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NOTICE 13-08 (revoking and replacing Notice 13-07)

STATE SALES TAX RATE CHANGE FROM 6.3% TO 6.15% IN 2013 HOUSE BILL 2059

June 6, 2013

Notice 13-07, previously issued, is hereby revoked as erroneous and is replaced by Notice 13-08.

House Bill 2059 passed by the Legislature and expected to be signed by the Governor changes the state sales and use tax rate from 6.3% to 6.15% on July 1, 2013. The 6.15% state rate applies to taxable sales of goods and services that occur on and after July 1, 2013. The retailer should charge customers the combined sales tax rate that equals the sum of the 6.15% state rate *plus all applicable local sales tax rates.* When used in this Notice, "goods" means "tangible personal property" as defined at K.S.A. 2012 Supp. 79-3602(pp).

Transition from the 6.3% to the 6.15% state rate - The following transition rules determine how sales tax applies to taxable sales transactions that begin before July 1, 2013, and are completed on or after July 1, 2013:

Sales Agreed to Before July 1, 2013, with Delivery On and After July 1, 2013 - When goods are sold and delivered before July 1, 2013, the 6.3% state rate applies. When goods are sold but delivery is arranged to be made or can reasonably be expected to be made on or after July 1, 2013, the 6.15% state rate applies. This rule applies to written sales contracts and verbal sales agreements even when full or partial payment is made before July 1, 2013.

Sales of Services - Kansas sales tax applies to charges for repair, installation, and application services, as well as to charges for "servicing" property. *K.S.A. 2012 Supp. 79-3603(p) & (q).* These labor services are sourced in the same way as the sale of goods. *K.S.A. 2012 Supp. 79-3669; K.S.A. 2012 Supp. 79-3670.* This means charges for labor services are taxed when the goods being serviced or repaired are returned to the customer or when the completed service work is otherwise available for "first use" by the customer. These rules apply without regard to when the service agreement is entered into, when payment is received, or when the labor services are performed.

When a mechanic, body shop, electronics shop, or other service provider accepts a customer's vehicle or other property for service or repair before July 1, 2013, and returns it and bills it on or after July 1st, all of the charges are subject to the 6.15% state rate. When a dry cleaner or laundry accepts a customer's clothing or other property for cleaning before July 1, 2013 and returns it and bills it on or after July 1, 2013, all of the charges are subject to the 6.15% state rate.

Telephone, cable, community antennae, and other subscriber television and telecommunication services - These services are subject to sales tax at the 6.15% state sales tax rate beginning July 1, 2013. For services covering a billing period starting before and ending after July 1, 2013, the new lower state sales tax rate of 6.15% applies to bills rendered after the effective date of the rate change, which is July 1, 2013.

Metered utility charges for taxable nonresidential water, gas, and electricity service - Metered services are subject to the 6.15% state rate beginning on July 1, 2013. The state rate change applies to invoices for metered services in the same way it applies to the services discussed in prior subsection.

Leases of tangible personal property - Kansas sales tax is imposed on leases of tangible personal property. Each lease installment is treated as a separate sale. A sales tax rate change applies to lease installments without regard to when the lease agreement is entered into or when payment is made.

An installment for a billing period that starts on or after July 1, 2013, is subject to the 6.15% state rate. The installment for the last billing period that starts before July 1, 2013 and ends after July 1, 2013 and is billed on or after that date, is taxed at the 6.15% state rate.

This subsection does not apply to financing leases. A financial lease is credit arrangement that finances the purchase of goods. Sales tax on the goods is payable up front at the time of sale on the full sales price rather than on the stream of payments made to pay down the loan balance.

Rentals - The 6.15% state rate applies when a customer takes possession of rental goods on or after July 1, 2013. When a customer takes possession of rental goods before July 1, 2013, the rental charge for the last weekly or monthly billing period that starts in June and ends on or after July 1, 2013 and is billed on or after that date, is subject to the 6.15% state rate. If the rental agreement is extended, renewed, or modified on or after July 1, 2013, the 6.15% state rate applies from that time forward.

Admission Charges - An admission charge to an event held in Kansas is subject to the state rate in effect on the date the ticket is sold and delivered to the buyer, regardless of when the event is held.

Membership dues - Kansas sales tax is imposed on membership dues charged by country clubs and other organizations that allow a dues-paying member to use the organization's facilities for recreation or entertainment. Dues paid for periods that start on or after July 1, 2013, are taxed at the 6.15% state rate. Dues paid for a period that starts before and ends on or after July 1, 2013 and are billed on or after that date, are taxed at the 6.15% state rate.

Room Occupancy - Hotels should charge sales tax on single-day sleeping room charges for June 30, 2013 evening and the morning of July 1, 2013 at the 6.15% state sales tax rate. All taxable occupancy charges thereafter should taxed at the 6.15% state rate. For purposes of this rate change, sleeping room rentals billed on a weekly or monthly basis are treated as day-to-day rentals if either party has the unconditional right to terminate the room rental

agreement on any day. Otherwise, charges for sleeping room rentals for a weekly or monthly billing period that begins before July 1, 2013 and ends on or after July 1, 2013 and is billed on or after that date are subject to the 6.15% state sales tax rate.

Construction contracts - When repair, installation, or application services are performed as part of a construction project, the services are subject to Kansas sales tax unless the services are exempted as part of original or residential construction or under a Project Exemption Certificate. *K.S.A. 2012 Supp. 79-3603(p) and (q); Information Guides EDU-26 and Pub. KS-1525.* When construction labor services are not exempt, contractors and subcontractors are required to collect and remit sales tax on their charges to the property owner, the general contractor, or another subcontractor in accordance with the directives in Information Guide EDU-26 and Pub. KS-1525. *See Pages 26-34 of Pub. KS-1525.* Regardless of whether the labor services are taxed or exempted, contractors, subcontractors, and property owners are required to pay sales tax on their purchases of construction materials and supplies unless a Project Exemption Certificate has been issued for the project and is presented to the vendor at the time of purchase. *See Pages 12-16 of Pub. KS-1525.*

Progress payments. A progress payment is a payment made to a contractor as work progresses on a construction project. Progress-payment clauses in a construction contract allow the contractor to bill the property owner at intervals, which may be based on the costs incurred by the contractor, the percentage of work completed, the stage of work completed, a payment schedule, or some other basis. Progress payments help reimburse the contractor for the costs it incurs in each progress-payment interval, such as paying subcontractor charges and employee wages and buying building permits, construction materials, supplies, and insurance.

When a construction contract calls for billing progress payments to the property owner that include charges for taxable labor services, the contractor is required to report and remit sales tax on the taxable labor services performed during each interval covered by a progress payment. Sales tax on the labor services is required to be reported on the return for the reporting period in which each progress payment is due and payable. The 6.3% state sale tax rate applies to taxable labor services rendered before July 1, 2013, in a progress-payment interval billing. The 6.15% state sale tax rate applies to taxable labor services rendered on or after July 1, 2013, that are included in a progress-payment interval. If the progress payment covers a billing period beginning prior to July 1, 2013 and ending on or after July 1, 2013 and is billed on or after that date, the 6.15% state sales tax rate applies to such billing.

Construction projects where progress payments are not made. If a contractor does not bill a property owner for its construction services until the real property improvements are completed, the Kansas sales tax rate in effect on the date of completion applies without regard to when the construction contract is entered into or when payment is made. When work is started on a construction project on or after July 1, 2013, the 6.15% state rate applies to all charges regardless of when payment is made.

Building Materials - State sales tax applies to building materials at the rate in place when the materials are delivered to the contractor, not when the purchase is agreed to or payment is made.

Use tax - A 6.15% state use tax, plus the applicable local use tax, is imposed on the use in Kansas of any taxable tangible personal property on which Kansas use tax has not been paid. Kansas use-tax law provides a credit for sales taxes paid to another state. For purposes of determining whether Kansas use tax is owed when another state's sales tax is being credited against the Kansas use tax owed, the 6.15% state rate should be applied if the first use of the property in Kansas occurs on or after July 1, 2013.

If no Kansas tax is collected by an out-of-state retailer, the Kansas business is required to report both state and local use tax on the purchase. The date a Kansas business accepts delivery determines whether the 6.3% or 6.15% state rate applies.

Publication Available of State and Local Rate Changes

For state and local sales and use tax rate changes effective July 1, 2013, please see EDU-96 and Publication KS-1700, downloadable from the Department's website at **www.ksrevenue.org**.

Taxpayer Assistance. Additional copies of this Notice, and other department forms or publications, may be downloaded from our web site, **www.ksrevenue.org**. If you have questions about this rate change and how it applies, please contact:

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