

Approved: 3-31-95
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 12:30 p.m. on March 22, 1995 in Room 519-S of the Capitol.

All members were present except: Meeting at 12:30 p.m.
Rep. Clyde Graeber - excused
Rep. Greta Goodwin - excused

Meeting at 5:30 p.m.
Rep. Clyde Graeber - excused
Rep. Bruce Larkin - excused

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Alan Conroy, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee: James Maag, Kansas Bankers Association
Jeff Sonnich, League of Savings Institutions

Others attending: See attached list

Chair opened hearing on:

SB 354 - Excluding privilege tax from additions to adjusted gross income

Proponents:

James Maag, SVP, Kansas Bankers Association (Attachment 1)
Jeff Sonnich, VP, Kansas, Nebraska, Oklahoma League of Savings Institutions (Attachment 2)

Chair closed hearing on **SB 354**.

Chair called for action on

HCR 5023 - Constitutional amendment imposing aggregate limitations upon expenditures by the state and its taxing subdivisions

Moved by Edmonds, seconded by Pugh, amend HCR 5023 to strike the word "average" wherever it appears and insert the words "arithmetic mean". Motion withdrawn.

Moved by McKinney, seconded by Larkin, amend HCR 5023. Motion carried. (Attachment 3)

Substitute motion by Edmonds, seconded by Pugh, to change the wording on page 6 line 7 from "three-fourths" to "two thirds" in the proposed amendment to HCR 5023. Motion failed - Yes 8, No 9 (Attachment 3)

Moved by Larkin, seconded by Pettey, amend HCR 5023 on page 3, line 19 and 20 to delete the term "federal", and to delete the term "federal" in any of the other sections of the bill. Motion carried. Yes 10, No 7.

Moved by Larkin, seconded by Pettey, amend HCR 5023 to include an exemption for unfunded federal mandates as it applies to the state. Motion failed. Yes 8, No 9.

Moved by McKinney, seconded by Mays, amend HCR 5023 Motion carried. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on March 22, 1995.

Moved by Edmonds, seconded by Vickery, to amend **HCR 5023** on page 6, line 6 by changing "three-fifths" to "two-thirds". Motion carried.

Moved by McKinney, seconded by Larkin, amend **HCR 5023**. Motion carried. (Attachment 5)

Moved by Edmonds, seconded by Larkin, amend **HCR 5023** from primary to general election on page 6, line 31. Motion carried.

Moved by Mays, seconded by Edmonds, amend **HCR 5023**, page 4 lines 17-19 to 10% of number of electors and strike "who voted at the last preceding general election" Motion carried.

Moved by Wempe, seconded by Edmonds, amend **HCR 5023** by adding to (G) language regarding proceeds of any bond issues. Motion carried.

Recessed at 2:00 p.m. and reconvened after adjournment of the House at 5:30 p.m.

Moved by Rep. Kirk, seconded by Rep. Wempe, amend **HCR 5023** on page 3, after line 25, by inserting the following: "(G) moneys received by a city or county pursuant to an interlocal agreement which provides for the transfer or consolidation of governmental functions for the purpose of financing such transfer or consolidation; and". Motion failed. Yes 7, No 9

Moved by Donovan, seconded by Aurand, **HCR 5023** be passed favorably as amended. Motion carried. Yes 12, No 5

Chair called for action on:

SB 301 - income tax credit for education and training of qualified firm's employees.

Moved by Wilson, seconded by Hayzlett, **SB 301** be passed favorably, Motion carried. Yes 12, No 7. Recording of "no" votes for Reps. McKinney, Edmonds, Pugh, Goodwin and Aurand.

Chair called for action on:

SB 354 - Excluding privilege tax from additions to adjusted gross income.

Moved by Powell, seconded by Edmonds, **SB 354** be amended to insert new language on page 1, line 36 after period "for privilege tax year 1995, and for all such years thereafter". Motion carried.

Moved by Edmonds, seconded by Powell, **SB 354** be passed favorably as amended. Motion carried.

Chair called for action on:

SB 197 - Land devoted to agricultural use inclusive of land designated as controlled shooting area.

Moved by Empson, seconded by Wilson, **SB 197** be passed favorably. Motion carried.

Substitute motion by Powell, seconded by Vickery, amend **SB 197** to provide for the computation and publishing of preliminary property tax levy rates. Motion failed. (Attachment 6)

The next meeting is scheduled for March 23, 1995.

Adjournment.

TAXATION COMMITTEE GUEST LIST

DATE: March 22, 1995

NAME	REPRESENTING
Chad Hickey	KS Oil & Gas Producers Assn
Mickie Schultz	KDOR
Debra Platt	KDOR
MARK CARDULLO	
Steve Stitt	Revenue
Reed W. Davis	KDOT
DIANA MAONEY	SHAWNEE TOMORROW
Mary Sheridan	Shawnee Tomorrow
Joyce Rabas	Shawnee Tomorrow
Jamie Clover Adams	Kansas Grain & Feed Assn
Shawnylie	Shawnee Tomorrow
Ken Peterson	KS Petroleum Council
Craig Lawson	Intern - Rep Pettey
Charles Keys & (Bailey)	Shawnee Tomorrow
Carol Norman	Shawnee Tomorrow
ALAN STEPPAT	PETE MCGILL & Assoc.
Genevieve Noe	KCUA
John Peterson	Fourth Federal Circuit
Christy Young	Topeka Chamber of Commerce



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 22, 1995

TO: The House Taxation Committee
RE: SB 354 - Kansas privilege tax

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 354 which is a bill involving significant economic impact to the banking industry in Kansas. The bill would clarify that financial institutions are not required to "add back" the previous year's privilege tax when calculating net income for the current year's privilege tax. The bill has been approved by the Senate on March 17 on a 40-0 vote.

The Kansas Department of Revenue issued in August of 1994 a Revenue Notice (94-08) which stated that financial institutions must add back the previous year's privilege tax when calculating net income for the current year's privilege tax. From 1980 to 1994 the Department had not required such an add back. The Notice was issued without any attempt by the Department to discuss the issue with either the industry or the Legislature.

The impact of the Notice on the banking industry is very significant. It means that Kansas banks will have an increase in their privilege tax liability this year which ranges from 5% to 20% with the statewide average probably in the range of 7.5%. We are estimating that the total dollar impact will be at least \$3 million annually.

The Department's Notice was not based on any legislative action or directive. We strongly believe that such a significant change in how financial institutions are required to calculate their privilege tax liability is a legislative matter and should be addressed as such. The Department has been before legislative committees at least seven times in the past 14 years requesting amendments to the statute in question, but not once did they ever ask for a clarification of this issue.

In addition, it was the Department which requested the specific language of K.S.A. 79-32,117(b) in 1980 and from the very first year of its implementation and for the next 13 years they interpreted that subsection to mean that banks did not have to add back the previous year's privilege tax. We believe that given the length of time involved the only logical manner in which to contemplate a change was to come to the Legislature with suggested statutory language.

Office of Executive Vice President
Eighth and Jackson

House Taxation
3-22-95
Attachment 1-1



More importantly, we believe that if the Department insists on their present interpretation of the privilege tax statute they have turned the privilege tax into a corporate income tax thus creating serious constitutional problems. We know from the long history of how national banks can be taxed that there is a very fine line between what is an acceptable method for states to tax national banks if they want to be able to impose a tax on all of the U. S. Treasury obligations and other federal government securities held by a national bank. By requiring banks to add back their prior year's privilege tax it means that they would be taxed in the same manner as corporations thus turning the privilege tax, which is now an allowable franchise tax for national banks, into an income tax.

Another key point is that insurance companies which also pay a Kansas privilege tax are not required to add back in calculating their present year privilege tax liability (see pp. 5-6 of attachment). This creates an additional problem as it relates to the taxation of national banks as federal law requires that national banks cannot be taxed in a manner which is significantly different than the way other "moneyed interests" are taxed by the states.

To understand the proposed amendment in SB 354 it is necessary to look at four different statutes in this sequence:

- (1) Note that K.S.A. 79-1107 on page one of the attachments says the bank privilege tax shall be based on "net income" and shall be a tax levied "in lieu of ad valorem taxes which might otherwise be imposed" [emphasis added]
- (2) Also on p. 1 K.S.A. 79-1109 defines what is to be included in "net income". It states that it shall be the same as the definition for taxable income for a corporation as defined in K.S.A. 79-32, 138.
- (3) On p. 2 in K.S.A. 79-32,138(b) it states that certain items must be added to the federal taxable income of the corporation as set forth in the income tax statute for residents.
- (4) On p. 3 is K.S.A. 79-32,117(b) indicates what items an individual must add to his or her adjusted gross income. Subsection (ii) states that taxes measured by income or fees in lieu of income taxes must be included, but there is no reference to any tax which is levied in lieu of an ad valorem tax such as the privilege tax.

So if you tie the requirements of K.S.A. 79-32,117(b) back to the requirements of K.S.A. 79-32,138(b) and then tie those requirements back to the requirements of K.S.A. 79-1109 and then tie those requirements back to K.S.A. 79-1107 you have

the department's rationale for including the previous year's privilege tax in the calculation of this year's privilege tax.

For all of the reasons stated above, we do not believe that Revenue Notice 94-08 was an appropriate action and that is why we are requesting the passage of SB 354. We would also request that the bill be amended by adding in Section 1, line 36, the following language after the word "thereto": "for privilege tax year 1995, and all such years thereafter." We believe this clarifies that the ruling should not apply to privilege taxes paid for this or any subsequent tax year.

It is definitely the Legislature's right and responsibility to establish tax policy for this state and the Department's reinterpretation of a law which has been in effect for 14 years is an infringement upon that legislative prerogative. The Kansas banking industry stands ready to pay its rightful share of state taxes, but we strongly believe the requirement of such taxes should be the result of careful legislative deliberation and not due to administrative interpretation. Therefore, we believe the passage of SB 354 is necessary to maintain a fair and equitable as well as a constitutional privilege tax in Kansas.


James S. Maag
Senior Vice President

Research and Practice Aids:
Taxation 980, 1061.
C.J.S. Taxation §§ 1096, 1101.

79-1108a.

History: L. 1968, ch. 142, § 3; L. 1972, ch. 342, § 89; Repealed, L. 1987, ch. 374, § 4; July 1.

79-1109. "Net income" defined; deductions. As used in this act "net income" shall mean the Kansas taxable income of corporations as defined in K.S.A. 79-32-138, and amendments thereto, plus income received from obligations or securities of the United States or any authority, commission or instrumentality of the United States and its possessions to the extent not included in Kansas taxable income of a corporation and income received from obligations of this state or a political subdivision thereof which is exempt from income tax under the laws of this state; less dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest paid on time deposits or borrowed money and dividends paid on withdrawable shares of savings and loan associations to the extent not deducted in arriving at Kansas taxable income of a corporation.

Savings and loan associations shall be allowed as a deduction from net income, as hereinbefore defined, a reserve established for the sole purpose of meeting or absorbing losses, in the amount of 5% of such net income determined without benefit of such deduction, but no further deduction shall be allowed for losses when actually sustained and charged against such reserve, unless such reserve shall have been fully absorbed thereby; or, in the alternative, a reasonable addition to a reserve for losses based on past experience, under such rules and regulations as the secretary of revenue may prescribe.

History: L. 1963, ch. 463, § 4; L. 1967, ch. 488, § 1; L. 1972, ch. 359, § 3; L. 1979, ch. 314, § 2; L. 1986, ch. 332, § 7; L. 1987, ch. 374, § 3; July 1.

Cross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

Research and Practice Aids:
Taxation 980, 1031, 1047.
C.J.S. Taxation §§ 1096, 1098, 1099.

79-1109a. Application of 79-1107 and 79-1109. The provisions of K.S.A. 79-1107 and 79-1109 shall be applicable to all taxable years commencing after December 31, 1979.

79-1107. National banking associations and state banks; tax imposed; rate. Every national banking association and state bank located or doing business within the state shall pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding taxable year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax shall be an amount equal to 4 1/4% of such net income; and

(b) the surtax shall be an amount equal to 2 1/8% of such net income in excess of \$25,000.

The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock or the intangible assets of national banking associations and state banks. The state of Kansas hereby adopts the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the revised statutes of the United States (12 U.S.C.A. 548), relating to the manner and place of taxing national banking associations located within its limits.

History: L. 1963, ch. 463, § 2; L. 1968, ch. 142, § 1; L. 1970, ch. 382, § 1; L. 1972, ch. 359, § 1; L. 1979, ch. 314, § 1; L. 1987, ch. 374, § 1; July 1.

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79-32,138

the share of each beneficiary (including, solely for the purpose of this allocation, resident beneficiaries) in the net amount, determined under subsections (a)(i) and (a)(ii) of this section, shall be in proportion to his or her share of the estate or trust income for such year, under local law or the governing instrument, which is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of such net amount shall be allocated to the estate or trust.

(ii) The director may, by regulation, establish such other method or methods of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources within Kansas and in the modifications related thereto as may be appropriate and equitable. Such method may be used by the fiduciary in his or her discretion whenever the allocation of such respective shares under subsections (a) or (b)(i) of this section would result in an inequity which is substantial both in amount and in relation to the total amount of the amount of the modifications referred to in subsection (a)(ii) of this section.

(c) The fiduciary of a resident estate or trust shall withhold and deduct from amounts distributed or distributable to each nonresident beneficiary an amount equal to two and one-half percent (2½%) of that portion of the Kansas nonresident adjusted gross income of such nonresident beneficiary which is derived from such estate or trust. Such fiduciary shall pay to the director the amounts so withheld and deducted concurrently with the filing of the Kansas income tax return of the estate or trust and shall furnish or mail to the last known address of each such nonresident beneficiary two copies of a statement on a form prescribed by the director showing the amount so withheld and deducted from the amounts distributed or distributable to such nonresident beneficiary and such other information as may be prescribed by the director. The amount withheld and deducted shall be allowed as a credit against the income tax otherwise imposed on such nonresident beneficiary under this act, and if the amount withheld and deducted exceeds the income tax liability of such nonresident beneficiary, any excess shall be applied to any other tax owed the state of Kansas by such nonresident beneficiary (including fines, penalties and interest, if any) and the balance of such excess, if any, refunded to such

nonresident beneficiary as provided in K.S.A. 79-32,105(c).

History: L. 1967, ch. 497, § 30; L. 1978, ch. 407, § 14; July 1.

Source or prior law: 79-3214.

Law Review and Bar Journal References:

Discussion of nonresident's share computation and fiduciary duty to withhold compared to prior law, "The Kansas Conformity Income Tax Act: Part II," Donald L. Cordes, 17 K.L.R. 289, 304, 305 (1969).

79-32,133. Kansas taxable income of corporations. (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.

(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 in-

come, as computed

federal income tax: subsections (d) and (e) for such year, bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed

(iii) An amount for amortizable costs of a process as computed and amendments thereto.

(iv) An amount for amortization for a solar energy system as provided in K.S.A. 79-32,168,

(v) For all taxable years ending on or before December 31, 1987, the federal taxable income of corporations incorporated in the United States or the District of Columbia shall be computed as provided in section 78 of the Internal Revenue Code.

(vi) For all taxable years ending on or before December 31, 1987, the federal taxable income of corporations incorporated in the United States or the District of Columbia shall be computed as provided in section 78 of the Internal Revenue Code.

(d) If any corporation has income from sources within the United States for any taxable year commencing after December 31, 1987, the amount of such income shall be computed as provided in subsection (c) hereof.

(e) If any corporation has income from sources within the United States for any taxable year, after excluding the amount of such income tax and before the application of the provisions of this act, the amount of such income shall be computed as provided in subsection (c) hereof.

(f) If any corporation has income from sources within the United States for any taxable year, after excluding the amount of such income tax and before the application of the provisions of this act, the amount of such income shall be computed as provided in subsection (c) hereof.

(g) A corporation shall be treated as a resident of the United States for any taxable year commencing after December 31, 1987, if it is a corporation organized under the laws of the United States or any State, territory, possession, or the District of Columbia, and if it has a substantial part of its income derived from sources within the United States for such year. The provisions of this act shall apply to such corporation as if it were a resident of the United States for such year.

History: L. 1966, ch. 374, § 1; L. 1967, ch. 433, § 5; L. 1968, ch. 408, § 2; L. 1969, ch. 386, § 1; L. 1970, ch. 374, § 1; L. 1971, ch. 433, § 5; L. 1972, ch. 408, § 2; L. 1973, ch. 386, § 1; L. 1974, ch. 374, § 1; L. 1975, ch. 433, § 5; L. 1976, ch. 408, § 2; L. 1977, ch. 386, § 1; L. 1978, ch. 407, § 14; L. 1979, ch. 374, § 1; L. 1980, ch. 433, § 5; L. 1981, ch. 408, § 2; L. 1982, ch. 386, § 1; L. 1983, ch. 374, § 1; L. 1984, ch. 433, § 5; L. 1985, ch. 408, § 2; L. 1986, ch. 386, § 1; L. 1987, ch. 374, § 1; L. 1988, ch. 433, § 5; L. 1989, ch. 408, § 2; L. 1990, ch. 386, § 1; L. 1991, ch. 374, § 1; L. 1992, ch. 433, § 5; L. 1993, ch. 408, § 2; L. 1994, ch. 386, § 1; L. 1995, ch. 374, § 1; L. 1996, ch. 433, § 5; L. 1997, ch. 408, § 2; L. 1998, ch. 386, § 1; L. 1999, ch. 374, § 1; L. 2000, ch. 433, § 5; L. 2001, ch. 408, § 2; L. 2002, ch. 386, § 1; L. 2003, ch. 374, § 1; L. 2004, ch. 433, § 5; L. 2005, ch. 408, § 2; L. 2006, ch. 386, § 1; L. 2007, ch. 374, § 1; L. 2008, ch. 433, § 5; L. 2009, ch. 408, § 2; L. 2010, ch. 386, § 1; L. 2011, ch. 374, § 1; L. 2012, ch. 433, § 5; L. 2013, ch. 408, § 2; L. 2014, ch. 386, § 1; L. 2015, ch. 374, § 1; L. 2016, ch. 433, § 5; L. 2017, ch. 408, § 2; L. 2018, ch. 386, § 1; L. 2019, ch. 374, § 1; L. 2020, ch. 433, § 5; L. 2021, ch. 408, § 2; L. 2022, ch. 386, § 1; L. 2023, ch. 374, § 1; L. 2024, ch. 433, § 5; L. 2025, ch. 408, § 2; L. 2026, ch. 386, § 1; L. 2027, ch. 374, § 1; L. 2028, ch. 433, § 5; L. 2029, ch. 408, § 2; L. 2030, ch. 386, § 1; L. 2031, ch. 374, § 1; L. 2032, ch. 433, § 5; L. 2033, ch. 408, § 2; L. 2034, ch. 386, § 1; L. 2035, ch. 374, § 1; L. 2036, ch. 433, § 5; L. 2037, ch. 408, § 2; L. 2038, ch. 386, § 1; L. 2039, ch. 374, § 1; L. 2040, ch. 433, § 5; L. 2041, ch. 408, § 2; L. 2042, ch. 386, § 1; L. 2043, ch. 374, § 1; L. 2044, ch. 433, § 5; L. 2045, ch. 408, § 2; L. 2046, ch. 386, § 1; L. 2047, ch. 374, § 1; L. 2048, ch. 433, § 5; L. 2049, ch. 408, § 2; L. 2050, ch. 386, § 1; L. 2051, ch. 374, § 1; L. 2052, ch. 433, § 5; L. 2053, ch. 408, § 2; L. 2054, ch. 386, § 1; L. 2055, ch. 374, § 1; L. 2056, ch. 433, § 5; L. 2057, ch. 408, § 2; L. 2058, ch. 386, § 1; L. 2059, ch. 374, § 1; L. 2060, ch. 433, § 5; L. 2061, ch. 408, § 2; L. 2062, ch. 386, § 1; L. 2063, ch. 374, § 1; L. 2064, ch. 433, § 5; L. 2065, ch. 408, § 2; L. 2066, ch. 386, § 1; L. 2067, ch. 374, § 1; L. 2068, ch. 433, § 5; L. 2069, ch. 408, § 2; L. 2070, ch. 386, § 1; L. 2071, ch. 374, § 1; L. 2072, ch. 433, § 5; L. 2073, ch. 408, § 2; L. 2074, ch. 386, § 1; L. 2075, ch. 374, § 1; L. 2076, ch. 433, § 5; L. 2077, ch. 408, § 2; L. 2078, ch. 386, § 1; L. 2079, ch. 374, § 1; L. 2080, ch. 433, § 5; L. 2081, ch. 408, § 2; L. 2082, ch. 386, § 1; L. 2083, ch. 374, § 1; L. 2084, ch. 433, § 5; L. 2085, ch. 408, § 2; L. 2086, ch. 386, § 1; L. 2087, ch. 374, § 1; L. 2088, ch. 433, § 5; L. 2089, ch. 408, § 2; L. 2090, ch. 386, § 1; L. 2091, ch. 374, § 1; L. 2092, ch. 433, § 5; L. 2093, ch. 408, § 2; L. 2094, ch. 386, § 1; L. 2095, ch. 374, § 1; L. 2096, ch. 433, § 5; L. 2097, ch. 408, § 2; L. 2098, ch. 386, § 1; L. 2099, ch. 374, § 1; L. 2100, ch. 433, § 5; L. 2101, ch. 408, § 2; L. 2102, ch. 386, § 1; L. 2103, ch. 374, § 1; L. 2104, ch. 433, § 5; L. 2105, ch. 408, § 2; L. 2106, ch. 386, § 1; L. 2107, ch. 374, § 1; L. 2108, ch. 433, § 5; L. 2109, ch. 408, § 2; L. 2110, ch. 386, § 1; L. 2111, ch. 374, § 1; L. 2112, ch. 433, § 5; L. 2113, ch. 408, § 2; L. 2114, ch. 386, § 1; L. 2115, ch. 374, § 1; L. 2116, ch. 433, § 5; L. 2117, ch. 408, § 2; L. 2118, ch. 386, § 1; L. 2119, ch. 374, § 1; L. 2120, ch. 433, § 5; L. 2121, ch. 408, § 2; L. 2122, ch. 386, § 1; L. 2123, ch. 374, § 1; L. 2124, ch. 433, § 5; L. 2125, ch. 408, § 2; L. 2126, ch. 386, § 1; L. 2127, ch. 374, § 1; L. 2128, ch. 433, § 5; L. 2129, ch. 408, § 2; L. 2130, ch. 386, § 1; L. 2131, ch. 374, § 1; L. 2132, ch. 433, § 5; L. 2133, ch. 408, § 2; L. 2134, ch. 386, § 1; L. 2135, ch. 374, § 1; L. 2136, ch. 433, § 5; L. 2137, ch. 408, § 2; L. 2138, ch. 386, § 1; L. 2139, ch. 374, § 1; L. 2140, ch. 433, § 5; L. 2141, ch. 408, § 2; L. 2142, ch. 386, § 1; L. 2143, ch. 374, § 1; L. 2144, ch. 433, § 5; L. 2145, ch. 408, § 2; L. 2146, ch. 386, § 1; L. 2147, ch. 374, § 1; L. 2148, ch. 433, § 5; L. 2149, ch. 408, § 2; L. 2150, ch. 386, § 1; L. 2151, ch. 374, § 1; L. 2152, ch. 433, § 5; L. 2153, ch. 408, § 2; L. 2154, ch. 386, § 1; L. 2155, ch. 374, § 1; L. 2156, ch. 433, § 5; L. 2157, ch. 408, § 2; L. 2158, ch. 386, § 1; L. 2159, ch. 374, § 1; L. 2160, ch. 433, § 5; L. 2161, ch. 408, § 2; L. 2162, ch. 386, § 1; L. 2163, ch. 374, § 1; L. 2164, ch. 433, § 5; L. 2165, ch. 408, § 2; L. 2166, ch. 386, § 1; L. 2167, ch. 374, § 1; L. 2168, ch. 433, § 5; L. 2169, ch. 408, § 2; L. 2170, ch. 386, § 1; L. 2171, ch. 374, § 1; L. 2172, ch. 433, § 5; L. 2173, ch. 408, § 2; L. 2174, ch. 386, § 1; L. 2175, ch. 374, § 1; L. 2176, ch. 433, § 5; L. 2177, ch. 408, § 2; L. 2178, ch. 386, § 1; L. 2179, ch. 374, § 1; L. 2180, ch. 433, § 5; L. 2181, ch. 408, § 2; L. 2182, ch. 386, § 1; L. 2183, ch. 374, § 1; L. 2184, ch. 433, § 5; L. 2185, ch. 408, § 2; L. 2186, ch. 386, § 1; L. 2187, ch. 374, § 1; L. 2188, ch. 433, § 5; L. 2189, ch. 408, § 2; L. 2190, ch. 386, § 1; L. 2191, ch. 374, § 1; L. 2192, ch. 433, § 5; L. 2193, ch. 408, § 2; L. 2194, ch. 386, § 1; L. 2195, ch. 374, § 1; L. 2196, ch. 433, § 5; L. 2197, ch. 408, § 2; L. 2198, ch. 386, § 1; L. 2199, ch. 374, § 1; L. 2200, ch. 433, § 5; L. 2201, ch. 408, § 2; L. 2202, ch. 386, § 1; L. 2203, ch. 374, § 1; L. 2204, ch. 433, § 5; L. 2205, ch. 408, § 2; L. 2206, ch. 386, § 1; L. 2207, ch. 374, § 1; L. 2208, ch. 433, § 5; L. 2209, ch. 408, § 2; L. 2210, ch. 386, § 1; L. 2211, ch. 374, § 1; L. 2212, ch. 433, § 5; L. 2213, ch. 408, § 2; L. 2214, ch. 386, § 1; L. 2215, ch. 374, § 1; L. 2216, ch. 433, § 5; L. 2217, ch. 408, § 2; L. 2218, ch. 386, § 1; L. 2219, ch. 374, § 1; L. 2220, ch. 433, § 5; L. 2221, ch. 408, § 2; L. 2222, ch. 386, § 1; L. 2223, ch. 374, § 1; L. 2224, ch. 433, § 5; L. 2225, ch. 408, § 2; L. 2226, ch. 386, § 1; L. 2227, ch. 374, § 1; L. 2228, ch. 433, § 5; L. 2229, ch. 408, § 2; L. 2230, ch. 386, § 1; L. 2231, ch. 374, § 1; L. 2232, ch. 433, § 5; L. 2233, ch. 408, § 2; L. 2234, ch. 386, § 1; L. 2235, ch. 374, § 1; L. 2236, ch. 433, § 5; L. 2237, ch. 408, § 2; L. 2238, ch. 386, § 1; L. 2239, ch. 374, § 1; L. 2240, ch. 433, § 5; L. 2241, ch. 408, § 2; L. 2242, ch. 386, § 1; L. 2243, ch. 374, § 1; L. 2244, ch. 433, § 5; L. 2245, ch. 408, § 2; L. 2246, ch. 386, § 1; L. 2247, ch. 374, § 1; L. 2248, ch. 433, § 5; L. 2249, ch. 408, § 2; L. 2250, ch. 386, § 1; L. 2251, ch. 374, § 1; L. 2252, ch. 433, § 5; L. 2253, ch. 408, § 2; L. 2254, ch. 386, § 1; L. 2255, ch. 374, § 1; L. 2256, ch. 433, § 5; L. 2257, ch. 408, § 2; L. 2258, ch. 386, § 1; L. 2259, ch. 374, § 1; L. 2260, ch. 433, § 5; L. 2261, ch. 408, § 2; L. 2262, ch. 386, § 1; L. 2263, ch. 374, § 1; L. 2264, ch. 433, § 5; L. 2265, ch. 408, § 2; L. 2266, ch. 386, § 1; L. 2267, ch. 374, § 1; L. 2268, ch. 433, § 5; L. 2269, ch. 408, § 2; L. 2270, ch. 386, § 1; L. 2271, ch. 374, § 1; L. 2272, ch. 433, § 5; L. 2273, ch. 408, § 2; L. 2274, ch. 386, § 1; L. 2275, ch. 374, § 1; L. 2276, ch. 433, § 5; L. 2277, ch. 408, § 2; L. 2278, ch. 386, § 1; L. 2279, ch. 374, § 1; L. 2280, ch. 433, § 5; L. 2281, ch. 408, § 2; L. 2282, ch. 386, § 1; L. 2283, ch. 374, § 1; L. 2284, ch. 433, § 5; L. 2285, ch. 408, § 2; L. 2286, ch. 386, § 1; L. 2287, ch. 374, § 1; L. 2288, ch. 433, § 5; L. 2289, ch. 408, § 2; L. 2290, ch. 386, § 1; L. 2291, ch. 374, § 1; L. 2292, ch. 433, § 5; L. 2293, ch. 408, § 2; L. 2294, ch. 386, § 1; L. 2295, ch. 374, § 1; L. 2296, ch. 433, § 5; L. 2297, ch. 408, § 2; L. 2298, ch. 386, § 1; L. 2299, ch. 374, § 1; L. 2300, ch. 433, § 5; L. 2301, ch. 408, § 2; L. 2302, ch. 386, § 1; L. 2303, ch. 374, § 1; L. 2304, ch. 433, § 5; L. 2305, ch. 408, § 2; L. 2306, ch. 386, § 1; L. 2307, ch. 374, § 1; L. 2308, ch. 433, § 5; L. 2309, ch. 408, § 2; L. 2310, ch. 386, § 1; L. 2311, ch. 374, § 1; L. 2312, ch. 433, § 5; L. 2313, ch. 408, § 2; L. 2314, ch. 386, § 1; L. 2315, ch. 374, § 1; L. 2316, ch. 433, § 5; L. 2317, ch. 408, § 2; L. 2318, ch. 386, § 1; L. 2319, ch. 374, § 1; L. 2320, ch. 433, § 5; L. 2321, ch. 408, § 2; L. 2322, ch. 386, § 1; L. 2323, ch. 374, § 1; L. 2324, ch. 433, § 5; L. 2325, ch. 408, § 2; L. 2326, ch. 386, § 1; L. 2327, ch. 374, § 1; L. 2328, ch. 433, § 5; L. 2329, ch. 408, § 2; L. 2330, ch. 386, § 1; L. 2331, ch. 374, § 1; L. 2332, ch. 433, § 5; L. 2333, ch. 408, § 2; L. 2334, ch. 386, § 1; L. 2335, ch. 374, § 1; L. 2336, ch. 433, § 5; L. 2337, ch. 408, § 2; L. 2338, ch. 386, § 1; L. 2339, ch. 374, § 1; L. 2340, ch. 433, § 5; L. 2341, ch. 408, § 2; L. 2342, ch. 386, § 1; L. 2343, ch. 374, § 1; L. 2344, ch. 433, § 5; L. 2345, ch. 408, § 2; L. 2346, ch. 386, § 1; L. 2347, ch. 374, § 1; L. 2348, ch. 433, § 5; L. 2349, ch. 408, § 2; L. 2350, ch. 386, § 1; L. 2351, ch. 374, § 1; L. 2352, ch. 433, § 5; L. 2353, ch. 408, § 2; L. 2354, ch. 386, § 1; L. 2355, ch. 374, § 1; L. 2356, ch. 433, § 5; L. 2357, ch. 408, § 2; L. 2358, ch. 386, § 1; L. 2359, ch. 374, § 1; L. 2360, ch. 433, § 5; L. 2361, ch. 408, § 2; L. 2362, ch. 386, § 1; L. 2363, ch. 374, § 1; L. 2364, ch. 433, § 5; L. 2365, ch. 408, § 2; L. 2366, ch. 386, § 1; L. 2367, ch. 374, § 1; L. 2368, ch. 433, § 5; L. 2369, ch. 408, § 2; L. 2370, ch. 386, § 1; L. 2371, ch. 374, § 1; L. 2372, ch. 433, § 5; L. 2373, ch. 408, § 2; L. 2374, ch. 386, § 1; L. 2375, ch. 374, § 1; L. 2376, ch. 433, § 5; L. 2377, ch. 408, § 2; L. 2378, ch. 386, § 1; L. 2379, ch. 374, § 1; L. 2380, ch. 433, § 5; L. 2381, ch. 408, § 2; L. 2382, ch. 386, § 1; L. 2383, ch. 374, § 1; L. 2384, ch. 433, § 5; L. 2385, ch. 408, § 2; L. 2386, ch. 386, § 1; L. 2387, ch. 374, § 1; L. 2388, ch. 433, § 5; L. 2389, ch. 408, § 2; L. 2390, ch. 386, § 1; L. 2391, ch. 374, § 1; L. 2392, ch. 433, § 5; L. 2393, ch. 408, § 2; L. 2394, ch. 386, § 1; L. 2395, ch. 374, § 1; L. 2396, ch. 433, § 5; L. 2397, ch. 408, § 2; L. 2398, ch. 386, § 1; L. 2399, ch. 374, § 1; L. 2400, ch. 433, § 5; L. 2401, ch. 408, § 2; L. 2402, ch. 386, § 1; L. 2403, ch. 374, § 1; L. 2404, ch. 433, § 5; L. 2405, ch. 408, § 2; 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L. 2450, ch. 386, § 1; L. 2451, ch. 374, § 1; L. 2452, ch. 433, § 5; L. 2453, ch. 408, § 2; L. 2454, ch. 386, § 1; L. 2455, ch. 374, § 1; L. 2456, ch. 433, § 5; L. 2457, ch. 408, § 2; L. 2458, ch. 386, § 1; L. 2459, ch. 374, § 1; L. 2460, ch. 433, § 5; L. 2461, ch. 408, § 2; L. 2462, ch. 386, § 1; L. 2463, ch. 374, § 1; L. 2464, ch. 433, § 5; L. 2465, ch. 408, § 2; L. 2466, ch. 386, § 1; L. 2467, ch. 374, § 1; L. 2468, ch. 433, § 5; L. 2469, ch. 408, § 2; L. 2470, ch. 386, § 1; L. 2471, ch. 374, § 1; L. 2472, ch. 433, § 5; L. 2473, ch. 408, § 2; L. 2474, ch. 386, § 1; L. 2475, ch. 374, § 1; L. 2476, ch. 433, § 5; L. 2477, ch. 408, § 2; L. 2478, ch. 386, § 1; L. 2479, ch. 374, § 1; L. 2480, ch. 433, § 5; L. 2481, ch. 408, § 2; L. 2482, ch. 386, § 1; L. 2483, ch. 374, § 1; L. 2484, ch. 433, § 5; L. 2485, ch. 408, § 2; L. 2486, ch. 386, § 1; L. 2487, ch. 374, § 1; L. 2488, ch. 433, § 5; L. 2489, ch

CASE ANNOTATIONS

1. Net operating loss sustained by bank in year bank ceased operation may be carried back to redetermine privilege tax liability for prior years. In re Tax Appeal of Federal Deposit Ins. Corp., 249 K. 752, 758, 765, 822 P.2d 627 (1991).

79-32,115.

Research and Practice Aids:
Taxation ¶ 1014.
C.J.S. Taxation § 1092.

79-32,116.

CASE ANNOTATIONS

3. Constitutionality of the taxing of federal military retirement benefits examined and upheld. *Barker v. State*, 249 K. 186, 190, 815 P.2d 46 (1991); Rev'd, 112 S.Ct 1619 (1992).

79-32,117. Kansas adjusted gross income of an individual. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable

year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

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

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

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital

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3; L. 1969,
1; L. 1977,
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55; July 1.

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k of Manhattan
706, 711, 779

2; L. 1984,
ch. 247, §

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barker v. State,
ev'd, 112 S.Ct.

Sandra Craig
L.R. 961, 978

PRIVILEGE TAX

For the year beginning _____, 1988, ending _____, 19 _____

Do not write in this space except to write your file number if known.

Name ████████████████████		A. Federal Identification Number ████████████████████	
Number and Street of Principal Office ████████████████████		B. State and Date of Incorporation KANSAS ██████	
City ████████████████	State KS	Zip Code ██████████	C. State or Commercial Domicile KANSAS
D. Type of Return Filed Kansas Federal (1) (<input checked="" type="checkbox"/>) Separate () Separate (2) () Consolidated (<input checked="" type="checkbox"/>) Consolidated		E. Business Code Number ██████████ 1 2 3 4	F. Date Business Began in Kansas ██████████
		G. Check it: 1. () Initial Kansas return 2. () Final Kansas return	

F- ██████
File Number

Validation Number

PLEASE PRINT OR TYPE

H. Did the corporation file a Kansas privilege tax return under the same name for the preceding year? YES NO.
If "NO", name previously filed under _____

I. Has your federal taxable income been redetermined this year for any prior years? YES NO. If "YES", Kansas amended returns must be submitted under separate cover and copy of the RAR and/or 1120X attached to same. Date submitted to Kansas: _____

- 1A. Federal taxable income per federal 1120 (No pro formas)
(If box D(1) is checked under "Federal", enter amount from line 1A on line 1C)
- 1B. Less corporations included in 1A, not subject to privilege tax, (gain) or loss
- 1C. Federal taxable income for Kansas purposes (Subtract line 1B from line 1A)
- 2. Total state and municipal interest income
- 3. Federal net operating loss deduction
- 4. Savings and Loan Assn. bad debt deduction included in federal deductions
- 5. Other additions to federal taxable income (Schedule required)
- 6. Total additions to federal taxable income (Add lines 2, 3, 4, & 5)
- 7. Total (Add lines 1C & 6)
- 8. Other subtractions from federal taxable income (Schedule required) [291 (E) ADJ]
- 9. Kansas net operating loss deduction (Schedule required)
- 10. Total subtractions from federal taxable income before Savings and Loan Assn. bad debt (Add lines 8 & 9)
- 11. Net income (Subtract line 10 from line 7)
- 12. Savings and Loan Assn. bad debt deduction (Schedule required)
- 13. Kansas taxable income (Subtract line 12 from line 11)
- 14. Normal Tax: A. Banks (4 1/2% of line 13)
B. Savings and loans and trust companies (4 1/2% of line 13)
- 15. Surtax: A. Banks (2 1/2% of amount on line 13 in excess of \$25,000)
B. Savings and loans and trust companies (2 1/2% of amount on line 13 in excess of \$25,000)
- 16. Total Tax (Line 14A plus 15A or line 14B plus line 15B)
- 17. Venture capital credit (Attach schedule K-55)
- 18. Interest reduction credit (Attach schedule K-51's and K-52)
- 19. Handicapped accessibility credit (Attach schedule K-37)
- 20. Total nonrefundable credits (Add lines 17, 18, & 19)
- 21. Balance (Subtract line 20 from line 16) (Cannot be less than zero)
- 22. Other tax payments (Attach schedule)
- 23. Balance due (Subtract line 22 from line 21)
- 24. Interest (If applicable)
- 25. Penalty (If applicable)
- 26. Total tax, interest, & penalty due (Add lines 23, 24, & 25)
- 27. Refund (Subtract line 21 from line 22)

1A	161,646	
1B	< 27,000 >	
1C	188,646	
2	203,822	
3		
4		
5		
6	203,822	
7	392,468	
8	12,941	
9		
10	12,941	
11	379,527	
12		
[B] 13	379,527	
14A	16,130	
14B		
15A	7,534	
15B		
[F] 16	23,664	
[H] 17		
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[J] 19		
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21	23,664	
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(2) Promptly upon the filing of the foreign decree and the affidavit, the clerk of such court shall mail notice of the filing of the foreign decree to the defendant at the address stated therein and to the commissioner of insurance of this state, and shall make a note of the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the commissioner of insurance of this state and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the attorney general has been filed.

(3) No execution or other process for enforcement of a foreign decree filed hereunder shall issue until thirty (30) days after the date the decree is filed.

(c) (1) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

(2) If the defendant shows the court any ground upon which enforcement of a decree of any court of competent jurisdiction in this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this state.

(f) Any person filing a foreign decree shall pay the required fee to the clerk of the court where said decree is filed. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of such court.

History: L. 1969, ch. 240, § 6; April 19.

40-2707. Penalties. Any unauthorized insurer who transacts any unauthorized act of insurance business as set forth in this act may, upon conviction thereof, be fined not more than ten thousand dollars (\$10,000).

History: L. 1969, ch. 240, § 7; April 19.

40-2708. Title of act. This act shall be known and may be cited as the uniform unauthorized insurers act.

History: L. 1969, ch. 240, § 8; April 19.

40-2709. Invalidity of part. If any provision of this act or the application thereof to

any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

History: L. 1969, ch. 240, § 9; April 19.

Article 28.—TAXATION OF COMPANIES

Cross References to Related Sections:

Annual fees and taxes, see 40-252.

Exemption of insurance companies from income tax law, see 79-32,113.

Tax credit for investment in stock of Kansas Venture Capital, Inc., see 74-8205.

40-2801. Taxation of insurance companies; rate. Every life, fire and casualty, hail and county mutual fire insurance company organized under the laws of this state, shall annually pay to the state for the privilege of doing business within this state, a tax according to or measured by its net income for the next preceding calendar year. Such tax shall be an amount equal to five percent (5%) of such net income.

History: L. 1970, ch. 184, § 1; Jan. 1, 1971.

Research and Practice Aids:

Insurance ☞ 7.

C.J.S. Insurance § 71.

40-2802. Same; tax in lieu of ad valorem levies. The tax levied under the provisions of this act shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock and other intangible assets owned by such company.

History: L. 1970, ch. 184, § 2; Jan. 1, 1971.

40-2803. Same; net income defined for computing tax on life insurance companies. For the purpose of computing the tax imposed upon life insurance companies under the provisions of this act the term "net income" shall mean the net taxable income for the preceding calendar year of such company as determined under the provisions of section 802 of the internal revenue code of 1954, as heretofore or hereafter amended. The term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt

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from income tax under the laws of this state authorizing the issuance of such obligations. In case the entire business of such company is not transacted within this state, the net income for the purposes of this act shall be determined by multiplying such net income by a fraction, the numerator of which shall be the premiums received from business transacted within this state and the denominator of which is the amount of premiums received by such company from all its business. Insurance companies connected through stock ownership, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination.

History: L. 1970, ch. 184, § 3; L. 1973, ch. 197, § 1; L. 1986, ch. 332, § 5; May 22.

Cross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

40-2304. Same; net income for purpose of computing tax on other companies. For the purpose of computing the tax imposed under the provisions of this act the term "net income" as applied to a domestic fire and casualty insurance company shall mean the amount required to be reported as "net income" in the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; as applied to a domestic mutual hail insurance company the term "net income" shall mean the amount required to be reported as "net income," annual increase in reserve fund in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; and as applied to a domestic county mutual fire insurance company the term "net income" shall mean the amount required to be reported as "net income," annual net gain in its combined reserve and general funds in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto. If any such domestic fire and casualty insurance company, domestic mutual hail insurance company, or domestic county mutual fire insurance com-

pany does business in states other than Kansas its "net income" shall be determined by the proportion of net premiums (gross premiums less cancellations) received from business written in Kansas compared to total net premiums received from all its business. Insurance companies connected through stock ownership with a common parent corporation, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination. If a domestic insurance company is exempt for any reason from filing an annual statement with the Kansas insurance department, its net income shall be determined in the same manner as herein provided. For the purposes of this section, the term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations.

History: L. 1970, ch. 184, § 4; L. 1973, ch. 197, § 2; L. 1986, ch. 332, § 6; May 22.

Cross References to Related Sections:

Investment in Kansas Venture Capital, Inc., see 74-8203.

40-2305. Same; returns and payment of tax; interest for late return. (a) Every insurance company subject to taxation under the provisions of this act shall pay the tax imposed and make a return thereof under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may by regulation prescribe.

(b) The return shall be filed and the tax paid on the same date as the insurance company's federal income tax return is filed with the internal revenue service except that in the event said federal tax return is filed with the internal revenue service subsequent to the fifteenth day of April, the tax, payable under this act, shall bear interest at the rate per annum prescribed by K.S.A. 79-2968(b), calculated from the fifteenth day of April until date of payment. If, subsequent to said filing, a change occurs affecting the amount of any tax previously imposed thereunder, such change shall

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Robert B. Docking State Office Building
916 SW Harrison Street
Topeka, Kansas 66625-0001



Phone: (913) 296-0222
Fax: (913) 296-1279

Department of Revenue
Division of Taxation

NOTICE 94-08

TO: Privilege Taxpayers
FROM: Kansas Department of Revenue
RE: Privilege Tax

The Kansas privilege tax under K.S.A. 79-1106 *et seq.* is a tax for the privilege of doing the business of a financial institution. This tax is measured by income for the next preceding taxable year. Under K.S.A. 79-1109, K.S.A. 79-32.138(b), and K.S.A. 79-32.117(b)(ii), taxes on or measured by income must be added back when computing Kansas privilege tax net income. Because the Kansas privilege tax is a tax measured by income within the meaning of K.S.A. 79-32.117(b)(ii), it must be added back to federal taxable income when computing income for privilege tax purposes.

Privilege taxpayers must add the taxes on or measured by income (which were deducted on the federal return) in arriving at federal taxable income. The Kansas Department of Revenue will implement the addition of taxes for all taxable years beginning after December 31, 1993 (privilege tax years 1995 and thereafter).

Adjustments may need to be made to any remaining 1995 privilege estimated tax payments to provide for this addition to federal taxable income.

If you have questions regarding this notice, write to the Taxpayer Assistance Bureau, Kansas Department of Revenue, Topeka, Kansas, 66625-0001 or call (913) 296-0222.

Dated: August 1994

SENATE BILL No. 354

By Committee on Ways and Means

2-27

9 AN ACT relating to income taxation; concerning certain additions to fed-
10 eral adjusted gross income; excluding privilege taxes; amending K.S.A.
11 1994 Supp. 79-32,117 and repealing the existing section.
12

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

14 Section 1. K.S.A. 1994 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*
35 *taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and*
36 *amendments thereto,*

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-

for privilege tax year 1995, and for all such years thereafter.

1-11

1 or credit of a partnership shall be determined under K.S.A. 79-32,131,
2 and amendments thereto, to the extent that such items affect federal
3 adjusted gross income of the partner.

4 Sec. 2. K.S.A. 1994 Supp. 79-32,117 is hereby repealed.

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

 Kansas register.

1-12



Jeffrey D. Sonnich, Vice-President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(913) 232-8215

March 22, 1995

TO: HOUSE COMMITTEE ON TAXATION
FROM: JEFFREY SONNICH
RE: SB 354

Mr. Chairman. Members of the Committee. The Kansas-Nebraska-Oklahoma League of Savings Institutions appreciates the opportunity to appear before the House Committee on Taxation in support of Senate bill 354.

As already stated, Senate bill 354 would reverse the negative tax impact that the Department of Revenue's Notice 94-08 has had on Kansas financial institution privilege tax payers. Notice 94-08 requires that, subject to K.S.A. 79-32,117(b)(ii), taxes on or measured by income must be added back when computing Kansas privilege tax net income. Since 1980 the Department of Revenue has interpreted the calculation of net income for privilege tax payers to not include an addback of the previous year's privilege tax. We cite as an example that the instructions for previous years' privilege tax forms (K-130) specifically state items to be added to Federal taxable income and they do not indicate that previous privilege tax paid is an addition to income.

This Notice raises a number of issues which cause us concern. Specifically we question whether the "addback" provision required by Notice 94-08 effectively converts the privilege tax into an income tax in violation of 31 U.S.C. §3124. Further, we are concerned that the Revenue Department's reasoning for requiring the addback is not being uniformly applied to all privilege tax payers, since domestic insurance companies are not required to add back previous taxes paid.

While these issues make for an interesting debate, they also tend to obscure the obvious and pertinent issue which is: **Notice 94-08 has caused a tax increase for Kansas banks and savings and loans.** Attached to our testimony are simplified versions of privilege and federal tax returns. The resulting impact of Notice 94-08 in this particular scenario would be a 6.41% increase in Kansas privilege tax liability with an overall percentage increase of .75%.

We believe it is good public policy for tax issues, and specifically those that involve tax increases, to be resolved by the legislature. If in fact you concur that is was the legislature's intent in 1980 to require this "addback" provision, so be it. What we do have a problem with is the resulting tax impact this notice has and will have on Kansas financial institutions. Legislative intent takes on a whole new meaning when it is interpreted fourteen years after enactment.

The Kansas-Nebraska-Oklahoma League of Savings Institutions would urge your favorable support of this bill. Absent the passage of S.B. 354 we would respectfully request your consideration of a corresponding rate reduction in K.S.A 79-1107 and 79-1108, so as to render the resulting tax increase, "revenue neutral".

Jeffrey D. Sonnich
Vice President

House Taxation
3-22-95
Attachment 2-1

**EXAMPLE INSTITUTION
KANSAS PRIVILEGE TAX
IMPACT OF NOTICE 94-08**

	<i>Tax Computation Under Notice 94-08</i>	<i>Tax Computation Prior to Notice 94-08</i>	
	<u>Kansas Priv Tax</u>	<u>Kansas Priv Tax</u>	<u>Difference</u>
Federal taxable income	2,488,385	2,476,535	(10,150)
Federal bad debt deduction	214,468	215,351	(883)
Kansas privilege tax addback	183,087	0	183,087
KP taxable income before BDD	2,863,940	2,891,886	172,054
KPT bad debt deduction @ 5%	(143,197)	(134,594)	(8,603)
KPT taxable income	2,720,743	2,557,292	163,451
Statutory rate	6.750%	6.750%	6.750%
	183,850	172,617	11,033
Surtax adj (25,000 x 2.25%)	(563)	(563)	0
Kansas Privilege Tax	183,087	172,054	11,033
Percentage increase to Kansas privilege tax liability			6.41%

**EXAMPLE INSTITUTION
FEDERAL INCOME TAX
IMPACT OF NOTICE 94-08**

	<i>Tax Computation Under Notice 94-08</i>	<i>Tax Computation Prior to Notice 94-08</i>	Difference
	Federal Return	Federal Return	
BOOK INCOME BEFORE TAXES	3,000,000	3,000,000	0
Tax adjustments to book income:			
Deductions for tax not for books	(85,560)	(85,560)	0
Income for tax not for books	25,000	25,000	0
Deductions for books not for tax	201,000	201,000	0
Income for books not for tax	(276,500)	(276,500)	0
Subtotal	2,863,940	2,863,940	0
Kansas Privilege Tax	(183,087)	(172,054)	(11,033)
Subtotal	2,680,853	2,691,886	(11,033)
Federal bad debt deduction @ 8%	(214,468)	(215,351)	883
Federal Taxable Income	2,466,385	2,476,535	(10,150)
Statutory rate	34.00%	34.00%	34.00%
Federal Income Tax	838,571	842,022	(3,451)
Consolidated Federal Income Tax	838,571	842,022	(3,451)
Kansas Privilege Tax	183,087	172,054	11,033
Total Tax Liability	1,021,658	1,014,076	7,582
Percentage increase to total tax liability			0.75%

Proposed Amendment to HCR 5023

On page 2, in line 4, by striking all after "in"; by striking all in lines 5 through 8; in line 9, by striking all before "over" and inserting "assessed valuation of all property subject to ad valorem taxation located within the city or county for which the limitation is being determined"; in line 12, by striking all after the period; by striking all in lines 13 through 23;

On page 3, in line 23, by striking "and"; in line 25, by striking "and"; after line 25, by inserting the following:

"(G) moneys derived from the operation of any municipally-owned utility; and

(H) moneys received from special assessments made for the purpose of financing internal improvements as provided by law; and";

Also, on page 3, in line 30, by striking "; and"; by striking all in lines 31 and 32; in line 33, by striking all before the period;

On page 4, in line 9, by striking "unanimous" and inserting "a three-fourths";

On page 5, in line 42, by striking "tax rev-"; by striking all in line 43;

On page 6, by striking all in lines 1 and 2; in line 3, by striking all before the comma and inserting "assessed valuation of property subject to ad valorem taxation located within a city or county over three recently completed calendar years"; in line 7, by striking "unanimous" and inserting "a three-fourths"

Proposed Amendment to HCR 5023

On page 3, in line 39, by striking "upon"; in line 40, by striking all before "upon"; in line 41, before "vote" by inserting "affirmative"; in line 42, by striking all after "legislature"; in line 43, by striking all before the period; also, in line 43, by striking "declaration of need" and inserting "action";

On page 4, in line 2, by striking "declaration was issued" and inserting "action was taken";

On page 6, in line 4, by striking all after "upon"; by striking all in line 5; in line 6, by striking all before the first "or" and inserting "an affirmative action by three-fifths of the members of the legislature"

Proposed Amendment to HCR 5023

On page 3, in line 38, before "The" by inserting "(a)";

On page 4, after line 3, by inserting a new subsection to read as follows:

"(b) The limitation imposed on the state by subsection (a) of section 1 of this article may be exceeded for a state fiscal year for the purpose of distributing state revenues to cities and counties for the sole purpose of reducing the ad valorem tax levies of such cities and counties.";

On page 6, in line 6, after "therein" by inserting "and for the purpose of reducing city and county ad valorem tax levies"

HOUSE BILL NO. _____

By Committee on Taxation

AN ACT relating to property taxation; providing for the computation and publishing of preliminary property tax levy rates.

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

Section 1. On or after the date prescribed by K.S.A. 79-1604, and amendments thereto, for the preparation by the county clerk and submission to the director of property valuation of the abstract of the assessment rolls of the county, the county clerk, if such rolls evidence an increase in total assessed valuation over the total assessed valuation of the next preceding year, shall compute a tax levy rate for every taxing subdivision based upon the amount of ad valorem tax certified on or before August 25 of the next preceding year by such subdivision to the county clerk for levy pursuant to K.S.A. 79-1801, and amendments thereto. Such rates shall be published in a newspaper of general circulation in the county once each week for two consecutive weeks prior to August 1 of each year.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.