

SENATE BILL No. 146

By Committee on Assessment and Taxation

2-5

AN ACT concerning income taxation; relating to dividend income; amending K.S.A. 2002 Supp. 79-32,117 and repealing the existing section.

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

Section 1. K.S.A. 2002 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been de-

1 ducted in determining income subject to a Kansas income tax for a prior
2 year regardless of the rate of taxation applied in such prior year to the
3 Kansas taxable income, but only that portion of the refund shall be in-
4 cluded as bears the same proportion to the total refund received as the
5 federal taxes deducted in the year to which such refund is attributable
6 bears to the total federal income taxes paid for such year. For purposes
7 of the foregoing sentence, federal taxes shall be considered to have been
8 deducted only to the extent such deduction does not reduce Kansas tax-
9 able income below zero.

10 (v) The amount of any depreciation deduction or business expense
11 deduction claimed on the taxpayer's federal income tax return for any
12 capital expenditure in making any building or facility accessible to the
13 handicapped, for which expenditure the taxpayer claimed the credit al-
14 lowed by K.S.A. 79-32,177, and amendments thereto.

15 (vi) Any amount of designated employee contributions picked up by
16 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
17 and amendments to such sections.

18 (vii) The amount of any charitable contribution made to the extent
19 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
20 79-32,196, and amendments thereto.

21 (viii) The amount of any costs incurred for improvements to a swine
22 facility, claimed for deduction in determining federal adjusted gross in-
23 come, to the extent the same is claimed as the basis for any credit allowed
24 pursuant to K.S.A. 2002 Supp. 79-32,204 and amendments thereto.

25 (ix) The amount of any ad valorem taxes and assessments paid and
26 the amount of any costs incurred for habitat management or construction
27 and maintenance of improvements on real property, claimed for deduc-
28 tion in determining federal adjusted gross income, to the extent the same
29 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
30 and amendments thereto.

31 (x) Amounts received as nonqualified withdrawals, as defined by
32 K.S.A. 2002 Supp. 75-643, and amendments thereto, if, at the time of
33 contribution to a family postsecondary education savings account, such
34 amounts were subtracted from the federal adjusted gross income pur-
35 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-
36 ments thereto, or if such amounts are not already included in the federal
37 adjusted gross income.

38 (xi) *For taxable years commencing after December 31, 2002, the*
39 *amount of any dividend income, to the extent such dividend income is*
40 *excluded from federal adjusted gross income pursuant to any amendments*
41 *to the federal internal revenue code enacted after December 31, 2002.*

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

43 (i) Interest or dividend income on obligations or securities of any

1 authority, commission or instrumentality of the United States and its pos-
2 sessions less any related expenses directly incurred in the purchase of
3 such obligations or securities, to the extent included in federal adjusted
4 gross income but exempt from state income taxes under the laws of the
5 United States.

6 (ii) Any amounts received which are included in federal adjusted
7 gross income but which are specifically exempt from Kansas income tax-
8 ation under the laws of the state of Kansas.

9 (iii) The portion of any gain or loss from the sale or other disposition
10 of property having a higher adjusted basis for Kansas income tax purposes
11 than for federal income tax purposes on the date such property was sold
12 or disposed of in a transaction in which gain or loss was recognized for
13 purposes of federal income tax that does not exceed such difference in
14 basis, but if a gain is considered a long-term capital gain for federal in-
15 come tax purposes, the modification shall be limited to that portion of
16 such gain which is included in federal adjusted gross income.

17 (iv) The amount necessary to prevent the taxation under this act of
18 any annuity or other amount of income or gain which was properly in-
19 cluded in income or gain and was taxed under the laws of this state for a
20 taxable year prior to the effective date of this act, as amended, to the
21 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
22 the right to receive the income or gain, or to a trust or estate from which
23 the taxpayer received the income or gain.

24 (v) The amount of any refund or credit for overpayment of taxes on
25 or measured by income or fees or payments in lieu of income taxes im-
26 posed by this state, or any taxing jurisdiction, to the extent included in
27 gross income for federal income tax purposes.

28 (vi) Accumulation distributions received by a taxpayer as a beneficiary
29 of a trust to the extent that the same are included in federal adjusted
30 gross income.

31 (vii) Amounts received as annuities under the federal civil service
32 retirement system from the civil service retirement and disability fund
33 and other amounts received as retirement benefits in whatever form
34 which were earned for being employed by the federal government or for
35 service in the armed forces of the United States.

36 (viii) Amounts received by retired railroad employees as a supple-
37 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
38 *et seq.*

39 (ix) Amounts received by retired employees of a city and by retired
40 employees of any board of such city as retirement allowances pursuant to
41 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
42 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
43 amendments thereto.

1 (x) For taxable years beginning after December 31, 1976, the amount
2 of the federal tentative jobs tax credit disallowance under the provisions
3 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
4 the amount of the targeted jobs tax credit and work incentive credit dis-
5 allowances under 26 U.S.C. 280 C.

6 (xi) For taxable years beginning after December 31, 1986, dividend
7 income on stock issued by Kansas Venture Capital, Inc.

8 (xii) For taxable years beginning after December 31, 1989, amounts
9 received by retired employees of a board of public utilities as pension and
10 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
11 and amendments thereto.

12 (xiii) For taxable years beginning after December 31, 1993, the
13 amount of income earned on contributions deposited to an individual
14 development account under K.S.A. 79-32,117h, and amendments thereto.

15 (xiv) For all taxable years commencing after December 31, 1996, that
16 portion of any income of a bank organized under the laws of this state or
17 any other state, a national banking association organized under the laws
18 of the United States, an association organized under the savings and loan
19 code of this state or any other state, or a federal savings association or-
20 ganized under the laws of the United States, for which an election as an
21 S corporation under subchapter S of the federal internal revenue code is
22 in effect, which accrues to the taxpayer who is a stockholder of such
23 corporation and which is not distributed to the stockholders as dividends
24 of the corporation.

25 (xv) For all taxable years beginning after December 31, 1999,
26 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a
27 joint return, for each designated beneficiary which are contributed to a
28 family postsecondary education savings account established under the
29 Kansas postsecondary education savings program for the purpose of pay-
30 ing the qualified higher education expenses of a designated beneficiary
31 at an institution of postsecondary education. The terms and phrases used
32 in this paragraph shall have the meaning respectively ascribed thereto by
33 the provisions of K.S.A. 2002 Supp. 75-643, and amendments thereto,
34 and the provisions of such section are hereby incorporated by reference
35 for all purposes thereof.

36 (d) There shall be added to or subtracted from federal adjusted gross
37 income the taxpayer's share, as beneficiary of an estate or trust, of the
38 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
39 amendments thereto.

40 (e) The amount of modifications required to be made under this sec-
41 tion by a partner which relates to items of income, gain, loss, deduction
42 or credit of a partnership shall be determined under K.S.A. 79-32,131,
43 and amendments thereto, to the extent that such items affect federal

1 adjusted gross income of the partner.

2 Sec. 2. K.S.A. 2002 Supp. 79-32,117 is hereby repealed.

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

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