



K A N S A S

JOAN WAGNON, SECRETARY

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DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

~ OFFICIAL NOTICE ~

To: Retailers of boats, trailers, all terrain vehicles, fifth wheels, water craft, and similar vehicles
From: Joan Wagnon, Kansas Secretary of Revenue
Date: November 8, 2004
Subject: Self-Audit - Sales to Nonresidents and those in the Agricultural Industry
ST-8B – Affidavit of Delivery of a Motor Vehicle to a Nonresident for Use outside the State

It appears that a misunderstanding currently exists surrounding the application of K.S.A. 79-3606(k). This statute exempts from the Kansas Retailers’ Sales Tax:

“Any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days”

Clarification: K.S.A. 8-126 defines “vehicle” to be a device that is used to transport people or property upon a public highway. The term “motor vehicle” is defined as a self-propelled vehicle other than a motorized bicycle or wheelchair.

Therefore, K.S.A. 79-3606(k) does not exempt sales of boats, all terrain vehicles (ATVs), dirt bikes, fifth wheels, trailers (other than semitrailers or pole trailers), and other watercraft such as jet-skis, from Kansas sales tax when delivery of the item takes place in Kansas. Retailers who do not collect sales tax on these items because their customer is a nonresident and completes Form ST-8B, Affidavit of Delivery of a Motor Vehicle, Semitrailer, Pole Trailer or Aircraft to a Nonresident, remain liable for the tax. Form ST-8B is not applicable for retail sales of these items. Similarly, retailers who accept, in error, an Agricultural Exemption Certificate, Form ST-28F, for ATVs or dirt bikes sold in Kansas remain liable for the sales tax due on these sales. Sales of ATVs, automobiles and trucks are TAXABLE and do not qualify for the Agricultural Exemption (see Agriculture Exemption Certificate instructions). Also, refer to additional information at <http://www.ksrevenue.org/pilrd.htm>.

When a retailer sells a *qualified* motor vehicle or aircraft to a bona fide resident of another state, the retailer is required to obtain an exemption certificate from their customer, Form ST-8B. A copy of this form *must* be mailed to:

**The Kansas Department of Revenue
Customer Relations-Business Tax
Docking State Office Building
915 SW Harrison St
66612-1588**

If, at any time, you have failed to lawfully collect or submit Kansas sales tax on taxable sales of the items described above, (boats, ATVs, dirt bikes, watercraft, etc.), you need to conduct a self-audit of your records and submit proper documentation and tax payment. Your self-audit should include sales made during the prior three years and you will need to submit a list of sales by month, along with full payment of unpaid taxes to the department's self-audit unit. Upon receipt and review, we will issue a bill for any remaining sales tax and *interest at 50 percent of statutory rate if paid in full by December 31, 2004*. In addition, no penalty will apply to those conducting the self-audit and timely paying the tax and interest in full. To qualify for no penalty/decreased interest, your supporting documentation and payments *must* be received no later than December 31, 2004.

Please mail your self-audit information and full payment *no later than* December 31, 2004 to:

**Self Audit Unit - Audit Services
Kansas Department of Revenue
915 SW Harrison Street
Topeka, KS 66625-7719**

Audit Fax Number (785) 296-0531

If you have any questions concerning the application of K.S.A. 79-3606(k) you may call taxpayer assistance at 785-368-8222. If you need forms, please use our website: <http://www.ksrevenue.org/pdf/forms/st8b.pdf>, or call the Kansas Tax Form Request line at 785-296-4937.

We also recommend dealers obtain copies of two of our educational publications on this subject from our web site, www.ksrevenue.org.

- The first is Publication KS-1526, "*Sales and Use Tax for Motor Vehicle Transactions*," especially page 5 – Dealer Sales to Nonresidents of Kansas; page 16 - ATV and Utility Vehicles; and page 18 – Watercraft.
- The other is Publication KS-1550, "*Sales and Use Tax for the Agricultural Industry*," especially pages 16 and 17 on Vehicles and Trailers.

The department strongly encourages retailers to consult the extremely helpful ***Policy Information Library*** on our web page at <http://www.ksrevenue.org/pilrd.htm> when issues of taxability arise in your business.

Thank you for your cooperation.