
August 10, 2009

TO: All County Treasurers, County Clerks and County Appraisers

FROM: Tony R. Folsom, Deputy Director,
Division of Property Valuation

SUBJECT: Property Tax Interest Rates for Calendar Year 2010

In 1997, the legislature adopted a new law that had two major components. First, it required counties to pay interest to taxpayers. Second, it tied the interest rate the counties pay and collect to an annually updated interest rate prescribed in the Internal Revenue Code (IRC). Various statutes provide for percentage point adjustments to the federal rate for Kansas property tax purposes. For calendar year 2010, the interest rates are 1 percentage point lower than 2009.

Calendar Year 2010

Interest Rate Applied when a County Collects Interest

Taxpayer's late payment of real or personal property taxes: **7%**

Interest Rates Applied when a County Pays Interest on Refunds:

Payment under protests and "equalization" appeals **3%**
Tax grievance/clerical error refunds ordered by COTA **3%**
Clerical error refunds ordered by the county **5%**

You should also be aware of three Board of Tax Appeals, now named the Court of Tax Appeals, decisions that were issued pertaining to the interest laws:

The Board ruled that when refunds are issued on or after July 1, 1997, as the result of a clerical error, interest should be paid to the taxpayer back from the date the applicant paid the taxes. (*See, e.g., In the Matter of the Application of Reynolds, Ernest and Darlene, for Relief from a Tax Grievance in Atchison County, Kansas*, Docket No. 97-3542-TG, Kansas Board of Tax Appeals Docket No. 97-3542-TG, November 6, 1997).

The Board of Tax Appeals held that interest is not paid on refunds ordered as the result of a taxpayer's request to reduce or abate personal property penalties on the basis of excusable neglect. (*See, e.g., In the Matter of the Application of Cross, Jerry/Cross Service for Relief from a Tax Grievance in Barton County, Kansas*, Board of Tax Appeals Docket No. 97-4953-TG, October 15, 1997).

The Board of Tax Appeals found that if there are delinquent taxes for the tax year at issue, no interest is to be paid on any refund for that year, even though a portion of the tax may have been paid in a timely fashion. (*See, e.g., In the Matter of the Protests Of Inspec. USA, Inc. DBA Jayhawk Fine Chemicals Corp. for Taxes Paid for 1999, 2000 and 2001 in Cherokee County, Kansas and In the Matter of the Protests of Alcco Chemical Corp. for Taxes Paid for 1998, 1999, 2000, and 2001 in Cherokee County, Kansas*, Board of Tax Appeals Docket Nos. 2002-9125-PR thru 2002-9131-PR, June 18, 2003).

Below is a recapitulation of some commonly asked questions with answers.

1. Question: Must the Court of Tax Appeals or an appellate court specifically order interest before a county is required to pay it on a refund?
Answer: No. Thus, a county must be well versed on when interest should be paid.
2. Question: Is interest paid when a refund of delinquent taxes is made?
Answer: No. The law states that no interest shall be allowed where the tax paid under protest was inclusive of delinquent taxes. (K.S.A. 79-2005(1)(2))
3. Question: Is interest paid on a refund of personal property penalties made because the Court of Tax Appeals abated the penalty on the basis of excusable neglect?
Answer: No. See Board of Tax Appeals Docket No. 97-4953-TG, and the summary of the case in this memorandum.
4. Question: Is interest paid on (1) a payment under protest appeal or (2) an “equalization” appeal if the appeal is commenced *before* July 1, 1997?
Answer: No. Specific language in K.S.A. 79-2005(1) provides that interest is only paid on refunds associated with valuation appeals that are *commenced after* the effective date of the new law: July 1, 1997.
5. Question: Is interest paid on a payment under protest when a refund is issued as the result of an informal meeting with the county appraiser?
Answer: Yes, see the language in K.S.A. 79-2005(a).
6. Question: Can interest be reduced or eliminated?
Answer: Yes, if the Kansas Court of Tax Appeals or a court of competent jurisdiction orders the interest reduced upon a finding that an unreasonable delay was caused by the taxpayer. (K.S.A. 79-2005(1)).
7. Question: Is interest paid when the Kansas Court of Tax Appeals orders a refund on an application for exemption case?
Answer: No. K.S.A. 79-213, the law pertaining to exemption applications, was not amended to provide for the payment of interest. It should be noted that when an application for exemption is filed, the taxes normally due on December 20 and May 10 are not due until (and if) the Court of Tax Appeals issues a final order denying exemption. Then, the taxpayer has 30 days thereafter in which to pay the taxes, and no interest accrues on the year(s) in question. (K.S.A. 79-213 (i)).
8. Question: Is interest paid on a Court of Tax Appeals ordered refund of tax paid by a public utility when a proper appeal has been filed pursuant to K.S.A. 74-2438?
Answer: No. An appeal filed pursuant to K.S.A. 74-2438 does not provide for any interest to be paid on any refunded tax. See Board of Tax Appeals Docket No. 2005-4083-PV in the matter of the appeal of Wheatland Electric Cooperative, Inc. from an order of the Director of Property Valuation.

Delinquent Tax Interest

K.S.A. 79-2004 (real property), K.S.A. 79-2004a (personal property): County collects interest when taxpayer fails to pay their property taxes by the December 20th and May 10th deadlines. K.S.A. 79-2968 prescribes the interest rate thereto, plus two percentage points.

2000	11%
2001	12%
2002	10%
2003 (corrected 8/2003)	8% 9%
2004	8%
2005	7%
2006	9%
2007	11%
2008	11%
2009	8%
2010	7%

Payment Under Protest and Equalization Appeals

K.S.A. 79-2005: Interest on refunds for protested and equalization appeals. Applies only for those appeals filed on July 1, 1997 and thereafter. Note: No interest is paid by county on refund on delinquent protested tax. K.S.A. 79-2968 prescribes the interest rate thereto, minus two percentage points.

2000	7%
2001	8%
2002	6%
2003 (corrected 8/1/2003)	4% 5%
2004	4%
2005	3%
2006	5%
2007	7%
2008	7%
2009	4%
2010	3%

Tax Grievance / Clerical Error Refunds ordered by BOTA

K.S.A. 79-1702: The Court of Tax Appeals does not specifically order interest to be paid on an ordered refund, therefore, the county must know when interest should be paid. K.S.A. 79-2968 prescribes the interest rate thereto, minus two percentage points.

2000	7%
2001	8%
2002	6%
2003 (corrected 8/1/2003)	4% 5%
2004	4%
2005	3%
2006	5%
2007	7%
2008	7%
2009	4%
2010	3%

Clerical Error Refunds ordered by the County Commissioners

K.S.A. 79-1701a: When the County Commissioners direct a clerical error refund, the amount of the overpayment will include interest at the rate prescribed by K.S.A. 79-2968, from the date of payment and from tax moneys collected during the current year.

2000	9%
2001	10%
2002	8%
2003 (corrected 8/1/2003)	6% 7%
2004	6%
2005	5%
2006	7%
2007	9%
2008	9%
2009	6%
2010	5%