



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

May 5, 1975

Opinion No. 75- 201

Mr. David L. Thompson
Montgomery County Attorney
Montgomery County Courthouse
Independence, Kansas 67301

Re: K.S.A. 79-304, Freeport Clause,
(New) K.S.A. 1975 Supp. 79-201 (7)

Dear Dave:

Your letter of April 22, 1975, asks whether a Kansas manufacturer, who imports all his raw materials from out-of-state but does not have a bonded and licensed warehouse or storage area as provided by K.S.A. 79-304, and who ships finished products out-of-state is entitled to exemption from Kansas ad valorem tax on those products moving out-of-state?

The 1975 Kansas Legislature, by Senate Bill 30, has amended the "Free-port" law to remove confusing language and clarify legislative intent. The Governor has signed this bill and it will take effect on July 1, 1975, upon publication in the statute book.

Senate Bill 30 amends K.S.A. 79-304 by striking from it completely the "free-port" proviso. It then amends K.S.A. 79-201, the "exemption" article, to include a new section 7, which sets out the rewritten "free-port" law. A photocopy of new section 7 is attached.

New Section 7(c) does now clearly exempt from Kansas tax that percent of out-of-state shipments of Kansas manufacturers, if more than 35% of finished products were in fact shipped out-of-state during the preceeding year.

This law will apply to all taxable years commencing after December 31, 1974. However, on January 1, 1975, the assessment

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date, the Kansas manufacturer must be storing his finished products in a bonded and licensed warehouse and must have shipped more than 35% out of the state in 1974.

You say your manufacturer in Montgomery County is not a bonded and licensed warehouseman. To become eligible, he must become one before January 1, 1976, and he should now compile his record of shipments in 1975 so that it may be determined whether his out-of-state shipments meet the 35% requirement.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:jj

Enclosure

New Sec. 7. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) Personal property which is moving in interstate commerce through or over the territory of the state of Kansas;

(b) Personal property which has been shipped into the state of Kansas from outside the state which is stored in a warehouse or storage area operated by a warehouseman licensed and bonded under the provisions of K. S. A. 82-161 to 82-171, inclusive, if such warehouseman keeps records of such property showing point of origin, date of receipt, type and quantity, date of withdrawal, and ultimate destination notwithstanding (1) that the final destination of said personal property is unknown at the time of storage in Kansas or (2) that the interstate movement of the said personal property has been interrupted for not more than two (2) years by such storage in Kansas for reasons relating to the convenience, pleasure, or business of the shipper or owner of said property unless the ultimate destination of said property is within the state of Kansas: and

(c) Goods, wares and merchandise which are manufactured, assembled, joined, processed, packaged or labeled within this state, during the period of time in which they are stored in a warehouse or storage area operated by a warehouseman licensed and bonded under the provisions of K. S. A. 82-161 to 82-171, inclusive, if such warehouseman keeps records of such property showing point of origin, date of receipt, type and quantity, date of withdrawal, and ultimate destination. In order to qualify goods, wares and merchandise in any such warehouse or storage area for the exemption from taxation under this subsection, the owner of such goods, wares and merchandise must show by verified statement that the final destination of at least thirty-five percent (35%) of the sale or shipments from such warehouse or storage area during the previous calendar year were shipped in interstate commerce to a point outside the state of Kansas, and the amount of exempt property shall be computed as follows: The owner shall furnish the county assessor with a report of the monthly average inventory for the preceding calendar year and a report of the value of shipments for final destination outside the state for each month of the previous calendar year. The owner shall be entitled to exemption of a percent of the average monthly inventory equivalent to the percent of value of total shipments to the value of shipments that were made in interstate commerce to points outside the state.

The provisions of this section shall apply to all taxable years commencing after December 31, 1974.