

Notice

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Office of Policy & Research

NOTICE 01-07
Sales Taxation of Kansas Grain Elevator Purchases
On and After January 1, 2001

This notice is intended to help Kansas country and terminal elevator operators apply Kansas sales and use tax laws to their business operations. The notice explains recent changes in the law that effect elevator operations. It also lists elevator purchases that are taxable or exempt on or after January 1, 2001. This notice supersedes all previous notices that dealt with elevator purchases.

During recent years, there have been two significant legislative initiatives that affect how sales tax applies to elevator operations in Kansas. The first was the legislature's expansion of the sales tax exemptions for manufacturing, processing, and warehousing machinery and equipment. These broadened exemptions were enacted in 1998 and 2000. The second was the grant of tax incentives to encourage the construction and repair of grain storage facilities between January 1, 1999 and December 31, 2000. These tax incentives were not renewed for calendar year 2001.

Applying sales tax laws to day-to-day elevator operations can be difficult at times. For elevator operators, a simple way to understand how the controlling sales tax law applies is that their purchases of warehousing and processing machinery and equipment are exempt, but that their purchases of materials to construct or repair elevators, grain bins, and other buildings are taxable. The rule that sales of construction materials are taxable applies even when the materials are intended to construct or repair a building, grain bin, or elevator that houses exempt machinery and equipment. Installation and repair services for exempt equipment are also exempt. Installation and repair services for buildings are taxable unless the work qualifies as original construction.

The following bullet points provide an overview of how elevator purchases are taxed on and after January 1, 2001:

- Now taxable --- (1) *construction materials* purchased to construct or repair concrete elevators, corrugated metal grain storage bins, and railroad sidings; and (2) *construction services to repair existing buildings and structures*, including concrete elevators, corrugated metal grain storage bins, and railroad sidings.
- Still exempt --- (1) *construction services to construct new buildings*, including concrete elevators and new corrugated-metal grain storage bins; (2) machinery and equipment used for warehousing, processing, and manufacturing; and, (3) installation services, repair services, and repair parts for exempt machinery and equipment.
- Still taxable --- office equipment, motor vehicles, and other non-production equipment.

The following are lists of: (1) items that are exempt under K.S.A. 79-3606(kk) or K.S.A. 79-3606(fff); (2) items that become taxable or that continue to be taxable after January 1, 2001; and (3) answers to common questions. This information is intended to help operators identify which purchases are taxable and which purchases are exempt.

Purchases that elevators may claim
are exempt, on and after January 1, 2001

Construction Items

Circuit breakers dedicated to exempt production equipment

Concrete used in special foundations for exempt equipment
Steel purchased to fabricate catwalks, railings, and support facilities for exempt production equipment
Wiring dedicated to exempt production equipment

Conveyor Parts

Belt Guide Rollers
Belt Lacing
Conveyor Belting
Drag Conveyor
Drag Flights
Cables
Cast Iron Parts
Enclosed Belt Conveyor
Hoods and Covers
Power Transmission Product
Pulleys
Screw Conveyor
Static Brushes
Trippers & Parts
Troughing Rollers

Electrical

Alarm Horns
Bearing Temp. System
Belt Alignment Sensor
Circuit Breakers dedicated to exempt equipment
Drop Lights
Hopper Gate Opener
Level Sensors
Linear Actuators
Motion Sensors
Motors
Slide Gates
Wiring for exempt equipment

Elevator Leg

Bearings & Shafts
Belting
Chain & Sprockets
Dura-splice
Elevator Bolts
Jackson Fasteners
Lagging
Plastic Buckets
Power Trans. Products
Pulleys
Steel Buckets
Trunking

Labor Services

Installation of Exempt Machinery & Equipment
Repair of Exempt Machinery & Equipment

Manlift

Belting (Certified)
Cone Hoods
Control Rope
Gearboxes & Backstops
Hand Holds
Pulleys
Steps
Top Level Safety

Railcar Handling

Cable & Rope
Capstan Rope
Car Movers
Car Stops
Derailers &
Rerailers
Gate Bars
Gate Openers
Hook, Blocks & Sheaves
Signal Flags
Powered Capstan
Wheel Chocks
Wire Rope
Vibrators

Rubber Products

Belt Lacing
Conveyor Belting
Elevator Belting
Rubber Faced Plate
Skirtboard Rubber
Slide Lag

Safety Apparel Provided to Employees

Helmets
Belts
Flotation Vests
Hearing Protection

Safety Equipment

Bin Entry Hoist
Bos-n-Chairs
Bumpcaps
Fall Restraint
Harnesses
Lock-out Tags
Oxygen Sensors
Respirators
Signs
Snap Ring Lanyards

Sampling & Testing Equipment

Automatic Samplers
Deep Bin Probes
Dividers
Dockage Sieves
Moisture Testers
Pans and Bags
Probes (Triers)
Scales
Tweezer (Grain Pick)

Spouting Components

Adjustable Elbows
Angle Rings
Clamp Bands
Cushion Box
Distributors
Gates
Lining Materials
Load-out Hose
Magnets
Pneumatic Elbows
Spouting

Transitions
Valves

Spout Lining

Ceramic Tile
Outstanding Patch
Polyurethane
Preformed U.T.Liner
Sheet Rubber
U.H.M.W. Plastic

Miscellaneous

Aeration Ducts
Air Cylinders
Baghouse Filters
Belt Tripper Parts
Bin Tapes & Weights
Chain & Sprockets
Dump Pit Grates
Friction Gearing
Grain Augers
Grain Cleaners
Grain Dryers & Equipment
Grain Vacs
Lever Hoists
Railcar Scales
Reclaim Equipment
Split Pulleys
Steel Fabrication
Truck Scales
Tube Augers
V-Belts
Vibrators
Woven Wire Screen

**Purchases that elevators must pay tax on,
on and after January 1, 2001**

Construction Items

Circuit Breakers not dedicated to product equipment
Concrete, except when used for special foundations for exempt equipment
Grain Bins-Corrugated Steel & Concrete
Lights, outlets, and related switches
Paving materials, including asphalt, cement, and gravel
Rebar, except when used in a special foundation for exempt equipment
Steel Fabrication, unless used for exempt industrial fixtures
Wiring not dedicated to production equipment

First Aid Equipment

Eye Wash Stations
First Aid Kits
Flashlights (11-G)

Maintenance Equipment

Flash Lights
Hand tools primarily used for maintenance and other non-production purposes
Painting equipment
Power tools and pneumatic equipment primarily used for maintenance and other non-production purposes

Non-Production Equipment

Cleaning Equipment
Communications Equipment
Employee Apparel, except safety and protective apparel provided gratuitously by the employer

Fire Extinguishers, and Fire Prevention Equipment
Maintenance Equipment
Motor Vehicles licensed for highway use
Office Heating and Cooling Equipment
Security Equipment
Vacuum cleaners
Work Scheduling Equipment

Office Equipment, purchase & repair

Office Computers
Office Furniture
Office Supplies
Printers

Railroad Materials

Rail ties, track and other rail construction materials
Railroad Siding Equipment
Rail Bedding Materials

Repair Services and Construction Services

Construction, Repair and Maintenance Services Other than Original Construction

QUESTIONS AND ANSWERS

Question: If something isn't listed above, how do I determine whether it should be taxed or exempted under K.S.A. 79-3606(kk)?

Answer: Machinery and equipment is exempt under K.S.A. 79-3606(kk) if it is used as part of the integrated processing or warehousing operations that take place at a Kansas elevator. This exemption covers, among other things, machinery and equipment used to: (1) handle the grain within the elevator; (2) handle grain at the elevator when the grain is being received or shipped; (3) aerate stored grain, or dry grain placed in storage; (4) test or monitor stored grain; (5) test or monitor exempt grain handling machinery and equipment; and, (6) handle dust produced by the operation. Parts, accessories, installation services, and repair services for exempt machinery and equipment are also exempt. Machinery and equipment that is not listed qualifies for exemption if it is used as part of the integrated processing or warehousing operations that take place at an elevator. For elevators, the exemption extended at K.S.A. 79-3606(kk) for processing equipment is considered to apply to the same things as the exemption extended at K.S.A. 79-3606(fff) for warehousing equipment.

Question: For several years, my elevator has been paying monthly maintenance services for equipment used in grain storage operations and for some equipment used in office operations. When are maintenance charges taxable and when are they exempt?

Answer: Generally, maintenance services are taxed if repairs to or alteration of the tangible personal property being maintained would be taxed. Application of this general rule means that maintenance contracts for grain handling equipment are exempt because repair services and parts for such equipment are exempt. Similarly, maintenance contracts for office equipment are taxable because repair of office equipment is fully taxable.

Question: How do I claim these sales tax exemptions?

Answer: You must furnish your supplier, vendor, or contractor with a completed Kansas exemption certificate. The "Integrated Production Machinery and Equipment Exemption Certificate," Form ST-201, or the "Warehouse Machinery and Equipment Exemption Certificate," Form ST-203, were prepared for this specific use. You may also use the "Designated or Generic Exemption Certificate," Form ST-28, and state as the reason for exemption the Integrated Plant Exemption, K.S.A. 79-3606(kk), or the warehousing exemption, K.S.A. 79-3606(fff).

Question: I have hired a millwright to fabricate a catwalk that will be installed on top of the elevator near some dust cleaners. Can the millwright claim an exemption when he buys steel and other materials to construct the catwalk? If so, how does the millwright go about claiming the exemption?

Answer: Industrial fixtures are specifically exempted under the integrated plant bill. Such fixtures include catwalks and supports for exempt machinery and equipment. When fabricating catwalks and other industrial fixtures, the

elevator and the millwright should complete an ST-201 jointly, indicating that the purchasers are the millwright and the elevator. A copy of this form should be presented to the seller of the materials, who should maintain it as part of the seller's records. The millwright should also maintain a copy of this certificate for the millwright's records.

Question: Why is some concrete work taxable and other concrete work exempt?

Answer: The integrated plant exemption includes an exemption for labor and materials expended for special foundations. The department has determined that this exemption applies to concrete pads for stand-alone exempt equipment, such as grain dryers, and concrete deadman anchors used to tie down spouting, augers, and other equipment. While the integrated plant exemption extends to special foundations for equipment, it does not apply to building foundations. Buildings include concrete elevators and grain bins. Thus, materials for foundations and dump pits for elevators and grain bins are taxable. Labor services expended to construct foundations and dump pits for elevators and grain bins are exempt only if the services are performed as part of the first or initial construction of the bin or elevator, or the reconstruction or repair of a bin or elevator that has been damaged or destroyed by "fire, flood, tornado, lightning, explosion, or earthquake." Repair services for such foundations and dump pits are taxable.

Question: As an elevator operator, am I responsible for notifying my vendors to stop exempting the items that become taxable on and after January 1, 2001?

Answer: Yes. Failure to notify your vendors that you are no longer exempt may result in an assessment of tax, penalty, and interest against your elevator.

Question: How does sales tax apply to sales and installation of grain storage bins?

Answer: Kansas sales tax law recognizes that grain bins often contain exempt machinery and equipment. This means that, to pay the correct amount of tax, elevator operators need to know what materials are considered to make up the grain bin enclosure, and what equipment is considered to be production or warehousing equipment. The two lists that follow identify the items that are considered to be taxable construction materials and the items that are considered to be exempt equipment. Taxable materials include:

- (1) Access doors.
- (2) Anchor bolts.
- (3) Concrete foundations, including discharge pits.
- (4) Flooring, including drying floors or false floors and related supports.
- (5) Ladders.
- (6) Roof and vents.
- (7) Structural materials that make up a bin, such as corrugated siding, nuts and bolts, and ring materials.

The following items are exempt machinery and equipment:

- (1) Augers.
- (2) Electric control panels.
- (3) Fans and associated motors.
- (4) Humidity and temperature sensors.
- (5) Stirring devices.
- (6) Spreaders.

To be entitled to exemption, a grain storage bin dealer must bill exempt storage bin accessories as a separate line-item charge on the billing to the elevator operator. Storage bin accessories that are included as part of a lump-sum billing for a completed grain storage bin are presumed to be part of the storage bin and taxable, rather than to be the separate, exempt sale of machinery or equipment to a elevator operator. Note, that the term "grain storage bin" does not include bins mounted on wheels, or small work bins, with capacities of from ¼ to 2 tons, that are intended to be frequently moved along with wheel-mounted grain augers, wheel-mounted grain dryers, and other portable grain handling equipment.

Question: May an elevator claim sales tax exemption on any other purchases?

Answer: Yes. The Kansas Supreme Court has ruled that grain elevators are engaged in processing for purposes of the Kansas "consumed in production" exemption. This means that much of the electricity that a grain elevator uses to

power equipment to turn and clean grain is exempt, and that lubricants used in exempt equipment are exempt. This exemption also extends to the purchase of grain fumigants.

TAXPAYER ASSISTANCE

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