

HOUSE BILL No. 2496

By Committee on Taxation

1-21

9 AN ACT concerning income taxation; relating to income tax credits; ex-
10 penditures for restoration and preservation of certain historic struc-
11 tures; amending K.S.A. 2009 Supp. 79-32,211 and repealing the exist-
12 ing section.
13

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

15 Section 1. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read
16 as follows: 79-32,211. (a) For all taxable years commencing after Decem-
17 ber 31, 2006, there shall be allowed a tax credit against the income, priv-
18 ilege or premium tax liability imposed upon a taxpayer pursuant to the
19 Kansas income tax act, the privilege tax imposed upon any national bank-
20 ing association, state bank, trust company or savings and loan association
21 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or
22 the premiums tax and privilege fees imposed upon an insurance company
23 pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal
24 to 25% of qualified expenditures incurred in the restoration and preser-
25 vation of a qualified historic structure pursuant to a qualified rehabilita-
26 tion plan by a qualified taxpayer if the total amount of such expenditures
27 equal \$5,000 or more; or in an amount equal to 30% of qualified ex-
28 penditures incurred in the restoration and preservation of a qualified
29 historic structure which is exempt from federal income taxation pursuant
30 to section 501(c)(3) of the federal internal revenue code and which is not
31 income producing pursuant to a qualified rehabilitation plan by a qualified
32 taxpayer if the total amount of such expenditures equals \$5,000 or more.
33 In no event shall the total amount of credits allowed under this section
34 exceed \$3,750,000 for fiscal ~~years year~~ 2010 ~~and 2011~~. If the amount of
35 such tax credit exceeds the qualified taxpayer's income, privilege or pre-
36 mium tax liability for the year in which the qualified rehabilitation plan
37 was placed in service, as defined by section 47(b)(1) of the federal internal
38 revenue code and federal regulation section 1.48-12(f)(2), such excess
39 amount may be carried over for deduction from such taxpayer's income,
40 privilege or premium tax liability in the next succeeding year or years
41 until the total amount of the credit has been deducted from tax liability,
42 except that no such credit shall be carried over for deduction after the
43 10th taxable year succeeding the taxable year in which the qualified re-

1 habilitation plan was placed in service.

2 (b) As used in this section, unless the context clearly indicates
3 otherwise:

4 (1) “Qualified expenditures” means the costs and expenses incurred
5 by a qualified taxpayer in the restoration and preservation of a qualified
6 historic structure pursuant to a qualified rehabilitation plan which are
7 defined as a qualified rehabilitation expenditure by section 47(c)(2) of the
8 federal internal revenue code;

9 (2) “qualified historic structure” means any building, whether or not
10 income producing, which is defined as a certified historic structure by
11 section 47(c)(3) of the federal internal revenue code, is individually listed
12 on the register of Kansas historic places, or is located and contributes to
13 a district listed on the register of Kansas historic places;

14 (3) “qualified rehabilitation plan” means a project which is approved
15 by the cultural resources division of the state historical society, or by a
16 local government certified by the division to so approve, as being consis-
17 tent with the standards for rehabilitation and guidelines for rehabilitation
18 of historic buildings as adopted by the federal secretary of interior and in
19 effect on the effective date of this act. The society shall adopt rules and
20 regulations providing application and approval procedures necessary to
21 effectively and efficiently provide compliance with this act, and may col-
22 lect fees in order to defray its approval costs in accordance with rules and
23 regulations adopted therefor; and

24 (4) “qualified taxpayer” means the owner of the qualified historic
25 structure or any other person who may qualify for the federal rehabili-
26 tation credit allowed by section 47 of the federal internal revenue code.

27 If the taxpayer is a corporation having an election in effect under sub-
28 chapter S of the federal internal revenue code, a partnership or a limited
29 liability company, the credit provided by this section shall be claimed by
30 the shareholders of such corporation, the partners of such partnership or
31 the members of such limited liability company in the same manner as
32 such shareholders, partners or members account for their proportionate
33 shares of the income or loss of the corporation, partnership or limited
34 liability company, or as the corporation, partnership or limited liability
35 company mutually agree as provided in the bylaws or other executed
36 agreement. Credits granted to a partnership, a limited liability company
37 taxed as a partnership or other multiple owners of property shall be passed
38 through to the partners, members or owners respectively pro rata or pur-
39 suant to an executed agreement among the partners, members or owners
40 documenting any alternate distribution method.

41 (c) Any person, hereinafter designated the assignor, may sell, assign,
42 convey or otherwise transfer tax credits allowed and earned pursuant to
43 subsection (a). The taxpayer acquiring credits, hereinafter designated the

1 assignee, may use the amount of the acquired credits to offset up to 100%
2 of its income, privilege or premiums tax liability for either the taxable
3 year in which the qualified rehabilitation plan was first placed into service
4 or the taxable year in which such acquisition was made. Unused credit
5 amounts claimed by the assignee may be carried forward for up to five
6 years, except that all such amounts shall be claimed within 10 years fol-
7 lowing the tax year in which the qualified rehabilitation plan was first
8 placed into service. The assignor shall enter into a written agreement with
9 the assignee establishing the terms and conditions of the agreement and
10 shall perfect such transfer by notifying the cultural resources division of
11 the state historical society in writing within 90 calendar days following
12 the effective date of the transfer and shall provide any information as may
13 be required by such division to administer and carry out the provisions
14 of this section. The amount received by the assignor of such tax credit
15 shall be taxable as income of the assignor, and the excess of the value of
16 such credit over the amount paid by the assignee for such credit shall be
17 taxable as income of the assignee.

18 Sec. 2. K.S.A. 2009 Supp. 79-32,211 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the Kansas register.