

§ 12.2 Tax Appeal Pursuant to K.S.A. 74-2426 and Rule 9.03**IN THE COURT OF APPEALS OF THE STATE OF KANSAS**

In the Matter of the Application of)
 XYZ Corp., for Exemption from) [Insert COTA Docket Number]
 Ad Valorem Taxation.)

PETITION FOR JUDICIAL REVIEW

COMES NOW XYZ Corp. and hereby petitions the Court of Appeals for judicial review of all rulings adverse to it by the Court of Tax Appeals in that Court's order, dated [Insert Date], and that court's subsequent order denying reconsideration, dated [Insert Date]. Pursuant to the provisions of K.S.A. 77-614 and Kansas Supreme Court Rule 9.03, petitioner states as follows:

1. Name and mailing address of the petitioner:
 [Insert information]
2. Name and mailing address of the agency whose action is at issue:
 [Insert information]
3. Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action.

Petitioner requested ad valorem taxation exemption for certain real property pursuant to K.S.A. 79-201b *Sixth*. Petitioner claimed that the subject property satisfied the statutory requirements, which require the operator to be a not-for-profit corporation and that the property be used exclusively for the housing of mentally ill, retarded, or other handicapped persons.

On [Insert Date], the Court of Tax Appeals issued an order in which it ruled that the operator of the subject property could not meet the statutory requirement of being a not-for-profit corporation, and that the subject property was not being used exclusively for an exempt purpose because the petitioner was receiving a benefit in the form of Internal Revenue Code Section 42 low income housing tax credits. Petitioner filed a motion for reconsideration on [Insert Date]. The Court of Tax Appeals issued an order on [Insert Date], denying the motion for reconsideration. The Court of Tax Appeals reversed the ruling as to the operator, determining the project was operated by

a not-for-profit entity as contemplated by K.S.A. 79-201b *Sixth*. However, the Court of Tax Appeals reaffirmed its prior decision that the subject property was not being used exclusively for an exempt purpose.

Certified copies of the order of the Court of Tax Appeals, the petition for reconsideration, and the Court of Tax Appeals' order on the petition for reconsideration are attached.

4. Identification of persons who were parties in any adjudicative proceedings that led to the agency action.

[Insert Information]

5. Facts to demonstrate that the petitioner is entitled to obtain judicial review.

This is a final order of the Court of Tax Appeals and constitutes final agency action. Any party choosing to appeal this order must do so by filing a petition for judicial review within 30 days from the date of certification of this order. *See* K.S.A. 77-613(c). The petition for judicial review shall be filed with the Kansas Court of Appeals. K.S.A. 7426(c)(2).

6. The petitioner's reasons for believing that relief should be granted.

The Court of Tax Appeals erroneously ruled, as a matter of law, that the subject property was not entitled to exemption under K.S.A. 79-201b *Sixth* by virtue of the property owner receiving Internal Revenue Code Section 42 low income housing tax credits in respect of certain construction and other acquisition costs attached to the subject property.

7. Petitioner's request for relief, specifying the type and extent of relief requested.

A determination that the subject is entitled to exemption under K.S.A. 79-201b *Sixth*.

[Name of Law Firm or Agency]

BY _____
[Attorney's Name and Registration Number]
[Address]
[City, State and Zip Code]
[Telephone Number]
Attorney for [Insert party designation]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Petition for Judicial Review was deposited in the United States Mail, postage prepaid, on this [Insert Date], to each of the following:

[Insert names and addresses of those on whom service is made.]

[Attorney's Name and Registration Number]

PRACTICE NOTE: See § 12.4, *infra*, to request certification of the record.

The petition for judicial review must be in compliance with K.S.A. 77-614. Some petitions may be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same.

