

SENATE BILL No. 445

By Committee on Ways and Means

2-23

1 AN ACT concerning taxation; relating to earned income tax credit;
2 homestead property tax refunds; amending K.S.A. 2011 Supp. 79-
3 32,205, 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2011 Supp. 79-32,205 is hereby amended to read as
8 follows: 79-32,205. (a) There shall be allowed as a credit against the tax
9 liability of a resident individual imposed under the Kansas income tax act
10 an amount equal to 18% for tax years 2010 through 2012, and an amount
11 equal to 17% for tax year 2013, and all tax years thereafter, of the amount
12 of the earned income credit allowed against such taxpayer's federal income
13 tax liability pursuant to section 32 of the federal internal revenue code for
14 the taxable year in which such credit was claimed against the taxpayer's
15 federal income tax liability.

16 (b) ~~¶~~ *Commencing in tax year 2012, and all tax years thereafter, the*
17 *amount of the credit allowed by subsection (a) exceeds shall not exceed*
18 *the taxpayer's income tax liability imposed under the Kansas income tax*
19 *act, such excess amount shall be refunded to the taxpayer reduced by the*
20 *sum of any other credits allowable against the tax liability of the taxpayer*
21 *pursuant to law.*

22 Sec. 2. K.S.A. 2011 Supp. 79-4501 is hereby amended to read as
23 follows: 79-4501. The title of this act shall be the homestead property tax
24 refund act. The purpose of this act shall be to provide ad valorem tax
25 refunds to: (a) Certain persons who are of qualifying age who own ~~or rent~~
26 their homestead; (b) certain persons who have a disability, who own ~~or~~
27 ~~rent~~ their homestead; and (c) certain persons other than persons included
28 under the provisions of (a) or (b) who have low incomes and dependent
29 children and own ~~or rent~~ their homestead.

30 Sec. 3. K.S.A. 2011 Supp. 79-4502 is hereby amended to read as
31 follows: 79-4502. As used in this act, unless the context clearly indicates
32 otherwise:

33 (a) "Income" means the sum of adjusted gross income under the
34 Kansas income tax act, maintenance, support money, cash public
35 assistance and relief, not including any refund granted under this act, the
36 gross amount of any pension or annuity, including all monetary retirement

1 benefits from whatever source derived, including but not limited to, all
2 payments received under the railroad retirement act, except disability
3 payments, payments received under the federal social security act, except
4 that for determination of what constitutes income such amount shall not
5 exceed 50% of any such social security payments and shall not include any
6 social security payments to a claimant who prior to attaining full
7 retirement age had been receiving disability payments under the federal
8 social security act in an amount not to exceed the amount of such disability
9 payments or 50% of any such social security payments, whichever is
10 greater, all dividends and interest from whatever source derived not
11 included in adjusted gross income, workers compensation and the gross
12 amount of "loss of time" insurance. Income does not include gifts from
13 nongovernmental sources or surplus food or other relief in kind supplied
14 by a governmental agency, nor shall net operating losses and net capital
15 losses be considered in the determination of income. Income does not
16 include veterans disability pensions. Income does not include disability
17 payments received under the federal social security act.

18 (b) "Household" means a claimant, a claimant and spouse who
19 occupy the homestead or a claimant and one or more individuals not
20 related as husband and wife who together occupy a homestead.

21 (c) "Household income" means all income received by all persons of
22 a household in a calendar year while members of such household.

23 (d) "Homestead" means the dwelling, or any part thereof, ~~whether~~
24 ~~owned or rented, which is~~ *and* occupied as a residence by the household
25 and so much of the land surrounding it, as defined as a home site for ad
26 valorem tax purposes, and may consist of a part of a multi-dwelling or
27 multi-purpose building and a part of the land upon which it is built or a
28 manufactured home or mobile home and the land upon which it is situated.
29 "Owned" includes a vendee in possession under a land contract, a life
30 tenant, a beneficiary under a trust and one or more joint tenants or tenants
31 in common.

32 (e) "Claimant" means a person who has filed a claim under the
33 provisions of this act and was, during the entire calendar year preceding
34 the year in which such claim was filed for refund under this act, except as
35 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
36 this state and was: (1) A person having a disability; (2) a person who is 55
37 years of age or older; (3) a disabled veteran; (4) the surviving spouse of
38 active duty military personnel who died in the line of duty; or (5) a person
39 other than a person included under (1), (2), (3) or (4) having one or more
40 dependent children under 18 years of age residing at the person's
41 homestead during the calendar year immediately preceding the year in
42 which a claim is filed under this act. The surviving spouse of a disabled
43 veteran who was receiving benefits pursuant to subsection (e)(3) of this

1 section at the time of the veterans' death, shall be eligible to continue to
2 receive benefits until such time the surviving spouse remarries.

3 When a homestead is occupied by two or more individuals and more
4 than one of the individuals is able to qualify as a claimant, the individuals
5 may determine between them as to whom the claimant will be. If they are
6 unable to agree, the matter shall be referred to the secretary of revenue
7 whose decision shall be final.

8 (f) "Property taxes accrued" means property taxes, exclusive of
9 special assessments, delinquent interest and charges for service, levied on
10 a claimant's homestead in 1979 or any calendar year thereafter by the state
11 of Kansas and the political and taxing subdivisions of the state. When a
12 homestead is owned by two or more persons or entities as joint tenants or
13 tenants in common and one or more of the persons or entities is not a
14 member of claimant's household, "property taxes accrued" is that part of
15 property taxes levied on the homestead that reflects the ownership
16 percentage of the claimant's household. For purposes of this act, property
17 taxes are "levied" when the tax roll is delivered to the local treasurer with
18 the treasurer's warrant for collection. When a claimant and household own
19 their homestead part of a calendar year, "property taxes accrued" means
20 only taxes levied on the homestead when both owned and occupied as a
21 homestead by the claimant's household at the time of the levy, multiplied
22 by the percentage of 12 months that the property was owned and occupied
23 by the household as its homestead in the year. When a household owns and
24 occupies two or more different homesteads in the same calendar year,
25 property taxes accrued shall be the sum of the taxes allocable to those
26 several properties while occupied by the household as its homestead
27 during the year. Whenever a homestead is an integral part of a larger unit
28 such as a multi-purpose or multi-dwelling building, property taxes accrued
29 shall be that percentage of the total property taxes accrued as the value of
30 the homestead is of the total value. For the purpose of this act, the word
31 "unit" refers to that parcel of property covered by a single tax statement of
32 which the homestead is a part.

33 (g) "Disability" means:

34 (1) Inability to engage in any substantial gainful activity by reason of
35 any medically determinable physical or mental impairment which can be
36 expected to result in death or has lasted or can be expected to last for a
37 continuous period of not less than 12 months, and an individual shall be
38 determined to be under a disability only if the physical or mental
39 impairment or impairments are of such severity that the individual is not
40 only unable to do the individual's previous work but cannot, considering
41 age, education and work experience, engage in any other kind of
42 substantial gainful work which exists in the national economy, regardless
43 of whether such work exists in the immediate area in which the individual

1 lives or whether a specific job vacancy exists for the individual, or whether
2 the individual would be hired if application was made for work. For
3 purposes of the preceding sentence (with respect to any individual), "work
4 which exists in the national economy" means work which exists in
5 significant numbers either in the region where the individual lives or in
6 several regions of the country; for purposes of this subsection, a "physical
7 or mental impairment" is an impairment that results from anatomical,
8 physiological or psychological abnormalities which are demonstrable by
9 medically acceptable clinical and laboratory diagnostic techniques; or

10 (2) blindness and inability by reason of blindness to engage in
11 substantial gainful activity requiring skills or abilities comparable to those
12 of any gainful activity in which the individual has previously engaged with
13 some regularity and over a substantial period of time.

14 (h) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the
15 better eye with the use of a correcting lens. An eye which is accompanied
16 by a limitation in the fields of vision such that the widest diameter of the
17 visual field subtends an angle no greater than 20 degrees shall be
18 considered for the purpose of this paragraph as having a central visual
19 acuity of $^{20}/_{200}$ or less.

20 (i) ~~"Rent constituting property taxes accrued" means 15% of the gross
21 rent actually paid in cash or its equivalent in 2007 or any taxable year
22 thereafter by a claimant and claimant's household solely for the right of
23 occupancy of a Kansas homestead on which ad valorem property taxes
24 were levied in full for that year. When a household occupies two or more
25 different homesteads in the same calendar year, rent constituting property
26 taxes accrued shall be computed by adding the rent constituting property
27 taxes accrued for each property rented by the household while occupied by
28 the household as its homestead during the year.~~

29 ~~(j) "Gross rent" means the rental paid at arm's length solely for the
30 right of occupancy of a homestead or space rental paid to a landlord for the
31 parking of a mobile home, exclusive of charges for any utilities, services,
32 furniture and furnishings or personal property appliances furnished by the
33 landlord as a part of the rental agreement, whether or not expressly set out
34 in the rental agreement. Whenever the director of taxation finds that the
35 landlord and tenant have not dealt with each other at arms length and that
36 the gross rent charge was excessive, the director may adjust the gross rent
37 to a reasonable amount for the purposes of the claim.~~

38 ~~(k) "Disabled veteran" means a person who is a resident of Kansas
39 and has been honorably discharged from active service in any branch of
40 the armed forces of the United States or Kansas national guard and who
41 has been certified by the United States department of veterans affairs or its
42 successor to have a 50% permanent disability sustained through military
43 action or accident or resulting from disease contracted while in such active~~

1 service

2 Sec. 4. K.S.A. 2011 Supp. 79-4508 is hereby amended to read as
 3 follows: 79-4508. (a) Commencing in the tax year beginning after
 4 December 31, ~~2005~~2011, the amount of any claim pursuant to this act shall
 5 be computed by deducting the amount computed under column (2) from
 6 the amount of claimant's property tax accrued ~~and/or rent constituting~~
 7 ~~property tax accrued.~~

(1)		(2)
Claimants household income		Deduction from property tax accrued and/or rent
But not constituting		property tax accrued
At least	more than	
\$0	\$6,000 \$10,000	\$0
6,001 \$10,001	7,000 \$11,000	4%
7,001 \$11,001	16,000 \$33,000	4% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$7,001 \$11,001
16,001 _____	27,000 _____	40% plus 5% of every \$1,000, or fraction thereof, of income in excess of \$16,001
27,001 \$33,001	27,600 \$34,200	95% 96%

22 (b) The director of taxation shall prepare a table under which claims
 23 under this act shall be determined. The amount of claim for each bracket
 24 shall be computed only to the nearest \$1.

25 (c) The claimant may elect not to record the amount claimed on the
 26 claim. The claim allowable to persons making this election shall be
 27 computed by the department which shall notify the claimant by mail of the
 28 amount of the allowable claim.

29 (d) In the case of all tax years commencing after December 31, 2004,
 30 the upper limit threshold amount prescribed in this section, shall be
 31 increased by an amount equal to such threshold amount multiplied by the
 32 cost-of-living adjustment determined under section 1(f)(3) of the federal
 33 internal revenue code for the calendar year in which the taxable year
 34 commences..

35 Sec. 5. K.S.A. 2011 Supp. 79-4509 is hereby amended to read as
 36 follows: 79-4509. In the event property taxes accrued, ~~rent constituting~~
 37 ~~property taxes accrued or their sum~~ exceeds \$700 \$1,200 for a household
 38 in any one year, the amount thereof shall, for purposes of this act, be
 39 deemed to have been ~~\$700~~ \$1,200.

40 Sec. 6. K.S.A. 2011 Supp. 79-4511 is hereby amended to read as
 41 follows: 79-4511. (a) Every claimant under this act shall supply to the
 42 division, in support of a claim, reasonable proof of age or disability, and
 43 changes of homestead, household membership, household income, and

1 size and nature of property claimed as the homestead. A claim alleging
2 disability shall be supported by a report of the examining physician of the
3 claimant with a statement or certificate that the applicant has a disability
4 within the meaning of subsection (g) of K.S.A. 79-4502, and amendments
5 thereto.

6 (b) Every claimant who is a homestead owner, or whose claim is
7 based wholly or partly upon homestead ownership at some time during the
8 calendar year, shall supply to the division, in support of a claim, the
9 amount of property taxes levied upon the property claimed as a homestead
10 and a statement that the property taxes accrued used for purposes of this
11 act have been or will be paid by the claimant. Upon request by the
12 division, such claimant shall provide a copy of the statement of property
13 taxes levied upon the property claimed as a homestead. The amount of
14 personal property taxes levied on a manufactured home or mobile home
15 shall be set out on the personal property tax statement showing the amount
16 of such tax as a separate item.

17 ~~(c) Every claimant who is a homestead renter, or whose claim is~~
18 ~~based wholly or partly upon homestead rental at some time during the~~
19 ~~calendar year, shall supply to the division, in support of a claim, a~~
20 ~~statement prescribed by the director certifying the amount of gross rent~~
21 ~~paid and that ad valorem property taxes were levied in full for that year on~~
22 ~~the property, all or a part of which was rented by the claimant. When such~~
23 ~~claimant reports household income that is 150% or less of the homestead~~
24 ~~rental amount and such claimant has failed to provide any documentation~~
25 ~~or information requested by the division to verify such household income~~
26 ~~in support of a claim as required pursuant to subsection (a), within 30 days~~
27 ~~of such request, such homestead property tax refund claim shall be denied.~~

28 ~~(d)~~—The information required to be furnished under subsections ~~(b)~~ or
29 ~~(c)~~ subsection (b) shall be in addition to that required under subsection (a).

30 Sec. 7. K.S.A. 2011 Supp. 79-4522 is hereby amended to read as
31 follows: 79-4522. A person owning or occupying a homestead ~~that is not~~
32 ~~rental property and~~ for which the appraised valuation for property tax
33 purposes exceeds \$350,000 in any year shall not be entitled to claim a
34 refund of property taxes under the homestead property tax refund act for
35 any such year. The provisions of this section shall be part of and
36 supplemental to the homestead property tax refund act.

37 Sec. 8. K.S.A. 2011 Supp. 79-32,205, 79-4501, 79-4502, 79-4508,
38 79-4509, 79-4511 and 79-4522 are hereby repealed.

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