

SENATE BILL No. 435

By Committee on Federal and State Affairs

2-4

AN ACT concerning income taxation; relating to credits for contributions to community service organizations; addiction recovery and crime prevention facilities; amending K.S.A. 79-32,194 and K.S.A. 2003 Supp. 79-32,195, 79-32,196, 79-32,197, 79-32,197a and 79-32,198 and repealing the existing sections.

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

Section 1. K.S.A. 79-32,194 is hereby amended to read as follows: 79-32,194. This act shall be known and may be cited as the “Kansas community and addiction recovery services program act.”

Sec. 2. K.S.A. 2003 Supp. 79-32,195 is hereby amended to read as follows: 79-32,195. As used in this act, the following words and phrases shall have the meanings ascribed to them herein: (a) “ARCP contributor” means an individual, business firm or other entity or a charitable foundation or trust, whether or not subject to the Kansas income tax act, which makes a contribution for addiction recovery and crime prevention services;

(b) “addiction recovery and crime prevention services” means the construction of: (1) A drug abuse treatment facility housing or intending to house a certified drug abuse treatment program pursuant to the provisions of K.S.A. 2003 Supp. 75-52,144, and amendments thereto, and other government sponsored or ordered drug and alcohol treatment programs; and (2) ancillary community service facilities from which social services are dispensed and administered to individuals and families of those enrolled in government sponsored or ordered drug and alcohol treatment programs;

(c) “business firm” means any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act, any individual subject to the state income tax imposed by the provisions of the Kansas income tax act, any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto;

- 1 ~~(b)~~ (d) “community services” means:
- 2 (1) The conduct of activities which meet a demonstrated community
3 need and which are designed to achieve improved educational and social
4 services for Kansas children and their families, and which are coordinated
5 with communities including, but not limited to, social and human services
6 organizations that address the causes of poverty through programs and
7 services that assist low income persons in the areas of employment, food,
8 housing, emergency assistance and health care; *and*
- 9 (2) ~~crime prevention; and~~
- 10 ~~(3)~~ health care services;
- 11 ~~(c)~~ (e) “crime prevention” means any nongovernmental activity which
12 aids in the prevention of crime;
- 13 ~~(d)~~ (f) “community service organization” means any organization per-
14 forming community services in Kansas and which:
- 15 (1) Has obtained a ruling from the internal revenue service of the
16 United States department of the treasury that such organization is exempt
17 from income taxation under the provisions of section 501(c)(3) of the
18 federal internal revenue code; or
- 19 (2) is incorporated in the state of Kansas or another state as a non-
20 stock, nonprofit corporation; or
- 21 (3) has been designated as a community development corporation by
22 the United States government under the provisions of title VII of the
23 economic opportunity act of 1964; or
- 24 (4) is chartered by the United States congress;
- 25 ~~(e)~~ (g) “contributions for community services” ~~shall mean and include~~
26 *means and includes* the donation of cash, services or property other than
27 used clothing in an amount or value of \$250 or more. Stocks and bonds
28 contributed shall be valued at the stock market price on the date of trans-
29 fer. Services contributed shall be valued at the standard billing rate for
30 not-for-profit clients. Personal property items contributed shall be valued
31 at the lesser of its fair market value or cost to the donor and may be
32 inclusive of costs incurred in making the contribution, but shall not in-
33 clude sales tax. Contributions of real estate are allowable for credit only
34 when title thereto is in fee simple absolute and is clear of any encum-
35 brances. The amount of credit allowable shall be based upon the lesser
36 of two current independent appraisals conducted by state licensed
37 appraisers;
- 38 (h) “contributions for addiction recovery and crime prevention serv-
39 ices” *means and includes the donation of cash, services or property in an*
40 *amount or value of \$10,000 or more. Stocks and bonds contributed shall*
41 *be valued at the stock market price on the date of transfer. Services con-*
42 *tributed shall be valued at the standard billing rate for not-for-profit cli-*
43 *ents. Personal property items contributed shall be valued at their fair*

1 *market value at the date of transfer. The amount allowable for real estate*
2 *shall be based upon the lesser of two current independent appraisals con-*
3 *ducted by licensed appraisers of the state in which the real estate is*
4 *situated;*

5 ~~(f)~~ (i) “health care services” ~~shall include, but not be includes, but is~~
6 *not* limited to, the following: Services provided by local health depart-
7 ments, city, county or district hospitals, city or county nursing homes, or
8 other residential institutions, preventive health care services offered by a
9 community service organization including immunizations, prenatal care,
10 the postponement of entry into nursing homes by home health care serv-
11 ices, and community based services for persons with a disability, mental
12 health services, indigent health care, physician or health care worker re-
13 cruitment, health education, emergency medical services, services pro-
14 vided by rural health clinics, integration of health care services, home
15 health services and services provided by rural health networks; *and*

16 ~~(g)~~ (j) “rural community” means any city having a population of fewer
17 than 15,000 located in a county that is not part of a standard metropolitan
18 statistical area as defined by the United States department of commerce
19 or its successor agency. However, any such city located in a county de-
20 fined as a standard metropolitan statistical area shall be deemed a rural
21 community if a substantial number of persons in such county derive their
22 income from agriculture and, in any county where there is only one city
23 within the county which has a population of more than 15,000 and which
24 classifies as a standard metropolitan statistical area, all other cities in that
25 county having a population of less than 15,000 shall be deemed a rural
26 community.

27 Sec. 3. K.S.A. 2003 Supp. 79-32,196 is hereby amended to read as
28 follows: 79-32,196. (a) For taxable years commencing after December 31,
29 1997, any business firm which contributes to a community service organ-
30 ization or governmental entity which engages in the activities of providing
31 community services, shall be allowed a credit, as provided in *subsection*
32 *(a)* of K.S.A. 79-32,197, *and amendments thereto*, against the tax imposed
33 by the Kansas income tax act, the tax on net income of national banking
34 associations, state banks, trust companies or savings and loan associations
35 imposed under article 11 of chapter 79 of the Kansas Statutes Annotated,
36 *and amendments thereto*, or the premium tax or privilege fees imposed
37 pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of
38 the provider of community services is approved pursuant to K.S.A. 79-
39 32,198, *and amendments thereto*. Any business firm which makes such a
40 contribution after the effective date of this act and prior to July 1, 1998,
41 shall be allowed a credit in accordance with this act, as if the contribution
42 had been made in calendar year 1997, for the firm’s tax liability for taxable
43 years commencing after December 31, 1996. Notwithstanding any other

1 provisions of this section, no business firm shall claim more than one
2 credit for the same contribution.

3 (b) For taxable years commencing after December 31, 2003, any
4 ARCP contributor who contributes to a community service organization
5 or governmental entity which engages in addiction recovery and crime
6 prevention services shall be allowed a credit, as provided in subsection
7 (b) of K.S.A. 79-32,197, and amendments thereto, against the tax imposed
8 by the Kansas income tax act, the tax on income of national banking
9 associations, state banks, trust companies or savings and loan associations
10 imposed under article 11 of chapter 79 of the Kansas Statutes Annotated,
11 and amendments thereto, or the premium tax or privilege fees imposed
12 pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of
13 the provider of addiction recovery and crime prevention services is ap-
14 proved pursuant to K.S.A. 79-32,198, and amendments thereto.

15 Sec. 4. K.S.A. 2003 Supp. 79-32,197 is hereby amended to read as
16 follows: 79-32,197. (a) The amount of credit allowed pursuant to *subsec-*
17 *tion (a)* of K.S.A. 79-32,196, and amendments thereto, shall not exceed
18 50% of the total amount contributed during the taxable year by the busi-
19 ness firm to a community service organization or governmental entity for
20 programs approved pursuant to K.S.A. 79-32,198, and amendments
21 thereto. The amount of credit allowed pursuant to *subsection (a)* of K.S.A.
22 79-32,196, and amendments thereto, shall not exceed 70% of the total
23 amount contributed during the taxable year by the business firm in a rural
24 community to a community service organization or governmental entity
25 located therein for programs approved pursuant to K.S.A. 79-32,198, and
26 amendments thereto. If the amount of the credit allowed by *subsection*
27 *(a)* of K.S.A. 79-32,196, and amendments thereto, exceeds the taxpayer's
28 income tax liability imposed under the Kansas income tax act, such excess
29 amount shall be refunded to the taxpayer.

30 (b) The amount of credit allowed pursuant to *subsection (b)* of K.S.A.
31 79-32,196, and amendments thereto, shall not exceed 50% of the total
32 amount contributed during the taxable year by the ARCP contributor to
33 a community service organization or governmental entity for addiction
34 recovery and crime prevention services approved pursuant to 79-32,198,
35 and amendments thereto. If the amount of credit allowed by *subsection*
36 *(b)* of K.S.A. 79-32,196, and amendments thereto, exceeds the taxpayer's
37 income tax liability imposed under the Kansas income tax act, such tax
38 credit may be carried forward from year to year, but upon the 10th year
39 following December 31 of the calendar year in which the contribution was
40 made, any unused credit shall be null and void.

41 (c) In no event shall the total amount of credits allowed under this
42 section exceed ~~\$4,130,000~~ \$6,000,000 for any one fiscal year. For the fiscal
43 years 2005, 2006 and 2007, to the extent there are qualified applications,

1 *at least 50% of all tax credits allowed shall be for addiction recovery and*
2 *crime prevention services.*

3 Sec. 5. K.S.A. 2003 Supp. 79-32,197a is hereby amended to read as
4 follows: 79-32,197a. (a) Any business firm or business entity not subject
5 to Kansas income, privilege or premiums tax, hereinafter designated the
6 assignor, may sell, assign, convey or otherwise transfer tax credits allowed
7 and earned pursuant to *subsection (a) of K.S.A. 79-32,196*, and amend-
8 ments thereto, for an amount not less than 50% of the value of any such
9 credit. Such credits shall be deemed to be allowed and earned by any
10 such business entity which is only disqualified therefrom by reason of not
11 being subject to such Kansas taxes. The business firm acquiring earned
12 credits, hereinafter designated the assignee, may use the amount of the
13 acquired credits to offset up to 100% of its income, privilege or premiums
14 tax liability for the taxable year in which such acquisition was made. Only
15 the full credit amount for any one contribution may be transferred and
16 such credit may be transferred one time. Unused credit amounts claimed
17 by the assignee may be carried forward for up to five years, except that
18 all such amounts shall be claimed within 10 years following the tax year
19 in which the contribution was made. The assignor shall enter into a writ-
20 ten agreement with the assignee establishing the terms and conditions of
21 the agreement and shall perfect such transfer by notifying the director of
22 community development of the department of commerce in writing
23 within 30 calendar days following the effective date of the transfer and
24 shall provide any information as may be required by the director of com-
25 munity development of the department of commerce to administer and
26 carry out the provisions of this section. The amount received by the as-
27 signor of such tax credit shall be taxable as income of the assignor, and
28 the excess of the value of such credit over the amount paid by the assignee
29 for such credit shall be taxable as income of the assignee.

30 (b) *Any ARCP contributor, hereinafter designated the assignor, may*
31 *gift, sell, assign, convey or otherwise transfer tax credits allowed and*
32 *earned pursuant to subsection (b) of K.S.A. 79-32,196, and amendments*
33 *thereto. The individual or other entity acquiring earned credits, herein-*
34 *after designated the assignee, may use the amount of the acquired credits*
35 *to offset up to 100% of its income, privilege or premium tax liability for*
36 *any taxable year prior to the expiration of the tax credit. Unused credit*
37 *amounts claimed by the assignee may be carried forward from year to*
38 *year until such time as the tax credits become null and void pursuant to*
39 *subsection (b) of K.S.A. 79-32,197, and amendments thereto. The assignor*
40 *shall enter into a written agreement with the assignee establishing the*
41 *terms and conditions of the agreement and shall perfect such transfer by*
42 *notifying the director of community development of the department of*
43 *commerce in writing within 30 calendar days following the effective date*

1 *of the transfer and shall provide any information as may be required by*
2 *the director of community development of the department of commerce*
3 *to administer and carry out the provisions of this section. Except for the*
4 *assignor's ending balance of its tax credit, tax credit assignments may not*
5 *be made in amounts less than \$1,000.*

6 Sec. 6. K.S.A. 2003 Supp. 79-32,198 is hereby amended to read as
7 follows: 79-32,198. The director of community development of the de-
8 partment of commerce shall annually review and approve or disapprove
9 the proposal of the provider of community services *or the provider of*
10 *addiction recovery and crime prevention services*, except that, no proposal
11 for crime prevention shall be approved without the endorsement of the
12 agency of local government within the area in which crime prevention is
13 to be provided. The proposal shall set forth the program to be conducted,
14 why the program is needed, the estimated amount to be invested in the
15 program and the plans for implementing the program. The director is
16 hereby authorized to promulgate rules and regulations for establishing
17 criteria for evaluating such proposals by the provider of community serv-
18 ices for approval or disapproval and, *within the priorities established by*
19 *this act*, for establishing priorities for approval or disapproval of such
20 proposals by the provider of community services with the assistance and
21 approval of the secretary of the department of revenue.

22 New Sec. 7. The provisions of this act shall be applicable to all tax-
23 able years beginning after December 31, 2003.

24 Sec. 8. K.S.A. 79-32,194 and K.S.A. 2003 Supp. 79-32,195, 79-
25 32,196, 79-32,197, 79-32,197a and 79-32,198 are hereby repealed.

26 Sec. 9. This act shall take effect and be in force from and after its
27 publication in the statute book.

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