

Kansas Administrative Regulations

Kansas Department of Revenue

Article 19.—Kansas Retailers' Sales Tax

92-19-20. Gas, water, certain fuel and electricity.

(a) An exemption for gas, fuel or electricity shall not be allowed when utilized for the purpose of heating, cooling, and lighting buildings or business premises except electricity, gas, fuel and water actually used by hotels and motels in rented rooms taxable under K.S.A. 79-3603.

(b) An exemption for gas, water, fuel, and electricity shall not be allowed when utilized for the purpose of maintaining buildings, business premises, offices, plants, or warehouses except gas, fuel and electricity used for the operation of equipment in the actual process of providing services taxable under K.S.A. 79-3603(e) and (m). The following list is not exclusive but is an indication of the types of equipment and devices exempted when power is used in their operation:

- (1) Automatic pinsetters, ball returns, telescore screens and scorer's tables in bowling alleys;
- (2) ferris wheels, merry-go-rounds and other carnival rides;
- (3) baseball pitching machines if rental fees are charged;
- (4) pinball machines;
- (5) movie projecting equipment and movie screens in theaters, and other similar devices.

(c) When claiming an exemption, the following procedures and conditions shall apply:

(1) When gas, electricity, or water is furnished through one meter for both taxable and exempt purposes, the taxpayer shall have the burden of establishing the exempt portion or percentage of the gas, water or electricity.

(2) The purchaser shall furnish the supplier a statement to enable the supplier to determine the percentage of the gas, water and electricity subject to exemption under

K.S.A. 79-3606(f) and (n). The formula and computations used in determining the exemption shall be available for inspection any time by the department of revenue.

(3) The purchaser shall file a revised exemption statement with the supplier when the percentage used in processing tangible personal property changes.

(d) Tax is due on each payment for taxable gas, water, and electricity whether in the form of a minimum charge, a flat rate, or otherwise, and regardless if there is actual consumption.

(e) When an owner or operator of an office building or apartment house purchases gas, water, or electricity through a single meter, and remeters the gas, water, and electricity to their tenants through private meters, the owner or operator is deemed the final user or consumer of the gas, water, and electricity and shall pay the tax on all bills rendered on these utilities.

(Authorized by K.S.A. 79-3618; implementing K.S.A. 1985 Supp. 79-3602, 79-3603 as amended by L. 1985, Ch. 386, Sec. 1, 79-3606 as amended by L. 1985, Ch. 384, Sec. 1, 79-3608; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; amended, E-71-21, July 1, 1971; amended Jan. 1, 1972; amended May 1, 1987.)

***** Authenticated Kansas Administrative Regulation *****