



STATE OF KANSAS

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September 17, 1985

ATTORNEY GENERAL OPINION NO. 85- 122

Gary L. Flory, Esquire  
McPherson County Counselor  
Walnut at Marlin  
P.O. Box 1103  
McPherson, Kansas 67460

Re: Taxation -- Merchants and Manufacturers Inventories  
-- Inventory of Merchant; Listing for Taxation

Synopsis: K.S.A. 79-1001a requires that each merchant submit a statement to the county assessor showing the fair market value of personal property which the merchant holds as inventory. For the purpose of establishing such a value, the merchant is to use the average of the inventory held during the preceding year, which figure is derived from the federal income tax statement for that year. If the assessor believes that the statement does not accurately reflect the value of the inventory, he or she may conduct an investigation pursuant to K.S.A. 79-1461 et seq. Cited herein: K.S.A. 79-1001a; 79-1001b; 79-1004a; 79-1461.

\* \* \*

Dear Mr. Flory:

You have requested our opinion on the statutory interpretation of K.S.A. 79-1001a, which concerns the listing and valuation of inventory for ad valorem tax purposes. K.S.A. 79-1001a states as follows:

"Every merchant shall for the purpose of taxation make and deliver to the assessor

a statement giving the fair market value in money of personal property held as inventory within the state of Kansas for sale in his business as a merchant. For the purpose of such statement the fair market value in money of personal property held by a merchant as inventory shall be an amount equal to the average of the fair market value in money of the personal property held as inventory within the state of Kansas for sale by such merchant during his tax year (as established for reporting for federal income tax purposes) next preceding the time of filing the statement of personal property." (Emphasis added.)

Specifically, you ask whether the language in parenthesis "(as established for reporting for federal income tax purposes)" refers to the merchant's tax year, which is to be used as a tax year for averaging purposes, or to the amount of inventory shown on the taxpayer's federal income tax return, which shall be used on the tax statement. Further, you ask whether the county assessor may challenge the rendition if he or she believes the taxpayer under-reported inventory on the federal income tax return used to make the statement.

In our opinion, the second construction you suggest is correct, namely that the parenthetical material within K.S.A. 79-1001a refers to the quantity of material which is held as inventory and so reported to the Internal Revenue Service. We believe the first suggested interpretation of the parenthetical material in K.S.A. 79-1001a (i.e. that it is the tax year, rather than the quantity of merchandise, which is established by the federal return) is inconsistent with other language of the act in which K.S.A. 79-1001a appears. In particular, K.S.A. 79-1001b (which, as a part of the same act as 79-1001a, is in pari materia) sets forth the procedure for determining average fair market value. At subsection (a), the first step is described as:

"Add the fair market value of personal property held as beginning inventory by such merchant on the first day of such tax year, as reported for federal income tax purposes for such year, to the fair market value of personal property not

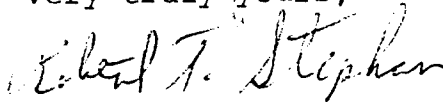
reflected in such beginning inventory which is consigned to and held for sale by such merchant on such date." (Emphasis added.)

The underscored language makes it clear that it is the inventory value, rather than the reporting period, which is derived from the federal income tax return. See also K.S.A. 79-1004a, which requires each statement filed under K.S.A. 79-1001a to be accompanied by that portion of the federal tax return which sets forth the inventory of personal property (or by a sworn statement containing such information).

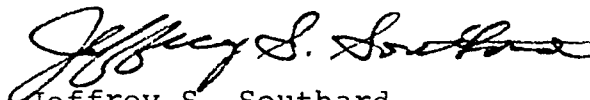
In response to your second inquiry, a county appraiser may, pursuant to K.S.A. 79-1461, challenge the rendition if he is "of the opinion that any form filed is not adequate or does not truly represent the property to be appraised." K.S.A. 79-1462 et seq. sets forth the procedures to be followed in making such a determination.

In conclusion, K.S.A. 79-1001a requires that each merchant submit a statement to the county assessor showing the fair market value of personal property which the merchant holds as inventory. For the purpose of establishing such a value, the merchant is to use the average of the inventory held during the preceding year, which figure is derived from the federal income tax statement for that year. If the assessor believes that the statement does not accurately reflect the value of the inventory, he or she may conduct an investigation pursuant to K.S.A. 79-1461 et seq.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
Deputy Attorney General