

HOUSE BILL No. 2013

By Committee on Taxation

Requested by Blaine Finch

1-15

1 AN ACT concerning sales taxation; discontinuing the imposition of tax on
2 cable, community antennae and television services; amending K.S.A.
3 2024 Supp. 79-3603 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2024 Supp. 79-3603 is hereby amended to read as
7 follows: 79-3603. For the privilege of engaging in the business of selling
8 tangible personal property at retail in this state or rendering or furnishing
9 any of the services taxable under this act, there is hereby levied and there
10 shall be collected and paid a tax at the rate of 6.5%. On and after ~~January~~
11 ~~1, 2023, 17% and on and after~~ January 1, 2025, 18% of the tax rate
12 imposed pursuant to this section and the rate provided in K.S.A. 2024
13 Supp. 79-3603d, and amendments thereto, shall be levied for the state
14 highway fund, the state highway fund purposes and those purposes
15 specified in K.S.A. 68-416, and amendments thereto, and all revenue
16 collected and received from such tax levy shall be deposited in the state
17 highway fund.

18 Within a redevelopment district established pursuant to K.S.A. 74-
19 8921, and amendments thereto, there is hereby levied and there shall be
20 collected and paid an additional tax at the rate of 2% until the earlier of the
21 date the bonds issued to finance or refinance the redevelopment project
22 have been paid in full or the final scheduled maturity of the first series of
23 bonds issued to finance any part of the project.

24 Such tax shall be imposed upon:

25 (a) The gross receipts received from the sale of tangible personal
26 property at retail within this state;

27 (b) the gross receipts from intrastate, interstate or international
28 telecommunications services and any ancillary services sourced to this
29 state in accordance with K.S.A. 79-3673, and amendments thereto, except
30 that telecommunications service does not include: (1) Any interstate or
31 international 800 or 900 service; (2) any interstate or international private
32 communications service as defined in K.S.A. 79-3673, and amendments
33 thereto; (3) any value-added nonvoice data service; (4) any
34 telecommunication service to a provider of telecommunication services
35 which will be used to render telecommunications services, including

1 carrier access services; or (5) any service or transaction defined in this
2 section among entities classified as members of an affiliated group as
3 provided by section 1504 of the federal internal revenue code of 1986, as
4 in effect on January 1, 2001;

5 (c) the gross receipts from the sale or furnishing of gas, water,
6 electricity and heat, which sale is not otherwise exempt from taxation
7 under the provisions of this act, and whether furnished by municipally or
8 privately owned utilities, except that, on and after January 1, 2006, for
9 sales of gas, electricity and heat delivered through mains, lines or pipes to
10 residential premises for noncommercial use by the occupant of such
11 premises, and for agricultural use and also, for such use, all sales of
12 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
13 gas, coal, wood and other fuel sources for the production of heat or
14 lighting for noncommercial use of an occupant of residential premises, the
15 state rate shall be 0%, but such tax shall not be levied and collected upon
16 the gross receipts from: (1) The sale of a rural water district benefit unit;
17 (2) a water system impact fee, system enhancement fee or similar fee
18 collected by a water supplier as a condition for establishing service; or (3)
19 connection or reconnection fees collected by a water supplier;

20 (d) the gross receipts from the sale of meals or drinks furnished at any
21 private club, drinking establishment, catered event, restaurant, eating
22 house, dining car, hotel, drugstore or other place where meals or drinks are
23 regularly sold to the public;

24 (e) the gross receipts from the sale of admissions to any place
25 providing amusement, entertainment or recreation services including
26 admissions to state, county, district and local fairs, but such tax shall not
27 be levied and collected upon the gross receipts received from sales of
28 admissions to any cultural and historical event which occurs triennially;

29 (f) the gross receipts from the operation of any coin-operated device
30 dispensing or providing tangible personal property, amusement or other
31 services except laundry services, whether automatic or manually operated;

32 (g) the gross receipts from the service of renting of rooms by hotels,
33 as defined by K.S.A. 36-501, and amendments thereto, or by
34 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
35 thereto, but such tax shall not be levied and collected upon the gross
36 receipts received from sales of such service to the federal government and
37 any agency, officer or employee thereof in association with the
38 performance of official government duties;

39 (h) the gross receipts from the service of renting or leasing of tangible
40 personal property except such tax shall not apply to the renting or leasing
41 of machinery, equipment or other personal property owned by a city and
42 purchased from the proceeds of industrial revenue bonds issued prior to
43 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through

1 12-1749, and amendments thereto, and any city or lessee renting or leasing
2 such machinery, equipment or other personal property purchased with the
3 proceeds of such bonds who shall have paid a tax under the provisions of
4 this section upon sales made prior to July 1, 1973, shall be entitled to a
5 refund from the sales tax refund fund of all taxes paid thereon;

6 (i) the gross receipts from the rendering of dry cleaning, pressing,
7 dyeing and laundry services except laundry services rendered through a
8 coin-operated device whether automatic or manually operated;

9 (j) the gross receipts from the rendering of the services of washing
10 and washing and waxing of vehicles;

11 (k) the gross receipts from ~~cable, community antennae and other~~
12 ~~subscriber radio and television services;~~

13 (l) (1) except as otherwise provided by paragraph (2), the gross
14 receipts received from the sales of tangible personal property to all
15 contractors, subcontractors or repairmen for use by them in erecting
16 structures, or building on, or otherwise improving, altering, or repairing
17 real or personal property.

18 (2) Any such contractor, subcontractor or repairman who maintains
19 an inventory of such property both for sale at retail and for use by them for
20 the purposes described by paragraph (1) shall be deemed a retailer with
21 respect to purchases for and sales from such inventory, except that the
22 gross receipts received from any such sale, other than a sale at retail, shall
23 be equal to the total purchase price paid for such property and the tax
24 imposed thereon shall be paid by the deemed retailer;

25 (m) the gross receipts received from fees and charges by public and
26 private clubs, drinking establishments, organizations and businesses for
27 participation in sports, games and other recreational activities, but such tax
28 shall not be levied and collected upon the gross receipts received from: (1)
29 Fees and charges by any political subdivision, by any organization exempt
30 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
31 thereto, or by any youth recreation organization exclusively providing
32 services to persons 18 years of age or younger which is exempt from
33 federal income taxation pursuant to section 501(c)(3) of the federal
34 internal revenue code of 1986, for participation in sports, games and other
35 recreational activities; and (2) entry fees and charges for participation in a
36 special event or tournament sanctioned by a national sporting association
37 to which spectators are charged an admission which is taxable pursuant to
38 subsection (e);

39 (n) the gross receipts received from dues charged by public and
40 private clubs, drinking establishments, organizations and businesses,
41 payment of which entitles a member to the use of facilities for recreation
42 or entertainment, but such tax shall not be levied and collected upon the
43 gross receipts received from: (1) Dues charged by any organization exempt

1 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
2 amendments thereto; and (2) sales of memberships in a nonprofit
3 organization which is exempt from federal income taxation pursuant to
4 section 501(c)(3) of the federal internal revenue code of 1986, and whose
5 purpose is to support the operation of a nonprofit zoo;

6 (o) the gross receipts received from the isolated or occasional sale of
7 motor vehicles or trailers but not including: (1) The transfer of motor
8 vehicles or trailers by a person to a corporation or limited liability
9 company solely in exchange for stock securities or membership interest in
10 such corporation or limited liability company; (2) the transfer of motor
11 vehicles or trailers by one corporation or limited liability company to
12 another when all of the assets of such corporation or limited liability
13 company are transferred to such other corporation or limited liability
14 company; or (3) the sale of motor vehicles or trailers which are subject to
15 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
16 amendments thereto, by an immediate family member to another
17 immediate family member. For the purposes of paragraph (3), immediate
18 family member means lineal ascendants or descendants, and their spouses.
19 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
20 on the isolated or occasional sale of motor vehicles or trailers on and after
21 July 1, 2004, which the base for computing the tax was the value pursuant
22 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
23 such amount was higher than the amount of sales tax which would have
24 been paid under the law as it existed on June 30, 2004, shall be refunded to
25 the taxpayer pursuant to the procedure prescribed by this section. Such
26 refund shall be in an amount equal to the difference between the amount of
27 sales tax paid by the taxpayer and the amount of sales tax which would
28 have been paid by the taxpayer under the law as it existed on June 30,
29 2004. Each claim for a sales tax refund shall be verified and submitted not
30 later than six months from the effective date of this act to the director of
31 taxation upon forms furnished by the director and shall be accompanied by
32 any additional documentation required by the director. The director shall
33 review each claim and shall refund that amount of tax paid as provided by
34 this act. All such refunds shall be paid from the sales tax refund fund, upon
35 warrants of the director of accounts and reports pursuant to vouchers
36 approved by the director of taxation or the director's designee. No refund
37 for an amount less than \$10 shall be paid pursuant to this act. In
38 determining the base for computing the tax on such isolated or occasional
39 sale, the fair market value of any motor vehicle or trailer traded in by the
40 purchaser to the seller may be deducted from the selling price;

41 (p) the gross receipts received for the service of installing or applying
42 tangible personal property which when installed or applied is not being
43 held for sale in the regular course of business, and whether or not such

1 tangible personal property when installed or applied remains tangible
2 personal property or becomes a part of real estate, except that no tax shall
3 be imposed upon the service of installing or applying tangible personal
4 property in connection with the original construction of a building or
5 facility, the original construction, reconstruction, restoration, remodeling,
6 renovation, repair or replacement of a residence or the construction,
7 reconstruction, restoration, replacement or repair of a bridge or highway.

8 For the purposes of this subsection:

9 (1) "Original construction" means the first or initial construction of a
10 new building or facility. The term "original construction" shall include the
11 addition of an entire room or floor to any existing building or facility, the
12 completion of any unfinished portion of any existing building or facility
13 and the restoration, reconstruction or replacement of a building, facility or
14 utility structure damaged or destroyed by fire, flood, tornado, lightning,
15 explosion, windstorm, ice loading and attendant winds, terrorism or
16 earthquake, but such term, except with regard to a residence, shall not
17 include replacement, remodeling, restoration, renovation or reconstruction
18 under any other circumstances;

19 (2) "building" means only those enclosures within which individuals
20 customarily are employed, or which are customarily used to house
21 machinery, equipment or other property, and including the land
22 improvements immediately surrounding such building;

23 (3) "facility" means a mill, plant, refinery, oil or gas well, water well,
24 feedlot or any conveyance, transmission or distribution line of any
25 cooperative, nonprofit, membership corporation organized under or subject
26 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
27 municipal or quasi-municipal corporation, including the land
28 improvements immediately surrounding such facility;

29 (4) "residence" means only those enclosures within which individuals
30 customarily live;

31 (5) "utility structure" means transmission and distribution lines
32 owned by an independent transmission company or cooperative, the
33 Kansas electric transmission authority or natural gas or electric public
34 utility; and

35 (6) "windstorm" means straight line winds of at least 80 miles per
36 hour as determined by a recognized meteorological reporting agency or
37 organization;

38 (q) the gross receipts received for the service of repairing, servicing,
39 altering or maintaining tangible personal property which when such
40 services are rendered is not being held for sale in the regular course of
41 business, and whether or not any tangible personal property is transferred
42 in connection therewith. The tax imposed by this subsection shall be
43 applicable to the services of repairing, servicing, altering or maintaining an

1 item of tangible personal property which has been and is fastened to,
2 connected with or built into real property;

3 (r) the gross receipts from fees or charges made under service or
4 maintenance agreement contracts for services, charges for the providing of
5 which are taxable under the provisions of subsection (p) or (q);

6 (s) on and after January 1, 2005, the gross receipts received from the
7 sale of prewritten computer software and the sale of the services of
8 modifying, altering, updating or maintaining prewritten computer
9 software, whether the prewritten computer software is installed or
10 delivered electronically by tangible storage media physically transferred to
11 the purchaser or by load and leave;

12 (t) the gross receipts received for telephone answering services;

13 (u) the gross receipts received from the sale of prepaid calling service
14 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
15 amendments thereto;

16 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
17 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
18 exempt from taxes imposed pursuant to this section;

19 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
20 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
21 pursuant to this section; and

22 (x) commencing on January 1, 2023, and thereafter, the state rate on
23 the gross receipts from the sale of food and food ingredients shall be as set
24 forth in K.S.A. 2024 Supp. 79-3603d, and amendments thereto.

25 Sec. 2. K.S.A. 2024 Supp. 79-3603 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.