

Kansas Department of Revenue
Office of Policy and Research
109 SW 9th St.
Topeka, KS 66601-3506



Phone: 785-296-6093
Fax: 785-296-7928
www.ksrevenue.gov

Mark Burghart, Secretary

Laura Kelly, Governor

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted by the Department of Revenue on Friday, May 24, 2024, at 9:00 a.m., in the Secretary’s Conference Room on the fourth floor of the Mills Building, 109 SW 9th St., Topeka, KS 66612, regarding the proposed amendment of K.A.R. 92-5-9 and 92-5-10. These regulations govern refunds issued to cigarette wholesale dealers if cigarette tax stamps are returned to the Department of Revenue unused or if stamped cigarettes have become unfit for sale.

K.A.R. 92-5-9 and 92-5-10 both refer to a percentage deducted from the refund amount. These percentages are set by Kansas statute. Since the regulations were adopted, the percentages set by statute have changed. The proposed amendments align K.A.R. 92-5-9 and 92-5-10 with current statute and, by directly referencing the statutory rates, help avoid the need for similar future amendments. The proposed amendments will not result in any change to Department of Revenue practices. The Department uses the correct statutory rates to calculate refund amounts.

The Department of Revenue does not anticipate any significant economic or environmental impact on local governmental agencies or units or the general public because of the changes to these regulations. Copies of the proposed regulations and the Economic Impact Statement may be found online at <https://www.ksrevenue.gov/prproposedregulations.html>, or by contacting Taylor Murray at taylor.murray@ks.gov.

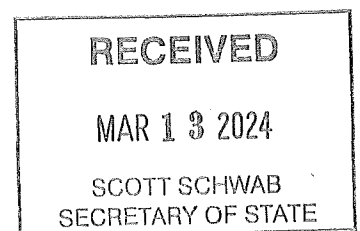
This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments prior to the hearing to Taylor Murray, Office of Policy and Research, Mills Building, 109 SW 9th St., Topeka, KS 66601-3506 or via email at taylor.murray@ks.gov. Additionally, interested parties wanting to participate remotely may contact Taylor Murray at taylor.murray@ks.gov to obtain remote access information.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Taylor Murray at (785) 296-6093 or via email at taylor.murray@ks.gov. Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 1-800-766-3777 for communication accommodations.

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Disabled parking is located on the north side of the Mills Building on either side of 9th Street.
The north entrance to the Mills Building is accessible.



Proposed

92-5-9. Redemption of unused stamps. The cost of any unused cigarette stamps that any wholesale cigarette dealer presents for refund may be refunded by the director of taxation. The unused cigarette stamps shall be presented for refund within six months from the date of the purchase from the director of taxation. The stamps shall be returned to the director of taxation, and a refund may be issued for the ~~face value less 2.65 percent~~ the amount prescribed by K.S.A. 79-3312, and amendments thereto, for redemption of unused stamps. (Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3312; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended, E-71-21, July 1, 1971; amended Jan. 1, 1972; amended March 22, 2002; amended P-_____.)

APPROVED

JAN 22 2024

DEPT. OF ADMINISTRATION

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FEB 27 2024

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Proposed

92-5-10. Cigarettes unfit for sale. If cigarettes on which the Kansas tax has been paid, as evidenced by cigarette tax stamps or tax indicia, have become unfit for use or consumption, unsalable, or damaged or destroyed by fire, flood, or similar causes, ~~the value of the tax paid less 2.65 percent~~ amount prescribed by K.S.A. 79-3312, and amendments thereto, for refund of the tax paid on cigarettes which have become unfit for sale may be refunded by the director of taxation, upon receipt of satisfactory proof, to the wholesaler who has paid the tax. The director of taxation shall be notified before the destruction of damaged or partially damaged cigarettes, and the merchandise shall be kept available for inspection by a representative of the director of taxation's office. (Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3312; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended, E-71-21, July 1, 1971; amended Jan. 1, 1972; amended March 22, 2002; amended P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Department of Revenue
Agency

Taylor Murray
Agency Contact

785-296-6093
Contact Phone Number

92-5-9 and 92-5-10
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.

No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

K.A.R. 92-5-9 and 92-5-10 are regulations implementing K.S.A. 79-3312. The Department of Revenue issues tax stamps to wholesale dealers as evidence of tax paid. K.S.A. 79-3312 governs refunds to wholesale dealers if tax stamps are returned to the Department unused or if stamped cigarettes have become unfit for sale.

These regulations both refer to percentage deductions applied to these refunds, which are set by K.S.A. 79-3312. When these regulations were adopted, the percentages in statute were 2.65%. Pursuant to 2002 SB 39, effective July 1, 2002, these percentage deductions were changed to .90%, and effective January 1, 2003, .80%. Pursuant to 2015 HB 2109, effective July 1, 2015, these percentage deductions were changed to .55%. K.A.R. 92-5-9 and 92-5-10 were not updated to reflect these changes. The proposed amendments align K.A.R. 92-5-9 and 92-5-10 with current statute and, by directly referencing the statutory rates, help avoid the need for similar future amendments.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

These regulations are not mandated by federal law.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

No effect on business activities and growth based on these amendments.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

No economic effect based on these amendments.

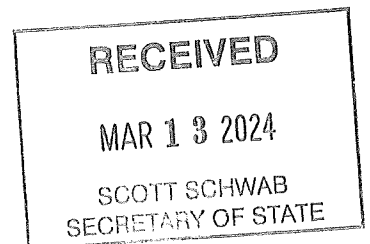
- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

None.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

N/A

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

N/A

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$0.00

Costs to Local Governmental Units – \$0.00

Costs to Members of the Public – \$0.00

Total Annual Costs – \$0.00

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Amending this regulation has no economic effect on any parties. The Department uses the correct statutory rates.

- Yes
 - No
 - Not Applicable
- If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

N/A

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

N/A

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

\$0.00

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will

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increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

N/A

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
- No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

N/A

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

N/A

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

N/A

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