

HOUSE BILL No. 2923

By Committee on Taxation

3-9

9 AN ACT concerning income taxation; relating to resident trusts; impo-
10 sition of taxes; classes of taxpayers; standard deduction; personal ex-
11 emptions; amending K.S.A. 79-32,109 and K.S.A. 2003 Supp. 79-
12 32,110, 79-32,119 and 79-32,121 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 79-32,109 is hereby amended to read as follows:
16 79-32,109. As used in this act, unless the context otherwise requires:

17 (a) Any term used in this act shall have the same meaning as when
18 used in a comparable context in the federal internal revenue code. Any
19 reference in this act to the “federal internal revenue code” shall mean
20 the provisions of the federal internal revenue code of 1986, and amend-
21 ments thereto, and other provisions of the laws of the United States re-
22 lating to federal income taxes, as the same may be or become effective
23 at any time, or from time to time, for the taxable year.

24 (b) “Resident individual” means a natural person who is domiciled in
25 this state. A natural person who spends in the aggregate more than six
26 months of the taxable year within this state shall be presumed to be a
27 resident for purposes of this act in absence of proof to the contrary. A
28 nonresident individual means an individual other than a resident
29 individual.

30 (c) “Resident estate” means the estate of a deceased person whose
31 domicile was in this state at the time of such person’s death. “Nonresident
32 estate” means an estate other than a resident estate.

33 (d) “Resident trust” means ~~a trust which is administered in this state.~~
34 ~~A trust shall not be deemed to be administered in this state solely because~~
35 ~~it is subject to the jurisdiction of a district court within this state: (1) A~~
36 ~~trust created by will of a decedent who at the time of death was domiciled~~
37 ~~in Kansas, and such trust has at least one income beneficiary who, on the~~
38 ~~last day of the taxable year, was a resident of Kansas; (2) a trust created~~
39 ~~by, or consisting of property of, a person domiciled in Kansas on the date~~
40 ~~the trust or portion of the trust became irrevocable, and such trust has at~~
41 ~~least one income beneficiary who, on the last day of the taxable year, was~~
42 ~~a resident of Kansas; or (3) a trust administered in this state.~~ “Nonresident
43 trust” means a trust other than a resident trust.

1 (e) “Resident partner” means a partner who is a resident individual,
2 a resident estate, or a resident trust. “Nonresident partner” means a part-
3 ner other than a resident partner.

4 (f) “Resident beneficiary” means a beneficiary of an estate or trust
5 which beneficiary is a resident individual, a resident estate, or a resident
6 trust. “Nonresident beneficiary” means a beneficiary other than a resident
7 beneficiary.

8 (g) “Director” means the director of taxation.

9 (h) “Modified Kansas source income” means that part of a nonresi-
10 dent individual’s Kansas adjusted gross income as set forth in K.S.A. 79-
11 32,117, and amendments thereto, derived from sources in Kansas. Items
12 of income including unemployment compensation, gain, loss or deduction
13 reflected in Kansas adjusted gross income shall be considered derived
14 from sources in Kansas to the extent that they are attributable to: (1) The
15 ownership of any interest in real or tangible personal property in this
16 state; (2) a business, trade, profession or occupation carried on in this
17 state; (3) a business, trade, profession or occupation carried on partly
18 within and partly without this state as determined by the uniform division
19 of income for tax purposes act as set forth in K.S.A. 79-3271 through
20 K.S.A. 79-3293, and amendments thereto; (4) the distributive share of
21 partnership income, gain, loss and deduction determined under this sec-
22 tion as if the partnership were a nonresident individual; (5) the share of
23 estate or trust income, gain, loss and deduction determined under K.S.A.
24 79-32,137, and amendments thereto; (6) prizes won from lottery games
25 conducted by the Kansas lottery; (7) any winnings from parimutuel wa-
26 gering derived from the conduct of parimutuel activities within this state;
27 or (8) income from intangible personal property, including annuities, div-
28 idends, interest, and gains from the disposition of intangible personal
29 property to the extent that such income is from property employed in a
30 trade, business, profession or occupation carried on in Kansas. A nonres-
31 ident, other than a dealer holding property primarily for sale to customers
32 in the ordinary course of such dealer’s trade or business, shall not be
33 deemed to carry on a business, trade, profession or occupation in Kansas
34 solely by reason of the purchase and sale of property for such nonresi-
35 dent’s own account.

36 “Modified Kansas source income” shall not include: (1) Compensation
37 paid by the United States for service in the armed forces of the United
38 States, performed during an induction period by an individual not dom-
39 iled in this state; or (2) such individual’s share of distributed or undis-
40 tributed taxable income or net operating loss of a corporation which is an
41 electing small business corporation unless an agreement is filed as pro-
42 vided in K.S.A. 79-32,139, and amendments thereto, in which event, the
43 “modified Kansas source income” of such nonresident individual shall

1 include such individual's share of such corporation's distributed and un-
 2 distributed taxable income or net operating loss as such share is deter-
 3 mined under the internal revenue code only to the extent, however, that
 4 such income, gain or loss is at the corporate level, derived from sources
 5 within Kansas.

6 Sec. 2. K.S.A. 2003 Supp. 79-32,110 is hereby amended to read as
 7 follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided
 8 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is
 9 hereby imposed upon the Kansas taxable income of every resident indi-
 10 vidual, which tax shall be computed in accordance with the following tax
 11 schedules:

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

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

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

18 ~~(A) For tax year 1997:~~

19 If the taxable income is:	The tax is:
20 Not over \$20,000	4.1% of Kansas taxable income
21 Over \$20,000 but not over \$30,000	\$820 plus 7.5% of excess over \$20,000
22 Over \$30,000	\$1,570 plus 7.75% of excess over \$30,000

23 ~~(B) For tax year 1998, and all tax years thereafter:~~

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

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

29 *For tax year 2004, and all tax years thereafter:*

30 <i>If the taxable income is:</i>	<i>The tax is:</i>
31 <i>Not over \$30,000</i>	<i>3.0% of Kansas taxable income</i>
32 <i>Over \$30,000 but not over \$60,000</i>	<i>\$900 plus 6% of excess over \$30,000</i>
33 <i>Over \$60,000 but not over \$80,000</i>	<i>\$2,700 plus 7.25% of excess over \$60,000</i>
34 <i>Over \$80,000 but not over \$100,000</i>	<i>\$4,150 plus 7.50% of excess over \$80,000</i>
35 <i>Over \$100,000</i>	<i>\$5,650 plus 7.75% of excess over \$100,000</i>

36 (2) *All other individuals.*

37 *For tax year 2004, and all tax years thereafter:*

38 <i>If the taxable income is:</i>	<i>The tax is:</i>
39 <i>Not over \$15,000</i>	<i>3.0% of Kansas taxable income</i>
40 <i>Over \$15,000 but not over \$30,000</i>	<i>\$450 plus 6% of excess over \$15,000</i>
41 <i>Over \$30,000 but not over \$40,000</i>	<i>\$1,350 plus 7.25% of excess over \$30,000</i>
42 <i>Over \$40,000 but not over \$50,000</i>	<i>\$2,075 plus 7.50% of excess over \$40,000</i>
43 <i>Over \$50,000</i>	<i>\$2,825 plus 7.75% of excess over \$50,000</i>

1 (b) *Nonresident Individuals*. A tax is hereby imposed upon the Kansas
2 taxable income of every nonresident individual, which tax shall be an
3 amount equal to the tax computed under subsection (a) as if the nonres-
4 ident were a resident multiplied by the ratio of modified Kansas source
5 income to Kansas adjusted gross income.

6 (c) *Corporations*. A tax is hereby imposed upon the Kansas taxable
7 income of every corporation doing business within this state or deriving
8 income from sources within this state. Such tax shall consist of a normal
9 tax and a surtax and shall be computed as follows:

10 (1) The normal tax shall be in an amount equal to 4% of the Kansas
11 taxable income of such corporation; and

12 (2) the surtax shall be in an amount equal to 3.35% of the Kansas
13 taxable income of such corporation in excess of \$50,000.

14 (d) *Fiduciaries*. A tax is hereby imposed upon the Kansas taxable
15 income of estates and trusts at the rates provided in paragraph (2) of
16 subsection (a) hereof.

17 Sec. 3. K.S.A. 2003 Supp. 79-32,119 is hereby amended to read as
18 follows: 79-32,119. The Kansas standard deduction of an individual, in-
19 cluding a husband and wife who are either both residents or who file a
20 joint return as if both were residents, shall be equal to the sum of the
21 standard deduction amount allowed pursuant to this section, and the ad-
22 ditional standard deduction amount allowed pursuant to this section for
23 each such deduction allowable to such individual or to such husband and
24 wife under the federal internal revenue code. For tax year ~~1998~~ 2004,
25 and all tax years thereafter, the standard deduction amount shall be as
26 follows: Single individual filing status, ~~\$3,000~~ \$3,400; married filing status,
27 ~~\$6,000~~ \$6,800; and head of household filing status, \$4,500. For tax year
28 1998, and all tax years thereafter, the additional standard deduction
29 amount shall be as follows: Single individual and head of household filing
30 status, \$850; and married filing status, \$700. For purposes of the fore-
31 going, the federal standard deduction allowable to a husband and wife
32 filing separate Kansas income tax returns shall be determined on the basis
33 that separate federal returns were filed, and the federal standard deduc-
34 tion of a husband and wife filing a joint Kansas income tax return shall
35 be determined on the basis that a joint federal income tax return was
36 filed.

37 Sec. 4. K.S.A. 2003 Supp. 79-32,121 is hereby amended to read as
38 follows: 79-32,121. An individual shall be allowed a Kansas exemption of
39 ~~\$2,250~~ \$2,300 for tax year ~~1998~~ 2004, and all tax years thereafter, for each
40 exemption for which such individual is entitled to a deduction for the
41 taxable year for federal income tax purposes. In addition to the exemp-
42 tions authorized in the foregoing provision, an individual filing a federal
43 income tax return under the status of head of household, as the same is

1 defined by 26 U.S.C. 2(b), shall be allowed an additional Kansas exemp-
2 tion of ~~\$2,250~~ \$2,300 for tax year ~~1998~~ 2004, and all tax years thereafter.

3 Sec. 5. K.S.A. 79-32,109 and K.S.A. 2003 Supp. 79-32,110, 79-
4 32,119 and 79-32,121 are hereby repealed.

5 Sec. 6. This act shall take effect and be in force from and after its
6 publication in the statute book.