

# Notice

**Notice Number:** 04-13  
**Tax Type:** Kansas Compensating Tax; Kansas Retailers' Sales Tax  
**Brief Description:** Revised notice - sales to nonresidents of Kansas.  
**Keywords:**

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**Body:**

## KANSAS DEPARTMENT OF REVENUE OFFICE OF THE SECRETARY

### REVISED NOTICE 04-13 SALES TO NONRESIDENTS OF KANSAS

*Regarding an "Official Notice" dated November 8, 2004 from the Kansas Department of Revenue,  
Subject: Self-Audit – Sales to Nonresidents and those in the Agricultural Industry*

Since the above-cited "Official Notice" of November 8, 2004 was issued, the department has heard from many retailers. During that time it has become obvious that a misunderstanding exists as to the proper taxation of various vehicles and trailers. Therefore in the interest of fairness, the department is rescinding its November 8, 2004 directive to self-audit your records for the past three years. Instead, Kansas retailers are required to collect and remit sales tax on sales to nonresidents of Kansas as set out below **effective December 1, 2004**.

### EXEMPT FROM SALES TAX:

K.S.A. 79-3606(k) exempts from sales tax: "any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;"

A PURCHASER IS **NOT** REQUIRED TO PAY KANSAS SALES TAX UNDER THE "NONRESIDENT" EXEMPTION PROVIDED FOR BY K.S.A. 79-3606(k) WHEN ALL THREE (3) OF THE FOLLOWING ARE MET.

1. The purchaser is a bona fide resident of a state other than Kansas,
2. The motor vehicle, semitrailer, pole trailer, or aircraft will be removed from Kansas within 10 days of purchase, **and**
3. The motor vehicle, semitrailer, pole trailer, or aircraft will be registered in another state.

THIS "NONRESIDENT" EXEMPTION IS LIMITED TO THE SALE OF A "MOTOR VEHICLE, SEMITRAILER, POLE TRAILER, OR AIRCRAFT," as defined by K.S.A. 8-126 as follows.

"**Motor Vehicle**" means 'every "vehicle", other than a motorized bicycle, or motorized wheelchair, which is self-propelled.'

"**Vehicle**" means "every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks."

"**Semitrailer**" means "every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle." NOTE: A Fifth-Wheel or Goose Neck trailer is included within the definition of "semitrailer".

"**Pole Trailer**" means "any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load."

THUS, Kansas retailers' sales tax **IS NOT** due when a nonresident purchases and takes delivery in Kansas for use and storage outside of Kansas of the following (non inclusive list):

- ◆ Car, Pick-up, Truck, Van & SUV
- ◆ Motorhome

- ◆ Motorcycle
- ◆ Fifth-wheel or Gooseneck trailer
- ◆ Recreational Vehicles (whether 5th wheel or bumper-hitch type)
- ◆ Tractor-trailer
- ◆ Pole trailer
- ◆ Aircraft

## **SUBJECT TO SALES TAX:**

The sale of any vehicle or other tangible personal property that is **NOT** a “MOTOR VEHICLE, SEMITRAILER, POLE TRAILER, OR AIRCRAFT”, as defined above, **IS** subject to Kansas sales tax when a nonresident of Kansas takes delivery thereof within Kansas.

THUS, Kansas retailers’ sales tax **IS** due when a nonresident purchases and takes delivery in Kansas on the following (non inclusive list):

- ◆ Trailers that are not within the definition of “semitrailer” or “pole trailer”.
- ◆ ATVs (All Terrain Vehicles) & Utility Vehicles (such as John Deere Gator, Kawasaki Mule, Yamaha Side X Side, etc.)
- ◆ Motorized Bikes – defined as – “every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has (1) a motor which produces not more than 3.5 brake horsepower; (2) a cylinder capacity of not more than 130 centimeters; (3) an automatic transmission; and (4) the capability of a maximum design speed of no more than 30 miles per hour.”
- ◆ Boats
- ◆ Boat Trailers
- ◆ Personal Watercraft (Jet Skis, Wave Runners, etc.)
- ◆ All other tangible personal property not specifically exempted from Kansas sales tax by law.

## **ADDITIONAL INFORMATION:**

The above instructions are based on the sales tax exemption provided for at K.S.A. 79-3606(k). There are other sales tax exemptions, which may be applicable to any given sale. For additional information regarding other exemptions please consult the following information guides which are available from our web site: [www.ksrevenue.org](http://www.ksrevenue.org)

- ◆ Publication KS-1510, *Sales Tax and Compensating Use Tax*
- ◆ Publication KS-1520, *Kansas Exemption Certificates*
- ◆ Publication KS-1526, *Sales and Use Tax for Motor Vehicle Transactions*
- ◆ Publication KS-1550, *Sales and Use Tax for Agricultural Industry*

**Taxpayer Assistance.** If you have questions about this notice or its application, please contact the department at (785) 368-8222. Additional copies of this notice and application are on our web site or may be ordered through the department’s voice mail forms request line at (785) 296-4937.

**Date Composed: 01/04/2005 Date Modified: 01/04/2005**

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