

KANSAS COURT OF TAX APPEALS

NOTICE OF HEARING ON PERMANENT ADMINISTRATIVE REGULATIONS

A public hearing will be conducted at 10:00 a.m., Thursday, August 4, 2011, in Room 451, Hearing Room A, Docking State Office Building, 915 S.W. Harrison, Topeka, Kansas, to consider adoption of proposed regulations of the Kansas Court of Tax Appeals. The changes are proposed for adoption on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to Kansas Court of Tax Appeals, Docking State Office Building, Room 451, 915 SW Harrison, Topeka, Kansas 66612-1505 or by e-mail to maildesk@cota.ks.gov.

All interested parties will be given a reasonable opportunity to present their views either orally or in writing or both, concerning the adoption of 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 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 Jody Allen at (785)296-2388. Parking for individuals with disabilities is located on Harrison Street on the east side of the Docking State Office Building. The east entrance to the Docking State Office Building is accessible to individuals with disabilities.

Copies of the proposed regulations and the Economic Impact State for the proposed regulations can be viewed at the following website: <http://www.kansas.gov/cota>

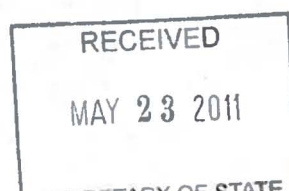
A list of the proposed regulations, brief summary and the economic impact follows:

Permanent KARs: 94-3-2 and 94-5-8

Brief Summary of Regulations:

K.A.R. 94-3-2 – Filing, fees and form. This revised regulation clarifies the court's time frame for the paying of filing fees. No economic impact is anticipated.

K.A.R. 94-5-8 – Filing fees. This revised regulation revises the filing fee schedule for court filings. The increased fees set forth in this regulation are necessary because of recent shifts in the court's funding balance away from state general funding and to user-fee funding. There should be little appreciable economic impact on other state or local government agencies. However, private individuals and businesses will be affected by increased filing fees.



94-3-2. Filing, fees, and form. Each informational statement required to be filed pursuant to the act shall be governed by the following procedures:

(a) Filing procedures.

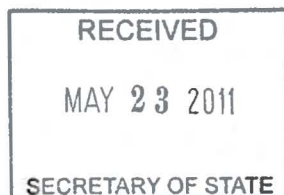
(1) The informational statement, together with the fees required in paragraph (b)(1) ~~of this regulation~~, shall be deemed filed and the requisite seven-day filing period shall commence upon the date the informational statement and fees are received in the office of the court. Each applicant shall address or deliver all communications, documents, information, and inquiries to the office of the secretary, court of tax appeals.

(2) Each applicant shall file one informational statement for each proposed issuance of bonds.

(3) If the informational statement is not complete as originally filed, the applicant shall be notified of the incomplete filing. The applicant shall correct the deficiency in writing within 14 days.

(4) If the chief judge finds, following a review of the informational statement, that all information and documents required to be filed are complete and, based upon the proposed date of issuance of the bonds, that the statement has been filed in a timely manner, an order or letter indicating that finding shall be rendered by the chief judge to the appropriate government officials and bond counsel.

(5) The following disclaimer shall appear in boldface type upon the second page of each preliminary offering document:



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A handwritten signature in black ink, appearing to be "CW".

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“THE CHIEF JUDGE OF THE KANSAS COURT OF TAX APPEALS HAS NOT REVIEWED ANY INFORMATION OR DOCUMENT FILED PURSUANT TO THIS INFORMATIONAL FILING FOR THE ADEQUACY OR ACCURACY OF THE DISCLOSURE THEREIN. THIS INFORMATIONAL FILING DOES NOT CONSTITUTE A RECOMMENDATION OR AN ENDORSEMENT BY THE CHIEF JUDGE OR THE COURT.”

Evidence that this disclaimer appears in boldface type upon the second page of each preliminary offering document shall be filed contemporaneously with the certificate of issuance required by K.S.A. 12-1744c, and amendments thereto.

(6) The certificate of issuance required to be filed by K.S.A. 12-1744c, and amendments thereto, shall include the court of tax appeals’ filing number.

(b) Fees.

(1) ~~Each informational statement shall be accompanied by a filing fee of \$250.00.~~
All fees shall accompany the application and shall be paid by check or money order made payable to the court of tax appeals. A cash remittance shall not be accepted. If the chief judge receives notice of refusal of payment of the check or money order presented in payment of these fees, the application shall be deemed to be incomplete and not timely filed as required by the act.

(2) Copies of documents filed and recorded in the office of the court of tax appeals shall be available upon request. Postage and copy fees shall be paid in advance and in conformity with K.S.A. ~~45-204~~ 45-219, and amendments thereto.

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(c) Forms. The informational statement shall be submitted on forms approved by the chief judge. (Authorized by K.S.A. 2010 Supp. 12-1744a, ~~as amended by 2008 HB 2018, sec. 29, and K.S.A. 2010 Supp. 12-1744b, as amended by 2008 HB 2018, sec. 30 and K.S.A. 2010 Supp. 74-2437~~; implementing K.S.A. 2010 Supp. 12-1744a, ~~as amended by 2008 HB 2018, sec. 29 and K.S.A. 2010 Supp. 74-2437~~; effective May 1, 1983; amended, T-85-38, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; amended P-_____.)

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94-5-8. Filing fees. (a) Subject to subsections (f) and (g), the following fees shall apply to applications and appeals filed with the regular division of the court:

(1) Economic development exemption applications filed pursuant to Kansas constitution article 11, §13 for property with a total ~~value~~ valuation in excess of \$1,000,000~~\$500.00~~
\$7,000.00

(2) Economic development exemption applications filed pursuant to Kansas constitution article 11, §13 for property with a total ~~value~~ valuation of \$1,000,000 or less ~~\$250.00~~
\$4,000.00

(3) Industrial revenue bond exemption applications filed pursuant to K.S.A. 79-201a Second, and amendments thereto, for property with a total ~~value~~ valuation in excess of \$1,000,000~~\$500.00~~ \$7,000.00

(4) Industrial revenue bond exemption applications filed pursuant to K.S.A. 79-201a Second, and amendments thereto, for property with a total ~~value~~ valuation of \$1,000,000 or less~~\$250.00~~ \$4,000.00

(5) Industrial revenue bond information statements filed pursuant to K.S.A. 12-1744a, and amendments thereto.....~~\$250.00~~ \$500.00

(6) Tax exemption applications for real property and tax exemption applications for oil leases filed pursuant to K.S.A. 79-201t, and amendments thereto.....~~\$125.00~~
\$1,000.00

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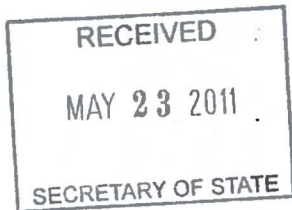
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(7) Tax exemption applications for personal property except tax exemption applications for oil leases filed pursuant to K.S.A. 79-201t, and amendments thereto ~~\$75.00~~ \$200.00

(8) Tax grievance applications filed pursuant to K.S.A. 79-332a, 79-1422, 79-1427a, or 79-1702, and amendments thereto\$25.00

(9) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving real estate other than single-family residential properties and farmsteads for the following valuations:

\$1,000,000 or less.....\$125.00 per parcel

more than \$1,000,000\$200.00 per parcel

\$250,000 or less\$125.00 per parcel

\$250,001 through \$1,000,000\$300.00 per parcel

\$1,000,001 through \$5,000,000\$700.00 per parcel

\$5,000,001 through \$10,000,000 \$1,000.00 per parcel

more than \$10,000,000.....\$2,000.00 per parcel

(10) Equalization appeals filed in the regular division of the court pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed in the regular division of the court pursuant to K.S.A. 79-2005, and amendments thereto, involving single-family residential properties and farmsteads.....\$25.00 per parcel

(11) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving personal property.....~~\$50.00~~ \$150.00

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(12) Appeals of mortgage registration fees filed pursuant to K.S.A. 79-3107c, and amendments thereto\$25.00

(13) Appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation, for the following amounts in controversy involving real estate other than single-family residential properties and farmsteads for the following valuations:

\$1,000 or less	\$100.00
More than \$1,000 but not more than \$10,000.....	\$150.00
More than \$10,000	\$250.00
<u>\$250,000 or less</u>	<u>\$125.00 per parcel</u>
<u>\$250,001 through \$1,000,000</u>	<u>\$300.00 per parcel</u>
<u>\$1,000,001 through \$5,000,000</u>	<u>\$700.00 per parcel</u>
<u>\$5,000,001 through \$10,000,000</u>	<u>\$1,000.00 per parcel</u>
<u>more than \$10,000,000.....</u>	<u>\$2,000.00 per parcel</u>

(14) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue, excluding homestead property tax refund appeals under K.S.A. 79-4501 et seq., and amendments thereto, and food sales tax refund appeals under K.S.A. 79-3632 et seq., and amendments thereto, for the following amounts in controversy:

\$1,000 or less.....	\$100.00
More than \$1,000 and less than <u>\$1,001 through \$10,000</u>	\$150.00
<u>\$10,000 or more</u>	<u>\$250.00</u>

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\$10,001 through \$100,000\$500.00

more than \$100,000\$1,000.00

(15) No-fund warrants, temporary notes or bond applications, requests to exceed the adopted budget, and mill levy disagreements filed pursuant to K.S.A. 79-2938, 79-2939, 79-2941, 79-2951, 79-5023, 12-110a, 12-1662 et seq., or 19-2752a, and amendments thereto,

or any other related statute\$150.00

(16) Applications by school districts to levy an ad valorem tax pursuant to K.S.A. 72-6441 or 72-6451, and amendments thereto.....No fee

(17) Requests for reappraisal and complaints filed pursuant to K.S.A. 79-1413a, 79-1479, or 79-1481, and amendments thereto.....~~\$250.00~~ \$2,000.00

(18) Appeals by board of county commissioners of any county of the midyear ratios determined for the county by the director, or the director's designee, of the Kansas department of revenue, division of property valuation, filed pursuant to K.S.A. 79-1489, and amendments thereto.....\$2,000.00

(b) Subject to subsections (f) and (g), the following fees shall apply to applications and appeals filed with the small claims and expedited hearings division of the court:

(1) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving appeals of the valuation or classification of single-family residential properties and farmsteads.....No fee

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(2) All other equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto

.....\$100.00

for the following valuations:

\$250,000 or less.....\$125.00 per parcel

\$250,001 through \$1,000,000\$250.00 per parcel

\$1,000,001 through \$1,999,999.....\$500.00 per parcel

(3) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue, excluding ~~homestead property tax refund appeals under K.S.A. 79-4501 et seq., and amendments thereto, and appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation if the assessment is~~ \$500 or more.....\$50.00 those final decisions addressed in

paragraph (b)(5), for the following amounts in controversy:

Less than \$500.....No fee

at least \$500 but less than \$10,000.....\$50.00

\$10,001 through \$14,999\$250.00

(4) Appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation, involving real estate other than single-family residential properties and farmsteads for the following valuations:

Less than \$500.....No fee

at least \$500 but less than \$250,001.....\$125.00 per parcel

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\$250,001 through \$1,000,000\$250.00 per parcel

\$1,000,001 through \$1,999,999.....\$500.00 per parcel

(5) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue, ~~including~~ involving homestead property tax refund appeals under K.S.A. 79-4501 et seq., and amendments thereto, and ~~appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation, if the assessment is less than \$500~~ food sales tax refund appeals under K.S.A. 79-3632 et seq., and amendments thereto.....No fee

(c) For purposes of this regulation, the following definitions shall apply:

(1) "Single-family residential property" means any parcel containing a residential structure or any portion of the structure that is designed for occupancy by no more than one family, regardless of whether the boundary of the parcel is ground, shared walls, or other structural elements. A parcel containing a structure designed to accommodate more than one family, including an apartment building, is not single-family residential property.

(2) "Valuation" means the value shown on the county notice of valuation or the value at the time of the filing of the appeal if the value has been reduced by the county appraiser at the informal hearing, by a local hearing officer panel, or by the small claims division of the court.

~~(2) "Single-family residential property" means any parcel containing a residential structure or any portion of the structure that is designed for occupancy by no more than one family, regardless of whether the boundary of the parcel is ground, shared walls, or other structural elements. A parcel~~

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~~containing a structure designed to accommodate more than one family, including an apartment building, is not single family residential property.~~

(d) Except as specified in this subsection, each application and appeal listed in subsections (a) and (b) shall be accompanied by the applicable filing fee in the form of a check or money order made payable to the "Court of Tax Appeals." If the fee does not accompany the filed application or appeal, the fee shall be received by the court within seven business days of the receipt of the application or appeal. If the fee is not received within this time period, the application or appeal shall be considered not properly filed with the court, and the application or appeal shall be dismissed.

~~(e) Waiver or abatement of filing fees shall be appropriate in the following circumstances:~~

~~(1) A filing fee may be waived by the court if an applicant or taxpayer by reason of financial hardship is unable to pay the fee and has filed an affidavit stating this reason, with any accompanying supporting documentation that may be deemed appropriate by the court.~~

~~(2) Filing fees may be abated by the court as prescribed in this paragraph upon written motion demonstrating that multiple appeals or applications involving multiple properties filed by a taxpayer or applicant should be consolidated into a single matter. For multiple applications or appeals involving contiguous parcels owned by the same person or entity that together comprise a single economic unit, the consolidated filing fee shall be the fee for the parcel with the highest valuation plus \$15.00 for each additional parcel within the economic unit. If multiple applications or appeals do not involve contiguous parcels but involve substantially similar issues that, in the interest of administrative economy, should be heard and decided together, the filing fee may be abated by the court to reflect the administrative cost savings anticipated from consolidating the multiple filings for~~

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~~decision. If, after a filing fee has been remitted, the court determines that abatement is appropriate under this paragraph, the abated portion of the fee shall be refunded by the court.~~

(f) ~~Public school districts shall be exempt from paying filing fees.....~~No fee

(g) Each not-for-profit organization shall be charged a fee of \$10 for any appeal if the valuation of the property that is the subject of the controversy does not exceed \$100,000, excluding all governmental entities except as provided in subsection (f). There shall be no filing fee reduction under this subsection (g) for property owned by a not-for-profit organization with a valuation exceeding \$100,000. (Authorized by and implementing K.S.A. ~~2009~~ 2010 Supp. 74-2438a; effective Oct. 29, 2010; amended P-_____.)

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**KANSAS COURT OF TAX APPEALS
ECONOMIC IMPACT STATEMENT
Permanent KARs 94-5-8 and 94-3-2**

I. Summary of Proposed Regulations, Including their Purpose

The Kansas Court of Tax Appeals (COTA) was established by the legislature effective July 1, 2008, as the court of record for all state and local tax litigation. Last year COTA amended its procedural rules and regulations to better suit the work of an independent quasi-judicial body and, at the same time, modified its filing fee schedule to address budget imperatives.

COTA serves as the final trier of fact and court of record for all Kansas state and local tax matters, which means that all orders appealed from COTA are decided on the record by the Kansas Court of Appeals without intermediate judicial review by a district court. It is therefore imperative that the Court be adequately funded and suitably staffed.

In the Governor's FY 2012 budget recommendations, the Court's SGF funding was cut by 50%, and the Court was instructed to "offset the State General fund reduction by increasing the fees it imposes for applications and appeals where the amount at issue is greater than \$10,000...." The House and Senate agreed in part with the Governor's recommendations.

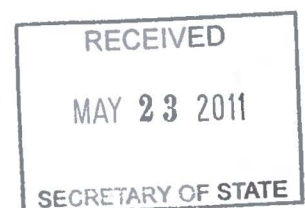
The K.A.R. amendments now proposed by COTA are designed to use filing fee increases to shore up budget shortfalls arising from the considerable cuts in SGF recently approved by the legislature.

II. Reason or Reasons the Proposed Regulations are Required, Including Whether or Not the Regulations are Mandated by Federal Law

See response to statement I, above. Also, note that COTA is required by state statute to charge filing fees to recover all or part of the "cost of processing actions." See K.S.A. 74-2438a. The regulations are not mandated, or in any way affected by, federal law.

III. Anticipated Economic Impact upon the Kansas Court of Tax Appeals

The new filing fee regulations will significantly impact COTA's budget. As noted, the increased fees are necessary because of recent shifts in the Court's funding balance away from SGF to user-fee funding. These shifts are significant.



It is difficult to anticipate with any degree of confidence how economics will affect net receipts under the new proposed fee schedule. This agency was funded entirely through SGF until 2004, and the only time its fees have been increased significantly was six months ago. Consequently, insufficient data is available to predict the extent to which increased fees will impede Court access. Fee increases for some case types might result in dramatically reduced filings, generating little or no new revenues to off-set declining general fund balances. Other case types, however, could experience little or no filing reductions. It also should be noted that while in the past COTA has sought to avoid cross-subsidization among case types, that goal clearly is no longer attainable in view of recent budgetary actions and directives.

In establishing the new COTA fee schedule, a simple across-the-board formula was not applied. Instead, the new fees have been designed to follow the Governor's FY 2012 budget recommendations by increasing fees only on those taxpayers bringing appeals where more than \$10,000 is in dispute. Two additional factors were given consideration as well: (1) whether user fees charged for certain filings could help maximize efficient use of government resources and discourage frivolous appeals and (2) the potential effect on low- and moderate-income citizens of shifting reliance from broad-based general funding to user fees.

Historically, annual filing fee receipts have averaged approximately \$350,000. Under the fee schedule that went into effect in November 2010, the Court estimates annual fee receipts could generate, on average, from \$450,000 to \$500,000, depending on how price-elastic the various filing types prove to be. With the most recent budget approved by the legislature, COTA now must collect \$1,034,000 in revenues from filing fee, which is nearly three times its historical average and more than twice the amount anticipated under the fee schedule enacted six months ago.

IV. Anticipated Financial impact upon Other Governmental Agencies and upon Private Business or Individuals

COTA anticipates there will be a slight positive economic impact on state and local government taxing authorities resulting from the proposed amendments. Because appealing cases beyond the Department of Revenue or local government level will be cost-prohibitive for certain taxpayers, case volumes are bound to decline for some units

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of government. Other state and local government agencies should anticipate little appreciable economic impact. Private individuals and businesses will be affected most by the proposed filing fee increases, because a significant portion of the cost associated with COTA's operations will be shifted away from the public at large to be borne by individual users. The impact on a particular business or individual is the difference between the cost of filing a case under the proposed schedule and the cost of filing a case under the current schedule.

V. Less Costly Intrusive Methods Considered

As noted, the Court is amending its filing fee regulations because of recent budget imperatives. Prior to FY 2004, this agency was funded entirely through state general funding. In FY 2007, the funding allocation was 78% SGF and 22% fee funding. In FY 2011, the funding allocation was 66% SGF and 34% fee funding. For FY 2012, the Court's funding allocation is 48% SGF and 52% fee funding.

COTA continues to look for creative and new ways to eliminate costs and streamline processes. For example, in 2005 this agency received a \$325,000 grant to overhaul its IT infrastructure and implement a paperless document management system. In recent weeks, the Court has been revising its standard discovery and exchange schedule, which should result in savings by reducing legal staff time necessary to issue discovery orders and conduct telephone conferences. COTA continues to update its IT system and business rules—using in-house staff instead of contractors, where possible—in an effort to streamline docketing and other automated workflows. These continuing efforts are designed to boost efficiencies, to improve public service and to cut costs, both internally and to outside stakeholders.

VI. Public Hearing

A public hearing is scheduled to be held on Thursday, August 4, 2011 at 10 :00 a .m., in Room 451, Hearing Room A, Docking State Office Building, 915 S.W. Harrison Street, Topeka, Kansas.

