

NOTICE 25-03

SALES TAX EXEMPTION FOR DATA CENTERS

(JULY 3, 2025)

During the 2025 Legislative Session Senate Bill 98 was passed and signed into law. Section 6 of the Bill amends K.S.A. 79-3606 to add new subsection (xxxx), which provides an exemption for purchases related to the construction, reconstruction, enlarging, or remodeling of certain qualified data centers.

New Section 1 of the Bill is a definitional section which defines the terms, “commencement of construction”, “commencement of operations”, “data center equipment”, “department”, “eligible data center costs”, “qualified data center”, “qualified firm”, and “secretary”. The department is the Department of Commerce, and the secretary is the Secretary of Commerce.

New Section 2 provides a qualified firm that makes an investment in eligible data center costs of at least \$250,000,000 in the aggregate by the fifth year of operations and creates and maintains at least 20 new jobs at the qualified data center within two calendar years after the commencement of operations may receive a sales tax exemption for certain (1) eligible data center costs of the qualified data center, and (2) labor services to install, apply, repair, service, alter, or maintain data center equipment. New sections 2(b), (c), (d), (e), and (f) set forth the terms and conditions that must be met to qualify for the sales tax exemption. New subsection (2)(g) provides the Secretary of Commerce shall certify to the Secretary of Revenue when a qualified firm has met the conditions provided by new sections 3 and 4 of the Bill, and amendments thereto, and that the Secretary shall also provide notice when the sales tax exemption is modified, suspended, or terminated pursuant to subsection (c).

New Section 3(a) provides a qualified firm that meets the requirement of New Section 2, and amendments thereto, may be eligible to receive a sales tax exemption. Section (3)(b) provides the sales tax exemption may be valid for 20 years after the date of commencement of operations. Section 3(c) provides no sales tax exemption will be allowed unless the qualified firm has been certified by the Secretary of Commerce. Section (3)(d) provides the Secretary of Revenue may revoke, suspend, or modify a firm’s qualification as requested by the Secretary of Commerce.

New Section 4 provides that prior to awarding any public financial assistance or benefits to a qualified data center project, including, but not limited to, the sales tax exemption, the Secretary of Commerce must seek and receive approval from the Fusion Center Oversight Board, after certain evaluations and reviews are conducted.

Section 5 amends K.S.A. 2024 Supp. 66-101j regarding electric public utility economic development rate schedules as they relate to a qualified data center.

Section 6 amends K.S.A. 2024 Supp. 79-3606 to add new subsection (xxxx) to provide an exemption from sales tax for certain purchases related to the construction, reconstruction, enlarging, or remodeling of a qualified data center by a qualified firm. Specifically, the new subsection provides an exemption for:

(xxxx) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a qualified data center by a qualified firm that meets the requirements established in sections 1 through 3, and amendments thereto, and has been approved and certified for a project exemption certificate by the secretary of commerce, the sale and installation of machinery and data center equipment and eligible data center costs purchased by such qualified firm for such qualified data center and labor services to install, apply, repair, service, alter or maintain data center equipment of such qualified firm at such qualified data center. When a person contracts for the construction, reconstruction, enlargement or remodeling of any such qualified data center, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering such purchases bearing the number of such certificates. Upon completion of the project, the contractor shall furnish to the owner of the qualified firm a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. As used in this subsection, "data center equipment," "eligible data center costs," "qualified data center" and "qualified firm" mean the same as defined in section 1, and amendments thereto.

The provisions of Senate Bill 98 take effect and are in force from and after publication in the statute book. The new sales tax exemption found in K.S.A. 79-3606 applies to qualified purchases made on or after July 1, 2025.

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Taxpayer Assistance Center
Kansas Department of Revenue
Scott Office Building, 1st Floor
120 SE 10th Ave
P. O. Box 3506
Topeka, KS 66601-3506
Phone: 785-368-8222
Fax: 785-291-3614