

HOUSE BILL No. 2174

By Committee on Taxation

1-29

9 AN ACT concerning income taxation; relating to social security benefits;
10 amending K.S.A. 2008 Supp. 79-32,117 and repealing the existing sec-
11 tion; also repealing K.S.A. 2008 Supp. 79-32,117m.
12

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

14 Section 1. K.S.A. 2008 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. 2008 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. 2008 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 2008 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. 2008 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. 2008 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. 2008 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. 2008 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. 2008 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. 2008 Supp. 79-32,256, and amendments
26 thereto.

27 (xviii) For taxable years commencing after December 31, 2006, the
28 amount of any ad valorem or property taxes and assessments paid to a
29 state other than Kansas or local government located in a state other than
30 Kansas by a taxpayer who resides in a state other than Kansas, when the
31 law of such state does not allow a resident of Kansas who earns income
32 in such other state to claim a deduction for ad valorem or property taxes
33 or assessments paid to a political subdivision of the state of Kansas in
34 determining taxable income for income tax purposes in such other state,
35 to the extent that such taxes and assessments are claimed as an itemized
36 deduction for federal income tax purposes.

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

38 (i) Interest or dividend income on obligations or securities of any
39 authority, commission or instrumentality of the United States and its pos-
40 sessions less any related expenses directly incurred in the purchase of
41 such obligations or securities, to the extent included in federal adjusted
42 gross income but exempt from state income taxes under the laws of the
43 United States.

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

- 1 (xi) For taxable years beginning after December 31, 1986, dividend
2 income on stock issued by Kansas Venture Capital, Inc.
- 3 (xii) For taxable years beginning after December 31, 1989, amounts
4 received by retired employees of a board of public utilities as pension and
5 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
6 and amendments thereto.
- 7 (xiii) For taxable years beginning after December 31, 2004, amounts
8 contributed to and the amount of income earned on contributions de-
9 posited to an individual development account under K.S.A. 2008 Supp.
10 74-50,201, et seq., and amendments thereto.
- 11 (xiv) For all taxable years commencing after December 31, 1996, that
12 portion of any income of a bank organized under the laws of this state or
13 any other state, a national banking association organized under the laws
14 of the United States, an association organized under the savings and loan
15 code of this state or any other state, or a federal savings association or-
16 ganized under the laws of the United States, for which an election as an
17 S corporation under subchapter S of the federal internal revenue code is
18 in effect, which accrues to the taxpayer who is a stockholder of such
19 corporation and which is not distributed to the stockholders as dividends
20 of the corporation.
- 21 (xv) For all taxable years beginning after December 31, 2006,
22 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
23 joint return, for each designated beneficiary which are contributed to a
24 family postsecondary education savings account established under the
25 Kansas postsecondary education savings program or a qualified tuition
26 program established and maintained by another state or agency or instru-
27 mentality thereof pursuant to section 529 of the internal revenue code of
28 1986, as amended, for the purpose of paying the qualified higher edu-
29 cation expenses of a designated beneficiary at an institution of postsec-
30 ondary education. The terms and phrases used in this paragraph shall have
31 the meaning respectively ascribed thereto by the provisions of K.S.A.
32 2008 Supp. 75-643, and amendments thereto, and the provisions of such
33 section are hereby incorporated by reference for all purposes thereof.
- 34 (xvi) For the tax year beginning after December 31, 2004, an amount
35 not exceeding \$500; for the tax year beginning after December 31, 2005,
36 an amount not exceeding \$600; for the tax year beginning after December
37 31, 2006, an amount not exceeding \$700; for the tax year beginning after
38 December 31, 2007, an amount not exceeding \$800; for the tax year
39 beginning December 31, 2008, an amount not exceeding \$900; and for
40 all taxable years commencing after December 31, 2009, an amount not
41 exceeding \$1,000 of the premium costs for qualified long-term care in-
42 surance contracts, as defined by subsection (b) of section 7702B of public
43 law 104-191.

1 (xvii) For all taxable years beginning after December 31, 2004,
2 amounts received by taxpayers who are or were members of the armed
3 forces of the United States, including service in the Kansas army and air
4 national guard, as a recruitment, sign up or retention bonus received by
5 such taxpayer as an incentive to join, enlist or remain in the armed services
6 of the United States, including service in the Kansas army and air national
7 guard, and amounts received for repayment of educational or student
8 loans incurred by or obligated to such taxpayer and received by such
9 taxpayer as a result of such taxpayer's service in the armed forces of the
10 United States, including service in the Kansas army and air national guard.

11 (xviii) For all taxable years beginning after December 31, 2004,
12 amounts received by taxpayers who are eligible members of the Kansas
13 army and air national guard as a reimbursement pursuant to K.S.A. 48-
14 281, and amendments thereto, and amounts received for death benefits
15 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
16 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
17 amendments thereto, to the extent that such death benefits are included
18 in federal adjusted gross income of the taxpayer.

19 ~~(xix) For the taxable year beginning after December 31, 2006,~~
20 ~~amounts received as benefits under the federal social security act which~~
21 ~~are included in federal adjusted gross income of a taxpayer with federal~~
22 ~~adjusted gross income of \$50,000 or less, whether such taxpayer's filing~~
23 ~~status is single, head of household, married filing separate or married~~
24 ~~filing jointly, and~~ For all taxable years beginning after December 31, 2007,
25 amounts received as benefits under the federal social security act which
26 are included in federal adjusted gross income of a taxpayer with federal
27 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
28 status is single, head of household, married filing separate or married
29 filing jointly *or for all taxable years beginning after December 31, 2008,*
30 *amounts received as benefits under the federal social security act which*
31 *are included in federal adjusted gross income of a taxpayer with federal*
32 *adjusted gross income of \$75,000 or less or \$150,000 or less for a married*
33 *couple filing a joint return or for a married couple filing separate returns.*

34 (xx) *Amounts received by retired employees of Washburn university*
35 *as retirement and pension benefits under the university's retirement plan.*

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. 2008 Supp. 79-32,117 and 79-32,117m are hereby
3 repealed.

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