STATE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
Karla Pierce, Secretary

Mark S. Beck, Director
Division of Property Valuation
915 SW Harrison St.
Topeka, KS 66612-1585

(785) 296-2365
FAX (785) 296-2320
Hearing Impaired TTY (785) 296-3909
Internet Address: www.ink.org/public/kdor

Division of Property Valuation

MEMORANDUM

NOTICE: THIS SUPERSEDES A JUNE 3, 1999, MEMORANDUM ISSUED ON THE SAME SUBJECT.

TO: County Appraisers and County Clerks

FROM: Mark S. Beck, Director

DATE: June 30, 1999

SUBJECT: New Truth in Taxation Law - Senate Bill 45, Section 21

This information supersedes a June 3, 1999, memorandum we issued to order to provide you with the best advice we could for applying the new truth in taxation law. You may discard the prior memorandum. The new points of clarification appear in ***bold italics***.

The 1999 legislature repealed the levy lid and tax limitation laws and in their place adopted a new law that requires public disclosure when a governing body wishes to raise more property tax revenue than was raised in the preceding year. An exception to the public disclosure requirement is included for growth in the tax base attributable to four specific items which are discussed below. **Please keep in mind that the new law focuses on property tax revenue NOT on the property tax mill levy.**

The Department of Administration, Division of Accounts and Reports will no doubt provide you with information pertaining to implementing this new law. The purpose of this memorandum is to assist you in acquiring a basic understanding of the law and to provide some guidance from a property valuation perspective.

Attached is a worksheet which explains in a broad sense how the new law will be applied. The example takes you through the first two years of implementation and includes an example of how it will work if the assessed value of taxable property actually decreases.

The new law states the governing body of a taxing subdivision can not approve any budget absent adopting a resolution or ordinance if such budget requires increased revenues from the property tax that exceed the prior year's revenue from the property tax plus an allowed increase from the taxation of certain new property.

The new law allows an increase in property tax revenues without public disclosure from the taxation of : (1) new improvements to real property, (2) increased personal property, (3) annexed property, and (4) property which has changed in use.

Below are some frequently asked questions:

<u>What constitutes new improvements to real property</u>?

New improvements ***to real property,*** for purposes of this new law, should be interpreted in the same manner as it was for levy lid/tax limitation purposes. It would include new houses and commercial buildings, new additions to existing structures, other building and yard improvements (e.g., sheds and swimming pools etc.) ***Remodeling does not constitute a new improvement for these purposes unless it increases the ground floor area. For further information, see the memorandum issued on June 23, 1999, entitled "Reporting Value Added by New Improvements - Senate Bill 45, Section 21."***

<u>What constitutes an increase in the personal property</u>?

The law states that additional property tax revenues can be produced from the overall increase in ***the*** personal property valuation, **other than** an increase in ***the*** value of***:*** ***(1)*** oil and gas leaseholds or ***(2)*** mobile homes. ***The premise for this law was that since personal property typically depreciates in value, any increase in value from the prior year would represent new personal property. That is why oil and gas and mobile homes were removed from the equation; these items may actually appreciate in value; thus, increases in these categories may well <u>not</u> represent new property. Personal property <u>penalties</u> do not represent new property and should not be included in the equation.***

Thus, when comparing this year's personal property value to last year's personal property value in order to determine the increase that represents new personal property, (1) oil and gas, (2) mobile homes and (3) personal property penalties should be taken out of the total assessed personal property value for both years.

Example:	***1999***		***1998***		***Increase***
Total Personal Property	***8,000***		***6,000***		
Less: oil and gas	***1,500***		***1,000***		
Less: mobile homes	***1,200***		***1,000***		
Less: penalties	***300***		***500***		
Net Personal Property	***5,000***	***-***	***3,500***	***=***	***1,500***

That means that the increase in the assessed value of taxable personal property (except for oil and gas and mobile homes, whose values can go up and down) can be used to produce additional property tax revenues without adopting a resolution or ordinance explaining increased spending.

While the increase in the value of a mobile home cannot be used to produce new revenues, a mobile home that is new to the ***county*** can.

What constitutes property which has changed in use?

The answer is best explained by example; for instance, agricultural land that is developed into a residential or commercial subdivision. In this instance, the entire increase in taxable value can be used to generate additional property tax revenues without the adoption of an ordinance or resolution.

Property increases included in this section should be limited to those properties that change subclasses, and thus change in terms of assessment rates and/or valuation methodologies.

How will I know what new public utility property there is in my jurisdiction?

The division of property valuation will provide the new public utility property valuations based upon increases in original cost, just as we have done in the past for levy lid/tax limitation purposes.

How do I address new property that is exempt?

The same rule used for levy lid/tax limitation purposes will be used with the new law. The new law very specifically allows increased spending to the extent of the *taxation* of four types of new property (certain real property, certain personal property, annexed property and property which has changed in use). New property that is exempt is, of course, not taxable. Therefore, the value of new exempt real or personal property can only be used to increase spending without an ordinance or resolution when the exemption ends and the property is actually added to the tax rolls.

The economic development exemptions may be partial exemptions. To the extent that the property is taxable, it may be used to increase spending ***to the extent that it is added to the tax roll.***

The law allows a partial exemption to be granted for both "EDX" exemptions (Article 11, Section 13 of the Kansas Constitution) and "IRB" exemptions (industrial revenue bond-funded property). Sometimes, the city or county authorizing exemption imposes a payment in lieu of tax instead of allowing only a partial exemption. A payment in lieu of tax cannot be considered as a portion of taxable property for purposes of the truth in taxation law, because it does not entail actually placing the property, or a portion thereof, on the tax roll. Therefore, new property subject to a payment in lieu of tax is not recognized for purposes of truth and taxation until the property is actually placed on the tax roll at the end of the exemption.

What if a taxing subdivision loses property value due to another jurisdiction annexing it?

When new property is annexed, it can be recognized as new property for purposes of the new law, and can be used to generate additional revenues without a vote. However, when a jurisdiction loses property due to annexation, no adjustment is made for purposes of the new truth in taxation law. When a jurisdiction does lose a significant amount of taxable property, that does impact the mill levy (i.e., it can increase) even if spending stays relatively the same. The last example on the attachment illustrates the impact a shrinking tax base has upon the mill levy.