427a increases the appraisal upon which the additional property tax is calculated. The resulting tax is collected and distributed among the applicable taxing subdivisions according to their respective levies, just like other property-tax collections. K.S.A. 79-1801; K.S.A. 12-1678a. If the escaped-property bill remains unpaid after the 45-day payment period, delinquent interest begins to accrue. Interest collected on delinquent personal property taxes is credited to the **county general fund**. K.S.A. 79-2004a.

Real property is treated differently. When omitted real property is discovered under K.S.A. 79-1475, there is no comparable escaped-property penalty. The omitted tax is calculated using the levy applicable to the year or years in which the property should have been taxed and is distributed among the affected taxing subdivisions. The taxpayer has 45 days after issuance of the added or escaped real-property tax bill to pay without interest. If the tax remains unpaid after that period, it becomes delinquent and interest is collected under the ordinary real-property tax rules. K.S.A. 79-2004 generally directs that delinquent real-property-tax interest be credited to the **county general fund** rather than distributed among the taxing subdivisions.

For purposes of applying the escaped tax penalty imposed by K.S.A. 79-1427a, "discovery" occurs when the personal property tax assessment is placed on the tax roll and a bill is sent to the owner. *Dillon Stores v. Board of Co. Comm'rs of Sedgwick County*, 25 Kan. App. 2d 342, 962 P.2d 1120 (1998).

If within one year of the filing date (March 20) the public utility fails to file a return or fails to file a complete return, the penalty is 50% of the assessed value, or $1,000,000.00, whichever is less. Unlike the county appraiser, in the case of locally assessed penalties, the director of property valuation can abate or reduce the penalty for good cause shown. The director's penalty may be appealed to BOTA, which may abate or reduce the penalty whenever excusable neglect of the part of the public utility is shown. K.S.A. 79-5a14.

D-6. Appraiser's Duty to List

When taxable real property has been omitted from the tax rolls, the county appraiser must immediately list and value the property. K.S.A. 79-1475 permits collection of tax for prior years in which the property should have been taxed, with the retroactive period limited to two calendar years preceding January 1 of the year in which the property is discovered. PVD Directive No. 11-043 explains that, together with the county appraiser's annual listing duty under K.S.A. 79-1455, omitted real property is placed on the roll for the current year and, when applicable, up to two prior years.

Unlike taxable personal property, real property generally does not depend upon an annual taxpayer self-reporting obligation. Accordingly, the omitted-real-property procedure is primarily a correction of the tax roll rather than a penalty for failure to file.

The county appraiser also has an affirmative duty to discover and list taxable personal property within the county. K.S.A. 79-1411b; K.S.A. 79-1412a Second. The penalties and escaped-property rules applicable when personal property is not properly reported are discussed in D-4 and D-5.

E. Administration of the Property Tax

E-1. How is the Property Tax Calculated in Kansas?

To determine the property tax on a property, the appraised value (*i.e.*, the fair market value of the property, in most instances) is multiplied by the appropriate assessment percentage set forth in the Kansas Constitution to determine the assessed value. The assessed value is then multiplied by the mill levy for the taxing unit in which the property is located and divided by 1000*****. The result is the amount of property tax on the property for the full tax year. Contact the county clerk for the appropriate mill levy for the tax year at issue.

Appraised Value times Assessment Rate = Assessed Value

Assessed Value times (Mill Levy divided by 1,000) = Tax

Assessment Percentage × (Mill Levy ÷ 1,000) = Effective Tax Rate

Just as a percent is one-one hundredth, a mill is one-one thousandth. A mill levy of "112.25" or "112.25 mills" can be expressed as $112.25 taxes per $1,000 of assessed value. The decimal may also be moved three places to the left and interpreted as $0.11225 of taxes per $1 of assessed value. Restated, the mill levy divided by 1000 and multiplied by the assessed value equals the amount of property taxes.

Compute the tax bill:

Appraised value of a home: $100,000
Mill levy: 120 mills

Tax bill: _______________

What is the effective tax rate?

Mill levy X Assessment rate = __________________

Tax dollars / Appraised value = __________________

E-2. How is the Mill Levy Set?

The **mill levy** is the tax rate applied to assessed value. In simplified terms, local governments first determine how much money is needed to fund their budgets. Revenues available from other sources—such as fees, grants, interest, transfers, and cash balances—are taken into account. The remaining amount to be raised from property taxation is divided by the assessed valuation of the taxing district to determine the mill levy.

Each year, the county appraiser completes and certifies the real and personal property appraisal rolls to the county clerk on or before **June 1**. K.S.A. 79-1466; K.S.A. 79-1467. Those assessed values provide the tax base upon which the levies of the county, cities, school districts, townships, and other taxing subdivisions are applied.

Revenue Neutral Rate

K.S.A. 79-2988 requires the county clerk, on or before **June 15**, to calculate the **revenue neutral rate** for each taxing subdivision. The revenue neutral rate is the mill levy that, when applied to the current year's assessed valuation, would produce the same amount of property-tax revenue that the taxing subdivision levied in the preceding year.

A taxing subdivision generally may not levy above its revenue neutral rate unless it follows the statutory notice and hearing procedure. A governing body proposing to exceed the rate must notify the county clerk by **July 20**. Taxpayers receive notice of the proposed increase and public hearing, and the hearing must be held between **August 20 and September 20**. After receiving public comment, a majority of the governing body must approve exceeding the revenue neutral rate by roll-call vote. K.S.A. 79-2988. All taxing subdivisions must certify the amount of ad valorem tax to be levied to the county clerk on or before **October 1**. K.S.A. 79-1801. After the levies are certified, the county clerk computes the final tax levy applicable to each property and delivers the completed tax roll to the county treasurer on or before **November 1**. K.S.A. 79-1803.

In *In re Application of U.S.D. 437 for Tax Relief*, the Kansas Supreme Court provided a useful description of this system and recognized an important concept: property taxes are spending driven, not valuation driven.[52] Local taxing subdivisions determine how much property-tax revenue is required to support their budgets, and the mill levy adjusts in relation to the assessed valuation available to produce that revenue. An increase in overall assessed valuation does not, by itself, require the taxing subdivision to collect more total property tax revenue.

Example

Assessed value of taxing district: $100,000,000
Total budget requirements: $15,000,000
Revenue available from other sources: $4,000,000
Property-tax revenue needed: $11,000,000

Mill levy:

$11,000,000 ÷ $100,000,000 × 1,000 = 110 mills

Practice Point: The county appraiser establishes the tax base through valuation and classification. The appraiser does not set the budget or mill levy. Changes in valuation may affect how the tax burden is distributed among taxpayers, but taxing subdivisions determine the amount of revenue they seek to raise through the budgeting and levy process.

[52] *In re Application of U.S.D. 437 for Tax Relief*, 243 Kan. 555, 557, 757 P.2d 314 (1988).

E-3. Who Pays the Annual Taxes on Taxable Property

Property is generally valued and assessed based upon its status as of January 1. K.S.A. 79-309; K.S.A. 79-1455. As a result, a later sale, transfer, improvement, or destruction of property ordinarily does not cause the annual appraisal to be recalculated simply because circumstances changed during the year. There are, however, important statutory exceptions, including certain motor vehicles, exemptions, divided real-property tracts, and property substantially destroyed by natural disaster.

For taxable personal property subject to the general January 1 rule, a sale or transfer after January 1 does not remove the property from taxation for that year. K.S.A. 79-309. Certain types of property, particularly motor vehicles, are subject to separate statutory proration and refund provisions discussed below.

a. **Heavy trucks**. The value of motor vehicles that are listed on the personal property tax roll (motor vehicles registered above 20M) may be prorated on a monthly basis when the motor vehicles are acquired, purchased, traded or sold after January 1 and prior to September 1. K.S.A. 79-306d.

b. **Tax and tag motor vehicles.** There are tax proration and refund provisions for tax and tag motor vehicles set forth in K.S.A. 79-5107. If a taxpayer taxes and tags their motor vehicle and then transfers the title without replacing the motor vehicle, the taxpayer is entitled to a refund if they timely apply to the county treasurer. K.S.A. 79-5107(c). Similarly, if a taxpayer taxes and tags their motor vehicle and then establishes a residence in another state and surrenders their Kansas license plate, the taxpayer is entitled to a refund if they apply to the county treasurer. K.S.A. 79-5107(d).

c. **Exemptions.** When exemptions become exempt during the tax year, the exemptions generally become effective on the date of first exempt use. K.S.A. 79-213(j). Taxes attributable to the taxable portion of the year are adjusted accordingly. If exempt property later ceases to be used for an exempt purpose, the owner must notify the county appraiser as required by K.S.A. 7-214.

When property ceases to be used for exempt purposes during the tax year, taxes are similarly prorated. Typically, the Board of Tax Appeals order exempting property states that the property is exempt only so long as it continues to be used exclusively or predominately for exempt purposes. The owner of the property must disclose the fact that exempt property is no longer being used for exempt purposes to the county appraiser within 30 days, or be subject to penalties prescribed by K.S.A. 79-1422, and amendments thereto. K.S.A. 79-214.

d. When real property **changes ownership** during the year, the tax bill may be sent to the new owner of record if the change in the county's tax roll is made prior to November 1, the lien date. See **Directive No. 92-015**; K.S.A. 79-1804.

e. K.S.A. 79-1805 states that when there is **no express agreement** between the grantor and grantee as to who should pay the taxes on real property, the grantee is responsible if the property is conveyed on or after January 1 but prior to November 1, and the grantor is responsible if it is conveyed on or after November 1.

f. If a tract is **divided into tracts** owned by different persons after the tract is assessed, any one or more such persons may make application to the county appraiser for an apportionment of the assessed valuation. K.S.A. 79-425a provides the application process and appeal to the board of tax appeals. In 2016, the legislature amended K.S.A. 79-425a to provide that the county appraiser *shall* apportion the valuation upon an application. (2016 H. Sub. for S.B. No. 280, § 8.)

g. **Homestead Destroyed or Substantially Destroyed by Natural Disaster.** The owner of a homestead, building, or improvement[53] listed and assessed for property taxation purposes which was destroyed or substantially destroyed due to an earthquake, flood, tornado, fire, storm, or other event or occurrence which the governor has declared a disaster may make an application to the board of county commissioners of the county where the property is located for the abatement of property taxes levied on such homestead or for a credit against property taxes. K.S.A. 79-1613. *See* K-1. Substantially destroyed generally means restoration costs equal or exceeding 50% of pre-damage market value. KS.A. 79-1613.

[53] The 2022 legislature expanded K.S.A. 79-1613 to include buildings and improvements listed and assessed for property taxation purposes as real property.

E-4. When are Property Taxes Due?

All property taxes are due on November 1, and a tax lien attaches to taxable real property on that date. K.S.A. 79-1804. After receiving the tax roll, the county treasurer mails taxpayers their annual tax statement and required tax information form before December 1. K.S.A. 79-2001.

Taxpayers may generally pay the entire property tax on or before December 20 or pay one-half by December 20 and the remaining one-half by May 10 of the following year. K.S.A. 79-2004; K.S.A. 79-2004a.

There is an important difference between real and personal property. If the first half of real-property taxes is not timely paid, the unpaid first half accrues interest. If the first half of personal-property taxes is not paid by December 20, the entire year's personal-property tax becomes immediately due and accrues interest.

Delinquent real-property taxes accrue interest at the rate prescribed by K.S.A. 79-2968 plus five percentage points. Delinquent personal-property taxes accrue interest at the rate prescribed by K.S.A. 79-2968. Because the statutory rate changes from year to year, PVD publishes an annual memorandum identifying the applicable property-tax interest rates.

Partial Payments and Payment Plans. K.S.A. 79-2024 permits a county treasurer to accept partial payments or establish payment plans for either delinquent or nondelinquent real or personal property taxes in accordance with guidelines established by the treasurer. A payment plan does not eliminate the statutory consequences of an untimely payment.

E-5. Some Special Rules for Personal Property Taxes

Personal property can move from one owner to another before the year's property tax has been paid. K.S.A. 79-2109 addresses what happens to the tax when that occurs.
If taxable personal property is sold or transferred after it has been assessed but before the tax is paid, the current year's tax becomes immediately due, and a tax lien attaches to the property transferred. The lien is not a personal debt of the purchaser or transferee, although the transferred property generally remains subject to the lien. K.S.A. 79-2109(a). Unpaid personal property taxes from years before the year of sale remain the personal debt of the seller rather than becoming the purchaser's debt. K.S.A. 79-2109(b). The county treasurer records those prior-year delinquencies against the seller for purposes of the vehicle-registration restrictions imposed by Kansas law.

Practice Point: Buying personal property does not necessarily mean buying the seller's old tax debt. Distinguish between the tax for the year of the transfer, which may remain a lien against the property, and taxes from prior years, which generally remain the seller's personal obligation.

Abandoned or Repossessed Personal Property

Kansas law also protects a landowner or lessee who acquires personal property that has been abandoned or repossessed on the real property. Under K.S.A. 79-2026, if the landowner or lessee lawfully acquires title within the statutory 12-month period, the acquired property is taken free of the existing personal property tax lien, and the landowner or lessee is not personally liable for taxes owed before acquiring the property. This provision is particularly relevant when machinery, equipment, or other taxable personal property is left behind by a former tenant or business operator.

E-6. Collection of Delinquent Property Taxes

Real Property. Real estate on which taxes remain unpaid after May 10 is subject to the delinquent tax-sale process under K.S.A. 79-2301 et seq. Property bid off by the county generally remains subject to a statutory redemption period, during which the owner or other qualifying interest holder may redeem the property by paying the required taxes, interest, and costs. K.S.A. 79-2401a. If the property is not redeemed, the county may proceed with judicial foreclosure and sale under K.S.A. 79-2801 et seq.

Personal Property. Delinquent personal-property taxes are collected through statutory notice and warrant procedures. In most counties, K.S.A. 79-2101 governs; Douglas, Johnson, Sedgwick, and Shawnee Counties use the procedures in K.S.A. 79-2017. If collection by tax warrant is unsuccessful, the unpaid taxes, interest, penalties, and costs may ultimately be entered as a judgment and become a lien against the delinquent taxpayer's real estate.

Practice Point: Once taxes become delinquent, collection is principally the responsibility of the county treasurer, sheriff, and county attorney or counselor, rather than the county appraiser. For a beginning appraiser, the important distinction is that delinquent real-property taxes may ultimately lead to foreclosure of the property itself, while delinquent personal-property taxes may be pursued through warrants, judgments, and other collection remedies.

F. Property Tax Exemptions

When property is exempt from property tax, property taxes do not correspondingly disappear. Property tax funds local services, and the cost of providing those services does not decrease simply because property is exempt. An exempt parcel of real property will still need fire and police protection, and upkeep for surrounding public roads and bridges, etc. The cost of providing these services shifts to taxable property. Recognizing this fact, courts have historically strictly construed property tax exemptions. Early in Kansas history, the Kansas Supreme Court discussed the concept as follows:

> "All property receives protection from the state. Every man is secured in the enjoyments of his own, no matter to what use he devotes it. This security and protection carry with them the corresponding obligation to support. It is an obligation which rests equally upon all. It may require military service in time of war, or civil service in time of peace. It always requires pecuniary support. This is taxation. The obligation to pay taxes is coextensive with the protection received. An exemption from taxation is a release from this obligation. It is the receiving of protection without contributing to the support of the authority which protects. It is an exception to a rule and is justified and upheld upon the theory of peculiar benefits received by the state from the property exempted." *Washburn College v. Comm'rs of Shawnee Co.*, 8 Kan. 344, 348-49 (1871).

The law has changed since, but the underlying principal is helpful. Property tax exemptions must be administered properly to assure a uniform and fair basis of property taxation. The Kansas Supreme Court has stated that "[t]he rule of uniformity may be violated as effectively by arbitrary exemptions as by arbitrary impositions."[54]

F-1. Exemption Procedure

All real and personal property in Kansas is subject to taxation unless *expressly* exempt K.S.A. 79-101. An exemption must therefore have a constitutional or statutory basis. Generally, a property owner seeking exemption must follow the application procedure in K.S.A. 79-213. Certain exemptions, however, are excluded or have relaxed requirements, e.g., K.S.A. 79-213(l).

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[54] *Topeka Cemetery Ass'n v. Schnellbacher*, 218 Kan. 39, Syl. ¶ 4, (1975).

Application. A property owner requesting exemption files an application on a form approved by the Board of Tax Appeals ("BOTA") and provided by the county appraiser. The application must identify the property and state in detail the legal and factual basis for the exemption. The application is filed with the county appraiser of the county where the property is principally located. K.S.A. 79-213(a)-(c).

County Appraiser's Recommendation. The county appraiser reviews the application and makes a written recommendation that the exemption be granted or denied and, if necessary, that a hearing be held. If the appraiser recommends denial, the appraiser must state the controlling facts and law relied upon. The application and the appraiser's recommendation are then forwarded to BOTA. K.S.A. 79-213(d)-(e). This recommendation is important. The county appraiser is not merely transmitting the taxpayer's application to BOTA. The statute requires the appraiser to conduct a preliminary examination and take a position on the requested exemption. Particularly when denial is recommended, the written explanation should identify the facts and statutory requirements that prevent the property from qualifying.

PRACTICE POINT — A "TAX COMFORT LETTER" IS ONLY COMFORT In Atty. Gen Op. 2009-1, Riley County asked whether county commissioners could issue a "tax comfort letter" stating that property was exempt from ad valorem taxation. The AG concluded that the commissioners could express their opinion, but the opinion would not be binding. Property tax exemptions arise from constitutional/ statutory authority and are

BOTA Proceedings. BOTA dockets the application and may determine the matter on the written record or set it for hearing. If either the taxpayer or the county requests a hearing, BOTA must grant the request. Exemption hearings are conducted under the Kansas Administrative Procedure Act. When BOTA sets an exemption application for hearing, the county is represented by the county attorney or county counselor. K.S.A. 79-213(f)-(h). Special timing requirements apply to industrial revenue bond and constitutional economic-development exemptions and are discussed later in this course.

Taxes While the Application is Pending. From the date an exemption application is filed with the county appraiser until 30 days after BOTA's order becomes final, taxes covered by K.S.A. 79-2004 and 79-2004a are not required to be paid. During that period, unpaid taxes on the property do not become delinquent and interest does not accrue. K.S.A. 79-213(i). If BOTA determines that an exemption application was without merit and was filed in bad faith for the purpose of delaying payment, however, the taxes become delinquent as of their ordinary due date and interest accrues accordingly.

When an exemption application is filed, the county appraiser must also notify the county clerk. The county clerk is not required to include the assessed valuation of the property in the applicable taxing districts while the exemption remains unresolved. If exemption is denied and judicial review is sought, this treatment continues until judicial review is final. K.S.A. 79-213d.

Effective Date, Abatement and Refund. If BOTA grants an exemption, the exemption generally begins on the date of first exempt use. If construction commenced not more than 24 months before the date of first exempt use, the exemption may begin on the date construction commenced. K.S.A. 79-213(j).

BOTA may abate all unpaid taxes accruing from and after the effective date of the exemption. If taxes were already paid for property later determined to be exempt, BOTA may order a refund for the year immediately preceding the year in which the exemption application was filed. K.S.A. 79-213(k).

Property Not Subject to the K.S.A. 79-213 BOTA Application Approval. K.S.A. 79-213(l) provides that the BOTA approval does not apply to the following property:

Property	**Authority**
Farm machinery and equipment	K.S.A. 79-201j
Personal property held for sale or display at fairs, trade shows, auctions and similar events	K.S.A. 79-215
Wearing apparel, household goods and personal effects	K.S.A. 79-201c
Livestock	K.S.A. 79-213(l)(4)
Hay, silage and other property described in K.S.A. 79-201d	K.S.A. 79-201d
Merchants' and manufacturers' inventories	K.S.A. 79-201m
Grain	K.S.A. 79-201n
Certain Kansas Department of Transportation property	K.S.A. 79-201a Seventeenth
Certain Kansas Turnpike Authority property	K.S.A. 79-201a Ninth

Aquaculture machinery and equipment	K.S.A. 79-201j
Christmas tree machinery and equipment	K.S.A. 79-201j
Property used exclusively by the state or a municipality or political subdivision for right-of-way purposes	K.S.A. 79-213(l)(12)
Machinery, equipment, materials and supplies having the qualifying retail cost	K.S.A. 79-201w
Vehicles owned by the state or a political or taxing subdivision and used exclusively for governmental purposes	K.S.A. 79-213(l)(14)
Residential property exempt from the statewide school levy	K.S.A. 79-201x
Certain vehicles used to provide transit services to elderly or disabled persons	K.S.A. 79-201 Ninth
Certain motor vehicles owned by qualifying military personnel	K.S.A. 79-5107(e)
Commercial and industrial machinery and equipment	K.S.A. 79-223
Telecommunications and railroad machinery and equipment	K.S.A. 79-224
Certain low-cost tangible personal property	K.S.A. 79-234
Certain recreational vehicles owned by qualifying military personnel	K.S.A. 79-5121(e)
Property acquired by a city or county land bank	K.S.A. 12-5909; K.S.A. 19-26,111
Property belonging exclusively to the United States, subject to the statutory exception	K.S.A. 79-201a First
Watercraft	K.S.A. 79-5501
Certain off-road vehicles, motorized bicycles and similar devices, personal-use trailers, and marine equipment	K.S.A. 79-267
Certain Oil leases	K.S.A. 79-201t

Case Story – When Does an Exemption Begin?

An oil lease qualified for exemption based on its 2018 low production, but the taxpayer did not file its exemption application until 2019. BOTA attempted to make the exemption

> **ASIDE — THERE IS NO LOCAL "GOOD IDEA" EXEMPTION**
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> A county cannot create a property tax exemption or rebate simply because the program serves a worthwhile local purpose. In Attorney General Opinion No. 2026-1, the Attorney General concluded that a county property tax rebate program must be authorized by state statute. The authority to impose—and to remit—property tax ultimately comes from the Legislature.

effectively begin with the following tax year, 2019. The Court of Appeals held that K.S.A. 79-213(j) controlled: the exemption began on the date of first exempt use—January 1, 2018—and the taxpayer was entitled to a refund of the 2018 taxes under K.S.A. 79-213(k).[55] The Court of Appeals held that this was wrong: property taxes were imposed on the value of the mineral interests, not "on" annual production, and K.S.A. 79-213(j) made the exemption effective on the date of first exempt use.

F-2. General Rules

Constitutional and Statutory Exemptions. The Kansas Constitution expressly exempts certain property from property taxation. The Legislature may also enact additional property tax exemptions, including exemptions broader than those provided by the Constitution, unless constitutionally prohibited. The Legislature may not, however, restrict an exemption granted by a self-executing provision of the Kansas Constitution. In re Tax Appeal of Lietz Construction Co., 273 Kan. 890, 903-05, 47 P.3d 1275 (2002).

The Legislature is generally the judge of what additional exemptions are in the public interest and conducive to the public welfare. Lario Enterprises, Inc. v. State Board of Tax Appeals, 22 Kan. App. 2d 857, 860, 925 P.2d 440 (1996).

Strict Construction. Taxation is the rule and exemption is the exception. Constitutional and statutory provisions granting property tax exemptions are therefore generally construed strictly against exemption, and doubts are resolved in favor of taxation. Strict construction, however, does not permit unreasonable construction and is subordinate to the fundamental rule that legislative intent governs. Where the statutory language is plain and unambiguous,

[55] *John O. Farmer, Inc. v. Board of Ellis County Commissioners*, 62 Kan.App.3d 262 (2022).

the language controls. [56]

Burden of Proof. The party claiming exemption bears the burden of establishing that the property satisfies the requirements of the exemption claimed. When exemption depends upon use, the applicant must establish that the actual use falls within the exemption. Defenders of the Christian Faith, Inc. v. Horn, 174 Kan. 40, 44, 254 P.2d 830 (1953).

Actual Use Controls. Exemption generally depends upon the actual use of the property rather than merely the character, purpose, or tax status of its owner. When an exemption requires property to be "used exclusively" for an exempt purpose, Kansas courts generally interpret the phrase to require use only, solely, and purely for the stated exempt purpose. In re Tax Appeal of Polaroid ID Systems, Inc., 31 Kan. App. 2d 448, 66 P.3d 247 (2003).

The particular exemption statute must always be examined before applying that general rule. The Legislature has expressly provided in some statutes that incidental or otherwise specified nonexempt uses do not destroy an exemption. For example, K.S.A. 79-201 Second permits a nonexempt use that is minimal in scope, insubstantial in nature, and incidental to the exempt purpose.

Case Story — A Bulldozer Can Be Farm Machinery

Farm machinery does not necessarily look like a tractor or combine. In *Lietz*, the Kansas Supreme Court upheld BOTA's determination that bulldozers, scrapers, road graders, and excavators used in soil-conservation work on farms could qualify as exempt farm machinery and equipment. The controlling question was how the equipment was actually and regularly used—not whether it looked like conventional farm equipment.

Read the Commas

Article 11, § 1 exempts property "used exclusively" for governmental, educational, religious, charitable and certain other purposes. But "used exclusively" does not modify the separate constitutional exemption for farm machinery and equipment. The Attorney General reached that conclusion in Opinion No. 97-11, and the Kansas Supreme Court later agreed in *Lietz*. Meaning – relaxed exemption requirements for farm machinery.

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[56] *In re Tax Appeal of Lietz Construction Co.,* 273 Kan. 890, 904-05 (2002*); In re Tax Exemption Application of Central Illinois Public Services Co.,* 276 Kan. 612, 616 (2003); *John O. Farmer, Inc. v. Ellis BOCC*, 62 Kan. App. 2d 262 (2022).

Case Story — Can a City-Owned Racetrack Be Tax Exempt?

Heartland Park Topeka was not an ordinary city park. Lario Enterprises acquired land for the motorsports complex and transferred a 23-year interest in the property to the City of Topeka, with the property eventually reverting to Lario or a related company. The City issued $7.5 million in general obligation bonds to improve the facility, but a Lario subsidiary managed the racetrack and was compensated from revenues remaining after expenses.

U.S.D. 450 challenged the property tax exemption, arguing that the City's limited ownership and private management arrangement did not amount to exclusive municipal use. The Court of Appeals disagreed. The City's 23-year interest constituted ownership, a city may operate property through a private manager acting on its behalf, and use of the property as a recreational facility qualified as a governmental or proprietary function. Because the City had also issued bonds to finance the project, Heartland Park satisfied the statutory test for exemption under K.S.A. 79-201a Second. The exemption could begin, however, only when the property was transferred to the City.[57]

F-3. Educational, Charitable and Religious Exemptions

Article 11, § 1(b) of the Kansas Constitution exempts property used exclusively for literary, educational, scientific, religious, benevolent and charitable purposes. K.S.A. 79-201 contains several related statutory exemptions, including the broad exemption in K.S.A. 79-201 Second for real and tangible personal property actually and regularly used exclusively for those purposes.

[57] *Lario Enterprises, Inc. v. State Board of Tax Appeals*, 22 Kan. App. 2d 857, *rev. denied* 261 Kan. 1085 (1996).

Educational Purposes. The term "educational" is broadly construed when determining the actual use of property. The educational process is not limited to classroom instruction but may include activities that contribute to the intellectual, social and moral development associated with education. In National Collegiate Realty Corp., for example, the Kansas Supreme Court held that the national headquarters of the NCAA qualified as educational

> THE LAW IS DYNAMIC — SOMETIMES THE LEGISLATURE HAS THE LAST WORD
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> In February 1992, the Attorney General concluded that a school-district education cooperative acquiring property through a lease-purchase agreement did not qualify for the school-property exemption because the cooperative was not itself a "school district." Attorney General Opinion No. 92-20.
>
> The statute did not stay that way. K.S.A. 79-201 First now expressly includes school district interlocal cooperatives and specifically recognizes property being acquired by an interlocal cooperative through a lease-purchase agreement. The episode is a useful reminder that an Attorney General opinion interprets the law as it exists when the opinion is issued; subsequent legislation may change the answer.

property based upon activities that included rulemaking, publishing and disseminating information, and administering intercollegiate athletics.[58]

Residential use associated with a school is not automatically educational. The purpose of the occupancy must be examined. A student dormitory may qualify when the residential use is an integral part of the educational program, while a residence occupied principally for the personal convenience of an employee will not qualify merely because the occupant works for an educational institution.

Charitable and Benevolent Purposes. Kansas cases historically defined charity narrowly, requiring an element of a gift or benefit to people unable to provide for themselves.[59] The Legislature subsequently broadened the statutory exemption in K.S.A. 79-201 Second.[60] An

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[58] *National Collegiate Realty Corp. v. Board of Johnson County Commissioners*, 236 Kan. 394, 400-02 (1984).

[59] *Lutheran Home, Inc. v. Board of County Commissioners*, 211 Kan. 270, 277 (1973).

[60] *In re Tax Appeal of University of Kansas School of Medicine—Wichita Medical Practice Ass'n*, 266 Kan. 737, 745-48 (1999).

otherwise qualifying use is not disqualified merely because the organization receives reimbursement based upon the recipient's ability to pay, receives reimbursement for the actual expense of providing exempt services, makes a minimal and insubstantial incidental nonexempt use of the property, or charges a reasonable fee for qualifying cultural or educational activities.

Accordingly, the fact that an organization charges fees or receives payment for services does not by itself determine whether property is exempt. The county appraiser should examine what the property is actually and regularly used for, the relationship of any payments to the exempt activity, and whether any nonexempt use is substantial.

K.S.A. 79-201 Ninth provides a separate exemption for qualifying nonprofit community-service organizations whose property is actually and regularly used for the predominant purpose of providing humanitarian services. The statute contains specific organizational and operational requirements and defines humanitarian services to include activities meeting demonstrated community needs and improving the physical, mental, social, cultural or spiritual welfare of others or providing relief, comfort or assistance to persons in distress.

Religious Purposes. Kansas law recognizes “religious purposes” broadly. In applying the exemption, the relevant inquiry ordinarily concerns the actual use of the property rather than the correctness or validity of the organization's religious beliefs. Property used partly for political, commercial, residential or other nonreligious purposes may fail the exclusive-use requirement unless the nonexempt use falls within a statutory exception.

K.S.A. 79-201 First specifically exempts buildings used exclusively as places of public worship and associated property meeting the statutory requirements. Certain activities that might otherwise appear non-religious are expressly permitted, including use of a place of worship for a licensed not-for-profit daycare and an area used for the sale of religious literature and similar materials.

K.S.A. 79-201 Second also contains an exception for minimal and insubstantial nonexempt uses that are incidental to an otherwise exempt purpose.

Ordinarily, property must be actually used or occupied for an exempt purpose and property held as an investment does not qualify merely because the resulting income is devoted to religious, educational or charitable activities. One important exception applies to real property owned by a religious organization that is intended for exclusive religious use and is not used for a nonexempt purpose before that religious use begins. Such property may be treated as actually and regularly used for religious purposes during the interim period. If the property is later conveyed for nonreligious use without ever being put to the contemplated religious use, the statute provides for recoupment of the property taxes that would otherwise have been imposed.

Parsonages. K.S.A. 79-201 Seventh separately exempts a parsonage owned by a church society and actually and regularly occupied and used predominantly as the residence of a minister or other clergyman who is actually and regularly engaged in the services and religious ministrations of that church society. Ordinary residential occupancy by a church member does not, by itself, constitute religious use.

Case Story — K-State Used It for Education - Still Taxable

The KSU Foundation purchased a building and leased it to Kansas State University for its printing departments. Everyone agreed that K-State's use of the building was educational. The Foundation was a nonprofit organization, and the rent essentially covered the Foundation's mortgage payments and administrative costs.

The Court of Appeals nevertheless denied the exemption.[61] From the Foundation's perspective, the building was a financial asset: K-State's lease payments were paying down the Foundation's mortgage and increasing its equity in the property. K.S.A. 79-201 Second expressly excludes property held or used as an investment, even when the property is occupied for an exempt purpose.

The lesson is that the name or nonprofit status of the owner—and even the exempt activities of an occupant—do not end the inquiry. The legal arrangement and actual use of the property still matter.

F-4. Review of BOTA Exemption Decisions

Summary Decision and Full Opinion. BOTA generally issues a written summary decision within 14 days after a matter has been fully submitted to the Board, unless that period is properly waived or extended. Any aggrieved party may request a full and complete opinion explaining the Board's decision within 21 days after service of the summary decision. BOTA generally must serve the requested full opinion within 90 days. K.S.A. 74-2426(a).

The distinction between a summary decision and a full opinion is important when determining the appropriate method of judicial review.

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[61] *In re Tax Exemption Application of K.S.U. Foundation*, 34 Kan. App. 2d 40 (2005).

Reconsideration. An aggrieved party may seek reconsideration of BOTA's full and complete opinion. Generally, a petition for reconsideration must be filed within 15 days after service of the final order. K.S.A. 77-529(a)(1). A party applying for an exemption under Article 11, § 13 of the Kansas Constitution (EDX), or for an industrial revenue bond exemption under K.S.A. 79-201a Second, may seek reconsideration within 30 days after service of the final order. K.S.A. 77-529(a)(2).

A petition for reconsideration is generally not a prerequisite to judicial review. If reconsideration is requested, however, the time for seeking judicial review ordinarily runs from the order disposing of the reconsideration request.

Judicial Review. BOTA decisions are subject to judicial review under the Kansas Judicial Review Act. K.S.A. 74-2426(c).

The ordinary route for an aggrieved party is review in the Kansas Court of Appeals. For purposes of Court of Appeals review, the BOTA order becomes final only after issuance of a full and complete opinion.

A taxpayer has an alternative. At the taxpayer's election, either a BOTA summary decision or a full and complete opinion may be reviewed in district court. District court review is a trial de novo and includes an evidentiary hearing at which issues of law and fact are determined anew. K.S.A. 74-2426(c)(4)(B).

Issues Must Be Preserved Before BOTA. A trial de novo does not permit a party to present an entirely new legal or factual issue that was never presented to BOTA. In *FreeState Electric Cooperative, Inc. v. Kansas Department of Revenue,* the Kansas Supreme Court held that the limitations on new issues contained in the Kansas Judicial Review Act continue to apply in a district-court trial de novo. Unless a statutory exception applies, BOTA must first have been given an adequate opportunity to consider the issue.

PRACTICE POINT — "DE NOVO" DOES NOT MEAN "START OVER"

A taxpayer who elects district-court review receives a new evidentiary hearing, but not a new universe of issues. In FreeState, the taxpayers prevailed in district court on a statutory appraisal-methodology theory that had not been presented to BOTA. The Kansas Supreme Court reversed. The trial-de-novo statute allows issues already presented to BOTA to be determined anew; it does not ordinarily permit a party to add a new issue after leaving the agency. If an issue may matter later, raise it clearly before BOTA and make sure the record reflects that it was raised.

If there is a dispute over whether an issue was presented to BOTA, the administrative record controls. The party seeking judicial review of the issue bears the burden of demonstrating that the issue was raised at the administrative level.

Aside — Calling BOTA a "Court" Did Not Make It One

For several years, the Board of Tax Appeals was renamed the "Court of Tax Appeals," and its members were called judges. That did not transform an exemption proceeding into a judicial civil action. In Atty. Gen. Op. 2012-24, the AG observed that exemption proceedings remained administrative proceedings conducted under KAPA. Exemption applications had not suddenly become civil actions merely because BOTA had been renamed COTA. The Legislature subsequently restored the name "Board of Tax Appeals."

G. Property Tax Exemptions for Businesses

Kansas law provides several property tax exemptions applicable to business property. Examples include merchants' and manufacturers' inventories under K.S.A. 79-201m; qualifying business aircraft under K.S.A. 79-201k; certain low-cost machinery, equipment, materials and supplies under K.S.A. 79-201w; property moving in interstate commerce under K.S.A. 79-201f; and qualifying commercial and industrial machinery and equipment under K.S.A. 79-223.

This Part focuses particularly on two economic-development exemptions: property financed with industrial revenue bonds under K.S.A. 79-201a Second and Twenty-Fourth ("IRBX") and exemptions granted by cities or counties under Article 11, § 13 of the Kansas Constitution ("EDX"). The Kansas Department of Commerce provides information and assistance concerning these programs.

G-1. Exemption for Industrial Revenue Bond-Funded Property (IRBX)

Cities and counties (mainly Cities) issue industrial revenue bonds ("IRBs") under K.S.A. 12-1740 et seq. to finance all or part of the cost of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling qualifying facilities. Qualifying purposes include agricultural, commercial, hospital, industrial, natural-resources, recreational-development and manufacturing facilities. K.S.A. 12-1740.

Property constructed or purchased with qualifying IRB proceeds may be exempt from property taxation under K.S.A. 79-201a Second and Twenty-Fourth for a period of 10 calendar years after the calendar year in which the bonds are issued.[62]

Extent of Exemption. When property is constructed or purchased wholly with qualifying IRB proceeds, the property may qualify for exemption for the statutory exemption period. When only a portion of the property is financed with IRB proceeds, the exemption applies only to the value of the portion financed by the bonds. K.S.A. 79-201a Second and Twenty-Fourth.

CASE STORY — WHAT IF THE BUSINESS DOESN'T REALLY NEED THE BONDS?

Kansas City issued industrial revenue bonds for a General Motors automobile plant involving approximately $775 million of property. GM could purchase the bonds itself, leading to an argument that the company did not really need municipal "financing" and was using the IRB structure principally to obtain the property-tax exemption.

The Kansas Supreme Court rejected the challenge. Economic development was a legislatively recognized public purpose, and Kansas law authorized cities and counties to offer both revenue-bond financing and a ten-year property-tax exemption as inducements. It was not material which particular incentive caused the business to locate or expand in Kansas.

For example, if qualifying bonds are issued during 2026, the statutory exemption period generally runs from January 1, 2027, through December 31, 2036. Unlike the general exemption rule in K.S.A. 79-213(j), the IRBX exemption period is tied to the year in which the bonds are issued rather than the date of first exempt use.

Property receiving an IRBX exemption generally remains subject to the school district capital-outlay levy imposed under K.S.A. 72-53,113. See K.S.A. 72-53,127 and G-5 of this course. (See Practice Point below for me explanation on this)

IRB Structure. The city or county issuing the bonds ordinarily acquires an interest in the

[62] Sometimes, an IRB will not trigger an exemption filing because the property is already exempt under a longer term, e.g., K.S.A. 79-201b. (hospitals)

project and enters into a lease or lease-purchase agreement with the business. The agreement must provide rent sufficient to repay principal and interest on the bonds. K.S.A. 12-1742. The business, rather than the general taxpayers of the city or county, ordinarily supplies the revenues used to repay the bonds.

Payments in Lieu of Taxes. The local governing body may require a payment in lieu of taxes ("PILOT") as part of the IRB agreement. A PILOT is contractual and is distinct from the property tax itself. Under K.S.A. 12-1742, a PILOT may be required only on property for which BOTA has granted an ad valorem tax exemption. Payments are transmitted to the county treasurer and apportioned among the affected taxing subdivisions as provided by statute.

A city or county may also condition issuance of the IRBs on an agreement that the business will not seek a property-tax exemption or will seek only a specified level of exemption. Such a limitation arises from the local agreement rather than from a statutory determination that the property itself is ineligible for exemption.

Property That Does Not Qualify. The IRB exemption does not apply to property located in a redevelopment project area established under K.S.A. 12-1770 et seq. Property used in retail enterprises classified under NAICS sectors 44 and 45 is also excluded, except for facilities used exclusively as headquarters or back-office operations.

K.S.A. 79-201a also excludes certain poultry and rabbit confinement facilities located on agricultural land and owned, acquired, obtained or leased by a corporation as defined by K.S.A. 17-5903. Separately, K.S.A. 12-1749b prohibits issuance of IRBs when bond proceeds are to be used for a qualifying corporate swine production facility on agricultural land.

Local Approval Process. Before issuing IRBs for property that will be eligible for an IRBX exemption, the city or county must prepare an analysis of the costs and benefits of the exemption, including the effect on state revenues, and conduct a public hearing. Notice must be published at least seven days before the hearing, and affected cities, counties and unified school districts must receive written notice. K.S.A. 12-1749d.

Before approval of an inducement resolution or letter of intent containing an agreement for ad valorem tax abatement, the city or county clerk must also notify the governing board of the unified school district in which the property is located. K.S.A. 12-1749c.

IRB Informational Statement. At least seven days before issuance of the bonds, the city or county must file an informational statement with BOTA pursuant to K.S.A. 12-1744a. The statement describes the proposed bond issue, property, project costs, use of proceeds, PILOT and other required information. The bonds may not be issued unless the BOTA chairperson determines that the required information and documents are complete and timely filed. K.S.A. 12-1744b.

The informational statement is not an exemption order and does not establish that the property qualifies for exemption. Likewise, the listing of property on the informational statement does not constitute classification of the property.

Classification of Improvements. After completion of an improvement on an exempt IRB project, the owner must notify the county appraiser within 30 days. The county appraiser must classify the improvement as real property, personal property, or a combination of both within 180 days after receiving the notice. K.S.A. 79-262. The statute also restricts reclassification for two years after expiration of the exemption period except under specified circumstances.

Application for Exemption. After the bonds have been issued and the property has been purchased or constructed, the property owner must apply for exemption under K.S.A. 79-213 using the IRBX application. The application is filed with the county appraiser, who reviews the request, makes a written recommendation and forwards it to BOTA.

If the IRBX request was prepared in accordance with instructions and assistance provided by the Kansas Department of Commerce, the request is deemed approved unless BOTA schedules it for hearing within 30 days after receipt of all required information and data. If a hearing is scheduled, it must be conducted within 90 days. Either party has the right to request a hearing. K.S.A. 79-213(g).

An applicant seeking reconsideration of a final IRBX order has 30 days after service of the final order. K.S.A. 77-529(a)(2).

Annual Claim. After the exemption is granted, the owner must file an annual claim for exemption with the county appraiser on or before March 1 of each year during the exemption period. K.S.A. 79-210. Failure to file the annual claim requires the property to be listed and valued for assessment.

Failure to Pay Taxes on Nonexempt Portion. When only part of the property is exempt because only part was financed by IRBs, taxes remain due on the nonexempt portion. Failure to pay those taxes terminates the exemption on the bond-financed portion, and the entire property becomes subject to tax-sale procedures. K.S.A. 79-201a Second and Twenty-Fourth.

Sales Tax. An IRB project may also qualify for a separate sales-tax exemption for qualifying project purchases under K.S.A. 79-3606(d). The city or county may obtain a Project Exemption Certificate from the Kansas Department of Revenue for the qualifying project and furnish it for use by contractors and subcontractors. The sales-tax exemption is separate from the property-tax exemption determined by BOTA.

Practice Point — There Is More than One School Mill Levy

A school district's property tax is made up of several separate mill levies. A mill equals $1 of tax for every $1,000 of assessed value. The principal school levies include:

> **Statewide General Fund Levy**. Every school district currently imposes a uniform 20-mill levy to help fund general school operations. K.S.A. 72-5142.
>
> **Local Option Budget Levy.** Districts may impose an additional levy to finance their supplemental general fund or "LOB." The mill rate varies among school districts for it depends on the district's budget, assessed valuation and available state aid. K.S.A. 72-5147.
>
> **Capital Outlay Levy**. A district may impose a levy generally up to 8 mills for buildings, repairs, equipment, buses and other capital needs. K.S.A. 72-53,113.
>
> **Bond and Interest Levy**. A district with outstanding general-obligation bonds may impose an additional levy sufficient to make the required principal and interest payments. The rate varies depending upon the district's debt obligations and assessed valuation.

An IRBX exemption generally removes the exempt property from the tax base for the school district's ordinary ad valorem levies. <u>The capital-outlay levy is different.</u> For IRBX and EDX exemptions, K.S.A. 72-53,127 generally requires the otherwise exempt property to remain subject to the school district's capital-outlay levy. Thus, "property tax exempt" does not necessarily mean that the property receives a zero-school tax bill

G-2. Exemption for Property under Article 11, § 13 of the Kansas Constitution (EDX).

An Economic Development Exemption ("EDX") is a property-tax incentive that a city or county may offer directly to certain new or expanding businesses. Unlike an industrial revenue bond exemption (IRBX), an EDX does not require the city or county to issue bonds or finance the project. Instead, the city or county may exempt all or part of the value of qualifying property for up to 10 years if the business and property meet the requirements of Article 11, § 13 of the Kansas Constitution. The local government decides whether to offer the incentive and how much of the qualifying value to exempt; BOTA determines whether the property legally qualifies for exemption.

Qualifying Business Use. EDX is available only for property used exclusively by a qualifying business for one of three purposes:1) manufacturing articles of commerce; 2) conducting research and development; or 3) storing goods or commodities that are sold or traded in interstate commerce.

For a new business, qualifying buildings, the land on which the buildings are located, and associated tangible personal property may qualify for exemption.

For an existing business, the exemption applies to qualifying new buildings, additions or improvements, the land associated with those improvements and associated tangible personal property that are necessary to facilitate an expansion. The expansion must create new employment. Kan. Const. art. 11, § 13(a).

Amount and Length of Exemption. A city or county is not required to grant a 100% exemption. It may exempt all or only a portion of the qualifying property's appraised value. The exemption may last for fewer than 10 years, but it may not extend beyond 10 calendar years after the calendar year in which the new business commences operations or the expansion of an existing business is completed. Kan. Const. art. 11, § 13(b).

This differs from an IRBX exemption. The IRBX exemption period is tied to the year in which the industrial revenue bonds are issued. The EDX exemption period is tied to the year the new business begins operations or the expansion is completed.

Property receiving an EDX exemption generally remains subject to the school district capital-outlay levy. K.S.A. 72-53,127. See the discussion of school mill levies in G-1.

Local Approval Process. EDX is discretionary. A business does not receive an exemption merely because its property could legally qualify. Before granting an EDX, the city or county must develop and adopt official policies and procedures governing the exemptions. Those policies must require a cost-benefit analysis for each proposed exemption, including its effect on state revenues, and must provide a procedure for monitoring the business's compliance with any terms or conditions placed on the exemption. K.S.A. 79-251(a).

The city or county must also conduct a public hearing on the proposed exemption. Notice must be published at least seven days before the hearing in the official city or county newspaper. Written notice must also be provided to the governing body of the affected city or county and unified school district. K.S.A. 79-251(b).

The governing body must adopt a resolution containing a finding that the property will be used exclusively for one of the economic-development purposes authorized by Article 11, § 13. If the business is relocating from one Kansas city or county to another, the business must also receive approval from the Secretary of Commerce upon a finding that the relocation is necessary to prevent the business from leaving Kansas. K.S.A. 79-251(c).

Practice Point — Local Approval Is Not the Last Word

A city or county decides whether it wants to offer an EDX incentive, the percentage of exemption, and the conditions attached to the exemption. But local approval does not automatically make the property tax exempt. The property owner must still file an EDX application through the county appraiser, and BOTA determines whether the property legally satisfies Article 11, § 13 and the applicable statutes. Attorney General Opinion No. 86-168.

Application to BOTA. After the city or county approves the EDX, the property owner must file an exemption application under K.S.A. 79-213. The application is filed with the county appraiser. The county appraiser reviews the application, makes a written recommendation that the exemption be granted or denied and, if appropriate, recommends that a hearing be held. The application and recommendation are then forwarded to BOTA.

If the EDX request was prepared in accordance with instructions and assistance provided by the Kansas Department of Commerce, the request is deemed approved unless BOTA schedules it for hearing within 30 days after receiving all required information and data. If a hearing is scheduled, it must be conducted within 90 days. Either party may request a hearing. K.S.A. 79-213(g).

An applicant seeking reconsideration of a final EDX order has 30 days after service of the final order. K.S.A. 77-529(a)(2).

A Qualifying Business Must Actually Use the Property. EDX focuses on the use of the property by the qualifying business. Property does not qualify merely because it is leased to another business that engages in manufacturing, research and development, or interstate storage.

Case Story — A Qualifying Tenant Does Not Make the Landlord Qualify

A developer constructed a multitenant industrial building and planned to lease space only to businesses conducting activities that would qualify for EDX. The local government approved a 10-year exemption.

The Kansas Supreme Court nevertheless denied the exemption. The tenants might have been engaged in manufacturing or another qualifying activity, but the owner's use of the property was leasing it for profit. Article 11, § 13 requires qualifying use of the property; a for-profit landlord does not obtain EDX merely because its tenant conducts an eligible business.[63]

Property Acquired During the Exemption Period. An EDX is not necessarily limited to property owned by the business when the original exemption begins. If the city or county's ordinance or resolution clearly extends the exemption to qualifying property acquired during the exemption period, later-acquired property may also qualify if it is used consistently with the qualifying business and the terms and conditions of the original exemption.

In *Abbott Aluminum*, the Kansas Supreme Court rejected BOTA's attempt to limit EDX to personal property owned when the exemption initially began.[64] The local governing

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[63] See *Board of County Commissioners v. Kansas Avenue Properties*, 246 Kan. 161 (1990).
[64] *In re Tax Exemption Application of Abbott Aluminum, Inc.*, 269 Kan. 689, 695-99 (2000).

body had granted a broader exemption, and additional office equipment, furniture and maintenance equipment acquired during the exemption period could qualify because it was used in the exempt business and remained consistent with the local government's original grant.

Excluded Agricultural Facilities. K.S.A. 79-250 prohibits EDX for poultry confinement facilities, rabbit confinement facilities and swine production facilities located on agricultural land and owned or operated by a corporation or limited liability company as those terms are defined by statute.

Special School-District Rule. In addition to the general capital-outlay rule discussed above, K.S.A. 79-252a provides that EDX property located within a redevelopment district established under K.S.A. 74-8921 is not exempt from ad valorem property taxes levied by or on behalf of a school district.

Classification of Improvements. Listing property as part of the EDX process does not itself determine whether the property is real property or personal property. K.S.A. 79-251(d).

After completion of an improvement on EDX property, the owner must notify the county appraiser within 30 days. The county appraiser must classify the improvement as real property, personal property, or a combination of both within 180 days after receiving the notice and must notify the owner of the classification. K.S.A. 79-262.

Property classified under K.S.A. 79-262 generally may not be reclassified during the two years following expiration of the exemption unless the statutory requirements for reclassification are satisfied.

Annual Claim. After BOTA grants exemption, the owner must file an annual claim for exemption with the county appraiser on or before March 1 of each year during the exemption period. The annual claim must identify the property and state the basis for continuing exemption. K.S.A. 79-210.

For EDX property, the annual claim must also include a written statement signed by the clerk of the city or county that granted the exemption stating that the property continues to meet all terms and conditions established when the exemption was granted. If the required annual claim is not filed, the county appraiser must list and value the property for assessment.

G-3. Exemption of Commercial and Industrial Machinery and Equipment (CIME) and Railroad and Telecommunications Machinery and Equipment.

Kansas generally exempts qualifying commercial and industrial machinery and equipment ("CIME") acquired after June 30, 2006. K.S.A. 79-223. The exemption was enacted to encourage businesses to purchase, lease and bring new investment in machinery and equipment into Kansas.

What Is CIME? For purposes of the exemption, CIME means tangible personal property classified within subclass (5) of class 2 of Article 11, § 1 of the Kansas Constitution. K.S.A. 79-223(d)(2). Thus, determining whether an item qualifies often begins with determining its proper property-tax classification.

The property does not have to be newly manufactured. The important date is the qualifying purchase, lease or transportation into Kansas. (2006 or after) Thus, used machinery may qualify when it is acquired after June 30, 2006, through a qualifying transaction.

A transfer of property through an exchange for stock securities, or a transfer of assets from one going concern to another because of a merger, reorganization or other consolidation, does not itself constitute an "acquisition" under K.S.A. 79-223.

Tax-Avoidance Transactions. A purchase, lease or transportation of CIME undertaken for the purpose of avoiding taxation does not qualify for the exemption and subjects the property to the applicable penalty provisions of K.S.A. 79-1422 and K.S.A. 79-1427a. K.S.A. 79-223(c).

Real Property or Personal Property? The CIME exemption applies to qualifying personal property. Machinery or equipment that has become a fixture and therefore part of the real property does not qualify for the exemption merely because it performs an industrial or commercial function.

K.S.A. 79-261 establishes the procedure a county appraiser must use when determining whether machinery and equipment is real or personal property. The appraiser must first apply Kansas definitions of real and personal property and the factors contained in the Personal Property Guide prescribed by the director of property valuation.

When those authorities do not clearly determine the classification, the appraiser must apply the three-part fixture test:

1. Annexation. How is the machinery or equipment attached to the real estate?
2. Adaptation. Is the item adapted to and serving the use of real estate?
3. Intent. Did the party attaching the item intend it to become a permanent part of the real estate?

All three elements must be satisfied before the machinery, or equipment may be classified as real property. K.S.A. 79-261. The determination is made on a case-by-case basis. The item's designated use and purpose are basic factors in the analysis.

Reclassification to Avoid Exemption. K.S.A. 79-223(c) expressly provides that a county appraiser may not reclassify property that is properly classified within subclass 2(5). This does not prevent an appraiser from making a correct classification when property actually belongs in another constitutional subclass; it prevents reclassification of property that is properly CIME merely to avoid the exemption.

Renewable Energy Facilities. The CIME exemption does not include an electric generation facility, or an addition to such a facility, used predominantly to produce and generate electricity from renewable energy resources or tech. defined in K.S.A. 79-201. K.S.A. 79-223(d)(2). Separate exemptions applicable to energy-related property are discussed in G-6.

Railroad and Telecommunications Machinery and Equipment. K.S.A. 79-224 provides a similar exemption for qualifying railroad and telecommunications machinery and equipment acquired by qualified purchase or lease after June 30, 2006, or transported into Kansas after that date to expand an existing business or create a new business. Railroad machinery and equipment means railroad property classified within subclass (3) of class 2 of Article 11, § 1 of the Kansas Constitution.

Telecommunications machinery and equipment includes network administrative assets, central-office equipment, information, station and customer equipment, and outside-plant equipment of a telecommunications company. Since 2022, the statutory definition also expressly includes telecommunications machinery and equipment placed in inventory or work-in-progress. K.S.A. 79-224(c). The definitions of a qualified purchase and qualified lease under K.S.A. 79-224 generally parallel those used for CIME.

Exemption Procedure. CIME exempt under K.S.A. 79-223 and qualifying railroad and telecommunications machinery and equipment exempt under K.S.A. 79-224 are excluded from the ordinary exemption-application procedure in K.S.A. 79-213. A BOTA exemption order is therefore not ordinarily required. If the county appraiser is genuinely uncertain whether particular property qualifies, however, the doubtful exemption should be resolved in favor of taxation and the taxpayer may seek a determination through BOTA. See Directive No. 92-025.

Case Story—Bolted Down Does Not Necessarily Mean Real Property

A grain cooperative installed large conveyors, aeration equipment, grain-handling components and monitoring equipment on its storage bins. Much of the equipment was physically bolted to the bins or to the ground, and the equipment was essential to moving and processing grain at the facility.

The county classified the equipment as taxable fixtures. The Court of Appeals disagreed. [65]Evidence showed that the equipment could be removed with relative ease, removal would not materially damage the storage bins, and similar equipment had actually been removed from one grain facility and installed at another.

Under K.S.A. 79-261, simply bolting machinery to real estate is not enough. Annexation, adaptation and intent must all be established before machinery becomes a taxable fixture. Because the equipment did not satisfy the fixture test, it remained personal property and qualified for treatment as CIME.

G-4. Reserved

G-5. School District Capital Outlay Levy and Economic Development Exemptions

As discussed in G-1 and G-2, an IRBX or EDX exemption generally removes qualifying property from ordinary ad valorem property taxation. One important exception applies to the school district capital-outlay levy.

K.S.A. 72-53,127 provides that an IRBX or EDX exemption granted by BOTA after July 1, 2017, does not exempt the property from the school district capital-outlay levy imposed under K.S.A. 72-53,113. Thus, property may be exempt for most property-tax purposes but still owe property tax attributable to the school district's capital-outlay levy.

The statute contains a grandfather provision for projects that were already underway when the law changed. The capital-outlay exception does not apply when, before May 1, 2017, the applicable IRB resolution of intent, letter of intent or inducement resolution had been approved, or the public hearing required for an EDX under K.S.A. 79-251 had been conducted. K.S.A. 72-53,127. See the "There Is More Than One School Mill Levy" Practice

[65] *Dodge City Cooperative Exchange v. BOCC of Gray County*, 62 Kan. App. 2d 391 (2022)

Point in G-1 for an explanation of the different school district property-tax levies.

G-6. Energy Related Property Tax Exemptions

Kansas has several property-tax exemptions for energy-related property. The applicable exemption depends upon the type of facility, when the property was constructed or installed, and whether the project uses renewable or nonrenewable energy.

Renewable Energy. K.S.A. 79-201 Eleventh exempts property used predominantly to produce electricity from renewable resources such as wind, solar, biomass, hydropower, geothermal and landfill gas. Projects that entered the exemption program on or before December 31, 2016, may qualify for a continuing exemption. For later projects, the exemption generally lasts for 10 taxable years after the year construction or installation is completed.

Whether a renewable-energy project is appraised by the county or by PVD generally depends upon whether it is a locally assessed facility or state-assessed public utility property. Many renewable facilities that sell electricity only at wholesale are locally appraised. When a 10-year renewable exemption expires, the property becomes taxable. Renewable-generation equipment does not then become exempt CIME because K.S.A. 79-223 specifically excludes qualifying renewable electric-generation facilities from the CIME exemption.

New Electric Generation Facilities. Beginning with property constructed or installed on or after January 1, 2025, K.S.A. 79-266 provides a 10-year exemption for qualifying new electric-generation facilities, additions to electric-generation facilities, and pollution-control devices. The statute includes qualifying nonrenewable and nuclear-generation property but excludes wind, solar and other renewable-generation facilities governed by K.S.A. 79-201 Eleventh. K.S.A. 79-257 and 79-258 remain relevant to exemptions previously obtained under those statutes, but new applications under those provisions could not be filed after December 31, 2024. **Other Energy Exemptions**. Kansas law also provides specialized exemptions for certain energy-related property, including:

Property	Statute
Refineries	K.S.A. 79-226
Qualifying crude-oil and natural-gas pipelines	K.S.A. 79-227
Biomass-to-energy plants	K.S.A. 79-229
Nuclear-generation facilities	K.S.A. 79-230
Waste-heat utilization systems	K.S.A. 79-231

Property	Statute
Biofuel storage and blending equipment	K.S.A. 79-232
Carbon capture, sequestration or utilization property	K.S.A. 79-233
Certain electric transmission lines	K.S.A. 79-259

G-7. Other Economic Development Tools

Kansas cities and counties have several economic-development tools in addition to IRBX and EDX. These programs work in different ways. Some provide a direct property-tax benefit, while others use future tax revenues, additional sales taxes or special assessments to finance development costs.

Neighborhood Revitalization Act (NRA) — K.S.A. 12-17,114 et seq. A city, county or other participating municipality may establish a neighborhood revitalization plan to encourage improvements to property. The property is still appraised and taxed normally, but the taxpayer may receive a rebate of all or part of the increase in property tax caused by the improvement.

Downtown Redevelopment Act — K.S.A. 12-17,121 et seq. This program encourages substantial improvements to property in qualifying downtown redevelopment areas designated with the involvement of the Kansas Department of Commerce. The property owner pays the property tax and then receives a statutory rebate of the tax increase attributable to the improvements, beginning with a 100% rebate during the first five years and declining thereafter. Like NRA, this is a property-tax rebate rather than an exemption.

Transportation Development District (TDD) — K.S.A. 12-17,140 et seq. A city or county may create a TDD to help pay for roads, streets, parking, transit facilities and other transportation-related improvements serving a development. The improvements may be financed through special assessments against property in the district and/or an additional district sales tax of up to 1%. A TDD does not ordinarily reduce property taxes; its benefit is financing infrastructure needed for the project.

Tax Increment Financing (TIF) — K.S.A. 12-1770 et seq. TIF allows a city to use the growth in property-tax revenue created by development within a redevelopment district to help pay eligible project costs. Property is still appraised and taxed normally, but some or all of the property tax revenue produced by value above the district's base-year value is redirected to the redevelopment project rather than distributed in the ordinary manner to the taxing subdivisions. TIF therefore affects the distribution of property taxes, not the taxable status or appraised value of the property.

Sales Tax and Revenue Bonds (STAR Bonds) — K.S.A. 12-17,160 et seq. STAR Bonds are used for qualifying major tourism, entertainment and economic-development projects approved through the Kansas Department of Commerce. Bonds used to finance project costs are repaid primarily from state and local sales-tax revenues generated within the project area. STAR Bonds generally do not provide a property-tax exemption; the incentive is the use of future sales-tax revenue to help finance the project.

Community Improvement District (CID) — K.S.A. 12-6a26 et seq. A city or county may create a CID to finance improvements or services within a defined area, such as buildings, parking, streets, landscaping, utilities and other development costs. A CID may be financed through special assessments and/or an additional sales tax of up to 2%. The program does not ordinarily reduce property taxes; instead, it provides a way to finance project costs using revenues generated within the district.

Reinvestment Housing Incentive District (RHID) — K.S.A. 12-5241 et seq. RHID is designed to encourage new or renovated housing in communities with demonstrated housing needs. Property in the district is appraised and taxed normally, but the increase in property-tax revenue created by the housing development may be captured for up to 25 years and used to reimburse eligible development costs or repay bonds used to finance the project. Like TIF, RHID redirects property-tax growth rather than exempting the property from taxation.

H. Property Tax Appeals

There are five routine property tax appeal/application processes:

(1) Taxpayers may seek a property tax exemption by filing an application for exemption pursuant to K.S.A. 79-213.

(2) Taxpayers may file a tax grievance application to request that a personal property tax penalty be abated pursuant to K.S.A. 79-1422, K.S.A. 79-1427a or K.S.A. 79-332a, <u>or</u> to claim that one of the clerical errors enumerated in K.S.A. 79-1701 was made pursuant to K.S.A. 79-1701, K.S.A. 79-1701a and K.S.A. 79-1702.

(3) Taxpayers may appeal the value or classification of their county appraised real or personal property after receipt of the change of value notice ("CVN") pursuant to

K.S.A. 79-1448.

(4) Taxpayers may pay their taxes under protest after receipt of the tax statement from the county treasurer, challenging the value of the property, or challenging the mill levy imposed on the property pursuant to K.S.A. 79-2005.

(5) Taxpayers appeal the director of property valuation's determination of value of public utility property valued under K.S.A. 79-5a01 *et seq.* pursuant to K.S.A. 74-2438. (This section, however, will not address the appeals of the director's determinations of value.)

H-1. Property Tax Exemption Applications

All real and personal property in Kansas is taxable unless a constitutional or statutory provision provides an exemption. K.S.A. 79-101. For most exemptions, the property owner must obtain an exemption through the procedure established by K.S.A. 79-213.

Application. The property owner begins the process by filing a BOTA-approved exemption application with the county appraiser in the county where the property is principally located. The application must identify the property and explain the legal and factual basis for the exemption claimed. K.S.A. 79-213(a)-(c).

Not every exemption requires a BOTA application. K.S.A. 79-213(l) identifies property for which the ordinary application procedure does not apply. See F-1 for a discussion of these exemptions. As of 2026, this list also includes qualifying oil leases exempt under K.S.A. 79-201t.

If the county appraiser is genuinely uncertain whether property qualifies for an exemption that does not ordinarily require a BOTA application, the doubtful exemption should be resolved in favor of taxation and the taxpayer may be assisted in obtaining a determination from BOTA. See PVD Directive No. 92-025.

County Appraiser Review. The county appraiser reviews the application and makes a written recommendation that the exemption be granted or denied and, when appropriate, that a hearing be held. If the appraiser recommends denial, the recommendation must state the controlling facts and law relied upon. K.S.A. 79-213(d). After making the recommendation, the county appraiser forwards the application and recommendation to BOTA. The county appraiser does not make the final exemption determination merely by recommending approval or denial. K.S.A. 79-213(e).

Filing Fee. Most exemption applications require the applicant to pay a filing fee to BOTA. K.S.A. 74-2438a; K.A.R. 94-5-8.

Exemption Application	BOTA Filing Fee
IRBX or EDX — property valued at **$1,000,000 or less**	**$500**
IRBX or EDX — property valued **over $1,000,000**	**$1,000**
Real property exemption	**$400 per parcel**
Personal property exemption	**$100**
Not-for-profit organization — property valued at **$100,000 or less**	**No fee**
Municipality or political subdivision of the State	**No fee**

Multiple Related Filings. K.A.R. 94-5-8 allows filing fees to be reduced when multiple filings are consolidated. For contiguous parcels owned by the same person or entity and comprising a single economic unit, the fee is generally the regular fee for the highest-valued parcel plus $25 for each additional parcel. For other multiple filings involving substantially similar parties, property, or issues, BOTA may reduce the fees to reflect the administrative savings resulting from consolidation.

In *In re Tax Appeal of River Rock Energy Co*., the courts recognized that filing fees cannot be imposed at a level that exceeds the reasonable costs of administering the proceedings and thereby becomes an impermissible revenue-generating measure.[66]

Practice Point — Send the Application to BOTA

Payment of the filing fee is the applicant's responsibility. A county appraiser should not hold an exemption application merely because the applicant failed to include the filing fee. Once the county appraiser has completed the review and recommendation, the application should be forwarded to BOTA. BOTA will address any unpaid or incorrect filing fee directly with the applicant. The appraiser's responsibility is to process and forward the exemption application—not to collect BOTA's filing fee.

BOTA Review and Hearing. Upon receiving the exemption application, BOTA dockets the matter

[66] *In re Tax Appeal of River Rock Energy Co*., 313 Kan. 936 (2021), *aff'g in relevant part* 58 Kan. App. 2d 78 (2020).

and notifies the applicant and county appraiser. BOTA may decide the application from the written record or schedule a hearing. Either the applicant or the county appraiser may request a hearing, and a requested hearing must be granted. K.S.A. 79-213(f)-(g).

When BOTA schedules an exemption application for hearing, the county must be represented by the county attorney or county counselor. K.S.A. 79-213(g).

Except for the special procedure applicable to qualifying IRBX and EDX applications prepared with assistance from the Department of Commerce; an exemption hearing must originally be set within 90 days after the application is filed with BOTA. K.S.A. 79-213(g)-(h).

Taxes While the Application Is Pending. From the date the exemption application is filed with the county appraiser, taxes on the property generally are not required to be paid while the application is pending. The taxes do not become delinquent, and interest does not accrue until 30 days after a BOTA order denying the exemption becomes final. K.S.A. 79-213(i).

This protection does not apply if BOTA determines that the exemption application was without merit and filed in bad faith merely to delay payment of the tax. In that situation, the taxes are treated as delinquent from the date they otherwise would have been due and interest accrues accordingly.

The county appraiser must also notify the county clerk that an exemption application has been filed. The county clerk is not required to include the property's assessed valuation in the applicable taxing districts while the exemption determination remains pending. K.S.A. 79-213d.

Effective Date, Abatement and Refund. When BOTA grants an exemption, the exemption generally begins on the date of first exempt use. For qualifying new construction commenced not more than 24 months before the first exempt use, the exemption may begin with commencement of construction. K.S.A. 79-213(j).

BOTA may abate unpaid taxes that have accrued since the effective date of the exemption. If taxes have already been paid, however, BOTA's refund authority generally extends only to the year immediately preceding the year in which the exemption application was filed. K.S.A. 79-213(k). K.S.A. 79-213 does not provide for interest on an exemption refund.

Annual Claims. When an exemption is granted for a specified number of years, the property owner generally must file an annual claim for exemption with the county appraiser on or before March 1 of each year during the exemption period. K.S.A. 79-210. Failure to file the required annual claim requires the property to be listed and valued for assessment.

Reconsideration. A party generally has 15 days after service of a final BOTA order to request reconsideration. For IRBX and EDX exemption orders, the applicant has 30 days. K.S.A. 77-529. See H-4 for judicial review of BOTA decisions.

H-2. Tax Grievance Applications

Kansas law provides a limited procedure for correcting certain clerical errors in the appraisal, assessment and tax rolls. The procedure is limited to the specific errors listed in K.S.A. 79-1701 and is not a substitute for a timely appeal of value or classification.

Clerical Errors. K.S.A. 79-1701 identifies seven errors that may be corrected:

Clerical Error	Example
Error in the description or quantity of real estate	Incorrect acreage or physical property description
Improvement assessed when no improvement existed	Building shown on a parcel when no building existed
Improvement assessed on the wrong tract or lot	Garage or building placed on the neighboring parcel
Taxes charged on property specifically declared exempt by BOTA	Tax bill issued despite an existing BOTA exemption order
Same property assessed twice in the same year	Duplicate assessment
Property assigned to the wrong taxing district	Property placed in the wrong school or township district
Mathematical miscomputation by the county	Arithmetic or calculation error

Who Corrects the Error? Before November 1 of the current tax year, the county clerk must correct qualifying clerical errors discovered for that year. K.S.A. 79-1701.

On and after November 1, the board of county commissioners may correct qualifying clerical errors for the current year and the immediately preceding two years. A taxpayer, county appraiser or county clerk may request corrections. K.S.A. 79-1701a.

BOTA may consider a tax grievance if the error could not be corrected locally solely because it was not reported within the applicable time period, or if it was timely presented to the proper local official but was not corrected. A grievance under K.S.A. 79-1702 must be filed with BOTA within four years from the date the tax would have become a lien on real estate.

Practice Point — A Tax Grievance Is Not a Second Valuation Appeal

Only the specific clerical errors listed in K.S.A. 79-1701 may be corrected through this procedure. A taxpayer cannot use a tax grievance simply because the taxpayer later believes the property was overvalued or incorrectly classified. Errors made in the valuation and assessment process that are not listed in K.S.A. 79-1701 must be challenged through the ordinary valuation appeal process. K.S.A. 79-1702.

In *In Re Tax Relief Application of Hocker*, an alleged error in classifying property as commercial rather than mixed-use property was a classification issue, not a clerical error in the description of the property. [67]

Physical Description Can Qualify. An error in the "description" of real estate is not limited to an incorrect legal description. In *St. Catherine Hospital v. Roop*, an incorrect description of the physical construction of a building was held to fall within the clerical-error statute.[68]

Mathematical Miscomputation Means Arithmetic. The mathematical-miscomputation provision does not include every mistake that produces an incorrect value. For example, failing to include improvements in an appraisal is not a mathematical miscomputation merely because correcting the omission changes the final value. *In re Protest of United Ag Services, Inc.*, 37 Kan. App. 2d 902, 159 P.3d 1050 (2007).

Corrections Can Increase Taxes. The clerical-error statutes are not limited to taxpayer refunds. Correction of certain errors involving property descriptions, improvements placed on the wrong parcel, taxable situs or mathematical miscomputations may result in an additional assessment or tax bill. However, interest and penalties may not be added to the additional tax, and an increase generally may not be imposed after the property has been sold or transferred. K.S.A. 79-1701a; K.S.A. 79-1702.

Refunds and Interest. When correction of a clerical error results in a refund, interest may also be payable. An unusual difference exists between the local and BOTA procedures: a refund ordered by the board of county commissioners under K.S.A. 79-1701a earns the rate prescribed by K.S.A. 79-2968 plus two percentage points, while a refund ordered by BOTA under K.S.A. 79-1702 earns that

[67] *In re Tax Relief Application of Hocker*, 29 Kan. App. 2d 248 (2000).
[68] *St. Catherine Hospital v. Roop*, 34 Kan. App. 2d 638 (2005).

rate minus two percentage points.

A tax grievance filed with BOTA is heard by BOTA's regular division rather than the small claims and expedited hearings division. BOTA currently charges a $25 filing fee for a clerical-error tax grievance.

H-3. Personal Property Penalty Abatement

Kansas law imposes penalties when taxable personal property is not timely or completely reported. A taxpayer may seek abatement of certain penalties by showing excusable neglect. The procedure depends upon the type of penalty involved.

Personal Property Renditions. A taxpayer required to list tangible personal property must generally file an initial rendition with the county appraiser on or before March 15. Once an initial statement has been filed, another annual rendition is not required unless there is a change concerning the property or information previously reported. K.S.A. 79-306.

Oil and gas property is subject to a separate April 1 filing deadline. K.S.A. 79-332a.

Current penalties generally include:

Situation	Penalty
Ordinary personal-property rendition filed late, but within one year	2% per month or fraction of a month, maximum 10%
Failure to file a complete rendition within one year	12.5%
Escaped or underreported personal property	12.5% for each applicable escaped year
Oil and gas rendition filed late, but within one year	2% per month or fraction of a month, maximum 10%
Oil and gas rendition more than one year late or incomplete	12.5%

K.S.A. 79-1422; K.S.A. 79-1427a; K.S.A. 79-332a.

Ordinary Personal Property — County Appraiser May Abate. K.S.A. 79-1422 provides that either the county appraiser or BOTA shall abate a late-filing or failure-to-file penalty when the taxpayer establishes excusable neglect. Thus, an ordinary personal-property penalty under K.S.A. 79-1422 does not necessarily require a BOTA proceeding.

For good cause, the county appraiser may also grant a reasonable extension of time to file. The request must be in writing and state the reasons supporting the extension.

The statute specifically recognizes previous classification of property as real property or as a fixture to real property as possible good cause and excusable neglect. This can be important when machinery or equipment previously treated as a fixture is later determined to be taxable personal property.

Escaped or Underreported Property. When taxable personal property has escaped taxation or was underreported, K.S.A. 79-1427a generally imposes a 12.5% penalty for each applicable escaped year. BOTA may abate the penalty upon a showing of excusable neglect.

No escaped-property penalty is imposed when the escaped appraisal resulted from a willful or clerical error of the county appraiser. K.S.A. 79-1427a.

Oil and Gas Property. K.S.A. 79-332a provides separate penalties for late or incomplete oil and gas renditions. The county appraiser may grant a filing extension for good cause if the request is made in writing before the filing deadline. BOTA has authority to abate an imposed penalty upon a showing of excusable neglect.

Excusable Neglect. Whether neglect is excusable depends upon the facts. Relevant considerations include why the filing was missed, whether the taxpayer acted in good faith, and what the taxpayer did after discovering the problem.

A taxpayer's good-faith efforts to correct a tax problem after discovering it may support a finding of excusable neglect. *In re Tax Appeal of American Restaurant Operations*, 264 Kan. 518, 534-35, 957 P.2d 473 (1998).

BOTA Tax Grievance Procedure. When BOTA relief is necessary, the taxpayer completes BOTA's Tax Grievance Application and files it with the county appraiser. The county appraiser reviews the application, indicates whether the county agrees with the facts and requested relief, states whether a hearing is requested, provides a copy of the recommendation to the applicant, and forwards the application to BOTA.

BOTA currently charges a $25 filing fee for a penalty-abatement tax grievance. Tax grievances are heard by BOTA's regular division rather than the small claims and expedited hearings division.

Real Property Is Different

Real property is not subject to the personal-property late-filing and escaped-property penalties discussed above. Instead, collection of a properly levied real estate tax is enforced primarily against the real estate itself. A lien for the year's property taxes attaches to the real estate on November 1 and continues until the taxes, interest and other lawful charges are paid. K.S.A. 79-1804. The taxpayer may pay the entire tax by December 20 or pay one-half by December 20 and the remaining half by May 10. K.S.A. 79-2004.

If the required payment is not timely made, interest begins to accrue on the unpaid tax. If the taxes remain delinquent, the property ultimately becomes subject to the statutory tax-sale, redemption and foreclosure procedures contained in K.S.A. 79-2301 et seq., K.S.A. 79-2401a et seq., and K.S.A. 79-2801 et seq. Thus, unlike personal property, the principal consequences of failing to pay properly levied real estate taxes are interest, a continuing lien against the property, and ultimately the possibility of foreclosure and loss of the property, rather than a separate percentage penalty for failure to file a property rendition.

H-4. Notice of Valuation Appeals (Equalization Appeals)

A taxpayer who disagrees with the classification or appraised value shown on the annual notice of valuation may appeal before the tax bill is issued. This is commonly called an "equalization appeal" or "EQ appeal."

Notice of Valuation. The county appraiser must generally notify taxpayers of the classification and appraised valuation of their property on or before March 1 for real property and May 1 for personal property. The notice must explain the taxpayer's right to appeal. K.S.A. 79-1460.

For real property, the taxpayer must notify the county appraiser of the appeal within 30 days after the date the valuation notice was mailed. For personal property, the appeal must be made on or before May 15. The county appraiser may extend the appeal deadline for just and adequate reasons. K.S.A. 79-1448.

Informal Meeting. The first step is an informal meeting with the county appraiser or the appraiser's designee. At the meeting, the county appraiser has the duty to initiate production of the evidence supporting the valuation. The taxpayer should not have to guess how the county arrived at its value.

The county must provide or make available information including:

1. the reasons for an increase in value from the prior year;
2. assumptions used in determining the value;

3. relevant property characteristics;
4. property-specific valuation records and conclusions; and
5. the data sheets applicable to the valuation approach used.

The county appraiser must also consider evidence submitted by the taxpayer concerning deferred maintenance and depreciation. K.S.A. 79-1448.

The county appraiser may reduce the value or change the classification when warranted but **may not increase the appraised valuation as a result of the informal meeting**. If the final determination is not in favor of the taxpayer, the county appraiser must provide a written explanation of the reasoning supporting the determination.

ASIDE — THE COUNTY CANNOT RUN OUT THE CLOCK

What happens if a taxpayer timely appeals, but the county does not hold the informal meeting by May 15 or make its determination by May 20?

Attorney General Opinion No. 93-92 concluded that these statutory deadlines are mandatory unless properly extended by the director of property valuation. A county cannot prevent a taxpayer from moving to the next level of appeal simply by failing to complete the informal process on time. A final determination is "given" when the appraiser actually makes the decision—not necessarily when the written notice is later placed in the mail.

Unless an extension has been granted by the director of property valuation, an informal meeting concerning real property may not be scheduled after May 15, and the county appraiser may not give a final determination after May 20. K.S.A. 79-1448.

Leased Commercial and Industrial Property. A special rule applies when leased commercial or industrial property is appealed. The county appraiser's value is presumed valid and correct unless the property owner furnishes the county appraiser with a complete income and expense statement for the property for the three years preceding the year of appeal within 30 calendar days after the informal meeting. K.S.A. 79-1448. This rule can also affect the burden of proof at later stages of the appeal. See Section I.

Agricultural Classification Appeals. A special presumption also applies when property classified as land devoted to agricultural use in the preceding year is reclassified by the county appraiser. If no other actual use is evident, the taxpayer's agricultural classification is presumed correct when the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to agricultural use. K.S.A. 79-1448.

Appeal After the Informal Meeting. The next step depends upon whether the county has established a county or district hearing officer or hearing panel.

County Procedure	Next Appeal	Deadline
County has a hearing officer or panel	County hearing officer/panel	18 days after mailing of final determination
Eligible taxpayers elect Small Claims instead of county hearing officer/panel	BOTA Small Claims and Expedited Hearings Division	18 days after mailing of final determination
County has no hearing officer or panel	BOTA	30 days after mailing of final determination
Taxpayer elects K.S.A. 79-1496 fee-simple appraisal procedure	File appraisal with county appraiser	60 days after mailing of final determination

K.S.A. 79-1448; K.S.A. 79-1606; K.S.A. 79-1609; K.S.A. 79-1611.

Small Claims. Appeals involving single-family residential property must proceed through BOTA's Small Claims and Expedited Hearings Division before proceeding to BOTA's regular division.

For other property valued at less than $3,000,000 (normally commercial), other than land devoted to agricultural use, Small Claims is generally available at the taxpayer's election. K.S.A. 74-2433f. **Small Claims proceedings are informal and may be conducted by teleconference or videoconference.**

The county appraiser has the duty to initiate production of evidence supporting the valuation, subject to the special burden-of-proof rule applicable to leased commercial and industrial property. K.S.A. 74-2433f.

County Hearing Officer or Panel. If a county has established a hearing officer or panel, the appeal is filed with the county clerk within 18 days after the county appraiser's final determination is mailed. Hearings generally must be completed by July 1, with orders entered by July 5. K.S.A. 79-1606. Either the taxpayer or county appraiser may appeal the hearing officer or panel decision to BOTA within 30 days. K.S.A. 79-1609.

Alternative — Third-Party Fee Simple Appraisal. A taxpayer who has not already filed a further appeal may instead use the procedure in K.S.A. 79-1496. Within 60 days after the county appraiser's final determination is mailed, the taxpayer may submit a qualifying third-party fee simple appraisal reflecting the property's value as of January 1 of the tax year being appealed. For residential property, the appraisal may be performed by a Kansas certified residential or certified general real property appraiser. For other property, it must be performed by a Kansas certified general real property appraiser.

The county appraiser has 15 days to review the taxpayer's appraisal and issue a supplemental determination. If the county does not accept the taxpayer's appraisal, the county must perform or commission its own fee simple single-property appraisal within 90 days and explain why the taxpayer's appraisal was not accepted. The taxpayer may appeal the resulting determination to BOTA within 30 days.[69]

Practice Point — The New 5% Rule Is Not an Automatic 5% Cap

For final valuation determinations made on or after January 1, 2026, K.S.A. 79-1460 provides additional protection for residential real property, commercial real property and personal-property mobile homes used for residential purposes when an appeal results in a reduced valuation.

For the following five taxable years, if the CAMA valuation increases by more than 5% over the preceding year's value, excluding new construction, change in use or change in classification, the county appraiser must either:

1. adjust the valuation based upon information from the prior appeal; or
2. obtain an independent fee simple appraisal performed by a Kansas certified real property appraiser.

This is **not an absolute 5% valuation cap**. A value may increase by more than 5% if an independent fee simple appraisal supports the higher value. K.S.A. 79-1460.

H-5. Payment Under Protest Appeals

A taxpayer who did not pursue a notice-of-valuation appeal may generally challenge the valuation or assessment of property when the taxes are paid. This procedure is commonly called a "payment under protest" or "PR" appeal. K.S.A. 79-2005.

Filing the Protest. Payment under protest must be made in writing on a BOTA-approved form filed with the county treasurer. The taxpayer must clearly state the grounds for the protest and identify the law, facts or other basis relied upon.

[69] K.S.A. 79-1496.

The protest must be filed:[70]

1. at the time the taxes are paid;
2. if all or part of the taxes are paid before December 20, no later than December 20; or
3. if an escrow or tax service agent pays at least one-half of the taxes on or before December 20, no later than January 31 of the following year.

If the taxpayer contends that the valuation or assessment is illegal or void, the protest must also state the amount of valuation or assessment the taxpayer admits being valid and the exact portion of the tax being protested. K.S.A. 79-2005(d).

Practice Point — Generally One Valuation Appeal per Year

A taxpayer generally cannot use a payment under protest to obtain a second appeal of the same year's valuation or assessment after commencing an appeal from the notice of valuation under K.S.A. 79-1448. Likewise, if the first-half tax payment was protested, the second-half payment cannot be separately protested.[71]

A taxpayer with a pending notice-of-valuation appeal does **not** need to file a protective payment under protest merely because the tax-payment deadline arrives before the valuation appeal has been finally resolved. K.S.A. 79-2005(c).

Informal Meeting with the County Appraiser. When the protest challenges the valuation or assessment, the county treasurer forwards the protest to the county appraiser. Within 15 days after receiving the protest, the county appraiser must **schedule** an informal meeting with the taxpayer or the taxpayer's representative. The statute requires the meeting to be scheduled within 15 days; the meeting itself does not have to occur within that 15-day period. K.S.A. 79-2005(a). At the informal meeting, the county appraiser must initiate production of the evidence supporting the valuation, including the reasons for any increase in value from the preceding year, assumptions used in determining the value, relevant property characteristics, property-specific valuation records and conclusions, and the data sheets applicable to the valuation approach used. The county appraiser must also consider evidence submitted by the taxpayer concerning deferred maintenance and depreciation.

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[70] K.S.A. 79-2005(a).

[71] There are limited exceptions. A subsequent owner may protest taxes for the year in which the property was acquired, and a taxpayer may protest after the valuation, or assessment has been changed by an order of the director of property valuation. K.S.A. 79-2005(b).

The appraiser may reduce the valuation when warranted **but may not increase the appraised valuation because of the informal meeting.**[72]

Appeal to BOTA. A taxpayer dissatisfied with the result of the informal meeting may appeal to BOTA within 30 days after notification of the result. K.S.A. 79-2005(g).

Single-family residential property must proceed through BOTA's Small Claims and Expedited Hearings Division before proceeding to BOTA's regular division.

For other property valued at less than $3,000,000, other than land devoted to agricultural use, Small Claims is generally available at the taxpayer's election. K.S.A. 74-2433f.

A Small Claims hearing generally must be conducted within 60 days after the appeal is filed unless that period is waived by the taxpayer. Either party may appeal a final Small Claims decision to BOTA's regular division, where the matter is heard de novo. K.S.A. 74-2433f. See Section I concerning the county appraiser's burden of proof, including the special rules applicable to leased commercial and industrial property.

BOTA Cannot Raise the Value Above the County's Final Determination. In a valuation appeal arising from a payment under protest, BOTA may not increase the appraised value above the value reflected in the county appraiser's final determination following the informal meeting. K.S.A. 79-2005(i).

Illegal Tax Levy. A payment under protest may also challenge a tax levy, or a portion of a levy, as illegal. This is different from challenging the value or classification of the property. When the protest concerns the legality of the levy rather than valuation, there is no valuation issue for the county appraiser to resolve at an informal meeting. The protest proceeds to BOTA, and the governing body of the taxing district whose levy is challenged is notified. K.S.A. 79-2005(e)-(f).

State-Assessed Property. The ordinary K.S.A. 79-2005 payment-under-protest procedure does not apply to property valued and assessed by the director of property valuation. An owner of state-assessed property with an appeal pending before BOTA does not need to file a payment under protest merely to preserve the right to a refund. K.S.A. 79-2005(p).

Refunds and Interest. If BOTA, a court, or a resulting change in valuation requires a refund, the county treasurer refunds the appropriate taxes together with interest at the rate prescribed by K.S.A. 79-2968 minus two percentage points, calculated from the date the taxes were paid. K.S.A. 79-2005(l). BOTA or a court may reduce or eliminate interest attributable to unreasonable delay

[72] K.S.A. 79-2005(a).

caused by the taxpayer. No interest is allowed on a refund attributable to delinquent taxes. K.S.A. 79-2005(l).

Case Story — Even Delinquent Taxes Can Be Paid Under Protest

Kansas law permits even delinquent taxes to be paid under protest. In *In re Tax Protest of Rice*, the Kansas Supreme Court held that delinquency did not eliminate the taxpayer's statutory right to protest when the taxes were ultimately paid.[73] An even more unusual example arose in *In re Tax Protests & Grievances of Curtis Machine Co.* Ford County had already filed a tax-foreclosure action involving years of unpaid real-estate taxes. The taxpayer later paid the taxes, interest and penalties under protest and challenged the valuations.[74]

The Court of Appeals held that the tax-foreclosure proceeding did not resolve the valuation issue. A foreclosure court determines the taxes, interest, charges and liens against the property; it is not the tribunal for deciding the proper appraised value of the property. The taxpayer could therefore pursue the valuation dispute through the statutory tax-appeal process.

[73] *In re Tax Protest of Rice*, 228 Kan. 600 (1980).
[74] *Grievances of Curtis Machine Co.*, 26 Kan. App. 2d 395 (1999).

I. County Appraiser's Burden and Duty in Appeals

I-1. Burden of Proof: County's Value is not Always Presumed to be Correct.

Kansas law does not presume that the county appraiser is correct in every property-tax appeal. In many valuation and classification appeals, the county appraiser has the affirmative duty to present evidence supporting the county's determination and to prove its correctness by a preponderance of the evidence. The precise burden, however, depends upon the type of property and the appeal procedure being used.

Information Before an Appeal. A property owner or the owner's representative may obtain information from real estate sales validation questionnaires concerning property within the same constitutionally prescribed subclass for purposes of deciding whether to appeal or prosecuting an appeal. K.S.A. 79-1437f(b). At the informal meeting in either an equalization appeal or payment-under-protest appeal, the county appraiser must initiate production of the evidence supporting the valuation. See K.S.A. 79-1448; K.S.A. 79-2005. The taxpayer should therefore be able to understand the principal facts, assumptions and valuation methodology supporting the county's determination.

Who Has the Burden?

Appeal Stage	General Burden Rule
Informal meeting with county appraiser	County must initiate production of evidence supporting the valuation. K.S.A. 79-1448; K.S.A. 79-2005.
County hearing officer or panel	For residential and commercial/industrial real property, county must prove its determination by a preponderance of the evidence; no presumption favors the county. K.S.A. 79-1606.
BOTA Small Claims	In valuation matters, county must prove its determination by a preponderance of the evidence; no presumption favors the county, subject to the leased-property exception discussed below. K.S.A. 74-2433f(h).
BOTA — Equalization Appeal	For residential and commercial/industrial real property, county generally bears the burden by a preponderance of the evidence. K.S.A. 79-1609.
BOTA — Payment Under Protest	For residential and commercial/industrial real property, county generally bears the burden by a preponderance of the evidence. K.S.A. 79-2005(i).

Practice Point — "Burden on the County" Does Not Mean The Taxpayer Can Do Nothing

The county's burden means that the county must come forward with sufficient evidence to demonstrate the validity and correctness of its determination. A taxpayer who claims a different value, classification or factual circumstance should still present evidence supporting that position. The burden of proof and the obligation to produce evidence on a particular disputed fact are not necessarily the same thing.

Leased Commercial and Industrial Property — Important Exception. Special rules apply to leased commercial and industrial real property. In an equalization appeal, the county appraiser's value is initially presumed valid and correct unless the property owner provides a complete income and expense statement for the three years preceding the year of appeal within 30 calendar days after the informal meeting. K.S.A. 79-1448.

The same information requirement is important at later stages of the appeal. In Small Claims and an equalization appeal before BOTA, the burden is placed on the taxpayer for leased commercial and industrial property unless the required three years of income and expense information was timely furnished to the appraiser. The information may be provided in the format regularly maintained by the taxpayer in the ordinary course of business. K.S.A. 74-2433f(h); K.S.A. 79-1609.

If the taxpayer submits a single-property appraisal with an effective date of January 1 of the year being appealed, the burden returns to the county appraiser in Small Claims and in an equalization appeal before BOTA. K.S.A. 74-2433f(h); K.S.A. 79-1609.

Agricultural Property — Classification and Valuation Are Different Issues. Be careful not to treat every agricultural appeal the same. If property was classified as land devoted to agricultural use in the preceding year and the county reclassifies it, the taxpayer's agricultural classification is presumed correct if the taxpayer provides an executed lease or other documentation showing a commitment to agricultural use and no other actual use is evident. K.S.A. 79-1448; K.S.A. 79-2005. More generally, when the county classifies property as commercial rather than agricultural, the county may bear the burden of establishing the correctness of its classification. A taxpayer asserting that the property should instead receive agricultural classification must nevertheless produce evidence establishing agricultural use.

A different rule applies when the taxpayer attacks the **statewide agricultural use-value methodology itself**. In *In re Tax Protest of Ann W. Smith Trust*, taxpayers challenged PVD's methodology for valuing pastureland under K.S.A. 79-1476. BOTA placed the burden on the taxpayers because the statutory county-burden provision applicable to residential and commercial/industrial real property did not apply to agricultural use valuation. The Kansas Supreme Court affirmed BOTA's decision.[75]

Thus, distinguish between:

Agricultural classification: What is the land being used for?

Agricultural use valuation: Was the land properly valued under the statewide K.S.A. 79-1476 methodology?

The burden may differ depending upon which question is being appealed.

I-2. Duty of the County Appraiser When Real Property Values Increase

Kansas law permits real property values to increase when the appraisal evidence supports the increase. However, K.S.A. 79-1460 imposes additional duties on the county appraiser when an increase is made.

Supporting an Increase. When increasing the valuation of real property, the county appraiser must: 1) review the record of the latest physical inspection of the property; 2) have documentation supporting the increase in accordance with PVD directives and specifications; and 3) make the inspection record and supporting documentation available to the affected taxpayer.[76]

The statute does not require a new physical inspection every time a value increases. It requires the appraiser to review the record of the most recent inspection and have documentation supporting the increase.

Normal Maintenance. Real property may not be increased in value solely because of normal repair, replacement or maintenance of existing structures, equipment or improvements. K.S.A. 79-1460. This does not prevent a value increase supported by market evidence or other legitimate appraisal factors. Ordinary maintenance simply cannot, by itself, be the reason for the increase.

After a Successful Appeal. Additional requirements apply when the value of certain residential or commercial property has previously been reduced through the valuation appeal process. These include the 5% review provisions and independent

[75] *In re Tax Protest of Ann W. Smith Trust*, 272 Kan. 1396 (2002).

[76] K.S.A. 79-1460.

appraisal alternative discussed in H-4, Notice of Valuation Appeals.

Implementing a Prior-Year Appeal Decision. If a prior year's real-property appeal is finally decided after the appraiser has already certified the current year's appraisal roll, K.S.A. 79-1460 allows the appraiser, in qualifying circumstances, to amend the current-year roll to reflect the prior year's reduced value. The change must be certified to the county clerk and made within the statutory time period.

Case Story — An Appeal Does Not Freeze Value Forever

An earlier version of K.S.A. 79-1460 restricted increases following a successful appeal. In *Board of County Commissioners of Johnson County v. Jordan*, the Kansas Supreme Court held the statute unconstitutional to the extent it prevented appraisers from valuing property at its actual fair market value in a later tax year.[77] If the appraiser wants to increase the value above 5% in subsequent tax years, an independent appraisal may be required. In response to Jordan, the Legislature created the independent fee appraisal requirement, because the Supreme Court held that a fixed cap was unconstitutional because it made the system non-uniform. Taxpayers that challenged the valuation and won, had reduced valuations (disconnected from FMV), while taxpayers that didn't challenge valuations were taxed at FMV.

[77] *BOCC of Johnson County v. Jordan*, 303 Kan. 844 (2016).

J. General Information Regarding the Board of Tax Appeals ("BOTA") and Property Tax Appeals

J-1. Board of Tax Appeals ("BOTA")

The State Board of Tax Appeals ("BOTA") is an independent administrative agency within the executive branch of Kansas government.[78] BOTA hears and decides tax disputes, but it is not a court. Its authority is limited to what Kansas law gives it.

Composition of the Board. BOTA consists of three members appointed by the governor and confirmed by the Senate. The statutory qualifications provide for:

- one member with at least five years of active legal experience;
- one member with at least five years of active practice as a certified public accountant; and
- one member who is a licensed certified general real property appraiser.

The governor also appoints a chief hearing officer, subject to Senate confirmation, who serves as a member pro tempore of the Board and has responsibilities relating to the Small Claims and Expedited Hearings Division.

Two votes are required for BOTA to issue a final order. Board members are subject to the Kansas Supreme Court rules of judicial conduct applicable to district court judges. BOTA also has an executive director responsible for administration of the agency.

What Is BOTA Supposed to Decide? Kansas law expressly requires proceedings before BOTA to be fair and impartial. Tax laws are to be applied neutrally to taxpayers and taxing districts. In a valuation appeal, BOTA determines the **fair market value of the fee simple interest in the property**. A property owner may also raise classification issues in a valuation appeal.

BOTA is not to decide a case based upon how its decision will shift the tax burden or how much revenue a taxing district will gain or lose. K.S.A. 74-2433(g).

[78] K.S.A. 74-2433a.

Practice Point — "We Need the Revenue" Is Not Valuation Evidence

A county cannot defend a valuation before BOTA by arguing that lowering the value will reduce local tax revenue or shift taxes to other taxpayers. Likewise, a taxpayer does not establish an incorrect valuation merely by showing that the resulting tax bill is unusually large. The issue is the legally correct valuation or classification of the property—not the fiscal consequence of the decision.

BOTA is expressly bound by the doctrine of stare decisis as to **published decisions of Kansas appellate courts**. Thus, an appellate decision interpreting Kansas property-tax law is binding authority. A prior BOTA decision involving another taxpayer may be informative or persuasive, but it **does not have** the same precedential status as a published appellate decision.

Jurisdiction and Authority. BOTA considers a variety of tax matters, including:[79]

- equalization appeals from county property valuations;
- payment-under-protest appeals;
- appeals from county hearing officers or panels;
- appeals from BOTA's Small Claims and Expedited Hearings Division;
- tax grievances;
- property-tax exemption applications;
- appeals involving state-assessed property; and
- appeals from final determinations of the Secretary of Revenue or the Secretary's designee when authorized by statute.

Filing fees and statutory exceptions to those fees are discussed earlier in Part H and are not repeated here.

BOTA Is a Creature of Statute

BOTA does not possess the general authority of a district court. It may exercise only the powers expressly granted by statute or necessarily implied by those powers.

This produces several practical limitations:[80]

- BOTA cannot exercise jurisdiction over an untimely appeal;

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[79] See K.S.A. 74-2437; K.S.A. 74-2438; K.S.A. 74-2439; K.S.A. 79-1609; K.S.A. 79-2005; K.S.A. 79-213.
[80] See *Walkemeyer v. Stevens County Oil & Gas Co.*, 205 Kan. 486 (1970); *Vaughn v. Martell*, 226 Kan. 658 (1979); *Salina Airport Authority v. Board of Tax Appeals*, 13 Kan. App. 2d 80 (1988); *Sage v. Williams*, 23 Kan. App. 2d 624 (1997).

- BOTA cannot decide matters concerning property that is not properly before it;
- BOTA cannot grant relief based solely upon general principles of equity when no statutory tax remedy authorizes that relief; and
- BOTA cannot enlarge or restrict its own jurisdiction by regulation.

BOTA also cannot determine who may sign appeal forms, determine who may represent taxpayers, decide what constitutes the unauthorized practice of law, or determine whether a contingent-fee agreement violates public policy. K.S.A. 74-2437(e).

BOTA may not impede a settlement or agreement between a taxpayer and a county. K.S.A. 74-2437(f).

Common BOTA Docket Abbreviations

Abbreviation	Type of Proceeding
EQ	Equalization / notice-of-valuation appeal
PR	Payment-under-protest appeal
TX	Property-tax exemption application
IRB	Industrial revenue bond informational filing
IRBX	Industrial revenue bond property-tax exemption
EDX	Economic development exemption
TG	Tax grievance
DT	Appeal from the Division of Taxation
PV	Property Valuation Division / state-assessed property appeal

An appeal heard in the Small Claims and Expedited Hearings Division generally includes **"SC"** in the docket designation, such as **EQSC** or **PRSC**.

Filing Fees

BOTA has authority to charge a filing fee. K.S.A. 74-2438a. The purpose of the filing fee is to recover all or part of the costs of processing such actions. The filing fees are set forth in BOTA's administrative rules and regulations. The legislature set forth certain limitations on filing fees in K.S.A. 2017 Supp. 74-2438a(e):

- No filing fee shall be charged to any taxpayer filing a single-family residential property filed pursuant to K.S.A. 79-2005 (PR) or K.S.A. 79-1448 (EQ).

• No filing fee shall be charged to any not-for-profit organizations for any appeal if the valuation of the property that is the subject of the controversy does not exceed $100,000.

• No filing fee shall be charged to any municipality or political subdivision of the state.

• No filing fee may be charged a taxpayer who has filed an appeal for a previous year that has not been decided by the board and is beyond the time periods prescribed by K.S.A. 74-2426.

J-2. Who May Represent a Taxpayer?

A taxpayer does not always need a lawyer to challenge a property tax valuation. Who may represent the taxpayer depends upon where the appeal is being heard.

Small Claims — Broad Representation Allowed. BOTA's Small Claims and Expedited Hearings Division is intentionally informal. An individual taxpayer may appear personally or may be represented by:

- an attorney;
- a certified public accountant ("CPA");
- a certified general real property appraiser;
- a tax representative or agent;
- a member of the taxpayer's immediate family; or
- an authorized employee of the taxpayer.

K.S.A. 74-2433f(f).

The statute says **certified public accountant**, not simply any accountant.

A county may likewise be represented in Small Claims by the county appraiser, the appraiser's designee, the county attorney or counselor, or another designated representative. K.S.A. 74-2433f(f).

A taxpayer's Small Claims notice of appeal may also be signed by the taxpayer, a person holding an executed declaration of representative, or a person otherwise authorized to represent the taxpayer under the Small Claims statute. K.S.A. 74-2433f(e).

Regular BOTA — More Formal. Representation before BOTA's regular division is more restricted, but tax representatives can still appear but their ability to cross-examine witnesses, make objections, and file legal pleadings may be prohibited. An individual taxpayer may represent himself or herself **pro se**.

Regular BOTA proceedings are different from Small Claims. A nonlawyer tax consultant may assist the taxpayer and may provide factual or expert valuation evidence, but the broad statutory authority permitting tax representatives to represent taxpayers in Small Claims does not extend to the regular BOTA division. K.A.R. 94-5-6 limits nonlawyer participation in the regular division, and Kansas law separately prohibits the unauthorized practice of law. [81]

A corporation, LLC or other legal entity is somewhat different. Under K.S.A. 77-515, an entity may participate before an administrative agency through a duly authorized representative unless the agency requires an attorney.

Case Story — The Petroleum Engineer Could File the Appeal

In *In re Protest Appeal of Rakestraw Brothers, L.L.C.*, the taxpayer hired a petroleum engineer to handle an appeal involving the valuation of an oil lease. He was not a lawyer, an owner of the LLC or even its employee. He was an experienced tax consultant. The tax tribunal dismissed the appeal because the engineer had signed the Small Claims appeal for the taxpayer. The Kansas Court of Appeals reversed. Because the Small Claims statute specifically allows a taxpayer to be represented by a “tax representative or agent,” the engineer could file the appeal and represent the taxpayer in Small Claims.[82]

When the Case Goes to Court, the Rules Change

(d) The broad representation allowed in BOTA Small Claims **does not follow the case into district court or the Kansas appellate courts**.

An individual taxpayer may represent himself or herself in court. But, as a rule, a nonlawyer cannot represent someone else in a Kansas court. That means a CPA, appraiser, tax representative, employee or family member ordinarily cannot appear in court and conduct the taxpayer's case unless that person is also authorized to practice law.

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[81] *In re Tax Appeals of Lyerla Trust*, 50 Kan. App. 2d 1054 (2014). See also Att'y Gen. Op. No. 93-100.
[82] *In re Protest Appeal of Rakestraw Brothers*, L.L.C., 50 Kan. App. 2d 1038 (2014).

A corporation, LLC, trust or other separate legal entity generally must be represented in court by a licensed attorney. Kansas courts have repeatedly held that a nonlawyer may represent himself or herself but may not represent another person or legal entity.[83]

Thus, a tax representative who handled a taxpayer's case in Small Claims may reach the point where an attorney is needed if the dispute proceeds through regular BOTA and into judicial review.

J-3. BOTA's Small Claims and Expedited Hearings Division

BOTA's Small Claims and Expedited Hearings Division provides a less formal way to hear certain tax appeals. A hearing officer, rather than the three-member Board, hears and decides the case. K.S.A. 74-2433f.

For **single-family residential property**, Small Claims is generally a required step before the taxpayer may appeal to BOTA's regular division. For other equalization and payment-under-protest appeals involving property valued at less than $3,000,000, Small Claims is generally available at the taxpayer's election, except for appeals involving land devoted to agricultural use. K.S.A. 74-2433f(b)-(c).

The Hearing Is Informal. The hearing officer may receive testimony and evidence considered useful in deciding the case. Testimony is given under oath, but no transcript of the hearing is prepared. Hearings may also be conducted by teleconference or videoconference. K.S.A. 74-2433f(e)-(f).

Practice Point — If You Appeal, Bring the Evidence Again

Documents submitted at a Small Claims hearing are returned to the taxpayer or county and **do not become part of BOTA's permanent record**. The documents are confidential while in possession of the hearing officer. K.S.A. 74-2433f(g).

If the Small Claims decision is appealed to BOTA's regular division, the appeal is **de novo**—the case is heard again. Do not assume that exhibits presented to the Small Claims hearing officer will automatically be before the Board. K.S.A. 74-2433f(d).

Decision and Further Appeal. A Small Claims hearing generally must be conducted within 60 days after the appeal is filed unless the taxpayer waives that deadline. The hearing officer must issue a

[83] *State ex rel. Stephan v. Williams*, 246 Kan. 681 (1990); *Atchison Homeless Shelters, Inc. v. Atchison County*, 24 Kan. App. 2d 454 (1997).

decision within 30 days after the hearing concludes and, in property-tax cases, provide a written explanation of the decision. K.S.A. 74-2433f(g).

Either party may appeal to the Small Claims decision to BOTA's regular division. The regular division hears the matter de novo. BOTA may not increase the valuation above the county appraiser's final determination from which the taxpayer originally appealed. K.S.A. 74-2433f(d).

J-4. BOTA Proceedings and Hearings — Regular Division

Proceedings before BOTA's regular division are more formal than Small Claims. The hearing is conducted under the Kansas Administrative Procedure Act ("KAPA") and applicable BOTA regulations. K.S.A. 74-2438.

De Novo Hearing. BOTA generally hears an appeal **de novo**, meaning the Board decides the matter anew based upon the evidence properly presented to it. K.S.A. 74-2438(b). Unlike Small Claims, the regular division creates an administrative record of the proceeding. Discovery is available, and the parties must exchange evidence and witness information before the hearing in accordance with BOTA's rules and hearing orders.

BOTA's regulations generally require evidence in a single-family residential case to be exchanged at least **10 calendar days** before the hearing. In other cases, evidence and witness lists generally must be exchanged at least **20 calendar days** before the hearing, with rebuttal evidence generally due 10 days before the hearing. K.A.R. 94-5-21.

Practice Point — Do Not Save Your Evidence for the Hearing

A party should not arrive at a regular BOTA hearing with important documents or appraisal evidence that was never provided to the other side. The regular division is more formal than Small Claims, and BOTA's prehearing deadlines matter.[84] This is one rule that BOTA takes very seriously.

At least 10 calendar days before a scheduled hearing involving **single-family residential property**, each party shall have exchanged copies of each document, photograph, or other evidence that the party intends to present at the hearing.

At least 20 calendar days before a scheduled hearing except a hearing involving single-family residential property as specified above, each party shall have exchanged copies of each document,

[84] K.A.R. 94-5-21.

photograph, or other evidence that the party intends to present at the hearing, along with a listing of all witnesses expected to be called at the hearing.

At least 10 calendar days before the scheduled hearing, each party shall have exchanged copies of any rebuttal evidence, along with a listing of any rebuttal witnesses.

Single-Property Appraisals. If a taxpayer presents a qualifying appraisal of the individual property, performed by a certified general real property appraiser with an effective date of January 1 of the year appealed, and the appraisal reaches a value below the county's mass-appraisal value, BOTA must accept the appraisal into evidence. K.S.A. 74-2438(c).

Acceptance into evidence does **not** mean BOTA must accept the appraiser's value. The Board still weighs the appraisal against the other evidence.

BOTA Decisions. After a matter is fully submitted, BOTA generally must issue a written summary decision within 14 days. An aggrieved party has **21 days after service of the summary decision** to request a full and complete opinion. The Board generally must issue that full opinion within 90 days after it is requested. K.S.A. 74-2426(a).

Normally, BOTA will issue a summary opinion, but if the parties agree, BOTA will skip the summary decision process and issue a full and final opinion.

J-5. Appealing BOTA Decisions

A party dissatisfied with a BOTA decision may seek reconsideration or judicial review. The procedure depends in part upon whether the appeal goes directly to the Kansas Court of Appeals or, at the taxpayer's election, to district court. Reconsideration. A petition for reconsideration is generally optional. A party ordinarily has 15 days after service of BOTA's final order to request reconsideration. For an IRBX or EDX exemption proceeding, the period is 30 days. K.S.A. 77-529. A petition for reconsideration is **no longer a prerequisite** to judicial review of an ordinary BOTA decision.

Judicial Review. BOTA decisions are reviewed under the Kansas Judicial Review Act ("KJRA"), K.S.A. 77-601 et seq. A petition for judicial review generally must be filed within 30 days after service of the reviewable order. If reconsideration is requested, the 30-day period generally begins after service of the order disposing of reconsideration. K.S.A. 77-613.

There are two principal routes:

1. Court of Appeals. Any aggrieved party may seek review directly in the Kansas Court of Appeals. For this route, BOTA must first issue a full and complete opinion. A party therefore must timely request the full opinion within 21 days after service of BOTA's summary decision. K.S.A. 74-2426(c)(4)(A).

2. District Court. A taxpayer may instead elect review in the district court. In an ad valorem property tax case, review is generally in the county where the property is located. The district court conducts a trial de novo, including an evidentiary hearing at which properly preserved issues of law and facts are determined anew. K.S.A. 74-2426(c)(4)(B).

Make Sure the Court Gets the Record

Judicial review requires some additional work by the parties. Do not assume that everything presented to BOTA will automatically appear in a useful appellate record.
Under K.S.A. 77-620, BOTA transmits the agency record to the reviewing court. If the BOTA hearing was recorded but has not been transcribed, a transcript must be prepared when it is needed as part of the record. Unless the court orders otherwise, the appellant bears the cost of preparing the

transcript. K.S.A. 77-620(b). The appellant also pays BOTA's other costs for certifying the record. K.S.A. 74-2426(c)(3).

The parties, especially the appealing one, should review the certified record and make sure it contains the important exhibits, orders, pleadings and—when necessary—the BOTA hearing transcript. This is important in a direct appeal to the Court of Appeals, where review is based upon the administrative record, but it also matters in a district-court trial de novo because the BOTA record may be needed to establish which issues were actually raised and preserved before the agency.

Kansas appellate courts regularly remind litigants that the party claiming error must provide a record sufficient to permit review. An incomplete record may prevent the court from deciding on an argument at all.[85]

A property-tax example is *In re Tax Appeal of Arciterra*, where the county initially requested certification of a limited BOTA record that omitted its own appraisal reports and disputed closing argument. The county then had to seek permission from the Court of Appeals to supplement the record. The resulting procedural dispute consumed substantial attention before the court could reach the merits.[86]

Scope of Appellate Review. On direct judicial review, the party challenging BOTA's action generally bears the burden of showing that the agency action is invalid. Among other grounds, a reviewing court may grant relief if BOTA incorrectly applied the law, failed to follow required procedure, made factual findings unsupported by substantial evidence when the record is viewed as a whole, or acted unreasonably, arbitrarily or capriciously. K.S.A. 77-621.

A decision of a district court may be appealed to the Kansas Court of Appeals. A party dissatisfied with a Court of Appeals decision may seek discretionary review by the Kansas Supreme Court.

J-6. Stipulations of Fact

Stipulations of fact are agreements of the parties as to facts that are not disputed. Like sworn testimony and admitted exhibits, stipulations of fact are part of the evidence upon which BOTA will render its decision.

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[85] See *State v. Vonachen*, 312 Kan. 451, 460-61 (2020).

[86] *Matter of Protest of Arciterra BP Olathe, KS, L.L.C.*, 484 P.3d 261 (2021 – unpublished).

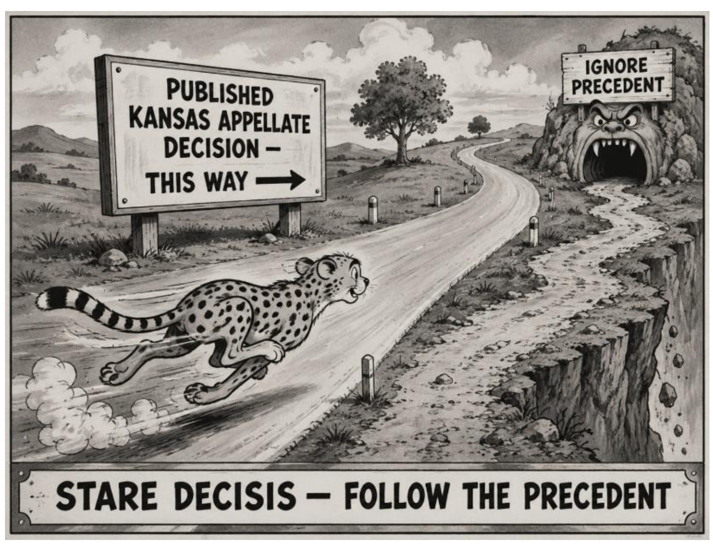
The Kansas Court of Appeals has held that BOTA did not err when it refused to accept stipulations when the attorney's responses to questions revealed that some of the stipulated facts were erroneous.[87] The court rejected the taxpayer's arguments that a stipulation precludes BOTA from considering facts other than those stipulated.

If BOTA elects to reject stipulated facts, BOTA must notify the parties and provide an opportunity to present evidence in full and complete hearing. Otherwise, it is a denial of due process.[88]

J-7. Doctrine of Stare Decisis

"Stare decisis" simply means that when an appellate court has decided a legal issue, that decision generally controls later cases involving the same legal issue. This is especially important in property-tax cases because Kansas law specifically requires BOTA to follow **published decisions of the Kansas appellate courts**. K.S.A. 74-2433(a).

For example, if the Kansas Court of Appeals publishes an opinion establishing how a particular appraisal rule must be applied, BOTA cannot simply disagree with the court and use a different rule in the next case. The Court of Appeals emphasized this point in *In re Equalization Appeals of Walmart Stores, Inc.*, holding that BOTA was required to follow earlier published appellate decisions governing the treatment of build-to-suit leases.



[87] *In re Tax Exemption of Via Christi Regional Medical Center*, 27 Kan. App. 2d 446 (2000).
[88] *In re Application of Emporia Motors, Inc.*, 30 Kan. App. 2d 621 (2002); *In re Appeal of National Catastrophe Restoration, Inc.*, 48 Kan. App. 2d 189 (2012).

Practice Point — Not Every Decision Is Precedent

A prior BOTA decision involving another taxpayer is **not binding precedent**. BOTA may find an earlier decision useful or persuasive because the facts are similar, but it is not required to reach the same result simply because a prior Board reached that result.[89]

Likewise, an unpublished Kansas Court of Appeals opinion generally is not binding precedent. It may sometimes be cited for persuasive value, particularly when no published Kansas appellate opinion addresses the issue. Kansas Supreme Court Rule 7.04(g)(2).

Thus, there is an important difference:

Published Kansas appellate decision — BOTA must follow it.

Unpublished appellate decision — may be persuasive but generally is not binding.

Prior BOTA decision — may be useful guidance but is not binding precedent.

J-8. Timeliness of Appeals

Property-tax appeal deadlines matter. When a statute requires an appeal to be filed within a particular period, missing that deadline may result in dismissal without consideration of the merits.

If a taxpayer fails to timely appeal to BOTA. Because the administrative appeal was untimely, the courts could not simply excuse the missed deadline and decide the valuation dispute.[90]

Practice Point — "Mailed" Is Not the Same as "Filed"

Under K.A.R. 94-5-9, a document filed with BOTA is generally considered filed when it is **actually received and file-stamped by BOTA**, not when the taxpayer places it in the mail.

Documents submitted electronically, by facsimile, by mail or by hand delivery generally must be received by BOTA by 5:00 p.m. to be considered filed that day. K.A.R. 94-5-9.

What About the Three Extra Days? K.S.A. 77-531 provides three additional days when a party must act within a stated period **after service of an order or notice** and the order or notice was

[89] *In re Appeal of K-Mart Corp.*, 238 Kan. 393, 396 (1985).
[90] *Vaughn v. Martell* 226 Kan. 658 (1979).

served by mail or electronic means.

That rule should not automatically be added to every property tax deadline. Some statutes measure the deadline from a different event. For example, K.S.A. 79-1609 requires certain appeals to BOTA within 30 days **after the date of the order** from which the appeal is taken. K.S.A. 79-1496 measures its deadlines from the **date a notice is mailed**. Those statutes should be read according to their own language.

Bottom Line — Read the Particular Deadline

Before calculating an appeal deadline, determine exactly what event starts the clock: date of mailing; date of the order; date of notification; date of service; or some other event specified by statute.

Do not assume that every BOTA deadline receives three additional days.

K. Kansas Open Records and Confidential Information

K-1. Kansas Open Records Act

The Kansas Open Records Act ("KORA"), K.S.A. 45-215 et seq., starts with a simple rule: **public records are generally open to the public unless a law allows or requires them to be kept confidential.**

A county appraiser's office is a public agency and its records are generally subject to KORA.

Basic Rules for the Appraiser's Office.

- A person may ask to inspect or obtain copies of public records.
- The county may require the request to be in writing, but generally cannot require use of a particular form. K.S.A. 45-220.
- A request must be acted upon as soon as possible and no later than the end of the **third business day** after it is received. This does not mean every request must be completed within three days. If more time is needed, the requester should be told why and when the records are expected to be available. K.S.A. 45-218.
- The agency may charge fees as permitted by K.S.A. 45-219.
- If part of a record is confidential and the remainder is public, the confidential information should generally be removed or redacted and the remainder provided. K.S.A. 45-221(d).

The requester generally does not have to explain why the records are wanted. However, Kansas law restricts the use of lists of names and addresses obtained from public records for commercial solicitation, and an agency may require appropriate certification concerning that use. K.S.A. 45-220; K.S.A. 45-230.

Practice Point — Start with "Open," Then Look for an Exception

Do not assume that a record is confidential merely because it contains information about a taxpayer. The question is whether a statute or other law actually permits or requires the information to be withheld.

For county appraisers, however, there is one particularly important exception. K.S.A. 45-221(b) provides that financial information requested or required by the county appraiser or the director of property valuation to help determine the value of a taxpayer's property generally **shall not be disclosed**.

That rule, along with the special restrictions on real estate sales validation questionnaires, is discussed in K-2.

K-2. Public and Confidential Property Appraisal Information

Most county appraisal information is public. K.S.A. 79-1458 specifically provides that, unless another law says otherwise, records relating to the identification and appraisal of real and personal property are open to public inspection.

Thus, property record cards, classifications, appraised values, property characteristics, sketches, valuation information and similar appraisal records are generally public records.

There are two important exceptions.

Real Estate Sales Validation Questionnaires. The contents of a real estate sales validation questionnaire ("SVQ") are not generally open to the public. K.S.A. 79-1437f limits access to persons specifically authorized by statute, including county officials and appraisers performing their duties, licensed or certified appraisers, certain financial institutions and real estate licensees, and property owners or their representatives who need information concerning the same constitutional subclass for purposes of a valuation appeal or deciding whether to appeal.

The restriction applies to the **contents of the SVQ itself**. It should not be treated as a blanket rule that every fact concerning a real estate sale is confidential. K.S.A. 79-1437f.

Protected Addresses. Certain public officials may request that information identifying their home address or home ownership be restricted from searchable public websites. K.S.A. 45-221(a)(51).

Taxpayer Financial Information. K.S.A. 45-221(b) provides that financial information required or requested by a county appraiser or the director of property valuation to assist in determining a taxpayer's property value generally **shall not be disclosed**.

This is especially important when using the income approach. Examples may include:

- income and expense statements;
- rent rolls;
- occupancy information;
- operating expenses;
- lease-rate or other financial information supplied by the taxpayer; and
- similar financial records requested to assist in determining value.

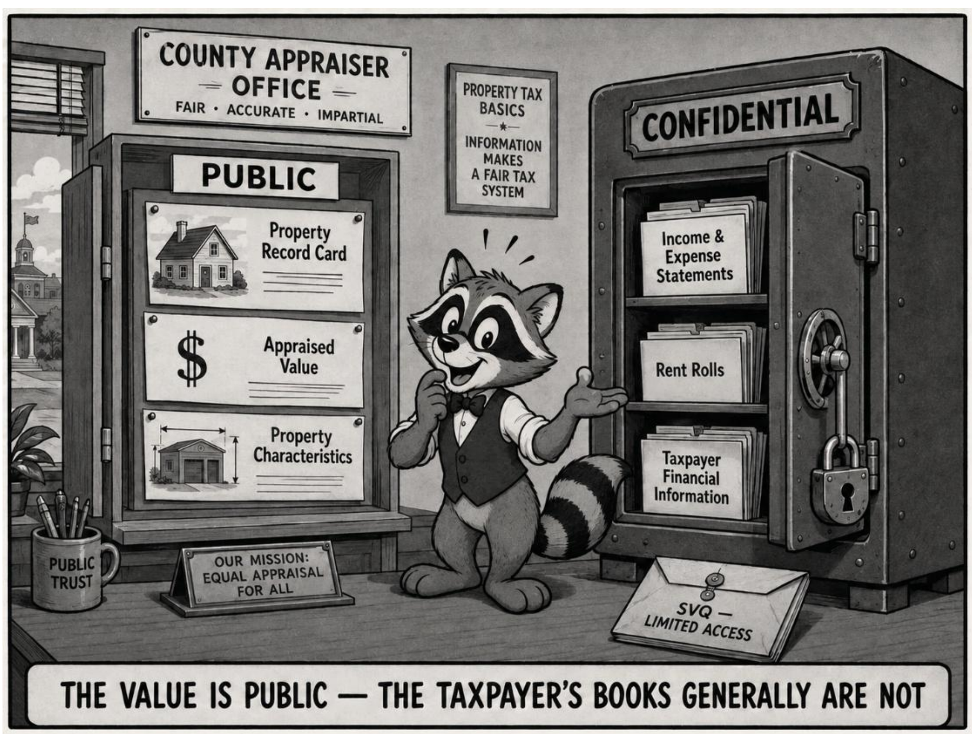
The information may be used in statistical studies or appraisal models if it is presented in a way that does not identify a particular taxpayer. K.S.A. 45-221(b).

The confidentiality rule is not absolute. Financial information may be disclosed when otherwise required by law or when appropriate during an administrative proceeding or an appeal from agency action. K.S.A. 45-221(b).

Practice Point — The Value Is Public; the Taxpayer's Books Generally Are Not

A commercial property's appraised value and the county's appraisal records are generally public. The taxpayer's confidential income, expenses and other financial information supplied to support or challenge that value generally are not.

When a public appraisal record contains confidential financial information, separate or redact the confidential material and provide the portion of the record that remains public.



L. Miscellaneous Matters

Several property tax provisions do not fit neatly into the subjects discussed elsewhere in this course. County appraisers should at least be aware of the following provisions.

L-1. Military Service and Property Taxes

Federal law provides special tax protections for military personnel and their spouses. A servicemember generally does not gain or lose a state of residence or domicile merely because military orders require the servicemember to live somewhere else. This rule can affect where the servicemember's personal property, including motor vehicles, may be taxed. 50 U.S.C. § 4001.

The law also protects military spouses. A servicemember and spouse may elect, for tax purposes, to use the residence or domicile of the servicemember, the residence or domicile of the spouse, or the servicemember's permanent duty station. 50 U.S.C. § 4001. These protections generally do not prevent taxation of personal property used in a trade or business.

Kansas Military Property-Tax Deferral. A Kansas resident in full-time military service who is deployed outside the United States for at least six months may qualify to defer all or part of the property taxes on the person's principal residence for up to two years. Interest and penalties are waived during the deferral period. The claim is filed through the county clerk and county treasurer. K.S.A. 79-1612.

Kansas law also provides exemptions from the motor-vehicle property tax for certain vehicles owned by qualifying military personnel. See K.S.A. 79-5107(e). A narrower exemption applies to certain recreational vehicles owned by full-time military personnel who are absent from Kansas under military orders. K.S.A. 79-5121(e).

L-2. Property Destroyed or Substantially Destroyed by Disaster

K.S.A. 79-1613 allows property-tax relief when a homestead or other building or improvement assessed as real property is destroyed or substantially destroyed by an earthquake, flood, tornado, fire, storm or qualifying disaster.

“Substantially destroyed” generally means that the cost of restoring the structure would equal or exceed 50% of its market value before the damage.

The property owner applies to the board of county commissioners. Depending upon when the damage occurred and whether the taxes have already been paid, the board may grant an abatement of taxes or a credit against taxes in later years. Relief is not automatic; the board makes the determination.

The county appraiser may be called upon to provide information concerning the property's value before and after the damage, but the relief itself is granted by the board of county commissioners.

Practice Point — This Is No Longer Just a Homestead Provision

The statute originally focused on homesteads. Since 2022, K.S.A. 79-1613 also applies to other buildings and improvements listed and assessed as real property. Thus, qualifying commercial and other nonresidential structures may also be eligible for relief.

L-3. Homestead and Residential Property-Tax Relief

Kansas has several programs that provide property-tax refunds or relief to qualifying homeowners. These programs are administered by the Kansas Department of Revenue rather than by the county appraiser.

The principal programs are:

- **Homestead Refund — Form K-40H.** Provides a property-tax refund to qualifying lower-income homeowners who meet age, disability, dependent-child or other statutory requirements.
- **SAFESR — Form K-40PT.** Provides qualifying low-income senior homeowners with a refund based upon a percentage of property taxes actually and timely paid.
- **Property Tax Relief for Seniors and Disabled Veterans — Form K-40SVR.** Provides qualifying seniors, disabled veterans and certain surviving spouses relief based upon the increase in property taxes over a base year.

A taxpayer may receive only one of these property tax relief benefits for the same year.

Income limits, valuation limits and other qualifications can change. County appraisers should therefore direct taxpayers to the current Kansas Department of Revenue forms and instructions rather than rely upon older dollar amounts contained in course materials.

The county appraiser generally does **not** determine whether the taxpayer qualifies for one of these refunds. The appraiser's role is primarily to make sure that the property's appraisal and classification information used in administering the program is accurate.

M. Appendix – Online Resources

Resource	Web Address
Kansas Government Resources	
Division of Property Valuation	https://www.ksrevenue.gov/pvdindex.html
Kansas Department of Revenue **Homestead & Property Tax Refund Programs**	https://www.ksrevenue.gov/ https://www.ksrevenue.gov/perstaxtypeshs.html
Kansas Legislature **Revisor — Kansas Statutes** **Revisor — Kansas Constitution**	https://www.kslegislature.gov/ https://ksrevisor.gov/ksa.html https://ksrevisor.gov/kanconst.html
Kansas Secretary of State — Kansas Regulations	https://www.sos.ks.gov/publications/kansas-administrative-regulations.html
Kansas Judicial Branch **Kansas Appellate Court Decisions**	https://kscourts.gov/ https://kscourts.gov/Cases-Decisions/Decisions
Kansas Board of Tax Appeals **Rules of Practice & Procedure** **BOTA Decision / Case Search**	https://bota.kansas.gov/ https://bota.kansas.gov/appeals/rules-of-practice-procedure/ https://www.kansas.gov/bota-search/
KS Atty. Gen. — Opinions **Open Government / KORA Resources**	https://www.ag.ks.gov/reports-resources/ag-opinions https://www.ag.ks.gov/divisions/administration/open-government/resources
Kansas Property Appraisal Resources	
Kansas Property Tax Basics — CivilTuneUp / KDOR	https://www.ksrevenue.gov/propertyvaluation/ptbasics/index.html
Kansas County Appraisers Association (KCAA)	https://www.kscaa.net/
PVD Property Valuation Guides **PVD Statistics — Value, Tax & Levy**	https://www.ksrevenue.gov/pvdvaluation.html https://www.ksrevenue.gov/pvdstatistics.html
Kansas Real Estate Appraisal Board (KREAB)	https://kreab.kansas.gov/
National Appraisal Resources	
International Association of Assessing Officers (IAAO) **IAAO Technical Standards**	https://www.iaao.org/ https://www.iaao.org/industry-data/iaao-technical-standards/
The Appraisal Foundation	https://appraisalfoundation.org/

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