

Approved On: \_\_\_\_\_

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on February 4, 1985 in room 519 South at the Capitol of the State of Kansas.

The following members were absent:

Representatives Ott and Crowell

Committee staff present:

Tom Severn, Legislative Research  
Melinda Hanson, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

Don Hayward presented a bill requested by the committee regarding income taxation; providing for refundable credits therefrom for merchants' and manufacturers' and livestock inventory ad valorem taxes; amending KSA 79-32,105, 79-32,120 and 79-32,138 and repealing the existing sections. (Attachment 1) Representative Roe moved, second by Representative Fox, that the requested bill be introduced. The motion carried.

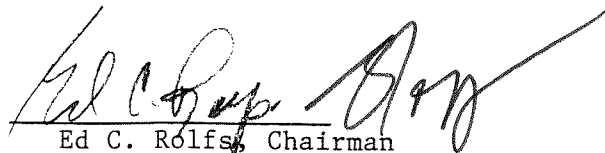
Mr. Leo Hafner presented a performance audit report by the Legislative Division of Post Audit. This report was based on real property valuation in three counties, Sedgwick, Douglas, and Lincoln.

Tom Severn presented a tax review, showing 1983 figures for merchants, manufacturers and livestock inventories by county. This report illustrated that there is a great deal of variation from county to county. (Attachment 3) He also presented data on the Booster Tax and taxation of Social Security benefits by the various states

Representative Lowther moved, second by Representative Leach, that legislation be introduced granting the Director of Property Valuation discretion in establishing the form of the Certificate of Value, pursuant to the recommendation of the Legislative Post Audit Committee. The motion carried.

The minutes of the meeting of January 31, 1985, were distributed. There being no corrections, the chairman declared them approved as written.

There being no further business to come before the committee, the chairman adjourned the meeting.

  
Ed C. Rolfs, Chairman

HOUSE BILL NO. \_\_\_\_\_

By Committee on Assessment and Taxation

AN ACT relating to income taxation; providing for refundable credits therefrom for merchants' and manufacturers' and livestock inventory ad valorem taxes; amending K.S.A. 79-32,105, 79-32,120 and 79-32,138 and repealing the existing sections.

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

New Section 1. (a) There shall be allowed as a credit against the tax liability of a merchant computed under the provisions of the Kansas income tax act, and amendments thereto, the amount determined under subsection (b). If the amount determined under subsection (b) exceeds the income tax liability of the merchant for the designated tax year, any excess shall be applied to any other income tax, including penalties and interest, if any, then owed the state of Kansas by such merchant and the balance of such excess, if any, refunded to the merchant from the income tax refund fund established and maintained under K.S.A. 79-32,105, and amendments thereto.

(b) (1) For income tax years commencing after December 31, 1984, and prior to January 1, 1986, a merchant shall be allowed a credit or refund in an amount equal to 20% of the total of all ad valorem property taxes on the inventory of such merchant which was paid during such income tax year.

(2) For income tax years commencing after December 31, 1985, and prior to January 1, 1987, a merchant shall be allowed a credit or refund in an amount equal to 40% of the total of all ad valorem property taxes on the inventory of such merchant which was paid during such income tax year.

(3) For income tax years commencing after December 31, 1986, and prior to January 1, 1988, a merchant shall be allowed a

credit or refund in an amount equal to 60% of the total of all ad valorem property taxes on the inventory of such merchant which was paid during such income tax year.

(4) For income tax years commencing after December 31, 1987, and prior to January 1, 1989, a merchant shall be allowed a credit or refund in an amount equal to 80% of the total of all ad valorem property taxes on the inventory of such merchant which was paid during such income tax year.

(5) For all income tax years commencing after December 31, 1988, a merchant shall be allowed a credit or refund in an amount equal to 100% of the total of all ad valorem property taxes on the inventory of such merchant which was paid during such income tax year.

(c) As used in this section: (1) "Merchant" means every person, company or corporation who shall own or hold, subject to such person's control, any personal property within this state, as inventory for sale in such person's business as a merchant; and

(2) "inventory" means all personal property owned or held, subject to the control of a merchant, which shall have been purchased by such merchant with a view of being sold at an advanced price or profit, or which shall have been consigned to such merchant for the purpose of being so sold.

New Sec. 2. (a) There shall be allowed as a credit against the tax liability of a manufacturer computed under the provisions of the Kansas income tax act, and amendments thereto, the amount determined under subsection (b). If the amount determined under subsection (b) exceeds the income tax liability of the manufacturer for the designated tax year, any excess shall be applied to any other income tax, including penalties and interest, if any, then owed the state of Kansas by such manufacturer and the balance of such excess, if any, refunded to the manufacturer from the income tax refund fund established and maintained under K.S.A. 79-32,105, and amendments thereto.

(b) (1) For income tax years commencing after December 31,

1984, and prior to January 1, 1986, a manufacturer shall be allowed a credit or refund in an amount equal to 20% of the total of all ad valorem property taxes on the inventory of such manufacturer which was paid during such income tax year.

(2) For income tax years commencing after December 31, 1985, and prior to January 1, 1987, a manufacturer shall be allowed a credit or refund in an amount equal to 40% of the total of all ad valorem property taxes on the inventory of such manufacturer which was paid during such income tax year.

(3) For income tax years commencing after December 31, 1986, and prior to January 1, 1988, a manufacturer shall be allowed a credit or refund in an amount equal to 60% of the total of all ad valorem property taxes on the inventory of such manufacturer which was paid during such income tax year.

(4) For income tax years commencing after December 31, 1987, and prior to January 1, 1989, a manufacturer shall be allowed a credit or refund in an amount equal to 80% of the total of all ad valorem property taxes on the inventory of such manufacturer which was paid during such income tax year.

(5) For all income tax years commencing after December 31, 1988, a manufacturer shall be allowed a credit or refund in an amount equal to 100% of the total of all ad valorem property taxes on the inventory of such manufacturer which was paid during such income tax year.

(c) As used in this section: (1) "Manufacturer" means every person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining or by the combination of different materials; and

(2) "inventory" means all personal property purchased or held by a manufacturer for the purpose of being used in the process of manufacturing, refining or combining and all personal property manufactured and retained in the possession of such manufacturer.

New Sec. 3. (a) There shall be allowed as a credit against

the tax liability of a taxpayer paying ad valorem taxes upon livestock under the laws of the state of Kansas computed under the provisions of the Kansas income tax act, and amendments thereto, the amount determined under subsection (b). If the amount determined under subsection (b) exceeds the income tax liability of the taxpayer for the designated tax year, any excess shall be applied to any other income tax, including penalties and interest, if any, then owed the state of Kansas by such taxpayer and the balance of such excess, if any, refunded to the taxpayer out of the income tax refund fund established and maintained under K.S.A. 79-32,105, and amendments thereto.

(b) (1) For income tax years commencing after December 31, 1984, and prior to January 1, 1986, a taxpayer shall be allowed a credit or refund in an amount equal to 20% of the total of all ad valorem property taxes on livestock which was paid by such taxpayer during such income tax year.

(2) For income tax years commencing after December 31, 1985, and prior to January 1, 1987, a taxpayer shall be allowed a credit or refund in an amount equal to 40% of the total of all ad valorem property taxes on livestock which was paid by such taxpayer during such income tax year.

(3) For income tax years commencing after December 31, 1986, and prior to January 1, 1988, a taxpayer shall be allowed a credit or refund in an amount equal to 60% of the total of all ad valorem property taxes on livestock which was paid by such taxpayer during such income tax year.

(4) For income tax years commencing after December 31, 1987, and prior to January 1, 1989, a taxpayer shall be allowed a credit or refund in an amount equal to 80% of the total of all ad valorem property taxes on livestock which was paid by such taxpayer during such income tax year.

(5) For all income tax years commencing after December 31, 1988, a taxpayer shall be allowed a credit or refund in an amount equal to 100% of the total of all ad valorem property taxes on livestock which was paid by such taxpayer during such income tax

year.

(c) As used in this section: "Livestock" means: (1) Horses, not less than 12 months old; (2) cattle, not less than 12 months old; (3) mules and asses, not less than 12 months old; (4) sheep, not less than six months old; (5) hogs, not less than six months old; and (6) goats, not less than six months old.

Sec. 4. K.S.A. 79-32,105 is hereby amended to read as follows: 79-32,105. (a) The director shall pay to the treasurer of the state daily the entire amount collected during the preceding day, under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the "Kansas income tax act" less amounts withheld as provided in subsection (b), which amounts shall be credited to the state general fund.

(b) A revolving fund, designated as "income tax refund fund" not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds, for the payment of refunds authorized under the provisions of sections 1, 2 and 3 and for the payment of interest as provided in subsection (e). The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that

no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer's tax liability in the taxpayer's next succeeding taxable year.

(d) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(6) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due thereon, is deposited in the United States mail.

Sec. 5. K.S.A. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction. The Kansas itemized deduction of an individual means the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the internal revenue code of 1954, as



amended, and in effect on December 31, 1977, with the modifications specified in this section.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions, by the amount of medical and dental expenses claimed in determining such deductions, by the amount of any charitable contribution claimed for any contribution or gift to or for the use of any racially segregated educational institution, by the amount of all ad valorem tax deductions claimed for which a credit is claimed pursuant to section 1, 2 or 3 and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 79-32,161, and amendments thereto, and by K.S.A. 79-32,168, and amendments thereto, is or has been claimed.

(c) The total amount of deductions from federal adjusted gross income shall be increased by the sum of:

(i) The federal income tax liability under chapter 1 of the internal revenue code for the same taxable year for which the Kansas return is being filed after reduction for all credits thereon, except credits for federal withholding and payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits in an amount as hereinafter provided. If, in any year to which this act relates, the taxpayer pays federal income tax pertaining to a prior year's federal income tax liability, such taxpayer may deduct such payment in the year such payment is made if, on the Kansas income tax return for such prior year, such taxpayer computed the federal income tax deduction on the basis of federal income tax paid in such prior year, rather than as accrued. The deduction for federal income tax liability for any year shall be determined by multiplying the federal income tax liability for such year by a fraction the numerator of which is the Kansas adjusted gross income for such year and the denominator of which is the federal

adjusted gross income for the same year. Notwithstanding the foregoing, for all taxable years commencing after December 31, 1982 and prior to January 1, 1985, the deduction for federal income tax liability allowed by this subsection, as limited by the preceding sentence, shall not exceed whichever of the following is greater: (A) Five thousand dollars in the case of a taxpayer filing a return as a single individual, head of household or married individual filing separately, or \$10,000 in the case of taxpayers filing a joint return; or (B) fifty percent of the product determined by multiplying federal income tax liability, after reduction for credits except those enumerated by the first sentence of this subsection, by the fraction determined under the preceding sentence.

(ii) The amount of railroad retirement, social security or self-employment taxes payable under the internal revenue code for the same taxable year for which the Kansas return is being filed to the extent that the same are not deducted in computing federal taxable income. If in any year to which this act relates, the taxpayer pays railroad retirement, social security or self-employment taxes pertaining to a prior year's liability, such taxpayer may deduct such payment in the year in which such payment is made provided that such taxpayer has not deducted such amount in a prior year.

(iii) Expenses in excess of \$50 paid during the taxable year not compensated for by insurance or otherwise, for medical or dental care for the taxpayer, the taxpayer's spouse, or a dependent.

(iv) An amount for amortization of the amortizable costs of a certified oil production process as computed under K.S.A. 79-32,161, and amendments thereto.

(v) An amount for the amortization deduction for a solar energy system allowed pursuant to K.S.A. 79-32,168, and amendments thereto.

(vi) The fair market value of a painting or other work of art contributed to any art gallery or museum which is operated on

a not-for-profit basis and which is supported in whole or part by public funds, by any taxpayer whose personal efforts created such painting or work of art, less the amount deducted from federal adjusted gross income attributable to such contribution. The value of such painting or work of art shall be determined and certified to the department of revenue by such art gallery or museum.

Sec. 6. K.S.A. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

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

(ii) The amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction is allowed by K.S.A. 79-32,161, and amendments thereto.

(iii) The amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 79-32,168, and amendments thereto, is claimed.

(iv) The amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution.

(v) The amount of all ad valorem tax deductions claimed for which a credit is claimed pursuant to section 1, 2 or 3.

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

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for

gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) ~~of this section~~ as existing for such year, bears to the federal taxable income for the same year.

(iii) An amount for amortization of the amortizable costs of a certified oil production process as computed under K.S.A. 79-32,161, and amendments thereto.

(iv) An amount for the amortization deduction for a solar energy system allowed pursuant to K.S.A. 79-32,168, and amendments thereto.

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

(e) A corporation may make an election with respect to its first taxable year commencing after December 31, 1982, whereby no addition modifications as provided for in K.S.A. 79-32,138(b)(ii)

and subtraction modifications as provided for in K.S.A. 79-32,138(c)(iii), as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

New Sec. 7. The provisions of this act shall be applicable to all taxable years commencing after December 31, 1984.

Sec. 8. K.S.A. 79-32,105, 79-32,120 and 79-32,138 are hereby repealed.

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