

# KANSAS DEPARTMENT OF REVENUE



## ***2009 Legislative Enactments & Changes***

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**KDOR web site: [www.ksrevenue.org](http://www.ksrevenue.org)**

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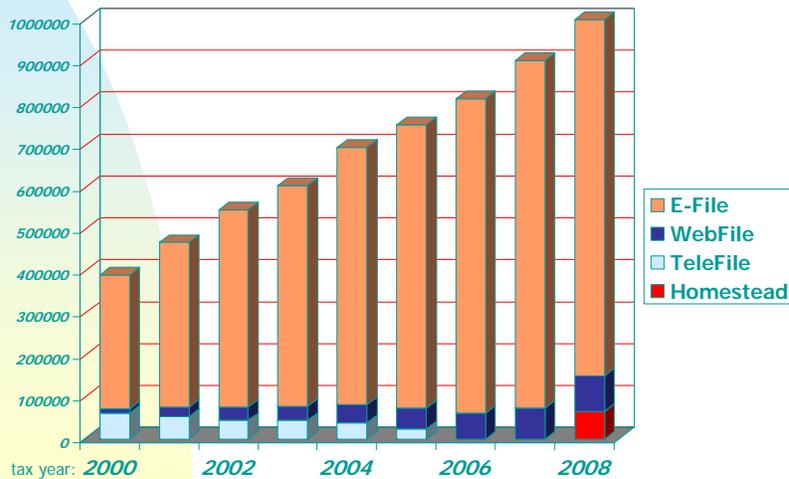
**Forms Order Line: 785-296-4937**

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### **Problem Resolution Officer:**

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# Electronic Filing Statistics



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As of **June 17, 2009** – 2008 Returns:

## E-File statistics:

- WebFile:** 84,948;
- IRS E-File:** 918,954;
- Total Electronic - Individual Income:** 1,003,902 (+11%).
- Homestead - IRS E-File:** 66,544;
- Corporate - IRS E-File:** 21,773 (+46.3%)

As of **September 17, 2008** – 2007 Individual Returns:

State/fed efile: 851,278, up 13%

•webfile: 75,476 up 20%

•Total efiled (individual): 926,754 total individual returns – right at 62% of the total number of individual returns filed.

•Electronically filed:

Corp 11,742

Partnership 6,460

# INDIVIDUAL INCOME TAX

## ELECTRONIC FILING REQUIRED:

- **A PAID PREPARER FILING  
50 OR MORE RETURNS PER YEAR**

**FILE BY ELECTRONIC MEANS NOT  
LESS THAN 90% OF SUCH RETURNS  
ELIGIBLE FOR ELECTRONIC FILING.**

- 2008 Senate Substitute for HB 2434., Section 19
- K.S.A. 79-3220(a)(2) *In accordance with the provisions of section 1, and amendments thereto, an individual who is required to file a return may file such return by electronic means in a manner approved by the secretary of revenue. A paid preparer who prepares 50 or more returns per year shall file by electronic means not less than 90% of such returns eligible for electronic filing. The requirements of this subsection may be waived by the secretary of revenue for a paid preparer if the paid preparer demonstrates a hardship in complying with the requirements of this subsection.*
- Effective July 1, 2008
- Call 800-525-3901 – KDOR’s EFT Unit
- An Q & A is posted to the web: [www.ksrevenue.org/taxprac.htm](http://www.ksrevenue.org/taxprac.htm)

### 496 Non-compliant Practitioners

	Number of Paper returns filed	Number of Electronic returns filed
21 Waiver requests	1342	307
82 preparers filed between 80%-90% electronically	23326	154575
20 preparers filed between 70%-80% electronically	2277	6695
26 preparers filed between 60%-70% electronically	2839	5153
29 preparers filed between 50%-60% electronically	4216	5014
34 preparers filed between 40%-50% electronically	2584	2154
25 preparers filed between 30%-40% electronically	4900	2588
12 preparers filed between 20%-30% electronically	2060	685
7 preparers filed between 10%-20% electronically	1439	308
25 preparers filed between 1-10% electronically	5136	187
215 preparers filed 0% electronically	25397	0
<b>Total</b>	<b>75516</b>	<b>177666</b>

### 2,233 Compliant Practitioners

	Number of Paper returns filed	Number of Electronic returns filed
<b>Total</b>	<b>1313</b>	<b>521524</b>

# INCOME TAX



## MILITARY SPOUSES RESIDENCY RELIEF ACT:

- **Kansas income for services performed by the non-military spouse of a nonresident military service member is exempt from Kansas income tax. To qualify for this exemption, the spouse must be residing in Kansas solely because the military service member is stationed in Kansas under military orders.**
- **The exemption from Kansas income tax DOES NOT extend to income from Kansas sources earned by the nonresident service member.**
- **Effective January 1, 2009**

United States Senate Bill 475, an act to amend the Service members Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Spouses Residency Relief Act”.

### SEC. 3. DETERMINATION FOR TAX PURPOSES OF RESIDENCE OF SPOUSES OF MILITARY PERSONNEL.

(a) In general.—Section 511 of the Service members Civil Relief Act (50 U.S.C 571) is amended—

(1) in subsection (a)—

(A) by striking “A service member” and inserting the following:

“(1) IN GENERAL.—A service member”; and

(B) by adding at the end the following:

“(2) SPOUSES.—A spouse of a service member shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the service member in compliance with the service member's military orders if the residence or domicile, as the case may be, is the same for the service member and the spouse.”;

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(3) by inserting after subsection (b) the following new subsection:

“(c) **Income of a Military Spouse.**—Income for services performed by the spouse of a service member shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the spouse is not a resident or domiciliary of the jurisdiction in which the income is earned because the spouse is in the jurisdiction solely to be with the service member serving in compliance with military orders.”; and

(4) in subsection (d), as redesignated by paragraph (2)—

(A) in paragraph (1), by inserting “or the spouse of a service member” after “The personal property of a service member”; and

(B) in paragraph (2), by inserting “or the spouse’s” after “service member’s”.

(b) Application.—Subsections (a)(2) and (c) of section 511 of such Act (50 U.S.C 571), as added by subsection (a) of this section, and the amendments made to such section 511 by subsection (a)(4) of this section, shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act.

See NOTICE 09-12

# INCOME TAX

## SUBTRACTION MODIFICATION:

**Premium costs for Qualified Long-Term Care Insurance Contracts, as defined by subsection (b) of Section 7702B of Public Law 104-191.**

- **\$900** subtraction modification - TY 2009 – Single, HOH & MFS
- **\$1,800** subtraction modification - TY 2009 – MFJ –when both purchase a LTC Contact

•**2004 HB 2545, Sec. 17.** KSA 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.....

(c) There shall be subtracted from federal adjusted gross income:

*(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.*

•**Public Law 104-191, Sec. 7702B. Treatment of Qualified Long-Term Care Insurance.**

(b) Qualified Long-Term Insurance Contract. - For purposes of this title -

(1) IN GENERAL. - The term "Qualified long-term care insurance contract" means any insurance contract if -

(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

(C) such contract is guaranteed renewable,

(D) such contract does not provide for a cash surrender value or other money that can be -

(1) paid, assigned, or pledged as collateral for a loan, or (ii) borrowed, other than as provided in subparagraph (E) or paragraph (2)(C),

(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

(F) such contract meets the requirements of subsection (g).

•**TY 2009 - \$900 per LTC Contract per Taxpayer. Single, Head of Household & Married Filing Separate purchasing a LTC Contact for the named taxpayer - limited to one (1) \$900 subtraction modification per return. Married Filing Joint - purchasing a LTC for BOTH named taxpayers - limited to two (2) \$900 subtraction modifications per return (for a total subtraction of \$1,800).**

•Line A14 on Schedule S - Subtraction Modification for Premium Costs

•This subtraction modification is in ADDITION to any federal allowances.

# INCOME TAX

## CREDIT REDUCTION:

Reduces **most** credits claimed in **2009 & 2010** to the lesser of:

- a) 90% of Current and Prior Year Credit
- or
- b) 90% of the Current Year Tax Liability

Carry forwards are reduced by 10% - that 10% is “lost” (except HPIP & B&J credits)

2009 Senate Substitute for HB 2365, New Section 2. (a) *For tax years 2009 and 2010, for any tax credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176, 79-32,177, 79-32,190 and 79-32,200 and K.S.A. 2008 Supp. 40-2246, 74-50,154, 74-50,173, 74-50,208, 74-8133, 74-8205, 74-99c09, 79-32,153, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-32,202, 79-32,204, 79-32,207, 79-32,211a, 79-32,212, 79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246, 79-32,252, 79-32,261 and 79-32,262, and amendments thereto, the total of any such credit or credits allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall not exceed the lesser of 90% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 90% of the tax as computed prior to the allowance of any such credit or credits. Except as otherwise provided by subsections (c) and (d), the amount of such credit or credits that may be carried forward in any succeeding taxable year shall be reduced by an amount equal to the lesser of 10% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 10% of the tax as computed prior to the allowance of any such credits.*

(b) *For tax years 2009 and 2010, for any tax credit provided under K.S.A. 2008 Supp. 79-32,206 and 79-32,210, and amendments thereto, the total amount of any credits refunded or allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall not exceed 90% of the total amount of tax credit or credits earned, and the remaining portion of such tax credit or credits shall be lost.*

[(c) *For any tax credit or credits earned pursuant to K.S.A. 79-32,160a, and amendments thereto, other than tax credits earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year prior to 2009 and carried forward from such prior tax year and claimed in tax years 2009 or 2010, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.*

[(d) *For any tax credit earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, by a taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto, who has received prior to June 1, 2009, written approval from the secretary of commerce of a certificate of intent to invest in a qualified business facility, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.*



K-30	Angel Investor Credit	Reduction
K-31	Center for Entrepreneurship	Reduction
K-32	Regional Foundation	Reduction (Refundable)
K-33	Agritourism Liability	Reduction
K-34	Business & Job	Reduction*
K-35	Historic Preservation	No Reduction – Credit Capped @ 3.75 M
K-36	Telecommunications & Railroad	Reduction**
K-37	Disabled Access	Reduction (Refundable)
K-38	Swine Facility	Reduction
K-39	Plugging an Abandoned Oil/Gas Well	Reduction
K-42	Assistive Technology	Reduction
K-47	Adoption	Reduction
K-51/K-52	Ag Loan Interest Reduction	No longer available
K-53	Research & Development	Reduction
K-54	National Guard Employer Health Ins	Reduction
K-55	Venture & Local Seed	Reduction
K-56	Child Daycare Assistance Reduction	(Refundable)
K-57	Small Employer Healthcare	Reduction (Refundable)
K-59	HPIP – TRAINING	No Reduction
K-59	HPIP – INVESTMENT	Reduction***
K-60	Community Service	Reduction (Refundable)
K-61	Temp Assist to Families	Reduction
K-62	Alternative Fuel	Reduction
K-64	Business Machinery & Equipment	Reduction**
K-68	Individual Development Account	Reduction (Refundable)
K-71	Math & Science Teacher	No longer available
K-72	Law Enforcement Training Center	Reduction
K-73	Petroleum Refinery	Reduction
K-74	National Guard & Reserve Employer	Reduction
K-75	Historic Contribution	Reduction (Refundable)
K-76	Single City Port Authority	Reduction
K-77	Qualifying Pipeline	Reduction
K-78	Nitrogen Fertilizer	Reduction
K-79	Biomass to Energy	Reduction
K-80	Integrated Coal Gasification Plant	Reduction
K-81	Environmental Compliance	Reduction
K-82	Storage & Blending	Reduction
K-83	Electric Cogeneration	Reduction
K-84	Comm Coll & Tech School Def Maint	Reduction (Refundable)
K-85	University Def Maint	Reduction
K-86	Film Production	No Credit allowed in 2009 & 2010
K-87	Declared Disaster Capital Invest	Reduction

\*Credits earned in 2008 and before = 10% reduction in 2009 & 2010 but, ALL of the reduction may be carried forward to 2011 and beyond – none of the credit is “lost”. Credits earned in 2009 and after = 10 % reduction in 2009 & 2010, and the 10% reduction is “lost” – can not be claimed in future TYs.

CREDIT REDUCTION		
K-61	Temp Assist to Families	Reduction
K-62	Alternative Fuel	Reduction
K-64	Business Machinery & Equipment	Reduction*
K-68	Individual Development Account	Reduction (Refundable)
K-71	Math & Science Teacher	No longer available
K-72	Law Enforcement Training Center	Reduction
K-73	Petroleum Refinery	Reduction
K-74	National Guard & Reserve Employer	Reduction
K-75	Historic Contribution	Reduction (Refundable)
K-76	Single City Port Authority	Reduction
K-77	Qualifying Pipeline	Reduction
K-78	Nitrogen Fertilizer	Reduction
K-79	Biomass to Energy	Reduction
K-80	Integrated Coal Gasification Plant	Reduction
K-81	Environmental Compliance	Reduction
K-82	Storage & Blending	Reduction
K-83	Electric Cogeneration	Reduction
K-84	Comm Coll & Tech School Def Maint	Reduction (Refundable)
K-85	University Def Maint	Reduction
K-86	Film Production	No Credit allowed in 2009 & 2010
K-87	Declared Disaster Capital Invest	Reduction (Refundable)

\*Credits earned in 2008 and before = allowed to claim the lesser of 90% of the credit earned or 90% of the tax liability - in 2009 & 2010 but, ALL of the reduction may be carried forward to 2011 and beyond – none of the credit is “lost”. For Credits earned in 2009 and after = allowed to claim the lesser of 90% of the credit earned or 90% of the tax liability - in 2009 & 2010, and the 10% reduction is “lost” – can not be claimed in future TYs.

\*\*For K-36 Telecommunications & Railroads & K-64 Business Machinery & Equipment ONLY – the credit allowed is 90% of the credit earned (rather than the lesser of 90% of the credit or 90% of the tax liability). This 10% reduction is “lost” – and any remaining credit greater than the tax liability is refunded to the taxpayer.

\*\*\*Taxpayers with written approval from the Sec. of Commerce PRIOR TO JUNE 1, 2009 = allowed to claim the lesser of 90% of the credit earned or 90% of the tax liability - in 2009 & 2010 but, ALL of the reduction may be carried forward to 2011 and beyond – none of the credit is “lost”. For Credits with written approval from the Sec. of Commerce ON AND AFTER JUNE 1, 2009 and after = allowed to claim the lesser of 90% of the credit earned or 90% of the tax liability - in 2009 & 2010, and the 10% reduction is “lost” – can not be claimed in future TYs.

The K-35 Historic Contribution credit is not subject to the 10% reduction. However, the amount of credits that can be approved is capped at \$3,750,000 for **fiscal years** 2010 and 2011 which translates to **Tax Years** 2009 and 2010.

The following credits (not listed above) receive no reduction:

K-40, Line 13	Credit for Taxes Paid to Other States
K-40, Line 14	Credit for Child & Dependent Care Expenses
K-40, Line 23	Earned Income Credit
K-40, Line 25	Food Sales Tax Refund

SEE NOTICE 09-09

# INCOME TAX

## HISTORICAL PRESERVATION CREDIT:

- Amount of Credits will be capped at \$3,750,000 for TYs 2009 & 2010

2009 Senate Substitute for HB 2365, New Section 6.

K.S.A. 2008 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, 2006, there shall be allowed a tax credit against the income, privilege or premium tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal \$5,000 or more; or in an amount equal to 30% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code and which is not income producing pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equals \$5,000 or more. ***In no event shall the total amount of credits allowed under this section exceed \$3,750,000 for fiscal years 2010 and 2011.*** If the amount of such tax credit exceeds the qualified taxpayer's income, privilege or premium tax liability for the year in which the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2), such excess amount may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified rehabilitation plan was placed in service.

Claim the Historical Preservation Credit on Schedule K-37.

# INCOME TAX

## FILM PRODUCTION CREDIT:

➤ NOT AVAILABLE FOR TYs 2009 & 2010

2009 Senate Substitute for HB 2365, New Section 7.

K.S.A. 2008 Supp. 79-32,258 is hereby amended to read as follows: 79-32,258. (a) Except as otherwise provided, for all taxable years commencing after December 31, 2006, a credit against the tax imposed by the Kansas income tax act shall be allowed for direct production expenditures made by an eligible film production company, ***except that such provisions shall not be applicable for tax years 2009 and 2010.*** Such credit shall be in an amount equal to 30% of direct production expenditures made in Kansas that are directly attributable to the production of a film in Kansas and that have been awarded by the department of revenue. The tax credit shall be deducted from the eligible film production company's income tax liability for the taxable year in which the expenditures are made by the eligible film production company. If the amount of the film production tax credit allowed exceeds the film production company's income tax liability for the taxable year, the taxpayer may carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the third taxable year succeeding the year in which the costs are incurred. If the eligible film production company is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability entity, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the member of such limited liability entity in the same manner as such shareholder, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability entity.

K-86 Film Production Credit

# INCOME TAX

## STATUTE OF LIMITATION:

- Taxpayers have three (3) years from the date the original return was due, including any extensions allowed, to file a REFUND claim or amend a return.
- SOL is tolled if Taxpayer fails to file an amended return with 180 days of issuance of IRS adjustment.
- Effective May 28, 2009.

2009 Senate Substitute for HB 2365, New Section 5.

K.S.A. 2008 Supp. 79-3230 is hereby amended to read as follows: 79-3230.

(c) No claim shall be allowed for credit or refund of overpayment of any tax imposed by this act unless filed by the taxpayer within three years from the date the original return was **due, including any extension allowed pursuant to law**, or two years from the date the tax claimed to be refunded or against which the credit is claimed was paid, whichever of such periods expires later.

(f) Any taxpayer whose income has been adjusted by the federal internal revenue service or by the income tax collection agency of another state is required to report such adjustments to the Kansas department of revenue by mail within 180 days of the date the federal or other state adjustments are paid, agreed to or become final, whichever is earlier. Such adjustments shall be reported by filing an amended return for the applicable taxable year and a copy of the federal or state revenue agent's report detailing such adjustments. In the event such taxpayer is a corporation, such report shall be by certified or registered mail. Notwithstanding the provisions of subsection (a) or (c) of this section, additional income taxes may be assessed and proceedings in court for collection of such taxes may be commenced and any refund or credit may be allowed by the director of taxation within 180 days following receipt of any such report of adjustments by the Kansas department of revenue, or within two years from the date the tax claimed to be refunded or, against which the credit is claimed was paid, whichever period expires later. No assessment shall be made nor any refund or credit shall be allowable under the provisions of this **subsection** except to the extent the same is attributable to changes in the taxpayer's income due to adjustments indicated by such report. **Failure by the taxpayer to comply with the provisions of this subsection shall not bar the Kansas department of revenue from assessing additional taxes or proceeding in court to collect such taxes.**

(g) **Failure by the taxpayer to comply with the requirements for filing returns shall toll the periods of limitation for the Kansas department of revenue to assess or collect taxes.**

Effective May 28, 2009

# CORPORATE INCOME TAX

## “SURTAX” RATE DECREASED FROM 3.35%:

☞ TY 2008 = 3.1%

☞ TY 2009 & 2010 = 3.05%

☞ TY 2011 and all years thereafter = 3%

2008 Senate Substitute for HB 2434, Section 22

- (c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every
- corporation doing business within this state or deriving income from sources within this
- state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:
- (1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of
- such corporation; and
- (2) (A) *for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas*
- taxable income of such corporation in excess of \$50,000;*
- (B) *for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the*
- Kansas taxable income of such corporation in excess of \$50,000; and*
- (C) *for tax year 2011, and all tax years thereafter,* the surtax shall be in an amount equal
- to 3% of the Kansas taxable income of such corporation in excess of \$50,000.

# WITHHOLDING TAX

## PEAK – Promoting Employment Across Kansas

- **Allows “Qualified” Companies to retain 95% of Kansas Withholding Taxes for a number of years – depending on how many hired and amount of wages paid.**
- **Must relocate to Kansas an existing office, business facility or department currently located outside of Kansas.**
- **Apply to Department of Commerce.**
- **Effective July 1, 2009**

### •2009 SB 97

New Sec. 3. (a) In order to qualify for benefits under this act a qualified company shall relocate an existing business facility, office, department or other operation located outside the state of Kansas, whether located in a foreign country or another state, and locate the jobs from such business facility, office, department or other operation to Kansas. A qualified company may contract with an unrelated third party to perform services whereby the third party serves as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third party and the new employees are subject to Kansas state withholding.

(b) Any qualified company that locates its business operation in a metropolitan county and will hire at least 10 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, or any qualified company that locates its business operation in a non-metropolitan county and will hire at least five new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

- (1) Five years if the new employees are compensated at a rate equal to at least 100% of the county average wage;
- (2) six years if the new employees are compensated at a rate equal to at least 110% of the county average wage; or
- (3) seven years if the new employees are compensated at a rate equal to at least 120% of the county average wage.

(c) Any qualified company that engages in a high-impact project whereby the qualified company will hire at least 100 new employees within five years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

- (1) Seven years if the new employees are compensated at a rate equal to at least 100% of the county average wage;
- (2) eight years if the new employees are compensated at a rate equal to at least 110% of the county average wage;
- (3) nine years if the new employees are compensated at a rate equal to at least 120% of the county average wage; or
- (4) ten years if the new employees are compensated at a rate equal to at least 140% of the county average wage.

(d) In the event that a qualified company contracts with a third party as described in paragraphs (a)(3) and (4), the third party shall remit payments equal to the amount of Kansas payroll withholding taxes the qualified company is eligible to retain under this section to the qualified company, and report such amount to the department of revenue as required

pursuant to subsection (a) of section 5, and amendments thereto.

New Sec. 4. (a) Any qualified company meeting the requirements of section 3, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include: (1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of section 3, and amendments thereto.

(b) The secretary shall either approve or disapprove the application. Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section.

### •Effective July 1, 2009

# FOOD SALES REFUNDS

## 2009 INDEXING INCOME THRESHOLDS & REFUND AMOUNT:

<u>INCOME</u>	<u>REFUND</u>
◆ \$0 TO \$15,950	\$84 Refund
◆ \$15,951 TO \$31,900	\$41 Refund

•2006 SB 404, Section 4.

•K.S.A. 79-3635(d) In the case of all tax years commencing after December 31, **2005**, the threshold income amounts prescribed in this section and subsection (c) of K.S.A. 79-3633, **and amendments thereto, and the amounts of refund of taxes and the amounts of the tax credit, both as prescribed in this section**, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1 (f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.”

•For Tax Year 2002 the income threshold was: \$0 - \$12,900 and \$12,901 - \$25,800

•For Tax Year 2003 the income threshold was: \$0 - \$13,150 and \$13,151 - \$26,300

•For Tax Year 2004 the income threshold was: \$0 - \$13,450 and \$13,451 - \$26,900

•For Tax Year 2005 the income threshold is: \$0 - \$13,800 and \$13,801 - \$27,600

•For Tax Year 2006 the income threshold is: \$0 - \$14,300 and \$14,301 - \$28,600, and the refund amount is \$75 and \$37.

•For Tax Year 2007 the income threshold is: \$0 - \$14,850 and \$14,851 - \$29,700, and the refund amount is \$78 and \$38.

•For Tax Year 2008 the income threshold is: \$0 - \$15,150 and \$15,151 - \$30,300, and the refund amount is \$80 and \$39.

•For Tax Year 2009 the income threshold is: \$0 - \$15,950 and \$15,951 - \$31,900, and the refund amount is \$84 and \$41.

# SAFE SENIOR

## SELECTIVE ASSISTANCE FOR EFFECTIVE SENIOR RELIEF (SAFE SENIOR)

- **WHO** – Homeowners, 65 Years of Age or older, with household income of **\$17,500** or less. “Household Income” is ALL Income – including Social Security.
- **REFUND** – **45%** of the property taxes actually and timely paid on real or personal property used as their principal place of residence.
- **FORM K-40PT** – (MAY BE ELECTRONICALLY FILED e-file or Webfile).

**\*\*\*MAY CLAIM EITHER SAFE SENIOR OR HOMESTEAD\*\*\*  
BUT NOT BOTH !!!**

2008 Senate Substitute for HB 2434, Sec. 12.

This act shall be known and may be cited as the selective assistance for effective senior relief (SAFESR). There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the following: (a) For tax years 2008, 2009 and 2010, an amount equal to 45% of the amount of property and ad valorem taxes actually and timely paid as described in this section; and (b) for tax year 2011 and all tax years thereafter, an amount equal to 75% of the amount of property and ad valorem taxes actually and timely paid by a taxpayer who is 65 years of age or older and who has household income equal to or less than 120% of the federal poverty level for two persons if such taxes were paid upon real or personal property used for residential purposes of such taxpayer which is the taxpayer's principal place of residence for the tax year in which the tax credit is claimed. The amount of any such credit for any such taxpayer shall not exceed the amount of property and ad valorem taxes paid by such taxpayer as specified in this section. A taxpayer shall not take the credit pursuant to this section if such taxpayer has received a homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and amendments thereto, for such property for such tax year. Subject to the provisions of this section, if the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount of such excess credit which exceeds such tax liability shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of the credit claimed pursuant to this section. For purposes of this section, “household income” means all income, including payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

**NOTES:** Any claimant that was disabled prior to age 65 may exclude Social Security Benefits received after age 65 from “household income” for Safe Senior purposes. See page 24. A Safe Senior claimant may check the Advancement box on the K-40PT and be “advanced” the amount of this year's Safe Senior Refund against next year's (December 20, 2009) first half of the property taxes. The homestead (the residence) must be appraised at less than \$350,000.

# HOMESTEAD

➤ 2009 MAXIMUM “HOUSEHOLD  
INCOME”- INDEXED TO INFLATION -

**\$31,300**

2005 SB 133, Sec. 1.

•K.S.A. 79-4508(d) *In the case of all tax years commencing after December 31, 2004, the upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*

- Household Income limit for TY 2007 - \$29,100
- Household Income limit for TY 2008 - \$29,700
- Household Income limit for TY 2009 - \$31,300

# HOMESTEAD

## Expand Eligible Claimants to Include:

### > Disabled Veterans

- Kansas resident.
- Honorably discharged from active duty.
  - Certified to have 50% or more permanent disability sustained through military action or accident or resulting from disease contracted while on active duty.

&

> Surviving Spouses of disabled veterans - would continue to remain eligible until such time as they remarry.

&

> Surviving Spouses of active duty military personnel who died in the line of duty - would continue to remain eligible until such time as they remarry.

2009 Senate Substitute for HB 2365, Section 10.

Amending K.S.A. 79-4502(e): "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; **(3) a disabled veteran; (4) surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.**

K.S.A. 79-4502(k): **"Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.**

Effective TY 2009

# HOMESTEAD

## SOCIAL SECURITY DISABILITY PAYMENTS GRANDFATHERED

- Persons receiving **social security disability payments** prior to attaining full retirement age will be able to **exclude all social security payments** received after obtaining 65 years of age – from Household Income.

2008 Senate Substitute for HB 2434, Section 26

K.S.A. 79-4501 “Income” means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes in-come such amount shall not exceed 50% of any such social security payments ***and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater...***

•Effective for Tax Year 2008

•**NOTES:** Persons who were disabled prior to reaching age 65 and who are now receiving “regular” social security benefits (age 65 and older) may exclude all social security benefits from “Household Income” for purposes of computing the Homestead Refund (K-40H) and the Safe Senior Refund (K-40PT) – regardless of when they reached age 65. (A correction to the above statutory language will be sought in the next legislative session).

# ESTATE

## STAND ALONE KANSAS ESTATE TAX

- For Deaths occurring after December 31, 2006
- And before January 1, 2010
- Returns due within 9 months of Death.
- Tax imposed on the estate of “resident decedent” and “nonresident decedent” who owned real, personal or intangible property with a tax situs in Kansas.

2006 SB 365

Sec. 3. (a) A tax is hereby imposed on the taxable estate of every resident decedent, and every nonresident decedent who owned real, personal or intangible property with a tax situs in Kansas.

(b) The tax imposed by this section shall be computed in accordance with the following schedule:

**(A) For tax year 2007:**

If the taxable estate is: The tax is:

Not over \$1,000,000 . . . . .	Zero
Over \$1,000,000 but not over \$2,000,000 . . . . .	3.0% of excess over \$1,000,000
Over \$2,000,000 but not over \$5,000,000 . . . . .	\$30,000 plus 6.0% of excess over \$2,000,000
Over \$5,000,000 but not over \$10,000,000 . . . . .	\$210,000 plus 8.0% of excess over \$5,000,000
Over \$10,000,000 . . . . .	\$610,000 plus 10.0% of excess over \$10,000,000

**(B) For tax year 2008:**

If the taxable estate is: The tax is:

Not over \$1,000,000 . . . . .	zero
Over \$1,000,000 but not over \$2,000,000 . . . . .	1.0% of excess over \$1,000,000
Over \$2,000,000 but not over \$5,000,000 . . . . .	\$10,000 plus 2.0% of excess over \$2,000,000
Over \$5,000,000 but not over \$10,000,000 . . . . .	\$70,000 plus 5.0% of excess over \$5,000,000
Over \$10,000,000 . . . . .	\$320,000 plus 7.0% of excess over \$10,000,000

**(C) For tax year 2009:**

If the taxable estate is: The tax is:

Not over \$1,000,000 . . . . .	zero
Over \$1,000,000 but not over \$2,000,000 . . . . .	0.5% of excess over \$1,000,000
Over \$2,000,000 but not over \$5,000,000 . . . . .	\$5,000 plus 1.0% of excess over \$2,000,000
Over \$5,000,000 but not over \$10,000,000 . . . . .	\$35,000 plus 2.0% of excess over \$5,000,000
Over \$10,000,000 . . . . .	\$135,000 plus 3.0% of excess over \$10,000,000

Sec. 4. When the estate shall consist of property with a tax situs in Kansas and property with a tax situs outside Kansas, the tax imposed under sections 3, and amendments thereto, shall be multiplied by the percentage determined by dividing the value of all property included in the gross estate which is within the jurisdiction of the state of Kansas by the value of all property included in the gross estate.

Sec. 5. The value of the gross estate of a decedent shall be determined by valuing the property included in the gross estate at its fair market value as of the time of the decedent's death, except as provided in section 6, and amendments thereto.

# ESTATE

**CLARIFICATION:** Agricultural land is to be USE-VALUED for Kansas Estate Tax purposes whether held directly by decedent or non-publicly traded legal entities – such as Partnerships, LLCs, Corps, etc.

- Retroactive to estates of decedents dying after December 31, 2006.

2009 Senate Substitute for HB 2365, New Section 3.

*If the decedent was a resident of Kansas, the value of an interest in a legal entity that is not publicly traded, including, but not limited to, a partnership, corporation, limited liability company or limited liability partnership, which at the time of the decedent's death owns land that is located in Kansas and treated as land devoted to agricultural use for purposes of K.S.A. 79-1476, and amendments thereto, shall be determined by valuing the land at its most recent valuation pursuant to K.S.A. 79-1476, and amendments thereto. The provisions of this section shall apply to the estates of all decedents dying after December 31, 2006, but before January 1, 2010. The provisions of this section shall be part of and supplemental to the Kansas estate tax act.*

# SALES TAX

## NEW EXEMPTIONS FOR:

- **Goodwill Industries Easter Seals of Kansas Inc., and Goodwill Industries of Kansas, Inc.**
- **All American Beef Battalion Inc.**
- **Kansas Fairgrounds Foundation**

**(All Effective: May 28, 2009)**

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2009 Senate Substitute for HB 2365, Section 21

\*K.S.A. 79-3606(dddd) - ***All sales of tangible personal property or services purchased by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;***

K.S.A. 79-3606(eeee) - ***All sales of tangible personal property or services purchase by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;***

K.S.A. 79-3606(vv) - All sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

***(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;***

***\*The original bill language read “Goodwill Industries Easter Seals of Kansas, Inc, and Goodwill Industries of Kansas, Inc.” Since the enrolled bill contained a typo – KDOR will use: “Goodwill Industries Easter Seals of Kansas, Inc, and Goodwill Industries of Kansas, Inc.”***

# SALES TAX

## EXEMPTION WITH PROJECT EXEMPTION CERTIFICATE

◆ **SHELTERED LIVING, INC.**

◆ **Effective: May 28, 2009.**

***K.S.A. 79-3606(ff) - all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or mental retardation, or both, and all sales of any such property by or on behalf of sheltered living, inc. for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc. for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc. contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.]***

Effective:

# SALES TAX

## EXEMPTION WITH PROJECT EXEMPTION CERTIFICATE

- **Horsethief Reservoir Benefit District**
- **Now considered a Political Subdivision**
- **Effective April 2, 2009**

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•2009 House Bill 2321

•K.S.A. 79-3602(aa) "Political subdivision" means any municipality, agency or sub-division of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or which certifies a levy to a municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term also shall include any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law **and the horsethief reservoir benefit district established pursuant to K.S.A. 82a-2201, and amendments thereto.**

•**Effective April 02, 2009, as a political subdivision, Horesthief Reservoir Benefit District will now be eligible for all of the benefits laid out in 79-3606(d). This exempts material and labor for contractors through the use of a Project Exemption Certificate.**

•K.S.A. 79-3606(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

# SALES TAX

## MANUFACTURER'S REBATES:

➤ ON LEASES AND SALES OF  
MOTOR VEHICLES = TAXABLE

➤ Effective: July 1, 2009

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### NOTICE 09-05

#### MANUFACTURER'S REBATE ON THE PURCHASE OR LEASE OF NEW MOTOR VEHICLES

In 2006 the Kansas Legislature exempted from Kansas retailers' sales tax and Kansas compensating use tax all manufacturer's cash rebates paid directly to the retailer as a result of a sale or lease of a new motor vehicle. The legislation provided this exemption for a limited amount of time – beginning on July 1, 2006 and ending on June 30, 2009:

K.S.A. 79-3602(II)(3)(E) – “Sales or selling price” shall not include: ***commencing on July 1, 2006, and ending on June 30, 2009, cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.***

At the conclusion of the 2009 Legislative Session, no legislative provisions to extend the ending date of June 30, 2009 have been enacted. Therefore, effective July 1, 2009 **ALL** manufacturer's rebates on new motor vehicles sold or leased in Kansas will be subject to Kansas retailers' sales or Kansas compensating use tax (as the case may be).

# SALES TAX

## Sales/Use Tax – Statute of Limitations

- The statute of limitations for sales and use tax **Refund Claims** would be reduced from **3 years to 1 year**.
- Effective for all claims filed after **June 15, 2009**.

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2009 Senate Substitute for HB 2365, Section 9.

K.S.A. 79-3609(b) - The amount of tax imposed by this act is to be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No assessment shall be made for any period preceding the date of registration of the retailer by more than three years except in cases of fraud. **For any refund or credit claim filed after June 15, 2009**, no refund or credit shall be allowed by the director after **one year** from the due date of the return for the reporting period as provided by K.S.A. 79-3607, and amendments thereto, unless before the expiration of such period a claim therefor is filed by the taxpayer, and, except as otherwise provided in K.S.A. 2008 Supp. 79-3694, and amendments thereto, no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing such claim satisfying the requirements specified by K.S.A. 2008 Supp. 79-3693, and amendments thereto, therefor with the director. A refund claim shall not be deemed filed unless such claim is complete as required by K.S.A. 2008 Supp. 79-3693, and amendments thereto. For all mailed returns, including refund claims, each return or refund claim shall be presumed to have been filed with the department on the postmark date of such return or refund claim or if such date is illegible, the date three days prior to the date such return or refund claim is received.

SEE NOTICE 09-07

# SALES TAX

## Continuing Moratorium of Sales Tax on Hunting

(Effective May 7, 2008 - May 6, 2010)

- **KDOR is suspending enforcement of collection of sales tax on charges for participation in guided or non-guided hunts.**
- **and on the retail sale of game birds.**
- **See NOTICE 09-04.**

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### NOTICE 09-04

This notice is to advise that the Department is continuing to review its interpretation on the sales tax treatment of charges for guided and non-guided hunts, and on the retail sale of game birds. Effective May 7, 2008 through May 6, 2010, the Department is suspending enforcement of collection of sales tax on charges for participation in guided or non-guided hunts, and on the retail sale of game birds.

In Revised Notice 07-08 dated February 4, 2008, the Department stated its interpretation that the gross receipts derived from the participation in guided and non-guided hunts are subject to Kansas retailers' sales tax, pursuant to K.S.A. 79-3603(m). During the 2008 and 2009 Legislative Sessions, legislation was introduced that would exempt such gross receipts from sales tax. Although no such exemption was enacted, the Department continues the process of reviewing its interpretation. Following the 2008 Legislative Session, the Department published Notice 08-02, and this notice continues the policy expressed therein as follows: during the Department's review and effective May 7, 2008 through May 6, 2009, subject to any legislative action taken during the 2010 Legislative Session, the Department will not enforce collection of sales tax on the gross receipts derived from the participation in guided and non-guided hunts, and on the retail sale of game birds. Any sales tax on such gross receipts already collected or remitted to the Department as of May 6, 2008 shall be deemed lawfully paid and shall not be refunded.

Taxable sales of meals, tangible personal property and lodging do not fall within the Department's forbearance on enforcement, and collection and remittance of applicable sales tax on those items should continue. Charges for participation in guided and non-guided hunts should be billed separately from charges for taxable sales of meals, tangible personal property, and lodging.

# FRANCHISE

- **ONLY APPLIES TO ENTITIES WITH EQUITY OF \$1,000,000 OR MORE**
- **PROGRESSIVELY LOWER RATES FOR 2008, 2009 & 2010.**
- **2009 = .0625% (.000625)**
- **NO FRANCHISE TAX FOR TY 2011 AND AFTER.**

•2007 HB 2264, Section 1.

•K.S.A. 79-5401(a) (1) Subject to the limitations provided in subsection (g), for any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas *for the tax year commencing after December 31, 2005, of \$100,000 or more, and for tax years commencing after December 31, 2006, through December 31, 2009, of \$1,000,000 or more*, such entity shall pay an annual franchise tax to the secretary of revenue for tax years commencing after December 31, 2005, and December 31, 2006, at the rate of .125%, for the tax year commencing after December 31, 2007, at the rate of .09375%, for the tax year commencing after December 31, 2008, at the rate of .0625%, and for the tax year commencing after December 31, 2009, at the rate of .03125%, of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

•Similar language in separate paragraphs for "foreign or domestic LLC, LLPs, and for "any business trust".

•Threshold - \$1,000,000 for TY 2007 and after – no Franchise Tax Due if "taxable equity attributable to Kansas" is less than \$1,000,000.

•Rates:

- TY 2007 = .125% (.00125)
- TY 2008 = .09375% (.0009375)
- TY 2009 = .0625% (.000625)
- TY 2010 = .03125% (.0003125)

•Effective July 1, 2007

# COMPENSATING USE TAX

	<u>#of Taxpayers</u>	<u>Amount Reported</u>
<b>2008</b>	<b>30,609</b> <b>(as of 9/16/09)</b>	<b>\$1,005,362</b>
<b>2007</b>	<b>33,154</b>	<b>\$1,283,411</b>
<b>2006</b>	<b>32,981</b>	<b>\$1,020,274</b>

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Kansas Compensating Use Tax was added to the K-40 (line 18) in 2004

# MISC

- **2009 House Bill 2270 – Extends until June 30, 2010 - the deadline by which a manufacturer could qualify for a single factor apportionment (sales) to be used to calculate business income.**
- **2009 House Bill 2026 - Retroactively validates the results of local sales tax elections held in Lyon and Rawlins counties in August, 2008. Voters had approved local sales tax rate increases.**
- **2009 House Bill 2324 – Sales tax exemptions granted under the Kansas Enterprise Zone Act based on population figures provided by the Kansas Division of Budget vs. figures provided by the latest United States Census. Effective July 1, 2009**
- **5% INTEREST RATE FOR CALENDAR YEAR 2010 (.0417 Monthly Rate).**

➤ No bulk forms orders of Income and Homestead Booklets will be shipped to Libraries and Stores for TY 2009.

➤ W-2/1099-R KPERs Disability recipients now receive W-2 rather than 1099-R. Still exempt from Kansas Income Tax, as before.

➤ RETURN CHECK FEE - \$40.04

➤ Form CRF - Net Operating Loss Carry Forward – available in an Excel Spreadsheet – plug in the numbers – all calculations automatic. Go to: <http://www.ksrevenue.org/pdf/forms/crf.xls>

• Schedule S – Part B – Line B.23 – This is the nonresident percentage – that is carried over to line 9 of the K-40 – IS NOW FOUR DIGITS TO THE RIGHT OF THE DECIMAL POINT. For example 95.1234. In the past (2007 and before) it was rounded to nearest whole percentage.

• NOTICE 09-01 - Retail Dealer Incentive Fund (renewable fuels and biodiesel ) has not received any funds with which to pay the incentive, and the Governor has recommended that this incentive not be funded for fiscal years 2009 or 2010.

• NOTICE 09-05 – Effective July 1, 2009 manufacturer's rebates on motor vehicles are subject to Kansas sales and compensating use tax.

• NOTICE 09-08 – Discount Rate for Colorado Retailers Collecting Kansas Retailers' Compensating USE tax reduced to zero (0%) for returns filed on or after July 1, 2009.

• NOTICE 09-10 – "Cash for Clunkers" – the \$3,500 or \$4,500 trade-in allowance is not subject to Kansas sales or compensating use tax.