KDOR Taxpayer Education:
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Income Tax: (785)-368-8222 Option 4
Business Tax: (785)-368-8222 Option 5
Spanish Line: (785)-368-8222 Option 6

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Fax (866) 637-0858
E-mail taxpayer.advocate@kdor.ks.gov

KDOR web site:

www.ksrevenue.org
e-commerce web site:

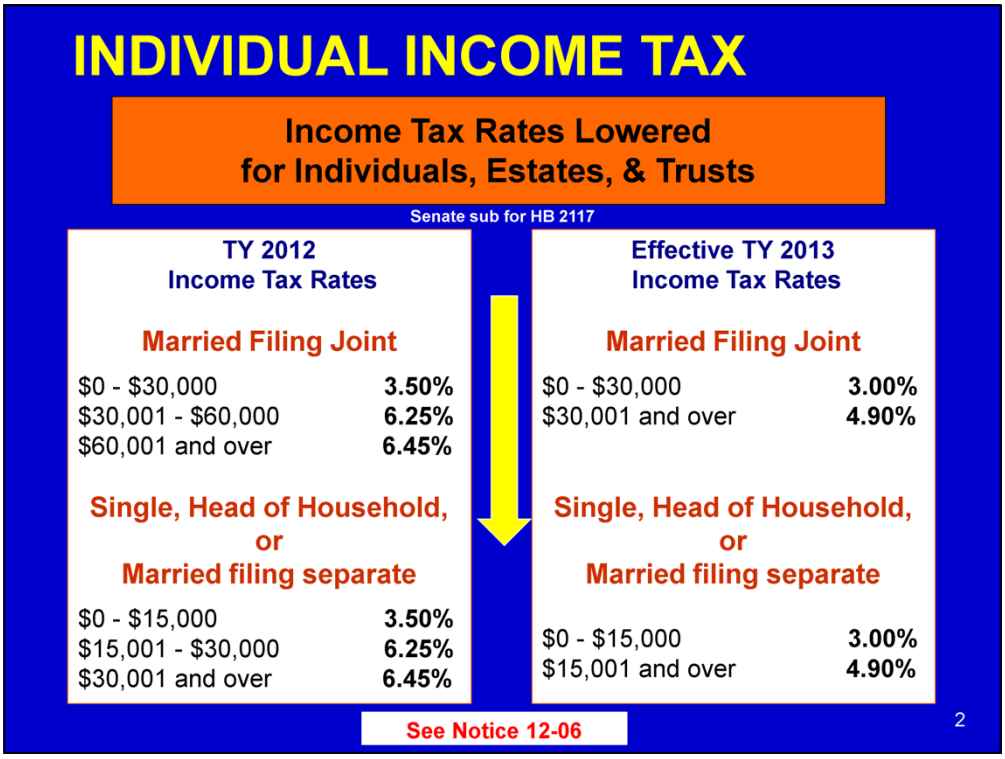
www.webtax.org

For a PIN number to WebFile:

(800) 525-3901

Forms Order Line:

(785)-296-4937



Senate Substitute for House Bill 2117. Sec. 10. On and after January 1, 2013, K.S.A. 2011 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a)*Resident Individuals.* Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) ***Married individuals filing joint returns***.

(A) For tax year 2012:

If the taxable income is: **The tax is:**

Not over $30,000 . . . . .3.5% of Kansas taxable income

Over $30,000 but not over $60,000 . . ……...$1,050 plus 6.25% of excess over $30,000

Over $60,000 . . . .$2,925 plus 6.45% of excess over $60,000

(B) For tax year 2013, and all tax years thereafter:

If the taxable income is: **The tax is:**

Not Over $30,000 . . . . . 3.0% of Kansas taxable income

Over $30,000 . . . . . $900 plus 4.9% of excess over $30,000

(2) ***All other individuals.***

(***A) For tax year 2012:***

If the taxable income is: **The tax is:**

Not over $15,000 . . . . . 3.5% of Kansas taxable income

Over $15,000 but not over $30,000 . ……. . $525 plus 6.25% of excess over $15,000

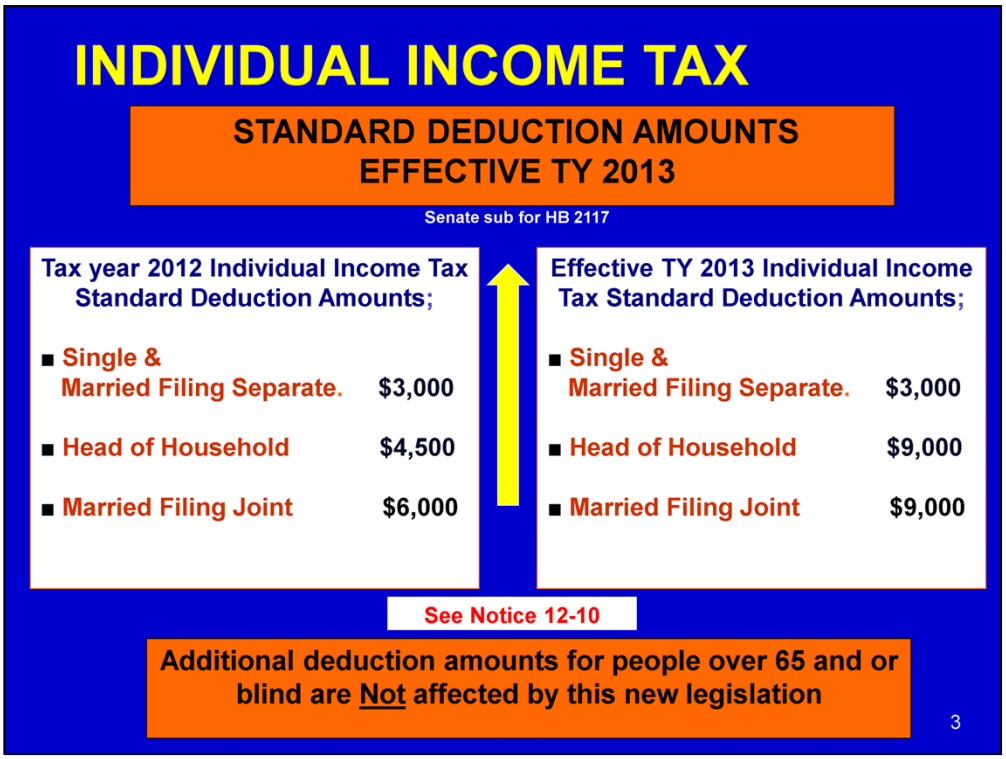
Over $30,000 . . . . $1,462.50 plus 6.45% of excess over $30,000

(B) For tax year 2013, and all tax years thereafter:

If the taxable income is: **The tax is:**

Not over $15,000 . .. . 3.0 % of Kansas taxable income

Over $15,000.... . . . . $450 plus 4.9% of excess over $15,000



Senate Substitute for House Bill No. 2117.

Sec. 13. On and after January 1, 2013, K.S.A. 79-32,118 is hereby amended to read as follows: 79-32,118. *Commencing in tax year 2013,* the Kansas deduction of an individual shall be *such individual's* Kansas standard deduction

Sec. 14. On and after January 1, 2013, K.S.A. 2011 Supp. 79-32,119 is hereby amended to read as follows: 79-32,119. The Kansas standard deduction of an individual, including a husband and wife who are either both residents or who file a joint return as if both were residents, shall be equal to the sum of the standard deduction amount allowed pursuant to this section, and the additional standard deduction amount allowed pursuant to this section for each such deduction allowable to such individual or to such husband and wife under the federal internal revenue code. For tax year 1998 , *through tax year 2012*, the standard deduction amount shall be as follows: Single individual filing status, $3,000; married filing status, $6,000; and head of household filing status, $4,500. For tax year 1998, and all tax years thereafter, the additional standard deduction amount shall be as follows: Single individual and head of household filing status, $850; and married filing status,$700. ***For tax year 2013, and all tax years thereafter, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, $3,000; married filing status, $9,000; and head of household filing status, $9,000.*** For purposes of the foregoing, the federal standard deduction allowable to a husband and wife filing separate Kansas income tax returns shall be determined on the basis that separate federal returns were filed, and the federal standard deduction of a husband and wife filing a joint Kansas income tax return shall be determined on the basis that a joint federal income tax return was filed.

Sec. 15. On and after January 1, 2013, K.S.A. 79-32,128 is hereby amended to read as follows: 79-32,128. An individual who is a resident of Kansas for part of a year shall have the election to: (a) Report and compute *such individual's* Kansas tax as if he or she were *such individual was* a resident for the entire year and take the applicable credit as provided in K.S.A. 79-32,111*, and amendments thereto*; or (b) report and compute his or her *such individual's* Kansas tax as if *such individual was* a nonresident for the entire year, except, however, that for purposes of this computation the following modifications shall be made: (i) Modified Kansas source income for that period during which such individual was a resident shall include all items of income, gain, loss or deductions *as set forth in K.S.A. 79-32,117, and amendments thereto,* whether or not derived from sources within Kansas; and (ii) the credit provided by K.S.A. 79-32,111*, and amendments thereto,* shall be allowed. For purposes of computing such credit, the amount of income taxes paid to another state shall be deemed to be limited by an amount which bears the same proportion to the total taxes paid to such other state for such year as the amount of *Kansas* adjusted gross income derived from sources within that state while such individual was a resident bears to the total *Kansas* adjusted gross income derived from sources within such state for such year

INDIVIDUAL INCOME TAX

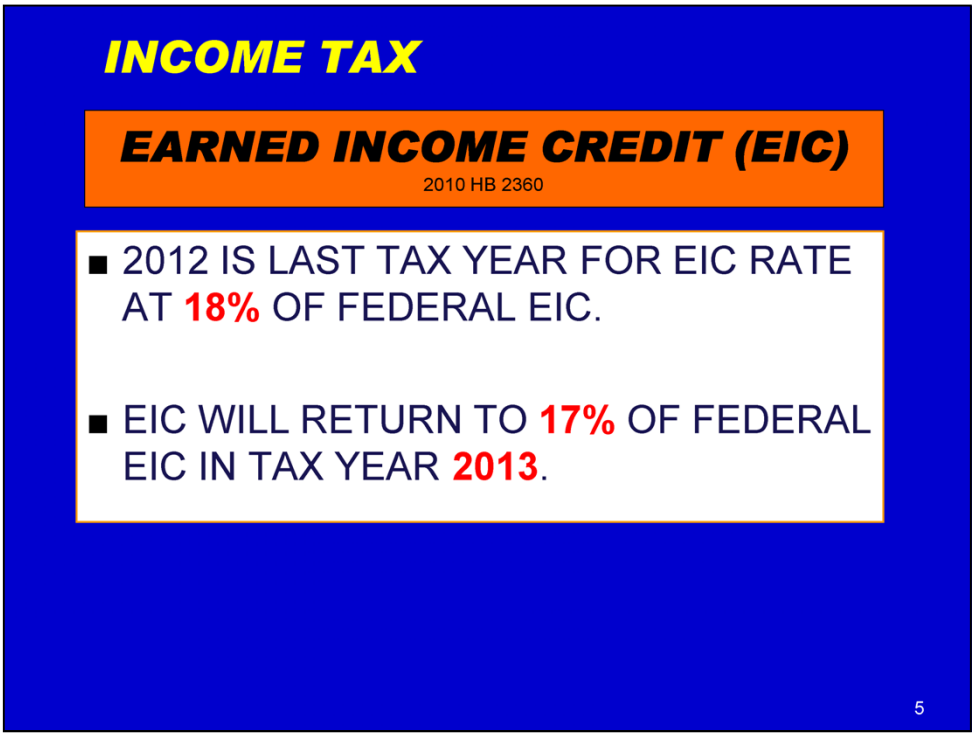
ITEMIZED DEDUCTION NOT CHANGED by Senate substitute for House Bill 2117

Standard deduction or itemized deductions:

- If you did not itemize your deductions on your federal return, you must take the standard deduction on your Kansas return.
- If you itemized on your federal return, you may either itemize or take the standard deduction on your Kansas return, whichever is to your advantage.
- If you are married and file separate returns, you and your spouse must use the same method of claiming deductions – if one of you itemize, the other must also itemize
- See Notice 12-07 for more information

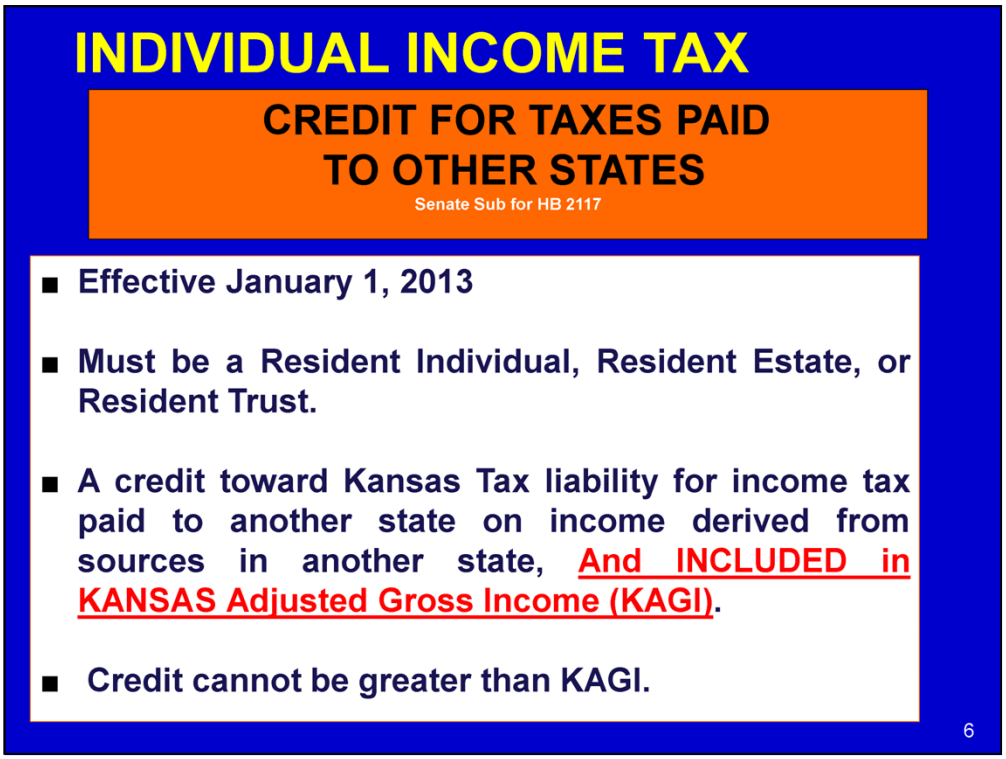
4

Senate Substitute for House Bill No. 2117.



2010 HB 2360 Sec. 10. K.S.A. 2009 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the **Kansas income tax act an amount equal to 18% for tax years 2010 through 2012**, and an amount equal to 17% for tax year 2013, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

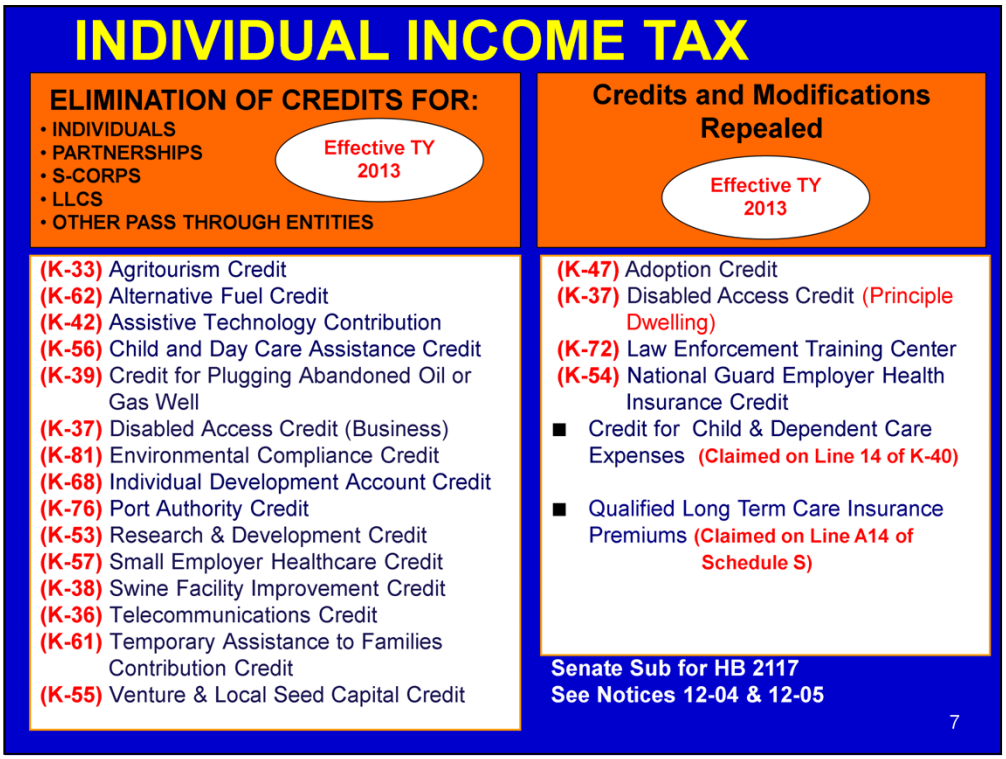
(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.



Senate Substitute for House Bill No. 2117.

Sec. 11. On and after January 1, 2013, K.S.A. 2011 Supp. 79-32,111 is hereby amended to read as follows:

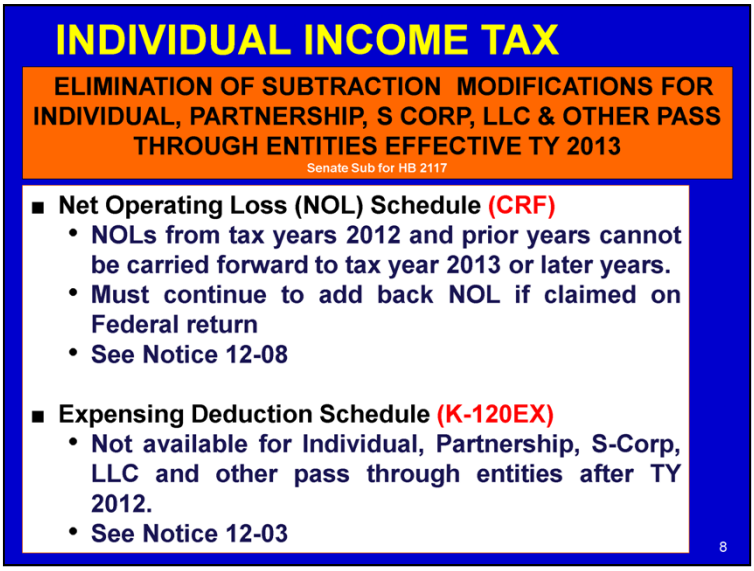
79-32,111. (a) The amount of income tax paid to another state by a resident individual, resident estate or resident trust on income derived from sources in another state***, and included in Kansas adjusted gross income, shall be allowed as a credit*** against the tax computed under the provisions of this act. Such credit shall not be greater in proportion to the tax computed under this act than the *Kansas adjusted gross income for such year derived in another state* while such taxpayer is a resident of this state is to the total Kansas adjusted gross income of the taxpayer. As used in this subsection, *"state" shall have* the meaning ascribed thereto by subsection (h) of K.S.A. 79-3271, and amendments thereto. The credit allowable hereunder for income tax paid to a foreign country or political subdivision thereof shall not exceed the difference of such income tax paid less the credit allowable for such income tax paid by the federal internal revenue code. No redetermination of income tax paid for the purposes of determining the credit allowed by this subsection shall be required for the taxable year for which an income tax refund payment pursuant to the provisions of section 18 of article 10 of the Missouri constitution is made, but the income tax paid allowable for credit in the next following taxable year shall be reduced by the amount of such refund amount, except that, for tax year 1998, the income tax paid allowable for credit shall be reduced by the amount of such refunds made for all taxable years prior to tax year 1998.(b) There shall be allowed as a credit against the tax computed under the provisions of the Kansas income tax act, and *amendments thereto, on the Kansas taxable income of* an individual, corporation or fiduciary the amount determined under the provisions of K.S.A. 79-32,153 to 79-32,158, and amendments thereto.



Senate Substitute for House Bill No. 2117.

For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

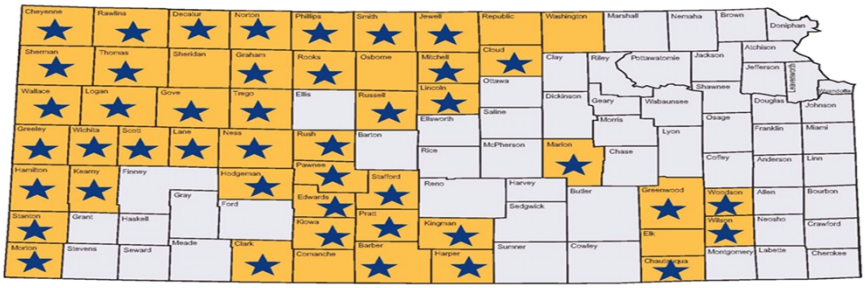
New Sec. 36. Any **nonrefundable credits** applicable to the Kansas income tax imposed on individuals that are no longer available commencing in tax year 2013 pursuant to this act and earned in any tax year prior to 2013 which are unused may continue to be claimed, subject to the limitations applicable to any such credit pursuant to law at the time such credit was earned.



Senate Substitute for House Bill No. 2117. Sec. 17. On and after January 1, 2013, K.S.A. 2011 Supp. 79-32,143 is hereby amended to read as follows: 79-32,143. (a) For net operating losses incurred in taxable years beginning after December 31, 1987, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code except that such net operating loss may only be carried forward to each of the 10 taxable years following the taxable year of the net operating loss. For net operating farm losses, as defined by subsection (i) of section 172 of the federal internal revenue code, incurred in taxable years beginning after December 31, 1999, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code except that such net operating loss may be carried forward to each of the 10 taxable years following the taxable year of the net operating loss. The amount of the net operating loss that may be carried back or forward for Kansas income tax purposes shall be that portion of the federal net operating loss allocated to Kansas under this act in the taxable year that the net operating loss is sustained.(b) The amount of the loss to be carried back or forward will be the federal net operating loss after*: (1) All modifications required under this* act applicable to the net loss in the year the loss was incurred; and (2) after apportionment as to source in the case of corporations, nonresident individuals for losses incurred in taxable years beginning prior to January 1, 1978, and nonresident estates and trusts in the same manner that income for such corporations, nonresident individuals, estates and trusts is required to be apportioned. (c) If a net operating loss was incurred in a taxable year beginning prior to January 1, 1988, the amount of the net operating loss that may be carried back and carried forward and the period for which it may be carried back and carried forward shall be determined under the provisions of the Kansas income tax laws which were in effect during the year that such net operating loss was incurred. (d) If any portion of a net operating loss described in subsections (a) and (b) is not utilized prior to the final year of the carryforward period provided in subsection (a), a refund shall be allowable in such final year in an amount equal to the refund which would have been allowable in the taxable year the loss was incurred by utilizing the three year carryback provided under K.S.A. 79-32,143, as in effect on December 31, 1987, multiplied by a fraction, the numerator of which is the unused portion of such net operating loss in the final year, and the denominator of which is the amount of such net operating loss which could have been carried back to the three years immediately preceding the year in which the loss was incurred. In no event may such fraction exceed 1. (e) Notwithstanding any other provisions of the Kansas income tax act, the net operating loss as computed under subsections (a), (b) and (c) of this section shall be allowed in full in determining Kansas taxable income or at the option of the taxpayer allowed in full in determining Kansas adjusted gross income. (f) No refund of income tax which results from a net operating farm loss carry back shall be allowed in an amount exceeding $1,500 in any year. Any overpayment in excess of $1,500 may be carried forward to any year or years after the year of the loss and may be claimed as a credit against the tax. The refundable portion of such credit shall not exceed $1,500 in any year.*(g)* ***For tax year 2013, and all tax years thereafter, a net operating loss allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.***

Kansas

RURAL OPPORTUNITY ZONES



★ County is also participating in student loan program.

- **Kansas Income Tax Credit (KDOR)** For tax years **2012-2016**, resident taxpayers would receive a full credit against their Kansas Income Tax liability provided they have been:
  - Domiciled outside Kansas for five or more years immediately prior to establishing domicile in a ROZ on or after July 1, 2011;
  - Had Kansas source income of less than **$10,000** for **EACH** of the 5 years immediately prior to establishing residency in a ROZ; and
  - Were domiciled in a ROZ during the **ENTIRE** year for which the credit is to be claimed.
  - Credit may be claimed **only** between tax years 2012 to 2016. Credit is **NOT retroactive**. The more years the taxpayer is domiciled in Kansas between 2012 and 2016, the more years the taxpayer can claim the credit.
- **Assistance with Student Loan Repayment (KDOC)**
  - A ROZ county would have to pass a resolution to participate in the program.
  - Kansas will offer to pay 20% of the outstanding loan balance up to $3,000 per year maximum benefit $15,000. May be graduates of an in-state or out-of-state institution. *Contact the Kansas Department of Commerce for more details.*

9

SENATE BILL No. 198

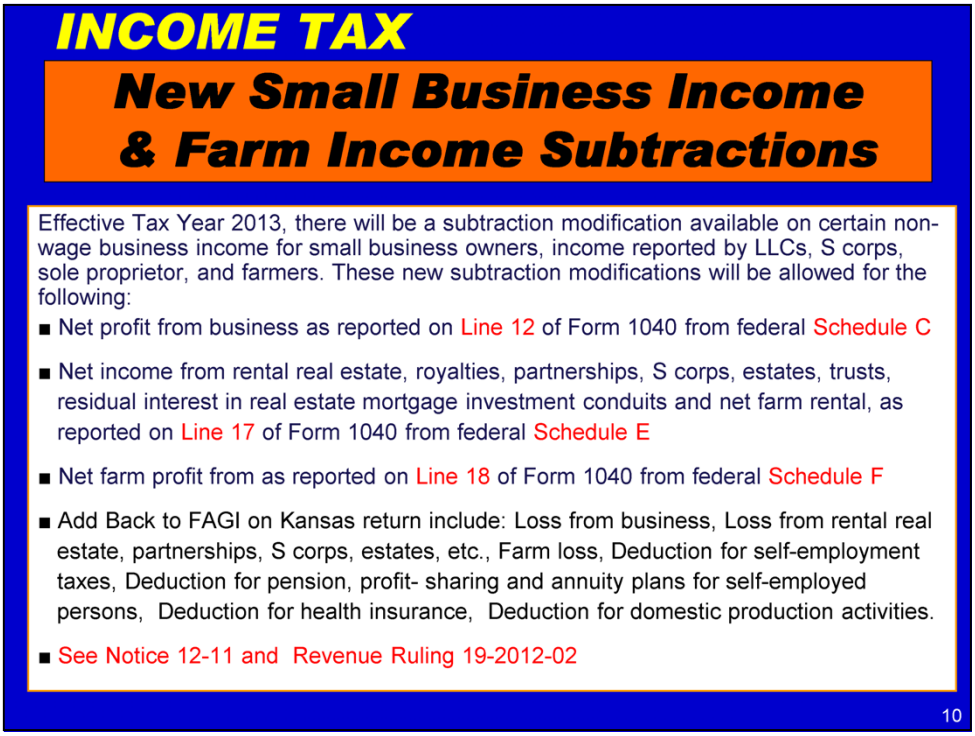
AN ACT concerning economic development; creating rural opportunity zones; relating to income taxation, credit for certain taxpayers, amount and requirements; student loan repayment program. *Be it enacted by the Legislature of the State of Kansas:*

Section 1. **As used in sections 1 through 3, and amendments thereto: (a) ''Institution of higher education'' means a public or private nonprofit educational institution that meets the requirements of participation in programs under the higher education act of 1965, as amended, 34 C.F.R. 600;**
(b) ''rural opportunity zone'' means Barber, Chautauqua, Cheyenne, Clark, Cloud, Comanche, Decatur, Edwards, Elk, Gove, Graham, Greeley, Greenwood, Hamilton, Harper, Hodgeman, Jewell, Kearney, Kingman, Kiowa, Lane, Lincoln, Logan, Marion, Mitchell, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Republic, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Trego, Thomas, Wallace, Washington, Wichita, Wilson or Woodson counties;
(c) ''secretary'' means the secretary of commerce; and
(d) ''student loan'' means a federal student loan program supported by the federal government and a nonfederal loan issued by a lender such as a bank, savings and loan or credit union to help students and parents pay school expenses for attendance at an institution of higher education.

Sec. 2. **(a) For taxable years commencing after December 31, 2011, and before January 1, 2017, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to the resident individual's income tax liability under the provisions of the Kansas income tax act, when the resident individual:**
(1) Establishes domicile in a rural opportunity zone on or after July 1, 2011, and prior to January 1, 2016, and was domiciled outside this state for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state;
(2) had Kansas source income less than $10,000 in any one year for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state; and
(3) was domiciled in a rural opportunity zone during the entire taxable year for which such credit is claimed.
(b) A resident individual may claim the credit authorized by this section for not more than five consecutive years following establishment of their domicile in a rural opportunity zone.
(c) The maximum amount of any refund under this section shall be equal to the amount withheld from the resident individual's wages or payments other than wages pursuant to K.S.A. 79-3294 et seq., and amendments thereto, or paid by the resident individual as estimated taxes pursuant to K.S.A. 79-32,101 et seq., and amendments thereto.
(d) No credit shall be allowed under this section if:
(1) The resident individual's income tax return on which the credit is claimed is not timely filed, including any extension; or
(2) the resident individual is delinquent in filing any return with, or paying any tax due to, the state of Kansas or any political subdivision thereof.
(a) This section shall be part of and supplemental to the Kansas income tax act.

Sec. 3. **(a) Any county that has been designated a rural opportunity zone pursuant to section 1, and amendments thereto, may participate in the program provided in this section by authorizing such participation by the county commission of such county through a duly enacted written resolution. Such county shall provide a certified copy of such resolution to the secretary of commerce on or before January 1, 2012, for calendar year 2012, or on or before January 1 for each calendar year thereafter, in which a county chooses to participate. Such resolution shall obligate the county to participate in the program provided by this section for a period of five years, and shall be irrevocable. Such resolution shall specify the maximum amount of outstanding student loan balance for each resident individual to be repaid as provided in subsection (b), except the maximum amount of such balance shall be $15,000.**
(b) If a county submits a resolution as provided in subsection (a), under the program provided in this section, subject to subsection (d), the state of Kansas and such county which chooses to participate as provided in sub S section (a), shall agree to pay in equal shares the outstanding student loan balance of any resident individual who qualifies to have such individual's student loans repaid under the provisions of subsection (c) over a five-year period, except that the maximum amount of such balance shall be $15,000. The amount of such repayment shall be equal to 20% of the outstanding student loan balance of the individual in a year over the five-year repayment period. The state of Kansas is not obligated to pay the student loan balance of any resident individual who qualifies pursuant to subsection (c) prior to the county submitting a resolution to the secretary pursuant to subsection
(a). Each such county shall certify to the secretary that such county has made the payment required by this subsection.
(c) A resident individual shall be entitled to have such individual's outstanding student loan balance paid for attendance at an institution of higher education where such resident individual earned an associate, bachelor or post-graduate degree under the provisions of this section when such resident individual establishes domicile in a county designated as a rural opportunity zone which participates in the program as provided in subsection (a), on and after the date in which such county commenced such participation, and prior to July 1, 2016. Such resident individual may enroll in this program in a form and manner prescribed by the secretary. Subject to subsection (d), once enrolled such resident individual shall be entitled to full participation in the program for five years, except that if the resident individual relocates outside the rural opportunity zone for which the resident individual first qualified, such resident individual forfeits such individual's eligibility to participate, and obligations under this section of the state and the county terminate. No resident individual shall enroll and be eligible to participate in this program after June 30, 2016.
(d) The provisions of this act shall be subject to appropriation acts. Nothing in this act guarantees a resident individual a right to the benefits provided in this section. The county may continue to participate even if the state does not participate.
(e) The secretary shall adopt rules and regulations necessary to administer the provisions of this section.
(f) On January 1, 2012, and annually thereafter until January 1, 2017, the secretary of commerce shall report to the senate committee on assessment and taxation and the house of representatives committee on taxation as to how many residents applied for the rural opportunity zone tax credit.

Sec. 4. **This act shall take effect and be in force from and after its publication in the statute book.**

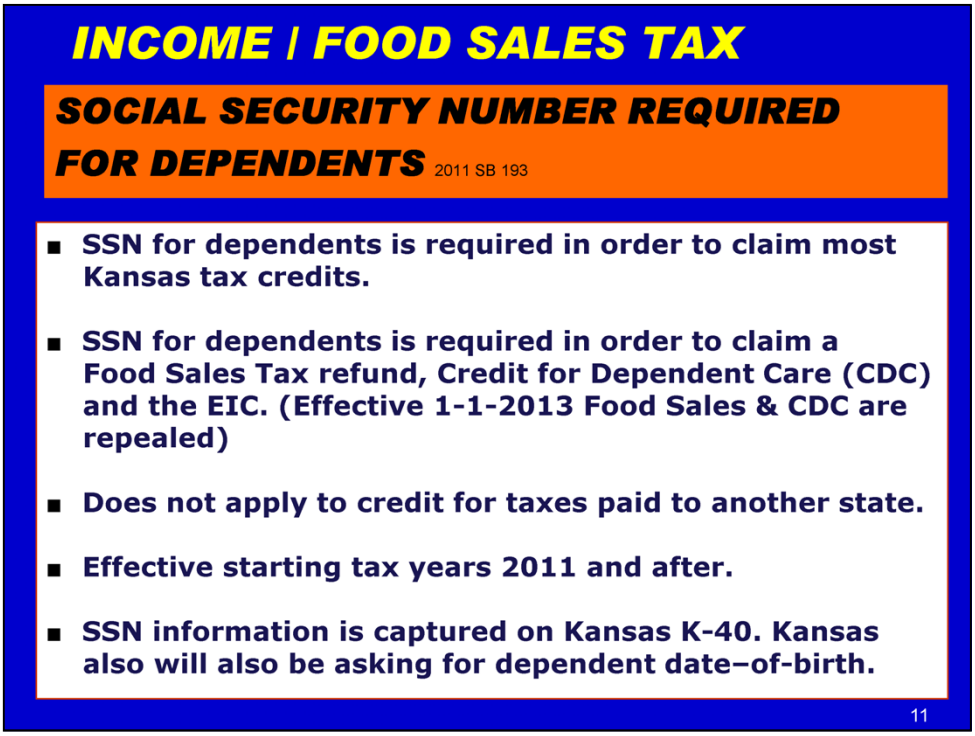


Senate Substitute for HOUSE BILL No. 2117 Section 12

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service. (xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer. (xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer. (xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer. (xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2)net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

See Notice 12-11 and Revenue Ruling 19-2012-02 for more details



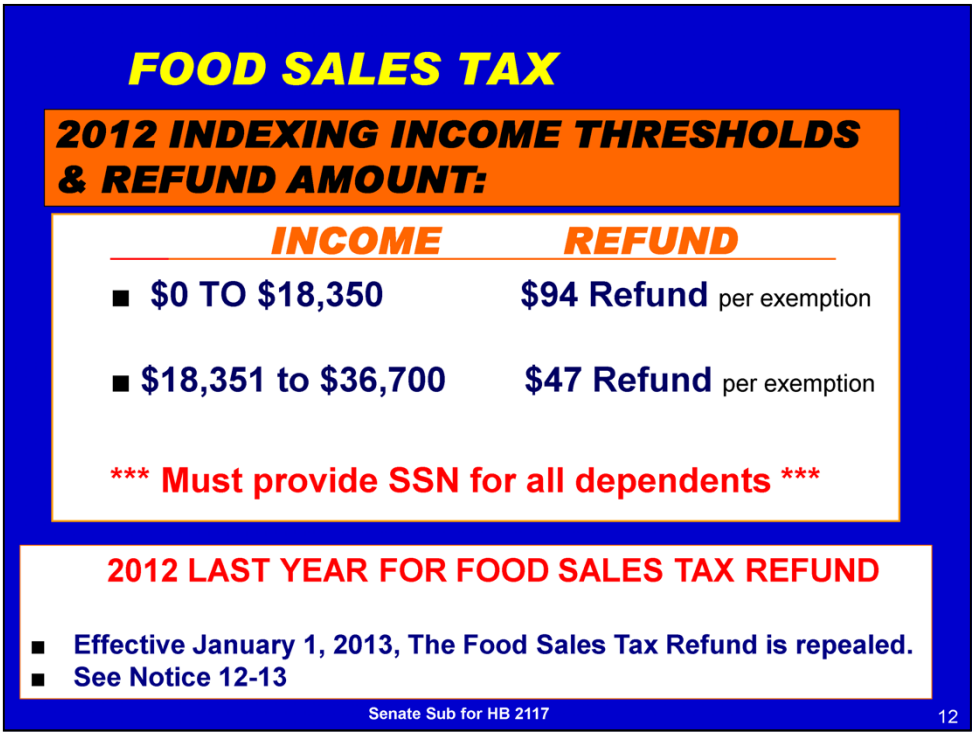
SB 193

New Section 1.Except as otherwise provided, no credit provided under the Kansas income tax act, and amendments thereto, shall be allowed any individual who fails to provide a valid social security number issued to such individual, the individual's spouse and dependents of the individual for purposes of section 205 (c)(2)(A) of the social security act on such individual's Kansas income tax return as the identifying number for such individual for tax purposes. The provisions of this section shall not apply to the credit provided by K.S.A. 79-32,111, and amendments thereto.

Sec. 2.K.S.A. 2010 Supp. 79-3221 is hereby amended to read as follows: 79-3221. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. ***Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security number issued to an individual, the individual's spouse, and all dependents of such individual for purposes of section 205 (c)(2)(A) of the social security act shall be used as the identifying number and included on the return when filing such return.***

Sec. 3.K.S.A. 79-32,111a is hereby amended to read as follows: 79-32,111a. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 25% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to 26 U.S.C. *§* 21 for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability. (b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law. *(c)* ***No credit provided under this section shall be allowed any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.*** **New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child.**

New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child. (b) The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto. Sec. 5.K.S.A. 79-3637 is hereby amended to read as follows: 79-3637. Every claimant for the refund of taxes under the provisions of K.S.A. 79-3620 and 79-3632 to 79-3639*, and amendments thereto,* shall supply to the division in support of a claim, ***a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of subsection (c)(1), (c)(2) or (c)(3) of K.S.A. 79-3633,*** *and amendments thereto,* reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (f) of K.S.A. 79-3633*, and amendments thereto*.



K.S.A. 79-3635(d) In the case of all tax years commencing after December 31, 2010, 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.

SB 193 New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child. (b) The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 79-3620 and **79-3632** through 79-3639, and amendments thereto. Sec. 5.K.S.A. 79-3637 is hereby amended to read as follows: 79-3637. Every claimant for the refund of taxes under the provisions of K.S.A. 79-3620 and 79-3632 to 79-3639*, and amendments thereto,* shall supply to the division in support of a claim, ***a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of subsection (c)(1), (c)(2) or (c)(3) of K.S.A. 79-3633,*** *and amendments thereto,* reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (f) of K.S.A. 79-3633*, and amendments thereto*.

Senate Substitute for House Bill No. 2117 Sec. 40. **On and after January 1, 2013**, K.S.A. 39-7,132, 65,7107, 74-8206, 74-8304, 79-32,118, 79-32,128, 79-32,176, 79-32,177, 79-32,182,79-32,190 and 79-32,200 and K.S.A. 2011 Supp. 40-2246, 74-50,173, 74-50,208, 74-8316, 74-8401, 79-32,110, 79-32,111, 79-32,111a, 79-32,117,79-32,119, 79-32,138, 79-32,143, 79-32,143a, 79-32,182b, 79-32,201, 79-32,202, 79-32,204, 79-32,207, 79-32,210, 79-32,212, 79-32,213, 79-32,222, 79-32,242, 79-32,266**, 79-3633, 79-3634, 79-3635, 79-3636, 79-3637, 79-3638, 79-3639**, 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522 **are hereby repealed**.

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 2008 - $29,700

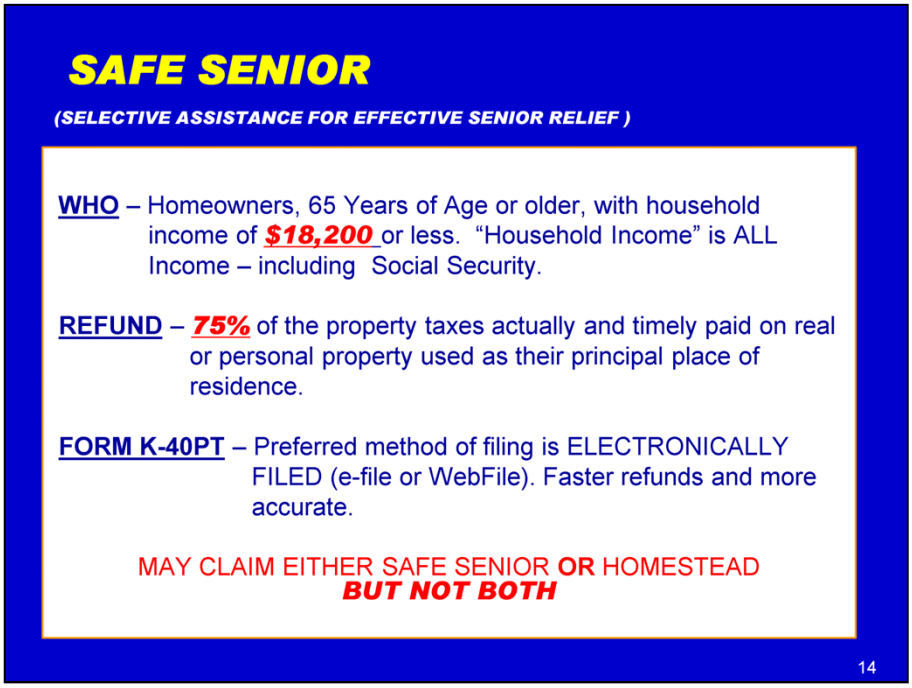
• Household Income limit for TY 2009 - $31,300

• Household Income limit for TY 2010 - $30,800

• Household Income limit for TY 2011 - $31,200

• Household Income limit for TY 2012 - **$32,400**

2012 Senate Substitute for House Bill No.2117, Sec. 30. On and after January 1, 2013, K.S.A. 2011 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide *ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own their homestead; (b) certain persons who have a disability, who own their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own their homestead.*



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) <u>for tax year 2011 and all tax years thereafter, an amount equal to 75%</u>** 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. 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, 2011) first half of the property taxes. The homestead (the residence) must be appraised at less than $350,000.

2009 HB 2360 Section 1 K.S.A. 2009 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid at the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.7%

COMPENSATING USE TAX

	# of Taxpayers	Amt Reported
2011	22,154	$917,834
2010	23,294	$1,012,424
2009	27,828	$982,114
2008	30,609	$1,005,362
2007	33,154	$1,283,411

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79-3703. Compensating use tax imposed; rate. There is hereby levied and here shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.7%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Kansas Compensating Use Tax was added to the K-40 (line 18) in 2004 Kansas imposes a use tax on goods purchased by Kansans (individuals and businesses) from outside Kansas and that are used, stored, or consumed in Kansas on which;

- no sales tax was paid, or
- a sales tax less than the Kansas rate was paid.

The purpose of compensating use tax is to protect Kansas businesses from unfair competition from out-of-state retailers who sell goods tax-free; use tax “compensates” for the lack of sales tax paid at the time of purchase. A use tax also helps to assure fairness to Kansans who purchase similar items in Kansas and pay Kansas sales tax on them. This is not a new concept. Compensating use tax in Kansas has been in effect since 1937.

WITHHOLDING

Promoting Employment Across Kansas Act (PEAK) Expanded SB 193 ****REMINDER****

- Expand definition of **"Qualified company"** to include any not-for-profit corporation which locates within the state of Kansas a regional, national or international headquarters.
- Expanded to allow companies to utilize or contract with all third-party employers not just **unrelated** third-party employers.
- Total amount of benefits granted for expanding businesses went from $4.8 million effective FY 2012 to $6.0 million effective FY 2013.
- Expanded to include **Retention** of employees of an existing business located in Kansas.
  - Effective January 1, 2013 to December 31, 2014
  - **Capped at $1.2 Million for fiscal years 2013 & 2015**
  - Capped at $2.4 million for fiscal year 2014
  - Provides discretion to the Secretary of Commerce to award PEAK benefits when deemed necessary.

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(B) "Qualified company" also includes any not-for-profit corporation which locates within the state of Kansas a regional, national or international headquarters and which meets the requirements of subparagraph (A).

(m) *"Retained job" means an existing job which will be lost without participation by the employer under the provisions of the promoting employment across Kansas act.*

(e) Commencing January 1, 2013, and ending December 31, 2014, any company, which meets the criteria provided pursuant to the provisions of K.S.A. 2010 Supp. 74-50,211, and amendments thereto, that retains the employees of an existing business unit located in Kansas and enters into an agreement with the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such employees for a period of up to five years.

(f) (1) Commencing January 1, 2013, and ending December 31, 2014, pursuant to the provisions of subsection (e), the secretary of commerce, in the secretary's sole determination, may provide the benefits of the promoting employment across Kansas act for situations where it is deemed necessary by the secretary that the state of Kansas provide incentives for a company or its operations currently located in Kansas to remain in Kansas so as to keep its retained jobs. The secretary shall establish and verify that a prospective company has competitive alternatives that it is seriously considering and that a company's relocation may be imminent. Furthermore, the secretary shall assess: (A) Whether the retention of the company or its operations is important to the economic vitality of the state; (B) the area where such company or operations is located; or (C) whether the retention of the company or its operations is important to a particular industry in the state due to any number of factors including, but not limited to, the quantity, quality or wages of the retained jobs involved. (2) Effective January 1, 2013, and ending December 31, 2014, the secretary may use the promoting employment across Kansas act in conjunction with other economic development programs to develop a retention package.

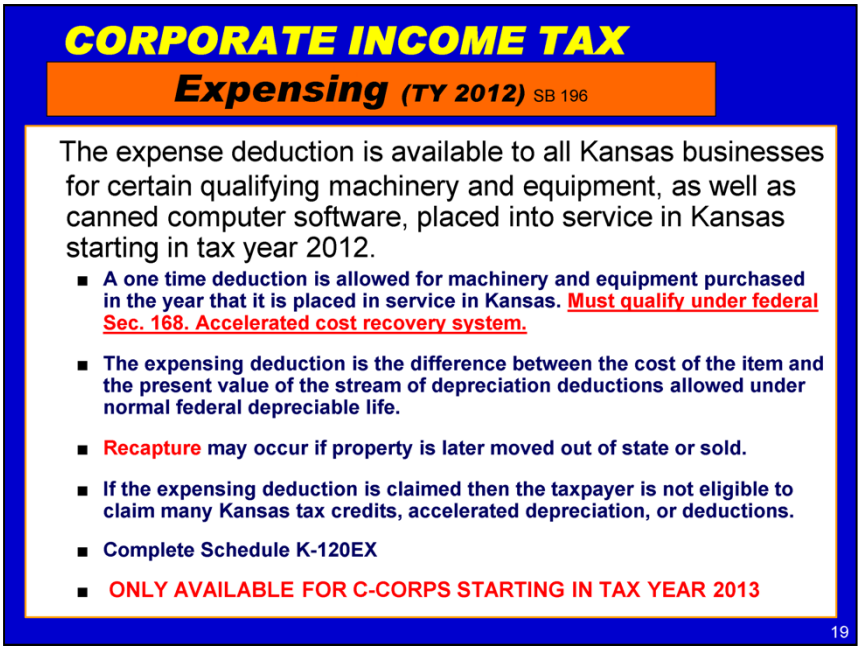
(g) The provisions of this act as in effect prior to the effective date of this act shall apply to employers who have entered into agreements with the secretary prior to July 1, 2011. The provisions of this act shall apply to employers who enter into agreements with the secretary on and after July 1, 2011.

(g) *(1) Under no circumstances shall the total amount of benefits authorized* or granted to the aggregate of all expanding businesses, as such term is defined in K.S.A. 2010 Supp. 74-50,211, and amendments thereto, under this act exceed $4,800,000 in *the fiscal year commencing on* July 1, 2011*, and $6,000,000 in any fiscal year commencing on or after July 1, 2012. (2) Under no circumstances shall the total amount of benefits authorized or granted to the aggregate of businesses under subsections (e) or (f) of K.S.A. 2010 Supp. 74-50,212, and amendments thereto, exceed $1,200,000 in the fiscal year commencing on July 1, 2012, $2,400,000 in the fiscal year commencing on July 1, 2013, and $1,200,000 in the fiscal year commencing on July 1, 2014.*

WITHHOLDING

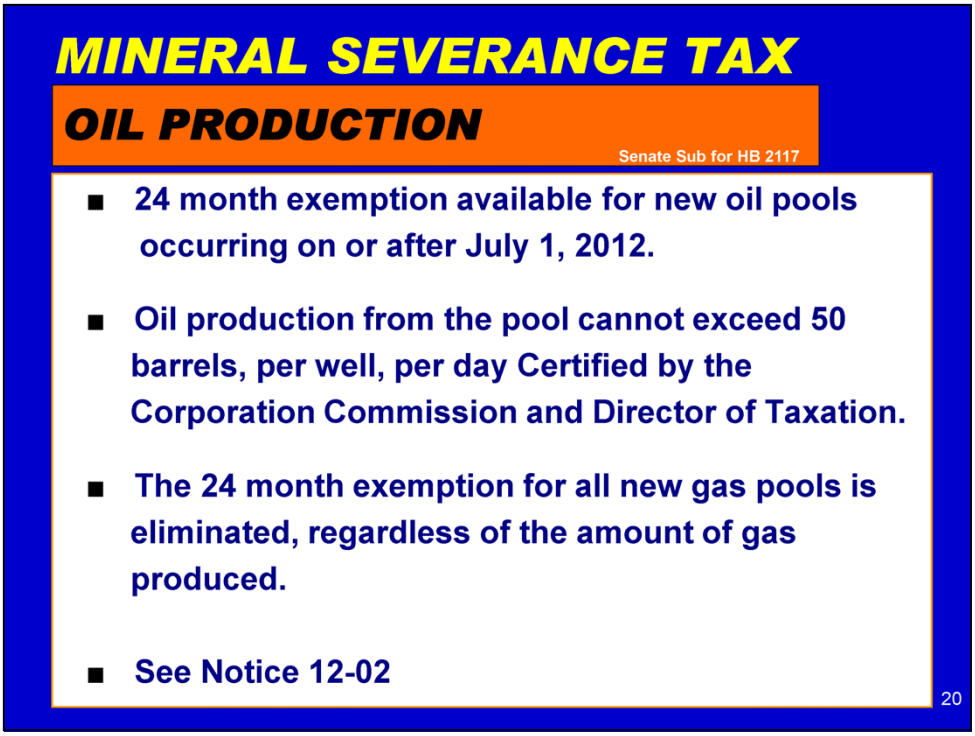
Withholding Tables

- New Withholding tables, effective January 1, 2013, based on the new income tax rates for TY 2013 are available Kansas Department of Revenue website www.ksrevenue.org.
- Kansas Department of Revenue does not send out new tables.



New Sec. 2. (a) For taxable years beginning after December 31, 2011, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto. (c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to sub section (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period. (d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere. (e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election. If the business claims the expense deduction, it will not be eligible for the following investment related tax credits or other incentives: high performance incentive program credit**; research and development credit; alternative fuel vehicle credit; swine facility improvement credit; historic preservation credit; refinery credit or accelerated depreciation; oil or gas pipeline or accelerated depreciation; integrated coal or coke gasification nitrogen fertilizer plant credit or accelerated depreciation; biomass-to-energy plant credit or accelerated depreciation; integrated coal gasification power plant credit; renewable electric cogeneration facility credit or accelerated depreciation; biofuel storage and blending equipment credit or accelerated depreciation; carbon dioxide capture equipment credit; or film production credit.**



Senate Substitute for HOUSE BILL No.2117, Sec. 29.
(5) *the severance and production of oil from any pool from which oil was first produced on or after July 1, 2012, and from which the severance and production of oil from such pool does not exceed 50 barrels per day as certified by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this subsection shall be valid for a period of 24 months following the month in which oil was first produced from such pool. The term "pool" means an underground accumulation of oil in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent;*

Miscellaneous

- **4%** interest rate for calendar year 2013 (.333 monthly rate)
- Official policy of the state of Kansas that the term ‘‘Intellectual disability’’ be used in place of the term ‘‘mental retardation”.
- Effective July 1, 2012 Electronic Cigarettes may not be sold/furnished to people under the age of 18. Must comply with cigarette laws when selling.
- Effective July 1, 2012 railway cars can to be licensed as drinking establishments under the Club and Drinking Establishment Act.
- Effective July 1, 2012 licensed retail stores in Kansas will be able to offer taste tests of their wares in the shop, and bars and restaurants will be able to offer happy hour drink specials. Suppliers will also be able to participate in tasting events hosted by a store. While there are no limits on the size or number of samples one person may receive, the samples must be consumed in the store.
- Manufacturers will also be able to serve free samples of liquor on their premise if the manufacturer's premise is located in a county where the sales of liquor or individual drinks are permitted. With the new law, bars and restaurants will also be able to offer discounted drink prices at any time or to specific groups – such as “ladies night” drink specials.
- Effective January 1, 2013, The Kansas Individual Tax return will have a “Check-Off” for donations to fund the Kansas Creative Arts Industries Commission.

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SB384 New Section 1. It is hereby declared to be the official policy of the state of Kansas that the term ‘‘intellectual disability’’ be used in place of

the term ‘‘mental retardation’’ and the term ‘‘person or people with intellectual disability’’ be used in place of the term ‘‘mentally retarded.’’

Whenever the term ‘‘mental retardation’’ or ‘‘retardation’’ appears in the Kansas administrative regulations, state agencies are hereby directed to read and use the term ‘‘intellectual disability.’’ State agencies are further directed that, in the normal course of conducting their planned updates or changes to language in rules and regulations, agencies update the terminology of their rules and regulations to be consistent with this policy. The changes to the new policy and new terminology can take place as rules and regulations are naturally updated.

HB 2689 The bill allows railway cars to be licensed as drinking establishments under the Club and Drinking Establishment Act. The bill defines a railway car to include a locomotive-drawn conveyance used for the transportation of people that is confined to a fixed route, deriving at

least 30.0 percent of its gross receipts from all sales of food and alcoholic beverages on the railway car in a 12-month period.

Taxation on alcoholic liquor for consumption on licensed railroad cars conforms to those taxes applied to other drinking establishments. Under the bill, 70.0 percent of the revenue collected from sale of liquor in railway cars is divided equally among counties through which the

railway car passes if the counties have approved the sale of liquor-by-the-drink.

Other Legislation:

SB 384r An act concerning the Kansas 911 Act, definitions and terms of council members, fees, and distribution.

SB 316rAn act concerning the Kansas department of wildlife, parks and tourism; relating to updating references and corresponding changes due to transfer of powers and duties from the department of commerce.

HB 2454 An act concerning the arts; creating the creative arts industries commission within the department of commerce; transferring the powers, functions and duties from the Kansas arts commission and the Kansas film services commission to the Kansas creative arts industries commission; abolishing the Kansas arts commission and the Kansas film services commission; creating the arts industries commission checkoff.

HB 2324 An act concerning cigarettes and tobacco products; relating to electronic cigarettes.

Effective July 1, 2012 licensed retail stores in Kansas will be able to offer taste tests of their wares in the shop, and bars and restaurants will be able to offer happy hour drink specials. Suppliers will also be able to participate in tasting events hosted by a store. While there are no limits on the size or number of samples one person may receive, the samples must be consumed in the store.

Manufacturers will also be able to serve free samples of liquor on their premise if the manufacturer's premise is located in a county where the sales of liquor or individual drinks are permitted. Currently, bars and restaurants can offer all day drink specials but cannot have “happy hours” where drinks are discounted between specific times. With the new law, bars and restaurants will also be able to offer discounted drink prices at any time or to specific groups – such as “ladies night” drink specials.

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NOTICE 12-01
2012 Motor Fuel Legislative Update

The following Bills were enacted by the 2012 Legislature:

Senate Bill 294
This bill was effective June 7, 2012, upon publication in the Kansas Register. The effective date referenced in the sections below is July 1, 2012. A summary of the bill is as follows:

Section 165 is regarding the Kansas Qualified Biodiesel Fuel Producer incentive. Quarterly deposits of $50,000 are scheduled for July 1 and October 1, 2012, and January 1 and April 1, 2013, based on funds available in the economic development initiatives fund. K.S.A. 79-34,156.

Section 166 indicates the Kansas Retail Dealer Incentive for renewable fuels and biodiesel remains 'unfunded' through June 30, 2014, therefore, no such incentive is provided through that date. K.S.A. 79-34,171.

Senate Bill 406
This bill is effective July 1, 2012. A summary of the bill is as follows:

Section 5 redesignates the Kansas essential fuels supply trust fund as the UST redevelopment fund. The funds credited maybe expended to reimburse eligible property owners for allowable expenses for permanent closure of an abandoned underground storage tank. The language also allows the Secretary of Health and Environment to conduct the same activities if the owner or operator of the underground storage tank has not been identified or is unable or unwilling to perform permanent closure. K.S.A. 65-34,131.

Section 6 indicates the property owner application and eligibility requirements. K.S.A. 65-34,132.
Section 8 abolishes the fund on July 1, 2024. K.S.A. 65-34,134.

House Bill 2455

This bill is effective July 1, 2012. The bill is as follows:

Section 1 directs the Department of Transportation to organize a discussion with the public and all interested stakeholders about the long-term feasibility of relying on the motor fuel tax as the primary mechanism of funding the state's highway maintenance and construction program and as the major contributor of state aid to local government transportation budgets. The department is to report its findings and policy recommendations to the governor and the legislature by January 1, 2014.

This notice highlights only portions of the bills. For a detailed, full text copy of each bill, please visit the Kansas Legislature's website at www.kslegislature.org.

TAXPAYER ASSISTANCE
To obtain additional copies of this or any other notice call the Kansas Department of Revenue's voice mail forms request line at 785-296-4937 or download them from our web site: **www.ksrevenue.org**. If you have any questions about this notice, please contact our Motor Fuel Tax Unit.

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NOTICE 12-02

2012 MINERAL SEVERANCE TAX LEGISLATIVE UPDATE

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Changes made by the Bill affect the mineral severance tax in Kansas.

The mineral severance tax is imposed by K.S.A. 79-4217. Current law provides an exemption for the first 24 months of production of oil or gas from a "pool". The term "pool" is defined in K.S.A. 79-4217(b)(4) to mean "an underground accumulation of oil or gas in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent"

Section 29 of the Bill amends K.S.A. 79-4217(b)(4) to limit the 24 month exemption to "the severance of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, *and prior to July 1, 2012* . . ." As a result of this language, gas or oil which is first produced on or after July 1, 2012 will not be exempt from the mineral severance tax. There is, however, an exception to this new rule for oil production.

Section 29 of the Bill also amends K.S.A. 79-4217 to create new subsection (b)(5). This subsection provides that, with regard to new oil pools, the 24 month exemption is available for initial production occurring on or after July 1, 2012, but only if production from the pool does not exceed 50 barrels per day, as certified by the Corporation Commission and the Director of Taxation. The Department is interpreting the production limitation to be 50 barrels per well in the pool, per day. If production exceeds this limit the well will not qualify for the exemption. The Department will base the 50 barrels per well per day calculation on the average daily severance and production of oil for such producing well, which well has not been significantly curtailed by reason of mechanical failure or other disruption of production, during the initial six-month production period, commencing with the date of first production from such well. If the date of first production for a well occurs other that the first day of the calendar month, then the average daily production calculation shall be based on the prorated production for the first and final calendar months in that initial production period, as necessary. For example, if the date of first production for a well in a new pool commences on August 15, 2012, the initial six-month production period shall be August 15, 2012 to February 15, 2013, and the production for the initial and final calendar months of production in that period shall be prorated.

For any well that has qualified for this exemption, if the average daily severance and production of oil from such well exceeds 50 barrels per day within any qualifying one-month production period after the initial qualifying production period, the exemption for such well shall be terminated as of the commencement of such one-month production period.

The Kansas Department of Revenue will assign a lease well number to each well that has been certified as a new pool by the Kansas Corporation Commission. When encountering a well that has multiple formations, each certified as a new pool, the Department requires that production be allocated separately on the Mineral Severance Tax Report.

Section 29 of the Bill eliminates the "new pool" 24 month exemption for all new gas pools, regardless of the amount of gas produced. There is a 24 month exemption for new oil pools, but only if oil production from the pool does not exceed 50 barrels, per well, per day.

Taxpayer Assistance
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NOTICE 12-03

CERTAIN DEDUCTIONS LIMITED TO CORPORATE INCOME TAXPAYERS

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. The Bill provides that, beginning in tax year 2013, certain deductions will only be available to corporations that are subject to the Kansas corporate income tax, i.e. C corporations.

Beginning in tax year 2013, the following deductions will not be available to individuals, S corporations, partnerships, limited liability companies, or other pass-through entities, and will be available only to C corporations:

1. The net operating loss deduction. (Section 17, amending K.S.A. 79-32,143)
2. The additional expense deduction for purchase of certain business property. (Section 18, amending K.S.A. 79-32,143a)

For additional information regarding the effect of the new law on existing net operating losses held by individuals, please see Notice 12-08.

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NOTICE 12-04

CREDITS AND SUBTRACTION MODIFICATION REPEALED

Credits Repealed

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Beginning in tax year 2013, certain credits are repealed. After tax year 2012 the credits listed below will not be available.

1. Credit for child and dependent care expenses. (Section 40, repealing K.S.A. 79- 2,111a) Claimed directly on Form K-40 / Credit for Child & Dependent Care Expenses
2. Credit for expenditures to provide disabled access. (Section 40, repealing K.S.A. 79- 32,176) Claimed on Schedule K-37 / Disabled Access Credit
3. Credit for adoption expenses. (Section 40, repealing K.S.A. 79-32,202) Claimed on Schedule K-47 / Adoption Credit
4. Credit for provision of health insurance for a member of the Kansas National Guard. (Section 40, repealing K.S.A. 79-32,213) Claimed on Schedule K-54 /National Guard Employer Health Insurance Credit
5. Credit for contributions to the Kansas Law Enforcement Training Center. (Section 40, repealing K.S.A. 79-32,242) Claimed on Schedule K-72 / Law Enforcement Training Center Credit

In addition to repealing the credits listed above, HB 2117 limits the availability of a number of other income tax credits to C corporations which pay the corporate income tax. For more information regarding these credits, please see Notice 12-05.

Subtraction Modification Repealed

Beginning in tax year 2013, a subtraction modification has been repealed. Currently, K.S.A. 79-32,117(c)(xvi) provides payments for long-term care insurance (up to $1,000) may be subtracted from federal adjusted gross income in determining Kansas adjusted gross income. Section 12 of HB 2117 repeals this subtraction modification.

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NOTICE 12-05

ELIMINATION OF CERTAIN INCOME TAX CREDITS FOR INDIVIDUALS, PARTNERSHIPS,S CORPORATIONS, AND LIMITED LIABILITY COMPANIES

CARRY OVER OF UNUSED CREDITS

Elimination of Credits for Pass-Through Entities and Individuals

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Beginning in tax year 2013, certain credits will be available only to corporations that are subject to the Kansas corporate income tax, i.e. C corporations. The credits listed below will not be available to individuals, partnerships, S corporations, limited liability companies, or other passthrough entities.

1. Credit for financial support provided to persons eligible to receive aid to families with dependent children under agreement with SRS. (Section 1, amending K.S.A. 39- ,132 and Section 22, amending K.S.A. 79-32,200) Claimed on Schedule K-61 / Temporary Assistance to Families Contribution Credit
2. Credit for employers providing health insurance or care, or contributions to health savings accounts. (Section 2, amending K.S.A. 40-2246) Claimed on Schedule K-57 / Small Employer Healthcare Credit
3. Credit for contributions to an individual development account to assist a person with disabilities. (Section 3, amending K.S.A. 65-7107) Claimed on Schedule K-42 / Assistive Technology Contribution Credit
4. Credit for purchase of liability insurance by an agritourism operator. (Section 4, amending K.S.A. 74-50,173) Claimed on Schedule K-33 / Agritourism Liability Insurance Credit
5. Credit for contributions to community-based organizations through an individual development account. (Section 5, amending K.S.A. 74-50,208) Claimed on Schedule K-68 / Individual Development Account Credit
6. Credit for investment in Kansas Venture Capital, Inc. (Section 6, amending K.S.A. 74-8206) Claimed on Schedule K-55 / Venture and Local Seed Capital Credit
7. Credit for investment in certified Kansas venture capital companies. (Section 7, amending K.S.A. 74-8304) Claimed on Schedule K-55 / Venture and Local Seed Capital Credit

8. Credit for investment in a technology-based venture capital fund. (Section 8, amending K.S.A. 74-8316) Claimed on Schedule K-55 / Venture and Local Seed Capital Credit
9. Credit for investment in a certified local seed capital pool. (Section 9, amending K.S.A. 74-8401) Claimed on Schedule K-55 / Venture and Local Seed Capital Credit
10. Credit for expenditures to provide disabled access. (Section 19, amending K.S.A. 79-32,177) Claimed on Schedule K-37 / Disabled Access Credit
11. Credit for research and development expenditures. (Section 20, amending K.S.A. 79-32,182b) Claimed on Schedule K-53 / Research and Development Credit
12. Credit for provision of child care services or facilities. (Section 21, amending K.S.A. 79-32,190) Claimed on Schedule K-56 / Child Day Care Assistance Credit
13. Credit for expenditures for a qualified alternative-fueled motor vehicle or alternative-fuel fueling station. (Section 23, amending K.S.A. 79-32,201) Claimed on Schedule K-62 / Alternative-Fuel Tax Credit
14. Credit for required improvements to a qualified swine facility. (Section 24, amending K.S.A. 79-32,204) Claimed on Schedule K-38 / Swine Facility Improvement Credit
15. Credit for plugging an abandoned oil or gas well. (Section 25, amending K.S.A.79-32,207) Claimed on Schedule K-39 / Credit For Plugging An Abandoned Oil or Gas Well
16. Credit for certain property taxes imposed on telecommunications companies. (Section 26, amending K.S.A. 79-32,210) Claimed on Schedule K-36 /Telecommunications Credit
17. Credit for income attributable to the retirement of indebtedness authorized by a single city port authority. (Section 27, amending K.S.A. 79-32,212) Claimed on Schedule K-76 / Single City Port Authority Credit
18. Credit for expenditures to bring a refinery into compliance with environmental standards or requirements. (Section 28, amending K.S.A. 79-32,222) Claimed on Schedule K-81 / Environmental Compliance Credit In addition to the credits, listed above, which are only available to C corporations, additional credits are repealed, beginning in tax year 2013. After tax year 2012 the credits listed below will not be available.

In addition to the credits, listed above, which are only available to C corporations, additional credits are repealed, beginning in tax year 2013. After tax year 2012 the credits listed below will not be available.

1. Credit for household and dependent care expenses. (Section 40, repealing K.S.A. 79-32,111a) Claimed directly on Form K-40 / Credit for Child & Dependent Care Expenses.
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5. Credit for contributions to the Kansas Law Enforcement Training Center. (Section 40, repealing K.S.A. 79-32,242) Claimed on Schedule K-72 / Law Enforcement Training Center Credit

Carry Over of Unused Credits

New Section 36 of HB 2117 addresses the question of what happens to the unused portion of nonrefundable credits that carry over from years prior to 2013 and are held by individuals, partnerships, S corporations, limited liability companies, or any other pass-through entity. This Section specifically provides individual taxpayers may continue to carry these credits forward as long as all statutory requirements continue to be met. The Section provides:

> Any nonrefundable credits applicable to the Kansas income tax imposed on individuals that are no longer available commencing in tax year 2013 pursuant to this act and earned in any tax year prior to 2013 which are unused may continue to be claimed, subject to the limitations applicable to any such credit pursuant to law at the time such credit was earned.

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NOTICE 12-06

INCOME TAX RATES LOWERED FOR INDIVIDUALS, ESTATES, AND TRUSTS

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Section 10 of the Bill amends K.S.A. 79-32,110, the statute which establishes the rates of income tax in Kansas. Beginning in tax year 2013, individual income tax rates are lowered at all levels. In addition, the current three-tier rate structure is replaced by a two-tier structure.

Kansas income tax rates for tax year 2012, and for tax year 2013 and later years, are as follows:

Joint Returns

Rates for 2012:

If the taxable income is:	The tax is:
Not over $30,000	3.5% of Kansas taxable income
Over $30,000 but not over $60,000	$1,050 plus 6.25% of excess over $30,000
Over $60,000	$2,925 plus 6.45% of excess over $60,000

Rates for 2013 and later years:

If the taxable income is:	The tax is:
Not over $30,000	3.0% of Kansas taxable income
Over $30,000	$900 plus 4.9% of excess over $30,000

All Other Individuals
(As Well As Estates and Trusts)

Rates for 2012:

If the taxable income is:	The tax is:
Not over $15,000	3.5% of Kansas taxable income
Over $15,000 but not over $30,000	$525 plus 6.25% of excess over $15,000
Over $30,000	$1,462.50 plus 6.45% of excess over $30,000

Rates for 2013 and later years:

If the taxable income is:	The tax is:
Not over $15,000	3.0% of Kansas taxable income
Over $15,000	$450 plus 4.9% of excess over $15,000

Corporate Income Tax Rates Not Affected

Corporate income tax rates have not changed. For more information about corporate income tax, please see Notice 12-09.

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NOTICE 12-07
ITEMIZED DEDUCTIONS FOR INDIVIDUAL INCOME TAX

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Questions regarding whether an individual can continue to use itemized deductions for Kansas income tax purposes have arisen because of an apparent conflict created by certain amendments made in that Bill. By this Notice the Department is confirming that an individual can continue to use itemized deductions, as determined by K.S.A. 79-32,120, for Kansas income tax purposes.

K.S.A. 79-32,118 deals with the deduction to be claimed by an individual. Prior to amendment by HB 2117 the statute provided:

> The Kansas deduction of an individual shall be his or her Kansas standard deduction unless he or she elects to deduct his or her Kansas itemized deductions under the conditions set forth in K.S.A. 79-32,120.

Section 13 of HB 2117 amends K.S.A. 79-32,118 to eliminate the reference to itemized deductions, suggesting that itemized deductions are no longer permissible for Kansas income tax purposes. As amended, K.S.A. 79-32,118 provides:

> *Commencing in tax year 2013,* the Kansas deduction of an individual shall be *such individual's* Kansas standard deduction

K.S.A. 79-32,120, which expressly allows itemized deductions, was not modified or repealed by HB 2117. This statute provided, and continues to provide:

> (a) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction. The Kansas itemized deduction of an individual means the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.
>
> (b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2008 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

The final Supplemental Note prepared for HB 2117 by the Legislative Research Department makes it clear the Legislature did not intend to eliminate itemized deductions. The Kansas Department of Revenue recognizes this Legislative intent. In addition, K.S.A. 79-32,120 specifically and expressly provides for itemized deductions. Accordingly, the Department will not interpret K.S.A. 79-32,118, a statute of more general application, to eliminate the use of itemized deductions. Instead the Department will continue to recognize the application of K.S.A. 79-32,120.

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NOTICE 12-08
NET OPERATING LOSSES

In Brief

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. As explained below, new provisions in the Bill provide:

1) The net operating deduction for individuals has been eliminated starting in tax year 2013.
2) An individual may not carry net operating losses forward to tax year 2013 or later years, or back to earlier years.
3) The requirement to add-back a federal net operating loss as an addition modification remains in effect.

Generally

Provisions in the Bill change the way pass-through entities are taxed. These businesses, including sole proprietorships, partnerships, S corporations, limited liability companies, and other pass-through entities, are generally not taxed as corporations. Instead, if elected for federal income tax purposes, the income is "passed through" to the business owner and, when the owner is an individual, the income is taxed on the owner's individual income tax return.

The Bill includes provisions which exempt the income of certain businesses from the Kansas income tax beginning in tax year 2013. Specifically, the Bill exempts income reported on lines 12, 17 and 18 of IRS Form 1040. Line 12 is self-employment income from federal Schedule C. Line 17 is certain income from rental real estate, trusts and "pass-through" business entities, including partnerships, Subchapter S corporations and limited liability companies reported on federal Schedule E. Line 18 is farm income from federal Schedule F.

Because these categories of income of certain businesses will no longer be subject to tax, the Bill includes provisions which prohibit individuals from deducting losses arising from these categories. Beginning in tax year 2013, these deductions will only be available to corporations that are subject to the Kansas corporate income tax, i.e. C corporations. One of the deductions that will not be available to individuals is the net operating loss deduction.

New Language

The statute controlling the use of net operating losses is K.S.A. 79-32,143. Section 17 of the Bill amends K.S.A. 79-32,143 to add new subsection (g) which provides:

> *(g) For tax year 2013, and all years thereafter, a net operating loss allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.*

In accordance with the new law, no net operating loss deduction will be allowed for an individual for tax year 2013 or later years.

Carry-Forward and Carry-Back

K.S.A. 79-32,143 requires that net operating losses which are incurred after December 31, 1987, be carried forward until fully used or until ten years has elapsed, whichever occurs first. If ten years has elapsed, or the taxpayer has died, and unused loss remains, the loss may be carried back. A Kansas net operating loss which is incurred after December 31, 1987 cannot be carried back prior to carrying the loss forward.

Because net operating losses will not be allowed on individual income tax returns for tax year 2013 and later years, net operating losses from tax year 2012 and prior years cannot be carried forward to tax year 2013 or later years. This does not mean, however, that these losses can be carried back to prior years. New subsection (g) provides that net operating losses are available only to C corporations, and not to individuals. It does not create a situation where a net operating carry-back will be allowed. As a result, carry-over losses from tax year 2012 or prior years will simply not be available as of January 1, 2013.

Modifications

The calculation of an individual's Kansas income tax starts with federal adjusted gross income. Certain modifications, either additions or subtractions, required by K.S.A. 79-32,117 are then made to arrive at Kansas adjusted gross income. K.S.A 79-32,117(b)(iii) currently provides that the federal net operating loss deduction claimed on the taxpayer's federal income tax return must be added to federal adjusted gross income in computing Kansas adjusted gross income. HB 2117 did not amend this provision, so the requirement of adding back the amount of the federal net operating loss deduction will continue for tax year 2013 and later years.

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NOTICE 12-09

RECENT CHANGES DO NOT AFFECT CORPORATE INCOME TAX

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Despite a multitude of changes, many of which are effective beginning with tax year 2013, the Bill did not make any changes to the corporate income tax rates or credits available to C corporations.

The income of C corporations will continue to be taxed at the rates currently imposed by K.S.A. 79-32,110(c), which are the normal tax of 4% on the first $50,000 of taxable income and the 3% surtax on Kansas taxable income in excess of $50,000.

Under current law the Kansas taxable income of a C corporation is determined by applying the same modifications as those available to an individual under K.S.A. 79-32,117(b) and (c). Section 12 of HB 2117 adds new addition modifications in subsections (b)(xix), (xx), (xxi), (xxii) and (xxiii), and a new subtraction modification in subsection (c)(xx). These modifications relate to business income and losses. However, Section 16 of the Bill amends K.S.A. 79-32,138 to specifically provide that these new addition and subtraction modifications do not apply to corporations subject to the Kansas corporate income tax. As a result, the modifications used for computing the Kansas corporate income tax will not change.

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NOTICE 12-10

STANDARD DEDUCTION FOR INDIVIDUAL INCOME TAX INCREASED

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Section 14 of the Bill amends K.S.A. 79-32,119 to increase the amount of the standard deduction for the individual income tax, beginning in tax year 2013.

The amount of the standard deduction for tax year 2012, and for tax year 2013 and later years, is as follows:

Filing Status	2012	2013 and later years
Single	$3,000	$3,000
Married	$6,000	$9,000
Head of household	$4,500	$9,000

A higher standard deduction amount is available if the taxpayer or their spouse is over 65 years of age and/or blind. As part of its instructions for Form K-40 Individual Income Tax Return the Department of Revenue provides a worksheet to assist with calculating the total amount of the standard deduction.

Taxpayers who qualify can choose to use itemized deductions. For more information, please see Notice 12-07.

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NOTICE 12-11

KANSAS INCOME TAX

CHANGES TO ADDITION AND SUBTRACTION MODIFICATIONS

INCOME EXEMPT FROM KANSAS TAX

Generally

The calculation of an individual's Kansas income tax starts with federal adjusted gross income. Certain modifications, either additions or subtractions, required by K.S.A. 79-32,117 are then made to arrive at Kansas adjusted gross income.

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Provisions in Section 12 of the Bill add five new addition modifications and one new subtraction modification to K.S.A. 79-32,117. The overall effect of these new provisions is to exempt certain categories of income from Kansas income tax.

Changes In The Law

Addition Modifications

K.S.A. 79-32,117(b) lists the items that are to be added in determining Kansas adjusted gross income. Section 12 of the Bill provides 5 new addition modification in subsection (b)(xix), (xx), (xxi), (xxii), and (xxiii). These new sections read as follows:

(b) There shall be added to federal adjusted gross income:

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this

subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

Subtraction Modification

K.S.A. 79-32,117(c) lists the items that are to be subtracted in determining Kansas adjusted gross income. Section 12 of the Bill provides a new subtraction modification in subsection (c)(xx), which reads as follows:

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

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

Subtraction Modification - Exempt Income

New subparagraph (c)(xx) provides a subtraction modification for three categories of income. By allowing these three categories of income to be subtracted from federal adjusted gross income to calculate Kansas adjusted gross income, this income is made exempt from Kansas income tax. It should be noted the three categories of exempt income are cumulative, not exclusive, so a taxpayer can take advantage of multiple subtraction modifications simultaneously. These three categories are: (1) income that is net profit from a business; (2) income from certain entities or of certain types; and (3) farm income.

(1) Income that is Net Profit From a Business

New subsection (c)(xx) provides a subtraction modification for income that is net profit from a business. Specifically, the new language states:

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

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

In order to qualify for the exemption, income must meet two requirements. First, the income must be properly reported on Schedule C of federal Form 1040. Second, the income must be properly reported on Line 12 of federal Form 1040. Income not properly reported in accordance with federal income tax law and instructions on Schedule C and line 12 of the federal Form 1040 is outside the scope of the subtraction modification language in paragraph (c)(xx).

Under federal law, Schedule C is available only to sole proprietors, to single member limited liability companies not treated as separate entities for federal income tax purposes, and to individuals considered statutory employees for federal income tax purposes. Statutory employees include full-time life insurance agents, certain agent or commission drivers and traveling sales persons, and certain homeworkers. A statutory employee receives a Form W-2 with the "statutory employee" designation box checked on the form. Schedule C is not available to employees. Therefore, employees who receive wages reported on federal form W-2 (other than statutory employees) will not qualify for the business income exemption.

(2) Income from Certain Entities and Certain Income

New subsection (c)(xx) provides a subtraction modification for income from certain entities and for certain types of income. Specifically, the new language states:

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

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (2) net income from rental real estate, royalties, partnerships, S corporations,

estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return;

Entities

Certain income from any of the following entities may qualify under new subsection (c)(xx) and be exempt from Kansas income tax:

Partnerships
S Corporations
Estates
Trusts

In order to qualify for the exemption, income must meet three requirements. First, the income must be allocated to an individual as pass-through income from a partnership, S corporation, or conduit income from an estate or trust. Second, the income must be properly reported on Schedule E of federal Form 1040. Third, the income must be properly reported on line 17 of federal Form 1040. Income not properly reported in accordance with federal income tax law and instructions on Schedule E and on line 17 of the federal Form 1040 is outside the scope of the subtraction modification language of paragraph (c)(xx). See Revenue Ruling 19-2012-02 regarding certain income that does or does not qualify for exemption.

Taxpayers with ownership interests in partnerships or S corporations, and beneficiaries of trusts and estates should receive a Form K-1. The Form K-1 instructions should designate the line, schedule, and/or form on which income from the partnership, S corporation, trust or estate should be reported. That information is needed to determine whether such income is includable in the exemption provided by new subsection (c)(xx).

Income from limited liability companies is not specifically included in the new subtraction modification language. However, K.S.A. 17-76,138, which is part of the statutes dealing with limited liability companies, provides that for all purposes of Kansas taxes, a limited liability company "shall be classified as a partnership unless classified otherwise for federal income tax purposes." As a result, certain pass-through income from a limited liability company that is treated as a partnership for federal income tax purposes will qualify for the exemption provided by new subparagraph (c)(xx).

A professional corporation may be formed in accordance with K.S.A. 17-2706 *et seq.* A professional corporation formed under these provisions will not qualify for the exemption provided by new subparagraph (c)(xx) unless an S corporation election is made for federal income tax purposes.

In order to qualify a partnership, limited liability company, or S corporation must be a pass-through entity for federal income tax purposes under the federal "check the box" provisions.

Types of Income

The following types of income qualify under new subsection (c)(xx) and are therefore exempt from Kansas income tax:

Rental real estate
Royalties
Residual interests in real estate mortgage investment conduits
Net farm rental

In order to qualify for the exemption, income must meet two requirements. First, the income must be properly reported on Schedule E of federal Form 1040. Second, the income must be properly reported on Line 17 of federal Form 1040. Income not properly reported in accordance with federal income tax law and instructions on Schedule E and on line 17 of the federal Form 1040 is outside the scope of the subtraction modification language of paragraph (c)(xx).

(3) Farm Income

New subsection (c)(xx) provides a subtraction modification for farm income. Specifically, the new language states:

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

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (3)net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return;

In order to qualify for the exemption, income must meet two requirements. First, the income must be properly reported on Schedule F of federal Form 1040. Second, the income must be properly reported on Line 18 of federal Form 1040. Pursuant to Schedule F instructions, a farmer who is a single member limited liability company not treated as a separate entity for federal income tax purposes may use Schedule F. Income not properly reported in accordance with federal income tax law and instructions on Schedule F and on line 18 of the federal Form 1040 is outside the scope of the subtraction modification language of paragraph (c)(xx)(3).

It should also be noted that "farm rental" income qualifies for exemption under (c)(xx)(2), mentioned above.

Addition Modifications - Inclusion of Losses and Deductions

Because the categories of income explained above will no longer be subject to tax, the Act includes provisions in new subsection (b)(xix) which prohibit individuals from deducting losses or claiming certain deductions associated with these categories of income.

(1) Loss from Business

New subsection (b)(xix) provides an addition modification for loss from business. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

In order to be included as an add-back, the loss must meet two requirements. First, the loss must be properly reported on Schedule C of federal Form 1040. Second, the loss must be properly reported on Line 12 of federal Form 1040. Loss not properly reported in accordance with federal income tax law and instructions on Schedule C and line 12 of the federal Form 1040 is outside the scope of the addition modification language in paragraph (b)(xix)(1).

(2) Loss from Certain Entities and Certain Types of Losses

New subsection (b)(xix) provides an addition modification for loss certain entities and certain types of losses. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (2) loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return;

Entities

Certain losses from any of the following entities may be included as an add-back under new subsection (b)(xix):

Partnerships
S Corporations
Estates
Trusts

In order to be included as an add-back, the loss must meet three requirements. First, the loss must be received by an individual as pass-through loss from a partnership, S corporation, estate or trust. Second, the loss must be properly reported on Schedule E of federal Form 1040.

Third, the loss must be properly reported on Line 17 of federal Form 1040. Loss not properly reported in accordance with federal income tax law and instructions on Schedule E and line 17 of the federal Form 1040 is outside the scope of the addition modification language in paragraph (b)(xix).

Loss from limited liability companies is not specifically included in the new addition modification language. However, K.S.A. 17-76,138, which is part of the statutes dealing with limited liability companies, provides that for all purposes of Kansas taxes, a limited liability company "shall be classified as a partnership unless classified otherwise for federal income tax purposes." As a result, certain pass-through loss from a limited liability company that is treated as a partnership for federal income tax purposes will be considered an add-back under the addition modification provided by new subparagraph (b)(xix).

A professional corporation may be formed in accordance with K.S.A. 17-2706 *et seq.* A professional corporation formed under these provisions will not be subject to the add-back requirement provided by new subparagraph (b)(xix) unless an S corporation election is made for federal income tax purposes.

In order to be subject to the add-back requirement a partnership, limited liability company, or S corporation must be a pass-through entity for federal income tax purposes under the federal "check the box" provisions.

Losses

The following losses are subject to the add-back requirement of new subsection (b)(xix) and therefore may be subject to Kansas income tax:

Loss from rental real estate
Loss from royalties
Loss from residual interests in real estate mortgage investment conduits
Loss from farm rental

In order to be included as an add-back, the loss must meet two requirements. First, the loss must be properly reported on Schedule E of federal Form 1040. Second, the loss must be properly reported on Line 17 of federal Form 1040. Loss not properly reported in accordance with federal income tax law and instructions on Schedule E and line 17 of the federal Form 1040 is outside the scope of the addition modification language in paragraph (b)(xix)(2).

Farm Loss

New subsection (b)(xix) provides an addition modification for farm loss. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income.

In order to be included as an add-back, the loss must meet two requirements. First, the loss must be properly reported on Schedule F of federal Form 1040. Second, the loss must be properly reported on Line 18 of federal Form 1040. Loss not properly reported in accordance with federal income tax law and instructions on Schedule f and line 18 of the federal Form 1040 is outside the scope of the addition modification language in paragraph (b)(xix)(3).

Deductions

Certain federal deductions must be added to federal adjusted gross income to calculate Kansas adjusted gross income. These deductions are not shown on federal Schedule C, E, or F, but are instead shown separately on a line of the federal Form 1040. These include:

A.One-half of self-employment taxes. Line 27, IRC §164(f)

A.Contributions to retirement plans by self-employed. Line 28, IRC §62(a)(6)

A.Purchases of health insurance by self-employed. Line 29, IRC §162(l)

A.Deduction for domestic production activities. Line 35, IRC §199

New subsection (b)(xx) provides an addition modification for one-half of self-employment taxes. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

New subparagraph (b)(xxi) provides an addition modification for contributions to retirement plans by self-employed. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on

January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

New subparagraph (b)(xxii) provides an addition modification for purchases of health insurance by self-employed. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

New subparagraph (b)(xxiii) provides an addition modification for any deduction for domestic production activities. Specifically, the new language states:

(b) There shall be added to federal adjusted gross income:

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

Overall Effect of Changes

The changes made by Section 12 of HB2117 to K.S.A. 79-32,117 allow certain categories of income to be subtracted from federal adjusted gross income in calculating Kansas adjusted gross income, while at the same time requiring certain losses and deductions to be added. The overall effect is to exempt certain categories of income from tax, without allowing related losses and deductions to be offset against other taxable income.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, **www.ksrevenue.org**. If you have questions about Kansas taxes, please contact:

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Sam Brownback, Governor

NOTICE 12-12

S CORPORATIONS OWNING BANKS, SAVINGS AND LOANS, OR FEDERAL SAVINGS ASSOCIATIONS

Generally

The calculation of an individual's Kansas income tax starts with federal adjusted gross income. Certain modifications, either additions or subtractions, required by K.S.A. 79-32,117 are then made to arrive at Kansas adjusted gross income.

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Provisions in Section 12 of the Bill add five new addition modifications and one new subtraction modification to K.S.A. 79-32,117. The overall effect of these new provisions is to exempt certain categories of income from Kansas income tax. For additional information about addition modifications for losses and deductions and subtraction modifications for income, please see Notice 12-11.

Subtraction Modifications Affecting Income From A Bank, Savings and Loan, or Federal Savings Association

Section 12 of the Bill amends K.S.A. 79-32,117 to add language to the subtraction modification found in paragraph (c)(xiv), and to add a new subtraction modification in paragraph (c)(xx). The italicized language below indicates the changes made and new language:

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

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. *For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.*

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

The new subtraction modification at K.S.A. 79-32,117(c)(xx), specifically (c)(xx)(2), allows taxpayers who are stockholders of S corporations to subtract income properly reported on federal Schedule E and on line 17 of the federal Form 1040 in computing their Kansas adjusted gross income. This applies to both distributed and undistributed income.

The subtraction modification at K.S.A. 79-32,117(c)(xiv) allows taxpayers who are stockholders of S corporation banks, savings and loans, or federal savings associations to subtract any undistributed S corporation bank, savings and loan, or federal savings association income in computing their Kansas adjusted gross income. The new language found in K.S.A. 79-32,117(c)(xiv) provides that the subtraction modification found in this paragraph cannot include income or loss properly reported on federal Schedule E and on line 17 of the federal Form 1040. This limiting language prevents a taxpayer from claiming two subtraction modifications for the same income. In other words, taxpayers who are stockholders of S corporation banks, savings and loans, or federal savings associations cannot subtract undistributed S corporation bank, savings and loan, or federal savings association income under the provisions of both K.S.A. 79-32,117(c)(xiv) and (c)(xx).

Taxpayer Assistance

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NOTICE 12-13

FOOD SALES TAX REFUND REPEALED

Kansas law provides a refund of sales tax paid on food by low income individuals who are elderly, disabled, or have young dependents living with them. For tax year 2012, the refund is available to individuals who are Kansas residents the entire year, whose household income is less than $35,401, and who are 55 years of age or older, or totally and permanently disabled or blind, or who have a dependent under the age of 18 living with them the entire year. The controlling statutes are found in Kansas Statutes Annotated (K.S.A.) 79-3633 through 79-3639.

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Section 40 of the Bill provides that as of January 1, 2013, the food sales tax refund statutes found in K.S.A. 79-3633 through 79-3639 are repealed. As a result, food sales tax refunds will no longer be allowed.

The last year for which an individual may claim a food sales tax refund is 2012. The claim would be made on the individual's 2012 income tax return to be filed in 2013.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, **www.ksrevenue.org. If you have questions about food sales tax refunds, please contact:**

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NOTICE 12-14

HOMESTEAD PROPERTY TAX REFUNDS FOR RENTERS REPEALED

Kansas law provides a partial refund of property taxes paid by low income homeowners who are elderly, disabled, or have dependents under the age of 18 living with them. The refund is also available to low income homeowners who are disabled veterans or spouses of military personnel who died in the line of duty. The definition of a "claimant" and the specific requirements which must be met can be found in K.S.A. 79-4502.

In addition to homeowners the refund has been available to renters, with 15% of the rent being treated as a deemed payment of property tax.

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Amendments made in Sections 30 through 35 of the Bill provide that as of January 1, 2013, only homeowners may claim a homestead property tax refund. On and after January 1, 2013, renters no longer qualify and may not claim a homestead property tax refund. The last year for which renters may claim a homestead property tax refund is 2012.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site,

www.ksrevenue.org. If you have questions about Homestead Property Tax refunds, please contact:

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NOTICE 12-15

RETAILERS' SALES TAX

Revocation of Revenue Ruling 19-2012-01

July 19, 2012

Revenue Ruling 19-2012-01, dated June 15, 2012, has been revoked. Revenue Ruling 19-2012-01 stated that animal adoption fees charged by animal shelters are subject to retailers' sales tax.

The sale of a pet is considered the sale of tangible personal property, subject to Kansas sales tax. However, a fee charged by an animal shelter that is a not-for-profit entity to adopt an animal from the shelter, the fee to cover costs associated with preparing the animal for adoption, such as vaccinations, deworming, spaying or neutering, health examinations, will not be considered a purchase of the animal and such fee is not subject to sales tax.

Taxpayer Assistance

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NOTICE 12-16

MINERAL SEVERANCE TAX RETURN DUE DATE

In order to conduct business with fairness and integrity it is essential that Kansas law be applied equally and evenly to all Taxpayers. Questions have arisen regarding application of the law regarding the due date of mineral severance tax returns. This Notice addresses those questions, and explains the law that applies to all taxpayers.

In accordance with state law, mineral severance tax reports are due on the last day of the first month following the production month. The controlling statute, K.S.A. 79-4221 provides, in subsection (a):

> (a) Every purchaser or operator responsible for remitting the tax imposed under the provisions of K.S.A. 79-4217, and amendments thereto, on or before the last day of the first month following the end of every calendar month in which oil or gas is removed from the lease or production unit, shall make a return to the director upon forms prescribed and furnished by the director showing the gross quantity of oil or gas purchased during the month for which the return is filed, the price paid therefor, the correct name and address of the operator or other person from whom the same was purchased, a full description of the property in the manner prescribed by the director from which such oil or gas was severed and the amount of tax due on or before the 20th day of the following month. . . . .

In the event unusual circumstances prevent filing a return in a timely manner, the Director of Taxation may grant a reasonable extension of time. K.S.A. 79-4221 provides, in subsection (d):

> (d) The director may grant a reasonable extension of time for filing any return and remittance of taxes due under this act upon good cause shown therefor. Interest shall be charged at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, for the period of such extension for the remittance of taxes.

Reports that are submitted late are subject to a $25.00 per day late fee. The controlling statute, K.S.A. 79-4225, provides, in subsection (b):

> (b) If any person fails or refuses to make any return, when required to do so under the provisions of this act, such person shall be subject to a penalty of $25 per day for each return which such person fails or refuses to file.

Payment of mineral severance tax is due on or before the 20th day of the second month, as provided in K.S.A. 79-4221(a), set forth above.

In the past the Department has occasionally granted taxpayers what amounted to a standing extension of time to file their mineral severance tax returns. This practice has been discontinued and no such extensions will be granted in the future. Any taxpayer not filing a return and/or paying the tax in a timely manner will be subject to the penalties and interest imposed by Kansas law.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, **www.ksrevenue.org**. If you have questions about mineral severance tax, please contact:

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REVENUE RULING 19-2012-02

AUGUST 30, 2012

APPLICATION OF 2012 HB 2117 TO CERTAIN INCOME RECEIVED BY INDIVIDUALS

Overview

This Revenue Ruling provides guidance on how the Department of Revenue will administer Section 12 of 2012 House Bill 2117 with regard to certain income (such as dividends, interest, capital gains, gain from sale of business assets, income from partnerships, S corporations, trusts and estates, and retirement benefits, such as IRA distributions, pensions and annuities) received by individuals.

The calculation of an individual's Kansas income tax starts with federal adjusted gross income. Certain addition or subtraction modifications to federal adjusted gross income, required by K.S.A. 79-32,117, are then made to arrive at Kansas adjusted gross income.

Section 12 of House Bill 2117 added a new individual income tax subtraction modification to K.S.A. 79-32,117. This new subparagraph provides:

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

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

Certain requirements must be met for income to qualify for this subtraction modification, and therefore be exempt from Kansas income tax. These requirements are:

(1) The income must be properly reported on Schedule C, Schedule E, or Schedule F of the individual's federal Form 1040, pursuant to the Internal Revenue Code and any instructions or regulations promulgated by the Internal Revenue Service.

(2) The income must be properly reported on Line 12 (in the case of income reported on Schedule C), Line 17 (in the case of income reported on Schedule E), or Line 18 (in the case of income reported on Schedule F) of the individual's federal Form 1040, pursuant to the Internal Revenue Code and any instructions or regulations promulgated by the Internal Revenue Service.

Income which is properly reportable on any Schedule or any line of the individual's federal Form 1040 other than the Schedules and lines described above is outside the scope of the exemption provided in Section 12 of House Bill 2117.

Income from Partnerships, S Corporations, and LLC's

Federal Schedule K-1 is the form provided to a partner, S corporation or LLC shareholder, or beneficiary of an estate or trust. Schedule K-1 states the portion of the entity's income allocated to the partner, shareholder, or beneficiary, and specifically identifies the various items of entity income (interest, dividends, capital gains, etc.). These carry over to the partner, shareholder, or beneficiary for federal individual income tax purposes.

The IRS instructions for the Schedule K-1 provide specific directions as to how the partner, shareholder, or beneficiary should report the income on the individual federal income tax return of such partner, shareholder or beneficiary. Partners, shareholders, and beneficiaries should report dividend income on line 9 of federal Form 1040 and interest income on line 8 of federal Form 1040. Similarly, capital gain income is reported on Schedule D.

Income from Estates and Trusts

Simple Trusts

Under federal income tax law, income distributed or required to be distributed (whether actually distributed or not) to a beneficiary by a simple trust must be included in the gross income of the beneficiary. Such income in the hands of the beneficiary retains the same character as it had in the hands of the trust. See IRC Section 652; Treasury Regulation Section 1.652(a)-1; 1.652(b)-1. Therefore, the subtraction modification in new subparagraph K.S.A. 79-32,117(c)(xx), Section 12 of 2012 House Bill 2117, applies to the beneficiary as if the beneficiary had received the income directly from the source that produced it.

Estates and Complex Trusts

Under federal income tax law, income distributed or required to be distributed (whether actually distributed or not) to a beneficiary by an estate or complex trust must be included in the gross income of the beneficiary. Such income in the hands of the beneficiary retains the same character as it had in the hands of the estate or trust. See IRC Section 662; Treasury Regulation Section 1.662(a)-1; 1.662(b)-1. Therefore, the subtraction modification in new subparagraph K.S.A. 79-32,117(c)(xx), Section 12 of 2012 House Bill 2117, applies to the beneficiary as if the beneficiary had received the income directly from the source that produced it.

Grantor Trusts

Under federal income tax law, if the grantor or other person is treated as the owner of the trust corpus or income, or a portion thereof, such item of income is treated as if it had been received directly by the grantor or such other person. Such income is taken into account in computing the tax liability as if the trust had not been in existence during the period such person is treated as the owner. As a result, such income retains the same character as if directly received by the grantor or such other person and should be reported on the federal Form 1040 and Schedules accordingly. *See* IRC Section 671; Treasury Regulation Section 1.671-1; 1.671-2; 1.671-3; 1.671-4.

For example, if the grantor owns a sole proprietor business and places it in a will substitute revocable trust with the grantor as sole trustee, then assuming the grantor-trustee uses the federal reporting method provided at Treas. Reg. Section 1.671-4(b)(2)(A), the grantor would ignore the existence of the trust for federal income tax purposes and would properly report the income from operation of the business held in the trust on Schedule C and on Line 12 of the grantor's federal Form 1040 (thus qualifying for the new subparagraph K.S.A. 79-32,117 (c)(xx)(1) subtraction modification in Section 12), while interest, dividends, and capital gain income will be reported elsewhere on the return and will not qualify for the subtraction modification.

If the grantor-trustee uses the Treas. Reg. Section 1.671-4(a) reporting method, filing Form 1041 for the trust with a separate statement attached, the K-1 instructions for trust beneficiaries will apply to reporting the income on the grantor's federal Form 1040, with the income from operation of the business reported on Schedule E and Line 17 of the 1040 return (qualifying for the new subparagraph K.S.A. 79-32,117(c)(xx)(2) subtraction modification in Section 12), while interest, dividends, and capital gain income will not be reported on Schedule E or Line 17 of the 1040 (and will not qualify for the new subparagraph K.S.A. 79-32,117(c)(xx)(2) subtraction modification in Section 12).

Interest, Dividends, and Capital Gains Not Included

Income that is interest, dividends, or capital gains (including such income received from a grantor trust) properly reportable on any lines other than lines 12, 17, or 18 of federal Form 1040 will not meet the requirements imposed by new subparagraph K.S.A. 79-32,117(c)(xx**)** in Section 12**,** and cannot be claimed as part of that subtraction modification

Line 8 of the federal Form 1040 is specifically provided for the reporting of interest. Line 9 is specifically provided for the reporting of dividends. Line 13 is specifically provided for the reporting of capital gain. Federal law contemplates, and federal forms and instructions clearly direct, the reporting of interest, dividends and capital gains from partnerships, S corporations, estates or trusts either directly on lines 8, 9, and/or 13 of federal Form 1040 or on federal Schedule D. According to federal income tax instructions these items of income are not to be reported on federal Schedule E, or on line 17 of federal Form 1040.

Gains from Sale of Certain Business Assets Not Included

Gain from the sale of certain business assets, involuntary conversions, or recapture (including such income received from a grantor trust) properly reportable on any lines other than lines 12, 17, or 18 of federal Form 1040 will not meet the requirements imposed by new subparagraph K.S.A. 79-32,117(c)(xx**)** in Section 12**,** and cannot be claimed as part of that subtraction modification. Form 1040 Line 14 is specifically provided for the reporting of certain types of gains or losses from sales of business property.

Federal Form 4797 is used to report sales of certain business assets, also involuntary conversions and recapture amounts. The IRS instructions for Form 4797 indicate income or loss, depending on its nature, is to be reported on federal Schedule A, federal Schedule D, line 14 of federal Form 1040, or federal Form 4684. Federal law contemplates, and federal forms and instructions clearly direct, the reporting of gains or losses from sales of business assets either directly on federal Form 1040, line 14, or on federal Schedule A, federal Schedule D, or federal Form 4684. Therefore, income from transactions reported on Form 4797 that according to federal income tax instructions is not properly reported on federal Schedules C, E, or F, and on lines 12, 17, or 18 of federal Form 1040, does not qualify for the new subparagraph K.S.A. 79-32,117(c)(xx) subtraction modification in Section 12.

Retirement Benefits Not Included

If an individual receives income in the form of retirement benefits, such as IRA, SEP or other qualified plan distributions, pensions or annuities, such income cannot be claimed as part of the subtraction modification provided by new subparagraph K.S.A. 79-32,117(c)(xx)(2) in Section 12.

Federal law contemplates, and federal forms and instructions clearly direct, the reporting of IRA distributions received by an individual on federal Form 1040, line 15. Federal law contemplates, and federal forms and instructions clearly direct, the reporting of pensions and annuities received by an individual on federal Form 1040, line 16.

According to applicable federal income tax law, regulations and instructions, generally, Form 1099-R is used to report all distributions from qualified retirement plans that are not otherwise reported on Form W-2 (Wage and Tax Statement), including pensions, annuities,

retirement or profit sharing plans, IRAs, or SEPs. Payments subject to withholding and employment taxes are reported on Form W-2.

If an individual receives income, or is responsible for the payment of tax on such income, from a trust or estate and such income consists of retirement benefits, such as IRA, SEP or other qualified plan distributions, pensions or annuities, such income retains its character as retirement benefits and cannot be claimed as part of the subtraction modification provided by new subparagraph K.S.A. 79-32,117(c)(xx)(2).

Nick Jordan

Secretary of Revenue

QUESTIONS AND ANSWERS
REGARDING
HB2117 OF THE 2012 LEGISLATIVE SESSION
(UPDATED 11/2012)

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. This Bill contains a number of provisions (most of which become effective January 1, 2013) which affect Kansas income tax, including those provisions commonly referred to as the "business tax exemption". Additional information about various provisions in the Bill can be found in a series of Notices and a Revenue Ruling which are available through the Department's web site at www.ksrevenue.org

This Questions and Answers document addresses specific questions received to date. As additional questions arise this document may be expanded and updated.

Social Security

Q1. Does HB 2117 change how Social Security payments are taxed by the state of Kansas?

A1. No. KSA 79-32,117(c)(xix) provides a subtraction modification that exempts social security income from Kansas income tax if the federal adjusted gross income of the taxpayer is less than or equal to $75,000. The subtraction modification at new subparagraph (c)(xx), Section 12 of HB 2117 does not alter the computation of federal adjusted gross income, and so does not affect the determination of whether a taxpayer's social security income is exempt from Kansas income tax.

Net Operating Losses

Q1. Section 17(g) of 2012 HB 2117 amends K.S.A. 79-32,143 to add new subparagraph (g) which states that beginning in tax year 2013 the Kansas net operating loss deduction is available only to corporations in determining corporate income tax liability. Does this change result in the expiration of the 10 year period to carry forward net operating losses and, if so, does this entitle the taxpayer to carryback the loss in accordance with KSA 79-32,143(d)?

A1. Section 17(g) of 2012 HB 2117 provides that "a net operating loss allowed by *this section* shall only be available to taxpayers subject to income tax on corporations…." The 10-year carry-forward period for net operating losses provided in K.S.A. 79-32,143(a) is no longer available to individual taxpayers beginning in tax year 2013. Accordingly, any unused Kansas net operating loss and the net operating loss carryback provisions in subparagraph (d) of KSA 79-32,143 are not applicable to individuals beginning in tax year 2013. See Notices 12-03 and 12-08.

Filing Requirements

Q1. Is there still a requirement to file a form K-120S?

A1. Yes. The filing requirement set forth in K.S.A. 79-3220(d) has not been changed. The Department of Revenue will continue to use the form K-120S for administrative purposes.

Q2. Does the new law impact non-residents any differently than Kansas residents? For example, is a non-resident S corporation shareholder's Kansas business income exempt from Kansas income tax? If that is the only source of Kansas income for the non-resident, is he still required to file a Kansas tax return?

A2. The new law applies to both residents and non-residents. Income that is exempt for a Kansas resident is also exempt for a non-Kansas resident. A non-Kansas resident receiving income from Kansas sources must file a Kansas income tax return regardless of whether tax will be due.

Kansas Expensing

Q1. Section 18(h) of 2012 HB 2117 amends K.S.A. 79-32,143a to add new subparagraph (h), which provides that the Kansas expensing deduction enacted in 2011 SB 196 shall only be available to taxpayers subject to corporate income tax beginning in tax year 2013. Does this result in the elimination of any applicable recapture associated with a Kansas expensing deduction claimed by an individual in tax year 2012?

A1. No. Section 18(h) of 2012 HB 2117 provides that the Kansas expensing deduction enacted in 2011 SB 196 is no longer available to individual income taxpayers beginning in tax year 2013. It does not repeal the recapture provisions in K.S.A. 79-32,143a(c) as they would apply to a Kansas expensing deduction claimed in tax year 2012.

IRA Contributions

Q1. What types of IRA contributions are not subject to the new addition modification provisions for self-employment retirement account contributions contained in new subparagraph (b)(xxi), Section 12 of 2012 HB 2117 (amending K.S.A. 79-32,117)?

A1. IRA contributions properly deductible on Line 32 of the federal 1040 return pursuant to the applicable Internal Revenue Service instructions are not included within the addition modification provisions of new subparagraph (b)(xxi) in Section 12 of 2012 HB 2117. Self-employment retirement account contributions properly deductible on Line 28 of the federal 1040 return pursuant to the Internal Revenue Service instructions are included within the addition modification provisions at new subparagraph (b)(xxi). See Notice 12-11.

Guaranteed Payments by a Partnership

Q1. Do guaranteed payments made by a partnership to an individual partner qualify for the subtraction modification at new subparagraph 12(c)(xx) of 2012 House Bill 2117 (amending K.S.A. 79-32,117)?

A1. Yes. Certain payments by a partnership to a partner, computed without regard to the income of the partnership, are characterized as "guaranteed payments," and taxed, for federal income tax purposes, as ordinary income to the recipient partner. The Internal Revenue Service instructions for Form K-1 (1065) provide that "guaranteed payments" made by a partnership to a partner should be reported on the recipient partner's Schedule E as non-passive income from a partnership.

Section 1231 Losses

Q1. Is an IRC Section 1231 loss subject to the addition modification provisions at new subparagraph (b)(xix) of Section 12, 2012 House bill 2117 (amending K.S.A. 79-32,117)?

A1. No. IRC Section 1231 gains and losses are generally reported on federal Form 4797 and would not be reported on Schedules C, E or F, and on Lines 12, 17 or 18 of the federal 1040 return. Therefore, such gains or losses are outside the scope of the addition and subtraction modification provisions in new subparagraphs (b)(xix) and (c)(xx) of Section 12, 2012 House Bill 2117.

Income From a REIT

Q1. Is real estate investment trust (REIT) income eligible for the subtraction modification in new subparagraph (c)(xx)?

A1. No. A real estate investment trust (REIT) reports its income on federal Form 1120-REIT and is taxed as a corporation. If a REIT distributes income to its shareholders or beneficiaries, that income is distributed in the form of dividends, either capital gain dividends or ordinary income dividends. Such income would not be reported on an individual taxpayer's Schedule C, E or F, and on lines 12, 17 or 18 of the individual taxpayer's federal Form 1040, so would not qualify for the subtraction modification in new subparagraph (c)(xx).

Income From a REMIC

Q1. Does real estate mortgage investment conduit (REMIC) income qualify for the subtraction modification at new subparagraph (c)(xx) of Section 12, House Bill 2117, and if so, is there a difference in the treatment of income from a regular interest versus income from a residual interest?

A1. Income from a regular interest in a REMIC does not qualify for the subtraction modification at new subparagraph (c)(xx), as it would not be properly reportable on Schedules C, E or F, and Lines 12, 17 or 18 of the recipient individual's federal 1040 return, pursuant to applicable Internal Revenue Service instructions. Income from a residual interest in a REMIC does qualify for the subtraction modification at new subparagraph (c)(xx), as such income would be properly reported on Schedule E and Line 17 of the recipient individual's federal 1040 return, pursuant to applicable Internal Revenue Service instructions.

Complex Non-Grantor Trust

Q1. For a complex nongrantor trust, if the trust has income that is not distributed (or is not distributable) to a beneficiary pursuant to the terms of the trust, is that income eligible for the new subtraction modification at subparagraph (c)(xx) of Section 12, HB 2117?

A1. No. The new subparagraph (c)(xx) subtraction modification would apply only to the income that is distributed (or distributable) to an individual beneficiary from the trust and is properly reported on Schedule E and Line 17 of the beneficiary's federal 1040 return, pursuant to the applicable Internal Revenue Service instructions. If there is income remaining in the trust on which the trust would be responsible for the federal income tax and not the beneficiaries, this income would not qualify for the new subparagraph (c)(xx) subtraction modification, because it will not be properly reported on a beneficiary's Schedule E and Line 17 of the individual's federal 1040, pursuant to the applicable Internal Revenue Service instructions.

Interest Earned in the Ordinary Course of a Trade or Business

Q1. An S corporation that has elected to be taxed for federal income tax purposes as a pass-through entity is in the trade or business of lending money. Would the interest income earned by the S corporation from loans made by the S corporation to its customers and considered to be made in the ordinary course of its trade or business of lending money for federal income tax purposes, and reportable to the individual shareholders of the S corporation, qualify for the subtraction modification under Section 12(c)(xx)(2) of 2012 House Bill 2117?

A1. Yes. According to the federal income tax instructions for the Form 1120S, interest income on loans considered to be made in the ordinary course of a trade or business of lending money for federal income tax purposes would not be considered "portfolio income" and would be considered included in "gross income derived in the ordinary course of a trade or business" (citing Treasury Temporary Reg. Section 1.469-2T(c)(3)) and properly reported on Line 5 of federal Form 1120S as "Other Income". This income would be reported in Box 1 of the federal Form K-1 provided to the individual shareholder, and so would be reported on Line 28 of the individual shareholder's federal Schedule E and be included in the calculation of income reported on Line 17 of the individual shareholder's federal Form 1040 (based on the IRS instructions for the Tax Year 2011 forms).

Q2. A firm that is a partnership made up of individuals is in the trade or business of lending money. Would the interest income earned by the firm from loans considered to be made by the firm to its customers in the ordinary course of its trade or business of lending money for federal income tax purposes, and reportable to the individual partners, qualify for the subtraction modification under Section 12(c)(xx)(2) of 2012 House Bill 2117?

A2. Yes. According to the federal income tax instructions for the Form K-1 (Form 1065) such income (interest income considered to be derived in the ordinary course of a trade or business of lending money for federal income tax purposes) and properly reported on Line 7 of federal Form 1065 as "Other Income" would not be considered "portfolio income," so would be reported in Box 1 of the federal Form K-1 provided to the individual partner, and would be reported on Line 28 of the individual partner's federal Schedule E and be included in the calculation of income reported on Line 17 of the partner's federal Form 1040 (based on the IRS instructions for the Tax Year 2011 forms).

Q3. A sole proprietor is in the trade or business of lending money. Would the interest income earned by the sole proprietor from loans considered to be made to the sole proprietor's customers in the ordinary course of the sole proprietor's trade or business of lending money for federal income tax purposes qualify for the subtraction modification under Section 12(c)(xx)(1) of 2012 House Bill 2117?

A3. Yes. According to the federal income tax instructions for Schedule C, such income would be properly reported as "Other Income" on Line 6 of Schedule C. It would then be included in the calculation of "net profit" in Line 31 of Schedule C and included in income reported on Line 12 of the individual sole proprietor's federal Form 1040 (based on the IRS instructions for the Tax Year 2011 forms).

FOR MORE INFORMATION

The Department has published a series of Notices and a Revenue Ruling regarding various aspects of 2012 HB 2117. These are available through our web site at: www.ksrevenue.org Please consult these resources for additional information.

If you have a specific question about the Department's policies regarding the provisions of HB2117 you can contact the Office of Policy and Research for more information. Submit your question to:

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