

**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

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.