



**K A N S A S**

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DEPARTMENT OF REVENUE  
DIVISION OF PROPERTY VALUATION

TO: County Appraisers

FROM: Bill Waters  
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SUBJECT: M & E ("acquired")

H.B. 2583 creates a new exemption. In Kansas, it is well established that taxation is the rule and tax exemption statutes are to be strictly construed in favor of imposing the tax and against allowing the exemption. With that rule in mind, we inquire as to the meaning of "acquired" as used in H.B. 2583.

The Uniform Commercial Code (K.S.A. 84-2-401) provides in pertinent part "[u]nless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods. . . ." Thus, the presumption is that if the M & E is physically delivered to the purchaser prior to July 1, 2006, the property is taxable. However, this is a rebuttable presumption. K.S.A. 84-2-401 further provides that "title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties." In other words, the taxpayer can rebut the presumption that physical delivery prior to July 1, 2006, vested title in the buyer.

The taxpayer may well attempt to rebut the presumption by providing the county appraiser with proof that the parties explicitly agreed that title would pass at some time other than at the time of the physical delivery of the property. If unsuccessful in that attempt, the taxpayer could apply for a property tax exemption with the Board of Tax Appeals ("BOTA"). H.B. 2583 provides that BOTA does not have to approve M & E exemptions; however, Appraisal Directive # 92-025 requires county appraisers to resolve doubtful exemption situations in favor of taxation. In doubtful exemption situations, the county appraiser is directed to assist the taxpayer in applying for exemption with BOTA.