

# 2016

## KANSAS LEGISLATIVE CHANGES & ENACTMENTS



06/27/2016

**KDOR Taxpayer Education:**

Carl York 785-296-1048  
[Carl.York@kdor.ks.gov](mailto:Carl.York@kdor.ks.gov)

**Customer Relations:**

**Income Tax:** (785)-368-8222 Option 4  
**Business Tax:** (785)-368-8222 Option 5  
**Line Lengue Española:** (785)-368-8222 Option 6

**Problem Resolution Officer:**

Bob Clelland  
Office (785) 296-2473  
Fax (866) 637-0858  
E-mail [taxpayer.advocate@kdor.ks.gov](mailto:taxpayer.advocate@kdor.ks.gov)

**KDOR web site:**

[www.ksrevenue.org](http://www.ksrevenue.org)

**e-commerce web site:**

[www.webtax.org](http://www.webtax.org)

**For a PIN number to WebFile:** (785) 296-6993

**Forms Order Line:** (785)-296-4937

<http://www.ksrevenue.org/pdf/2016LegislativeChanges.pdf>

# Income Tax

2015 SB 270  
Notice 15-06

2

## Income Tax Rates for Individuals, Estates & Trusts

| <u>Married Filing Joint</u>                                   | <u>TY2015 - TY2017</u> | <u>TY2018</u> |
|---|------------------------|---------------|
| <b>Taxable Income</b>   |                        |               |
| \$0.00 - \$30,000   | 2.7%                   | 2.6%          |
| \$30,001 and over   | 4.6%                   | 4.6%          |
| <br><b>Single, Head of Household, Married Filing Separate</b> |                        |               |
| <b>Taxable Income</b>   |                        |               |
| \$0.00 - \$15,000   | 2.7%                   | 2.6%          |
| \$15,001 and over   | 4.6%                   | 4.6%          |

**2015 SB 270 Sec. 3.** K.S.A. 2014 Supp. 79-32,110, as amended by section 25 of 2015 Senate Substitute for House Bill No. 2109, is hereby amended to read as follows: 79-32,110. (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.*

(D) For tax years 2015, 2016 and 2017:

If the taxable income is:                      The tax is:  
Not over \$30,000.....2.7% of Kansas taxable income  
Over \$30,000 .....\$810 plus 4.6% of excess over \$30,000

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

If the taxable income is:                      The tax is:  
Not over \$30,000.....2.6% of Kansas taxable income  
Over \$30,000 .....\$780 plus 4.6% of excess over \$30,000

(2) *All other individuals.*

(D) For tax years 2015, 2016 and 2017:

If the taxable income is:                      The tax is:  
Not over \$15,000.....2.7% of Kansas taxable income  
Over \$15,000 .....\$405 plus 4.6% of excess over \$15,000

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

If the taxable income is:                      The tax is:  
Not over \$15,000.....2.6% of Kansas taxable income  
Over \$15,000 .....\$390 plus 4.6% of excess over \$15,000

## Low Income Exclusion (NEW FOR TAX YEAR 2016)

- No Tax Liability for low income individuals

### Married Filing Joint

Taxable Income - \$0.00 - \$12,500

### Single, Head of Household, Married Filing Separate

Taxable Income - \$0.00 - \$5,000

*A Kansas Income Tax Return (K-40) must still be filed to claim exclusion.*

**2015 SB 270 Sec. 3 (f).** *Notwithstanding the provisions of subsections (a) and (b), for tax year 2016, and all tax years thereafter, 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.*

## Itemized Allowable Deductions

- **100% of Qualified Charitable Contributions**  
*(as allowed as deductions in section 170 of Federal IRS code)*
- **50% of Qualified Residence Interest**  
*(as provided in section 163(h) of Federal IRS Code)*
- **50% of the amount of taxes on Real and Personal Property** *(as provided in section 164(a) of Federal IRS Code)*

**2015 HB 2109 Sec. 26.** K.S.A. 2014 Supp. 79-32,120 is hereby amended to read as follows: 79-32,120. (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, 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.

(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. 2014 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.

## ▣ Subtraction Modification

### ▣ Still Available

#### LEARNING QUEST & CONTRIBUTIONS TO ANOTHER STATE'S 529 QUALIFIED TUITION PROGRAM

- Subtraction limited to:
  - \$3,000 per student, per year for Single, Married Filing Separate & Head of Household
  - \$6,000 per student, per year for Married Filing Joint

#### **2006 SB 432 Sec. 8**

K.S.A. 79-32,117(c)(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2015 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

#### **Schedule S, Line A21**

## ■ ANGEL INVESTOR CREDIT EXTENDED TO TAX YEAR 2021

*Angel Investor Credit is available to qualified individuals who provide seed-capital financing for emerging Kansas businesses engaged in development, implementation and commercialization of innovative technologies, products and services.*

*Administered by the Kansas Department of Commerce.*

- 50% Credit Investor's Cash Investment in any Kansas qualified business
- Income Tax & Insurance Premiums Credit - no Privilege Tax Credit.
- Credit is Carried-Forward until used.
- \$50,000 limit for a single Kansas business or \$250,000 in tax credits for a single year per investor

**2016 House Sub for SB149** Sec. 3. K.S.A. 2015 Supp. 74-8133 is hereby amended to read as follows: 74-8133. (a) 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 an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor. (b) The secretary of revenue shall not allow tax credits of more than \$50,000 for a single Kansas business or a total of \$250,000 in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year 2021. The total amount of tax credits which may be allowed under this section shall not exceed \$4,000,000 during the tax year 2007 and \$6,000,000 for tax year 2008 and each tax year thereafter, except that for tax year 2011, the total amount of tax credits which may be allowed under this section shall not exceed \$5,000,000. The balance of unissued tax credits may be carried over for issuance in future years until 2021. (c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code. (d) No investor shall claim a credit under this section for cash investments in Kansas venture capital, inc. No Kansas venture capital company shall qualify for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated, *and amendments thereto*. (e) Any investor who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the immediate past three taxable years, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to any natural person of net worth, as defined in 17 C.F.R. § 230.501(a) as in effect on the effective date of this act whether or not such person is then an investor and be claimed by the transferee as a credit against the transferee's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation. (f) The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the issuance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by the secretary by rules and regulations in accordance with the rules and regulations filing act.



## Application Fee

- For purposes of recovering application processing, oversight, administrative and other costs, the secretary of commerce may assess an application fee of up to **\$750** upon applications for:
  - Economic development incentive programs administered wholly or in part by the secretary, including, but not limited to...
    - The Kansas industrial training and retraining programs (**KIT**).
    - The high performance incentive program (**HPIP**).
    - The promoting employment across Kansas act (**PEAK**).
    - The job creation program fund (**JCF**).
    - Allows a new fee for STAR Bond projects and modifies the existing application fee for Private Activity Bonds.

**House Bill 2509;** *Be it enacted by the Legislature of the State of Kansas:* New Section 1. (a) For purposes of recovering application processing, oversight, administrative and other costs, the secretary of commerce may assess an application fee of up to \$750 upon applications for economic development incentive programs administered wholly or in part by the secretary, including, but not limited to, the Kansas industrial training and retraining programs, K.S.A. 74-5065 et seq., and amendments thereto, the high performance incentive program, K.S.A. 74-50,131 et seq., and amendments thereto, the promoting employment across Kansas act, K.S.A. 2015 Supp. 74-50,210 et seq., and amendments thereto, and the job creation program fund, K.S.A. 2015 Supp. 74-50,224 et seq., and amendments thereto. The secretary may adopt rules and regulations to implement the provisions of this subsection. (b) The secretary of commerce shall remit all moneys received by or for the secretary from such application fees and collected under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the economic development incentive program application fee fund, which is hereby established in the state treasury and which may be used for costs to the department of commerce arising from administering such economic development incentive programs. All expenditures from the economic development incentive program application fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

## ▣ C-Corporations and Partnership

### **Kansas due dates and extension periods are unchanged.**

#### ▣ FEDERAL ONLY (I.R.S.)

- ▣ Effective Tax Year 2016 the **FEDERAL** due dates for partnership tax returns (Form 1065) and C Corporation tax returns essentially have swapped. The significant reorganization of due dates is intended to assist individuals involved in pass-through entities in receiving information required to prepare their individual returns in a more timely fashion.

**79-3221.** Returns; form, place and time of filing; identifying number, social security numbers; tentative returns; extension of time; certain actions or proceedings authorized; definitions. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security number issued to an individual, the individual's spouse, and all dependents of such individual for purposes of section 205 (c)(2)(A) of the social security act shall be used as the identifying number and included on the return when filing such return.

(b) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (c) hereof. Tentative returns may be filed before the close of the taxable year and the estimated tax computed on such return, paid, but no interest will be paid on any overpayment of tax liability, computed on such tentative return.

**92-12-67. Extension of time for filing returns.** A six-month extension of time to file shall be granted by the director of taxation if at least 90% of the current year's tax liability is paid or 100% of the prior year's tax liability is paid. An extension of time to file shall not constitute an extension of time to pay. If the amount of tax due is not paid by the original due date, interest and penalty shall be assessed unless both of the following conditions are met:

(a) At least 90% of the tax liability is paid on or before the original due date.

(b) The balance of the tax and interest is paid with the return when it is filed. The appropriate Kansas payment voucher shall be submitted when paying the tax balance due for an extension of time to file.

(Authorized by K.S.A. 79-3236; implementing K.S.A. 79-3221; effective Jan. 1, 1968; amended Jan. 1, 1970; amended May 1, 1982; amended May 10, 2002.)



**(NEW for TY 2017)**

## **Local School District Contribution Program:**

- Effective for tax year 2017 new check-off donation on Kansas income tax return for Local School District Contribution Program \_\_\_ \$10, \_\_\_ \$25, \_\_\_ \$50, \$ \_\_\_, or \_\_\_ entire refund to unified school district No. \_\_\_\_\_.
- The taxpayer may donate to the Local School District of their choice.

**2016 House Sub for SB149** New Section 1. (a) For the tax years commencing after December 31, 2016, each Kansas state individual income tax return form shall contain a designation as follows:

Local School District Contribution Program. Check if you wish to donate, in addition to your tax liability, or designate from your refund, \_\_\_ \$10, \_\_\_ \$25, \_\_\_ \$50, \_\_\_ \$ , or entire refund to unified school district No. \_\_\_\_\_ .

(b) The director of taxation of the department of revenue shall determine annually the total amount designated for contribution to the local school district contribution program pursuant to subsection (a) and shall report such amount to the state treasurer who shall credit the entire amount thereof to the local school district contribution program checkoff fund which is hereby established in the state treasury. All moneys deposited in such fund shall be used for the purpose of financing education in the school district of the taxpayer's choice. In the case where donations are made pursuant to subsection (a), the director shall remit the entire amount thereof to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of such fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education. Such moneys shall be treated as a donation by the school district in accordance with K.S.A. 72-8210, and amendments thereto, and shall be reported as gifts for the purposes of the Kansas uniform financial and reporting act.

# Homestead 2016

2005 SB133

10

**To qualify, Must meet both of these requirements:**

- ✓ **A Kansas resident for the entire year AND have a total household income of \$34,100 or less.**

**Must also meet one of the following requirements:**

- ✓ **Age 55 or older for the entire year (born before 1/1/1961), OR**
- ✓ **Have a dependent child under 18 years of age that lived with you the entire year. (Must be born before January 1, 2016, and was under the age of 18 all of 2016). OR**
- ✓ **Blind or totally and permanently disabled for the entire year.**
- ✓ **Veterans Disability**
  - **Certified to have 50% or more permanent disability:**
  - **sustained through military action,**
  - **due to an accident while on active duty,**
  - **or resulting from disease contracted while on active duty.**

**2005 SB 133 Sec. 1** 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 2008 - \$29,700
- Household Income limit for TY 2009 - \$31,300
- Household Income limit for TY 2010 - \$30,800
- Household Income limit for TY 2011 - \$31,200
- Household Income limit for TY 2012 - \$32,400
- Household Income limit for TY 2013 - \$32,900
- Household Income limit for TY 2014 - \$33,400
- Household Income limit for TY 2015 - \$34,000
- Household Income limit for TY 2016 - \$34,100

**2012 Senate Substitute for House Bill No.2117, Sec. 30.** On and after January 1, 2013, K.S.A. 2011 Supp. 79-4501 is hereby amended to read as follows: 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.*

## Fire Damaged Agriculture Fence Sales Tax Refund

- ❖ Sales tax Refund on agriculture fencing materials and services for agricultural fences damaged or destroyed by fire during calendar year 2016.
  - ❖ Exemption covers construction, reconstruction, repair or replace any agriculture fence damaged or destroyed by fire occurring during calendar year 2016.
- ❖ Fence **MUST** enclose land devoted to agricultural use **ONLY**.
- ❖ Sales Tax Refund use **(ST-3)** Kansas Application for Sales Tax Refund of Fencing Materials and /or Services.
- ❖ Allow 45 days for processing of any claim.

**2016 House Sub for SB149** Sec. 7. K.S.A. 79-3606d is hereby amended to read as follows: 79-3606d. (a) The following shall be exempt from the tax imposed by the Kansas retailers' sales tax act: All sales of tangible personal property and services purchased during calendar year 2016, necessary to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire occurring during calendar year 2016, and the purpose for which is to enclose land devoted to agricultural use. Sales tax paid on and after January 1, 2016, but prior to the effective date of this act upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.



## Quinter Airport Sales Tax Exemption

- ❖ Gove County Healthcare Endowment Foundation Inc. is exempt from sales tax with the use of a Project Exemption Certificate (PEC).
- ❖ Sales Tax exemption for the purpose of constructing and equipping an airport in Quinter Kansas.
- ❖ Contractors may be exempt with use of a PEC.
- ❖ Purchase of construction machinery, equipment or tools used to construct and equip the airport are **NOT** exempt from sales tax.
- ❖ Exemption expires **July 1, 2019**

**2016 House Sub for SB149 (III)** *all sales of tangible personal property and services purchased by Gove county healthcare endowment foundation, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of constructing and equipping an airport in Quinter, Kansas, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing and equipping an airport in Quinter, Kansas, for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing or equipping of facilities for such organization. When such organization shall contract for the purpose of constructing or equipping an airport in Quinter, Kansas, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation no later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. The provisions of this subsection shall expire and have no effect on and after July 1, 2019.*

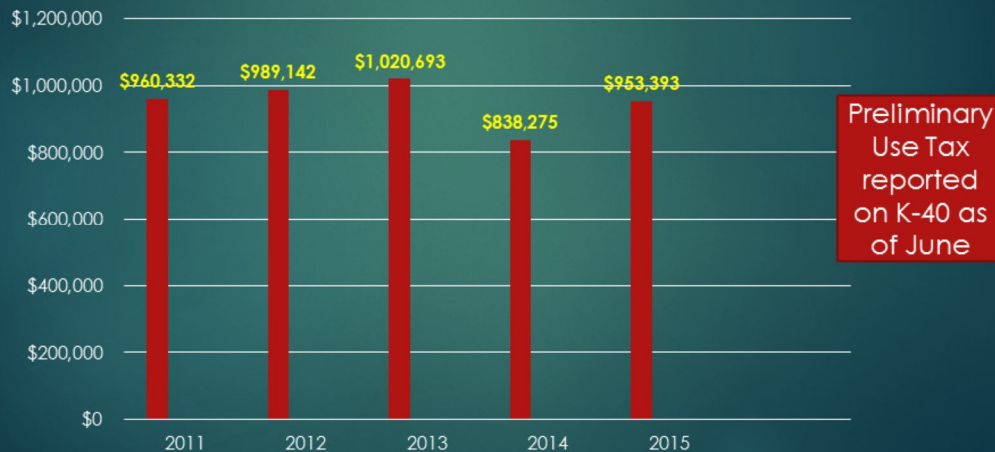
# Consumers Compensating Use Tax

2016 House Sub for SB 149

13

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

House Substitute for Senate Bill 149 Codifies use tax line on K-40



**79-3703. Compensating use tax imposed; rate.** There is hereby levied and here 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 6.50%. 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. Kansas Compensating Use Tax was added to the K-40 (line 18) in 2004. Kansas imposes a use tax on goods purchased by Kansans (individuals and businesses) from Outside Kansas and that are used, stored, or consumed in Kansas on which; No sales tax was paid or a sales tax less than the Kansas rate was paid. The purpose of compensating use tax is to protect Kansas businesses from unfair competition from out-of-state retailers who sell goods tax-free; use tax "compensates" for the lack of sales tax paid at the time of purchase. A use tax also helps to assure fairness to Kansans who purchase similar items in Kansas and pay Kansas sales tax on them. This is not a new concept. Compensating use tax in Kansas has been in effect since 1937.

**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. 2015 Supp A,

**2016 House Sub for SB149 New Sec. 2.** (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.



- **Interest rate** - For calendar year 2016 on delinquent or unpaid taxes and overpayments of taxes is **5%** (.0417 monthly rate)
- **Unpaid Turnpike Tolls 2016 SB 373** -Effective January 1, 2018 outstanding turnpike tolls must not exceed \$100 or the Kansas turnpike authority or the director's designee has instructed the county treasure not to accept the registration or renewal of registration unless the owner or registered owner makes payment of outstanding tolls to the county treasurer at the time of registration or renewal of registration.

**Senate Bill 373** New Section 1. (a) The registered owner of a vehicle driven on a turnpike project shall pay all tolls associated with that vehicle's use on any turnpike project. The Kansas turnpike authority may provide by regular U.S. mail or accepted United States postal service tracking method a notice of toll-evasion violation to the registered owner of a vehicle driven on any turnpike project for which the toll has not been paid. The notice of toll evasion may include a toll-evasion civil penalty, administrative fee, and costs for each instance in which the registered owner of a vehicle driven on any turnpike project has failed to pay the toll. (b) On and after January 1, 2018, if the outstanding amount of any tolls due and owing by the registered owner exceeds \$100, the director or the director's designee is authorized to instruct the division of vehicles to require payment of any tolls due and owing to the county treasurer at the time of registration or renewal of registration or otherwise to refuse to register or renew the registration of the vehicle, as set forth in K.S.A. 8-173(e), and amendments thereto, of the registered owner or owners, until those amounts are paid to the satisfaction of the director or the director's designee. (c) The registered owner may contest any notice of toll evasion, including all tolls, penalties, fees, costs and registration holds, directly to the Kansas turnpike authority. Upon receipt of a contest from the registered owner, the authority shall investigate and provide to the registered

owner, within 30 days of receipt of the registered owner's submission, a toll-evasion violation order, which shall contain the findings of the investigation. A registered owner may thereafter pay the specified amount or contest these findings and conclusions of the authority by requesting an administrative hearing within 15 days of receipt of the toll-evasion violation order, pursuant to the Kansas administrative procedure act. (1) The administrative hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. (2) Any party may appeal the administrative hearing order to the district court, in accordance with the provisions of the Kansas judicial review act. (d) The turnpike authority may adopt any rules and regulations necessary to carry out the provisions of this section.

*(e) On and after January 1, 2018, an application for registration or renewal of registration of a vehicle shall not be accepted, if the records of the division show that after three attempts by the Kansas turnpike authority to contact the registered owner, including at least one registered letter, the registered owner of such vehicle has unpaid tolls and that the director of the Kansas turnpike authority or the director's designee has instructed the division to refuse to accept the registration or renewal of*

*registration, pursuant to section 1, and amendments thereto, unless the owner or registered owner makes payment to the county treasurer at the time of registration or renewal of registration. Of such moneys collected, 15% shall be retained by the county treasurer and the remainder shall be remitted to the Kansas turnpike authority act.*

**NOTICE 16-01**  
**PACT ACT REPORTING**

The following bill was enacted by the 2015 Legislature:

**Senate Substitute for House Bill 2124**

Effective Jan. 1, 2016, all PACT Act reports are required to be filed electronically in a manner prescribed by the Director of Taxation and the Kansas Attorney General. This bill will be enforced effective June 1, 2016, to allow customers adequate time to convert to electronic filing.

With the implementation of electronic filing for PACT Act reports, you will be able enter your data manually or to upload your data in CSV file format. The file upload specifications can be found on our website at: [www.ksrevenue.org/bustaxtypescig.html](http://www.ksrevenue.org/bustaxtypescig.html). Once you are successfully filing electronically, you no longer need to mail physical PACT Act reports or email electronic PACT Act reports to [miscellaneous.tax@kdor.ks.gov](mailto:miscellaneous.tax@kdor.ks.gov) or [tobacco@ag.ks.gov](mailto:tobacco@ag.ks.gov). Reminder – reports are to be filed by the 10<sup>th</sup> day of the calendar month for the previous calendar month's shipments.

To file your monthly PACT Act report electronically:

Log into the Kansas Department of Revenue Customer Service Center from the department's home page at: [www.ksrevenue.org](http://www.ksrevenue.org).

- If you are a new customer, select "Register Now". If you are an existing customer, click "Log In", enter your email address and password, and click "Sign In".
- Click on "Accounts" on the menu bar.
- If you are a new customer, click "Add an Existing or Register a New Account to this Login".
- If you are an existing customer, locate your cigarette and/or tobacco account and click "Manage Account." Under the Account Management heading, select the "View/Edit/Submit Cigarette & Tobacco applications" link.
- Under **PACT Act Registration**, click on the "PACT Act Registration" link. After completing the registration and clicking "Continue", you will return to the page with the PACT Act Registration by selecting the "Back" button.
- Select the PACT Act report you are filing (PA-1 for Cigarette; PA-2 for Tobacco).
- You can then enter the report manually or you can upload your data using the file upload specifications found on our website.

If you have questions or need additional information, please contact our office by calling 785-3688222, option 5, then option 4, or email us at: [miscellaneous.tax@kdor.ks.gov](mailto:miscellaneous.tax@kdor.ks.gov).

**NOTICE 16-02**  
**CREDIT FOR WITHHOLDING TAX PAID BY A WORKER**  
**WHO DOES NOT HAVE A SOCIAL SECURITY NUMBER**  
**(FEBRUARY 29, 2016)**

Advice has been requested regarding how a credit for withholding tax can be claimed on a Kansas income tax return by a worker who does not have a social security number.

There are a number of individuals living and working in Kansas who, because of their immigration status, have not been issued a Social Security number. Instead, the Internal Revenue Service has issued an Individual Taxpayer Identification number to these individuals. On its website at <https://www.irs.gov/Individuals/General-ITIN-Information> the IRS states, in part:

**What is an ITIN?**

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service. . . . IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA).

ITINs are issued regardless of immigration status because both resident and nonresident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code.

Individuals must have a filing requirement and file a valid federal income tax return to receive an ITIN, unless they meet an exception.

**What is an ITIN used for?**

ITINs are for federal tax reporting only, and are not intended to serve any other purpose. IRS issues ITINs to help individuals comply with the U.S. tax laws, and to provide a means to efficiently process and account for tax returns and payments for those not eligible for Social Security Numbers (SSNs).

An ITIN does not authorize work in the U.S. or provide eligibility for Social Security benefits or the Earned Income Tax Credit.

**Who needs an ITIN?**

IRS issues ITINs to foreign nationals and others who have federal tax reporting or filing requirements and do not qualify for SSNs. A non-resident alien individual not eligible for a SSN who is required to file a U.S. tax return only to claim a refund of tax under the provisions of a U.S. tax treaty needs an ITIN.

Other examples of individuals who need ITINs include:

- A nonresident alien required to file a U.S. tax return
- A U.S. resident alien (based on days present in the United States) filing a U.S. tax return
- A dependent or spouse of a U.S. citizen/resident alien
- A dependent or spouse of a nonresident alien visa holder

**How do I know if I need an ITIN?**

If you do not have a SSN and are not eligible to obtain a SSN, but you have a requirement to furnish a federal tax identification number or file a federal income tax return, you must apply for an ITIN.

An individual who has been issued an ITIN may perform services for an employer and have federal and Kansas income taxes withheld from their paychecks. In order to verify the amount of tax withheld and allow the individual to claim a credit for the tax withheld on their individual income tax return the Department of Revenue must be able to match the identification number shown on the individual's federal and state income tax return with the identification number reported on the individual's federal Form W-2 Wage and Tax Statement. If these numbers do not match the Department will not allow a credit for withholding tax paid.

The Department has identified a number of cases where a return has been filed using an ITIN as the identification number, and the Form W-2 provided by the taxpayer to verify the amount of tax that has been withheld shows a Social Security number that does not belong to the taxpayer. In these cases the Department has disallowed any credit for withholding tax claimed by the taxpayer.

A taxpayer whose claim of credit for withholding tax has been disallowed may request the credit be allowed by providing documentation to correct or explain the discrepancy between the identification numbers shown on the income tax return and the Form W-2. This can be done by having their employer furnish the Department with either (1) a corrected W-2 (Form W-2c) which properly shows the taxpayer's ITIN as their identification number, or (2) a written statement from the employer which indicates the total amount of Kansas income tax withheld and the social security number under which the employer remitted the tax. The statement, which must be on the employer's business letterhead and signed by the owner or an officer of the business, should be formatted as follows:

*[John Doe SSN], who is also known as [John Doe ITIN], worked for our company during the periods [dates of work], and tax in the total amount of [\$\$\$] was withheld from his salary or wages and remitted to the State of Kansas. This withholding tax was administered and reported under [John Doe SSN].*

Upon receipt of this information the Department will verify its accuracy with the employer and determine whether credit for withholding may be allowed.

**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  
915 SW Harrison St., 1st Floor  
Topeka, KS 66612-1588  
Phone: 785-368-8222  
Hearing Impaired TTY: 785-296-6461  
Fax: 785-291-3614

## NOTICE 16-03

# WITHHOLDING ON PAYMENTS MADE TO PERSONAL CARE SERVICE PROVIDERS BY SELF-DIRECTING PARTICIPANTS AUTHORIZED FOR SERVICES INFORMATION FOR INDIVIDUALS AND FINANCIAL MANAGEMENT SERVICE PROVIDERS

(APRIL 11, 2016)

Advice has been requested regarding Kansas withholding on payments made to personal care service providers. This Notice addresses that topic.

The Kansas Department for Aging and Disability Services has established Policy and published information that defines Personal Care Services (PCS) and specific limitations that apply. The General policy statement provides, in part:

### I. General

A. PCS is designed to assist elderly and disabled participants in their home and community settings that comply with the HCBS Settings Final Rule. PCS focuses on assistance with Activities of Daily Living (ADLS) such as bathing, grooming, toileting, transferring, and eating and Instrumental Activities of Daily Living (IADL) such as shopping, laundry, housekeeping, and meal preparation.

1. PCS services are authorized, provided and reimbursed based on the assessed needs of the participant.

The participant's needs are assessed by the selected Managed Care Organization (MCO) and identified on the Integrated Service Plan (ISP). The ISP must document the participant's authorized service in hours/units and the participant's selected provider.

B. Participants authorized for PCS services have the option to agency-direct or self-direct their authorized services as provided for in each waiver.

1. Agency-directed and self-directing participants employing PCS workers shall comply with all applicable state and federal employment laws;

2. If available, a participant, a parent, or legal guardian may elect to self-direct PCS.

a. Self-directing participants employing PCS workers are subject to the same quality assurance standards as other PCS providers including, but not limited to, completion of the tasks identified on the ISP; and

b. For self-direct PCS for the TA Program, the HCBS TA Waiver PCS Training Checklist must be completed prior to providing PCS.

3. If a participant or legal guardian no longer wants to self-direct his or her PCS, the participant or legal guardian shall have the option to transition to agency-directed PCS without penalty. Conversely, if a participant or legal guardian no longer wants agency-directed PCS and has not been determined unable to self-direct his or her services, the participant or legal guardian shall have the option to transition to self-directed PCS, authorized in accordance with this policy.

The Policy established Kansas Department for Aging and Disability Services also defines certain terms. The term "Self-direction" is defined as:

Self-direction – participants exercise employer authority over some or all of the home and community-based services they need to live in their community and accept the responsibility for taking a direct role in managing those services.

Within the participant-directed model and Kansas state law, participants employ direct workers

and "make decisions about and direct the provision of services which include, but not limited to selecting, training, managing, paying and dismissing of a direct service worker." (K.S.A. 39-7,100)

A self-directing participant who employs one or more personal care service providers is considered to be an employer for purposes of Kansas income tax withholding. As a result, the participant is required to register with the Kansas Department of Revenue, withhold tax from the wages they pay their employee(s), and remit the tax to the Department of Revenue.

Instead of dealing with all of the requirements typically imposed on an employer, many self-directing participants choose to use a financial management service (FMS) provider to handle these duties, including the responsibilities associated with Kansas withholding tax. On behalf of their client the FMS provider is required to register with the Kansas Department of Revenue, withhold tax from the wages they pay their employee(s), and remit the tax to the Department of Revenue.

## NOTICE 16-03 CONT.

### **WITHHOLDING ON PAYMENTS MADE TO PERSONAL CARE SERVICE PROVIDERS BY SELF-DIRECTING PARTICIPANTS AUTHORIZED FOR SERVICES INFORMATION FOR INDIVIDUALS AND FINANCIAL MANAGEMENT SERVICE PROVIDERS**

Details of the withholding tax process are provided in the Department's publication KW-100 Kansas Withholding Tax Booklet which is available through the Department's website at:

<http://www.ksrevenue.org/pdf/kw1002015.pdf#search=KW-100>. An outline of the process, with important contact information, is provided below.

#### **Individual Account Registration**

In order to register business tax accounts or submit payments and file returns through online, you must have a User ID on the Kansas Department of Revenue (KDOR) Customer Service Center. To do this, go to [www.ksrevenue.org](http://www.ksrevenue.org) and click the "Register Now" link on the top right corner of the page and follow the prompts to create a profile. If you already have a user ID, simply click the "Log In" button and provide your credentials.

Once you have a valid user ID and have logged into the Customer Service Center, you will be presented with the main menu on the "Home" page. To register a business tax account, click the "New Tax Registration" button and follow the prompts. Information collected in the online registration is the same as the paper process, but processing generally occurs much faster.

#### **Making Withholding Payments**

All Withholding tax returns must be submitted electronically. Because a Withholding payment cannot be remitted without an associated KW-5 return, all Withholding payments must be submitted electronically. There are two options for electronically filing and paying Withholding tax:

**ACH Credit** – Using this payment method, the sender remits payment to the KDOR through the sender's bank, effectively "pushing" a payment and related information directly to the Department. This is the national standard "bulk payment" option. The KDOR follows the National Automated Clearing House Association (NACHA) guidelines for electronic payment processing. KDOR will provide addendum record formats needed by the sender's bank upon request. Contact the Electronic Services Technical Help Desk at 785-296-6993 for more information about submitting payment via ACH Credit.

**KDOR Customer Service Center** – KW-5 returns with payment may be individually submitted through the KDOR Customer Service Center. Using the same user ID established under the "Individual Account Registration" section, a user can associate individual tax accounts to their ID, specify banking information for each tax account, and choose when an account is to be paid. KDOR then "pulls" funds from the identified account using the information provided.

A user may associate multiple tax accounts to an individual user ID. To associate an account, the user must have the business Employer Identification Number (EIN) and account Access Code. An access code can be obtained from the Electronic Services Technical Help Desk at 785-296-6993. In cases where many accounts need to be associated with a single user ID, users are encouraged to contact the Help Desk for assistance.

#### **End of Year Reports and Returns**

**Annual Withholding Tax Return (KW-3)** – All Withholding accounts have a KW-3 return due the last day of February following the tax year. Filers have the option of using the KDOR Customer Service Center to individually send returns on account by following the menu options within the specific tax account. If you are working with a larger number of Withholding accounts, you are encouraged to contact the Electronic Services Technical Help Desk at 785-296-6993 to have your account configured to accept bulk KW-3 files. You then have the option to upload KW-3 data for multiple accounts in a single file.

**W-2 Wage Reports** – Filers also have the option of submitting W-2 information in bulk through the Department's Customer Service Center. KDOR follows the Federal EFW2 format outlined by the Social Security Administration. This file, with the addition of the State record, is the same file that is submitted to the Social Security Administration. Similar to the KW-3 bulk filing process, W-2s can be uploaded once the user account is configured to handle bulk files. Contact the Electronic Services Technical Help Desk at 785-296-6993 for assistance.

Information about electronically filing bulk KW-3 and W-2 files is available at [www.ksrevenue.org/eservw2.html](http://www.ksrevenue.org/eservw2.html).

#### **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 915 SW Harrison St., 1st Floor Topeka, KS 66612-1588  
Phone: 785-368-8222 Hearing Impaired TTY: 785-296-6461 Fax: 785-291-3614



## NOTICE 16-04

### EXEMPT SALES OF FENCING MATERIALS AND SERVICES (JULY 1, 2016)

During the 2016 Legislative Session House Substitute for Senate Bill 149 was passed and signed into law. This Bill amended K.S.A. 79-3606d to provide for tax exempt sales of fencing materials and services purchased during calendar year 2016 to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire during 2016, and the purpose for which is to enclose land devoted to agricultural use. As amended, the language of K.S.A. 79-3606d now reads:

79-3606d. (a) The following shall be exempt from the tax imposed by the Kansas retailers' sales tax act: All sales of tangible personal property and services purchased during calendar year 2016, necessary to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire occurring during calendar year 2016, and the purpose for which is to enclose land devoted to agricultural use. Sales tax paid on and after January 1, 2016, but prior to the effective date of this act upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee.

(b) The provisions of this section shall be deemed to be supplemental to the Kansas retailers' sales tax act.

The exemption allowed by the statute can be claimed by submitting form ST-3, Kansas Application for Sales Tax Refund of Fencing Materials and/or Services. Please be sure to submit all the information and documents requested on the form at the time you file your claim for refund. Failing to do so will delay or may even prevent issuance of a refund.

While the effective date of the legislation is July 1, 2016, the Department of Revenue will accept refund claims submitted before that date. Refunds may be issued beginning July 1<sup>st</sup>. You should allow at least 45 days for processing of any claim.

Please note refunds will only be made for sales tax paid to a Kansas retailer. Sales tax paid on purchases from a non-Kansas retailer (for example, a retailer in Oklahoma) will not be refunded.

#### TAXPAYER ASSISTANCE

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

Audit Services, 10<sup>th</sup> floor  
915 SW Harrison St.  
Topeka, KS 66625-7719  
Email: [Audit.Funds@kdor.ks.gov](mailto:Audit.Funds@kdor.ks.gov)

Phone: (785) 296-7108

Fax: (785) 296-0531

## Kansas Application for Sales Tax Refund of Fencing Materials and/or Services

To qualify for a refund, fencing materials and/or services must be purchased in calendar year 2016 and used to repair or replace fencing necessary to construct, reconstruct, repair or replace any fence which was damaged or destroyed by fire occurring during calendar year **2016**, and the purpose for which is to enclose land devoted to agricultural use. Please complete one form for each location.

For additional information, refer to Notice 16-04, Exempt Sales of Fencing Materials and Services.

|                             |   |
|-----------------------------|---|
| <b>Claimant Information</b> | Name: _____   |
|                             | Address: _____<br>_____                                 |
|                             | Telephone Number: (____) _____ Contact Name: _____      |
|                             | SSN or FEIN (required) _____ Phone Number: _____        |
|                             | Email Address _____                                     |
|                             | Location (including county) of fence replacement: _____ |

**Please provide the following information:**

- Copy of all retailer invoices and/or sales receipts included in refund request.
- Copy of reports from the fire and/or police department or insurance forms to support request.
- Copy of proof that sales tax was paid to the retailer, such as cancelled check (if not listed on receipt).

| <b>Invoice Information</b> | Invoice Date | Invoice Number | Retailer's Name | Invoice Amount | Tax Paid |
|----------------------------|--------------|----------------|-----------------|----------------|----------|
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |
|                            |              |                |                 |                |          |

**Total:** \_\_\_\_\_

Send this form and a copy of your paperwork to:

Kansas Department of Revenue  
 Audit Services – Fencing Refunds  
 915 SW Harrison St.  
 Topeka, KS 66625-7719  
 Email: [Audit.Funds@kdor.ks.gov](mailto:Audit.Funds@kdor.ks.gov)  
 Phone: (785) 296-7108  
 Fax: (785) 296-0531

I declare under the penalties of perjury that to the best of my knowledge this is a true, correct and complete refund request for materials purchased and used specifically for fencing destroyed by fire to enclose land devoted to agricultural use.



Signature of Claimant \_\_\_\_\_

Date \_\_\_\_\_

**NOTICE 16-05**

**TAX ON CONSUMABLE MATERIAL  
FOR ELECTRONIC CIGARETTES**

The 2015 Legislature passed House Bill 2109 which amended K.S.A. 79-3399 by imposing a tax “upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.20 per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof.” The effective date of this consumable material tax was to be July 1, 2016.

The 2016 Legislature passed Senate Bill 149 which amended the effective date of the consumable material tax to January 1, 2017.

Kansas Administrative Regulations and forms are being created to implement this tax. Once these are finalized and approved, you will be notified of additional information and return filing instructions. This information will also be posted on our website: [www.ksrevenue.org](http://www.ksrevenue.org).

If you have any questions or need additional information, please contact our office by calling 785-368-8222, option 5, then option 4, from 8:00 a.m., to 5:00 p.m., Central time, Monday through Friday; or you may email us at: [miscellaneous.tax@kdor.ks.gov](mailto:miscellaneous.tax@kdor.ks.gov).