

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairperson Lana Gordon at 3:30 P.M. on February 1, 2005 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statutes
Helen Pedigo, Revisor of Statutes
Carlene Maag, Committee Secretary

Conferees appearing before the committee:

Secretary Joan Wagnon, KS. Dept. Of Revenue
Sean Tomb, Kansas, Inc.

Others attending:

See attached list.

A motion was made by Representative Treaster and seconded by Representative Horst to approve the minutes of the January 20th meeting. The minutes were approved.

Christy Caldwell from the Topeka Chamber of Commerce requested introduction of legislation that would put together a package of incentives for a local cellophane production company. Representative Grange made a motion to introduce legislation pertaining to the cellophane plant. The motion was seconded by Representative Huntington. A vote was taken, motion passed.

Chairperson Gordon requested introduction of three bills that would: develop a tax increment financing type of bill similar to the bioscience authority; incentives similar to New Mexico; and a bill that would establish a partnership between universities to develop local students and provide experience so that they can become independent film makers or be employed by major film producers in Kansas. Representative Winn made the motion to introduce the legislation proposed by Chairperson Gordon. Representative Novascone seconded the motion. A vote was taken, motion passed.

HB 2010 - Income tax credit and sales tax exemption report; production responsibility moved from Kansas, Inc. to Revenue Department

Chairperson Gordon recognized Secretary Joan Wagnon, Kansas Department of Revenue, (KDOR) who gave testimony as a proponent for **HB 2010**. **HB 2010** would transfer the responsibility for the annual report evaluating the cost effectiveness of certain income tax credits and sales tax exemptions from Kansas, Inc. to KDOR. KDOR supports this bill, with modifications, as shown on the attached balloon amendments.

The bill, as currently drafted, requires KDOR to consult with Kansas, Inc. in the development of a questionnaire to be completed by all corporate income taxpayers. KDOR requests use of the questionnaire be deleted from the bill. (Attachment 1)

Two reports currently being produced by KDOR are the Tax Expenditure Report and the Analysis of Corporate Income Tax.

The Tax Expenditure Report shows the individual income tax and the corporate income tax line by line and puts a value to every credit there is. For example, 163,711 individuals took advantage of the earned taxed credit for a total of \$40,813,000. This report also shows information pertaining to Privilege Tax, Mineral Tax and Motor Fuel Tax. (Attachment 2)

The Analysis of Corporate Income Tax Report provides historical information concerning the corporate income tax and the four largest business incentive tax credit programs which are: Business and Job Development (B&J), High Performance Incentive Program (HPIP), Research and Development (R&D), and

CONTINUATION SHEET

MINUTES OF THE House Economic Development Committee at 3:30 P.M. on February 1, 2005 in Room 526-S of the Capitol.

Business Machinery and Equipment Property Tax Credit (B M&E).

The retail sector contributes the largest portion of the corporate income tax receipts, although the manufacturing sector generated the largest amount of Kansas taxable income in tax years 2000, 2001, and 2002. (Attachment 3) These rapidly expanding tax credit programs are doing exactly what they were designed to do. They are providing incentives to business by giving them a way to reduce their liability.

SB 13 - Bill by Special Committee on Assessment and Taxation

Secretary Wagon stated KDOR would continue to try and work on these reports. KDOR will partner with Kansas, Inc. and if allowed through **SB 13**, will partner with the Department of Commerce and start providing a better data set for the Legislature to evaluate the effectiveness of the tools they have while protecting the confidentiality issue.

A question and answer session followed the testimony.

Rep. Burroughs believes the Analysis of Corporate Income Tax report is a report that Legislatures have been needing or requesting for a number of years.

Rep. O'Malley thanked Secretary Wagon for the report and thought it should be a useful tool.

In general, it was agreed Kansas, Inc. does not have the tools to do the report, but did the best they could with the tools available.

Sean Tomb, Research Analyst for Kansas, Inc. gave testimony as an opponent to **HB 2010**. Kansas, Inc. does not support **HB 2010** as currently written and asks the Legislature to create the statutory authority to allow access to the necessary taxpayer information that would allow Kansas, Inc. to perform an independent evaluation of the cost effectiveness of economic development tax programs. (Attachment 4)

Kansas, Inc. does not want the Legislature to feel it is bucking its responsibility. Mr. Tomb reiterated Kansas, Inc. does not have the tools to do the report.

After a question and answer session, Chairperson Gordon closed the hearing on **HB 2010**.

The meeting adjourned at 5:05 p.m. The next meeting is scheduled for February 3, 2005.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE GUEST LIST

DATE: 2-1-05

| NAME | REPRESENTING |
|--------------------|----------------------------|
| Christy Caldwell | Topeka Chamber of Commerce |
| Jim Mearns | Foulston Siefkin LLP |
| Bill Body | Innovia |
| KOB MEALY | AEM Law Firm |
| Stephanie Buchanan | DOB |
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K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

January 27, 2005

Testimony to the House Economic Development Committee
Joan Wagnon

House Bill 2010

Representative Lana Gordon, Chair, and Members of the Committee:

House Bill 2010 would transfer the responsibility for the annual report evaluating the cost effectiveness of certain income tax credits and sales tax exemptions from Kansas, Inc. to the department of revenue. The department supports this bill, with modifications, as shown on the attached balloon amendments.

Our report will initially be based on a sample of corporate income tax returns. The department is in the process of moving corporate income tax to an electronic filing environment. Currently, corporate income tax returns must be filed on paper. We are planning to implement electronic filing of corporate income tax returns for tax year 2005. For corporate income tax returns filed on paper, collection of data from the schedules that businesses use to claim tax credits is a manual process, and we are only able to sample the data. Once all corporate income tax returns are filed electronically, collection of data from the credit schedules will no longer be a manual process and can be accomplished quickly and efficiently. We may contract with outside resources to assist with the report.

The bill, as currently drafted, requires the department to consult with Kansas, Inc. in the development of a questionnaire to be completed by all corporate income taxpayers. The department requests that use of the questionnaire be deleted from the bill. In the past, although all corporate income taxpayers are required by law to complete the questionnaire, the response rate has been extremely poor. Out of some 30,000 to 35,000 corporate income tax returns filed each year, responses to the questionnaires typically number in the 1,000 to 2,000 range. The questionnaires have yielded little, if any, useful information.

We anticipate that the department's annual report to the legislature on tax incentive programs will look similar to the "Analysis of Kansas Corporate Income Tax 2000-2002," dated October 15, 2004, copies of which have been distributed. We intend to update this report annually. It is based on a sample of approximately 200 of the largest corporate income taxpayers, and involved manual review of the returns for those taxpayers. Data collection took several months. Once corporate income tax moves to an electronic filing environment, we

ould be able to timely collect a much larger sample (if not all) of the data available from the returns showing tax credit usage.

The taxpayer information confidentiality laws prohibit the department from disclosing information on the amount of tax credit usage by any one taxpayer. We can aggregate the data when 5 or more taxpayers are included, which enables us to show which particular industries, by NAICS code, are claiming what percentage of various business tax credits. Data can also be aggregated by size of the taxpayer, so that we can show how larger vs. smaller businesses compare in tax credit usage.

The current version of the bill requires the report to include information on usage of the manufacturing machinery and equipment (K.S.A. 79-3606(kk)) sales tax exemption. The department has no mechanism for collecting this data. Retailers do not report on their sales tax returns any breakout of exempt sales by particular sales tax exemption. Businesses do not report to the department purchases of qualifying manufacturing machinery and equipment. Usage could only be estimated and cannot be determined with any degree of accuracy. We request that the requirement to report usage of this sales tax exemption be deleted from the bill.

The current version of the bill also requires the report to include usage of special obligation bonds authorized under K.S.A. 12-1774. These bonds are issued at the local level, and the department has no way to track how many have been issued and by which entities. The department does track the amount of state sales tax that is applied to repay STAR bonds issued pursuant to K.S.A. 12-1774(a)(1)(D). We suggest that this reporting requirement be amended to provide that the department will include in its report the amount of state sales tax revenue used to repay STAR bonds during the reporting period.

HOUSE BILL No. 2010

By Joint Committee on Economic Development

12-17

9 AN ACT concerning economic development; relating to an annual report
10 evaluating the cost effectiveness of income tax credits and sales tax
11 exemptions; production responsibility moved from Kansas, Inc. to the
12 department of revenue; amending K.S.A. 79-1119 and 79-3614 and
13 K.S.A. 2004 Supp. 79-3234 and repealing the existing sections; also
14 repealing K.S.A. 2004 Supp. 74-8017 and 74-99b35.
15

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

17 New Section 1. The secretary of revenue shall prepare an annual
18 report evaluating the ~~cost effectiveness~~ of the various income tax credits
19 and sales tax exemptions enacted to encourage economic development
20 within this state and submit the same to the standing committees on
21 taxation and economic development of the house and assessment and
22 taxation and commerce of the senate at the beginning of each regular
23 session of the legislature. ~~The secretary of revenue, in consultation with~~
24 ~~the president of Kansas, Inc., shall develop a questionnaire on the utili-~~
25 ~~zation of state income tax credits and sales tax exemptions that shall be~~
26 ~~completed by all corporate taxpayers that:~~(1) Are subject to state income
27 tax and (2) utilize any of the state income tax credits and exemptions
28 described in subsections (a) through (j) below that shall be submitted to
29 the department concurrently with the filing of an annual corporate in-
30 come tax return. The completed questionnaires shall be used in the prepa-
31 ~~ration of such annual report. The questionnaire shall require respon-~~
32 ~~dents to indicate utilization of the following credits, exemptions and bond~~
33 financing:

- 34 (a) Income tax credits authorized under the provisions of the job ex-
35 pansion and investment credit act of 1976 and amendments thereto;
36 (b) income tax credits for expenditures in research and development
37 activities authorized by K.S.A. 79-32,182, and amendments thereto;
38 (c) income and financial institutions privilege tax credits for cash in-
39 vestment in stock of Kansas Venture Capital, Inc. authorized by K.S.A.
40 74-8205 and 74-8206, and amendments thereto;
41 (d) income tax credits for cash investment in certified Kansas venture
42 capital companies authorized by K.S.A. 74-8304, and amendments
43 thereto;

utilization

Such report shall

State and local sales and transient guest tax revenues distributed for

1 (e) income tax credits for cash investment in certified local seed cap-
2 ital pools authorized by K.S.A. 74-8401, and amendments thereto;

3 (f) income tax credits for investment in the training and education of
4 qualified firms' employees authorized by K.S.A. 74-50,132, and amend-
5 ments thereto;

6 (g) sales tax exemptions for property or services purchased for the
7 purpose of and in conjunction with constructing, reconstructing, enlarg-
8 ing or remodeling a business, or retail business meeting the requirements
9 of K.S.A. 74-50,115, and amendments thereto, and machinery and equip-
10 ment for installation at such business or retail business authorized by
11 subsection (cc) of K.S.A. 79-3606, and amendments thereto;

12 ~~(h) sales tax exemptions for machinery and equipment used directly~~
13 ~~and primarily for the purposes of manufacturing, assembling, processing,~~
14 ~~finishing, storing, warehousing or distributing articles of tangible personal~~
15 ~~property in this state intended for resale by a manufacturing or processing~~
16 ~~plant or facility or a storage, warehousing or distribution facility;~~

17 (i) distribution from the special economic revitalization fund pursuant
18 to the provisions of the economic revitalization reinvestment act, K.S.A.
19 2004 Supp. 74-50,136, and amendments thereto; and

20 (j) special obligation bonds authorized by K.S.A. 12-1774, and
21 amendments thereto.

22 Sec. 2. K.S.A. 79-1119 is hereby amended to read as follows:
23 1119 (a) All reports, statements, lists and returns required under the
24 provisions of article 11 of chapter 79 of the Kansas Statutes Annotated
25 shall be preserved for three (3) years and thereafter until the director of
26 taxation orders them to be destroyed.

27 (b) Except in accordance with proper judicial order, or as provided
28 in subsection (c) of this section, subsection (g) of K.S.A. 17-7511 or 46-
29 1106, it shall be unlawful for the director of taxation, or any deputy, agent,
30 clerk or other officer, employee or former employee of the department
31 of revenue or any other state officer or employee or former state officer
32 or employee to divulge, or to make known in any way, the amount of
33 income or any particulars set forth or disclosed in any report, statement,
34 list, return, federal return or federal return information required under
35 the provisions of article 11 of chapter 79 of the Kansas Statutes Anno-
36 tated; and it shall be unlawful for the director of taxation, or any deputy,
37 agent, clerk or other officer or employee of the department of revenue
38 engaged in the administration of the tax imposed under the provisions of
39 article 11 of chapter 79 of the Kansas Statutes Annotated to engage in
40 the business or profession of tax accounting or to accept employment,
41 with or without consideration, for any person, firm or corporation for the
42 purpose, directly or indirectly, or preparing tax returns or reports re-
43 quired by the laws of the state of Kansas, by any other state or by the

state and local
sales and transient
guest tax revenues
distributed
for repayment of

(a)(1)(D)

TAX EXPENDITURE REPORT

Calendar Year 2003

Prepared by
Kansas Department of Revenue
Joan Wagnon, Secretary of Revenue

Introduction

The Kansas Department of Revenue has compiled this report to indicate the fiscal impact of exemptions, credits, deductions, modifications, and exclusions relating to the following taxes and programs:

- Individual, Fiduciary and Corporate Income, Privilege Taxes;
- Retailers' Sales Tax Exemptions;
- Mineral Taxes;
- Motor Fuel Taxes;
- Homestead;
- Food Sales Tax Refund; and
- Kansas IMPACT.

This report shall be a working document. It is our hope and intention that this report will continue to develop and provide information to the Governor, Kansas Legislature and the citizens of the state of Kansas to allow for the making of informative analysis and decisions.

This report covers expenditures for the calendar year of 2003.

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**TAX EXPENDITURE REPORT
SUMMARY**

| PROGRAM | TAX EXPENDITURE |
|--|-------------------|
| Kansas Addition/Subtraction Modifications (PY 2003-Income & Privilege) | \$6,309,000 |
| Kansas Tax Deductions (PY 2003-Income & Privilege) | (\$875,372,000) |
| Kansas Tax Credits (PY 2003 Income & Privilege) | (\$302,824,000) |
| Kansas Sales Tax Exemptions (FY 2004) | (\$3,453,043,000) |
| Mineral Tax (FY 2004) | (\$34,801,000) |
| Motor Fuel Tax (CY 2003-Diesel, Gas, Gasohol) | (\$321,000,000) |
| Homestead Refund Program (FY 2004) | (\$13,004,000) |
| Food Sales Tax Refund Program (PY 2003) | (\$32,212,000) |
| IMPACT (FY 2004) | (\$10,904,000) |
| | (\$5,036,851,000) |

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

INDIVIDUAL INCOME TAX

Year Enacted: 1933
Statutory Citation: K.S.A. Chapter 79, Article 32

A Kansas resident is required to file an individual income tax return if:

- They are required to file a federal income tax return, or
- Their Kansas adjusted gross income is more than the total of their Kansas standard deduction and exemption allowance.

The Kansas income tax is imposed on the entire income of every resident individual. Nonresidents of Kansas are taxed on income derived from Kansas sources.

Kansas begins its individual income tax calculation with federal adjusted gross income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce adjusted gross income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal adjusted gross income. Kansas law allows a taxpayer to claim a standard deduction or itemized deductions and allows for a personal exemption deduction.

For process year 2003, tax year 2002, Kansas income tax was imposed as follows:

Schedule I-Married Filing Joint

If Kansas taxable income is:

| Over | But Not Over | The Tax is: |
|----------|--------------|---|
| \$0 | \$30,000 | 3.50% of Kansas taxable income |
| \$30,000 | \$60,000 | \$1,050 + 6.25% of excess over \$30,000 |
| \$60,000 | | \$2,925 + 6.45% of excess over \$60,000 |

Schedule II-Single, Head of Household, or Married Filing Separate

If Kansas taxable income is:

| Over | But Not Over | The Tax is: |
|----------|--------------|--|
| \$0 | \$15,000 | 3.50% of Kansas taxable income |
| \$15,000 | \$30,000 | \$525 + 6.25% of excess over \$15,000 |
| \$30,000 | | \$1,462.50 + 6.45% of excess over \$30,000 |

Modifications and deductions have been separately stated according to resident filers and nonresident filers. Nonresident filers of Kansas in many cases have a small percentage of income from Kansas sources. As a nonresident, a taxpayer must apply a nonresident percentage to come up with an actual Kansas tax liability. The tax expenditures presented for nonresident filers apply this percentage in order to provide the reader with truer cost of expenditures associated with these filers.

FIDUCIARY INCOME TAX

The fiduciary of a resident estate or trust must file a Kansas fiduciary income tax return if the estate or trust had any taxable income and/or there is withholding tax due for the nonresident beneficiaries. The fiduciary of a nonresident estate must file a Kansas fiduciary income tax return if the estate or trust had taxable income or gain derived from Kansas source.

Kansas begins its fiduciary income tax calculation with federal taxable income and allows for several addition/subtraction modifications.

For process year 2003, tax year 2002, Kansas fiduciary income tax was imposed as follows:

If Kansas taxable income is:

| Over | But Not Over | The Tax is: |
|----------|--------------|--|
| \$0 | \$15,000 | 3.50% of Kansas taxable income |
| \$15,000 | \$30,000 | \$525 + 6.25% of excess over \$15,000 |
| \$30,000 | | \$1,462.50 + 6.45% of excess over \$30,000 |

**INDIVIDUAL AND FIDUCIARY INCOME TAX
RESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|-------------------------|---|------------------|------------------|
| K.S.A. 79-32,117(b)(i) | State and municipal bond interest not specifically exempt from Kansas income tax. | 24,166 | \$6,142,000 |
| K.S.A. 79-32,117(b)(iv) | Contributions to all Kansas public employee's retirement systems | 116,937 | \$8,834,000 |
| K.S.A. 79-32,143 | Federal net operating loss carry forward | 7,585 | \$18,385,000 |
| Various | Other additions to federal adjusted gross income | 7,151 | \$1,465,000 |

*Tax expenditure computed using average tax rate of .05

SUBTRACTION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|------------------------|--|------------------|------------------|
| K.S.A. 79-32,117(c)(i) | Interest on US Government obligations | 69,606 | (\$8,625,000) |
| K.S.A. 79-32,117(c)(v) | State income tax refund | 202,911 | (\$8,852,000) |
| K.S.A. 79-32,143 | Kansas net operating loss carry forward | 5,558 | (\$18,978,000) |
| Various | Retirement benefits specifically exempt from Kansas income tax | 80,098 | (\$66,469,000) |
| Various | Other subtractions from federal adjusted gross income | 14,478 | (\$11,334,000) |

*Tax expenditure computed using average tax rate of .05

DEDUCTIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---------------------------------------|---|------------------|------------------|
| K.S.A. 79-32,119; K.S.A. 79-32,120 | Standard deduction or Itemized deductions | 1,206,776 | (\$449,870,000) |
| K.S.A. 79-32,121 | Exemption allowance | 1,124,173 | (\$294,205,000) |

*Tax expenditure computed using average tax rate of .05

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**INDIVIDUAL AND FIDUCIARY INCOME TAX
NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|-------------------------|---|------------------|------------------|
| K.S.A. 79-32,117(b)(i) | State and municipal bond interest not specifically exempt from Kansas income tax. | 6,109 | \$2,434,000 |
| K.S.A. 79-32,117(b)(iv) | Contributions to all Kansas public employee's retirement systems | 5,088 | \$62,000 |
| K.S.A. 79-32,143 | Federal net operating loss carry forward | 1,000 | \$2,140,000 |
| Various | Other additions to federal adjusted gross income | 2,480 | \$475,000 |

*Tax expenditure computed using average tax rate of .05

SUBTRACTION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|------------------------|--|------------------|------------------|
| K.S.A. 79-32,117(c)(i) | Interest on US Government obligations | 12,309 | (\$1,496,000) |
| K.S.A. 79-32,117(c)(v) | State income tax refund | 64,667 | (\$1,629,000) |
| K.S.A. 79-32,143 | Kansas net operating loss carry forward | 705 | (\$1,209,000) |
| Various | Retirement benefits specifically exempt from Kansas income tax | 3,350 | (\$523,000) |
| Various | Other subtractions from federal adjusted gross income | 1,728 | (\$706,000) |

*Tax expenditure computed using average tax rate of .05

DEDUCTIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---------------------------------------|---|------------------|------------------|
| K.S.A. 79-32,119; K.S.A. 79-32,120 | Standard deduction or Itemized deductions | 208,870 | (\$24,736,000) |
| K.S.A. 79-32,121 | Exemption allowance | 200,692 | (\$8,544,000) |

*Tax expenditure computed using average tax rate of .05

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**INDIVIDUAL AND FIDUCIARY INCOME TAX
RESIDENT AND NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

TAX CREDITS

| Statutory Reference | Description | Number of Filers | Expenditure |
|---|--|------------------|-----------------|
| K.S.A. 79-32,111 | Credit for taxes paid to other states | 116,639 | (\$211,688,000) |
| K.S.A. 79-32,111a | Credit for child and dependent care expenses | 63,617 | (\$ 7,136,000) |
| K.S.A. 79-32,202 | Adoption credit | 283 | (\$304,000) |
| K.S.A. 79-32,181a | Agricultural loan interest reduction credit | 0 | (\$0) |
| K.S.A. 79-32,201 | Alternative-fuel tax credit | 10 | (\$9,000) |
| K.S.A. 79-32,153 | Business and job development tax credit | 124 | (\$110,000) |
| K.S.A. 79-32,160a | Business and job development tax credit | 221 | (\$2,005,000) |
| K.S.A. 79-32,206 | Business machinery and equipment tax credit | 9,525 | (\$3,274,000) |
| K.S.A. 79-32,190 | Child day care assistance credit | 8 | (\$14,000) |
| K.S.A. 79-32,197 | Community service contribution credit | 931 | (\$2,422,000) |
| K.S.A. 79-32,176 | Disabled access credit | 115 | (\$208,000) |
| K.S.A. 79-32,205 | Earned income credit | 163,711 | (\$40,813,000) |
| K.S.A. 79-32,203 | Habitat management credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,160a(e); K.S.A. 74-50,132 | High performance incentive program credit | 118 | (\$4,020,000) |
| K.S.A. 79-32,211 | Historic preservation tax credit | 32 | (\$588,000) |
| K.S.A. 79-32,207 | Plugging an abandoned oil or gas well credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,182b | Research and development credit | 67 | (\$58,000) |
| K.S.A. 79-32,212 | Single city port authority credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 40-2246 | Small employer health insurance contribution credit | 58 | (\$71,000) |
| K.S.A. 79-32,204 | Swine facility improvement credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,210 | Telecommunications credit | 64 | (\$21,000) |
| K.S.A. 79-32,200 | Temporary assistance to families contribution credit | 0 | (\$0) |
| K.S.A. 74-8205; 74-8206; 74-8304; 74-8316 | Venture and local seed capital credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,143 | Farm Net Operating Loss | 50 | (\$75,000) |

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

CORPORATE INCOME TAX

Year Enacted: 1933
Statutory Citation: K.S.A. Chapter 79, Article 32

All corporations doing business within or deriving income from sources within Kansas that are required to file a federal income tax return, shall also be required to file a Kansas corporate income tax return

Kansas begins its corporate income tax calculation with federal taxable income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce taxable income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal taxable income. Kansas law allows certain deductions in arriving at Kansas taxable income.

Corporations not based in Kansas in many cases have a small percentage of income from Kansas sources and use a three factor formula of payroll, sales and property to determine the amount of income apportioned to Kansas. The tax expenditures presented for corporations not based in Kansas have had the apportionment percentage applied in order to provide the reader with truer cost of expenditures associated with these filers.

For process year 2003, tax year 2002, the normal tax for Kansas corporate income tax is imposed at the rate of 4% and a surtax at the rate of 3.35% is imposed on those corporations where the Kansas taxable income is in excess of \$50,000

**CORPORATE INCOME TAX
RESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|--|---|-------------------------|-------------------------|
| K.S.A. 79-32,138(b)(i) K.S.A. 79-32,117(b)(i) | State and municipal bond interest not specifically exempt from Kansas income tax. | 250 | \$4,821,000 |
| K.S.A. 79-32,117(b)(iii) | Federal net operating loss deduction | 4,001 | \$31,125,000 |
| K.S.A. 79-32,117(b)(ii) | Taxes on or measured by income or fees or payments in lieu of income taxes | 6,061 | \$8,412,000 |
| Various | Other additions to federal adjusted gross income | 202 | \$1,338,000 |

*Tax expenditure computed using average tax rate of .065

SUBTRACTION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|--|---|-------------------------|-------------------------|
| K.S.A. 79-32,138(c)(i) K.S.A. 79-32,117(c)(i) | Interest on US Government obligations | 323 | (\$321,000) |
| Various | Other subtractions from federal adjusted gross income | 1,539 | (\$4,739,000) |

*Tax expenditure computed using average tax rate of .065

DEDUCTIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|----------------------------|---------------------------|-------------------------|-------------------------|
| K.S.A. 79-32,143 | Kansas Net Operating Loss | 6,879 | (\$71,585,000) |

*Tax expenditure computed using average tax rate of .065

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**CORPORATE INCOME TAX
NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|--|---|------------------|------------------|
| K.S.A. 79-32,138(b)(i) K.S.A. 79-32,117(b)(i) | State and municipal bond interest not specifically exempt from Kansas income tax. | 341 | \$263,000 |
| K.S.A. 79-32,117(b)(iii) | Federal net operating loss deduction | 1,125 | \$11,714,000 |
| K.S.A. 79-32,117(b)(ii) | Taxes on or measured by income or fees or payments in lieu of income taxes | 4,432 | \$2,174,000 |
| Various | Other additions to federal adjusted gross income | 209 | \$550,000 |

*Tax expenditure computed using average tax rate of .065

SUBTRACTION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|--|---|------------------|------------------|
| K.S.A. 79-32,138(c)(i) K.S.A. 79-32,117(c)(i) | Interest on US Government obligations | 368 | (\$585,000) |
| Various | Other subtractions from federal adjusted gross income | 725 | (\$3,161,000) |

*Tax expenditure computed using average tax rate of .065

DEDUCTIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---------------------|---------------------------|------------------|------------------|
| K.S.A. 79-32,143 | Kansas Net Operating Loss | 1,973 | (\$538,000) |

*Tax expenditure computed using average tax rate of .065

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**CORPORATE INCOME TAX
RESIDENT AND NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

TAX CREDITS

| Statutory Reference | Description | Number of Filers | Tax Expenditure |
|---|--|------------------|-----------------|
| K.S.A. 79-32,181a | Agricultural loan interest reduction credit | 0 | (\$0) |
| K.S.A. 79-32,201 | Alternative-fuel tax credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,153 | Business and job development tax credit | 69 | (\$1,322,000) |
| K.S.A. 79-32,160a | Business and job development tax credit | 125 | (\$3,068,000) |
| K.S.A. 79-32,206 | Business machinery and equipment tax credit | 4,638 | (\$16,663,000) |
| K.S.A. 79-32,190 | Child day care assistance credit | 10 | (\$126,000) |
| K.S.A. 79-32,197 | Community service contribution credit | 63 | (\$319,000) |
| K.S.A. 79-32,177 | Disabled access credit | 17 | (\$16,000) |
| K.S.A. 79-32,203 | Habitat management credit | 0 | (\$0) |
| K.S.A. 79-32,160a(e); K.S.A. 74-50,132 | High performance incentive program credit | 28 | (\$6,462,000) |
| K.S.A. 79-32,211 | Historic preservation tax credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,207 | Plugging an abandoned oil or gas well credit | 0 | 0 |
| K.S.A. 79-32,182b | Research and development credit | 47 | (\$564,000) |
| K.S.A. 79-32,212 | Single city port authority credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 40-2246 | Small employer health insurance contribution credit | 11 | (\$37,000) |
| K.S.A. 79-32,204 | Swine facility improvement credit | 0 | (\$0) |
| K.S.A. 79-32,210 | Telecommunications credit | 23 | (\$178,000) |
| K.S.A. 79-32,200 | Temporary assistance to families contribution credit | 0 | (\$0) |
| K.S.A. 74-8205; 74-8206; 74-8304; 74-8316 | Venture and local seed capital credit | 0 | (\$0) |
| K.S.A. 79-32,143 | Farm Net Operating Loss | 16 | (\$67,000) |

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

PRIVILEGE TAX

Year Enacted: 1963
Statutory Citation: K.S.A. Chapter 79, Article 11

Every national banking association, bank, trust company, federally chartered savings bank, and savings and loan association located or doing business within the state shall be required to file a privilege tax return and pay a tax according to or measured by its net income for the next preceding taxable year.

Kansas begins its privilege tax calculation with federal taxable income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce taxable income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal taxable income. Kansas law allows certain deductions in arriving at Kansas taxable income.

For process year 2003, tax year 2002, a tax consisting of a normal tax and a surtax shall be imposed for privilege tax filers. The normal tax shall be an amount equal to 2.25% of Kansas taxable income and a surtax in an amount equal to 2.125% of Kansas taxable income that is in excess of \$25,000 for banks and 2.25% of Kansas taxable income that is in excess of \$25,000 for savings & loans and trust companies.

**PRIVILEGE TAX
PROCESS YEAR 2003
(418 PRIVILEGE TAX FILERS)**

ADDITION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---|---|------------------|------------------|
| K.S.A. 79-1109 | State and municipal bond interest not specifically exempt from Kansas income tax. | 331 | \$17,395,000 |
| K.S.A. 79-1109 K.S.A. 79-32,138(b) K.S.A. 79-32,117(b)(iii) | Federal net operating loss deduction | 31 | \$8,705,000 |
| K.S.A. 79-1109 | Savings & Loan Bad Debt Deduction included in federal deductions | 14 | \$9,282,000 |
| Various | Other additions to federal taxable income | 90 | \$1,398,000 |

*Tax expenditure computed using average rate of 4%

SUBTRACTION MODIFICATIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---------------------|--|------------------|------------------|
| Various | Subtractions from federal taxable income | 261 | (\$2,178,000) |

*Tax expenditure computed using average rate of 4%

DEDUCTIONS

| Statutory Reference | Description | Number of Filers | *Tax Expenditure |
|---------------------|-------------------------------------|------------------|------------------|
| K.S.A. 79-32,143 | Kansas Net Operating Loss | 41 | (\$25,174,000) |
| K.S.A. 79-1109 | Savings and Loan Bad Debt Deduction | 21 | (\$720,000) |

*Tax expenditure computed using average rate of 4%

TAX CREDITS

| Statutory Reference | Description | Number of Filers | Tax Expenditure |
|--|---|------------------|-----------------|
| K.S.A. 79-1126a | Agricultural loan interest reduction credit | 0 | (\$0) |
| K.S.A. 79-32,153 | Business and job development tax credit | 41 | (\$148,000) |
| K.S.A. 79-32,160a | Business and job development tax credit | 0 | (\$0) |
| K.S.A. 79-32,206 | Business machinery and equipment tax credit | 371 | (\$776,000) |
| K.S.A. 79-32,190 | Child day care assistance credit | 0 | (\$0) |
| K.S.A. 79-32,197 | Community service contribution credit | 32 | (\$262,000) |
| K.S.A. 79-1117 | Disabled access credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,160a(e); K.S.A. 74-50,132 | High performance incentive program credit | *CONFIDENTIAL | *CONFIDENTIAL |
| K.S.A. 79-32,211 | Historic preservation tax credit | 0 | (\$0) |
| K.S.A. 74-8205; 74-8206; 74-8304; 74-8316 | Venture and local seed capital credit | 0 | (\$0) |

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

KANSAS RETAILERS' SALES TAX

Year Enacted: 1937

Statutory Citation: K.S.A. Chapter 79, Article 36

Kansas imposes a state retailers' sales tax of 5.3%, plus local sales taxes on the following:

- Retail sale, rental or lease of tangible personal property;
- Labor services to install, apply, repair, service, alter, or maintain tangible personal property; and
- Admissions to places providing entertainment, amusement, or recreation in Kansas.

Kansas law allows many exemptions from the imposition of sales tax.

State Sales Tax Exemptions Summary

| Statute | Description of Exemption or Exclusion | Recent Revision | FY2. (\$ in Millions) |
|-------------------------|--|--|------------------------|
| Tax Rate | | | 5.3% |
| Annual Rate of Increase | | | |
| 3602 (e) | Definition of retail sales, exempting wholesale sales and sales for resale | | \$ - |
| 3603 (b) | Taxes telephone and telegraph services except creation WATS and private data lines. Bundling of services added in 2001. Modified pre-paid calling cards - revolved phrase dealing with sold in minutes (no fiscal impact). | Rev 2001 SB 1 Rev 2002 SB 39 | \$ 1,217 |
| 3603 (e) | Admission to any cultural and historical event which occurs triennially | Revised 1994 | Minimal |
| 3603 (f) | Coin operated Laundry Services | | \$ 0.309 |
| 3603 (g) | Service of renting of rooms by holds or accommodation brokers to federal government or any federal employee in performance of official government duties. | 2002 SB39 | \$ 0.100 |
| 3603 (h) | Service of leasing or renting machinery and equipment owned by city purchased with industrial revenue bonds prior to July 1, 1973 | | \$ - |
| 3603 (m) | Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation. | Revised 1994 1998 SB493 | \$ 0.762 |
| 3603 (n) | Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and zoos | 1998 SB493 | \$ 0.281 |
| 3603 (n) | Attributable to veterans | 1998 SB493 | \$ 0.104 |
| 3603 (n) | Attributable to humanitarians | 1998 SB493 | \$ 0.050 |
| 3603 (n) | Attributable to nonprofit zoo. | 1998 SB493 | \$ 0.127 |
| 3603 (o) | Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales. | | \$ 0.176 |
| 3603 (o) | In 2004, changed the way sales tax computed on isolated and occasional sales of vehicles. Estimated to generate \$2 million annually | 2004 SB 147 | |
| 3603 (p) | Labor services of installing or applying property in original construction of a building or facility or the construction reconstruction, restoration, replacement or repair of a residence, bridge or highway | 1998 SB493 | \$ 76.539 |
| 3603 (q) | Exemption for Service of repairing, servicing, maintaining custom computer software as described in section 3603-(s) | 1988 Amended 2002 SB39 | \$ - |
| 3603 (s) | Customized computer software and services for modifying software for single end use and billed as a separate invoiced item. In 2004, amended to tax only prewritten software. Custom software is exempt | 1988 Amended 2002 SB39, 2004SB 147 | \$ 19.229 |
| 3603 (v) | Sales of bingo cards, bingo faces and instant bingo tickets. Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002 | 2000 HB 2013 1999 | \$ 2.301 \$ 195.777 |
| 3606 (a) | Motor fuels and items taxed by sales or excise tax | | |
| 3606 (b) | Property or services purchases by State of Kansas, political subdivision, nonprofit hospital or blood /donor bank. In 2001, deleted sales of water to make purchases for water suppliers exempt. (Neutral FN due to Clean Water Fee) | 2001 SB 332 | \$ 278.597 |
| 3606 (c) | Property or services purchased and leasing by elementary or secondary schools and educational institutions | | \$ 49.232 |
| 3606 (d) | Property or services purchased by contractor for building or repair of buildings for nonprofit hospital, elementary or secondary schools or nonprofit educational institutions | | \$ 100.155 |
| 3606 (e) | Property or services purchases by federal government, its agencies or instrumentality's | | \$ 4.661 |
| 3606 (f) | Property purchased by railroad or public utility for use in the movement of interstate commerce | | \$ 13.078 |
| 3606 (g) | Sales, repair or modification of aircraft sold for interstate commerce directly through an authorized agent. IN 2004, expanded aircraft exemption for repair, modification plus parts and labor | 1998 SB493, 2004 SB 147 | \$ 5.467 |
| 3606 (h) | Rental of nonsectarian textbooks by elementary or secondary schools | | \$ 0.805 |
| 3606 (i) | Lease or rental of films, records, tapes, etc. by motion picture exhibitors | | \$ 1.438 |
| 3606 (j) | Meals served without charge to employees if duties include furnishing or sale of such meals or drinks | | \$ 3.186 |
| 3606 (k) | Vehicles, trailers or aircraft purchased and delivered out of state to a nonresident | | \$ 12.998 |
| 3606 (l) | Isolated or occasional sales, except motor vehicles | | \$ - |
| 3606 (m) | Property which becomes an ingredient or component part of property or services produced or manufactured for ultimate sale at retail | | \$ 1,892.846 |
| 3606 (n) | Property consumed in the production, manufacturing, processing, mining, drilling, refining or compounding of property; or irrigation of crops for ultimate sale at retail. In 2000, added provision to eliminate refunds from the Johnson County Water case sav | | \$ 248.350 |
| 3606 (o) | Sales of animals, fowl, aquatic plants, and animals used in agriculture or aquaculture, for production of food for human consumption, the production of animal, dairy, poultry, or aquatic products, fiber or fur or the production of offspring. | | \$ 139.782 |
| 3606 (p) | Sales for prescription drugs | 1999 SB 45 | \$ 59.239 |
| 3606 (q) | Sales of insulin dispensed by pharmacist for treatment of diabetes | | \$ 0.457 |
| 3606 (r) | Sales of prosthetic or orthopedic appliances prescribed by a doctor. IN 2004, exempted all hearing aids, prats and batteries by licensed providers | Amended 1997, 2004 SB 147 | \$ 6.890 |
| 3606 (s) | Sales of property or services purchased by a groundwater management district | | \$ 0.035 |
| 3606 (t) | Sales of farm or aquaculture machinery and equipment, parts and services for repair and replacement | | \$ 40.300 |
| 3606 (u) | Leases or rentals of property used as a dwelling for more than 28 consecutive days. | | \$ 0.614 |
| 3606 (v) | Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization | 2004 SB 147 | \$ 0.699 |
| 3606 (w) | Sales of natural gas, electricity, heat, & water delivered through mains, lines or pipes to residential premises for noncommercial use, for agricultural use (to include propane gas), for use in severing oil and any property exempt from property taxation | | \$ 72.178 |
| 3606 (x) | Sales of propane, gas, LP-gas, coal, wood, and other fuel sources for the production of heat or lighting for noncommercial use in a residential premise | | \$ 13.748 |
| 3606 (y) | Sales of materials and services used in repairing, maintaining, etc., of railroad rolling stock used in interstate commerce | | \$ 0.788 |
| 3606 (z) | Property and services purchased directly by a port authority or a contractor therefor. | | Minimal |

State Sales Tax Exemptions Summary

| Statute | Description of Exemption or Exclusion | Recent Revision | FY 2004 (\$ in Millions) |
|-------------------------|--|---|--------------------------|
| Tax Rate | | | 5.3% |
| Annual Rate of Increase | | | |
| 3606 (aa) | Materials and services brought into Kansas for usage outside of Kansas for repair, services, alteration, maintenance, etc. used for the transmission of liquids or national gas by a pipeline in interstate commerce | | Minimal |
| 3606 (bb) | Used mobile and manufactured homes | | \$ 3.733 |
| 3606 (cc) | Property or services purchased for constructing, reconstructing, enlarging or remodeling a business; sale and installation of machinery and equipment purchased for installation in such business. (Enterprise Zone Exemption) | | \$ 55.213 |
| 3606 (dd) | Property purchased with food stamps issued by US Department of Agriculture | | \$ 6.384 |
| 3606 (ee) | Lottery tickets and shares made as part of a lottery operated by the State of Kansas | | \$ 10.495 |
| 3606 (ff) | New mobile or manufactured homes to the extent of 40% of the gross receipts | | \$ 2.737 |
| 3606 (gg) | Property purchased with vouchers issued pursuant to the federal special supplemental food program for women, infants and children | | n/a |
| 3606 (hh) | Medical supplies and equipment purchased by nonprofit skilled nursing home or intermediate nursing care home for providing medical services to residents | | \$ 0.877 |
| 3606 (ii) | Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization | 1998 SB493 | \$ 2.212 |
| 3606 (jj) | Property and services, includes leasing of property, purchased for community-based mental retardation facility or mental health center. | 2004 SB 147 | \$ 2.031 |
| 3606(kk) | Machinery and equipment used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of property for resale by the plant or facility. In 2004, added exemption for building new facility in Riverton Ks (minimal impact) | 1998 HB2584 | \$ 97.508 |
| 3606(kk) | This is the impact from the changes made in 1998 | | \$ 2.031 |
| 3606 (ll) | Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation | | \$ 0.068 |
| 3606 (mm) | Seeds, tree seedlings, fertilizers, insecticides, etc., and services purchased and used for producing plants to prevent soil erosion on land devoted to agricultural use. | 1988 HB2626 | \$ 0.805 |
| 3606 (nn) | Services rendered by advertising agency or broadcast station | | \$ 3.566 |
| 3606 (oo) | Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals. | | Minimal |
| 3606 (pp) | Drill bits and explosives used in the exploration and production of oil or gas | | \$ 0.339 |
| 3606 (qq) | Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3) | | \$ 0.332 |
| 3606 (rr) | Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3) | | \$ 0.028 |
| 3606 (ss) | Property and services purchased by a public broadcasting station licensed by FCC as a noncommercial educational television or radio station. | | Minimal |
| 3606 (tt) | Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3) | 1996 HB2656 | \$ - |
| 3606 (uu) | Property and services purchased by rural fire fighting organization | 1997 SB184 | Minimal |
| 3606 (vv) | Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; in 2004 added: Heartstrings Community Foundation, Cystic Fibrosis, Spina Bifida Assn, | 1997 SB184, 2001 HB 2029, 2004 SB 147 | \$ 0.079 |
| 3606 (ww) | Property purchased by the Habitat for Humanity for use within a housing project | 1997 SB184 | \$ 0.097 |
| 3606 (xx) | Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3) | 1998 SB493 | \$ 0.508 |
| 3606 (yy) | Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association | 1998 SB493 | \$ 0.477 |
| 3606 (zz) | Machinery and equipment purchased by over-the-air free access radio or television station used directly and primarily for producing signal or the electricity essential for producing the signal. | 1998 SB493 | \$ 0.801 |
| 3606(aaa) | Property and services purchased by religious organizations and used exclusively for religious purposes | 1998 SB493 | \$ 14.609 |
| 3606 (bbb) | Sales of food for human consumption by organizations exempt by 501(c)(3) pursuant to food distribution programs which offers such food at a price below cost in exchange for the performance of community service by the purchaser. | 1998 SB493 | Minimal |
| 3606 (ccc) | Property and services purchases by health care centers and clinics who are serving the medically underserved. | 1999 SB 45 | \$ 0.318 |
| 3606 (ddd) | Property and services purchases by any class II or III railroad (shortline) for track and facilities used directly in interstate commerce. Only for calendar year 1999. | 1999 SB 45 | n/a |
| 3606 (eee) | Property and services purchases for reconstruction, reconstruction, renovation, repair of grain storage facilities or railroad sidings. Only for calendar year 1999 and 2000. | 1999 SB 45, 2000 SB 59 | n/a |
| 3606 (fff) | Material handling equipment, racking systems & other related machinery & equipment used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility; installation, repair, maintenance services, and replacement parts. | 2000 HB 2011 | \$ 5.280 |
| 3606 (ggg) | Property and services purchased by or on behalf of the Kansas Academy of Science. | 2000 SB 59 | Minimal |
| 3606 (hhh) | Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence | 2004 SB 147 | |
| Total | | | \$ 3,453.043 |

Updated through 2004 Legislative changes.

KANSAS MINERAL TAX

Year Enacted: 1983
Statutory Citation: K.S.A. Chapter 79, Article 42

Gas and oil are taxed on the gross value at the time of removal from the earth or water. The tax rate is 8% less property tax credits equal to 3.67%, making the tax rate 4.33% after the credit.

Tax exemptions for oil are based on the average price per barrel, average daily productions, depth of the well, new pools and inactive wells.

Tax exemptions for gas wells are for wells with an average daily production valued at \$87 or less, as used for domestic or agricultural purposes on the production unit, and gas from any new pool.

The state general fund receives 93% of the total collection and counties receive the remaining 7%.

| Description | Number of Filers | *Tax Expenditure |
|-------------------------------------|------------------|------------------|
| Oil | 60 | (\$22,963,000) |
| Gas | 209 | (\$5,467,000) |
| Special Co. Mineral Production Fund | 269 | (\$6,371,000) |

*Tax expenditure computed using a rate of 4.33%

MOTOR FUEL TAXES

Year Enacted: 1925 – gasoline tax
 1941 – special fuels tax
 1959 – LP gas tax
 1979 – gasohol tax

Statutory Citation: K.S.A. Chapter 79, Article 34

A tax is imposed on the use, sale or delivery of all motor vehicle fuels or special fuels that are used, sold or delivered in this state. Distributors are allowed to deduct a 2.5 percent handling allowance on gasoline and special fuels received. No allowances are made on gasoline and special fuels exported from the state or sold to the federal government or its agencies; nor are allowances made on gasoline or special fuels sold or disposed of to consumers in tank cars, transport, or pipeline lots.

Kansas law provides that, unless specifically exempt from sales tax, sale of motor fuels will be subject to the Kansas sales tax if no Kansas excise tax has been imposed. No motor fuel tax is imposed on gasoline or special fuel for the following transactions:

- export from the state to any other state or territory;

| | Gallons | Tax Rate | Tax Expenditure |
|-----------------------|-------------|----------|-----------------|
| CY03 Gasoline/Gasohol | 315,850,384 | \$0.23 | (\$72,600,000) |
| | 360,380,996 | \$0.24 | (\$86,500,000) |
| CY03 Diesel | 103,165,960 | \$0.25 | (\$25,800,000) |
| | 104,188,162 | \$0.26 | (\$27,100,000) |

- sale to the federal government or its agencies; (combined below)
- sale to a contractor who performs work for the federal government or its agencies;

| | Gallons | Tax Rate | Tax Expenditure |
|-----------------------|-----------|----------|-----------------|
| CY03 Gasoline/Gasohol | 1,172,283 | \$0.23 | (\$269,625) |
| | 1,402,953 | \$0.24 | (\$336,709) |
| CY03 Diesel | 889,637 | \$0.25 | (\$222,409) |
| | 654,110 | \$0.26 | (\$170,069) |

- sale which is aviation fuel;

| | Gallons | Tax Rate | Tax Expenditure |
|-----------------------|------------|----------|-----------------|
| CY03 Gasoline/Gasohol | 3,867,002 | \$0.23 | (\$889,410) |
| | 4,110,350 | \$0.24 | (\$986,484) |
| CY03 Diesel | 25,574,863 | \$0.25 | (\$6,400,000) |
| | 29,498,520 | \$0.26 | (\$7,700,000) |

- first sale or delivery to a duly licensed distributor who resells to another duly licensed distributor, (No numbers available. This exemption merely insures that double taxation does not occur.);

- sale of indelibly dyed special fuel to be used for nonhighway purposes, and

| | Gallons | Tax Rate | Tax Expenditure |
|------------------|-------------|----------|-----------------|
| CY03 Dyed Diesel | 153,054,660 | \$0.25 | (\$38,300,000) |
| | 168,411,672 | \$0.26 | (\$43,800,000) |

- shrinkage allowance @ 2.5%.

| | Gallons | Tax Rate | Tax Expenditure |
|-----------------------|------------|----------|-----------------|
| CY03 Gasoline/Gasohol | 16,466,054 | \$0.23 | (\$3,800,000) |
| | 17,029,344 | \$0.24 | (\$4,100,000) |
| CY03 Diesel | 4,141,614 | \$0.25 | (\$1,000,000) |
| | 4,948,368 | \$0.26 | (\$1,300,000) |

KANSAS HOMESTEAD REFUND PROGRAM

Year Enacted: 1970

Statutory Citation: K.S.A. Chapter 79, Article 45

The homestead refund program is a rebate of a portion of the property taxes paid on a Kansas resident's homestead. The refund percentage is based on the total household income. If an individual owns their home, the refund is a percentage of the general property tax. If the individual rents their home, 20% of the rent paid for occupancy is used as the property tax amount. The maximum refund is \$600. As a Kansas resident the entire year, an individual is eligible if the total household income is \$25,000 or less and the individual:

- Was born prior to January 1, 1947, OR
- was blind or totally and permanently disabled all of 2002, OR
- had a dependent child who lived with the individual the entire year and that child was born before January 1, 2002, and was under the age of 18 all of 2002.

In fiscal year 2004, the Kansas Department of Revenue issued \$13,004,000 in homestead refunds to 73,501 homeowners and renters.

KANSAS FOOD SALES TAX REFUND PROGRAM

Year Enacted: 1978

Statutory Citation: K.S.A. Chapter 79, Article 36

The food sales tax refund program offers a refund of the sales tax paid on food. To qualify for the program an individual must have lived in Kansas for the entire year and:

- Was born prior to January 1, 1948, OR
- was blind or totally and permanently disabled all of 2002, OR
- had a dependent child who lived with the individual the entire year and that child was born before January 1, 2002, and was under the age of 18 all of 2002.

The food sales tax refund is computed as follows:

| If the qualifying income is: | The refund is: |
|------------------------------|---|
| \$0 to \$12,900 | \$72 multiplied by the number of Kansas exemptions. |
| \$12,901 to \$25,800 | \$36 multiplied by the number of Kansas exemptions. |
| \$25,801 or greater | No refund |

In process year 2003, the Kansas Department of Revenue issued \$32,212,000 in food sales tax refunds to 270,000 eligible filers.

KANSAS IMPACT PROGRAM

Year Enacted: 1991

Statutory Citation: K.S.A. Chapter 74, Article 50

The IMPACT act provides for major project investment to provide financial assistance to defray business costs. IMPACT also provides financial assistance for new job training.

The IMPACT act uses withholding revenue for funding projects. In fiscal year 2005, the limit is 1.5% of total withholding receipts and in fiscal year 2006 and after the percentage is 2%.

In fiscal year 2004, the Kansas IMPACT program expended \$10,904,000.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF POLICY AND RESEARCH

KATHLEEN SEBELIUS, GOVERNOR

Analysis of Corporate Income Tax 2000-2002

Executive Summary

October 15, 2004

Purpose of Study

The Kansas Department of Revenue recently completed an "Analysis of Corporate Income Tax 2000-2002." The purpose of the study was to provide historical information concerning the corporate income tax and the 4 largest business incentive tax credit programs (business and job development, high performance incentive program, research and development, and business machinery and equipment property tax credit). The study also examined where the corporate income tax burden falls by industry sector, and made limited comparisons of the employment performance of corporations claiming the largest amounts of tax credits to the employment performance of similar sectors of the Kansas economy as a whole in recent years.

The analysis focused specifically on tax years 2000, 2001 and 2002, which included the 2001 recession and the aftermath of 9/11. Unfortunately, these were the only years where data was readily available. The downturn in the economy following the events of 9/11 is clearly evident. This study should provide tax policy makers information for future decision-making. However, its scope did not encompass other taxes, such as individual income, sales, or property tax, nor did the scope include other business tax incentive programs, such as the enterprise zone sales tax exemption, STAR bonds, or local property tax exemptions. KDOR will update this document on an annual basis and continue to expand the study as more tax years are included, making it more useful to policy makers to see longer term trends.

Recent History of Corporate Income Tax Receipts

Despite a recent upturn, the long-term trend for corporate income tax receipts reflects significant shrinkage. Receipts for FY 2004 (\$141 million) are below receipts for FY 1981 (\$162 million) and half of the receipts for the peak year, FY 1998 (\$281 million). Corporate income tax receipts are a smaller portion of total state taxes collected by the department and deposited in the state general fund than they were a decade ago. For FY 1991, corporate income tax receipts accounted for 8.4% of the total state taxes collected by the department and deposited in the state general fund. For FY 2003, corporate income tax receipts accounted for only 2.6% of total state taxes collected by the department and deposited in the state general fund. (Pages 1-2)

Distribution of Corporate Income Taxpayers

The largest 200 corporations account for almost three-fourths of the corporate income tax revenue. Most of the 25,000 to 30,000 corporate income tax returns received reflect zero tax liability. (Page 3)

Corporate Income Tax Credits

Rapidly expanding tax credit programs have decreased corporate income tax receipts. The most significant business income tax credit incentive programs in size are the business and job development (B&J) credit, high performance incentive program (HPIP) credit, research and development (R&D) credit, and business machinery and equipment property tax (B M&E) credit.

These credit programs favor capital-intensive, higher wage-paying businesses, such as manufacturers, as they were designed to do. The total credits allowed under these programs increased from \$18.5 million in process year 1997 to \$54.1 million in process year 2002, while corporate income tax receipts have declined. A relatively small number of corporations claim most of these credits. The B M&E credit, the only refundable credit of the 4 credit programs, had 4,450 corporate claimants in process year 2002, and \$18.8 million in B M&E credits allowed. Of the 4 credit programs, HPIP, the largest in terms of fiscal impact, was claimed by the smallest number of corporate taxpayers. In process year 2002, \$20.3 million in HPIP credits were allowed to 39 corporations. The B&J credit was claimed by 329 corporations, and the R&D credit was claimed by 59 corporations in process year 2002. (Table 1, Page 5)

Corporate Income Tax Burden

The study sample of 250 corporations included the largest 100 companies with Kansas corporate income tax liability in each of the three sample years (before credits) and the largest 100 Kansas employers in tax years 2000, 2001 and 2002. In this sample the manufacturing sector, as expected, reduced its income tax liability the most with tax credits. The whole sample averaged 27% reduction of Kansas income tax liability with tax credits. Manufacturers in the sample averaged 54% reduction of Kansas income tax liability with tax credits. (Table 2, Page 6)

Manufacturers also accounted for the largest portion (29%) of Kansas corporate income tax liability (and Kansas taxable income) during tax years 2000, 2001, and 2002 (liability measured before credits were taken) of any industry sector. The retail trade sector accounted for the largest portion (21%) of income tax receipts (measured after credits are taken). (Attached Charts 2 and 3)

Based on a group of 58 corporations included in the top 20 corporations claiming the most B&J credits during tax years 2000, 2001 and 2002, wide disparity exists between the average effective tax rate paid by those in the manufacturing/transportation/warehousing category vs. the retail/wholesale/other category. Wide disparity also exists in effective tax rates paid by individual corporations within each category. In tax year 2002, the 9 corporations in the manufacturing/transportation/warehousing category had an average effective tax rate of 2.59%, although within that category, the effective tax rates ranged from -1.8% to 6.34%, with 4 either receiving refunds or with zero net tax liability. Of the 11 corporations in the retail/wholesale/other category in tax year 2002, the average effective tax rate was 4.14%, although within that category, the effective tax rates ranged from .02% to 6.13%. (Page 7)

The study compared the manufacturing firms (13) and retail firms (9) within the group of 58 corporations included in the "top 20" in B & J credit claimants for tax years 2000, 2001 and 2002. Manufacturing firms offset 76% of their Kansas income tax liability with credits, while retailers in this group offset only 20% of their income tax liability with credits. The manufacturing corporations in the group also claimed the largest amounts of refundable and non-refundable credits from the other tax credit programs. (Table 3, Page 8)

The Kansas Economy—Retail Sector Compared to Manufacturing Sector

Since 1998 and in particular since the 2001 recession and 9/11, Kansas manufacturing sector employment has significantly declined. Retail sector employment experienced only modest decline during 2001 to 2003. The gap between retail sector employment and

manufacturing sector employment has narrowed: manufacturing sector employment exceeded retail sector employment by only 20,000 jobs in 2003. (Chart 5, Page 9)

Employment Data on Top 20 Business and Job Development Credit Claimants

Comparison of the percentage rate of change in the employment levels of manufacturers among the top 20 B&J tax credit claimants during tax years 2000, 2001 and 2002 to similar data for the entire Kansas manufacturing sector from 2000 through 2003 shows that employment levels of manufacturers claiming the largest B&J credits performed worse than employment levels of the Kansas manufacturing sector as a whole during much of this time period. No correlation could be found between the tax credit programs and improved employment performance for manufacturers claiming the largest amounts of those credits when compared to the employment performance for the Kansas manufacturing sector as a whole. (Chart 7, Page 11) Caution in drawing conclusions must be exercised because of the severe dislocation in the aircraft industry in the aftermath of the 2001 recession and the 9/11 attacks, which dominated the sample period.

Employment performance of retailers claiming the largest B&J credits in tax years 2000, 2001 and 2002 was somewhat better than employment performance of the Kansas retail sector as a whole during much of this time period, although retailers claimed a much smaller portion of the credits than manufacturers. (Chart 8, Page 11)

The aggregate employment level of corporations included in the group of top 20 B&J credit claimants in tax years 2000, 2001 and 2002 performed worse than the aggregate employment level in the private sector as a whole in Kansas during most of this time period. (Chart 9, Page 12)

Conclusions

Manufacturers have utilized the business tax credit incentive programs and have claimed the largest amounts of the credits. This result is consistent with state economic development policy that has been in effect for 10 years. Some larger claimants have used the credits to eliminate their corporate income tax liability entirely—even obtaining refunds.

Because tax credits are used to lower tax burden, the effective tax rate varies greatly within industry groups of all types.

Generally, the manufacturing sector bears a smaller share of the corporate income tax burden than other sectors of the economy, compared to the taxable income generated by those sectors. The tax credit programs do not appear to have shielded manufacturers claiming the



KANSAS

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DEPARTMENT OF REVENUE
POLICY AND RESEARCH

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Analysis of Kansas Corporate Income Tax 2000-2002

This Analysis focused on the Kansas corporate income tax during tax years 2000, 2001 and 2002 and the impact of the 4 largest business income tax credit incentive programs on corporate income tax receipts, in an effort to determine how the corporate income tax burden falls within various industry sectors. It also examined employment data concerning the largest tax credit claimants, in order to determine whether any correlation exists between improved employment performance and tax credits, in comparison to employment data for the Kansas economy as a whole during 2000 to 2003. The 2001 recession and aftermath of 9/11 dominated this time period. The Analysis did not consider other taxes, such as individual income, sales or property tax, or other business tax incentive programs, such as STAR bonds, local property tax exemptions, or the enterprise zone sales tax exemption.

Historical Background

The Kansas corporate income tax has been in place since 1933, initially at a rate of 2% of Kansas taxable income. The rate has been increased several times over the years, and was last raised in 1992, when the current rate structure was adopted: the 4% rate on Kansas taxable income, with a surtax of 3.35% on Kansas taxable income above \$50,000. This 7.35% marginal rate on Kansas taxable income above \$50,000 is typical of rates in many states, but higher than the corporate income tax rates in three neighboring states, including: Colorado (4.63%); Missouri (6.25%); and Oklahoma (6%). It is lower than the corporate income tax rate in Nebraska (5.58% on first \$50,000; 7.81% marginal on income above \$50,000).

Most states impose some type of corporate income tax. Only Nevada, South Dakota, Washington, and Wyoming do not (although Washington imposes a "business and occupations" tax).

Recent History of Corporate Income Tax Receipts

Annual Kansas corporate income tax receipts (by fiscal year) since 1981 are shown below:

| Fiscal Year | Amount Collected | Percent Change |
|-------------|------------------|----------------|
| 1981 | \$161,967,709 | |
| 1982 | \$146,823,052 | -9.4% |
| 1983 | \$122,831,287 | -16.3% |
| 1984 | \$120,993,044 | -1.5% |

largest amounts of B&J credits from the economic downturn experienced by the Kansas economy in the 2001 recession, and in the aftermath of 9/11.

The retail sector contributes the largest portion of the corporate income tax receipts, although the manufacturing sector generated the largest amount of Kansas taxable income in tax years 2000, 2001 and 2002. The retail sector is less able than the manufacturing sector to benefit from the tax credit programs, typically bears a higher share of the corporate income tax burden, and pays higher effective tax rates. Retailers in the group of top 20 B&J credit claimants showed stronger employment performance in the aftermath of the 2001 recession and 9/11 than the Kansas retail sector as a whole.

In general, corporations claiming the most tax credits did not show employment performance matching that of the Kansas private sector economy during most of the 2000-2003 time period. This result should be tracked and measured over a longer period of time before conclusions are reached because of the recession during the sample years.

| | | |
|------|---------------|--------|
| 1985 | \$141,957,298 | 17.3% |
| 1986 | \$135,818,461 | -4.3% |
| 1987 | \$104,632,665 | -23.0% |
| 1988 | \$171,437,706 | 63.8% |
| 1989 | \$172,927,488 | 0.9% |
| 1990 | \$167,600,876 | -3.1% |
| 1991 | \$185,319,680 | 10.6% |
| 1992 | \$169,118,247 | -8.7% |
| 1993 | \$169,118,153 | 0.0% |
| 1994 | \$211,953,103 | 25.3% |
| 1995 | \$229,421,376 | 8.2% |
| 1996 | \$218,586,552 | -4.7% |
| 1997 | \$263,573,332 | 20.6% |
| 1998 | \$281,651,300 | 6.9% |
| 1999 | \$227,369,923 | -19.3% |
| 2000 | \$250,122,826 | 10.0% |
| 2001 | \$211,906,919 | -15.3% |
| 2002 | \$93,958,484 | -55.7% |
| 2003 | \$105,222,316 | 12.0% |
| 2004 | \$141,173,000 | 34.2% |

Although the bottom fell out of corporate income tax receipts in FY 2002, the recent trend is encouraging. FY 2004 corporate income tax receipts exceeded the April 2004 Consensus Revenue Estimate (\$125 million) by 12.9% and were 34.2% above the prior year's receipts. Thus far in FY 2005, corporate income tax receipts of \$52.9 million through the end of September are 62.8% above the April 2004 Consensus Revenue Estimate and 45.9% above actual corporate income tax receipts for this same time period last year.

Despite the recent upturn, the long term trend for corporate income tax receipts reflects significant shrinkage of the tax base—even though tax rates have remained unchanged since 1992. Receipts for FY 2004 are below receipts for FY 1981 and are barely half of the receipts for the peak year, FY 1998.

Corporate income tax receipts account for a much smaller portion of total state taxes collected by the department and deposited in the state general fund than they did even a decade ago. For FY 1991, corporate income tax receipts accounted for 8.4% of the total state taxes collected by the department and deposited in the state general fund. For FY 2003, corporate income tax receipts accounted for only 2.6% of total state taxes collected by the department and deposited in the state general fund.

The pie graphs at Chart 1 (attached) (comparing state and local tax revenue by source for FY 1998 to the same for FY 2003) show that income (individual and corporate) and privilege taxes have become a smaller portion of total state and local tax base in recent years. For FY 2003, property and vehicle taxes accounted for 34.7 percent of state and local tax revenues; sales and use taxes, 27.8 percent, and income and privilege taxes, 21.8 percent. As noted in 2003 Supplement to Kansas Tax Facts:

The relative balance in the big three sources of state and local tax revenue—sales, income, and property—that Kansas had achieved for a number of years after the 1992 school finance law appears to be eroding. . . . As recently as

FY 1998, the figures were much more closely balanced: 30.9 percent for property and vehicles; 28.1 percent for sales and use; and 28.0 percent for income and privilege.

Economists generally believe that with a diversified revenue portfolio not relying too heavily on a single source, Kansas state and local governments are better able to withstand economic downturns.

Distribution of Corporate Income Taxpayers

The department receives approximately 25,000 to 30,000 corporate income tax returns per year. Most of those returns reflect zero tax liability. The largest 200 corporations account for almost three-fourths of the corporate income tax revenue, as shown below (statistics taken from the department's Annual Reports for FY 2001, FY 2002 and 2003). As shown below, this distribution pattern has remained fairly consistent over many years.

Corporate Income Tax Liability By Taxable Income Bracket

| Tax Year 2001 Returns Filed In Calendar Year 2002 | | | | |
|---|----------------|--------------------------|---------------------|----------------------------|
| Taxable Income Brackets | Number Returns | Percent of Total Returns | Tax Liability | Percent of Total Liability |
| No Taxable Income | 13,975 | 60.3% | \$ 0 | 0.0% |
| \$0 - \$75,000 | 7,834 | 33.8% | \$ 6,051,308 | 8.7% |
| \$75,000.01 - \$100,000 | 371 | 1.6% | \$ 1,704,346 | 2.4% |
| \$100,000.01 - \$500,000 | 743 | 3.2% | \$ 9,917,859 | 14.3% |
| \$500,000.01 - \$1,000,000 | 112 | 0.5% | \$ 5,475,153 | 7.9% |
| \$1,000,000.01 - Over | <u>125</u> | <u>0.5%</u> | <u>\$46,438,219</u> | <u>66.7%</u> |
| Total | 23,160 | 100.0% | \$69,586,885 | 100.0% |

| Tax Year 2000 Returns Filed In Calendar Year 2001 | | | | |
|---|----------------|--------------------------|----------------------|----------------------------|
| Taxable Income Brackets | Number Returns | Percent of Total Returns | Tax Liability | Percent of Total Liability |
| No Taxable Income | 18,025 | 60.4% | \$ 0 | 0.0% |
| \$0 - \$75,000 | 9,550 | 32.0% | \$ 7,437,981 | 4.3% |
| \$75,000.01 - \$100,000 | 466 | 1.6% | \$ 2,162,361 | 1.2% |
| \$100,000.01 - \$500,000 | 1,226 | 4.1% | \$ 17,989,315 | 10.3% |
| \$500,000.01 - \$1,000,000 | 230 | 0.8% | \$ 11,676,780 | 6.7% |
| \$1,000,000.01 - Over | <u>329</u> | <u>1.1%</u> | <u>\$135,700,416</u> | <u>77.6%</u> |
| Total | 29,826 | 100.0% | \$174,700,416 | 100.0% |

| Tax Year 1989 Returns Filed in Calendar Year 1990 | | | | |
|---|----------------|--------------------------|----------------------|----------------------------|
| Taxable Income Brackets | Number Returns | Percent of Total Returns | Tax Liability | Percent of Total Liability |
| No Taxable Income | 20,022 | 58.3% | \$ 0 | 0.0% |
| \$0 - \$25,000 | 8,219 | 25.2% | \$ 2,775,067 | 2.2% |
| \$25,000.01 - \$50,000 | 2,036 | 6.3% | \$ 3,834,025 | 3.1% |
| \$50,000.01 - \$75,000 | 1,097 | 3.1% | \$ 3,880,877 | 2.9% |
| \$75,000.01 - \$100,000 | 561 | 1.7% | \$ 2,929,035 | 2.4% |
| \$100,000.01 - \$500,000 | 1,178 | 3.8% | \$ 16,367,577 | 13.6% |
| \$500,000.01 - Over | <u>468</u> | <u>1.5%</u> | <u>\$ 93,003,841</u> | <u>75.8%</u> |
| Total | 33,581 | 100.0% | \$ 122,790,422 | 100.0% |

Corporate Income Tax Credits

"Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. Deductible contributions are similar to cash grants of the amount of a portion of the individual's contributions." *Regan v. Taxation With Representation of Washington*, 461 U.S. 540, 544 (1983). Tax credits, like exemptions and deductions, are also a form of subsidy. During the 1990's, several business-oriented tax credit programs were either expanded or created, the most significant in size being the business and job development (B&J) credit, high performance incentive program (HPIP) credit, research and development (R&D) credit, and business machinery and equipment property tax (B M&E) credit. The first three tax credits listed are non-refundable (i.e., the taxpayer must have sufficient tax liability to offset the credit claim), and the last, the business machinery and equipment property tax credit, is refundable—even when there is no tax liability. Non-refundable credits exceeding the taxpayer's liability can be carried forward and claimed in future years, subject to certain constraints and time limits. The tax credit programs are described in Appendix A.

These credit programs were designed to favor capital-intensive, higher wage-paying businesses, such as manufacturers. Corporations availing themselves of these credits must make significant capital investments, hire additional employees, pay higher wages, or all of the above.

Table 1 shows that total corporate credit claims for the largest 4 tax credit programs have increased dramatically in recent years. It provides data on the amount of and number of corporate taxpayers claiming the B&J credit, HPIP credit, R&D credit, and B M&E credit claimed from process year (calendar year during which the return was processed, which is generally the calendar year following the tax year of the return) 1994 through process year 2002. The total credits allowed increased from \$18.5 million in process year 1997 to \$54.1 million in process year 2002. Corporate income tax receipts declined significantly during much of this time period.

Table 1

| HPIP TAX CREDIT CLAIMED BY CORPORATE INCOME TAX FILERS | | |
|--|---------------|---------------------|
| HPIP | Filers | Credit Allowed |
| PY 1994 | *confidential | |
| PY 1995 | 5 | \$163,733 |
| PY 1996 | 6 | \$345,755 |
| PY 1997 | 12 | \$884,455 |
| PY 1998 | 13 | \$2,919,924 |
| PY 1999 | 20 | \$4,814,076 |
| PY 2000 | 29 | \$11,019,194 |
| PY 2001 | 33 | \$10,770,156 |
| PY 2002 | 39 | \$20,297,734 |
| Total | 157 | \$51,215,027 |

| BUSINESS & JOB DEVELOPMENT TAX CREDIT CLAIMED BY CORPORATE INCOME TAX FILERS | | |
|--|--------------|----------------------|
| B&J | Filers | Credit Allowed |
| PY 1994 | 392 | \$9,737,422 |
| PY 1995 | 515 | \$9,972,855 |
| PY 1996 | 619 | \$11,910,471 |
| PY 1997 | 633 | \$16,384,465 |
| PY 1998 | 630 | \$24,981,586 |
| PY 1999 | 508 | \$14,757,102 |
| PY 2000 | 404 | \$11,261,171 |
| PY 2001 | 392 | \$13,286,971 |
| PY 2002 | 329 | \$14,076,006 |
| Total | 4,422 | \$126,368,049 |

| BUSINESS MACHINERY & EQUIPMENT TAX CREDIT CLAIMED BY CORPORATE INCOME TAX FILERS | | |
|--|---------------|---------------------|
| M&E | Filers | Credit Allowed |
| PY 1994 | | |
| PY 1995 | | |
| PY 1996 | | |
| PY 1997 | | |
| PY 1998 | | |
| PY 1999 | 2,509 | \$3,784,307 |
| PY 2000 | 3,486 | \$10,453,217 |
| PY 2001 | 4,156 | \$14,464,830 |
| PY 2002 | 4,450 | \$18,771,538 |
| Total | 14,601 | \$47,473,892 |

| RESEARCH & DEVELOPMENT TAX CREDIT CLAIMED BY CORPORATE INCOME TAX FILERS | | |
|--|------------|---------------------|
| R&D | Filers | Credit Allowed |
| PY 1994 | 61 | \$3,199,219 |
| PY 1995 | 68 | \$704,701 |
| PY 1996 | 58 | \$846,025 |
| PY 1997 | 57 | \$1,243,004 |
| PY 1998 | 58 | \$2,428,084 |
| PY 1999 | 52 | \$1,354,640 |
| PY 2000 | 48 | \$1,061,975 |
| PY 2001 | 47 | \$3,597,764 |
| PY 2002 | 59 | \$997,203 |
| Total | 508 | \$15,432,615 |

TOTAL CREDIT ALLOWED - CORPORATE INCOME TAX FILERS

| | HPIP | B&J | M&E | R&D | Total |
|--------------|-------------------|----------------------|-------------------|---------------------|--------------------|
| PY 1994 | *confidential | \$9,737,422 | | \$3,199,219 | 12,936,641 |
| PY 1995 | \$163,733 | \$9,972,855 | | \$704,701 | 10,841,289 |
| PY 1996 | \$345,755 | \$11,910,471 | | \$846,025 | 13,102,251 |
| PY 1997 | \$884,455 | \$16,384,465 | | \$1,243,004 | 18,511,924 |
| PY 1998 | \$2,919,924 | \$24,981,586 | | \$2,428,084 | 30,329,594 |
| PY 1999 | \$4,814,076 | \$14,757,102 | \$3,784,307 | \$1,354,640 | 24,710,125 |
| PY 2000 | \$11,019,194 | \$11,261,171 | \$10,453,217 | \$1,061,975 | 33,795,557 |
| PY 2001 | \$10,770,156 | \$13,286,971 | \$14,464,830 | \$3,597,764 | 42,119,721 |
| PY 2002 | \$20,297,734 | \$14,076,006 | \$18,771,538 | \$997,203 | 54,142,481 |
| Total | 51,215,027 | \$126,368,049 | 47,473,892 | \$15,432,615 | 240,489,583 |

The B M&E credit, the only refundable credit of the 4 credit programs, has a large number of corporate claimants: 4,450 corporate claimants in process year 2002, with \$18.8 million in B M&E credits allowed during process year 2002. The B M&E credit is not the largest corporate tax credit program. In process year 2002, \$20.3 million in HPIP credits were allowed to 39 corporations. Of the 4 credit programs, HPIP, the largest monetarily, was claimed by the smallest number of corporate taxpayers. The B&J credit was claimed by 329 corporations, and the R&D credit was claimed by 59 corporations in process year 2002. Depending on the circumstances, a corporation may claim several, if not all 4 of these credits in one tax year.

Corporate Income Tax Burden

In order to determine how much impact these tax credit programs have on the corporate income tax burden, the department reviewed corporate income tax returns for tax years 2000, 2001 and 2002 and developed a sample database containing taxpayer information extracted from actual returns of corporations. Corporations in the top 100 in Kansas income tax liability (measured before credits are applied) in each of those three tax years were included. Based on information received from the Department of Commerce, corporations among the top 100 employers in Kansas (based on number of employees) were also included in the database. The total amount of companies included in the sample was 250. These large corporations account for approximately three-fourths of the corporate income tax base. The North American Industry Classification System (NAICS) code, Kansas taxable income, Kansas corporate income tax liability before credits, credits claimed, and the net tax receipts after credits for tax years 2000, 2001 and 2002 for each of these corporations were captured in the database.

Table 2 summarizes the results by NAICS code categories (using the first 2 digits of the NAICS code). The number of corporations included in each NAICS code category is shown in parenthesis in the first column. According to NAICS, the manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances or components into new products. The retail trade sector comprises establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

Table 2. Tax and credits Statistics by Industry from a Sample of Top 200 Corporations from Tax Year 2000 to Tax Year 2002.

| Industry (# of corporations) | Total Tax Liability | Total NR Credits | B&J | R&D | HPIP | Property Tax Refund | Total Other Ref Credits | Net Receipts | Payment Percentage |
|--|---------------------|------------------|--------------|-------------|--------------|---------------------|-------------------------|---------------|--------------------|
| Mining (8) | \$18,112,767 | \$11,000 | \$0 | \$0 | \$0 | \$132,917 | \$0 | \$17,968,850 | 99.21% |
| Utilities (5) | \$11,067,425 | \$287,225 | \$0 | \$0 | \$231,725 | \$12,588 | \$46,024 | \$10,721,588 | 96.88% |
| Manufacturing (58) | \$106,017,045 | \$43,477,139 | \$15,534,381 | \$6,426,435 | \$22,151,467 | \$13,460,663 | \$732,800 | \$48,346,443 | 45.60% |
| Wholesale Trade (44) | \$42,696,065 | \$5,275,178 | \$4,279,126 | \$627,929 | \$265,623 | \$2,152,127 | \$76,065 | \$35,192,695 | 82.43% |
| Retail Trade (40) | \$67,150,276 | \$9,121,169 | \$5,076,413 | \$0 | \$1,334,017 | \$2,513,120 | \$189,306 | \$55,326,681 | 82.39% |
| Transportation and Warehousing (7) | \$16,799,674 | \$1,102,070 | \$841,938 | \$0 | \$224,632 | \$1,551,930 | \$81,250 | \$14,064,423 | 83.72% |
| Information (16) | \$30,981,962 | \$1,117,749 | \$545,699 | \$61,548 | \$500,502 | \$5,339,965 | \$1,228,587 | \$23,295,661 | 75.19% |
| Finance and Insurance (16) | \$18,601,663 | \$1,339,593 | \$32,000 | \$0 | \$0 | \$45,545 | \$1,250 | \$17,215,275 | 92.55% |
| Professional and Technical Services (11) | \$6,764,612 | \$49,281 | \$48,970 | \$311 | \$0 | \$118,724 | \$0 | \$6,596,607 | 97.52% |
| Management of Companies and Enterprises (10) | \$17,947,926 | \$480,650 | \$242,550 | \$0 | \$0 | \$361,265 | \$0 | \$17,106,011 | 95.31% |
| Accommodation and Food Services (6) | \$6,076,907 | \$432,019 | \$88,280 | \$0 | \$0 | \$97,752 | \$14,279 | \$5,532,857 | 91.05% |
| Others (29) | \$15,320,818 | \$3,218,822 | \$1,465,082 | \$0 | \$1,280,577 | \$878,537 | \$700 | \$11,222,759 | 73.25% |
| Total (250) | \$357,537,139 | \$65,911,895 | \$28,154,439 | \$7,116,223 | \$25,988,543 | \$26,665,133 | \$2,370,261 | \$262,589,850 | 73.44% |

Table 2 shows wide disparity between the various industry sectors in net tax receipts (after credits are taken) vs. tax liability measured before credits are taken (directly proportional to Kansas taxable income). The "payment percentage" column shown above reflects the percent of tax liability (measured before credits are taken) actually paid after credits were applied to reduce tax liability. Manufacturers have by far the lowest tax payment percentage rate at 45.60%.

Charts 2 and 3 (attached) show that although manufacturers represent the largest portion of Kansas tax liability before credits (and Kansas taxable income) in the sample, retail trade represents the largest portion of net taxes paid after credits are taken. Manufacturers are clearly best situated to take advantage of the largest tax credit programs. Charts 2 and 3 graphically display the information in Table 2. Chart 2 shows the percentage of total Kansas income tax liability (measured before credits are taken) attributable to each industry sector in the sample. Chart 3 shows the percentage of total net tax receipts (taxes paid after credits were taken) attributable to each industry sector in the sample.

Within this sample of 250, the Analysis looked at the group of top 20 corporations that claimed the most B&J credits during tax years 2000, 2001 and 2002. Some corporations appeared in the group of top 20 B&J credit claimants in more than 1 tax year. This group totalled 58 corporations. These corporations also claimed large portions of the other credits, but the ranking was based on the B&J credits claimed. The corporations in this group were divided into 2 broad categories by NAICS code: manufacturing/transportation/warehousing and retail/wholesale/other. The effective tax rate for each corporation was computed, as well as the average effective tax rate for each of the two categories. The results are shown below.

Top 20 B & J Credit Claimants

Tax Year 2000

5 in Manufacturing/Transportation/Warehousing
 Total Taxable Income: \$208.8 million
 Total Net Tax: \$4.375 million
 Ave. Effective Tax Rate: 2.1%
 Range: .88% to 5.44%

15 in Retail/Wholesale/Other
 Total Taxable Income: \$436 million
 Total Net Tax: \$24.4 million
 Ave. Effective Tax Rate: 5.6%
 Range: .27% to 7.07%

Tax Year 2001

10 in Manufacturing/Transportation/Warehousing
 Total Taxable Income: \$257 million
 Total Net Tax: \$3.19 million
 Ave. Effective Tax Rate: 1.2%
 Range: -1.3% to 5.16%
 (5 with refunds or zero taxes)

10 in Retail/Wholesale/Other
 Total Taxable Income: \$281 million
 Total Net Tax: \$17 million
 Ave. Effective Tax Rate: 6%
 Range: -1.9% to 7%
 (1 with refund)

Tax Year 2002

9 in Manufacturing/Transportation/Warehousing
 Total Taxable Income: \$169 million
 Total Net Tax: \$4.37 million
 Ave. Effective Tax Rate: 2.59%
 Range: -1.8% to 6.34%
 (4 with refunds or zero taxes)

11 in Retail/Wholesale/Other
 Total Taxable Income: \$82 million
 Total Net Tax: \$3.385 million
 Ave. Effective Tax Rate: 4.14%
 Range: .02% to 6.13%

The results show a wide disparity between the average effective tax rate paid by the manufacturing/transportation/warehousing category vs. the retail/wholesale/other category. There is also wide disparity in effective tax rates paid by individual corporations within each category. For example, in tax year 2002, the 9 corporations in the manufacturing/transportation/warehousing category had an average effective tax rate of 2.59%, although within that category, the effective tax rate ranged from -1.8% to 6.34%, with 4 either receiving refunds or with zero net tax liability. Of the 11 corporations in the retail/wholesale/other category in tax year 2002, the average effective tax rate was 4.14%, although within that category, the effective tax rate ranged from .02% to 6.13%.

Table 3 compares the manufacturing firms and retail firms within this group of 58 corporations included in the "top 20" in B & J credit claimants for tax years 2000, 2001 and 2002. The amount of tax liability (measured before credits are taken), credits and net receipts for all three tax years for manufacturing and retail firms in the group are listed. Of the 58 corporations in the group, 13 were manufacturing corporations and 9 were retail trade corporations. The "total" row at the bottom sums the information not only for these 13 manufacturers and 9 retailers, but also the rest of the 58 corporations in the group.

Table 3. Summary information for the Corporations that claimed most B&J Credits in TY 2000, 2001 and 2002

| Sector (# of sample) | Total Tax Liability | Total NR Credits | B&J | R&D | HPIP | B M & E | Total Ref. Credits | Net Receipts | Percent-age* |
|----------------------|----------------------|---------------------|---------------------|--------------------|--------------------|--------------------|--------------------|---------------------|---------------|
| Manufacture (13) | \$43,405,188 | \$29,235,951 | \$14,965,331 | \$5,990,066 | \$8,192,460 | \$3,567,459 | \$298,675 | \$10,303,103 | 23.74% |
| Retail Trade (9) | \$25,096,141 | \$4,684,763 | \$4,684,763 | \$0 | \$0 | \$388,165 | \$0 | \$20,023,213 | 79.79% |
| Total (58) | \$103,582,994 | \$42,709,553 | \$26,977,254 | \$6,543,973 | \$8,990,232 | \$5,347,514 | \$359,019 | \$55,166,908 | 53.26% |

*Percentage = (Net Receipts/Total Tax Liability).

Table 3 shows that manufacturing firms succeeded in offsetting much of their tax liability with credits, owing only 24% of the amount of their tax liability measured before credits were applied, while retailers offset a much smaller portion of their tax liability, still owing about 80% of the amount their tax liability measured before credits. The average payment percentage for all 58 corporations in this group of largest B&J credit claimants is about 53%. The manufacturing corporations in the group also claimed the largest amounts of refundable and non-refundable credits from the other tax credit programs.

The Kansas Economy—Retail Sector Compared to Manufacturing Sector

As discussed above, based on the sample database of large corporations, the manufacturing sector enjoys a lower effective tax rate than other sectors of the economy, as a result of tax credits. In the last decade, and in particular since the 2001 recession and 9/11, the United States manufacturing sector has been shrinking. Kansas is no exception. The two charts below provide historical employment information for various sectors of the Kansas economy.

Chart 4 compares the Kansas civilian labor force to aggregate employment and private sector employment from 1990 through 2003. The civilian labor force represents persons either in the workforce or actively looking for work. The difference between the civilian labor force line and the aggregate employment line represents unemployment. The difference between the aggregate employment line and the private sector line reflects public sector employment. After steadily increasing during the 1990's and into 2000, the civilian labor force and aggregate employment experienced significant drop-offs beginning in late 2000 through early 2002 and

then steadily increased. Private sector employment also steadily increased during the 1990's, but reached a plateau in 2000 and then declined through 2003.

Chart 4. Kansas Civilian Labor Force, Total Employment and Employment in Private Sector, 1990-2003

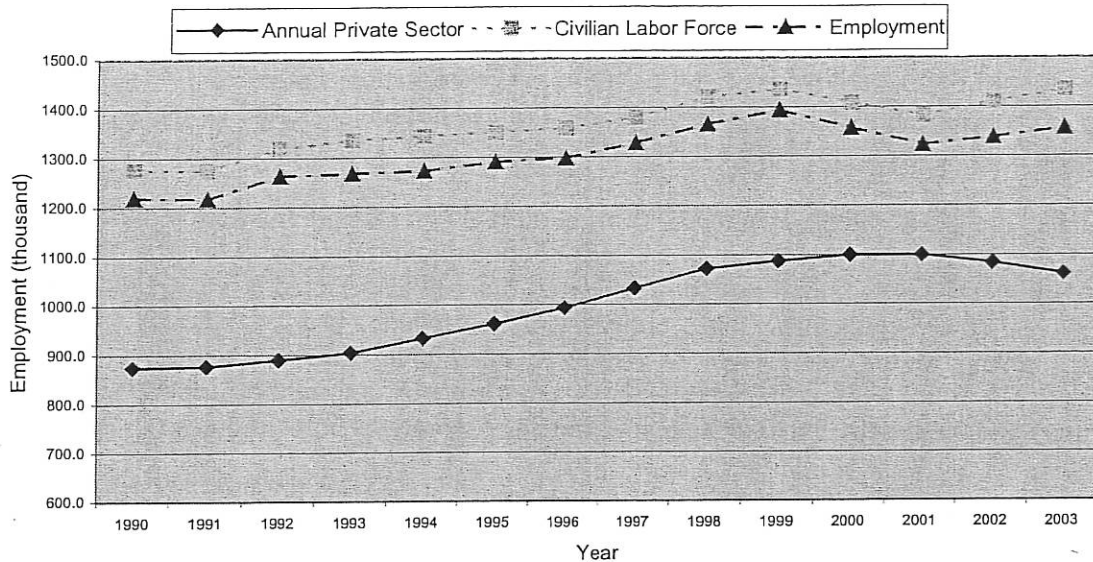


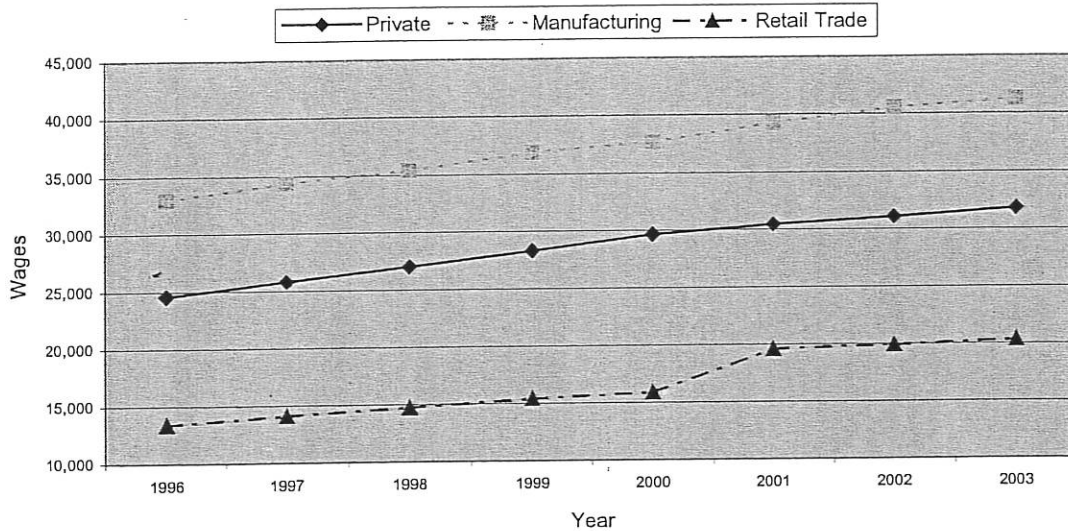
Chart 5 compares Kansas manufacturing employment and retail trade employment from 1990 through 2003. During most of the 1990's, both manufacturing and retail trade experienced steady growth, with dramatic growth in manufacturing in the late 1990's. Manufacturing sector employment was significantly larger than the retail sector throughout the 1990's, ranging from 40,000 to 60,000 employees higher. Since 1999, manufacturing sector employment has sharply declined. Retail sector employment experienced only modest decline during 2001 to 2003. The gap between retail sector employment and manufacturing sector employment has significantly narrowed: manufacturing sector employment exceeded retail sector employment by only 20,000 jobs in 2003.

Chart 5. Comparing Kansas Manufacturing and Retail Trade Sectors Employment: 1990-2003



Chart 6 compares the average annual wages for the Kansas private sector, manufacturing sector and retail sector from 1996 through 2003. Manufacturing sector wages are higher than private sector wages, and retail wages are lower than private sector wages. Despite the 2001 recession, wage levels have increased throughout the time period shown.

Chart 6. Kansas Average Annual Wages in Different Sectors



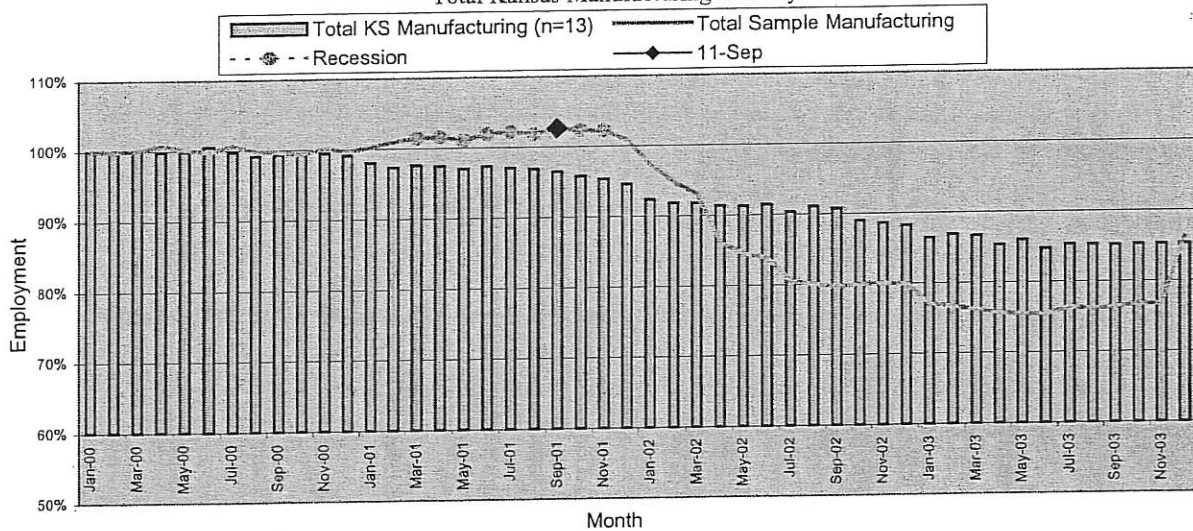
As the charts above show, the Kansas economy experienced a serious recession during 2001, and with the added impact of 9/11, experienced higher unemployment rates in many sectors for an extended time period.

Employment Data on Top 20 Business and Job Development Credit Claimants

The B & J tax credit program provides tax credits based on the number of net new employees and the amount of qualified capital investment. Corporations claiming large amounts of these credits could be expected to have a higher job growth than their industrial average. Employment data was obtained from the Department of Labor on the corporations included in the group of top 20 claimants of the B&J tax credit during tax years 2000, 2001 and 2002, in order to determine how well changes in the employment levels in these corporations compared with changes in employment levels in the Kansas economy.

Chart 7 compares the performance of employment levels of manufacturers (13 corporations) included in the group of largest B&J tax credit claimants with that of the entire Kansas manufacturing sector. The percentage rate of change in the employment levels of manufacturers among the largest B&J tax credit claimants are compared to similar data for the entire Kansas manufacturing sector from 2000 through 2003. Employment levels of manufacturers claiming the largest B&J credits performed worse than employment levels of the Kansas manufacturing sector during much of this time period. Chart 7 graphically notes the 2001 recession (March 2001 to November 2001, according to the National Bureau of Economic Research) and 9/11 on the time line for the group of largest B&J tax credit claimants. These events dominated this time period and severely affected the Kansas manufacturing sector.

Chart 7. Comparison of Employment Level Between the Sample Manufacturers (n=13) and the Total Kansas Manufacturing Industry



The Department of Labor employment information provides no correlation between the tax credit programs and improved employment performance for manufacturers claiming the largest amounts of those credits, during the aftermath of the 2001 recession and 9/11.

Chart 8 compares the performance of employment levels of retailers included in the sample (9) of largest B&J claimants with that of the entire Kansas retail sector. The percentage rate of change in the employment levels of retailers among the largest B&J tax credit claimants are compared to similar data for the entire Kansas retail sector from 2000 through 2003. Employment levels of retailers claiming the largest B&J credits performed somewhat better than employment levels of the Kansas manufacturing sector during much of this time period, although retailers claim a much smaller portion of the credits than manufacturers. The 2001 recession and 9/11 are noted graphically.

Chart 8. Comparison of Employment Level Between the Sample Retailers (n=9) and the Total Kansas Retail Trade Industry

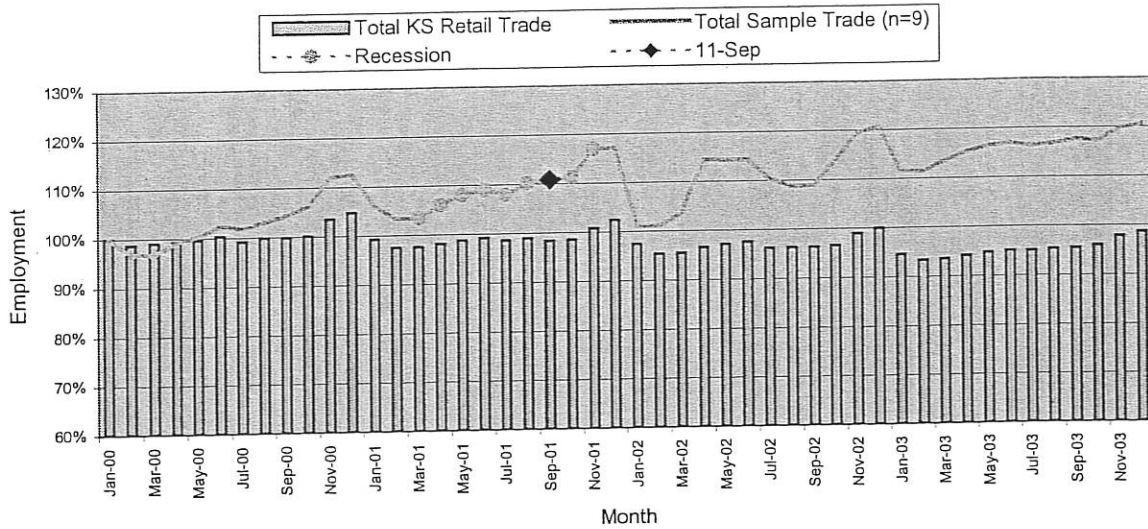
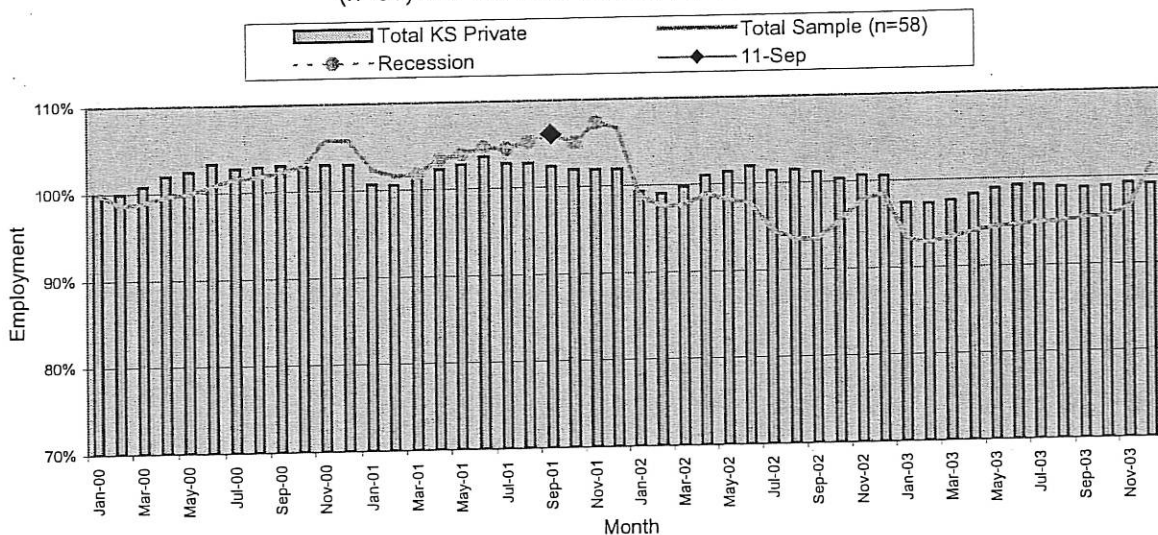


Chart 9 tracks the percentage rate of change in the aggregate employment level of corporations included in the group of top 20 B&J credit claimants from January 2000 through the end of 2003 and compares that to the percentage rate of change in the aggregate employment level of the Kansas private sector during the same time period. During most of this time period the rate of change in employment level of the corporations in the group claiming the largest B&J credits was worse than in the private sector as a whole in Kansas. The 2001 recession and 9/11 are also noted graphically.

Chart 9. Comparison of Employment Level Between the Sample Corporations (n=58) and the Total Kansas Private Industries



Conclusions

Manufacturers have utilized the business tax credit incentive programs and have claimed the largest amounts of the credits. This result is consistent with state economic development policy that has been in effect for 10 years. Some larger claimants have used the credits to eliminate their corporate income tax liability entirely—even obtaining refunds.

Because tax credits are used to lower tax burden, the effective tax rate varies greatly within industry groups of all types.

Generally, the manufacturing sector bears a smaller share of the corporate income tax burden than other sectors of the economy, compared to the taxable income generated by those sectors. The tax credit programs do not appear to have shielded manufacturers claiming the

largest amounts of B&J credits from the economic downturn experienced by the Kansas economy in the 2001 recession, and in the aftermath of 9/11.

The retail sector contributes the largest portion of the corporate income tax receipts, although the manufacturing sector generated the largest amount of Kansas taxable income in tax years 2000, 2001 and 2002. The retail sector is less able than the manufacturing sector to benefit from the tax credit programs, typically bears a higher share of the corporate income tax burden, and pays higher effective tax rates. Retailers in the group of top 20 B&J credit claimants showed stronger employment performance in the aftermath of the 2001 recession and 9/11 than the Kansas retail sector as a whole.

In general, corporations claiming the most tax credits did not show employment performance matching that of the Kansas private sector economy during most of the 2000-2003 time period. This result should be tracked and measured over a longer period of time before conclusions are reached because of the recession during the sample years.

Appendix A

Business and Job Development Credits - K.S.A. 79-32,153 and K.S.A. 79-32,160a

K.S.A. 79-32,153

A taxpayer that invests in a qualified business facility and hires at least two employees as a result of that investment may be eligible for a tax credit of \$100 for every new qualified business facility employee and \$100 for every \$100,000 of investment made.

K.S.A. 79-32,160a

A taxpayer that invests in a qualified business facility and hires a minimum number of employees as a result of that investment may be eligible for the enhanced tax credit of at least \$1,500 for every new qualified business facility employee and \$1,000 for every \$100,000 of investment made. To qualify for the enhanced credit, a manufacturing business must hire at least 2 qualified business facility employees as a direct result of the investment, a non-manufacturing business must hire at least 5 qualified business facility employees as a direct result of the investment, and a retail business must be considered a business headquarters, ancillary support operation (such as a warehouse), catalog house or prepackaged software operation and hire at least 20 qualified business facility employees as a direct result of the investment.

High Performance Incentive Program Credits - K.S.A. 74-50,132 and K.S.A. 79-32,160a(e)
Businesses must be certified in advance by Department of Commerce, in order to qualify for HPIP. The program applies only to businesses within certain specified NCAIS codes that pay wages higher than the prevailing wage within that industry.

Training and Education Tax Credit

A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the businesses total payroll costs.

Investment Tax Credit

A credit is available for those qualified firms that make an investment in a qualified business facility. the investment tax credit is 10% of the qualified business facility investment that exceeds \$50,000.

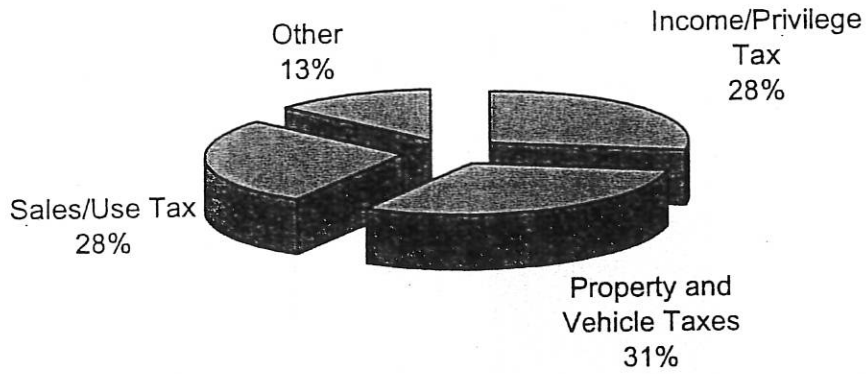
Business Machinery and Equipment Credit - K.S.A. 79-32,206

A credit may be allowed in an amount equal to 15% of the personal property tax levied and paid on commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas Constitution in subclass (5) or (6) of class 2 and machinery and equipment classified for such purposes in subclass (2) of class 2. The credit amount will increase to 20% of the property tax levied for property tax years 2005 and 2006, and 25% of the property tax levied for property tax years 2007 and after. This credit is refundable.

Research and Development Tax Credit - K.S.A. 79-32,182a

A taxpayer with qualifying expenditures in research and development activities conducted within Kansas may be eligible to receive a credit of 6 1/2% of the amount expended for the research.

Fiscal Year 1998 State and Local Tax Revenues by Source



Fiscal Year 2003 State and Local Tax Revenues by Source

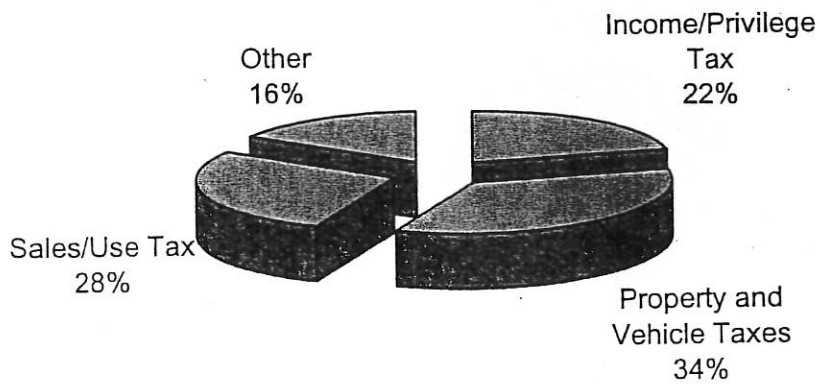
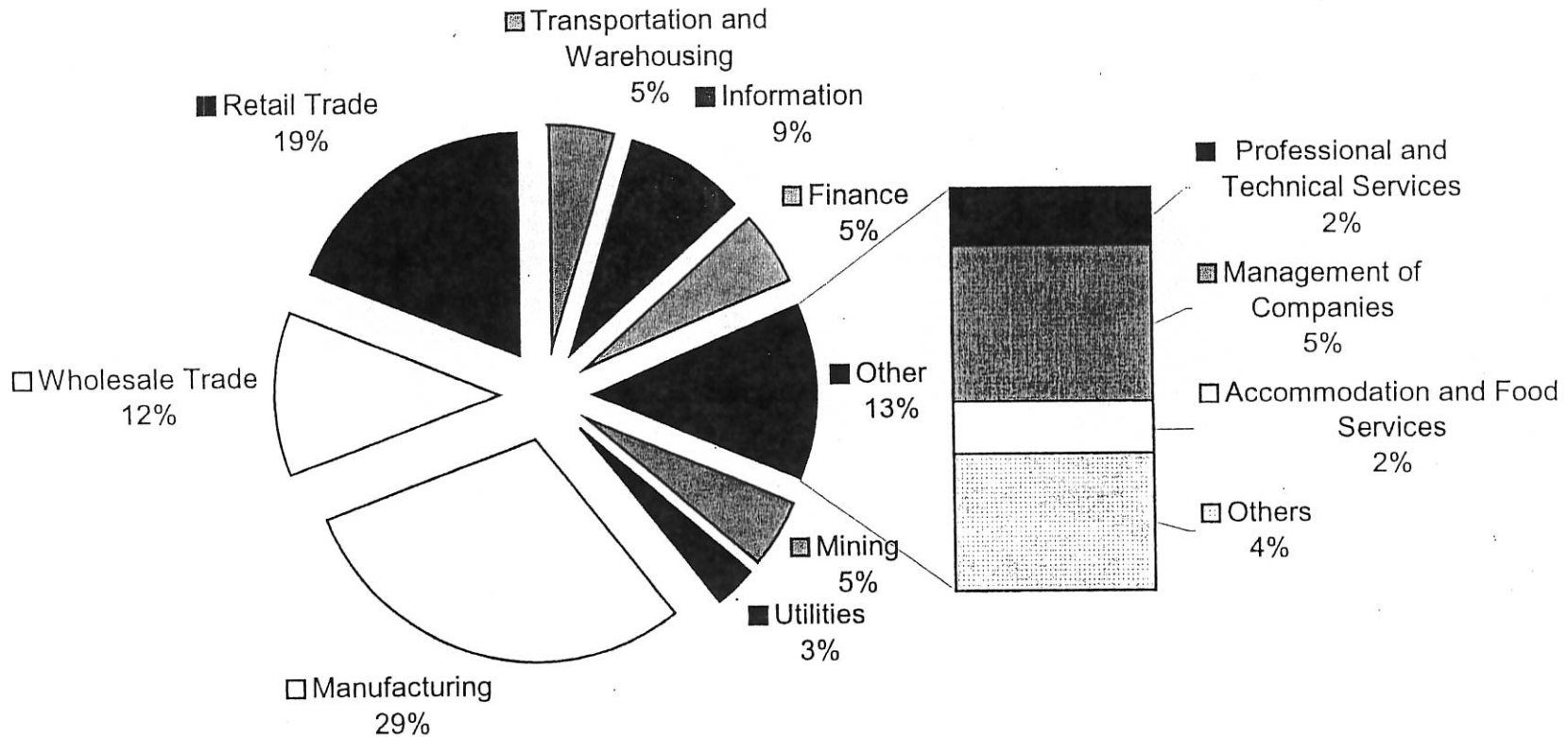
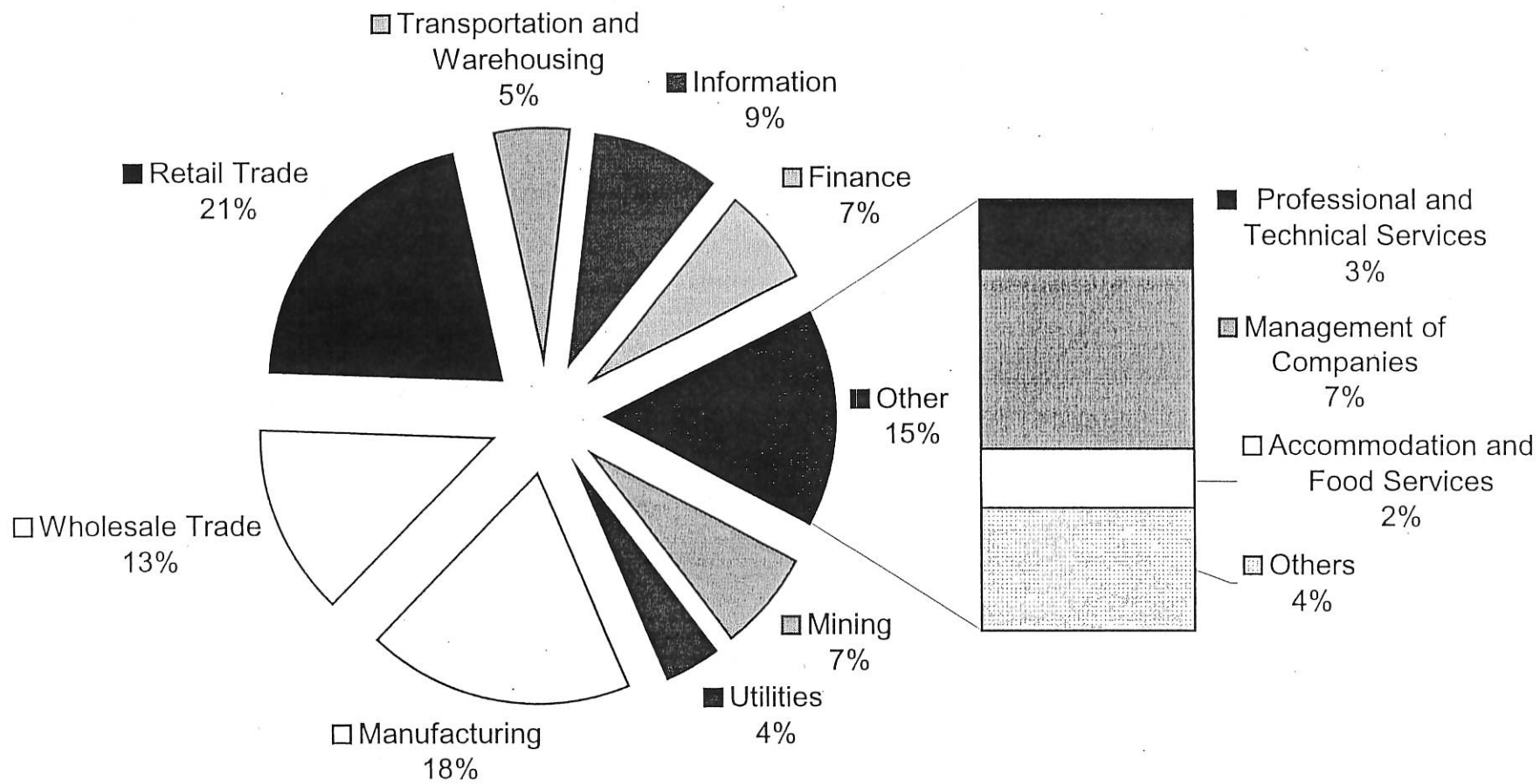


Chart 2
Total Corporate Income Tax Liability by Sector Before Credits Are Taken
Tax year 2000, 2001 and 2002



| | | |
|---------------------------|-----------------------------------|---------------------------------------|
| ■ Mining | ■ Utilities | □ Manufacturing |
| □ Wholesale Trade | ■ Retail Trade | ■ Transportation and Warehousing |
| ■ Information | ■ Finance | ■ Professional and Technical Services |
| ■ Management of Companies | □ Accommodation and Food Services | □ Others |

Chart 3
Total Corporate Income Tax Liability by Sector After Credits Are Taken
Tax Year 2000, 2001 and 2002.



| | | |
|---------------------------|-----------------------------------|---------------------------------------|
| ■ Mining | ■ Utilities | □ Manufacturing |
| □ Wholesale Trade | ■ Retail Trade | ■ Transportation and Warehousing |
| ■ Information | ■ Finance | ■ Professional and Technical Services |
| ■ Management of Companies | □ Accommodation and Food Services | □ Others |

February 1, 2005

Testimony to the House Economic Development Committee
Sean Tomb, Research Analyst

House Bill 2010

Representative Lana Gordon, Chair, and Members of the Committee:

House Bill 2010 transfers the responsibility of producing the annual report evaluating the cost effectiveness of sales tax exemptions and income tax credits for economic development from Kansas, Inc. to the Department of Revenue. Kansas, Inc. does not support HB 2010 as currently written and asks the Legislature to create the statutory authority to allow access to the necessary taxpayer information that would allow Kansas, Inc. to perform an independent evaluation of the cost effectiveness of economic development tax incentive programs.

Kansas, Inc. considers its role as the evaluator of economic development programs as important. Kansas, Inc appreciates the multiple discussions with the Department of Revenue and the Department of Commerce to help determine a valid methodology that is capable of evaluating the economic development tax incentive programs. Given access to the necessary information, Kansas, Inc. could provide an independent assessment of the cost effectiveness of these programs. Currently, Kansas, Inc. is not able to produce this evaluation due to the lack of access to confidential taxpayer information and reliance on a questionnaire, which has had a poor response rate.

The Economic Development Incentive Questionnaire included in the corporate tax booklet was created as an attempt to provide the necessary information to perform the evaluation of the cost effectiveness of economic development tax incentive programs. The questionnaire has been ineffective in providing the necessary information. While corporations are required to submit the questionnaire, there are no penalties for failing to comply. For the tax year 2002 report, Kansas, Inc. received only 31% of the required questionnaires from corporate tax filers participating in economic development income tax credit programs. This poor response rate does not allow Kansas, Inc. to perform a statistically valid evaluation. Kansas, Inc. also had concerns with the information that was provided by questionnaire respondents, as information is self-reported and no mechanism is in place to verify claims.

Kansas, Inc. recognizes the importance of evaluating economic development tax incentive programs to help determine what is and is not working to create jobs, increase investment and lead to economic development in the state. Kansas, Inc. wants to perform this function, but current laws prevent access to the necessary tools to accomplish this task.

In order to properly evaluate the cost effectiveness of economic development tax incentives, Kansas, Inc. needs access to the number of jobs created, wages paid, and investments made as a result of each individual tax incentive program from all taxpayers. This information needs to be provided as a requirement of participating in the tax incentive program. The lack of access to this critical information makes it impossible for Kansas, Inc. to perform a valid evaluation of economic development tax incentives.