Kansas

Business Taxes *for* Political Subdivisions

As a Kansas political subdivision, you are in a unique tax situation. Although you are generally exempt from paying sales or use tax on the majority of your purchases, a political subdivision's exemption is not absolute. Many political subdivisions furnish utilities and sell other taxable goods or services. In these roles you are subject to sales and use tax laws like any other Kansas retail business. There are also special rules for construction projects performed for political subdivisions. This publication will help you understand how Kansas taxes apply to your daily business activities as an exempt arm of government, and as a retailer of taxable goods and services.

Also included is information about how to report and pay the taxes. By law, businesses are required to submit their Sales, Compensating Use, and Withholding Tax returns electronically. Kansas offers several electronic file and pay solutions – see page 16.

Use this guide as a supplement to the Kansas Department of Revenue) basic sales tax publications, Pub. KS-1510, Kansas Sales and Compensating Use Tax and Pub. KS-1520, Kansas Exemption Certificates.

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Pub KS-1527
(Rev. 7-29-25)

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TAXPAYER ASSISTANCE ..... BACK COVER

If there is a conflict between the law and information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on the Kansas Department of Revenue's website at: **ksrevenue.gov**

INTRODUCTION

POLITICAL SUBDIVISION DEFINED

A Kansas political subdivision is any Kansas municipality, agency or subdivision authorized to levy a tax, or certify a levy of tax, on tangible property and other entities enumerated in Kansas law. Political subdivisions in Kansas include:

- Airport authorities
- Cities and municipalities
- Community-based mental health centers
- Counties
- County hospital districts
- Drainage districts
- Groundwater management districts
- Housing authorities
- Metropolitan transit authorities
- Port authorities
- Public building commissions
- Rural water supply districts
- School districts
- Townships

WHAT PURCHASES ARE EXEMPT?

K.S.A. 79-3606(b) grants a sales tax exemption to **Kansas*** political subdivisions on the purchase, lease, or rental of tangible personal property (goods and merchandise), and the purchase of taxable services. However, the purchase **must be** a **direct purchase** and **used exclusively for political subdivision purposes** and **not used or proposed to be used** in the business of furnishing gas, water, electricity, or heat, or in any other taxable business.

These conditions may be summarized into two tests — the *direct purchase test* and the *usage test*. Political subdivisions that apply these two tests to **each individual purchase** will avoid costly errors of sales or use tax omission.

* Political subdivisions of other states are not exempt from Kansas retailers' sales tax.

What is a Direct Purchase?

To qualify as a **direct** purchase, the invoice must be made out to the political subdivision and payment must be made with political subdivision funds. If **either** of these conditions is not met, the sale is taxable.

EXAMPLE: A county may make a direct purchase of a new sheriff's vehicle exempt from sales tax. The vehicle invoice is made out to the county, the vehicle is titled in the county's name, and payment for that vehicle is made by a county check, warrant, or voucher.

Direct purchases DO NOT include reimbursements. Items or services purchased by a political subdivision's employee or agent with their **personal** funds are taxable, even when the individual is on official business, and/or is reimbursed the expense by the political subdivision.

EXAMPLE: A city employee needs materials for an upcoming city project, and buys them using her credit card or cash. This purchase is taxable, even though the employee is later reimbursed by the city, and the materials become city property.

EXAMPLE: A county employee traveling on official business charges his hotel bill to a personal credit card and is later reimbursed this expense by the county. The employee will pay all applicable sales taxes on the hotel bill because it is not a direct purchase between the county and the hotel room retailer.

Political Subdivision Credit Cards

Some Kansas political subdivisions have issued credit cards to their employees in order for employee purchases to qualify for exemption as a direct purchase. Although the credit card may have the authorized employee's name on it, purchases are billed by the credit card company directly to the exempt entity and are paid for by the exempt entity's funds. These purchases are also exempt.

EXAMPLE: A county commissioner travels to another Kansas city on official business, and pays for lodging, gas, and meals with a county–issued credit card. These purchases are exempt direct purchases because they are billed directly to the county.

CAUTION: Should the employee buy items or service with the exempt entity's credit card that will be used by its gas or electric utility department, or is not exclusively for political subdivision purposes, then the political subdivision is responsible for payment of the sales tax.

WHAT USES ARE EXEMPT?

To be exempt, the items or services purchased must be **used exclusively** in your non-taxable role as a political subdivision. If the purchase will be used (even if partially) in your taxable role as a provider of gas, electricity or heat, then the purchase is taxable. The same rule applies to public water providers that are not paying the Clean Drinking Water Fee (see *Utility Department Projects*, herein). Items or services purchased from the same vendor may be either exempt or taxable, depending on their use. See also *Taxable Usage Test,* herein.

EXAMPLE: A city is buying new chairs. Chairs used in city offices are exempt from sales tax, but the chairs for the city's gas utility department are **taxable**.

POLITICAL SUBDIVISION EXEMPTION CERTIFICATES

An exemption certificate is a document furnished by the buyer and kept by the retailer to show why an otherwise taxable sale is exempt. Retailers **must** keep exemption certificates in their records for at least three years to prove why Kansas retailers' sales tax was not collected.

Political subdivisions must provide their vendors with an exemption certificate when making purchases as an exempt arm of government. If you make repeated exempt purchases of the same type from the same vendor, it is not necessary to furnish an exemption certificate for each transaction. You may instead furnish one exemption certificate to cover future exempt purchases.

IMPORTANT: Kansas law requires that **all** sales tax exempt entities (including political subdivisions of the state of Kansas) obtain and utilize only exemption certificates issued by the Department of Revenue. For more information see **NOTICE 04-10**.

CONSTRUCTION, REMODEL OR REPAIR PROJECTS

GENERAL RULE

Kansas political subdivisions are exempt from sales tax only on their **direct** purchases. When a Political Subdivision enters into a contract with a contractor or repairman to furnish both the **materials and labor** for a **real property** project, **only the labor is a direct purchase**, therefore exempt from sales

Kansas Department of Revenue
Sales and Use Tax Entity Exemption Certificate

The Kansas Department of Revenue certifies this entity is exempt from paying Kansas sales and/or compensating use tax as stated below.

Kansas Exemption Number: XXXXXX **Expiration Date: XX-XX-XXXX**

The tax-exempt entity understands and agrees that if the tangible personal property and/or service are used other than as stated, or for any purpose that is not exempt from the tax, the tax exempt entity is liable for the state and local sales or use tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment. The certificate is issued for the sole use of the exempt entity as named.

Business Name
Address
Address
City, State, Zip

This exemption certificate is issued for the sole use of the exempt entity as named. Use by any other person or entities is prohibited.

EXEMPT ENTITY INFORMATION:

Authorization and scope:

- K.S.A 79-3606(b) & (d) - State of Kansas, political subdivisions of the state of Kansas (Kansas cities, counties, townships, special districts), nonprofit hospitals, and blood, tissue, or organ banks.
- Exemption applies to all direct purchase, rental or lease of tangible personal property and services, except purchases of goods for human habitation or purchases made for any business activity specifically taxable, and indirect purchases by a contractor for a real property project except as noted below.

Limitations:

- Only direct purchases are exempt through the use of this certificate.
- Except for state government, this entity qualifies for exemption on indirect purchases by a contractor through the issuance of a Project Exemption Certificate (PEC). Apply online at KDOR's website: ksrevenue.gov. The only State of Kansas agency allowed a PEC is a Kansas correctional institution. Indirect purchases by all other state agencies are subject to sales tax.
- This exemption does not apply to the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the exempt entity.
- Subject to sales tax are purchases of capital goods used for human habitation (i.e. residential housing and dormitories) to include materials for construction, remodeling or repair and furnishings such as beds, curtains, desks and furniture. Labor services on residential housing and dormitories are exempt as residential construction.
- All purchases of goods and services used in a business that is specifically taxable by the Sales Tax Act are subject to tax. This includes operation of a utility, restaurant, and selling of goods or services at retail.

_____ _____
Exempt Entity Authorized Signature (Officer, Office Manager or Administrator) ***Federal ID Number***

_____ _____
Printed Name ***Date***

RETAILER INFORMATION:

- To qualify for exemption, the certificate must have an expiration date in the future and be signed by an authorized individual.
- Payment must be made by the entity on their checking account or on a credit/debit card issued to the entity. Acceptance of cash, personal checks, or personal credit/debit cards is not allowed for a tax exempt purchase.
- The entity must have a Kansas exemption certificate. Exemption certificates issued by other states are not valid in Kansas.
- Retailers are required to maintain a copy of the purchaser's certificate in their records for at least 3 years from the date of purchase. Retailers must maintain a current certificate on file.
- Selling tax exempt goods or services that are not exempt by statute may result in the assessment of tax.
- A completed certificate may be used as a blanket exemption for future purchases when of the same type and for the same exempt purpose.

_____
Seller's name and address

_____
Description of goods and/or services purchased

For additional information on Kansas sales and use taxes see Pub. KS-1510, *Kansas Sales Tax and Compensating Use Tax* and Pub. KS-1520, *Kansas Exemption Certificates*, located at: ksrevenue.gov. Questions would be directed to Taxpayer Assistance at 785-368-8222.

PR-78KS (Rev. 12-21)

SAMPLE

tax using your Department of Revenue-issued Tax Exempt Entity Exemption Certificate.

Items purchased **indirectly** through the contractor, such as materials, any leased or rented equipment, and the labor services of the subcontractors do not meet the definition of a direct purchase. Their contract cost to you will include the sales tax paid or accrued by the contractor(s), unless a Project Exemption Certificate (PEC) has been issued for that project by the Department of Revenue or by you as it's authorized agent. See also *Project Exemption Certificates (PEC),* herein.

Materials are taxable because Kansas law considers contractors, subcontractors, and repairmen to be the final user or consumer of their materials. Contractors must pay the sales tax on materials purchased from their suppliers or removed from their inventory for a project. This rule applies even when the project is for a sales tax exempt entity, such as a city, county, or school district.

When an electrician, plumber, or carpenter agrees to furnish and install materials for a political subdivision, he must pay or accrue sales tax on those materials and will **pass this cost on** to the political subdivision **unless** a PEC has been obtained. The contractor remains responsible for the sales tax on his materials even when the exempt entity refuses to pay this additional cost by striking the tax (or perceived tax) from the bill.

EXAMPLE: A city contracts with a plumber to furnish and install a new water heater in their office building. The project's cost to the city will include the sales tax paid or accrued by the plumber on the water heater unless the city obtained a PEC.

To avoid the additional cost of paying sales tax on materials without obtaining a PEC, a political subdivision may make a direct purchase of materials. In the previous example, had the city purchased the water heater directly from a supplier (to be installed by its employees or by a plumbing contractor), the water heater would be exempt from sales tax as a direct purchase. The city would furnish its supplier with its Department of Revenue-issued Tax Exempt Entity Exemption Certificate. The purchase of installation services from a plumbing contractor would also be exempt as a direct purchase of labor services.

EXAMPLE: A city buys street and traffic signal light bulbs direct from the manufacturer. They retain the services of a local contractor to replace burned out bulbs using the city's light bulb inventory. Both the light bulbs and the labor services are direct purchases for an exempt use, and are therefore exempt from sales tax when the city presents both the manufacturer and the contractor the Department of Revenue-issued Tax Exempt Entity Exemption Certificate.

EXCEPTION: *When Kansas political subdivisions purchase materials and labor for the repair, maintenance, alteration or servicing on an item of tangible personal property, the purchase of both the materials* ***and*** *the labor is considered a direct purchase.*

EXAMPLE: A city has a motor vehicle, a lawn mower and a photocopier repaired and serviced (all items used by the streets and bridges department). The total bill for all of these items is considered a direct purchase by the city and therefore exempt from sales tax when the city gives the repair shop a Department of Revenue issued Tax-Exempt Entity Exemption Certificate.

ORIGINAL CONSTRUCTION

The labor services of installing or applying tangible personal property in connection with the *original construction* of a building or facility are exempt from sales tax. *Original construction* is defined as the:

- first or original construction of a new building or facility[1];
- addition of an entire room or floor to an existing building or facility;
- restoration, reconstruction, or replacement of a building, facility or **utility structure** damaged or destroyed by fire, flood, tornado, lightning, explosion, **windstorm** (80 mph or more), **ice loading and attendant winds, terrorism,** or earthquake. "Utility structure" means transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility;
- construction, reconstruction, restoration, replacement or repair of a bridge or highway; and
- remodel, restoration or repair of a residence[2].

[1] Facilities are mills, plants, refineries, oil wells, gas wells, water wells, feedlots, and transmission and distribution lines owned by any cooperative, nonprofit, membership corporation organized under K.S.A. 17-6401 et seq or any municipal or quasi-municipal corporation.

[2] A residence includes all types of dwellings where individuals customarily live – homes, apartments, nursing homes, etc.

EXAMPLE: A county is replacing a bridge. The labor services performed by the contractors and subcontractors to reconstruct the bridge are exempt from sales tax as *original construction*. For the materials to be exempt from sales tax, the county must either purchase the materials directly, or furnish a PEC to its contractors.

PROJECT EXEMPTION CERTIFICATES (PEC)

A PEC is a numbered document issued only by the Department of Revenue or its authorized agent. PECs exempt an **entire** project (materials and labor) from sales tax. To avoid the additional cost of sales tax on project materials and on the materials and labor services furnished by subcontractors, political subdivisions should have a project exemption certificate for **every** construction, remodel, or repair project.

Qualifications

To qualify for a project exemption, the project must be **totally** financed by *funds of a political subdivision*. These are defined as: general tax revenues; the proceeds of any bonds; and, gifts* or grants-in-aid.

* Gifts do not include funds used to construct, equip, reconstruct, repair, enlarge, furnish, or remodel facilities that will be subsequently leased to the donor.

IMPORTANT: When a PEC is issued on the basis of a letter of intent to issue bonds, and the bonds are not issued within twelve months, the project exemption will be revoked. Sales tax is immediately due on purchases made to that point; future purchases for the project will also be taxable. If a PEC is issued and it is later found that the project was **not** fully financed by political subdivision funds, sales tax will be assessed on the portion funded by non-qualifying funds.

Obtaining a Project Exemption

Online–Agent Status. Because political sub-divisions of the state of Kansas are eligible for Agent Status, they should apply for PECs online through the Department of Revenue website. With this process, political subdivisions can ***print*** the PEC **immediately** after making the application. Just follow these four steps:

1) Visit **ksrevenue.gov/pecwelcome.html** and click on Submit PEC Requests. Log into the KDOR Customer Service Center.
2) The first time a political subdivision applies for a PEC online, they will want to indicate *Agent Status Exemption Certificate* and then complete the PEC application.
3) Once approved for Agent Status, all **PEC requests submitted online** will be **automatically approved** and a PEC may be printed immediately.

4) No recordkeeping by the political subdivision is required. In the past, political subdivisions with Agent Status had to complete and submit to the Department of Revenue a spreadsheet recording issued PECs. These recordkeeping duties have been eliminated by the online procedure outlined above. Political subdivisions will want to keep a copy of all PECs in their records for at least five years.

Paper Method. If you prefer to obtain an exemption through the paper process, complete a PR-76 Request for Project Exemption Certificate. Try to apply at least 2 weeks in advance of the project so you receive the certificate prior to the purchase of any project materials or labor.

CAUTION: PECs are dated and are not retroactive. All materials and taxable labor services purchased or performed by contractors prior to the effective date of the PEC are **taxable**. However, if you fail to secure a PEC in time for your contractor(s) to use the exemption for all or part of their project purchases, you may apply to the Department of Revenue for permission to seek a refund of the sales taxes paid to your contractors' suppliers that would have been exempt had a project exemption been in effect. This refund process is outlined in K.A.R. 92-19-66e(n)(1). Submit such requests for refunds to the Department of Revenue on form **ST-21PEC** (available on our website).

Project Exemption Steps

These steps illustrate how a project exemption is used by all affected parties.

1) Political subdivision applies for a PEC online or completes Form PR-76, Request for Project Exemption.
2) The Department of Revenue receives and approves or denies the request.
3) If approved, the Department of Revenue issues a numbered PEC to the political subdivision.
4) The political subdivision furnishes the numbered certificate to the contractors and subcontractors for the job.
5) Contractors and subcontractors furnish the numbered certificate to their suppliers.
6) Suppliers use the certificate number on all project invoices to verify the sale of materials and/or labor is exempt.
7) When the project is complete, contractor(s) furnish a Project Completion Certification to the political subdivision with a copy to the Department of Revenue.
8) Contractor(s) keep all project invoices for **five** years.

CAUTION: A political subdivision cannot issue certificates for joint projects that involve separate entities. When a project involves two or more entities, such as a joint project between a city and a school district, a separate application for project exemption must be filed with the Department of Revenue.

TAXABLE PROJECTS

Not all construction, remodel or repair projects undertaken by a political subdivision qualify to receive a project exemption. The following are not exempt from sales tax.

- Partially-funded projects
- Utility department (gas, electricity and/or heat) projects and water projects - if the entity is ***not*** paying the Clean Drinking Water Fee
- Turnkey projects
- State of Kansas projects

Partially-Funded Projects

Projects to construct, remodel, equip, reconstruct, enlarge, maintain, furnish, or repair facilities only partially funded by funds of a political subdivision DO NOT qualify for a project exemption. These projects are fully taxable when work is performed. However, upon completion of the project you may request a refund from the Department of Revenue (form **ST-21**) of the sales tax paid on that portion of the project funded by political subdivision funds [K.S.A. 79-3640]. If you need an extension of time to file a refund claim, submit a written application to the Director of Taxation.

The percentage of the project exempt from sales tax is determined when the refund claim is filed. This exempt percentage will only include the state and local sales and compensating use tax that was **actually paid**.

Refund claims must accurately apportion the tax paid to reflect any city and/or county local sales taxes paid. All local taxes must be apportioned to the proper city and/or county imposing the local tax. For projects financed partially with proceeds of industrial revenue bonds, you must submit proof of payment of sales tax on furnishings and equipment.

Upon acceptance, the sales tax refund is paid directly to the political subdivision. Contractors on partially-funded projects are not entitled to a refund since they are required to include sales tax in the job bid. For information on obtaining a refund on a partially-funded project, contact the Kansas Department of Revenue, Tax Policy Group at 785-296-3081.

Utility Department Projects

Projects for the gas, electrical and heat utility departments of a political subdivision **do not** qualify for a project exemption. Furthermore, projects for a political subdivision's water department **do not** qualify for a project exemption certificate **unless** the political subdivision is paying the Clean Drinking Water Fee. Materials for these projects are fully taxable whether purchased directly by the utility department or by the project's contractors or subcontractors. The labor services of contractors and subcontractors are also taxable unless the project qualifies as *original construction*, as defined on page 5.

EXAMPLE: An electric utility replaced poles and lines downed by an ice storm. The poles and transmission lines are taxable. The labor services are exempt from sales tax since ice loading and attendant winds is one of the six natural occurrences that would qualify the repair as *original construction* of a *utility structure*.

EXAMPLE: A city's gas utility is constructing a new gas main. The materials are taxable. Although this project does not qualify for a project exemption certificate, the labor services are exempt as *original construction* of a *facility*.

NOTE: Gas mains **not** owned by REAs, municipalities, or quasi-municipal corporations are not *facilities* (see page 5); therefore, the labor services to construct them are taxable.

Other examples of labor services on which your utility department or other taxable business must pay sales tax are on page 9, *Labor Services*.

Turnkey Projects

Turnkey projects are those projects where a political subdivision merely enters into a contractual agreement to buy completed real property from a contractor. Turnkey projects entered into by political subdivisions are **not** exempt.

EXAMPLE: A city enters into a contract with a builder to construct a new utility office. The materials used by the builder and its contractors are taxable; the labor is exempt as original construction of a facility. The transfer of title of the completed building (real property) to the city is not a taxable transaction.

State of Kansas Projects

The state of Kansas itself may **not** obtain a PEC. Materials purchased by contractors, the rental/lease of equipment,

and the taxable labor services of all subcontractors for prime contractor(s) on a project for the state of Kansas are TAXABLE. Only **direct** purchases of materials, equipment rental, or labor services by the state of Kansas are exempt when using your exempt entity exemption certificate.

TAXABLE PURCHASES

GENERAL RULE

Political subdivisions are required to pay sales tax on the purchase, lease or rental of tangible personal property and the purchase of taxable services when:

> *"...such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others or any other business specifically taxable, and such items of personal property or service are used or proposed to be used in such business."*

If the purchase will be used in your taxable role as a utility provider (of gas, electricity or heat) or another taxable business, the purchase is taxable, unless exempt for some other reason (see *Other Sales Tax Exemptions*, herein). This provision prevents political subdivisions who are furnishing utilities or who are engaged in a retail business from having a tax advantage over private utility companies or retailers.

NOTE: Political subdivisions, rural water districts and other public water suppliers making retail sales of water and paying the Clean Drinking Water Fee are exempt on all of their purchases. These same entities who are ***not*** paying the Clean Drinking Water Fee **must** pay sales tax on their purchases and should follow the same guidance presented herein for gas, electricity and heat providers.

Tangible Personal Property

The following is a representative (but not exclusive) list of items that are taxable when purchased for use by your gas, electricity or heat utility department.

- books, maps and subscriptions
- computers and office equipment
- electrical line
- insulators
- meters
- office furniture and supplies
- pipe, fittings, and plumbing supplies
- tools and equipment
- transformers
- utility poles
- vehicles

The sales tax paid on these items is based on their selling price. *Selling price* is the **total** cost to you, less any discounts allowed and credited, but including any freight, postage or transportation charges from the retailer to you.

EXAMPLE: A city's electrical department (in the business of selling electricity) orders supplies from a retailer in Salina. The retailer will charge the city the combined state and local tax rate on the cost of the electrical supplies plus any shipping charges.

Leases and Rentals

When gas, electricity or heat utility departments lease or rent tangible personal property, such as equipment or office machines, the lease or rental is usually taxable.

EXAMPLE: A city's gas department leases a copy machine. Each monthly lease payment is subject to sales tax. The maintenance agreement, parts and labor to repair the copier are also taxable to the city.

NOTE: The lease or rental of equipment **with an operator** is not considered to be the lease or rental of tangible personal property (taxable), but rather the providing of a service, which may or may not be subject to sales tax.

EXAMPLE: A county electric utility rents a cherry picker to be operated by a county employee. This equipment rental is taxable, however, when the electric utility contracts with a private firm to furnish a cherry picker and an operator (usually an employee of the firm), this is a contract for services. The contract would be taxable if the service is to repair the electric lines, but would be exempt if the service is to trim the trees around the lines.

Taxable Usage Test

The factor that determines whether a purchase is taxable or exempt is its **use** or **proposed use** — not the monetary fund used to pay the bill. You may use utility department funds to purchase items for use by other departments; this does not make the purchase taxable. The purchase is taxable **only** if it is used or proposed to be used in your taxable role as a gas, electricity or heat utility provider or as a retailer of taxable goods and services.

EXAMPLE: A city's gas department buys a tanker truck that will be used exclusively by the sewer department. The purchase of the truck is exempt even though it is purchased with utility department funds.

The same item may be either taxable or exempt, depending on how it is used. Purchases by **any department** within a political subdivision should be separately measured against the usage test to determine taxability. See also *Interdepartmental Transfers* herein.

Orange cones, saw horses, lights, sand bags, and orange construction barrels purchased by a city for its road maintenance department are exempt. However, when these items are purchased by the city for use by its gas department, or shared by the gas department and other departments, they are TAXABLE.

PARTIAL UTILITY USE

An individual item or service will either be 100% taxable or 100% exempt. The law does not provide any means by which the sales tax on a particular item may be prorated based upon the percentage of use by the utility department. If the item or service will be used **even partially** in your business of selling gas, electricity or heat to others, you must pay sales tax on the total selling price of the article.

If the item or service will be used even partially in your business of selling water, and you are not paying the Clean Drinking Water Fee, you must pay sales tax on the total selling price of the article.

EXAMPLE: A city is buying a pick-up truck. This vehicle will be used 20% of the time by the city's gas department (taxable use), and 80% of the time by the city's public works department (exempt use). The city must pay sales tax on the **total** selling price of the pick-up truck. ***Exception***: *Items that can be separated or physically divided are an exception to this rule.*

EXAMPLE: A county is buying computer terminals and workstations. The terminals and work-stations for the county's electric utility are taxable. For other county departments (sheriff, treasurer, highway), they are exempt.

INTERDEPARTMENTAL TRANSFERS

Political subdivisions often purchase items with *general funds* intended for the use of all departments within that political subdivision. These items are purchased exempt from sales tax. But when the property is used by the utility department,

it loses its original tax-exempt status. When completing any exemption certificate the purchaser certifies and agrees that:

> *"... if the tangible personal property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax,* ***the purchaser becomes liable for the tax****." (Emphasis added.)*

EXAMPLE: A municipality buys its office supplies exempt from tax, maintaining them in a supply room used by all departments. When its utility department requisitions or removes paper, pens, etc. from this tax exempt inventory, the municipality must self-accrue sales tax on their cost in these items.

Other examples of interdepartmental charges on which the utility department must pay sales tax include: telephone, long distance services, pagers, printing/graphics charges, motor pool charges, and equipment or vehicle maintenance.

To report and pay the sales tax due on these types of transactions, use the *Merchandise Consumed* section of the sales tax return.

OTHER SALES TAX EXEMPTIONS

Like any other purchaser, political subdivisions are afforded all applicable sales tax exemptions present in the law. Items purchased for use in your utility or other taxable business may be exempt if they qualify for one of the other sales tax exemptions. What follows are qualifications and some illustrations of each of the most commonly used exemptions by political subdivisions.

Consumed in Production Exemption

Items that are *consumed in production* are exempt from sales tax. To qualify for this exemption, the item must be:

- necessary and essential to the process;
- used in the actual process;
- consumed or dissipated by the process within one year;
- used in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treatment of by-products or wastes from any such production process, the providing of services, the irrigation of crops, or the storage or processing of grain; **and,**
- not reusable for such purposes.

The utilities of electricity and gas are tangible personal property, and are often *consumed in production*.

EXAMPLE: A city uses electricity or gas to produce water — to pump water from the ground and to pumping stations, and for water purification. These utility uses qualify for exemption as tangible property *consumed in production*.

In a decision dated August 13, 1999, the Kansas Court of Appeals held that the electricity used by a County Water District to pressurize water to the pumping stations is exempt as consumed in production. However, K.S.A. 79-3609 prohibits other entities from claiming a refund of the sales tax paid prior to July 1, 2000 on utilities so used.

The definition of *consumed in production* includes products that are used in the treatment of by-products or waste derived from a production process. An example could be the purchase of a chemical used to treat sludge resulting from the production of water.

To obtain the consumed in production exemption for electricity, gas or water used in a production process, complete form ST-28B Statement for Sales Tax Exemption on Electricity, Gas or Water. When buying other qualifying items, use form ST-28C Consumed in Production Exemption Certificate.

Ingredient or Component Part Exemption

Tangible personal property that becomes part of a product that will ultimately sell at retail is exempt from sales tax. **To qualify as an ingredient or component part the item must**: be necessary and essential to the finished product; used in or on the finished product; become a physical part of the finished product, **and**, become an ingredient or compound part of property or service for retail sale.

The most common application of this tax exemption for political subdivisions is the purchase of odorants (capstan or thiophene) that are added to natural gas by the producer thereof. These chemicals would generally be taxable because of their use in furnishing gas. However, the purchase is exempt when the gas utility adds the chemicals to the gas because the chemicals actually become a part of the product (gas) which is later sold at retail.

When buying gas treatment chemicals such as capstan or thiophene, use form ST-28D Ingredient or Component Part Exemption Certificate. Instructions and additional information about this exemption are on the certificate.

Integrated Production Manufacturing Machinery and Equipment Exemption

Political subdivisions furnishing utilities may use the integrated production exemption to purchase certain machinery and equipment used to manufacture or produce the utility. The exemption also extends to the purchase of all repair and replacement parts for the exempt equipment, and to the purchase of services to install, repair or maintain such equipment.

EXAMPLE: A generator that generates electricity at a electrical power plant qualifies as integrated production machinery or equipment. Also exempt are all repair or replacement parts, and the fee charged to install, repair and service the above-described electrical generator.

Resale Exemption

Items purchased by political subdivisions are also exempt if they will be resold.

EXAMPLE: A city buys meters, copper, and valves for resale to contractors or to the general public. The city will give its vendor a completed Resale Exemption Certificate (ST-28A) showing its Kansas sales tax number. The city will collect sales tax when the items are sold at retail, or will self-accrue the sales tax when they are used by the gas, electricity or heat utility departments.

EXAMPLE: During a particularly hot year, an electrical department must purchase additional electricity from another electricity producer to supply (resell) to its customers. The electrical department will give the other electricity producer (seller) a completed ST-28A Resale Exemption Certificate for the purchase of the electricity.

Other examples of items commonly purchased for resale by political subdivisions are listed under *Tangible Personal Property* herein. Form ST-28A is on page 34.

LABOR SERVICES

Gas, electricity and heat utility departments, gift shops, cafeterias, and other taxable businesses operated by political subdivisions must also pay sales tax on any taxable labor services performed for them. Kansas law imposes sales tax on fees charged for the following. The labor services of carpenters, electricians, framers, masons, plumbers, roofers, repairmen and technicians are therefore taxable.

- installing or applying tangible personal property
- repairing, servicing, altering, or maintaining tangible personal property
- service or maintenance contracts
- modifying, altering, updating, or maintaining computer software
- telephone answering services

EXAMPLE: A city electrical department needs some maintenance work performed on its offices. The materials and labor services of the contractor or repairman are taxable purchases by the electrical department.

EXAMPLE: A city has its gas utility department vehicle repaired at a local auto repair shop. The city must pay sales tax on the **total** repair cost (parts and labor).

Original Construction

Labor services are not subject to sales tax when performed in connection with the *original construction* of a building or facility. See definition of *original construction* on page 5.

EXAMPLE: A city is constructing a new electrical line. This is an electrical utility department project where materials and labor would generally be taxable. However, because the new main qualifies as original construction of a facility, the labor services are not subject to sales tax. Materials for this project are taxable, whether purchased by the city or by the contractor.

Nontaxable Services

The following professional services are not subject to Kansas retailers' sales tax because they do not involve the installation, application, maintenance, etc. of tangible personal property.

Architect fees	Legal fees
Audit fees	Registration fees for seminars
Engineering fees	Testing fees
Lab fees	Trash hauling fees
Lawn mowing	Tree & Hedge trimming
Excavation	Drain Cleaning
Septic tank cleaning	Air duct cleaning

SALES TAX AND THE CLEAN DRINKING WATER FEE

As discussed above, political subdivisions engaged in the business of supplying **gas, electricity** or **heat** are required to pay sales tax on their purchases of tangible personal property or taxable services used or proposed to be used in the business of supplying gas, electricity or heat to others. This rule also applies to political subdivisions, rural water districts, and public water suppliers engaged in the business of supplying water to others unless the political subdivision, rural **water** district or public water supplier is paying the *clean drinking water fee*.

If you are **not** paying the *clean drinking water fee* on your retail sales of water, you **must** pay tax on your purchases. The sales tax rules pertaining to political subdivisions in the business of supplying gas, electricity and/or heat to others (previously discussed herein) are equally applicable to political subdivisions, rural water districts, and other public water suppliers who are not paying the c*lean drinking water fee*.

Political subdivisions, rural water districts and other public water suppliers who are paying the *clean drinking water fee* are exempt from sales and compensating use taxes on ALL of their direct and indirect purchases when the tangible personal property or taxable services are used in the construction, operation or maintenance of the water production or administration facilities.

When entities that pay the *clean drinking water fee* make **direct** purchases they should provide their vendor with the exemption certificate issued to them by the Department of Revenue.

EXAMPLE: A city water department makes a direct purchase of a truck and a computer that will be used in the business of supplying water to others. The city will gives the retailers of the truck and the computer a copy of their Kansas Department of Revenue-issued exemption certificate.

For **indirect** purchases (paid for by someone or an entity other than the political subdivision) the political subdivision should make use of the project exemption certificate procedures as previously discussed beginning on page 5.

EXAMPLE: A city water department enters into an agreement with a contractor to construct a new water tower. The city should obtain a Project Exemption Certificate and provide it to all contractors/subcontractors.

GENERAL SALES

WHAT SALES ARE TAXABLE?

Kansas sales tax applies in general terms to the following three types of retail sales. Political subdivisions engaged in any of these taxable activities must collect sales tax from their customers.

1) The retail sale, lease, or rental of **tangible personal property**, including the sale or furnishing of utilities;
2) The sale of **labor services** to install, apply, repair, service, alter, or maintain tangible personal property; and
3) The sale of **admissions** to any place providing amusement, entertainment or recreation services, including admissions to state, county, district, and local fairs.

Kansas is a *destination-based* sourcing state. This means that the **rate** of sales tax collected on a sale to a Kansas customer is the combined state and local sales tax rate in effect where the customer takes delivery/possession of the item, or makes first use of a taxable service. For information on Kansas sourcing rules see **Pub. KS-1510, Kansas Sales Tax and Compensating Use Tax**, available on our website.

Tangible Personal Property

Generally, all retail sales of tangible personal property by political subdivisions are subject to sales tax. When you operate a public cafeteria, snack bar, or gift shop, you must collect sales tax on the food and gifts sold. Items commonly sold by political subdivisions subject to the state and local sales tax include, but are not limited to:

Bentonite	Maps and code books
Books	Meters
Concessions	Souvenirs
Culverts	Street signs
Dirt, rock & sand	Vending machine sales

The following items/services are also subject to the state and local sales tax:

Bulk water sales from a coin-operated machine
Copies from vending machines
Dumpsters/poly-carts (sold, leased or rented)
Equipment (sold, leased or rented)
Materials sold to contractors
Utilities sold or furnished

Labor Services

A political subdivision may also sell or provide labor services that are subject to sales tax.

EXAMPLE: A county road and highway department sells culverts to the general public. The sale of the culvert is TAXABLE. For an additional charge the county will install the culvert. The county's labor charge for installing the culvert is also subject to sales tax, **unless** the culvert is installed in connection with the *original construction* of a building or facility.

EXAMPLE: ABC Company contracts with a city to resurface their parking lot. The city pays sales tax on the asphalt (materials are taxable) and charges the business sales tax on the gross receipts received for applying the asphalt.

As used here, gross receipts is the total amount received or charged for the job, **less** the cost of materials (and subcontractor labor) on which sales tax has been paid that is included in the total amount received.

Admissions

Admissions to places providing recreation, amusement or entertainment are **generally** taxable. Political subdivisions must collect sales tax when charging admission to a craft show; a theater; a trade show; a zoo; or a state, county, city or local fair. ***Exception****: Fees charged by a political sub-division for* ***participation*** *in sports, games, and other recreational activities are specifically exempted by Kansas law. Examples include golf memberships; greens fees; swimming pool admissions or season passes; or, fees to participate in a city-wide baseball, soccer, or other sports league.*

This exception under K.S.A. 79-3603(m) applies only to political subdivisions. When these fees are charged by a private concern, they are generally TAXABLE.

ISOLATED OR OCCASIONAL SALES

Sales tax is NOT collected when tangible personal property or taxable services are sold at an "isolated or occasional" sale. Isolated or occasional sales are as follows.

1) Infrequent sales of a nonrecurring nature made by a person ***not*** engaged in the business of selling tangible personal property. To qualify, the seller shall not;
   a. hold more than two selling events of a day's duration in a 12 month period;
   b. conduct a planned annual selling event; or
   c. hold itself out as being engaged in the business of selling property or services of the type being sold.

Sales that usually meet this criteria are estate sales, farm sales, garage sales, and some auctions:

2) Any religious organization making one nonrecurring sale of tangible personal property in a twelve month period. The religious organization may acquire (purchase) tangible personal property for the purpose of selling at the fund raising event without paying sales tax on its purchase or collect sale sales tax when sold at the nonrecurring one day event.
3) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code, of tangible personal property which has been repossessed by any such entity.
4) Sale of business assets in conjunction with the sale or termination of a business (other than the sale of the business's inventory, motor vehicles or trailers) if the sale is made in a complete and bona fide liquidation of a business of the seller.
   a. The term "business" shall mean a separate place of business subject to registration under the Kansas retailers' sales tax act.
   b. The term "a complete and bona fide liquidation" shall mean the sale of all assets of the business conducted over a period of not more than 30 days beginning on the date of the first sale of assets, or as approved by the director of taxation.
5) Auctions.
   a. Take place at a location OTHER THAN one that is regularly used to conduct auctions.
   b. The goods being auctioned shall not have been purchased for resale.
   c. The goods being auctioned shall not have been consigned for sale by more than one party *in addition to the principal seller* at the auction.
   d. If some of the goods being auctioned satisfy the above requirements but others goods do not, the sale of every item at the auction shall be subject to sales tax.

EXAMPLE: A county holds an annual sale (by auction, bid, or otherwise) to sell its used and obsolete equipment. The requirement of an isolated sale is satisfied, therefore the county would not charge sales tax on the items sold at this annual sale.

EXAMPLE: A county museum holds an annual auction as a fund raising event for the museum. Some of the items to be sold are surplus from the museum, while others were solicited from individuals and businesses in the community for this event. Since part of the property was acquired with the intent of reselling it, this sale does not qualify as an isolated or occasional sale. The county museum must collect sales tax on the final auction price of all items sold.

NONTAXABLE FEES AND SERVICES

As a general rule, fees or charges by a political subdivision are not taxable ***if*** there is no retail sale of tangible personal property or taxable services. The following is a representative list of fees or charges by a political subdivision that are not subject to sales tax.

- Building permits
- Business licenses
- Camping fees or park permits
- Construction permits
- Court fines, court costs and bonds
- Dog licenses or animal control fees
- Fees for copies of information (such as accident reports, transcripts, or court documents)
- Hearing fees
- Inspection services (code enforcement)
- Penalty, interest, return check fees or other late charges (other than utility sales – see *Related Utility Fees* herein)
- Zoning fees

The rental or lease of **real property**, such as the rental of a community building or park shelter, is also not subject to sales tax.

The following services are not subject to sales tax because they are not services that install, apply, service, alter, or maintain tangible personal property.

Brush pick-up	Mowing
Clean-up service	Trash service
Firefighting fees	Tree trimming

UTILITY SALES

GENERAL RULE

Whether furnished by a privately owned company or a political subdivision, utilities (electricity, gas, water and heat) are tangible personal property—the retail sale of which is subject to the state, county, and city sales tax. However, the tax rate applied to utility sales will vary depending on the **customer's**:

- **location** (see *Which Local Tax Applies?*)
- **tax status** (*Exempt Utility Buyers*), and/or
- **utility use** (*Exempt Utility Uses*)

Which Local Tax Applies?

Most sales are deemed to be transacted (and taxed) at the location of the retailer's place of business. However, the sale or furnishing of gas, water, electricity, heat, (as well as telephone and cable TV service) are deemed to be transacted (and taxed) at the rate in effect at the customer's location [K.S.A. 12-191].

EXAMPLE: A city furnishes water to commercial customers inside and outside the city limits. The city has a sales tax of .5%, and the county a sales tax of 1%. The city will charge 8% (the 6.5% state plus the 1% county rate plus the .5% city rate) on water sold to commercial customers within the city limits.

On water sold to commercial customers in the county but outside the city limits, the city will charge 7.5% (6.5% state plus the 1% county) tax. The city will charge the 6.5% state sales tax on water sold to commercial customers located in another county that has no city or county sales tax.

EXEMPT UTILITY BUYERS

Holders of the Tax-Exempt Entity Certificate, a sample of which appears on page 4, are exempt from paying sales tax on their direct purchases of electricity, gas or water. Political subdivisions will want to obtain a Tax-Exempt Entity Certificate from each entity claiming a sales tax exemption on the sale of utilities.

Others may use form ST-28B Statement for Sales Tax Exemption on Electricity, Gas or Water–because their exemption is only for utilities or because they have both a taxable and exempt use of the utility, with the appropriate box checked indicating the basis for the exemption.

Either way, a political subdivision must have in its records a copy of an exemption certificate for each taxpayer claiming a utility exemption. The exemption certificates should be retained by political subdivisions for at least 3 years. **No Exemption Certificate = No sales tax exemption**.

When the state of Kansas, a political subdivision, or a nonprofit hospital is engaged in a taxable business, the utilities used in that business are generally **taxable**, unless the utility use qualifies for one of the other sales tax exemptions. See *Other Sales Tax Exemptions* herein.

EXAMPLE: Utilities used in city-owned buildings by the gas, electrical or heat utility department to heat, cool and/or illuminate the buildings are **taxable**. Utilities used by a city's gas utility department to produce gas for sale to its customers may be exempt from sales tax under the consumed in production exemption (see page 8).

EXAMPLE: Utilities used in buildings that are occupied by the Shriners or Elks are subject to state and applicable local sales tax.

EXEMPT UTILITY SALES

Utilities used in the following industries and ways are **exempt** from sales tax:

- Agricultural [1]
- Noncommercial residential [2]
- Consumed in production
- Ingredient or component part
- Irrigation of crops
- Movement in interstate commerce
- Providing taxable services
- Severing of oil

[1] **Electricity, gas and heat for agricultural and noncommercial residential** use are exempt from the state sales tax of 6.5%, but are subject to any city and/or county sales tax in effect at the customer's location.

[2] **Water sold for agricultural or noncommercial residential** use is exempt from both state and local sales tax. Note that some agricultural uses of utilities (such as for irrigation of crops) or utilities that are "consumed in production" are exempt from both state and local sales taxes.

IMPORTANT: Utilities used to light, heat, cool, clean, or maintain buildings, equipment, or business facilities are generally **taxable**.

The following examples illustrate each of the exempt uses of electricity, gas, or water.

EXAMPLE: **Agricultural. EXEMPT**: Any utility use related to farming or ranching, such as electricity used to operate a milking machine or to run a grain auger. (Local sales tax applies to electricity, gas and heat – no local sales tax on water.)

EXAMPLE: **Noncommercial Residential. EXEMPT:** The utilities used in your home for nonbusiness purposes. (Local sales tax applies to electricity, gas and heat but no local sales tax on water.) **TAXABLE:** Utilities used in a home for business purposes.

Utilities used in *mobile homes, apartments, or condominiums* by the lessee are **exempt**. Utilities used in administrative offices and common areas such as the hallways, parking lot, storage facility, laundry room, swimming pool, clubhouse, or to maintain grounds of such buildings are **taxable**.

All utilities sold to *nonprofit nursing homes* or *children's homes* that are granted an exemption from property tax by the state Board of Tax Appeals (BOTA) are **exempt**. These homes will complete form ST-28B.

For *nursing homes* or *children's homes* that have not been granted an exemption by BOTA, the utilities used in bedrooms and attached bathrooms by residents are **exempt** as residential utility use. (Local sales tax applies.)

IMPORTANT: Utilities used in lobbies, conference rooms, dining rooms, hallways, administrative offices, and parking lots of those *nursing homes* are **taxable**.

EXAMPLE: **Consumed in Production (see definition on page 8). EXEMPT:** Utilities used to operate tools, dies and manufacturing machinery; gas to operate an irrigation pump. **TAXABLE:** Utilities used to run exhaust fans or to provide light, heat, or air conditioning in the manufacturing area.

EXAMPLE: **Ingredient or Component Part (see definition on page 8). EXEMPT:** Water used to make tea, beverages, and soups; water served to customers. **TAXABLE:** Water used to clean equipment, wash dishes, or used in restrooms.

EXAMPLE: **Irrigation of Crops. EXEMPT:** Electricity to run an irrigation pump and the water applied to growing crops.

EXAMPLE: **Movement in Interstate Commerce by a Railroad or Public Utility. EXEMPT:** The electricity or gas used to pump or push oil or gas through an interstate pipeline. To be exempt, the pipeline must be registered with the Federal Energy Regulatory Commission. **TAXABLE:** Utilities used to operate railroad signal lights and switches.

EXAMPLE: **Providing Taxable Services.** To qualify, the service must be subject to sales tax. Utilities used by those who provide nontaxable services, such as a doctor, lawyer, accountant, or childcare center are **taxable.**

For *hotels, bed & breakfasts, and restaurants* — utilities used in rooms occupied by guests; water used as an ingredient in food or beverages; and utilities used by grills or ovens are **exempt**. Utilities used in administrative offices, conference rooms, hallways, lobbies, parking lots and swimming pools; utilities used by refrigerators, dishwashers, signs and salad bars are **taxable**.

IMPORTANT: Utilities used in the residence of an owner or manager are **taxable**. (Electricity, gas, and heat are subject

to local tax as noncommercial residential use. Water for noncommercial residential use is not subject to local tax.)

EXAMPLE: **Severing of Oil. EXEMPT:** Electricity or gas used to power pumps that remove oil or gas from the ground. **TAXABLE:** Electricity or gas for lighting and other non extraction purposes at the pump station.

THE UTILITY EXEMPTION — FORM ST-28B

Utility providers must charge their customers the applicable state and local sales tax unless the customer's exempt use has been documented. To obtain an exemption, the **customer** must submit form ST-28B Statement for Sales Tax Exemption on Electricity, Gas or Water to you.

The completed utility exemption form will show the percent of exempt use, and the reason it is exempt. Worksheets used by the customer to compute the exempt percentage must be submitted to the utility with the completed ST-28B and the customer should keep a copy as they are subject to audit by the Department of Revenue. A utility provider may send a copy of the completed ST-28B with the customer's workpapers to the Department of Revenue for approval prior to exempting the utility from sales tax.

A form is required for **each** meter that qualifies for an exempt use. Keep this form with your utility sales records to verify the sale is exempt. The balance of a customer's usage is fully taxable at the state rate of 6.5% plus all applicable local sales taxes.

CAUTION: Use reasonable and prudent judgment when accepting a customer's claim for exempt utility use. You may send want to send the customer's ST-28B and workpapers to the Department of Revenue for approval. Other than the exempt buyers listed on page 11, ***few*** meters in commercial use will be 100% exempt.

Tax Treatment of Common Utility Sales

Residential or agricultural customers. Electricity, gas and heat used by these customers are subject only to the local tax rate in effect for their address. (No local tax on water.) A ST-28B Utility Exemption is not required for the state sales tax exemption.

Commercial customers. These customers will pay the 6.5% state rate plus the local tax rate for their address on utilities. Some percentage may be exempt if the customer's use qualifies for exemption. The customer must provide a completed ST-28B Utility Exemption for any exempt use.

Residence with home occupation, or business with apartment attached. The area used for home occupation (commercial/business) use is subject to 6.5% plus applicable local tax(es). If furnished through one meter, the customer must provide a completed ST-28B Utility Exemption to document the percent of non-commercial residential use that is subject to local tax only.

Other dual-use establishments, such as a nursing home or assisted living facility. The utilities in the resident's room or apartment are taxed at the residential rate (subject to local tax only). Utilities for the administrative offices, common areas, nursing stations, etc. are taxed at the commercial rate of 6.5% plus applicable local tax. Only **nonprofit** nursing homes that have been granted a property tax exemption by the state Board of Tax Appeals qualify for a 100% exemption on their utilities.

RELATED UTILITY FEES

Sales tax is collected on the sale or furnishing of electricity, gas, water or heat. Therefore the tax is due on the total amount charged for furnishing the customer these utilities. If the charge must be paid by the customer in order to receive gas, water, electricity or heat, the charge is taxable at the same state and local rate applicable to the utility itself. For an exception to water related items, see the NOTE that follows.

EXAMPLE: A customer is late paying his gas bill, so a late charge or fee is added. This fee is subject to the same rates of state and local sales tax as the utility.

Conversely, if you offer a discount to customers who pay within a prescribed period of time, the sales tax attaches to the discounted amount actually paid by the customer.

Other taxable fees include connect/reconnect fees and debt reduction charges (minimum usage charge) on gas, electrical and heat utilities. A refundable utility deposit is an example of a fee that is not subject to sales tax.

NOTE: Kansas retailers' sales tax is not imposed upon the gross receipts from these water related items: the sale of a rural water district benefit unit; a water system impact fee, system enhancement or similar fee collected by a public water supplier as a condition for establishing service; or, connection/ disconnection fees collected by a water supplier.

If you are unsure about the taxability of a fee, write the department for an opinion. See *Additional Information*, herein.

TAXABLE LABOR SERVICES

When you perform labor services for your customers, as a general rule you must collect sales tax.

EXAMPLE: You charge a fee to relocate meters or lines for your customers. This labor service is ***generally*** taxable because installing or applying tangible personal property (the meter or line) is subject to sales tax. However, it may be exempt. To determine the tax treatment of the labor service, ask these questions.

1) Is this labor being performed in connection with either the original construction of a building or facility (page 5); or under a Project Exemption Certificate? If yes, the labor is exempt from sales tax. If not, go to 2.
2) Is this labor being performed on residential property? If yes, residential labor is also exempt from sales tax. If not, go to 3.
3) Is this labor being performed for an exempt entity? If yes, it is exempt with a completed exemption certificate. If not, go to 4.
4) If the answer to all the above questions is "No," then the labor service is taxable and you must charge the state and local sales tax.

Rate of Tax on Taxable Labor Services

The sales tax rate for ***all*** contacts involving the installation or application of tangible personal property is the sales tax rate in effect where the customer makes first use of the taxable service (generally where the work is performed), regardless of the size of the contract.

SEWER SERVICES

Furnishing sewer services is not a taxable utility business as defined in the law. Charges made by political subdivisions for sewer services are not subject to sales tax.

Also not taxable are the property or labor services used to provide sewer services. Use the State of Kansas/ Political Subdivision Exemption Certificate when making direct purchases for use by the sewer department. Political subdivisions contracting for the construction or repair of their

sewer system should obtain a Project Exemption Certificate for the sewer project.

UTILITY REFUNDS

On occasion your customers will ask for a refund of the sales tax for which you have already paid over to the Department of Revenue. As previously discuss you may grant a complete or partial sales tax exemption to your customer when they file a completed Statement for ST-28B Statement for Sales Tax Exemption on Electricity, Gas or Water with you. You may also grant your customers a refund of sales tax based on a completed ST-28B, provided their exemption percentage has remained consistent throughout the period for which a refund is being requested.

Refunds should be granted on sales tax that you have paid over to the Department of Revenue up to three years from the date of your customer's written request. No refunds are allowed on sales taxes paid to the department after three years from the date of your written request for refund.

EXAMPLE: On May 1, 2016 a gas utility company submits to the Department of Revenue a written request to obtain a refund of sales tax for one of its customers. The March 2013 return was due (and presumably paid) on or before the April 25, 2013 due date. Therefore, only sales taxes paid on the March 2013 return and subsequent returns may be refunded because the Department of Revenue may only refund sales taxes paid within the past three years.

Steps for Claiming a Sales Tax Refund

STEP 1 Customer provides the utility provider with a completed ST-28B and a written request for refund of sales tax.

STEP 2 Utility provider sends to the Department of Revenue the customer's completed ST-28B along with a completed ST-33 Schedule for Refund of Sales Tax on Electricity, Gas or Water. While most utilities send exemption and refund requests to the Department of Revenue for approval, this is not required. A utility may approve exemptions and refunds without the Department of Revenue review.

STEP 3 The Department of Revenue reviews the refund request and advises the utility provider in writing of the amount of approved refund and how to claim the refund deduction on their sales tax filing (see sample letter).

STEP 4 Utility provider advises customer of approval and refunds the sales tax to its customer.

STEP 5 The utility provider claims the deduction when filing their sales tax return. If the Department of Revenue has approved more deductions than the amount of tax due for the current filing period, then spread the deductions out over two or three filing periods. If using the deductions will require more than three filing periods, please request that a check be issued. You cannot claim more in deductions than the amount of tax due in any one filing period.

Claiming a Utility Refund on your Tax return

The two examples that follow illustrate how an approved utility refund should be claimed when you file form type ST-36. The first example illustrates a refund involving both **state and local** (city and county) sales taxes. The second example illustrates a refund involving only **state** sales taxes.

Note that the examples shown on the next pages are for illustration purposes only and may not contain current sales tax rates. You can, however, use these examples to assist you in filing your sales tax return electronically. See page 16 or go to our website at **ksrevenue.gov** to determine which electronic filing option is best for you.

EXAMPLE: ABC Utility of Anytown, KS submitted a refund request to the Kansas Department of Revenue for its customer XYZ, Inc. ABC Utility is advised that the Kansas Department of Revenue approved a 45% exemption and a refund in the amount of $19.74 for XYZ, Inc.

Since the refund amount is for **state, county and city** taxes, ABC Utility will divide the refund amount by the applicable tax rate for Anytown, 8.8% **($1,525.79 ÷ .088 = $17,338.52)**. The $17,338.52 represents the amount of sales that ABC Utility made to XYZ, Inc. upon which the $1,525.79 refund is based. Enter the $17,338.52 on line N, *Other allowable deductions*, in Part II of form type ST-36. This amount is also entered in Part III under (*Non-Utility*) Deductions, along with any other deductions, in Part III.

Audit Services
PO Box 3506
Topeka KS 66601-3506

Kansas
Department of Revenue

Phone: 785-296-7719
Fax: 785-296-0531
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November 15, 2017

SAMPLE

ABC UTILITY
101 MAIN
ANYTOWN KS 66612

NOTICE OF FINAL REFUND

Retailers' Sales Tax
July 17 - July 17

RE: XYZ, INC.
120 N HOWE
ANYTOWN KS 66025

Approved Exemption:	45%
Approved Refund Amount:	$1525.79
Amount Denied:	
Utility Type:	Gas

Dear Sir or Madam:

As a result of review of the Statement for Sales Tax Exemption on Electricity, Gas, or Water Furnished through One Meter, received by the Kansas Department of Revenue on Sept 10, 2017 claiming Consumed in Production, you are authorized to make a refund of retailers' sales tax to your customer as follows:

Account#	State	County	City	Jurisdiction	Meter
1234567899	$1123.15	$190.72	$211.92	ANYKS	12345678

Do not use the above refund amount on the credit memo line of your return, please follow the instructions outlined below.

****Attention Utility Company: Please refund up to the current date for periods after July/2017. This refund is only through July/2017.****

You will need to take the refund amount divided by the current tax rate for this jurisdiction. This will give you the amount that you will add to Part III Column 4 (Non-Utility) deductions on your next return. When filing your return, report the amount on Part II, Line N (Other Allowable Deductions) and write "Exemption Letter" in the space provided. This credit must be carried forward until all of the deduction is consumed. ***Do not file your sales tax return with a negative tax amount.*** Keep a copy of this letter in your files attached to the tax return(s) where the credit was used.

State Only Utility Refund

EXAMPLE: GHI Utility of Anytown, KS submitted a refund request to the Kansas Department of Revenue for its customer. GHI Utility is advised that the Kansas Department of Revenue has approved a refund of **State** sales tax only in the amount of $3,361.32.

Since the refund amount is for state only tax, GHI Utility will divide the refund amount by the state sales tax rate of 6.5% **($3,361.32 ÷ .065 = $51,712.62).** The $51,712.62 represents the amount of sales that GHI Utility made to its customer upon which the $3,361.32 refund is based. Enter the **$51,712.62** under the *Residential/Agricultural Utility Deductions Only* column in Part IV of form type ST-36.

Audit Services
PO Box 3506
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Kansas
Department of Revenue

Phone: 785-296-7719
Fax: 785-296-0531
Web: ksrevenue.~~org~~gov

November 15, 2017

SAMPLE

GHI UTILITY
202 MAIN
ANYTOWN KS 66612

NOTICE OF FINAL REFUND

Retailers' Sales Tax
July 17 - July 17

RE: XYZ, INC.
120 N HOWE
ANYTOWN KS 66025

Approved Exemption:	45%
Approved Refund Amount:	$3361.32
Amount Denied:	
Utility Type:	Gas

Dear Sir or Madam:

As a result of review of the Statement for Sales Tax Exemption on Electricity, Gas, or Water Furnished through One Meter, received by the Kansas Department of Revenue on Sept 10, 2017 claiming Consumed in Production, you are authorized to make a refund of retailers' sales tax to your customer as follows:

Account#	State	County	City	Jurisdiction	Meter
9987654321	$3361.32	$0	$0	ANYKS	87654321

Do not use the above refund amount on the credit memo line of your return, please follow the instructions outlined below.

****Attention Utility Company: Please refund up to the current date for periods after July/2017. This refund is only through July/2017.****

You will need to take the refund amount divided by the current tax rate for this jurisdiction. This will give you the amount that you will add to Part III Column 4 (Non-Utility) deductions on your next return. When filing your return, report the amount on Part II, Line N (Other Allowable Deductions) and write "Exemption Letter" in the space provided. This credit must be carried forward until all of the deduction is consumed. *Do not file your sales tax return with a negative tax amount.* Keep a copy of this letter in your files attached to the tax return(s) where the credit was used.

RETAILER RESPONSIBILITIES

THE CARDINAL RULE

Kansas retailers are responsible for collecting the full amount of sales tax due on each sale to the final user or consumer. Kansas retailers should follow this cardinal rule:

***All* retail sales of goods and enumerated services are considered *taxable* unless specifically exempt.**

Therefore, for every sale of merchandise or taxable services in Kansas, the sales receipt, invoice, or bill **MUST** either show that the total amount of sales tax due was collected, **or** be accompanied by a completed exemption certificate.

REGISTRATION AND TAX NUMBERS

As retailers of utilities and/or other taxable goods and services, political subdivisions must be registered with the Kansas Department of Revenue to collect sales tax from their customers. To register, visit **ksrevenue.gov** and sign in to the **KDOR Customer Service Center**. After you complete the application you will receive a confirmation number for your registration and account number(s). See **Pub. KS-1216, Business Tax Application/Instructions**, for more information.

The Department of Revenue assigns a sales tax account number to you after you complete **CR-16 Business Tax Application**. The account number is printed on your Retailers' Sales Tax Registration Certificate and is used to report and pay the sales tax you collect from your customers. Additionally, your sales tax number must also appear on the resale and ingredient or component part exemption certificates you give your supplier. For more information about Kansas sales tax account numbers, including how they are formatted, see **Pub. KS-1510, Kansas Sales and Compensating Use Tax**.

EXEMPTION CERTIFICATES

An exemption certificate relieves a seller from collecting sales tax if it has obtained the required identifying information as determined by the director and reason for claiming the exemption at the time of purchase. A seller should: 1) verify the identity of the person or entity presenting the exemption certificate; and, 2) maintain the completed exemption certificate in your sales tax records for at least three years.

You should obtain the appropriate Kansas exemption certificate from your customer at the time of the sale and no later than the actual delivery of the taxable item or service.

Some customers claim to be exempt only after the goods or services have been delivered and deduct the tax from the bill. When this happens, you are still responsible for obtaining an exemption certificate from the customer. If you are cannot secure an exemption certificate the sale is considered taxable and, as the retailer, you are liable for the tax.

Using Exemption Certificates

The exemption certificates beginning on page 24 may be reproduced as needed. Additional supplies of the project exemption request and the utility exemption form are also available from our website. All retailers should also obtain **Pub. KS-1520, Kansas Exemption Certificates**. This publication contains detailed information on how to properly use exemption certificates as a buyer and as a seller.

Each certificate contains a restatement of the Kansas law or regulation authorizing the exemption, information on using the exemption, and examples. If your customer or your purchase does not fit the definition in the certificate or the exempt examples given, the transaction is most likely not exempt.

CAUTION: When furnishing your exempt entity exemption certificate to real property contractors, remind them that the exemption applies **only** to their labor services, **not** to the materials they will purchase and incorporate into your project.

Blanket Exemption Certificates

If you make recurring exempt sales of the same type to the same customer, you are not expected to obtain an exemption certificate for each transaction. Kansas law provides that a seller is relieved of liability for the tax when he obtains a blanket exemption certificate from a purchaser with which the seller has a *recurring business relationship*. In such a relationship, certificates need not be renewed or updated. A *recurring business relationship* exists between the buyer and seller when a period of no more than 12 months elapses between sales. All certificates in this booklet may be used as blanket certificates.

All Tax-Exempt Entity Exemption Certificates contain an expiration date. One certificate obtained by the seller for all sales made prior to the expiration date as provided on the certificate is sufficient – no need for the seller to obtain multiple copies of the certificate.

KANSAS CUSTOMER SERVICE CENTER

FILE, PAY and MAKE UPDATES ELECTRONICALLY

Most businesses have chosen the **KDOR Customer Service Center (KCSC) for their online filing and payment solution**. To use this solution, you simply create a user login ID and select a password, then you can attach your business tax accounts. **Each tax account has a unique access code** that only needs to be entered once. This access code binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all filed returns and/or payments made is retained in the KCSC.

WHAT CAN I DO ELECTRONICALLY?

WHAT CAN I DO ELECTRONICALLY?

- Register to collect, file and pay taxes and fees
- Add new locations
- Complete and submit a Power of Attorney form
- Update contact information
- Update mailing address
- Upload W-2's and 1099's
- Upload and retain Sales and Compensating Use Tax jurisdictions
- File the following tax returns:
  - Clean Drinking Water Fee
  - Consumers' Compensating Use Tax
  - Consumable Material
  - Dry Cleaning

- Liquor Drink and Liquor Enforcement Tax
- Retail Water Protection
- Retailers' Compensating Use Tax
- Retailers' Sales Tax
- Tire Excise Tax
- Transient Guest Tax
- Vehicle Rental ExciseTax
- Withholding Tax

- Make payments for the following taxes:
  - ABC Taxes and Fees
  - Charitable Gaming
  - Cigarette Tax Stamp Payment
  - Cigarette Tax, Fees, Fines and Bonds
  - Cigarette/Tobacco Fine Payment
  - Cigarette/Tobacco License Fee
  - Clean Drinking Water Fee
  - Consumable Materials Return/Tax Payment
  - Consumable Material
  - Corporate Estimated Income tax
  - Corporate Income Tax
  - Dry Cleaning
  - Environmental and Solvent Fee
  - Fiduciary Income Tax
  - Homestead Claim
  - IFTA
  - Individual Estimated Income Tax
  - Individual Income Tax
  - Industrial Water
  - Liquor Drink and Liquor Enforcement
  - Mineral Tax
  - Motor Fuel
  - Petition for Abatement Service Fee
  - Privilege Tax
  - Privilege Estimated Tax
  - Retail Water Protection
  - Sales and Use Tax
  - Stock Water
  - Tire Excise Tax
  - Tobacco Return/Tax Payment
  - Tobacco Tax, Fees, Fines and Bonds
  - Transient Guest Tax
  - Vehicle Rental Excise Tax
  - Withholding Tax

REQUIREMENTS TO FILE and PAY

You must have the following in order to file and pay your taxes online:

- Internet Access
- Access Code(s) by calling 785-368-8222 or send an email to **kdor_businesstaxeservice@ks.gov**
- EIN
- ACH Debit: Kansas Department of Revenue debits the tax payment from your bank account
- ACH Credit: Complete an EF-101 online to initiate a tax payment through your bank

Electronic tax payments must settle on or before the due date. Using the KCSC, you may have your tax payment electronically debited from your bank account (ACH Debit) or you may initiate your tax payment through your bank (ACH Credit). This payment method requires a completed authorization EF-101, available on our **Customer Service Center**.

Our FREE electronic systems are simple, safe, and conveniently **available 24 hours a day, 7 days a week**. You will receive immediate confirmation that your return is filed and/or payment is received. If you need assistance with your access code, you may call 785-368-8222 or email **kdor_businesstaxeservice@ks.gov**

PAY BY CREDIT CARD

Payment by credit card is available online through third-party vendors. Visit our electronic services website at **https://www.ksrevenue.gov/taxpayment.html** for a current list of vendors authorized to accept individual income tax and business tax payments for Kansas. A convenience fee, based on the amount of tax your are paying, will be charged.

WIRE TRANSFERS

Wire Transfers are accepted from both domestic and foreign banking institutions as long as it is received as American currency. For more information call 785-368-8222.

REPORTING AND PAYING SALES TAX

FILING FREQUENCIES AND DUE DATES

How often you report and pay sales tax is based on the annual amount of tax due; the greater the tax liability, the more frequent you file. Tax reporting/payment is due the 25th of the month following the end of the filing period. A chart of filing frequencies and due dates can be found in **Pub. KS-1510, Kansas Sales and Compensating Use Tax**.

Retailers who collect tax for more than one jurisdiction, such as utility providers, will file an electronic version of Form ST-36. For a step-by-step illustration for filing this form type, see *Reporting Utility Sales*.

SALES TAX JURISDICTION

The Department of Revenue's tax system requires that all sales be entered by their jurisdiction, regardless of whether or not a local tax is imposed. Therefore, every incorporated city in Kansas has an assigned five-letter jurisdiction code (**Pub. KS-1700** contains all incorporated Kansas cities and counties, their jurisdiction codes, tax rates, and the effective date of the tax). Throughout the year you will be advised of any quarterly sales tax rate changes and any additional jurisdictions imposing a local sales tax. These materials are available on our website, as is a **sales tax rate locator** where tax rates can be obtained by entering an address or zip code.

When you file using the online application, you will select from a drop-down menu the applicable jurisdiction(s) for sales made in incorporated cities and/or in counties. Use the jurisdiction entitled *STATE* when **only** the state sales tax (6.5%) applies – as on the sale of digital satellite TV subscriptions (see 47 USCA 152n). All *state* sales are entered under the *STATE* jurisdiction code regardless of the location of the sale.

REPORTING UTILITY SALES

The following example illustrates how a Utility Company correctly reports their sales and deductions for multiple jurisdictions for their July reporting period.

Note that this example is for illustration purposes only and may not contain current sales tax rates. You can, however, use this example to assist you in filing your return electronically.

EXAMPLE: Any City Electric Co. in Lawrence, Kansas generates and sells electricity to customers in the cities of Eudora and Lawrence, and to customers in Douglas and Osage counties. The utility also sells digital satellite TV subscriptions. The gross sales and deductions by category and by location are listed in the table.

	Eudora	Lawrence	Douglas County	Osage County
Gross Sales	15,050	31,030	17,500	14,405
Merchandise Consumed		1,400		
Non-Utility Deductions	3,320	7,590	3,470	2,165
Residential/Agricultural	9,510	11,230	8,965	9,150
Digital Satellite TV	2,500	10,000	5,000	2,500

STEP 1 Go to **ksrevenue.gov** to begin the filing process. Sign into the **KDOR Customer Service Center (KCSC)**. If you are a first time user click **Register Now**; if already registered, click **Sign In**.

STEP 2 Click **Account Management** to manage existing accounts or add new accounts to your current business accounts. To add a new use tax account, click **Add an Existing or Register a New account to this login** and follow the instructions on the screen.

To file a return for a current account, locate that account in the list, then click ***Manage Account*** in the far right-hand column.

NOTE: *Accounts that you add will be retained in the system for future filing periods.*

STEP 3 To begin filing your return, click ***File a sales tax return*** under the **Account Management** heading. An informational page will appear with messages regarding important updates and/or tips for using the system. Please take the time to read this information before clicking **Continue**.

STEP 4 Review the information for the account you added. From the drop-down menu options, select your filing period and tax year then click the radio button for the return type. In this example, select **Original**. You may choose to have the KCSC remember your jurisdictions by clicking that radio button, or you have the option to upload from another file or enter them manually. Make your selection and click **Continue**.

STEP 5 To add the applicable jurisdictions to this filing period, click **Add Jurisdictions**. Enter the jurisdiction code or the jurisdiction name, then click L**ookup Jurisdiction**. From the list, choose the appropriate jurisdiction (for this example, Eudora is EUDDG) and click **Add Selected**. Repeat this step until all applicable jurisdictions have been added, then click **Continue**.

STEP 6 Under *Kansas Gross Sales* enter the gross receipts for the month in each local jurisdiction. For example, the total gross sales "sourced" to **Eudora** is **$15,050**. Continue adding the gross receipt amount for each jurisdiction.

STEP 7 Enter under *Merchandise Consumed By You* the cost of goods purchased in Kansas without tax and used by your utility department. For this example, **Lawrence** is **$1,400**. (The cost of taxable items purchased without tax from vendors **in other states** are reported on form type CT-10U.)

STEP 8 Enter under *(Non-Utility) Deductions* the total deductions (nontaxable and exempt sales) for each jurisdiction. For example, the deduction for Eudora is **$3,320**. Click **Calculate**, verify net tax amounts, and click **Continue**.

STEP 9 Complete Part II. Itemize deductions by category (sales that are exempt from both the state and local sales taxes) for all business locations on the applicable lines. Click **Calculate** and **Continue**.

NOTE: *Line O of Part II should equal the total of (Non-Utility) Deductions from Part III.*

STEP 10 Verify the tax computed on line 1 of Part I. If correct, click **Total Net Deduction from Part IV** (line 2).

STEP 11 Complete Part IV (Utility Providers Only). Add applicable jurisdictions (see Step 5). Enter under *Residential/ Agricultural Utility Deductions Only* sales made to residential or agricultural customers f**or each taxing jurisdiction**. (For example, of the **$11,730** Net Sales for Eudora, **$9,510** was sold to residential and/or agricultural customers.) Click **Calculate** and **Continue**.

STEP 12 Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 18. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

COMPENSATING USE TAX

Compensating use tax applies to property purchased in another state for use, storage, or consumption in Kansas on which no sales tax was paid, or a sales tax less than the state and local Kansas rate was paid. The use tax is due whether the item is delivered into Kansas or picked up in the other state and brought back to Kansas. There are two types of compensating use tax:

CONSUMERS' USE TAX — paid by Kansas consumers direct to the Kansas Department of Revenue.

RETAILERS' USE TAX — collected by retailers in other states from their Kansas customers.

A **local** use tax applies to any type of tangible personal property shipped from a retailer outside of Kansas to a Kansas resident, business or governmental agency for use, consumption or storage within Kansas. Therefore, the use tax rate due is equal to the combined state and local sales tax rate in effect where the item will be used, stored or consumed in Kansas (generally the ship-to address). Kansas use tax is based on the total cost of the goods — including postage or charges for shipping, handling, or transportation.

Kansas political subdivisions must pay state and local use tax when buying items from out-of-state sources that would be taxable had they been purchased in Kansas. In other words, only your out-of-state purchases that will be used or are proposed to be used by your gas, electrical or heat utility departments, (water utility department if you are NOT paying the clean drinking water fee) or other taxable business are subject to **consumers'** use tax.

When you buy property from an out-of-state retailer and pick it up in the other state, the other state's sales tax is due. If their sales tax rate is less than the Kansas rate, the percentage you pay is the difference between the other state's lower sales tax rate and the Kansas rate.

EXAMPLE: The City of Anyplace, KS buys a cherry picker from a Nebraska retailer. It will be used by the electric utility and is therefore taxable. If the Nebraska retailer does not collect a state sales tax of at least 7.8% (the Anyplace rate, where the cherry picker will be used) the city will owe 7.8% Kansas consumers' use tax on the total cost.

Use tax applies **only to property** purchased from another state — labor services performed in other states are not subject to use tax.

EXAMPLE: The City of Anyplace, KS has repair work performed on the cherry picker by the Nebraska retailer, in Nebraska. If the Nebraska merchant does not charge a sales tax of at least 7.8% on this work, the county will owe consumers' use tax of 7.8% on the cost of the repair parts — the labor portion of the bill is not subject to use tax.

EXAMPLE: The City of Sampletown, KS purchases electrical supplies and a city employee picks the items up from the supplier in Oklahoma. The cost of the items totaled $500 plus a 6% Oklahoma sales tax ($530) total. The city of Labette owes 1.4% or $7.00 (7.4% - 6% = 1.4% X $500 = $7.00) Kansas use tax.

CAUTION: If buying items from vendors in other states and they are charging a sales tax, make sure it is the Kansas retailers' use tax at the rate in effect for your Kansas location, and NOT the other state's sales tax. If you pay tax to an out-of-state retailer, the rate should be exactly equal to the Kansas sales tax rate in effect where the item is used, stored or consumed in Kansas, and the retailer should advise you it is registered to collect and remit the Kansas retailers' sales tax from its Kansas customers.

For a more complete discussion of use tax, obtain **Pub. KS-1510** from our website.

REPORTING AND PAYING USE TAX

Most political subdivisions regularly make purchases subject to **consumers'** compensating use tax and must register with the Department of Revenue to periodically report and remit this tax. To obtain a reporting number, complete a Business Tax Application. See *Registration and Tax Numbers* herein. How often you report and pay the use tax depends on the estimated annual amount of purchases subject to the tax. Most retailers report on a quarterly basis.

The following example illustrates how to compute taxable purchases and complete form CT-10U Consumers' Compensating Use Tax Return electronically.

EXAMPLE: Mytown Electric of Kiowa, KS purchased equipment from an Ohio manufacturer for $70,000 plus $500 in shipping charges. The Ohio manufacturer did not charge sales tax on the invoice. Mytown Electric also picked up transformers and electric line from a vendor in Joplin, MO for $10,000 plus 5.225% Missouri sales tax (4.225% state plus 1% local), for a total cost of $10,522.50.

STEP 1 To begin the filing process, go to **ksrevenue.gov** and then follow the instructions for STEPS 1 through 5 from the example on page 19 of this publication.

STEP 2 Enter under *Total Taxable* the total cost of out-of-state purchases subject to Kansas Use Tax (non-inventory items on which the tax paid is less than the rate for your area). This example is **$80,500**. $70,500 + $10,000.

STEP 3 Enter under *Tax Paid in Another State*, the amount of sales tax paid to another state for purchases. For this example enter $522.50 for Missouri state and local tax. Click **Calculate** and **Continue**.

STEP 4 Verify information shown in Part I. If correct click **Calculate** and **Continue**.

STEP 5 Select your payment option: ACH Debit, ACH Credit, or Check w/Voucher. For definitions of the ACH Credit and ACH Debit payment options, see page 18. Click **Continue** for the verification screen. Verify all entries and click **Submit Return**.

WATER SUPPLIERS

WATER PROTECTION FEE

If you are a water utility, you must register to collect, report, and remit a Water Protection Fee to the Kansas Department of Revenue. This fee is collected on the retail sale of water delivered through mains, lines, or pipes by public water suppliers and on water appropriated for industrial and stock-watering uses. The rate is 3 cents per 1,000 gallons of water. An additional fee for the inspection and regulation of public water supplies of $0.002 per 1,000 gallons of water sold at retail is remitted with the Water Protection Fee. The Water Protection Fee is not subject to Kansas sales tax (K.S.A. 79-3647).

CLEAN DRINKING WATER FEE

The Clean Drinking Water Fee is imposed at the rate of $.03 per 1,000 gallons of water sold at retail and delivered through mains, lines or pipes by public water suppliers (cities, counties, rural water districts, etc.). Thus, there is no clean drinking water fee due on **wholesale** sales of water or on retail sales of water which is delivered by truck.

The law states that the price to the consumer of water sold at retail shall not include the amount of the clean drinking water fee. Thus, retailers of water should not collect this fee from their customers; instead they should pay the fee to the Department of Revenue. In exchange for paying the clean drinking water fee, public water suppliers may purchase all tangible personal property and taxable services exempt from sales tax. For additional information, see **NOTICE 01-02**.

IMPORTANT: Public water suppliers must collect Kansas retailers' sales tax on the sale of water. The payment of the clean drinking water fee is in addition to the collection of sales tax. If a city, rural water district, or public water supplier pays the clean drinking water fee, they are exempt on their direct and indirect purchases.

Public water supply systems (city water departments, rural water districts, etc.), who are not currently paying the clean drinking water fee can elect to pay the fee and be exempt from Kansas retailers' sales tax on all of their purchases. See **NOTICE 04-08**.

REPORTING AND WATER TAX

Both types of water fees are reported to the Kansas Department of Revenue on a quarterly basis using Form **WP-1**. This tax return is due 45 days after the end of each calendar quarter. All newly created public water suppliers must register with the Department of Revenue and obtain a reporting number to pay the clean drinking water fee by completing a **CR-16 Kansas Business Tax Application**. See *Registration and Tax Numbers* herein.

Following is a sample completed return **(WP-1)** for a Kansas Water Supplier with first quarter retail sales of 5,500,000 gallons of water.

WP-1 (Rev. 1-23)

KANSAS
Retail Water Protection and Clean Drinking Water Fees

FOR OFFICE USE ONLY

WP-1 497423

Business Name: KANSAS WATER SUPPLIERS
Mailing Address: PO BOX 1060
City: ANYTOWN | State: KS | Zip Code: 66000

Tax Account Number: 023123456789F01
Employer ID Number: 123456789
Period Beginning Date (mmddyyyy): 04012025
Period Ending Date (mmddyyyy): 06302025

Date Business Closed (mmddyyyy) | Amended Return | Additional Return | Name or Address Change

1. Gallons of water sold at retail	5500000
2. Divide amount of line 1 by 1,000 and enter the result here	5500
3. Water Protection Fee due (multiply $.032 by the amount on Line 2)	176.00
4. Clean Drinking Water Fee due (multiply $.03 by the amount on Line 2)	165.00
5. Total fees due (add Lines 3 and 4 and enter the result here)	341.00
6. Credit Memo	0.00
7. Subtotal	341.00
8. Penalty	0.00
9. Interest	0.00
10. Total amount due (total of Lines 7, 8 and 9)	341.00

Signature: *David A Sampleperson* Title: Clerk of Water Department
Printed Name: David A Sampleperson Phone Number: 785-555-1234
Email Address: david@anytownwater.gov

WP-1V (Rev. 1-23)

KANSAS
Retail Water Protection and Clean Drinking Water Fee Payment Voucher

FOR OFFICE USE ONLY

WP-1V 4795

Tax Account Number: 023123456789F01 | EIN: 123456789
Period Beginning Date: 04012025 | Period End Date: 06302025
Business Name: KANSAS WATER SUPPLIERS
Mailing Address: PO BOX 1060
City: ANYTOWN | State: KS | Zip Code: 66000

Line 1. Water Protection Fee from Line 3: 176.00
Line 2. Clean Drinking Water Fee from Line 4: 165.00

Note: The total of Line 1 and Line 2 may not equal the Payment Amount below. See instructions.

Payment Amount: $ 341.00

4795

ADDITIONAL INFORMATION

SALES TO CUSTOMERS IN OTHER STATES

If you have a business presence or "nexus" in another state, you may be required by law to register to collect sales tax for that state. Examples of "nexus" include:

- Having a representative, agent or salesperson in the state for the purpose of selling or taking orders
- Leasing tangible property or licensing rights for use within the state
- Maintaining a business location within the state
- Making delivery of goods with company owned vehicles to that state
- Performing services, installation, construction or repairs in the other state
- Stocking inventory in a public warehouse or on consignment in another state

To register in another state, contact the appropriate state tax agency for forms and instructions. The addresses and phone numbers of the states that participate with Kansas in the Midwest Border States Compact can be found in **Pub. KS-1510**, available from our website.

TAX ASSISTANCE CENTER

When there is a question not answered in this publication, contact the Department of Revenue. Do not guess. Clarification of whether a purchase or sale is taxable or exempt will save you time in dealing with the issue in the future. Resolving issues of taxability could also save you money; you will be taking full advantage of the exemptions available and avoiding costly sales or use tax deficiencies on taxable purchases.

Many business questions can be answered by the customer representatives in our Tax Assistance Center in Topeka. However, like many businesses, the Department of Revenue uses an automated answering system to direct incoming phone calls to the appropriate area. See back cover for the address and phone numbers of our assistance center.

WEBSITE - ksrevenue.gov

Our website contains information about all aspects of the Kansas Department of Revenue. Forms and publications, exemption certificates, and information about all the taxes administered are published here. Each division of the Department of Revenue is represented. Additionally, our website also contains current information devoted to paperless file and pay options.

POLICY INFORMATION LIBRARY (PIL)

Another service available to taxpayers is an online library of **policy information (PIL)** for all taxes administered by the Kansas Department of Revenue. The PIL contains Kansas statutes and regulations, Revenue Notices, Revenue Rulings and other written advice issued by the Department of Revenue. Opinion Letters and Private Letter Rulings are also included.

Written Rulings

At times there are unique situations that may require an interpretation or clarification based upon the law, regulations, and specific facts of the case. To assist you in understanding how the law applies to your business, the Department of Revenue issues three types of written advice: revenue notices, revenue rulings, and private letter rulings. This written advice is binding on the Department of Revenue and may be relied upon as long as the statute or regulation on which they are based is not altered by the Legislature, changed by a court decision, or the ruling itself modified or rescinded by the Department of Revenue.

You should not rely on a verbal opinion from the Department of Revenue regarding taxability not specifically addressed in the law. When an issue arises in your business that is not directly addressed in the law, document the problem in writing and request a Private Letter Ruling or an Opinion Letter from the Department of Revenue. Fax or mail your request for a written ruling to:

Tax Policy Group
Kansas Department of Revenue
PO Box 3506
Topeka, KS 66601-3506
Fax: 785-296-7928

You will receive a written ruling within 30 days after your request (and any additional information necessary for the ruling) is received. Private letter rulings are published in our **Policy Information Library (PIL)**, but the letters have been "scrubbed" to protect the privacy of the taxpayer—any information identifying the taxpayer, such as name, address, product, etc., is blanked out.

CAUTION: Although published in our PIL, a private letter ruling is ***limited to*** the requesting taxpayer and that taxpayer's specific factual situation. It cannot be relied upon or cited by any other person.

KEY STATUTES AND REGULATIONS

In preparing this guide we cited the following laws and regulations. The full text of these are a part of the **PIL** on our website and are also available in libraries throughout the state.

Statutes

K.S.A. 12-189a – Local sales tax
K.S.A. 12-191 – Situs of local sales tax
K.S.A. 65-163 – Public water supply fee
K.S.A. 79-3602 – Sales tax definitions
K.S.A. 79-3603 – Taxing statute for sales tax
K.S.A. 79-3606 – Exempting statute for sales tax
K.S.A. 79-3609 – Sales tax records
K.S.A. 79-3647 – Sales tax & water protection fee
K.S.A. 79-3701 et seq. – Compensating tax
K.S.A. 82a-954 – Water protection fee
K.S.A. 82a-2101 – Clean drinking water fee

Regulations

K.A.R. 92-19-25b – Exemption certificates
K.A.R. 92-19-66e – Project exemptions
K.A.R. 92-21-6 – Application of local sales tax
K.A.R. 92-21-9 – Place of sale for utility sales

FORMS AND CERTIFICATES

The following pages have many of the sales and use tax forms and exemption certificates used by Contractors and Contractor-Retailers. You may reproduce any form in this publication as needed or download the certificates from our website **(ksrevenue.gov)**.

KANSAS DEPARTMENT OF REVENUE 465918

CONSUMED IN PRODUCTION EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(n) exempts all sales of tangible personal property consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treatment of waste or by-products derived from any such production process, the providing of services, or the irrigation of crops for ultimate sale at retail within or without the state of Kansas.

Description of tangible personal property or services purchased: _____

_____

The undersigned understands and agrees that if the tangible personal property or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser is liable for the tax.

Purchaser: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Any business buying goods or merchandise that qualifies as “property which is consumed” will use this certificate. Whether the item qualifies for exemption is determined by **how the item is used** in production or processing. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each item and its use must be separately measured against the definition to determine if the sale is taxable or exempt.

WHAT IS “PROPERTY WHICH IS CONSUMED?” To be exempt, the item must be essential and necessary to the process, used in the actual process, not reusable and be consumed, depleted or dissipated within one year. The fact that property may be used for only one production or processing activity and then discarded, or that it becomes obsolete or worthless in a short time is not the determining factor. Items that break, depreciate, wear out or become obsolete, even in a very short time, may not qualify to be exempt as “consumed in production.” Included as a process qualifying for the exemption is the storage or processing of grain by a public grain warehouse or other grain storage facility.

EXAMPLES: The following are exempt as “property which is consumed” when used in these industries or applications.

- Liquid oxygen used in the production of fiberglass.
- Diesel fuel and oil, drilling fluids, and chemicals (such as acid and drilling mud) that are consumed in drilling wells.
- Coal used to generate electricity.
- Graphite, E.D.M. oil, and abrasives consumed in manufacturing die impressions, forge dies and forgings.
- Refrigerant used in the production of aircraft.

PROVIDING OF SERVICES: The term “service” in the law above refers only to TAXABLE services. Businesses providing services that are not taxable (such as accountants, doctors, lawyers, architects, etc.) must pay sales tax on items purchased for their business, and may not claim any exemption from sales tax.

CONTRACTORS: This certificate may NOT be used by contractors to purchase their materials. All materials and parts purchased by contractors, subcontractors, and repairmen to be incorporated into any structure or consumed in altering, servicing, repairing, or maintaining personal property (or personal property that has been attached to real property) are TAXABLE unless a Project Exemption Certificate has been furnished to the contractor by the customer.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE 465618

DESIGNATED OR GENERIC EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Business Address: _____
Street, RR, or P.O. Box City State ZIP + 4

is exempt from Kansas sales and compensating use tax under K.S.A. 79-3606. The undersigned understands and agrees that if the tangible personal property or services are used other than as stated in its statutory exemption, or are used for any other purpose that is not exempt from sales or compensating use tax, the undersigned purchaser becomes liable for the tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

This certificate shall apply to (check one):

☐ Single Purchase Certificate. Enter the invoice or purchase order #: _____

☐ Blanket Certificate.

Name of Purchaser: _____

Purchaser's EIN: _____ Foreign Diplomat Number: _____

Business Address: _____
Street, RR, or P.O. Box City State ZIP + 4

Reason for Exemption. Check the appropriate box for the exemption. Since this is a multi-entity form, not all entities are exempt on all purchases. Only those entities that do not have a Kansas Tax-Exempt Entity Exemption Number may use this certificate to claim an exemption. Kansas-based tax-exempt entities are required to have a Kansas Tax Exempt Entity Exemption Number; non-Kansas tax-exempt entities who regularly do business in Kansas are encouraged to apply for a Kansas Tax-Exempt Entity Exemption Number through our website at **ksrevenue.gov**. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) must use their numbered **PR-78 Tax-Exempt Entity Exemption Certificate** issued by the Kansas Department of Revenue to claim their exemption; they cannot use this certificate.

☐ Drill bits & explosives actually used in oil and gas exploration and production, K.S.A. 79-3606(pp).
☐ Educational materials purchased for free public distribution by a nonprofit corporation organized to encourage, foster, and conduct programs for the improvement of public health, K.S.A. 79-3606(ll).
☐ Materials purchased by community action groups or agencies to repair or weatherize housing occupied by low income individuals, K.S.A. 79-3606(oo).
☐ Medical supplies and equipment purchased by a nonprofit skilled nursing home or intermediate nursing care home, K.S.A. 79-3606(hh).
☐ Qualified machinery and equipment purchased by an over-the-air free access radio or TV Station, K.S.A. 79-3606(zz).
☐ Seeds, tree seedlings, fertilizers and other chemicals, and services used to grow plants to prevent soil erosion on agricultural land, K.S.A. 79-3606(mm).
☐ Foreign Diplomat.
☐ Newly Legislated Exemption. Briefly describe the exemption and enter the statute reference or enter the year and number of the Bill authorizing the exemption. _____
_____

☐ Community-based facility for people with intellectual disability or mental health center, K.S.A. 79-3606(jj).
☐ Elementary or secondary school (public, private or parochial), K.S.A. 79-3606(c).
☐ Habitat for Humanity, K.S.A. 79-3606(ww).
☐ Noncommercial educational TV or radio station, K.S.A. 79-3606(ss).
☐ Nonprofit blood, tissue or organ bank, K.S.A. 79-3606(b).
☐ Nonprofit public or private educational institution, K.S.A.79-3606(c).
☐ Nonprofit hospital or public hospital authority, K.S.A. 79-3606(b).
☐ Nonprofit museum or historical society, K.S.A. 79-3606(qq).
☐ Nonprofit, nonsectarian youth development organization, K.S.A. 79-3606(ii).
☐ Nonprofit religious organization, K.S.A. 79-3606(aaa).
☐ Nonprofit zoo, K.S.A. 79-3606(xx).
☐ Parent-Teacher Association or Organization, K.S.A. 79-3606(yy).
☐ Primary care clinics and health centers serving the medically underserved, K.S.A. 79-3606(ccc).
☐ Rural volunteer fire fighting organization, K.S.A. 79-3606(uu).

Authorized Signature: _____ Employer ID Number (EIN): _____
Officer, Office Manager, or Administrator

Printed Name: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.
PLEASE REFER TO THE INSTRUCTIONS FOR USE OF THIS CERTIFICATE ON THE REVERSE.

ABOUT THE DESIGNATED EXEMPTION CERTIFICATE, FORM ST-28

IMPORTANT: This is a multi-entity form; not all entities are exempt on all purchases.

WHO MAY USE THIS CERTIFICATE

This exemption certificate is used either to claim a sales and use tax-exemption present in Kansas law not covered by other certificates, or by a non-Kansas tax-exempt entity not in possession of form **PR-78, Kansas Tax-Exempt Entity Exemption Certificate**, discussed below.

Foreign Diplomats

Foreign diplomats must provide their foreign diplomat number issued by the Office of Foreign Missions of the U. S. State Department on this exemption certificate. Additional information about this exemption is in our **Notice 04-09** on our website.

Buyers claiming exemption based on how the item will be used (Resale, Retailer/Contractor, Ingredient or Component Part, Agricultural, etc.) must use the specific certificate (form type ST-28) designed for each of those exempt uses under the law. The U.S. Government, its agencies and instrumentalities must also continue to use form **ST-28G** designed for their exemption.

Tax-Exempt Entity Exemption Certificates (Forms PR-78)

To assist retailers in identifying the nonprofit entities exempt from paying Kansas sales and use tax, the Kansas Department of Revenue has issued Tax-Exempt Entity Exemption Certificates effective January 1, 2005. Issued first to Kansas-based entities, these are individual, uniquely numbered exemption certificates issued only by the department. Each certificate contains the entity's name and address, the statute cite of the exemption and the entity's Kansas Exemption Number. This number is separate and apart from any sales tax registration number used to collect tax from their customers. To claim its exemption, the registered exempt entity must merely provide a completed, signed copy of its PR-78 to the retailer. Tax exempt entities who have been assigned a Kansas Exemption Number (Kansas and non-Kansas based) **may NOT use the (form ST-28) Designated or Generic Exemption Certificate to claim exemption.**

Kansas-based tax-exempt entities are required to obtain a Kansas Tax-Exempt Entity Exemption Number. Tax-exempt entities (schools, nonprofit hospitals, etc.) from other states who regularly do business in Kansas are encouraged to obtain a Kansas Tax-Exempt Entity Exemption Certificate from the Kansas Department of Revenue. To obtain a uniquely numbered certificate, complete the application on our website at **ksrevenue.gov**.

GENERAL EXEMPTION RULES

An exemption certificate is complete only when all the requested information is provided. Please print or type all information, except for the authorized signature. Addresses must include the street or PO Box, city, state and zip code.

Direct Purchase.

Generally, an exemption applies only to direct purchases of tangible personal property or taxable repair services by an exempt entity for its exclusive use. A direct purchase is one that is billed directly to the exempt entity, and/or paid for with entity funds (check or credit card). Purchases made by employees or agents of the exempt entity with their personal funds are fully taxable, even when the employee/agent is reimbursed the expense by the exempt entity.

A direct "purchase" of tangible personal property includes the rental or lease of tangible personal property. The direct purchase of "services" are the taxable labor services of repairing, servicing, altering or maintaining tangible personal property, and the labor services (not materials) of a contractor on a real property project.

Construction, Remodel or Repair Projects

Qualifying entities may purchase the labor services of a contractor (whether working on tangible personal property or real property) without tax using this certificate. However, *indirect* purchases of materials and labor on real property projects are taxable. Materials furnished by or through a contractor or the materials and/or labor furnished by a subcontractor for the construction, reconstruction or repair of *real property* are not exempt with this certificate, as they are not a direct purchase by the entity. Therefore a contractor's invoice will include (and the entity must pay) the sales tax paid or accrued by the contractor on any materials, parts and subcontractor invoices for the project.

Project Exemption Certificates (PECs)

A PEC is a numbered document issued only by the Kansas Department of Revenue or its authorized agent. As the name implies, a PEC exempts the entire project – materials and labor – from sales or use tax. Not all entities are eligible to obtain a PEC. Contact the department at 785-368-8222 for more information.

Retailer Record Keeping

Retailers must keep a copy of this completed certificate with your other sales tax records for a period of at least three years from the date the certificate is signed and presented to you. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

Penalties for Misuse

A buyer who issues an exemption certificate in order to unlawfully avoid payment of the tax for business or personal gain is guilty of a misdemeanor, and upon conviction may be fined up to $1,000 or imprisoned for up to a year, or both.

TAXPAYER ASSISTANCE

Additional information about each exemption is in **Pub. KS-1520, Kansas Exemption Certificates**. This publication, as well as Notices and other written advice on Kansas taxes and exemptions are available from the Policy Information Library on the department's website at **ksrevenue.gov**. Since Kansas exemptions are not always of general application, you are encouraged to consult the website or the department with specific taxability issues.

If you have questions, you may contact the Kansas Department of Revenue:

By Phone

785-368-8222

By Mail

Tax Operations
PO Box 3506
Topeka KS 66625-3506

By Appointment

Go to **ksrevenue.gov** to set up an appointment at the Topeka or Overland Park office by using the Appointment Scheduler.

KANSAS DEPARTMENT OF REVENUE 466018

INGREDIENT OR COMPONENT PART EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

is exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(m) exempts all sales of tangible personal property that becomes an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas.

Description of tangible personal property or services purchased: _____

_____

The undersigned understands and agrees that if the tangible personal property is used other than as stated above or for any other purpose that is not exempt from sales or compensating tax, the undersigned purchaser becomes liable for the tax.

Purchaser: _____
Business Name

Kansas Tax Registration Number: _____
Kansas Sales Tax Number or Kansas Manufacturers' or Processors' Exemption Number

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Authorized Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Any business registered with the Kansas Department of Revenue buying raw materials or parts that meet the definition of an ingredient or component part may use this certificate. The buyer must have either a Kansas sales tax number **or** a Kansas Manufacturers' or Processors' Sales Tax Exemption Certificate Number. Buyers from other states that are not registered in Kansas should use form **ST-28M Multi-Jurisdiction Exemption Certificate**, to buy ingredient or component parts.

WHAT PURCHASES ARE EXEMPT? Only items that meet the definition of an ingredient or component part are exempt. Whether or not the item qualifies for exemption depends on **how it is used** in production or processing. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each item and its use must be separately measured against the definition to determine whether the sale is taxable or exempt.

CONTAINERS AND SHIPPING CASES: Included as ingredient or component parts are containers, labels, and shipping cases used to distribute property manufactured or produced for sale. To be exempt, the container or other shipping or handling material must actually accompany the product sold, and must NOT be returned for reuse to the manufacturer or producer. Containers, wrappers and other similar materials are TAXABLE when purchased by a business providing a nontaxable service or when used for any purpose other than the distribution and sale of taxable property.

EXAMPLES: The following items are exempt as ingredient or component parts when used in these industries or applications.

- Clay, paints, & glazes used to make pottery or china
- Frames, springs, foam, & fabric used to make mattresses or furniture
- Gold, silver, gems and beads used to make jewelry
- Paper and ink used in the publication of newspapers
- Styrofoam plates, cups, paper napkins, plastic silverware and take-out containers purchased by a restaurant

PROVIDING OF SERVICES: The term "service" refers only to TAXABLE services. Businesses providing nontaxable services (accountants, doctors, lawyers, day care centers, etc.) must pay sales tax on all property used to provide their services.

CONTRACTORS: Contractors, subcontractors, and repairmen may NOT use this certificate to purchase their materials. Materials and parts purchased by contractors are TAXABLE unless purchased or removed from a tax-exempt inventory with a Project Exemption Certificate.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE 469818

INTEGRATED PRODUCTION MACHINERY AND EQUIPMENT EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property and/or services purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P.O. Box City State Zip + 4

are exempt from Kansas sales and compensating use tax for the following reason:

K.S.A. 79-3606(kk)(1) exempts (A) all sales of machinery and equipment used in Kansas as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility, (B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and (C) all sales of repair and replacement parts and accessories for such machinery and equipment.

TO OBTAIN THIS EXEMPTION, COMPLETE LINES 1 THROUGH 5 AND THE CERTIFICATION

1. Describe the qualified machinery or equipment (include make, model, type, or other identifying criteria):

   _____

2. Describe how this equipment is used in the production process: _____

   _____

   _____

3. The equipment described in line 1 **is** / **will be** (circle one) located and used at the following Kansas manufacturing facility or plant. *(If this certificate applies to more than one location attach a list which identifies the additional locations.)*

   _____
   Name of Facility

   _____
   Street Address City State Zip Code

4. This certificate is for the: (Check all that apply)

   ☐ Purchase, lease, or rental of the integrated production machinery or equipment described in line 1.

   ☐ Materials and/or services necessary to install the equipment described in line 1. Describe: _____

   _____

   ☐ Materials and/or labor to fabricate qualified equipment. Describe: _____

   _____

   ☐ Repair or maintenance services on the equipment described in line 1.

   ☐ Repair parts, replacement parts, or accessories for the equipment described in line 1. Describe; include model, type, etc.: _____

   _____

   ☐ Purchase, lease, or rental of surface-mining equipment, as discussed in NOTICE 14-16.

5. The purchaser is:

   ☐ the owner/lessor of the equipment ☐ a contractor installing, servicing, repairing or fabricating the equipment

The undersigned understands and agrees that if the tangible personal property and/or services are used other than as stated above or for any other purpose that is not exempt from sales or compensating use tax, the undersigned purchaser becomes liable for the tax.

Purchaser: _____
Business Name

Purchaser's Type of Business: _____
Describe business activity and/or principal product(s) manufactured or processed

Address: _____
Street, RR, or P.O. Box City State Zip Code

Authorized Signature: _____ Date: _____

Printed Name: _____ Title: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

ABOUT THE EXEMPTION FOR INTEGRATED PRODUCTION MACHINERY & EQUIPMENT

WHO MAY USE THIS EXEMPTION?

Any manufacturing or processing business engaged in an integrated production operation at a plant or facility located in Kansas may use this certificate to purchase, install or repair integrated production machinery and equipment without tax. Contractors & repairmen may also use this certificate to purchase without tax the parts, materials and labor necessary to install, service, repair or fabricate qualified equipment.

Examples of manufacturing or processing businesses include: Chemical production; electrical power generation; the fabrication of automobiles, airplanes, machinery or transportation equipment; the fabrication of metal, plastic, wood or paper products; newspaper printing; petroleum refining; water treatment; wholesale bottling; etc. Also included are agricultural commodity processing operations (such as meat packing, frozen food processing, and the operations of a grain storage facility) and operations at a mineral (oil, gas, stone, sand, etc.) extraction site to clean, separate, grind or otherwise treat or prepare the product before its transmission to a refinery or for other wholesale or retail distribution.

Non-industrial businesses whose operations are primarily (more than 50%) retail, and produce or process tangible personal property as an incidental part of the retail business may NOT use this certificate. Retailers who may not use this certificate include: contractors who alter, service or repair real property; grocers who butcher or dress livestock or poultry; and retailers who bake, cook or prepare food products in the regular course of their retail trade.

WHAT IS INTEGRATED PRODUCTION MACHINERY AND EQUIPMENT?

To qualify as integrated production equipment, the item must be an integral or essential part of a process to manufacture, process, fabricate, finish, or assemble items for wholesale or retail distribution.

Exempt items include (but are not limited to) machinery and equipment used to:

- Receive, transport, convey, handle, treat or store raw materials in preparation for their placement on the production line;
- Transport, convey, handle or store the property undergoing manufacture at any point from the beginning to the end of the process occurring at the plant or facility;
- Act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;
- Guide, control or direct the movement of property undergoing manufacturing or processing;
- Test or measure raw materials, the property undergoing manufacturing or processing, or the finished product as necessary by the production operation;
- Plan, manage, control, or record the inventories of raw materials, consumables, component parts, and the finished product;
- Produce energy for, lubricate, control, or otherwise enable the function of other production equipment;
- Package the product;
- Transmit or transport electricity, coke, gas, water, steam or similar substances used in production from the point of generation (if produced at the plant site), or from the point where it enters the plant or facility (if purchased or delivered offsite), to the production operation;
- Cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances used in production operations;
- Provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility where such regulation is part of and essential to the production process;
- Treat, transport or store waste or other by products of the production process at the plant or facility; or
- Control pollution produced by the manufacturing or processing operation at the plant or facility.

Also exempt are all labor services to install, repair or maintain the manufacturing machinery and equipment, and all repair parts, replacement parts, and accessories for qualified equipment. These include, but are not limited to: dies, jigs, molds, patterns and safety devices that are attached to the exempt equipment; and parts and accessories that require periodic replacement such as belts, cutting bars, drill bits, grinding balls and wheels, saws; and refractory brick and other refractory items for exempt kiln equipment used in production operations.

Taxable Items Include (but are not limited to):

- Machinery and equipment used for non-production purposes, such as accounting, administration, advertising, employee work scheduling, fire prevention, first aid, marketing, plant cleaning, plant communications, plant security, record keeping, or sales and other related activities. Also taxable are computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process, or furniture and other furnishings (e.g., office equipment).
- Machinery, equipment and tools used primarily to maintain or repair any type of machinery and equipment, or the building or plant;
- Transportation, transmission and distribution equipment not primarily used in the production, warehousing or material handling process, such as the conveyance of natural gas, electricity, oil or water, and related equipment located outside the plant or facility;
- Buildings (other than exempt machinery and equipment that becomes a structural part of the building) and other real estate not otherwise exempt, and building fixtures not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;
- Machinery and equipment used for general plant heating, cooling and lighting;
- Motor vehicles that are registered to operate on public highways;
- Employee apparel, except safety and protective apparel that is purchased by the employer and furnished without charge to those employees who are involved in production or research activities; or
- Machinery and equipment used in mining, gas and petroleum drilling, water drilling, quarrying, sand and gravel extraction operations, and other similar activities to explore for or extract petroleum, gas, mineral, rock, sand, water, and other minerals or similar matter from below the surface of the soil or water or from a mine.

ADDITIONAL INFORMATION

A more complete discussion of this sales tax exemption is in the Kansas Department of Revenue's **Notice 00-08, Kansas Exemption for Manufacturing Machinery & Equipment as Expanded** by K.S.A. 79-3606(fff). This notice is available by calling 785-368-8222 or from our website: **ksrevenue.gov**.

RETAINING THIS CERTIFICATE

Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE 472001

REQUEST FOR PROJECT EXEMPTION CERTIFICATE

Kansas Department of Revenue
Tax Policy Group
PO Box 3506
Topeka, KS 66601-3506

Date:_____

Telephone: 785-296-3041
Fax: 785-296-7928

It is requested that a Certificate of Exemption be issued to the Petitioning Authority for the following described project if it is determined by the Department of Revenue that the proposed project qualifies for exemption from sales tax under the provisions of K.S.A. 79-3606(d) – public or private nonprofit hospital, elementary or secondary school, educational institution, political subdivisions of the state of Kansas and state correctional institutions; K.S.A. 79-3606(e) – United States Government, its agencies or instrumentalities; K.S.A. 79-3606(xx) – 501(c)(3) nonprofit zoo; K.S.A. 79-3606(aaa) – 501(c)(3) religious organization; K.S.A. 79-3606(ccc) – 501(c)(3) primary care clinic; K.S.A. 79-3606(iii) non-profit food distribution center; K.S.A. 79-3606(qqq) – TLC for Children and Families, Inc.; K.S.A. 79-3606(sss) non-profit charitable family providers; K.S.A. 79-3606(ttt) museum within a designated qualified hometown or K.S.A. 79-3606(uuu) Kansas Children's Service League.

(A) Type of project: _____
Describe work to be done

1. Present use of facility: _____
2. Proposed use of facility after project: _____

(B) Project location: _____
Building Number, Street Address, City, State, and Zip Code

(C) Is this project being constructed as part of a business enterprise whose sales are subject to sales tax (e.g., municipal water, electric or gas companies)? ☐ Yes ☐ No

(D) Is the Petitioning Authority authorized to levy ad valorem taxes on tangible property? ☐ Yes ☐ No

(E) 1. Is this project being totally financed by industrial revenue bonds? ☐ Yes ☐ No

2. Is this project being partially financed by industrial revenue bonds? ☐ Yes ☐ No

3. Amount of bonds being issued for project: _____

If you answered "**Yes**" to (E)1 or (E)2, you must complete the agreement on the back of this form and **enclose a copy of the letter of intent or resolution of intent to issue bonds**.

If you answered "**No**" to (E)1 or (E)2, **how is the project being financed (explain type of tax, bonds, etc.)**?

_____

(F) Name of claimant owner of project: _____

(G) Starting date: _____

(H) Estimated completion date: _____

(I) Estimated project cost: _____

(J) List names and addresses of prime contractors:

(K) Contract date: _____

(L) Contract number: _____

(M) Project number: _____

_____
Petitioning Authority

_____
Mailing Address

_____
Signature of Authorized Representative

_____
City, State & Zip Code

_____ _____ _____ _____
Type or Print Name | Tax Exempt Entity No. | Title | Phone Number

ONLY COMPLETE THIS PAGE IF YOU ANSWERED YES TO LINE (E) ON PAGE 1.

This agreement is made and entered into between and by the_____

_____(name of political subdivision), hereinafter referred to as

Exempt Entity; and _____(name of beneficiary of industrial revenue bond proceeds),

hereinafter referred to as Beneficiary.

It is hereby agreed by all parties to this agreement that the construction project for which the request for an exemption certificate is being made would be exempt from sales tax solely due to the fact that it is being financed by industrial revenue bonds. It shall be the duty of the Exempt Entity to notify the Kansas Department of Revenue when the industrial revenue bonds have actually been issued.

Whereas, the Kansas Department of Revenue deems it necessary to ensure that sales or compensating tax is paid should the project not be financed by industrial revenue bonds, it is hereby further agreed by the Beneficiary that if the industrial revenue bonds have not been issued by the time the project is completed then the Beneficiary will remit to the Kansas Department of Revenue the sales or compensating tax and applicable interest on tax which is due based upon the cost of tangible personal property or services used or consumed in the construction of the project. It is agreed that the Secretary of Revenue shall determine when the project has been completed.

The Secretary of Revenue shall have the right to demand from the Beneficiary payment of the sales and compensating tax and applicable interest due the state should the Kansas Department of Revenue not receive such payment within thirty (30) days after the project has been completed.

Any and all notices required herein shall be mailed and addressed as follows:

A. Notices to the Department of Revenue shall be addressed to: Director of Policy & Research, Kansas Department of Revenue, PO Box 3506, Topeka, Kansas 66601-3506

B. Notices to the Exempt Entity shall be addressed to:_____

_____

C. Notices to the Beneficiary shall be addressed to: _____

_____

This agreement shall be binding upon all parties hereto and any and all their successors.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by persons authorized to do so lawfully and with full corporate authority.

POLITICAL SUBDIVISION	BENEFICIARY OF INDUSTRIAL REVENUE BOND PROCEEDS
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Type or Print Name and Title	Type or Print Name and Title
DATED: _____	DATED:_____

Policy and Research
109 SW 9th Street
PO Box 3506
Topeka, KS, 66601-3506
Mark A. Burghart, Secretary

Kansas
Department of Revenue

Phone: 785-296-3081
Fax: 785-296-7928
www.ksrevenue.gov
Laura Kelly, Governor

STATE OF KANSAS
PROJECT COMPLETION CERTIFICATION

TO:_____
Name of Entity to whom Project Exemption Certificate was Issued

_____
Street Address City State Zip Code

This is to certify, to the best of my knowledge and belief, that all materials purchased under Project Exemption Certificate Number _____ , issued by the Kansas Department of Revenue, were incorporated into the building or project for which the exemption was issued and were entitled to an exemption pursuant to K.S.A. 79-3606(c), (d), (e), (cc), (xx), (aaa), (ccc), (iii), (qqq), (sss), (ttt), (uuu), (xxx), (yyy), (hhhh), (xxxx) and amendments thereto.

_____
Contractor / Subcontractor

_____
P.O. Box and/or Street Number and Name

_____
City, State, Zip

_____ _____
Signature and Title of Authorized Representative Date

INSTRUCTIONS

Upon completion of a tax exempt project, the contractor must furnish this certification to the exempt entity for which the work was performed. The exempt entity needs to retain this document in their files and record the actual date that the project was completed on-line at https://www.kdor.ks.gov/Apps/kcsc. All invoices must be retained by the contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue.

KANSAS DEPARTMENT OF REVENUE
DIVISION OF TAXATION

471820

PROJECT EXEMPTION CERTIFICATE

PERMIT TO PURCHASE TANGIBLE PROPERTY OR SERVICES WITHOUT PAYMENT OF SALES TAX, LOCAL SALES TAX, OR COMPENSATING TAX

The undersigned purchaser certifies that the sale of tangible personal property by

_____ of _____,
(Name of vendor) (City, State)

is exempt from the Kansas Sales and Compensating (Use) Tax pursuant to K.S.A. 79-3606(c), (d), (e), (xx), (aaa), (ccc), (iii), (qqq), (sss), (ttt), (uuu), (xxx) and (yyy) or the Retailers' Sales Tax Act.

Pursuant to the above section, the exemption certificate number below must appear on the invoice covering such sale.

Date _____ Purchaser _____
(Contractor/Subcontractor)

Address _____

City, State _____

_____
Authorized Signature

NOT VALID ON PURCHASES MADE PRIOR TO: April 1, 2006

NOT VALID ON PURCHASES MADE AFTER: July 31, 2006

Agent Status Number: 123-01

This entity has been granted agent status pursuant to K.S.A. 79-3606(d) or (e): ABC Elementary

Project number (if used): 1234567

Location of project (city or county): 120 S. Main, Anytown, KS

Description of project: Construction of a utility building

INSTRUCTIONS

EXEMPT ORGANIZATION-A copy of this certificate should be furnished to each contractor or subcontractor who will be purchasing tangible personal property for use on the project.

CONTRACTOR/SUBCONTRACTOR-Contractors and subcontractors working on the exempt project must furnish a completed copy of this exemption certificate to each retailer from whom you are buying tangible personal property or services for this project, or from whom you are renting or leasing construction machinery for use on the project.

RETAILER-Retailers must obtain a completed copy of this exemption certificate from each contractor or subcontractor making purchases of tangible personal property or services for the project, or renting or leasing construction machinery for use on the project.

Important Note: All invoices and exemption certificates for this project must be maintained by all parties for a period of five years and are subject to audit by the Kansas Department of Revenue.

SAMPLE

KANSAS DEPARTMENT OF REVENUE 465718

RESALE EXEMPTION CERTIFICATE

The undersigned purchaser certifies that the tangible personal property or service purchased from:

Seller: _____
Business Name

Address: _____
Street, RR, or P. O. Box City State Zip + 4

will be **resold** by me in the form of tangible personal property or repair service. I hereby certify that I hold valid Kansas sales tax registration number _____ , and I am in the business of selling _____
(May attach a copy of registration certificate)

_____
(Description of product(s) sold; food clothing, furniture, etc.)

Description of tangible personal property or services purchased: _____

_____

I understand and agree that if the items purchased with this certificate are used for any purpose other than retention, demonstration, or display while being held for sale in the regular course of business, I am required to report and pay the sales tax, based upon the purchase price of the items.

Purchaser: _____
Name of Kansas Retailer

Address: _____
Street, RR, or P. O. Box City State Zip + 4

Signature: _____ Date: _____

THIS CERTIFICATE MUST BE COMPLETED IN ITS ENTIRETY.

WHO MAY USE THIS CERTIFICATE? Only those businesses and organizations that are registered to collect Kansas sales tax and provide their Kansas sales tax registration number on this form may use it to purchase inventory without tax. For additional information see **Pub. KS-1520, Kansas Exemption Certificates**.

Nonprofit groups or organizations exempt by law from collecting tax on their retail sales of tangible personal property (such as a PTA or a nonprofit youth development organization) should use the exemption certificate issued to it by the Kansas Department of Revenue when buying items for resale.

Wholesalers and buyers from other states not registered in Kansas should use the form **ST-28M Multi-Jurisdiction Exemption Certificate**, to purchase their inventory. HOWEVER, if the inventory item purchased by an out-of-state retailer who has sales tax nexus with Kansas is drop shipped to a Kansas location, the out-of-state retailer must provide to the third party vendor a Kansas sales tax registration number, either on this certificate or the Multi-Jurisdiction Exemption Certificate, for the sale to be exempt. If the out-of-state retailer DOES NOT have sales tax nexus with Kansas, it may provide the third party vendor a resale exemption certificate evidencing qualification for a resale exemption, ***regardless*** of the state in which the retailer is registered for sales tax.

Contractors, subcontractors, or repairmen may not use this certi icate to purchase their materials, parts, or tools. Retailer/Contractors should use a **ST-28W Retailer/Contractor Exemption Certificate**, to purchase their resale inventory.

WHAT PURCHASES ARE EXEMPT? Only goods or merchandise intended for resale (inventory) are exempt. Tools, equipment, fixtures, supplies, and other items purchased for business or personal use are TAXABLE since the buyer is the final consumer of the property.

The items purchased with this certificate must correspond to the type of business buying them. For example, a retail clothing store may only reasonably purchase items of wearing apparel and accessories with this certificate. All other kinds of items are not usually sold by a clothing store to their customers and, therefore, cannot be purchased with this certificate.

LABOR SERVICES. This certificate applies ONLY to items of tangible personal property. A contractor may not use an exemption certificate to purchase the labor services of another contractor or subcontractor. Taxable labor services performed by a contractor can ONLY be purchased without tax with a Project Exemption Certificate issued by the department or its authorized agent.

RETAINING THIS CERTIFICATE: Sellers should retain a completed copy of this certificate in their records for at least three years from the date of sale. A seller is relieved of liability for the tax if it obtains a completed exemption certificate from a purchaser with which the seller has a recurring business relationship. A certificate need not be renewed or updated when there is a recurring business relationship between the buyer and seller. A recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

KANSAS DEPARTMENT OF REVENUE 465818

STATEMENT FOR SALES TAX EXEMPTION ON ELECTRICITY, GAS, OR WATER FURNISHED THROUGH ONE METER

Please type or print this form and send a completed copy WITH worksheets to your utility company. Complete a form for each meter on which you are applying for an exemption.

1. _____ _____
Address of meter location Utility account number

2. In accordance with the Kansas Retailers' Sales Tax Act, the undersigned purchaser states that the (circle one: electricity, gas, water) sold and furnished by (name of utility company) _____ through meter number _____ at the above location issued for the following purposes based on annual consumption.

3. _____ uses electricity, gas or water for the following purpose (check one):
PURCHASER (Name of individual, company, or organization)

Unless otherwise indicated, the uses below are exempt from state and local sales tax.

- ☐ Agricultural use. (Electricity & gas subject to local sales tax.)
- ☐ Certain nonprofit corporations exempt from real estate property tax – i.e., adult care homes (nursing homes); private children's homes (nursing home foster care, etc.); housing for low and limited income elderly and disabled persons (includes HUD housing projects); housing for the elderly; and group housing for people with an intellectual disability and other disabled persons. ATTACH A COPY OF THE "ORDER" FROM THE BOARD OF TAX APPEALS.
- ☐ Consumed in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property, or treatment of by-products or wastes of any above processes.
- ☐ Domestic violence shelters.
- ☐ *Educational institutions and nonprofit trusts, nonprofit endowment associations and foundations operated for the sole benefit of an education institution.
- ☐ *Government entity.
- ☐ Ingredient or component part.
- ☐ Irrigation of crops.
- ☐ Movement in interstate commerce by railroad or public utility.
- ☐ *Noncommercial educational radio or TV station.
- ☐ Noncommercial residential use. (Electricity & gas subject to local sales tax.)
- ☐ *Nonprofit hospital.
- ☐ *Nonprofit museum or historical society.
- ☐ *Nonprofit zoo.
- ☐ *Over-the-air free access radio or TV station. Only the electricity used to produce the broadcast signal is exempt. All other utility use is taxable.
- ☐ Providing taxable services.
- ☐ *Religious organization exempt from federal taxation under section 501(c)(3) of the federal Internal Revenue Code.
- ☐ Severing of oil.
- ☐ *Other exempt entity.

*** Enter Sales Tax Exemption Identification Number:** _____ **Employer ID Number (EIN):** _____

4. Type of business: _____

5. Describe the taxable service; movement in interstate commerce; agricultural use; or property produced, manufactured, etc.:

_____

_____

NOTE: Sales of water to residential premises for noncommercial use or for agricultural use are NOT subject to local (city/county) sales tax. However, all electricity and gas used to light, heat, cool, clean or maintain equipment, buildings or business facilities (offices, plants, shops, warehouses) are FULLY TAXABLE. This includes, but is not limited to, electricity and gas for air conditioners, all lighting (including production area), exhaust fans, freezers, heaters, refrigerators, other appliances and machines.

6. EXEMPT PERCENT: _____% (See instructions.)

The undersigned purchaser agrees and certifies that: a) this statement is true, correct, and complete; b) **the worksheets used to determine the "Exempt Percent" will be kept by the undersigned and copies of the worksheets and this completed form will be provided to the utility company)**; and, c) in the event there is a change in the "Exempt Percent", a revised statement will be filed immediately with the utility company. If the electricity, gas, or water exempted from taxation is determined to be taxable at a rate other than stated above, the undersigned purchaser agrees to reimburse the utility company or the Kansas Department of Revenue for any amounts assessed as retailers' sales or compensating tax, penalties, and/or interest.

Purchaser: _____ Phone No.: _____
Individual, company, or organization name

Address: _____
Street, RR, or P.O. Box, City, State, Zip + 4 Email Address

_____ Date: _____
Printed Name *Authorized Signature

ONLY owner, partner, company officer or power of attorney can sign this form.

☐ No ☐ Yes The individual signing this form authorizes KDOR to discuss this statement for sales tax utility exemption with any employee of the company and not only the individual signing this exemption request. A **DO-10 (POA)** is still required documentation if the request is prepared/filed by a 3rd party.

INSTRUCTIONS FOR COMPLETING FORM ST-28B

When gas, water, or electricity is furnished through one meter for both taxable and exempt purposes, the purchaser is responsible for determining the percentage of use exempt from sales tax. The sample worksheet provided below will help you to determine the percent of electricity, gas, or water that qualifies for exemption. The worksheet you provide should list **all** taxable and exempt equipment. If you have questions about this form, contact Audit Services/Sales Tax Refunds, Kansas Department of Revenue, 109 SW 9th St., PO Box 3506, Topeka, KS, 66601-3506, email **KDOR_Audit.Funds@ks.gov** or call 785-296-7108.

***Authorized Signature:** The Owner, Partner, Company Officer signing this form authorizes KDOR to discuss this statement for sales tax utility exemption with any employee of the company and not only the individual signing this exemption request. A **DO-10 (POA)** is still required documentation if the request is prepared/filed by a 3rd party.

AGRICULTURAL: Electricity and gas for agricultural use is exempt from the state sales tax but **not** exempt from the local taxes. Agricultural use does **not** include commercial operations such as processing food or dairy products, off-farm grain storage and marketing, lumbering, or use by a stockyard, slaughter house, floral shop, or turf farm.

CERTAIN NONPROFIT CORPORATIONS: Sales of electricity, gas, or water to properties which are exempt from property taxation under K.S.A. 79-201b Second through Sixth are exempt from state and local sales tax. Once the property is determined to be exempt, copies of the "order" from the Board of Tax Appeals and this completed exemption certificate (ST-28B) must be provided to the utility company and the Kansas Department of Revenue.

CONSUMABLES: The portion of electricity, gas, or water you use that meets the following requirements is exempt from state and local taxes: 1) essential or necessary to the process; 2) used in the actual process at the location during the production activity; 3) immediately consumed or dissipated in the process; and, 4) used in the production, manufacturing, processing, mining, drilling, refining, or compounding of tangible personal property or the treatment of by-products or wastes of any above processes. The following uses of electricity, gas, or water are **not** exempt from sales tax: shipping, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing.

INGREDIENT OR COMPONENT PART: An example of electricity, gas, or water which becomes an ingredient or component part and qualifies for exemption is "water" that is part of the ingredient in a beverage which is bottled and sold to a retailer for resale.

RESIDENTIAL: If the electricity, gas, or water you consume is for residential use only, you do not need to file this form. The utility company automatically exempts you from paying state sales tax (city and county sales tax still applies). However, if the electricity, gas, or water you consume is partly for residential purposes and partly for commercial use, you must determine the percent of usage that is residential and file copies of your worksheets and this completed form with your utility company and the Department of Revenue. Utilities consumed in commercial common areas such as an office, lounge, hallway, laundry facility, storage area, swimming pool, etc., **do not** qualify for exemption.

HOW MUCH OF MY UTILITY USE QUALIFIES FOR EXEMPTION? You will probably need several sheets of paper as worksheets. If your facility is serviced by more than one meter, you need to complete a separate chart to determine the percent of usage for each meter. If the facility is heated and air-conditioned by a central unit, you may use the square footage method to arrive at the residential percent of consumption for heating and cooling. You may need the assistance of a plumber or electrician to complete the formulas. Refer to the following example and steps to determine your exempt percent.

COLUMN 1 Type of Device		COLUMN 2 Rating of Device	COLUMN 3 Estimated Hours of Use Per Day	COLUMN 4 Load Factor	COLUMN 5 Number of Days the Device is Used Per Year	COLUMN 6 Usage Per Year stated in kWh, BTU, or Gallons
20 - light bulbs	T	40 watts	10	1.00	324	2,592 kWh
1 - production machinery	E	500 watts	10	.50	255	637.5 kW

EXAMPLE

1. At the top of each page, place the headers as noted in the example and complete the following information per column:

   COLUMN 1—List each device that is pulling the utility.

   COLUMN 2—Rating of each device.

   COLUMN 3—Estimate the number of hours of use per day (i.e., on average, twenty 40 watt light bulbs are on ten hours per day, therefore, enter "10").

   COLUMN 4—Determine and enter load factor (i.e., when a light bulb is on it pulls the full rate of 100% power but a burner on the stove on "low" may only pull 30% load factor).

   COLUMN 5—Number of days the device is used per year.

   COLUMN 6—Determine usage per year stated in kilowatt-hours (kWh), BTU, or gallons.

   1000 watts = 1 kWh
   Horsepower = .746 X H.P. = watts
   Ten 100-watt bulbs burning 1 hour will use 1 kWh
   1,000,000 BTU in 1 MCF

2. Indicate beside each type of device an "E" for exempt or a "T" for taxable.

3. Multiply the quantity in column 1 by column 2 by column 3 by column 4 by column 5 to arrive at the sum for column 6.

4. Add the usage per year (column 6) for all of the devices you have indicated as "exempt" then add all of the usage per year (column 6) for all the devices that you have indicated as being "taxable." Adding the exempt and taxable usage should equal the total consumption per year as shown on your utility bills for the last 12 months.

5. Divide the total number of exempt kWh by the total number of kWh consumed in the last 12 months. This is the percent of usage that is exempt from tax. Enter this amount on line 5 on the front of this form (ST-28B).

The instructions provided are intended to help consumers of electricity, gas, or water complete this form.
In case of discrepancies, the applicable law prevails.

ATTN: Hotels, Motels and Nursing Homes: Please include the occupancy rate for the last 12 months of business with your study.

KANSAS DEPARTMENT OF REVENUE 465218

SCHEDULE FOR REFUND OF SALES TAX ON ELECTRICITY, GAS OR WATER

Utility Company:_____

Business Name:_____

Mailing Address: _____

Account No.: _____

Meter No.:_____

Taxable Percentage:_____

Meter Location

County: _____

City:_____

Type of Utility:_____

Non-Taxable Percentage:_____

Month/Year	KW/MCF Consumed	Gross Sales Without Tax	State Tax Paid	County Tax Paid	City Tax Paid
Total					
Refund Amount					

Prepared by:_____ Date: _____

Telephone Number:_____ Previous Exempt %:_____

NOTES

TAXPAYER ASSISTANCE

This publication is a general guide and will not address every situation. If you have questions, you may contact the Kansas Department of Revenue:

By Phone	By Mail	By Appointment
785-368-8222	Tax Operations PO Box 3506 Topeka KS 66625-3506	Go to **ksrevenue.gov** to set up an appointment ~~at the Topeka or Overland Park office~~ by using the Appointment Scheduler.

Office hours are 8 a.m. to 4:45 p.m., Monday through Friday.

PUBLICATIONS

Below is a **list of publications available on the Kansas Department of Revenue's website**. These publications contain instructions applicable to specific business industries and general information for all business owners.

- Publication KS-1216, Kansas Business Tax Application
- Publication KS-1223, Kansas Food Sales Tax Rate Reduction
- Publication KS-1510, Kansas Sales Tax and Compensating Use Tax
- Publication KS-1515, Kansas Tax Calendar of Due Dates
- Publication KS-1520, Kansas Exemption Certificates
- Publication KS-1525, Kansas Sales and Use Tax for Contractors, Subcontractors and Repairmen
- Publication KS-1526, Kansas Business Taxes for Motor Vehicle Transactions
- Publication KS-1527, Kansas Business Taxes for Political Subdivisions
- Publication KS-1530, Kansas Tire Excise Tax
- Publication KS-1540, Kansas Business Taxes for Hotels, Motels, and Restaurants
- Publication KS-1550, Kansas Business Taxes for Agricultural Industries
- Publication KS-1560, Kansas Business Taxes for Schools and Educational Institutions
- Publication KS-1700, Kansas Sales & Use Tax Jurisdiction Code Booklet
- KW-100, Kansas Withholding Tax Guide

STATE SMALL BUSINESS WORKSHOPS

As part of our commitment to provide tax assistance to the business community, Tax Specialists within the Kansas Department of Revenue conduct small business workshops on Kansas taxes at various locations throughout Kansas. Whether you are a new business owner, an existing business owner, or an accountant, these workshops will give you the tools and understanding necessary to make Kansas taxes easier and less time consuming for you. Topics covered include filing and reporting requirements and methods, what is taxable, what is exempt and how to work with the department in collecting and remitting Kansas taxes.

For a **schedule of our workshops, visit our website**. Pre-registration is required, and a fee may be charged by the sponsoring Small Business Development Center (SBDC).