

## HOUSE BILL No. 2276

By Representative Hutchins

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AN ACT amending the homestead property tax refund act; concerning the definition of income; amending K.S.A. 2000 Supp. 79-4502 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2000 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief (not including any refund granted under this act), the gross amount of any pension or annuity (including all monetary retirement benefits from whatever source derived, including but not limited to, railroad retirement benefits, all payments received under the federal social security act except disability payments, and veterans disability pensions), all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. It does not include gifts from non-governmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating ~~losses~~ *loss deduction carrybacks or carryovers* and net capital losses be considered in the determination of income.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or

1 tenants in common.

2 (e) "Claimant" means a person who has filed a claim under the pro-  
3 visions of this act and was, during the entire calendar year preceding the  
4 year in which such claim was filed for refund under this act, except as  
5 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in  
6 this state and was: (1) A person having a disability; (2) a person who is 55  
7 years of age or older or (3) a person other than a person included under  
8 (1) or (2) having one or more dependent children under 18 years of age  
9 residing at the person's homestead during the calendar year immediately  
10 preceding the year in which a claim is filed under this act.

11 When a homestead is occupied by two or more individuals and more  
12 than one of the individuals is able to qualify as a claimant, the individuals  
13 may determine between them as to whom the claimant will be. If they  
14 are unable to agree, the matter shall be referred to the secretary of rev-  
15 enue whose decision shall be final.

16 (f) "Property taxes accrued" means property taxes, exclusive of special  
17 assessments, delinquent interest and charges for service, levied on a  
18 claimant's homestead in 1979 or any calendar year thereafter by the state  
19 of Kansas and the political and taxing subdivisions of the state. When a  
20 homestead is owned by two or more persons or entities as joint tenants  
21 or tenants in common and one or more of the persons or entities is not  
22 a member of claimant's household, "property taxes accrued" is that part  
23 of property taxes levied on the homestead that reflects the ownership  
24 percentage of the claimant's household. For purposes of this act, property  
25 taxes are "levied" when the tax roll is delivered to the local treasurer with  
26 the treasurer's warrant for collection. When a claimant and household  
27 own their homestead part of a calendar year, "property taxes accrued"  
28 means only taxes levied on the homestead when both owned and occupied  
29 as a homestead by the claimant's household at the time of the levy, mul-  
30 tiplied by the percentage of 12 months that the property was owned and  
31 occupied by the household as its homestead in the year. When a house-  
32 hold owns and occupies two or more different homesteads in the same  
33 calendar year, property taxes accrued shall be the sum of the taxes allo-  
34 cable to those several properties while occupied by the household as its  
35 homestead during the year. Whenever a homestead is an integral part of  
36 a larger unit such as a multi-purpose or multi-dwelling building, property  
37 taxes accrued shall be that percentage of the total property taxes accrued  
38 as the value of the homestead is of the total value. For the purpose of  
39 this act, the word "unit" refers to that parcel of property covered by a  
40 single tax statement of which the homestead is a part.

41 (g) "Disability" means:

42 (1) Inability to engage in any substantial gainful activity by reason of  
43 any medically determinable physical or mental impairment which can be

1 expected to result in death or has lasted or can be expected to last for a  
2 continuous period of not less than 12 months, and an individual shall be  
3 determined to be under a disability only if the physical or mental im-  
4 pairment or impairments are of such severity that the individual is not  
5 only unable to do the individual's previous work but cannot, considering  
6 age, education and work experience, engage in any other kind of sub-  
7 stantial gainful work which exists in the national economy, regardless of  
8 whether such work exists in the immediate area in which the individual  
9 lives or whether a specific job vacancy exists for the individual, or whether  
10 the individual would be hired if application was made for work. For pur-  
11 poses of the preceding sentence (with respect to any individual), "work  
12 which exists in the national economy" means work which exists in signif-  
13 icant numbers either in the region where the individual lives or in several  
14 regions of the country; for purposes of this subsection, a "physical or  
15 mental impairment" is an impairment that results from anatomical, phys-  
16 iological or psychological abnormalities which are demonstrable by med-  
17 ically acceptable clinical and laboratory diagnostic techniques; or

18 (2) blindness and inability by reason of blindness to engage in sub-  
19 stantial gainful activity requiring skills or abilities comparable to those of  
20 any gainful activity in which the individual has previously engaged with  
21 some regularity and over a substantial period of time.

22 (h) "Blindness" means central visual acuity of  $\frac{20}{200}$  or less in the  
23 better eye with the use of a correcting lens. An eye which is accompanied  
24 by a limitation in the fields of vision such that the widest diameter of the  
25 visual field subtends an angle no greater than 20 degrees shall be consid-  
26 ered for the purpose of this paragraph as having a central visual acuity of  
27  $\frac{20}{200}$  or less.

28 (i) "Rent constituting property taxes accrued" means 20% of the gross  
29 rent actually paid in cash or its equivalent in 1979 or any taxable year  
30 thereafter by a claimant and claimant's household solely for the right of  
31 occupancy of a Kansas homestead on which ad valorem property taxes  
32 were levied in full for that year. When a household occupies two or more  
33 different homesteads in the same calendar year, rent constituting prop-  
34 erty taxes accrued shall be computed by adding the rent constituting  
35 property taxes accrued for each property rented by the household while  
36 occupied by the household as its homestead during the year.

37 (j) "Gross rent" means the rental paid at arm's length solely for the  
38 right of occupancy of a homestead or space rental paid to a landlord for  
39 the parking of a mobile home, exclusive of charges for any utilities, serv-  
40 ices, furniture and furnishings or personal property appliances furnished  
41 by the landlord as a part of the rental agreement, whether or not expressly  
42 set out in the rental agreement. Whenever the director of taxation finds  
43 that the landlord and tenant have not dealt with each other at arms length

1 and that the gross rent charge was excessive, the director may adjust the  
2 gross rent to a reasonable amount for the purposes of the claim.

3 Sec. 2. K.S.A. 2000 Supp. 79-4502 is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its  
5 publication in the statute book.

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