

SENATE BILL No. 636

By Committee on Assessment and Taxation

2-15

9 AN ACT concerning income taxation; relating to certain property depre-
10 ciation deductions; amending K.S.A. 2007 Supp. 79-32,117 and 79-
11 32,138 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2007 Supp. 79-32,117 is hereby amended to read
15 as follows: 79-32,117. (a) The Kansas adjusted gross income of an indi-
16 vidual means such individual's federal adjusted gross income for the tax-
17 able year, with the modifications specified in this section.

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

19 (i) Interest income less any related expenses directly incurred in the
20 purchase of state or political subdivision obligations, to the extent that
21 the same is not included in federal adjusted gross income, on obligations
22 of any state or political subdivision thereof, but to the extent that interest
23 income on obligations of this state or a political subdivision thereof issued
24 prior to January 1, 1988, is specifically exempt from income tax under the
25 laws of this state authorizing the issuance of such obligations, it shall be
26 excluded from computation of Kansas adjusted gross income whether or
27 not included in federal adjusted gross income. Interest income on obli-
28 gations of this state or a political subdivision thereof issued after Decem-
29 ber 31, 1987, shall be excluded from computation of Kansas adjusted
30 gross income whether or not included in federal adjusted gross income.

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

37 (iii) The federal net operating loss deduction.

38 (iv) Federal income tax refunds received by the taxpayer if the de-
39 duction of the taxes being refunded resulted in a tax benefit for Kansas
40 income tax purposes during a prior taxable year. Such refunds shall be
41 included in income in the year actually received regardless of the method
42 of accounting used by the taxpayer. For purposes hereof, a tax benefit
43 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. 2007 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. 2007 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) The amount of any contribution made to the same extent the
39 same is claimed as the basis for the credit allowed pursuant to K.S.A.
40 2007 Supp. 74-50,154, and amendments thereto.
- 41 (xii) For taxable years commencing after December 31, 2004,
42 amounts received as withdrawals not in accordance with the provisions
43 of K.S.A. 2007 Supp. 74-50,204, and amendments thereto, if, at the time

1 of contribution to an individual development account, such amounts were
2 subtracted from the federal adjusted gross income pursuant to paragraph
3 (xiii) of subsection (c), or if such amounts are not already included in the
4 federal adjusted gross income.

5 (xiii) The amount of any expenditures claimed for deduction in deter-
6 termining federal adjusted gross income, to the extent the same is claimed
7 as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-
8 32,217 through 79-32,220 or 79-32,222, and amendments thereto.

9 (xiv) The amount of any amortization deduction claimed in deter-
10 mining federal adjusted gross income to the extent the same is claimed
11 for deduction pursuant to K.S.A. 2007 Supp. 79-32,221, and amendments
12 thereto.

13 (xv) The amount of any expenditures claimed for deduction in deter-
14 mining federal adjusted gross income, to the extent the same is claimed
15 as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-
16 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
17 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
18 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

19 (xvi) The amount of any amortization deduction claimed in deter-
20 mining federal adjusted gross income to the extent the same is claimed
21 for deduction pursuant to K.S.A. 2007 Supp. 79-32,227, 79-32,232, 79-
22 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

23 (xvii) The amount of any amortization deduction claimed in deter-
24 mining federal adjusted gross income to the extent the same is claimed
25 for deduction pursuant to K.S.A. 2007 Supp. 79-32,256, and amendments
26 thereto.

27 (xviii) *For taxable year 2008, the amount of any depreciation deduc-*
28 *tion claimed pursuant to the provisions of section 168(k) of the federal*
29 *internal revenue code.*

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

31 (i) Interest or dividend income on obligations or securities of any
32 authority, commission or instrumentality of the United States and its pos-
33 sessions less any related expenses directly incurred in the purchase of
34 such obligations or securities, to the extent included in federal adjusted
35 gross income but exempt from state income taxes under the laws of the
36 United States.

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

40 (iii) The portion of any gain or loss from the sale or other disposition
41 of property having a higher adjusted basis for Kansas income tax purposes
42 than for federal income tax purposes on the date such property was sold
43 or disposed of in a transaction in which gain or loss was recognized for

- 1 purposes of federal income tax that does not exceed such difference in
2 basis, but if a gain is considered a long-term capital gain for federal in-
3 come tax purposes, the modification shall be limited to that portion of
4 such gain which is included in federal adjusted gross income.
- 5 (iv) The amount necessary to prevent the taxation under this act of
6 any annuity or other amount of income or gain which was properly in-
7 cluded in income or gain and was taxed under the laws of this state for a
8 taxable year prior to the effective date of this act, as amended, to the
9 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
10 the right to receive the income or gain, or to a trust or estate from which
11 the taxpayer received the income or gain.
- 12 (v) The amount of any refund or credit for overpayment of taxes on
13 or measured by income or fees or payments in lieu of income taxes im-
14 posed by this state, or any taxing jurisdiction, to the extent included in
15 gross income for federal income tax purposes.
- 16 (vi) Accumulation distributions received by a taxpayer as a beneficiary
17 of a trust to the extent that the same are included in federal adjusted
18 gross income.
- 19 (vii) Amounts received as annuities under the federal civil service
20 retirement system from the civil service retirement and disability fund
21 and other amounts received as retirement benefits in whatever form
22 which were earned for being employed by the federal government or for
23 service in the armed forces of the United States.
- 24 (viii) Amounts received by retired railroad employees as a supple-
25 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
26 et seq.
- 27 (ix) Amounts received by retired employees of a city and by retired
28 employees of any board of such city as retirement allowances pursuant to
29 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
30 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
31 amendments thereto.
- 32 (x) For taxable years beginning after December 31, 1976, the amount
33 of the federal tentative jobs tax credit disallowance under the provisions
34 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
35 the amount of the targeted jobs tax credit and work incentive credit dis-
36 allowances under 26 U.S.C. 280 C.
- 37 (xi) For taxable years beginning after December 31, 1986, dividend
38 income on stock issued by Kansas Venture Capital, Inc.
- 39 (xii) For taxable years beginning after December 31, 1989, amounts
40 received by retired employees of a board of public utilities as pension and
41 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
42 and amendments thereto.
- 43 (xiii) For taxable years beginning after December 31, 2004, amounts

- 1 contributed to and the amount of income earned on contributions de-
2 posited to an individual development account under K.S.A. 2007 Supp.
3 74-50,201, et seq., and amendments thereto.
- 4 (xiv) For all taxable years commencing after December 31, 1996, that
5 portion of any income of a bank organized under the laws of this state or
6 any other state, a national banking association organized under the laws
7 of the United States, an association organized under the savings and loan
8 code of this state or any other state, or a federal savings association or-
9 ganized under the laws of the United States, for which an election as an
10 S corporation under subchapter S of the federal internal revenue code is
11 in effect, which accrues to the taxpayer who is a stockholder of such
12 corporation and which is not distributed to the stockholders as dividends
13 of the corporation.
- 14 (xv) For all taxable years beginning after December 31, 2006,
15 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
16 joint return, for each designated beneficiary which are contributed to a
17 family postsecondary education savings account established under the
18 Kansas postsecondary education savings program or a qualified tuition
19 program established and maintained by another state or agency or instru-
20 mentality thereof pursuant to section 529 of the internal revenue code of
21 1986, as amended, for the purpose of paying the qualified higher edu-
22 cation expenses of a designated beneficiary at an institution of postsec-
23 ondary education. The terms and phrases used in this paragraph shall have
24 the meaning respectively ascribed thereto by the provisions of K.S.A.
25 2007 Supp. 75-643, and amendments thereto, and the provisions of such
26 section are hereby incorporated by reference for all purposes thereof.
- 27 (xvi) For the tax year beginning after December 31, 2004, an amount
28 not exceeding \$500; for the tax year beginning after December 31, 2005,
29 an amount not exceeding \$600; for the tax year beginning after December
30 31, 2006, an amount not exceeding \$700; for the tax year beginning after
31 December 31, 2007, an amount not exceeding \$800; for the tax year
32 beginning December 31, 2008, an amount not exceeding \$900; and for
33 all taxable years commencing after December 31, 2009, an amount not
34 exceeding \$1,000 of the premium costs for qualified long-term care in-
35 surance contracts, as defined by subsection (b) of section 7702B of public
36 law 104-191.
- 37 (xvii) For all taxable years beginning after December 31, 2004,
38 amounts received by taxpayers who are or were members of the armed
39 forces of the United States, including service in the Kansas army and air
40 national guard, as a recruitment, sign up or retention bonus received by
41 such taxpayer as an incentive to join, enlist or remain in the armed services
42 of the United States, including service in the Kansas army and air national
43 guard, and amounts received for repayment of educational or student

1 loans incurred by or obligated to such taxpayer and received by such
2 taxpayer as a result of such taxpayer's service in the armed forces of the
3 United States, including service in the Kansas army and air national guard.
4 (xviii) For all taxable years beginning after December 31, 2004,
5 amounts received by taxpayers who are eligible members of the Kansas
6 army and air national guard as a reimbursement pursuant to K.S.A. 48-
7 281, and amendments thereto, and amounts received for death benefits
8 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
9 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
10 amendments thereto, to the extent that such death benefits are included
11 in federal adjusted gross income of the taxpayer.

12 (xix) For the taxable year beginning after December 31, 2006,
13 amounts received as benefits under the federal social security act which
14 are included in federal adjusted gross income of a taxpayer with federal
15 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
16 status is single, head of household, married filing separate or married
17 filing jointly; and for all taxable years beginning after December 31, 2007,
18 amounts received as benefits under the federal social security act which
19 are included in federal adjusted gross income of a taxpayer with federal
20 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
21 status is single, head of household, married filing separate or married
22 filing jointly.

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

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

32 Sec. 2. K.S.A. 2004 Supp. 79-32,138 is hereby amended to read as
33 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
34 under this act shall be the corporation's federal taxable income for the
35 taxable year with the modifications specified in this section.

36 (b) There shall be added to federal taxable income: (i) The same
37 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
38 amendments thereto, with respect to resident individuals.

39 (ii) The amount of all depreciation deductions claimed for any prop-
40 erty upon which the deduction allowed by K.S.A. 2007 Supp. 79-32,221,
41 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-
42 32,256, and amendments thereto, is claimed.

43 (iii) The amount of any charitable contribution deduction claimed for

1 any contribution or gift to or for the use of any racially segregated edu-
2 cational institution.

3 *(iv) For taxable year 2008, the amount of any depreciation deduction*
4 *claimed pursuant to the provisions of section 168(k) of the federal internal*
5 *revenue code.*

6 (c) There shall be subtracted from federal taxable income: (i) The
7 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,
8 and amendments thereto, with respect to resident individuals.

9 (ii) The federal income tax liability for any taxable year commencing
10 prior to December 31, 1971, for which a Kansas return was filed after
11 reduction for all credits thereon, except credits for payments on estimates
12 of federal income tax, credits for gasoline and lubricating oil tax, and for
13 foreign tax credits if, on the Kansas income tax return for such prior year,
14 the federal income tax deduction was computed on the basis of the federal
15 income tax paid in such prior year, rather than as accrued. Notwithstand-
16 ing the foregoing, the deduction for federal income tax liability for any
17 year shall not exceed that portion of the total federal income tax liability
18 for such year which bears the same ratio to the total federal income tax
19 liability for such year as the Kansas taxable income, as computed before
20 any deductions for federal income taxes and after application of subsec-
21 tions (d) and (e) of this section as existing for such year, bears to the
22 federal taxable income for the same year.

23 (iii) An amount for the amortization deduction allowed pursuant to
24 K.S.A. 2007 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
25 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

26 (iv) For all taxable years commencing after December 31, 1987, the
27 amount included in federal taxable income pursuant to the provisions of
28 section 78 of the internal revenue code.

29 (v) For all taxable years commencing after December 31, 1987, 80%
30 of dividends from corporations incorporated outside of the United States
31 or the District of Columbia which are included in federal taxable income.

32 (d) If any corporation derives all of its income from sources within
33 Kansas in any taxable year commencing after December 31, 1979, its
34 Kansas taxable income shall be the sum resulting after application of
35 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
36 taxable income in any such taxable year, after excluding any refunds of
37 federal income tax and before the deduction of federal income taxes pro-
38 vided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271
39 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund
40 of federal income tax as determined under paragraph (iv) of subsection
41 (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduc-
42 tion for federal income taxes as provided by subsection (c)(ii) shall be
43 such corporation's Kansas taxable income.

1 (e) A corporation may make an election with respect to its first taxable
2 year commencing after December 31, 1982, whereby no addition modi-
3 fications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and
4 subtraction modifications as provided for in subsection (c)(iii) of K.S.A.
5 79-32,138, as those subsections existed prior to their amendment by this
6 act, shall be required to be made for such taxable year.
7 Sec. 3. K.S.A. 2007 Supp. 79-32,117 and 79-32,138 are hereby
8 repealed.
9 Sec. 4. This act shall take effect and be in force from and after its
10 publication in the statute book.