

No more city, county sales taxes on residential non-commercial and agricultural water purchases in 2006

As of January 1, 2006, municipal and rural water district customers making water purchases at their residence will no longer pay county or city sales tax. Due to changes in state law enacted by the Kansas Legislature in 2003, a county's and city's ability to levy sales taxes on these customer's non-commercial or agricultural water purchases will be terminated effective January 1, 2006. Water suppliers statewide will cease collecting local sales (city and/or county) taxes on residential water bills **on water sold after January 1, 2006. Water sold in December and billed in January is still subject to the tax.** Kansas does not levy a state sales tax on residential non-commercial and agricultural water purchases but many cities and counties currently do.

This substantial statewide change in tax collection is part of a long range plan by Kansas and several other states to be in a position to collect sales taxes for purchases made online over the Internet, through catalogue orders or over the phone. There's not an obvious connection between the Internet purchases and a local water bill – but that will be the case when the bowl games are over and water bills come in next January. Kansas water suppliers have an opportunity to make appropriate changes to their billing software to accommodate the new billing formulas.

How did this change take place?

In November of 2002, Kansas became one of several states (now totaling 36) to sign on to the Streamlined Sales and Use Tax Administration Act. Kansas is one of 21 states to have completed legislation to be in compliance with the Act. Neighboring states of Oklahoma, Texas, Iowa and Nebraska are also included in this list. A group of 15 other states have pending legislation to complete their compliance requirements including our eastern neighbor, Missouri.

The Act is a multi-state agreement, the purpose of which is to simplify and modernize sales and use tax administration and reduce the burden of tax compliance. The Act brings

states and the business community working to establish uniformity among the states' sales tax laws. The Act's state participants seek to respond to the concerns of merchants about the difficulties in dealing with different states' sales tax laws, and to state and local government concerns about lost revenues from remote retail sales by mail order, telephone and the Internet.

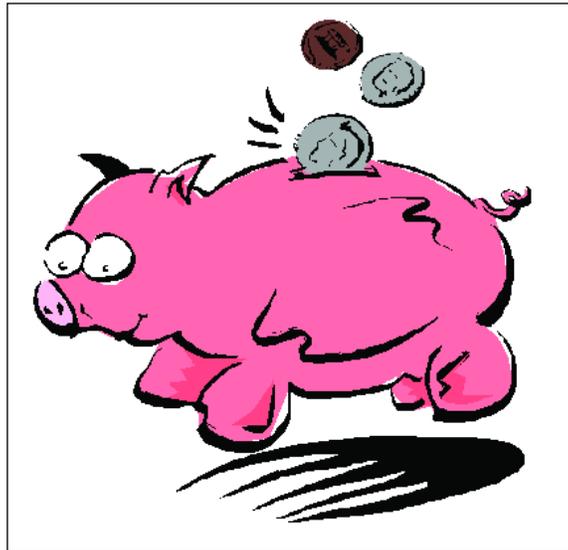
Legislative changes

When Kansas's tax revision bill, HB 2005, was enacted on July 1, 2003, it was quickly determined that the Bill's primary provision of switching to "destination-based sourcing" was not administratively possible for some retailers. "Destination-based sourcing" is the application of the local sales tax rate

in effect at the purchaser's or delivery destination instead of the using the previous "origin-based sourcing" that applies the local sales tax rate in effect at the retailer's business location.

That is why the 2004 Kansas Legislature (in 2004 Senate Bill 147) gave retailers until January 1, 2005 to come into compliance with the Streamlined Sales Tax provisions, i.e., to collect sales tax according to destination-based sourcing. Of course, utility providers such as rural water districts

and municipal water systems have been required by Kansas law for many years to collect the rate of Kansas sales tax in effect where their customer takes delivery.



Kansas sales and use tax laws into conformity with the uniformity provisions states are required to enact as part of the tax agreement. The legislation is the result of a combined effort of participating

According to Kerry Hannon, a contributing writer for the *Wall Street Journal*, "a number of states will collaborate on proposals for a uniform tax system that would make it easier for online retailers to

establish a mandatory national system for collecting taxes on Internet sales. Until Congress acts to pass new legislation, however, reporting Internet purchases remains voluntary."

affects Kansas retailers and tax revenue. The Streamlined Sales Tax collaboration, coupled with future national legislation and software technology to assist retailers in tax collection, will move Kansas forward in the ability to collect tax revenue now left uncollected. A level playing field will benefit Kansas retailers and help attract new business to the state.

Kansas Department of Revenue instructions taken from notice 05-08 Local Sales Tax on Water.

(Includes instructions for sales of water for partial time periods both prior to and after Jan. 1, 2006.)

For cities or water districts which only sell water, do not complete Part IV of the sales tax return after the December 2005 return (due January 25, 2006). For sales made on or after January 1, 2006, water retailers should report the total amount of commercial, residential and agricultural water sales in the Gross Sales column 2 of Form ST-36. In column 4, Part III (Non-utility) Deductions enter the amount of sales made for residential and agricultural use. Also report these itemized deductions in Part II Deductions, line N, Other Allowable Deductions. The amount of water sales for residences or agricultural use is then included in gross sales and entered as a deduction so no state or local sales tax is due.

If filing a return that contains sales of water for partial periods both prior to and after January 1, 2006, divide the total tax billed to your customers by the consolidated tax rate. This is the new net sales amount. The new net sales, plus any other deductions, minus the original gross sales is a deduction for the difference for the partial billing period. Add this deduction amount with the other deductions on Other Allowable on Part II, line N. Also include this deduction on column 4 Part III.

collect sales taxes. The Streamlined Sales Project would let retailers that agree to do so determine state and local taxes by entering a customer's ZIP Code into tax-collection software."

"Meanwhile, legislation is likely to be introduced in the U.S. Congress this year seeking to

Substantial revenues are at stake for Kansas and many other states now updating their sales tax collection tool box. Internet cigarette purchases in Kansas are just one example of lost sales taxes for the State and lost business for Kansas retailers. An unlevel playing field negatively

What it has to do with water

A second main focus of Act compliance is the 2006 deadline requirement for an identical state/local sales tax base. Except for motor vehicles, aircraft, watercraft and manufactured homes, the sales tax base must be identical at the state and local level among the states participating in the Streamlined Sales Tax Act. If an item is subject to state sales tax, it must also be subject to local sales tax, and vice versa. The current local sales tax on water for residential or agricultural use was exempted by 2003 House Bill 2005 with January 1, 2006 the implementation date. The bill did this in order to comply with the Act which aligns taxing criteria equally among the state signatories of the Streamlined Sales and Tax Use Administration Act.

Who to call for more information

Contact the Taxpayer Assistance Center at the Kansas Department of Revenue at:
915 SW Harrison St.
Topeka, KS 66612-1588
Phone: 785-368-8222
Hearing Impaired TTY:
785-296-6461,
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