



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

HB 2583
BUSINESS MACHINERY & EQUIPMENT EXEMPTION

(A) (1) Exemption for business personal property purchased, leased or transported into the state *after* June 30, 2006:

(2) Exemption for telecommunications and railroad machinery and equipment purchased, leased or transported into the state *after* June 30, 2006.

- Equipment may be new or used
- Includes equipment moved into the state for business expansion or creation
- Includes spare parts, supplies and materials
- Includes semi-trailers and truck bodies whether state or locally assessed
- Qualifying equipment is that which would currently be valued at retail cost less depreciation (classified in subclass 5 of class 2 section 1 article 11)

Applies to furniture and equipment in businesses such as:

- Construction
- Professional services
- Retail and wholesale trade
- Transportation and warehousing
- Restaurant and bar
- Manufacturing
- Business offices
- Home/auto etc. repair service industry

Does not apply to:

- Motor vehicles
- Oil and gas leases including the prescribed personal property
- Oil and gas itemized personal property such as drilling equipment and rigs, pipe, casing, etc. (Has been historically valued at market value)
- Public utility personal property except telecommunications and railroads

Any purchase, lease or transportation of M&E consummated for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 (failure to file a rendition) and 79-1427a (escaped property).

(C) Definitions:

- (1) “Acquired” shall not include the transfer of property pursuant to:
 - exchange for stock securities; or
 - transfer of assets from one going concern to another due to merger, reorganization or other consolidation.
- (2) “Commercial and industrial machinery and equipment” means property classified within subclass (5) of class 2 of section 1 of article 11 of the Kansas Constitution.
- (3) “Qualified lease” means a lease:
 - for not less than 30 days;
 - for fair and valuable consideration;
 - where the M&E is physically transferred to the lessee; and
 - the M&E is to be used in the lessee’s business or trade.
- (4) “Qualified purchase” means a purchase:
 - for fair and valuable consideration;
 - where the M&E is physically transferred to the purchaser; and
 - the M&E is to be used in the purchaser’s business or trade.
- (5) “Railroad machinery and equipment” means railroad machinery and equipment classified within subclass (3) of class 2 of section 1 of article 11 of the Kansas Constitution.
- (6) “Telecommunications machinery and equipment” means:
 - network administrative assets;
 - central office equipment;
 - information, station and customer equipment; and
 - outside plant equipment of a telecommunications company.

(D) Reimbursement to counties:

Money is transferred from the State general fund to the county treasurer for partial reimbursement for the reduction in the amount of taxes levied on machinery and equipment.

The first allocation will be on or before February 15, 2008 with the final payment on or before February 15, 2012. The amount of the allocation is a declining percentage of the difference between the amount of taxes levied on commercial and industrial, telecommunications and railroad machinery and equipment for tax year 2005 and the amount levied for each of the 5 subsequent tax years.

For the first distribution in February 2008, the amount is 90% of the difference in taxes levied for tax year 2005 and the taxes levied for tax year 2007. For each of the subsequent years the amount declines by 20% to 70%, 50%, 30%, with the final year allocation of 10% in 2012.

The county treasurer shall distribute the amount to all taxing subdivisions in the same proportion that the amount of the total mill levy of each individual taxing subdivision for the preceding tax year bears to the aggregate of the levies of all the taxing subdivisions. The payment is to be made at the same time as their regular operating tax rate mill levy is paid to them.

NOTES:

- This will result in some personal property coming off the tax rolls when existing machinery and equipment is replaced with newly purchased property.
- M&E exists that depending on who owns it and how it is used will determine whether it qualifies for the exemption. As an example, trailers, golf carts and boats owned and used by an individual remain taxable, but the identical equipment owned and used in a business would be exempt.
- M&E acquired under a true lease prior to June 30, 2006 will not qualify. However, if purchased at market value at the end of the lease it would become exempt.
- M&E which was exempt by reason of an IRB or EDX agreement will be placed on the tax rolls upon expiration or termination of the agreement.