

SESSION OF 2002

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2091

As Amended by Senate Committee of the Whole

Brief*

HB 2091, as amended, would expand the income, privilege, and premiums tax credit that offsets a portion of property taxes actually and timely paid on business machinery as it applies to sector 32621 of the North American Industry Classification System (tire manufacturers and retreaders). The bill would increase the percentage of such taxes eligible for the credit from 15 to 20 percent for property tax year 2003. The percentage of such taxes eligible for the credit would be further increased to 25 percent for property tax year 2004. Additional increases in the percentage of such taxes eligible for the credit would be available if the qualified business has made an investment in new machinery and equipment after July 1, 2002 in an amount exceeding \$10,000,000. These additional increases would be 30 percent for property tax year 2005; 35 percent for property tax year 2006; and 40 percent for property tax year 2007 and thereafter.

The bill would also provide an exception to the three-factor income apportionment formula for investment funds service corporations relative to the Kansas corporation income tax. Under the bill, an investment funds service corporation maintaining its primary headquarters and operations in Kansas or operating a branch facility employing at least 100 individuals in the state would receive favorable tax treatment in the form of a single factor formula as opposed to the three-factor formula (based on property, payroll, and sales) generally used in calculating the Kansas corporation income tax.

The bill would allow such corporations to elect to have income apportioned to Kansas based on the number of shares owned by resident shareholders divided by the total number of shares owned by all shareholders. If the investment funds service corporation is a part of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

a unitary group, only the business income attributable to the investment funds service corporation would be eligible for the favorable tax treatment and not business income of the entire unitary group.

To be eligible for the favorable tax treatment, the taxpayer would be required to maintain or increase the number of employees in existence at the time the taxpayer first makes the election to use the new formula.

In tax year 2002, the bill would provide only half of the difference between the current apportionment formula and the new formula for investment fund service corporations. The new formula would be fully phased in for tax year 2003.

Background

The original bill would have expanded the exemption in KSA 2000 Supp. 79-201w to qualifying items originally valued at \$1,000 or less beginning in tax year 2001. The House Committee amended the bill to reduce the proposed expansion of the exemption threshold to \$500 for tax years 2001 and 2002.

The House Committee also amended the bill to add a "bright-line" provision to KSA 79-301 regarding taxpayers' rights to refuse to list exempt property.

The House Committee of the Whole amended the bill to back up the effective date for the exemption expansion to \$500 to tax year 2002 and to back up the effective date for the exemption expansion to \$1,000 to tax year 2004.

The Senate Committee struck all of the House-passed provisions and inserted an expansion of business machinery and equipment tax credit for all businesses from 15 to 20 percent for property tax year 2003. Beginning with property tax year 2004, the percentage of taxes eligible for the credit would have been further increased for taxpayers engaged in manufacturing businesses listed in sectors 31 through 33 and 5511 of the North American Industry Classification System. These would have been increased to 25 percent for property tax year 2004; 30 percent for property tax year 2005; 35 percent for property tax year 2006; and 40 percent for property tax year 2007 and thereafter.

The Senate Committee further amended HB 2091 by limiting the phased-in increase in the business machinery and equipment tax credit to tire manufacturers and retreaders and requiring recipients of the credit to maintain or increase their number of employees. The Senate Committee also added the contents of SB 501, pertaining to corporation income tax apportionment for financial services companies, to the bill.

The Senate Committee of the Whole removed the provision conditioning receipt of the tax credits for tire manufacturers and retreaders upon maintaining or exceeding the number of employees in existence on the January 1, 2002. Instead, the Senate Committee of the Whole amended the bill to provide that all tire manufacturers and retreaders receive the phased-in credit increases up to 25 percent for property tax year 2004. After this time, the taxpayer would be required to have made an investment in new machinery and equipment after July 1, 2002 in an amount exceeding \$10,000,000 in order to receive the additional increase to 30 percent for property tax year 2005, 35 percent for property tax year 2006, and 40 percent for property tax year 2007 and thereafter.

According to the Department of Revenue, the bill, as amended by the Senate Committee, would result in the following impact to the State General Fund:

(\$ In Millions)

	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>
Business machinery and equipment credit for tire manufacturers:	-	\$0.091	\$0.199	\$0.328	\$0.481	\$0.661
Financial Services Company Apportionment:	\$2.0	\$4.0	\$4.0	\$4.0	\$4.0	\$4.0
TOTAL	\$2.0	\$4.091	\$4.199	\$4.328	\$4.481	\$4.661

