

**19**  
**LEGISLATIVE  
CHANGES &  
ENACTMENTS**

(Rev 7-10-19)



**Carl York**

Tax Specialist,  
Office of Research and Analysis  
Kansas Department of Revenue  
Carl.York@ks.gov  
Phone: (785) 296-1048

**Taxpayer Assistance**

(785) 368-8222

**Forms Order Line:**

(785) 296-4937

[KDOR\\_forms@ks.gov](mailto:KDOR_forms@ks.gov)

**File Kansas Returns online at:**

[kansas.gov/webfile](https://kansas.gov/webfile)

**Upgraded Features to WebFile:**

- **Artificial Intelligence** - Agent Kay: The Official Chatbot of the State of Kansas is available 24/7 to answer hundreds of questions about WebFile
- **Mobile Friendly** - File on most electronic devices, including your smart phone
- **Secure Access** - Protecting your information is our #1 priority
- **Fast Filings & Faster Refunds** - Getting you to your money and your money to you quicker

**Kansas Department of Revenue website:**

[ksrevenue.org](https://ksrevenue.org)

**Problem Resolution Officer:**

**Bob Clelland**

Office: (785) 296-2473

E-mail: [KDOR\\_taxpayer.advocate@ks.gov](mailto:KDOR_taxpayer.advocate@ks.gov)

# Income Tax

2017 SB 30  
Notice 17-02  
Effective Tax Year 2019

NO CHANGE TO INCOME TAX RATE  
EFFECTIVE for TAX YEAR 2019

Married Filing Joint	Tax Rate
\$0.00 - \$30,000	3.10%
\$30,001 - \$60,000	5.25%
\$60,001 and over	5.70%

Single, Head of Household, Married Filing Separate	Tax Rate
\$0.00 - \$15,000	3.10%
\$15,001 - \$30,000	5.25%
\$30,001 and over	5.70%

2

**K.S.A.. 79-32,110. Tax imposed; classes of taxpayers; rates.** (a) Resident Individuals. Except as otherwise provided by K.S.A. [79-3220\(a\)](#), and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(F) For tax year 2018, and all tax years thereafter:

If the taxable income is:

Not over \$30,000

Over \$30,000 but not over \$60,000

Over \$60,000

The tax is:

3.1% of Kansas taxable income

\$930 plus 5.25% of excess over \$30,000

\$2,505 plus 5.7% of excess over \$60,000

(2) *All other individuals:*

(F) For tax year 2018, and all tax years thereafter:

If the taxable income is:

Not over \$15,000

Over \$15,000 but not over \$30,000

Over \$30,000

The tax is:

3.1% of Kansas taxable income

\$465 plus 5.25% of excess over \$15,000

\$1,252.50 plus 5.7% of excess over \$30,000

(e) Notwithstanding the provisions of subsections (a) and (b): (1) For tax years 2016 and 2017, married individuals filing joint returns with taxable income of \$12,500 or less, and all other individuals with taxable income of \$5,000 or less, shall have a tax liability of zero; and (2) for tax year 2018, and all tax years thereafter, married individuals filing joint returns with taxable income of \$5,000 or less, and all other individuals with taxable income of \$2,500 or less, shall have a tax liability of zero.

(f) No taxpayer shall be assessed penalties and interest arising from the underpayment of taxes due to changes to the rates in subsection (a) that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.

History: L. 1967, ch. 497, § 3; L. 1969, ch. 454, § 1; L. 1970, ch. 394, § 1; L. 1977, ch. 344, § 3; L. 1978, ch. 407, § 2; L. 1979, ch. 321, § 1; L. 1988, ch. 381, § 2; L. 1989, ch. 303, § 1; L. 1992, ch. 280, § 55; L. 1997, ch. 41, § 13; L. 1998, ch. 130, § 19; L. 2008, ch. 182, § 22; L. 2012, ch. 135, § 10; L. 2013, ch. 135, § 1; L. 2015, ch. 99, § 25; L. 2015, ch. 102, § 3; L. 2017, ch. 84, § 4; July 1.

## Income Tax

**Exemption Allowance remains at \$2,250  
for self and each applicable person  
claimed as a dependent**

# Income Tax

2017 SB 30  
Notice 17-07  
Effective Tax Year 2019

## Child and Dependent Care Credit

Child and Dependent Care Tax Credit available for individual income filers for tax year 2019 is 18.75% of the Federal Child and Dependent Care Credit under 26 U.S.C. § 21 that is allowed against the taxpayer's federal income tax liability:

Tax Year 2019 - **18.75%**

Tax Year 2020 - 25.00% (and all tax years thereafter)

4

**K.S.A. 79-32,111c. Credit against tax for household and dependent care expenses; limitation.** (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 12.5% for tax year 2018; an amount equal to 18.75% for tax year 2019; and an amount equal to 25% for tax year 2020, and all tax years thereafter, of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to 26 U.S.C. § 21 for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability. (b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law. (c) No credit provided under this section shall be allowed to any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.

# Income Tax

2017 SB 30  
Notice 17-02  
Effective Tax Year 2019

## Itemized Deductions

**!! IMPORTANT !!**  
Must Itemize on Federal  
Return  
To Itemize on Kansas  
Return

### Allowable Itemized Deductions

### Tax Year

	<u>2019</u>	<u>2020</u>
--	-------------	-------------

❖ <b>Qualified Charitable Contributions</b> <small>(as allowed in section 170 of the federal internal revenue code)</small>	<b>100%</b>	<b>100%</b>
❖ <b>Qualified Residence Interest</b> <small>(as provided in section 163(h) of the federal internal revenue code)</small>	<b>75%</b>	<b>100%</b>
❖ <b>Taxes on Real and Personal Property</b> <small>(as provided in section 164(a) of the federal internal revenue code. Federal limitation to the state and local taxes paid are in section 164(b) of the I.R.C.)</small>	<b>75%</b>	<b>100%</b>
❖ <b>Expenses for Medical Care</b> <small>(as allowable as deductions in section 213 of the federal internal revenue code)</small>	<b>75%</b>	<b>100%</b>

5

**K.S.A. 79-32,120.** Kansas itemized deductions of an individual. (a) (1) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

(2) For the tax year commencing on January 1, 2013, the Kansas itemized deduction of an individual means 70% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(3) For the tax year commencing on January 1, 2014, the Kansas itemized deduction of an individual means 65% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(4) For the tax years commencing on and after January 1, 2015, and ending before January 1, 2018, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (C) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(5) For the tax year commencing on and after January 1, 2018, and ending before January 1, 2019, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(6) For the tax year commencing on and after January 1, 2019, and ending before January 1, 2020, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 75% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 75% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 75% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(7) For the tax years commencing on and after January 1, 2020, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 100% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 100% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 100% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2018 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed. History: L. 1967, ch. 497, § 13; L. 1968, ch. 233, § 4; L. 1970, ch. 395, § 2; L. 1976, ch. 433, § 4; L. 1976, ch. 434, § 5; L. 1977, ch. 344, § 2; L. 1978, ch. 405, § 5; L. 1979, ch. 321, § 3; L. 1982, ch. 410, § 1; L. 1983, ch. 327, § 1; L. 1988, ch. 381, § 6; L. 1989, ch. 303, § 3; L. 1992, ch. 280, § 57; L. 2006, ch. 209, § 29; L. 2007, ch. 113, § 22; L. 2007, ch. 195, § 56; L. 2013, ch. 135, § 2; L. 2015, ch. 99, § 26; L. 2017, ch. 84, § 6; July 1.

# Income Tax

2019 HB 2044  
For Tax Years 2019 2023

# Purchases from Qualified Vendor Credit (K-44)

**NEW TAX CREDIT**

For taxpayers purchasing from Businesses that Employ Individuals with Disabilities

## “Qualified Vendor” or “Certified Business”

- ❖ Must do business **primarily** in Kansas or **substantially** all of its production must be done in Kansas
- ❖ At least **30%** of employees must be individuals with **disabilities** and **reside** in Kansas
- ❖ Offer to contribute at least **75%** of premium cost for individual health insurance coverage for **each** employee
- ❖ Must be certified by the Department of Administration

## Taxpayer

- ❖ Tax Credit for **15%** of expenditures on goods and services purchased from “qualified vendors” or “certified business” as defined in HB 2044
- ❖ Must be certified by The Secretary of Commerce annually that qualified expenditures are eligible for the tax credit and provide the amount to the Secretary of Revenue
- ❖ Credit for each taxpayer is capped at **\$500,000** per qualified vendor per tax year
- ❖ **\$5 Million** max amount for all credits
- ❖ New credit schedule **(K-44) Purchases for Qualified Vendor Credit** is non-refundable, unused credits may be carried forward for up to four years
- ❖ The Secretary of Revenue must make an annual report to the standing taxation committees on the implementation and effectiveness of the tax credit program

## 2019 HB 2044

Section 1. (a) For tax years 2019 through 2023, a credit shall be allowed against the tax imposed by the Kansas income tax act in an amount equal to 15% of the amount for expenditures of goods and services purchased by the taxpayer from a qualified vendor on and after January 1, 2019, and before January 1, 2024, as certified by the secretary of commerce as provided in subsection (c). The amount of such credit awarded for each taxpayer shall not exceed \$500,000 per qualified vendor per tax year. In no event shall the total amount of cumulative credits allowed under this section exceed \$5,000,000 for all tax years that the credit remains in effect.

(b) The tax credit allowed by this section shall be deducted from the taxpayer's income tax liability for the tax year in which the expenditures were made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such tax year, the taxpayer may carry over the amount that exceeds such tax liability for deduction from the taxpayer's liability in the next succeeding tax year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth tax year succeeding the tax year in which the expenditures were incurred.

(c) The secretary of commerce shall annually certify that expenditures for goods and services purchased by a taxpayer subject to the tax credit provided in this section were made from a qualified vendor, and provide such certification to the secretary of revenue. The secretary of commerce is hereby authorized to promulgate rules and regulations for establishing criteria based on the provisions of K.S.A. 75-3317 et seq., and amendments thereto, for evaluating whether purchases by taxpayers from a qualified vendor should be certified as provided in this section, with the assistance and approval of the secretary of revenue.

(d) As used in this section:

(1) "Certified business" means any business certified by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Does business primarily in Kansas or substantially all of its production in Kansas;

(B) employs at least 30% of its employees who are individuals with disabilities and reside in Kansas;

(C) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. The department of administration shall require a certification of these facts; and

(D) does not employ individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c);

(2) "individuals with disabilities" or "individual with a disability" means any individual who:

(A) Is certified by the Kansas department for aging and disability services or by the Kansas department for children and families, which administers the rehabilitation services program as having a physical or mental impairment that constitutes a substantial barrier to employment; (B)

(B) works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (d)(1); and

(C) (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or

(iii) is an individual with a disability pursuant to the disability standards established by the social security administration as determined by the Kansas disability determination services under the Kansas department for children and families; and

(3) "qualified vendor" means an entity that:

(A) Is a "qualified vendor" pursuant to K.S.A. 75-3317, and amendments thereto, or is a "certified business" that is also a nonprofit organization pursuant to K.S.A. 75-3740, and amendments thereto;

(B) pays minimum wage or above to all their employees in a manner that meets the definition of "competitive employment" pursuant to K.S.A. 44-1136, and amendments thereto;

(C) meets the definition of employing all of their workers in an "integrated setting" pursuant to K.S.A. 44-1136, and amendments thereto; and

(D) offers a qualified company-sponsored insurance plan under the affordable care act or pays the required subsidy to the internal revenue service for employees who purchase insurance through the open market, if a company-sponsored plan is not offered. If any such company is not covered under the affordable care act, and does not offer a company-sponsored insurance plan, such company must offer assistance to the employee to cover at least 75% of their health insurance costs through a health savings account or other legal and appropriate methodology.

(e) The secretary of revenue shall report to the house committee on taxation and the senate committee on assessment and taxation on or before February 1, 2021, 2022, and 2023, concerning the implementation and effectiveness of the credit provided in this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.



## 2019 MAXIMUM "HOUSEHOLD INCOME" *Indexed to inflation*

### Homestead

### \$35,700

- ❖ 55 or older or;
- ❖ Dependent under 18 or;
- ❖ Totally & Permanently Disabled
- ❖ Maximum Refund \$700

### SAFESR

### \$20,300

- ❖ 65 or older;
- ❖ 75% of property taxes paid
- ❖ Can be more than \$700

Homestead and SAFESR Due Date for Tax Year 2019

**April 15, 2020**

9

**K.S.A. 79-4508(d)** *In the case of all tax years commencing after December 31, 2004, the upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*

- \* Household Income limit for TY 2015 - \$34,000
- \* Household Income limit for TY 2016 - \$34,100
- \* Household Income limit for TY 2017 - \$34,450
- \* Household Income limit for TY 2018 - \$35,000
- \* Household Income limit for TY 2019 - \$35,700

K.S.A. 79-4501 The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide *ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own their homestead; (b) certain persons who have a disability, who own their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own their homestead.*

K.S.A. 79-4505. Same; deadline for filing claim. Except as provided in K.S.A. 79-4517, and amendments thereto, no claim in respect of property taxes levied in any year shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which said taxes were levied.

K.S.A. 79-32,263. Tax credit for property taxes paid by certain senior citizens; selective assistance for effective senior relief (SAFESR). This act shall be known and may be cited as the selective assistance for effective senior relief (SAFESR). There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the following: (a) For tax years 2008, 2009 and 2010, an amount equal to 45% of the amount of property and ad valorem taxes actually and timely paid as described in this section; and (b) for tax year 2011 and all tax years thereafter, an amount equal to 75% of the amount of property and ad valorem taxes actually and timely paid by a taxpayer who is 65 years of age or older and who has household income equal to or less than 120% of the federal poverty level for two persons if such taxes were paid upon real or personal property used for residential purposes of such taxpayer which is the taxpayer's principal place of residence for the tax year in which the tax credit is claimed. The amount of any such credit for any such taxpayer shall not exceed the amount of property and ad valorem taxes paid by such taxpayer as specified in this section. A taxpayer shall not take the credit pursuant to this section if such taxpayer has received a homestead property tax refund pursuant to K.S.A. 79-4501et seq., and amendments thereto, for such property for such tax year. Subject to the provisions of this section, if the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount of such excess credit which exceeds such tax liability shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of the credit claimed pursuant to this section. For purposes of this section, "household income" means all income as defined in K.S.A. 79-4502(a), and amendments thereto, including any payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

## Sales Tax

2019 HB 2140  
Notice 19-02  
Effective July 1, 2019

## NEW SALES TAX EXEMPTION HOUSE BILL 2140

### K.S.A. 79-3606(mmmm)

Provides an exemption from sales tax for sales of gold or silver coins, and palladium, platinum, gold or silver bullion effective July 1, 2019

10

K.S.A. 79-3606 (mmmm) exempts from sales tax, all sales of gold or silver coins; and palladium, platinum, gold or silver bullion. For the purposes of this subsection, "bullion" means bars, ingots or commemorative medallions of gold, silver, platinum, palladium, or a combination thereof, for which the value of the metal depends on its content and not the form.

- ❖ Available for Income Tax, Premium Tax, and **effective for tax year 2019 Privilege Tax.**
- ❖ Credit is for investors making contributions of cash or property (*other than used clothing*) in an amount or value of \$250 or more to the KCE (Kansas Center for Entrepreneurship).
- ❖ Non-Refundable Credit is 75% of amount of contribution up to the total of the tax liability for the year.
- ❖ Remaining portion of the credit may be carried forward until used.
- ❖ The maximum amount of tax credits increases from \$50,000 to **\$100,000** per individual contributor.
- ❖ The total amount of tax credits that may be claimed for all taxpayers remains capped at **\$2 million per fiscal year.**

11

## 2019 SB 90

AN ACT concerning economic development; relating to the center for entrepreneurship act; extending the tax credit for contributions to financial institutions and increasing the annual credit available for all contributors; amending K.S.A. 74-99c09 and repealing the existing section.

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

Section 1. K.S.A. 74-99c09 is hereby amended to read as follows:

74-99c09. (a) Any money received by the center from any source shall be maintained in interest-bearing accounts in Kansas banks or Kansas savings and loan associations. Any accounts so maintained shall be administered by the center for entrepreneurship under guidelines developed and implemented by the center and approved by the secretary of commerce.

(b) The Kansas center for entrepreneurship shall be subject to audit by the legislative division of post audit in accordance with the provisions of the legislative post audit act.

(c) A credit against the tax imposed by article 32, of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, on the Kansas taxable income of a contributor, against the tax imposed by K.S.A. 40-252, and amendments thereto, *and for tax year 2019, and all tax years thereafter, against the privilege tax as measured by net income of financial institutions pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto* shall be allowed for a contribution to the Kansas center for entrepreneurship. The credit shall be a total maximum amount equal to 75% of a contributor's donation to the Kansas center for entrepreneurship, subject to the limitation set forth. This tax credit may be used in its entirety in the taxable year in which the contribution is made. The provisions of this section shall be applicable to all taxable years beginning after December 31, 2004. If the amount by which that portion of the credit allowed by this section exceeds the contributor's liability in any one taxable year, the remaining portion of the credit may be carried forward until the total amount of the credit is used.

If the contributor is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of these corporations or the partners of a partnership in the same manner as these shareholders or partners account for their proportionate shares of the income or loss of these corporations or partnerships.

(d) The secretary of revenue shall not allow tax credits of more than \$100,000 that are attributable to an individual contributor in the Kansas center for entrepreneurship each year. In no event shall the total amount of tax credits allowed under this section exceed \$2,000,000 for any one fiscal year, except that for fiscal year 2011, the total amount of credits allowed under this section shall not exceed \$1,800,000.

(e) The Kansas center for entrepreneurship, along with the department, shall develop a system for application for registration of an authorization of tax credits authorized pursuant to this act and shall control distribution of all tax credits to contributors pursuant to this act. The Kansas center for entrepreneurship, along with the department, shall also develop rules for the administration of and disbursements from its accounts.

(f) The Kansas center for entrepreneurship shall distribute funds to regional or local community seed capital funds or economic development agencies based on the following criteria: (1) The organization can provide a 40% match; (2) the organization provides a plan that assures funds will be used as seed capital for qualified entrepreneurs; (3) the funds will be used in a distressed or rural community; or (4) other criteria as deemed necessary by the Kansas center for entrepreneurship.

Sec. 2. K.S.A. 74-99c09 is hereby repealed.

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

## Liquor Enforcement Tax

2019 HB 2035  
Effective April 1, 2019  
and upon publication of the act in the Kansas Register (04/11/19)  
Notice 19-01

- ❖ House Bill 2035 clarified the tax collected on the sale of Cereal Malt Beverage (CMB) by **Retail Liquor Stores**.
- ❖ **CMB Retailers** (grocery stores, convenience stores, drug stores and on premise CMB retailers) On April 1, 2019 CMB Retailers were able to start selling strong beer (*not more than 6.0% alcohol by volume*). **CMB retailers** are required to collect the combined state and local **Sales Tax** instead of state liquor enforcement tax on the sales of CMB also called “strong beer”. (*Only for sales tax purposes is strong beer included in the definition of CMB*).
- ❖ **Retail Liquor Stores** are required to collect **Liquor Enforcement Tax** on the sale of alcoholic liquor, CMB and non-alcoholic malt beverage products clarified in HB 2035.
  - On April 1, 2019, **Retail Liquor Stores** were able to start selling other goods or services but sales cannot exceed **20%** of the total gross receipts. (excluding the sale of lottery tickets, cigarettes and tobacco products). They are required to collect the combined state and local **Sales Tax** (excluding lottery tickets) on the sale of these other goods and services.



13

## 2019 HB 2035

AN ACT concerning alcoholic beverages; relating to cereal malt beverages and enforcement of laws regulating the sale thereof; amending K.S.A. 2016 Supp. 41-308, as amended by section 6 of chapter 56 of the 2017 Session Laws of Kansas, and K.S.A. 2018 Supp. 41-106 and 79-4101 and repealing the existing sections.

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

Section 1. K.S.A. 2018 Supp. 41-106 is hereby amended to read as follows: 41-106.

(a) Any citation issued by an agent of the division of alcoholic beverage control for a violation of the liquor control act or, the club and drinking establishment act *or the Kansas cereal malt beverage act* shall be delivered to the licensee or a person in charge of the licensed premises at the time of the alleged violation. A copy of such citation also shall be delivered by United States mail to the licensee within 30 days of the alleged violation.

(b) Any duly authorized law enforcement officer who observes a violation of the liquor control act or, the club and drinking establishment act *the Kansas cereal malt beverage act* may, after serving notice to the licensee or a person in charge of the licensed premises, submit a report of such violation to the division of alcoholic beverage control for review. Upon receipt of such report, the director shall review the report and determine if administrative action will be taken against the licensee. If the director determines that administrative action will be taken, an administrative citation and notice of administrative action shall be delivered by United States mail to the licensee within 30 days of the date of the alleged violation.

(c) The notice required to be served to the licensee or a person in charge of the licensed premises at the time of the alleged violation pursuant to subsection (b) shall be in writing and shall contain the following:

- (1) The name of the licensee;
- (2) the date and time of the alleged violation;
- (3) a description of the alleged violation; and

(4) a statement that a report of the alleged violation will be submitted to the division of alcoholic beverage control for review.

(d) Any citations not issued in accordance with the provisions of this section shall be void and unenforceable.

(e) For purposes of this section, the term "person in charge" means any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present is the person in charge.

Sec. 2. K.S.A. 2016 Supp. 41-308, as amended by section 6 of chapter 56 of the 2017 Session laws of Kansas, is hereby amended to read as follows: 41-308. (a) Except as provided in K.S.A. 2018 Supp. 41-308d, and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor and cereal malt beverage for use or consumption off and away from the premises specified in such license.

(b) A retailer's license shall permit sale and delivery of alcoholic liquor and cereal malt beverage only on the licensed premises and shall not permit sale of alcoholic liquor and cereal malt beverage for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor and cereal malt beverage to a temporary permit holder for resale by such permit holder; and

(2) sell and deliver alcoholic liquor and cereal malt beverage to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer.

(c) A retailer may:

(1) Charge a delivery fee for delivery of alcoholic liquor and cereal malt beverage to a public venue, club, drinking establishment or caterer pursuant to subsection (b);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(3) include in the sale of alcoholic liquor and cereal malt beverage any goods included by the manufacturer in packaging with the alcoholic liquor or cereal malt beverage, subject to the approval of the director;

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor or cereal malt beverage;

(5) store alcoholic liquor and cereal malt beverage in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor and cereal malt beverage to consumers in a chilled condition; and

(6) sell any other good or service on the licensed premises, except that the gross sales of other goods and services, excluding fees derived from the sale of lottery tickets and revenues from sales of cigarettes and tobacco products, shall not exceed 20% of the retailer's total gross sales.

*(d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt beverage sold by a holder of a retail license shall be subject to the liquor enforcement tax imposed by K.S.A. 79-4101, and amendments thereto.*

Sec. 3. K.S.A. 2018 Supp. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers, microbreweries, microdistilleries or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from: (1) The sale of alcoholic liquor, *cereal malt beverage and nonalcoholic malt beverage* by retailers,; (2) *the sale of alcoholic liquor* by microbreweries, microdistilleries or farm wineries to consumers within this state; and (3) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries, microdistilleries and farm wineries by K.S.A. 41-310, and amendments thereto.

(c) *As used in this section, the term "retailer" means the same as such term is defined in K.S.A. 41-102, and amendments thereto.*

Sec. 4. K.S.A. 2016 Supp. 41-308, as amended by section 6 of chapter 56 of the 2017 Session Laws of Kansas, and K.S.A. 2018 Supp. 41-106 and 79-4101 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after April 1, 2019, and its publication in the Kansas register.

**K.S.A. 41-102. Definitions.** As used in this act, unless the context clearly requires otherwise:

(z) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

## Motor Fuel Tax

2019 HB 2087  
Notice 19-03  
Effective July 1, 2019

## Definition of “school bus” changed



### HB 2087 amends the definition of “school bus” in the Motor-Fuel Tax Law

- ❖ A motor vehicle no longer is required to be designed for carrying more than **ten** passengers;
- ❖ A motor vehicle may be owned and operated by the school district or **privately owned and contracted** for, leased, or hired by a school district or nonpublic school;
- ❖ A “school bus” must be used to transport pupils or students to or from school or to or from school-related functions or activities;
- ❖ Under continuing law (KSA 79-3453), any person who uses motor-vehicle fuels for which tax has been paid for school buses (or any purpose other than operating motor vehicles on the public highways) is entitled to a refund of motor-fuel tax if certain requirements are met. See **NOTICE 19-03**

16

### 2019 HB2087

An Act concerning the motor-fuel tax law; relating to the definition of school bus; amending K.S.A. 2018 Supp. 79-3401 and repealing the existing section.

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

Section 1. K.S.A. 2018 Supp. 79-3401 is hereby amended to read as follows: 79-3401. This act, ~~and amendments thereto~~, shall be known and may be cited as the “motor-fuel tax law,” and as so constituted is hereinafter referred to as “this act.” The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except in those instances clearly indicating a different meaning:

(r) “school bus” means ~~every bus, as defined by K.S.A. 8-1406, and amendments thereto, which~~ *motor vehicle that* is: (1) Privately owned and contracted for, leased or hired by a school district or nonpublic school for the transportation of pupils, ~~or students or school personnel~~ to or from school or to or from school-related functions or activities; or (2) owned and operated by a school district or nonpublic school ~~which~~ *that* is registered under the provisions of K.S.A. 8-126 et seq., and amendments thereto, used for the transportation of pupils, ~~or students or school personnel~~ to or from school or to or from school-related functions or activities;

Sec. 2. K.S.A. 2018 Supp. 79-3401 is hereby repealed.

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



# Compensating Use Tax (K.S.A. 79-3703)

- ❖ Kansas has imposed a compensating use tax since **1937**
- ❖ The tax is on goods purchased by Kansans (**individuals** and **businesses**) from outside Kansas and used, stored, or consumed in Kansas which no sales tax was paid or the sales tax paid was less than the Kansas combined rate.
- ❖ The purpose of compensating use tax is to protect Kansas businesses from unfair competition from out-of-state retailers who sell goods tax-free. It also provides fairness to Kansans who purchase similar items in Kansas and pay sales tax on them.
- ❖ Use tax is due on out-of-state purchases whether the property is shipped into Kansas or picked up in another state and brought back to Kansas.

17

**K.S.A. 79-3703. Compensating use tax imposed; rate.** here is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 6.5%. Within a redevelopment district established pursuant to K.S.A. [74-8921](#), and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

History: L. 1937, ch. 375, § 3; L. 1945, ch. 370, § 2; L. 1953, ch. 450, § 1; L. 1955, ch. 425, § 1; L. 1958, ch. 31, § 3 (Special Session); L. 1965, ch. 533, § 3; L. 1986, ch. 386, § 3; L. 1989, ch. 209, § 61; L. 1992, ch. 280, § 61; L. 1995, ch. 118, § 4; L. 1998, ch. 199, § 15; L. 1999, ch. 158, § 12; L. 2002, ch. 185, § 9; L. 2003, ch. 150, § 3; L. 2004, ch. 90, § 4; L. 2010, ch. 160, § 3; L. 2013, ch. 135, § 4; L. 2015, ch. 99, § 9; L. 2015, ch. 102, § 9; July 1.

**K.S.A. 12-191. Same; situs of taxable transactions; rules and regulations; effective date for collection of taxes; revenue in excess of budget, disposition.** All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, all retail sales, for the purpose of this act, shall be considered to have been consummated at the location determined by the sourcing rules as provided in K.S.A. 2018 Supp. [79-3670](#), and amendments thereto.

The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of K.S.A. 2018 Supp. [79-3670](#), and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location. The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where the motor vehicle or trailer was kept at the time negotiations were first entered into. In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. The director of taxation is hereby authorized to request and receive from any retailer or from any city or county levying the tax such information as may be reasonably necessary to determine the liability of retailers for any county or city sales tax. The collection of any sales tax of a county or city approved at any election shall commence on the first day of the calendar quarter next following the 90th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The collection of any such sales tax applicable to printed catalog purchases wherein the purchaser computed the tax based upon local tax rates published in the catalog, shall not commence until the first day of the calendar quarter next following the 150th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The director of taxation shall provide notice to sellers of such taxes within 30 days after receiving such notice from the city or county.

A city retailers' sales tax shall not become effective within any area annexed by a city levying such tax until the first day of the calendar quarter next following the 90th day after the date that the governing body of such city provided the state department of revenue with a certified copy of the annexation ordinance and a map of the city detailing the annexed area. The director of taxation shall provide notice to sellers of such tax within 30 days after receiving such notice from the city or county.

Whenever any sales tax, imposed by any city or county under the provisions of this act, shall become effective, at any time prior to the time that revenue derived therefrom may be budgeted for expenditure in such year, such revenue shall be credited to the funds of the taxing subdivision or subdivisions and shall be carried forward to the credit of such funds for the ensuing budget year in the manner provided for carrying forward balances remaining in such funds at the end of a budget year.

History: L. 1978, ch. 56, § 5; L. 1983, ch. 58, § 4; L. 1983, ch. 59, § 1; L. 1983, ch. 57, § 2; L. 1984, ch. 63, § 1; L. 1985, ch. 69, § 1; L. 1985, ch. 70, § 1; L. 1990, ch. 67, § 4; L. 2001, ch. 67, § 2; L. 2003, ch. 147, § 1; July 1.

## Compensating Use Tax

(K.S.A. 79-3703)

# Two types of compensating use tax

### Consumers' Compensating Use Tax

- Paid by Kansas consumers direct to the Kansas Department of Revenue
- Due when a Kansas resident or business buys goods or merchandise for their use or consumption in Kansas from vendors in other states on which a sales tax equal to that of the Kansas buyer has not been paid.
- Business Tax account numbers with 006 prefix. Individuals pay on K-40.

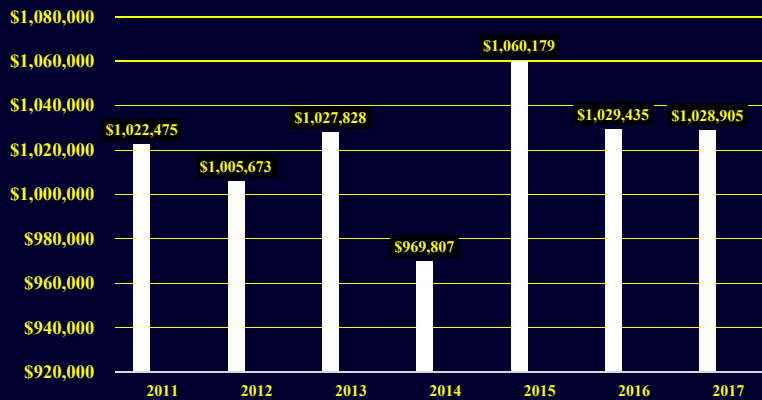
### Retailers' Compensating Use Tax

- Collected by retailers in other states from their Kansas customers
- Out-of-state retailers are required to register and collect retailers' compensating use tax if they have established nexus in Kansas
- Business Tax account numbers with 005 prefix.

## Compensating Use Tax

(K.S.A. 79-3703)

### State and Local Use Tax as reported on the Kansas Individual Income tax form (K-40)



**K.S.A. 79-3221o.** Individual tax returns; line for reporting compensating use tax. (a) In order to raise awareness of liabilities of use taxes levied in article 37 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for purchases of tangible personal property made outside this state to be consumed within this state, and to increase compliance with such provisions of law, the director of taxation is hereby directed to include a line for the remittance of sales tax on out-of-state and internet purchases where the tax was not paid on individual tax returns for tax years beginning on or after July 1, 2016.

(b) The director shall include the following information in the income tax form instructions:

(1) An explanation of an individual's obligation to pay use tax on items purchased from mail order, internet or other sellers that do not collect state and local sales and use taxes on the items; and

(2) a method to help an individual determine the amount of use tax the individual owes. The method may include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.

(c) No penalties or interest shall be applied with respect to any taxes remitted pursuant to the provisions of this section.

History: L. 2016, ch. 84, § 2; July 1.

# Wayfair

On June 21, 2018 the United States Supreme Court issued its decision in the case of *South Dakota v Wayfair Inc.* et al. In its decision the Court overturned the requirement established by prior rulings that a remote seller must have a physical presence in a state before that state can require the remote seller to collect that state's sales or use tax.

## **Remote Seller**

A retailer who sells tangible personal property and services into a state where it does not have physical presence is commonly referred to as a "remote seller".

## **Requirement to Register, and to Collect and Remit Sales Tax**

Kansas imposes its sales and use tax collection requirements to the fullest extent permitted by law. Specifically, as noted above, K.S.A. 79-3702(h)(1)(F) provides:

*(h) (1) "Retailer doing business in this state" or any like term, means:*

*(F) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States.*

Kansas can, and does, require on-line and other remote sellers with no physical presence in Kansas to collect and remit the applicable sales or use tax on sales delivered into Kansas. Accordingly, a remote seller must register with Kansas and obtain a sales or use tax account number.

21

**K.S.A. 79-3702. Definitions.** For the purposes of this act: (a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale it shall be deducted in arriving at the purchase price.

(b) The meaning ascribed to words and phrases in K.S.A. [79-3602](#), and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided. The provisions of K.S.A. [79-3601](#) to [79-3625](#), inclusive, [79-3650](#), K.S.A. 2018 Supp. [79-3693](#) and [79-3694](#), and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act.

(c) "Use" means the exercise within this state by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of the property in the regular course of business, and except storage as hereinafter defined.

(d) "Storage" means any keeping or retaining in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(e) "Storage" and "use" do not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into this state for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

(f) "Property used in processing" means: (1) Any tangible personal property which, when used in fabrication, compounding, manufacturing or germination, becomes an integral part of the new article resulting from such fabrication, compounding, manufacturing, or germination, and intended to be sold ultimately at retail; and (2) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

(g) "Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of this act, except that, when in the opinion of the director it is necessary for the efficient administration of this act to regard any salesperson, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this act.

(h) (1) "Retailer doing business in this state" or any like term, means: (A) Any retailer maintaining in this state, permanently, temporarily, directly or indirectly through a subsidiary, agent or representative, an office, distribution house, sales house, warehouse or other place of business;

(B) any retailer utilizing an employee, independent contractor, agent, representative, salesperson, canvasser, solicitor or other person operating in this state either permanently or temporarily, for the purpose of selling, delivering, installing, assembling, servicing, repairing, soliciting sales or the taking of orders for tangible personal property;

(C) any retailer, including a contractor, repair person or other service provider, who enters this state to perform services that are enumerated in K.S.A. [79-3603](#), and amendments thereto, and who is required to secure a retailer's sales tax registration certificate before performing those services;

(D) any retailer deriving rental receipts from a lease of tangible personal property situated in this state;

(E) any person regularly maintaining a stock of tangible personal property in this state for sale in the normal course of business; and

(F) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States.

(2) A retailer shall be presumed to be doing business in this state if any of the following occur:

(A) Any person, other than a common carrier acting in its capacity as such, that has nexus with the state sufficient to require such person to collect and remit taxes under the provisions of the constitution and laws of the United States if such person were making taxable retail sales of tangible personal property or services in this state:

(i) Sells the same or a substantially similar line of products as the retailer and does so under the same or a substantially similar business name;

(ii) maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers or facilitates the sale or delivery of property sold by the retailer to consumers;

(iii) uses trademarks, service marks, or trade names in the state that are the same or substantially similar to those used by the retailer;

(iv) delivers, installs, assembles or performs maintenance services for the retailer's customers within the state;

(v) facilitates the retailer's delivery of property to customers in the state by allowing the retailer's customers to pick up property sold by the retailer at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in the state;

(vi) has a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act; or

(vii) conducts any other activities in the state that are significantly associated with the retailer's ability to establish and maintain a market in the state for the retailer's sales.

(B) Any affiliated person conducting activities in this state described in subparagraph (A) or (C) has nexus with this state sufficient to require such person to collect and remit taxes under the provisions of the constitution and laws of the United States if such person were making taxable retail sales of tangible personal property or services in this state.

(C) The retailer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link or an internet website, by telemarketing, by an in-person oral presentation, or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer is in excess of \$10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the residents with whom the retailer has an agreement did not engage in any activity within the state that was significantly associated with the retailer's ability to establish or maintain the retailer's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the retailer has an agreement stating that they did not engage in any solicitation in the state on behalf of the retailer during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the enactment of this statute and shall apply to sales made and uses occurring on or after the effective date of this subparagraph and without regard to the date the retailer and the resident entered into the agreement described in this subparagraph. The term "preceding 12 months" as used in this subparagraph includes the 12 months commencing prior to the effective date of this subparagraph.

(D) The presumptions in subparagraphs (A) and (B) may be rebutted by demonstrating that the activities of the person or affiliated person in the state are not significantly associated with the retailer's ability to establish or maintain a market in this state for the retailer's sales.

(3) The processing of orders electronically, by fax, telephone, the internet or other electronic ordering process, does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this section.

(i) "Director" means the director of taxation.

(j) As used in this section, "affiliated person" means any person that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code.

History: L. 1937, ch. 375, § 2; L. 1945, ch. 370, § 1; L. 1957, ch. 511, § 1; L. 1965, ch. 535, § 1; L. 1990, ch. 357, § 1; L. 2003, ch. 159, § 2; L. 2007, ch. 155, § 14; L. 2013, ch. 87, § 18; July 1.

## Miscellaneous

**Interest rate — 6%** Interest rate (.005 monthly) for calendar year 2020 on delinquent or unpaid taxes and over payment of taxes.

24

**K.S.A 79-2968.** Rate of interest on delinquent or unpaid taxes and overpayments of taxes. Except as otherwise specifically provided by law, whenever interest is charged under any law of this state upon any delinquent or unpaid taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, or whenever interest is allowed under any law of this state upon any overpayment of taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, the rate thereof shall be the underpayment rate per annum prescribed and determined under paragraph (2) of subsection (a) of section 6621, without regard to subsection (c) thereof, of the federal internal revenue code, as in effect on September 1, 1996, and which rate is in effect thereunder on July 1 of the year immediately preceding the calendar year for which the rate is being annually fixed hereunder, plus one percentage point, if computed annually. Beginning on January 1, 2012, the rate for property tax delinquencies or underpayments of \$10,000 or more shall be as provided for under this section or 10% per annum, whichever is greater. In the event the interest rate prescribed under this section cannot be determined by reference to section 6621 of the federal internal revenue code, as in effect on September 1, 1996, the rate at which interest shall be collected on underpayments shall be the rate prescribed by K.S.A. [16-204](#), and amendments thereto, for interest on judgments for the applicable period. History: L. 1980, ch. 308, § 1; L. 1994, ch. 85, § 1; L. 1997, ch. 126, § 1; L. 2011, ch. 88, § 5; July 1.



# **NEW NOTICES FOR 2019**

- **19-01 HB 2035 - Tax Imposed on Cereal Malt Beverage by Retail Liquor Stores**
- **19-02 HB 2140 - EXEMPT SALES OF GOLD OR SILVER COINS; AND PALLADIUM, PLATINUM, GOLD OR SILVER BULLION**
- **19-03 2019 Motor Fuel Legislative Update**

## NOTICE 19-01

Date: April 19, 2019  
To: Liquor Enforcement Tax Customer  
Subject: HB 2035 - Tax Imposed on Cereal Malt Beverage by Retail Liquor Stores

The passage of House Bill 2035 during the 2019 legislative session made changes to clarify the tax collected on the sale of Cereal Malt Beverage (CMB) in retail liquor stores.

### What's New?

Effective April 1, 2019 and upon publication of the act in the Kansas Register (04/11/19), all retail sales of alcoholic liquor, CMB and non-alcoholic malt beverage are subject to the liquor enforcement tax as described in K.S.A. 79-4101.

### What These Changes Mean

- Per 2017 Senate Bill 13 and as indicated in prior Notice 18-04, effective April 1, 2019, retail liquor stores are allowed to sell CMB and other goods or services. As a reminder, the sale of other goods and services (excluding the sale of lottery tickets, cigarettes and tobacco products) cannot exceed 20% of the total gross receipts.
- Retail liquor stores will charge liquor enforcement tax on the sale of alcoholic liquor, CMB and non-alcoholic malt beverages.
- Retail liquor stores will charge retailers' sales tax on the sale of other goods or services (excluding lottery tickets).
- Retail liquor stores must apply for a Retail Cigarette/E-Cigarette Dealer's License if selling cigarettes.
- The revised Kansas Liquor Enforcement Tax Return (LE-3) will be available for use beginning May 1, 2019.
- CMB retailers (such as grocery stores, convenience stores, and drug stores) will continue to charge retailers' sales tax on the sale of CMB and beer.

If you have questions or need assistance, please contact Division of Taxation, Miscellaneous Tax at 785-368-8222, option 5, option 4, option 2 or by email at [kdor\\_miscellaneous.tax@ks.gov](mailto:kdor_miscellaneous.tax@ks.gov).

Tax Policy  
109 SW 9<sup>th</sup> Street  
PO Box 3506  
Topeka KS 66601-3506  
Mark A. Burghart, Secretary



Phone: 785-368-8222  
Fax: 785-296-1279  
[www.ksrevenue.org](http://www.ksrevenue.org)  
Laura Kelly, Governor

## NOTICE 19-02

### **EXEMPT SALES OF GOLD OR SILVER COINS; AND PALLADIUM, PLATINUM, GOLD OR SILVER BULLION (JULY 1, 2019)**

During the 2019 Legislative Session House Bill 2140 was passed and signed into law. This Bill amended K.S.A. 79-3606 to provide an exemption from sales tax for sales of gold or silver coins, and palladium, platinum, gold or silver bullion. Specifically, the new subsection provides an exemption for:

(mmmm) all sales of gold or silver coins; and palladium, platinum, gold or silver bullion. For the purposes of this subsection, “bullion” means bars, ingots or commemorative medallions of gold, silver, platinum, palladium, or a combination thereof, for which the value of the metal depends on its content and not the form.

The provisions of K.S.A. 79-3606(mmmm) will become effective July 1, 2019.

#### TAXPAYER ASSISTANCE

Additional copies of this notice, forms or publications are available from our web site, [www.ksrevenue.org](http://www.ksrevenue.org). If you have questions about this Notice, please contact:

Taxpayer Assistance Center  
Kansas Department of Revenue  
Scott Office Building, 1st Floor  
120 SE 10<sup>th</sup> Ave  
P. O. Box 3506  
Topeka, KS 66675-0260  
Phone: 785-368-8222  
Hearing Impaired TTY: 785-296-6461  
Fax: 785-291-3614

**NOTICE 19-03**  
**2019 Motor Fuel Legislative Update**  
**June 3, 2019**

The following Bills were enacted by the 2019 Legislature:

**HB2087**

Section 1 of the Bill changes the definition of “school bus” found in K.S.A. 79-3401(r) for Motor Fuel refund purposes. As amended, the new language provides:

(r) “school bus” means every motor vehicle that is: (1) Privately owned and contracted for, leased or hired by a school district or nonpublic school for the transportation of pupils, or students to or from school-related functions or activities; or (2) owned and operated by a school district or nonpublic school that is registered under the provisions of K.S.A. 8-126 et seq., and amendments thereto, used for the transportation of pupils, or students to or from school or to or from school-related functions or activities.

This bill is effective from and after publication in the statute book, July 1, 2019.

**HB2214**

Section 1 of the Bill amends K.S.A. 2018 Supp. 8-143 to read, in part, as follows:

8-143. (a) All applications for the registration of motorcycles, motorized bicycles and passenger vehicles other than trucks and truck tractors, except as otherwise provided, shall be accompanied by an annual license fee as follows:

....

(2) On and after January 1, 2020:

....

(C)(iii) for those motor vehicles that are electric hybrid or plug-in electric hybrid vehicles, \$50; and

(iv) for those motor vehicles that are all-electric vehicles, \$100.

This bill is effective January 1, 2020.

This notice includes only portions of the bills. For a detailed, full text copy of each bill, please visit the Kansas Legislature’s website at [www.kslegislature.org](http://www.kslegislature.org). This notice can also be found on our website at [www.ksrevenue.org](http://www.ksrevenue.org).

If you have questions or need assistance, please contact the Division of Taxation, Motor Fuel Tax, at 785-368-8222.