**Memorandum**

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| **Identifying Information:** | **1999 Legislative Changes** |

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| **Tax Type:** | **Property Tax** |
| **Brief Description:** | **Brief summary of all legislation enacted during the 1999 Legislative Session affecting property tax issues.** |
| **Keywords:** |  |
| **Effective Date:** | **06/07/1999** |

**Body:**

**M E M O R A N D U M**

**TO:**County Appraisers

**FROM:**Laura Johnson, Deputy Director

**DATE:**June 7, 1999

**SUBJECT:**New Property Tax Laws -1999 Legislative Session

There were many new property tax laws that passed in 1999. Below is a brief summary. The new truth in taxation law, Senate Bill 45, Section 21, will also be addressed in depth in a separate memorandum.

Appearing first below is a summary of the new laws by topic which also cites the specific bill and section number where the law can be found. Following the list of laws by topic, you will find a brief summary of each bill in numerical order and section number. The major bills with property tax laws this session were Senate Bills 11, 45, 78 and Senate Bill 171.

**Topics:**

**Exemptions:**

Sailboards and pick-up shells, SB 11, Sec. 1
Renewable energy resource facilities (state-assessed property), SB 45, Sec. 3
Student unions/dormitories of vo-tech schools and community colleges, SB 45, Sec. 73
Nursing home/elderly housing - revised (lowest feasible cost, day-cares), SB 45, Sec. 74
Farm machinery and equipment - gas distribution system for irrigated land, SB 78, Sec. 2, 1
Housekeeping - county appraiser has discretion to exempt certain vehicles, SB 78, Sec. 13
$20,000 of residential property value exempt from school mill levy for 2000, SB 171, Sec. 9

**Notice of Value:**

Notice may include comparable sales information (SB 11, Sec. 2 and 4)
Notice must state that an appeal guide available. PVD to issue guide (SB 11, Sec. 4)
Notice may be sent to lessee of real property (SB 78, Sec. 6)

**Appeals:**

County must provide comp. sales sheet or other documentation at informal (SB 11, Sec. 3)
Tax grievance/clerical errors clarified and refunds allowed for only 4 years (SB 11, Sec. 6)
Clarified taxpayers may appeal to small claims if county does not have HOP (SB 78, Sec. 7)
County has burden prove commercial and industrial real property value correct
(SB 78, Sec. 8, 9, 10 & 11)

**State v. Locally Assessed:**

Not-for-profit coops with 66-104c status from the KCC (gas distribution) are locally assessed
(SB 78, Sec. 3; this applies to real property and non-exempt personal property; see also
SB 78, Sec. 2 (exemption)

**Re-inspection:**

County now has duty to view and inspect all property in jurisdiction every 6 years
(SB 11, Sec. 5)

**Tax Roll:**

Leased land and improvement can be listed separately on tax roll (SB 78, Sec. 5)

**Statewide School Mill Levy:**

The 20-mill statewide school mill levy was renewed for the 2000-2001 school year
(SB 171, Sec. 6)

**Levy Lids:**

The levy lids and limitation laws were repealed (SB 45, Sec. 22 through 72)
In conjunction with this repeal, a new “truth in taxation” law was adopted (SB 45, Sec. 21)

**New Oil and Gas Income Tax Credit:**

Note: county appraisers may be asked to assist in providing supporting documentation for
income tax credit (SB 45, Sec. 2)

**Filing Plats:**

Register of Deeds may allow plats to be filed if first half taxes paid and second half not yet
due (SB 78, Sec. 4)

**Brief Summary of Bills**

**Senate Bill 11:**

Section 1 - Sailboards and pick-up shells are now exempt as household goods.

(Effective Jan. 1, 1999).

Section 2 - A sales ratio statute pertaining to the exceptions to the general rule that sales information is confidential was amended to allow the sales used to value a subject property to be placed on the notice of its value.

Section 3 - The county appraiser must provide the taxpayer with the opportunity to review the comparable sales sheet or whatever summary documentation was used to value the subject property at the informal meeting.

Section 4 - The notice of value statute was amended to allow the county to present brief information pertaining to the comparable sales used to value the subject property on the notice of value. Information specifically mentioned in the new law includes the parcel identification number of each comparable sale, the sales price, address and sales date. The law further states the obvious: that the information may be required to be placed on the notice of value by the county commissioners.

The notice of value must also now state that an appeal guide is available without charge. In addition, the appeal guide must be provided if requested. The appeal guide must be devised by PVD and must include: (1) appraisal methodology, including K.S.A. 79-503a (fair market value) and K.S.A. 79-1460 (increases in value); (2) appeals procedures (including burdens of proof); and (3) any other information necessary to educate taxpayers regarding appeals of appraised value.

Section 5 - The reappraisal statute was amended to require an actual view and inspection every 6, rather than every 4 years beginning with year 2000 (2001 values). Correspondingly, a county is deemed to be in compliance if 17% or more of the parcels in the county are viewed and inspected in a year (rather than the former 25%).

This law takes effect commencing in 2000. At that time, all counties should be certain that all property in their jurisdiction is actually viewed and inspected during the 6-year period that begins January 1, 2000, and ends December 31, 2005. This will entail having a reasonable plan of action.

We are currently in the second year of what was formerly a 4-year cycle for view and inspection. For tax year 1999, we will be looking forward to the requirements of the new law. In order to assure the actual view and inspection is effective during the transition to the new term, for tax year 2000, counties should not view and inspect again that property which was just viewed and inspected during 1998 and 1999. New construction should be viewed and inspected each year.

Section 6 - The tax grievance/clerical error statutes were amended to clarify what is meant by “clerical error” (adding the terms “mathematical miscomputation” and eliminating the paragraph allowing correction of “errors in extensions of values or taxes whereby a taxpayer is charged with unjust taxes.”) In addition, BOTA’s jurisdiction in K.S.A. 79-1702 was limited to 4 years from the date the tax would have become a lien on real estate (the lien date is November 1, per K.S.A. 79-1804). The new law eliminates the language authorizing BOTA to issue a refund for more than 3 years back with the approval of the county commissioners.

**Senate Bill 45**

Section 2 - A new income tax credit is available for some of the personal property taxes on certain low-producing oil and gas leases, for tax years commencing after December 31, 1997. The credit applies to the property taxes attributable to the working interest of wells producing 15 barrels or less. The credit applies if the taxes have been actually and timely paid. For the tax year commencing after December 31, 1997, the credit is 75% of the property taxes levied for tax year 1998. For tax years commencing after December 31, 1998, the credit is 50% if the price per barrel of oil is $16 or less, as determined in the director of property valuation’s oil and gas guide for that respective tax year. This is a refundable credit.

County appraisers may be asked to assist in providing documentation to support the credit.

Section 3 - A new property tax exemption was adopted for renewable energy resource facilities. This exemption pertains to state-assessed property. The exemption becomes effective for taxable years after December 31, 1998.

Section 21 - The new “truth in taxation” law provides that a taxing subdivision can only adopt a budget that spends more than the prior year (plus an increase allowed for certain new property) if an ordinance or resolution is adopted. The new law was adopted in conjunction with the repeal of levy lid limitations. It becomes effective May 27, 1999. We will issue a separate memorandum very soon on the new law.

Sections 22
through 72 - The levy lids and limitations were repealed.

Section 73 - A new property tax exemption was adopted for all buildings of an area vocational school, vo-tech school, technical college or community college which are owned and operated by the school or college as a student union or dormitory, and the site upon which the building is located.

The exemption becomes effective for taxable years after December 31, 1998. The exemption must be granted by BOTA. (K.S.A. 79-201a *Nineteenth*).

Section 74 - The exemption for nursing homes (K.S.A. 79-201b *Second*) and elderly housing (K.S.A. 79-20b *Fifth*) were revised. Effective for tax years after December 31, 1976, property is deemed to be operating at its lowest feasible cost when the property is used in a manner that is consistent with federal internal revenue service ruling 72-124 issued pursuant to I.R.C. 501(c)(3). (*See also Lakeview Village, Inc. v. Board of Johnson County Comm’rs,*25 K.A. 2d 597 (1998). In addition, for tax years beginning after December 31, 1995, such property is deemed to be used exclusively for exempt purposes when used as a not-for-profit, licensed day care center for children.

**Senate Bill 78**

Section 1 - A Kansas Corporation Commission (KCC) statute (K.S.A. 66-104c) was amended to allow certain lightly-regulated not-for-profit co-ops to have up to 100 customers rather than 50. This statute is used as the basis for the amendment to the farm machinery/equipment exemption. The effective date of this law is July 1, 1999.

**Senate Bill 78**, *cont.*

Section 2 - The farm machinery and equipment statute was amended to allow exemption of a gas distribution system held by a not-for-profit organization defined by the KCC as a K.S.A. 66-104c organization when operated primarily for the purpose of providing fuels for irrigation of land devoted to agricultural use. The effective date of the exemption is January 1, 1999.

Section 3 - The public utility statute was amended to clarify that K.S.A. 66-104c organizations (as determined by the KCC) are not public utilities for property tax purposes, effective January 1, 1999. (Thus, the real property or non-exempt personal property of such organizations would be locally assessed).

Section 4 - The statute pertaining to the filing of plats was revised to allow the register of deeds to file a plat if just the first half taxes are paid and the second half taxes are not yet due. This revision was necessary due to an Attorney General’s Opinion finding that technically, an entity should pay all taxes (both the first and second half taxes) before being allowed to file a plat, even if the entity was attempting to file a plat between December 21 and June 20 and the first half taxes were timely paid. The effective date of this law is July 1, 1999.

Section 5 - The statute pertaining to the tax roll was revised to allow a county appraiser to list the land and improvement separately on the tax roll rather than as a single aggregate when the improvements are owned by entities other than the owner of the land, provided the lease agreement is filed with the register of deeds. The improvements may be assessed then to the owner of the improvement, rather than the owner of the land.

The law was also clarified to reflect that in terms of delinquent taxes on the improvements, the taxes could be collected by the levy and sale of the interests in the same manner as personal property.

The effective date of the new change in this law is July 1, 1999.

Section 6 - The notice of value statute was amended to allow a county to send the notice to the owner and/or the lessee when real property or improvements are leased, provided that the lease agreement has been filed with the register of deeds.

The effective date of this law is July 1, 1999, so it will first impact the notices of value mailed during year 2000.

Section 7 - The BOTA small claims division statute was revised to clarify that a taxpayer may appeal a notice of value to the small claims division rather than BOTA when in a county does not provide a hearing officer/panel. This is consistent with the manner in which the BOTA has interpreted the statutes since the inception of the small claims division in 1999.

**Senate Bill 78**, *cont.*

Section 8
through
Section 11 - When a taxpayer appeals their notice of value or files a payment under protest, it is now the duty of the county appraiser to initially prove the validity and correctness of his or her valuation of commercial and industrial real property when the case is before BOTA or the hearing officer panel. The county appraiser’s determination is no longer provided a presumption of correctness. However, if the property is leased, 3 years income/expense information must be provided to the county appraiser for each of those years that the property was leased, or the burden of proof does not shift.

Formerly, the county appraiser only had the duty to prove the validity and correctness of residential property valuations. The effective date of the new law is July 1, 1999. County appraisers can expect to have to fulfill the new law beginning with cases heard on that date.

Remember, under K.S.A. 74-2433f (g), a law that passed during 1998, when a taxpayer appeals to the small claims division, the county appraiser has the duty to prove the validity and correctness of his or her determination for all property. The county appraiser’s determination is not provided a presumption of correctness.

Also remember, when a taxpayer appeals their notice of value it is the duty of the county appraiser to show the taxpayer proof of how the property’s valuation was determined at the informal meeting. (K.S.A. 79-1448). When a taxpayer pays under protest, the county appraiser must review the appraisal of the taxpayer’s property with the taxpayer at the informal meeting. (K.S.A. 79-2005 (a)). Senate Bill 11, Section 3, which passed in 1999, imposes more detailed responsibilities.

Section 13 - The exemption procedure statute (K.S.A. 79-213) was revised as a housekeeping measure to clearly provide that vehicles used to transport elderly and disabled persons by an organization exempt under K.S.A. 79-201 *Ninth* by virtue of providing humanitarian services and motor vehicles maintained outside the state by resident full-time military individuals may be exempted at the county’s discretion. This law actually passed in 1998 and was published in the Kansas Register last year, but, due to oversight, did not appear in the 1998 Supplement.

**Senate Bill 171**

Section 6 - The 20 mill statewide school mill levy was renewed for the 2000-01 school year.

Section 9 - The property tax exemption from the statewide school mill levy for up to $20,000 of a residential property’s value was extended to tax year 2000.

**Date Composed: 06/11/1999 Date Modified: 10/09/2001**