

SENATE BILL No. 86

By Committee on Assessment and Taxation

2-3

1 AN ACT concerning income taxation; relating to capital gains; amending
2 K.S.A. 2010 Supp. 79-32,117 and 79-32,138 and repealing the
3 existing sections.
4

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

6 Section 1. K.S.A. 2010 Supp. 79-32,117 is hereby amended to read
7 as follows: 79-32,117. (a) The Kansas adjusted gross income of an
8 individual means such individual's federal adjusted gross income for the
9 taxable year, with the modifications specified in this section.

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

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

24 (ii) Taxes on or measured by income or fees or payments in lieu of
25 income taxes imposed by this state or any other taxing jurisdiction to the
26 extent deductible in determining federal adjusted gross income and not
27 credited against federal income tax. This paragraph shall not apply to
28 taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
29 amendments thereto, for privilege tax year 1995, and all such years
30 thereafter.

31 (iii) The federal net operating loss deduction.

32 (iv) Federal income tax refunds received by the taxpayer if the
33 deduction of the taxes being refunded resulted in a tax benefit for Kansas
34 income tax purposes during a prior taxable year. Such refunds shall be
35 included in income in the year actually received regardless of the method
36 of accounting used by the taxpayer. For purposes hereof, a tax benefit

1 shall be deemed to have resulted if the amount of the tax had been
2 deducted in determining income subject to a Kansas income tax for a
3 prior year regardless of the rate of taxation applied in such prior year to
4 the Kansas taxable income, but only that portion of the refund shall be
5 included as bears the same proportion to the total refund received as the
6 federal taxes deducted in the year to which such refund is attributable
7 bears to the total federal income taxes paid for such year. For purposes of
8 the foregoing sentence, federal taxes shall be considered to have been
9 deducted only to the extent such deduction does not reduce Kansas
10 taxable income below zero.

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

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

19 (vii) The amount of any charitable contribution made to the extent
20 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
21 79-32,196, and amendments thereto.

22 (viii) The amount of any costs incurred for improvements to a swine
23 facility, claimed for deduction in determining federal adjusted gross
24 income, to the extent the same is claimed as the basis for any credit
25 allowed pursuant to K.S.A. 2010 Supp. 79-32,204 and amendments
26 thereto.

27 (ix) The amount of any ad valorem taxes and assessments paid and
28 the amount of any costs incurred for habitat management or construction
29 and maintenance of improvements on real property, claimed for deduction
30 in determining federal adjusted gross income, to the extent the same is
31 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
32 and amendments thereto.

33 (x) Amounts received as nonqualified withdrawals, as defined by
34 K.S.A. 2010 Supp. 75-643, and amendments thereto, if, at the time of
35 contribution to a family postsecondary education savings account, such
36 amounts were subtracted from the federal adjusted gross income pursuant
37 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
38 thereto, or if such amounts are not already included in the federal
39 adjusted gross income.

40 (xi) The amount of any contribution made to the same extent the
41 same is claimed as the basis for the credit allowed pursuant to K.S.A.
42 2010 Supp. 74-50,154, and amendments thereto.

43 (xii) For taxable years commencing after December 31, 2004,

1 amounts received as withdrawals not in accordance with the provisions of
2 K.S.A. 2010 Supp. 74-50,204, and amendments thereto, if, at the time of
3 contribution to an individual development account, such amounts were
4 subtracted from the federal adjusted gross income pursuant to paragraph
5 (xiii) of subsection (c), or if such amounts are not already included in the
6 federal adjusted gross income.

7 (xiii) The amount of any expenditures claimed for deduction in
8 determining federal adjusted gross income, to the extent the same is
9 claimed as the basis for any credit allowed pursuant to K.S.A. 2010 Supp.
10 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

11 (xiv) The amount of any amortization deduction claimed in
12 determining federal adjusted gross income to the extent the same is
13 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,221, and
14 amendments thereto.

15 (xv) The amount of any expenditures claimed for deduction in
16 determining federal adjusted gross income, to the extent the same is
17 claimed as the basis for any credit allowed pursuant to K.S.A. 2010 Supp.
18 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
19 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
20 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

21 (xvi) The amount of any amortization deduction claimed in
22 determining federal adjusted gross income to the extent the same is
23 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,227, 79-
24 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
25 thereto.

26 (xvii) The amount of any amortization deduction claimed in
27 determining federal adjusted gross income to the extent the same is
28 claimed for deduction pursuant to K.S.A. 2010 Supp. 79-32,256, and
29 amendments thereto.

30 (xviii) For taxable years commencing after December 31, 2006, the
31 amount of any ad valorem or property taxes and assessments paid to a
32 state other than Kansas or local government located in a state other than
33 Kansas by a taxpayer who resides in a state other than Kansas, when the
34 law of such state does not allow a resident of Kansas who earns income
35 in such other state to claim a deduction for ad valorem or property taxes
36 or assessments paid to a political subdivision of the state of Kansas in
37 determining taxable income for income tax purposes in such other state,
38 to the extent that such taxes and assessments are claimed as an itemized
39 deduction for federal income tax purposes.

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

41 (i) Interest or dividend income on obligations or securities of any
42 authority, commission or instrumentality of the United States and its
43 possessions less any related expenses directly incurred in the purchase of

1 such obligations or securities, to the extent included in federal adjusted
2 gross income but exempt from state income taxes under the laws of the
3 United States.

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

7 (iii) The portion of any gain or loss from the sale or other disposition
8 of property having a higher adjusted basis for Kansas income tax
9 purposes than for federal income tax purposes on the date such property
10 was sold or disposed of in a transaction in which gain or loss was
11 recognized for purposes of federal income tax that does not exceed such
12 difference in basis, but if a gain is considered a long-term capital gain for
13 federal income tax purposes, the modification shall be limited to that
14 portion of such gain which is included in federal adjusted gross income.

15 (iv) The amount necessary to prevent the taxation under this act of
16 any annuity or other amount of income or gain which was properly
17 included in income or gain and was taxed under the laws of this state for
18 a taxable year prior to the effective date of this act, as amended, to the
19 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
20 the right to receive the income or gain, or to a trust or estate from which
21 the taxpayer received the income or gain.

22 (v) The amount of any refund or credit for overpayment of taxes on
23 or measured by income or fees or payments in lieu of income taxes
24 imposed by this state, or any taxing jurisdiction, to the extent included in
25 gross income for federal income tax purposes.

26 (vi) Accumulation distributions received by a taxpayer as a
27 beneficiary of a trust to the extent that the same are included in federal
28 adjusted gross income.

29 (vii) Amounts received as annuities under the federal civil service
30 retirement system from the civil service retirement and disability fund
31 and other amounts received as retirement benefits in whatever form
32 which were earned for being employed by the federal government or for
33 service in the armed forces of the United States.

34 (viii) Amounts received by retired railroad employees as a
35 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
36 228c (a)(1) et seq.

37 (ix) Amounts received by retired employees of a city and by retired
38 employees of any board of such city as retirement allowances pursuant to
39 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
40 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
41 amendments thereto.

42 (x) For taxable years beginning after December 31, 1976, the
43 amount of the federal tentative jobs tax credit disallowance under the

1 provisions of 26 U.S.C. § 280 C. For taxable years ending after
2 December 31, 1978, the amount of the targeted jobs tax credit and work
3 incentive credit disallowances under 26 U.S.C. § 280 C.

4 (xi) For taxable years beginning after December 31, 1986, dividend
5 income on stock issued by Kansas Venture Capital, Inc.

6 (xii) For taxable years beginning after December 31, 1989, amounts
7 received by retired employees of a board of public utilities as pension and
8 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
9 and amendments thereto.

10 (xiii) For taxable years beginning after December 31, 2004, amounts
11 contributed to and the amount of income earned on contributions
12 deposited to an individual development account under K.S.A. 2010 Supp.
13 74-50,201, et seq., and amendments thereto.

14 (xiv) For all taxable years commencing after December 31, 1996,
15 that portion of any income of a bank organized under the laws of this
16 state or any other state, a national banking association organized under
17 the laws of the United States, an association organized under the savings
18 and loan code of this state or any other state, or a federal savings
19 association organized under the laws of the United States, for which an
20 election as an S corporation under subchapter S of the federal internal
21 revenue code is in effect, which accrues to the taxpayer who is a
22 stockholder of such corporation and which is not distributed to the
23 stockholders as dividends of the corporation.

24 (xv) For all taxable years beginning after December 31, 2006,
25 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
26 joint return, for each designated beneficiary which are contributed to a
27 family postsecondary education savings account established under the
28 Kansas postsecondary education savings program or a qualified tuition
29 program established and maintained by another state or agency or
30 instrumentality thereof pursuant to section 529 of the internal revenue
31 code of 1986, as amended, for the purpose of paying the qualified higher
32 education expenses of a designated beneficiary at an institution of
33 postsecondary education. The terms and phrases used in this paragraph
34 shall have the meaning respectively ascribed thereto by the provisions of
35 K.S.A. 2010 Supp. 75-643, and amendments thereto, and the provisions
36 of such section are hereby incorporated by reference for all purposes
37 thereof.

38 (xvi) For the tax year beginning after December 31, 2004, an
39 amount not exceeding \$500; for the tax year beginning after December
40 31, 2005, an amount not exceeding \$600; for the tax year beginning after
41 December 31, 2006, an amount not exceeding \$700; for the tax year
42 beginning after December 31, 2007, an amount not exceeding \$800; for
43 the tax year beginning December 31, 2008, an amount not exceeding

1 \$900; and for all taxable years commencing after December 31, 2009, an
2 amount not exceeding \$1,000 of the premium costs for qualified long-
3 term care insurance contracts, as defined by subsection (b) of section
4 7702B of public law 104-191.

5 (xvii) For all taxable years beginning after December 31, 2004,
6 amounts received by taxpayers who are or were members of the armed
7 forces of the United States, including service in the Kansas army and air
8 national guard, as a recruitment, sign up or retention bonus received by
9 such taxpayer as an incentive to join, enlist or remain in the armed
10 services of the United States, including service in the Kansas army and
11 air national guard, and amounts received for repayment of educational or
12 student loans incurred by or obligated to such taxpayer and received by
13 such taxpayer as a result of such taxpayer's service in the armed forces of
14 the United States, including service in the Kansas army and air national
15 guard.

16 (xviii) For all taxable years beginning after December 31, 2004,
17 amounts received by taxpayers who are eligible members of the Kansas
18 army and air national guard as a reimbursement pursuant to K.S.A. 48-
19 281, and amendments thereto, and amounts received for death benefits
20 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to
21 section 1 or section 2 of chapter 207 of the 2005 session laws of Kansas,
22 and amendments thereto, to the extent that such death benefits are
23 included in federal adjusted gross income of the taxpayer.

24 (xix) For the taxable year beginning after December 31, 2006,
25 amounts received as benefits under the federal social security act which
26 are included in federal adjusted gross income of a taxpayer with federal
27 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
28 status is single, head of household, married filing separate or married
29 filing jointly; and for all taxable years beginning after December 31,
30 2007, amounts received as benefits under the federal social security act
31 which are included in federal adjusted gross income of a taxpayer with
32 federal adjusted gross income of \$75,000 or less, whether such taxpayer's
33 filing status is single, head of household, married filing separate or
34 married filing jointly.

35 (xx) Amounts received by retired employees of Washburn university
36 as retirement and pension benefits under the university's retirement plan.

37 (xxi) *For the tax year commencing after December 31, 2010, 20% of*
38 *the amount included in federal taxable income attributable to capital*
39 *gains.*

40 (xxii) *For the tax year commencing after December 31, 2011, 40%*
41 *of the amount included in federal taxable income attributable to capital*
42 *gains.*

43 (xxiii) *For the tax year commencing after December 31, 2012, 60%*

1 *of the amount included in federal taxable income attributable to capital*
2 *gains.*

3 *(xxiv) For the tax year commencing after December 31, 2013, 80%*
4 *of the amount included in federal taxable income attributable to capital*
5 *gains.*

6 *(xxv) For all taxable years commencing after December 31, 2014,*
7 *100% of the amount included in federal taxable income attributable to*
8 *capital gains.*

9 (d) There shall be added to or subtracted from federal adjusted gross
10 income the taxpayer's share, as beneficiary of an estate or trust, of the
11 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
12 amendments thereto.

13 (e) The amount of modifications required to be made under this
14 section by a partner which relates to items of income, gain, loss,
15 deduction or credit of a partnership shall be determined under K.S.A. 79-
16 32,131, and amendments thereto, to the extent that such items affect
17 federal adjusted gross income of the partner.

18 Sec. 2. K.S.A. 2010 Supp. 79-32,138 is hereby amended to read as
19 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
20 under this act shall be the corporation's federal taxable income for the
21 taxable year with the modifications specified in this section.

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

25 (ii) The amount of all depreciation deductions claimed for any
26 property upon which the deduction allowed by K.S.A. 2010 Supp. 79-
27 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
28 32,255 or 79-32,256, and amendments thereto, is claimed.

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

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

35 (ii) The federal income tax liability for any taxable year
36 commencing prior to December 31, 1971, for which a Kansas return was
37 filed after reduction for all credits thereon, except credits for payments on
38 estimates of federal income tax, credits for gasoline and lubricating oil
39 tax, and for foreign tax credits if, on the Kansas income tax return for
40 such prior year, the federal income tax deduction was computed on the
41 basis of the federal income tax paid in such prior year, rather than as
42 accrued. Notwithstanding the foregoing, the deduction for federal income
43 tax liability for any year shall not exceed that portion of the total federal

1 income tax liability for such year which bears the same ratio to the total
2 federal income tax liability for such year as the Kansas taxable income, as
3 computed before any deductions for federal income taxes and after
4 application of subsections (d) and (e) of this section as existing for such
5 year, bears to the federal taxable income for the same year.

6 (iii) An amount for the amortization deduction allowed pursuant to
7 K.S.A. 2010 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
8 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

9 (iv) For all taxable years commencing after December 31, 1987, the
10 amount included in federal taxable income pursuant to the provisions of
11 section 78 of the internal revenue code.

12 (v) For all taxable years commencing after December 31, 1987, 80%
13 of dividends from corporations incorporated outside of the United States
14 or the District of Columbia which are included in federal taxable income.

15 (vi) *For the tax year commencing after December 31, 2010, 20% of*
16 *the amount included in federal taxable income attributable to capital*
17 *gains.*

18 (vii) *For the tax year commencing after December 31, 2011, 40% of*
19 *the amount included in federal taxable income attributable to capital*
20 *gains.*

21 (viii) *For the tax year commencing after December 31, 2012, 60%*
22 *of the amount included in federal taxable income attributable to capital*
23 *gains.*

24 (ix) *For the tax year commencing after December 31, 2013, 80% of*
25 *the amount included in federal taxable income attributable to capital*
26 *gains.*

27 (x) *For all taxable years commencing after December 31, 2014,*
28 *100% of the amount included in federal taxable income attributable to*
29 *capital gains.*

30 (d) If any corporation derives all of its income from sources within
31 Kansas in any taxable year commencing after December 31, 1979, its
32 Kansas taxable income shall be the sum resulting after application of
33 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
34 taxable income in any such taxable year, after excluding any refunds of
35 federal income tax and before the deduction of federal income taxes
36 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
37 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
38 refund of federal income tax as determined under paragraph (iv) of
39 subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus
40 the deduction for federal income taxes as provided by subsection (c)(ii)
41 shall be such corporation's Kansas taxable income.

42 (e) A corporation may make an election with respect to its first
43 taxable year commencing after December 31, 1982, whereby no addition

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

5 Sec. 3. K.S.A. 2010 Supp. 79-32,117 and 79-32,138 are hereby
6 repealed.

7 Sec. 4. This act shall take effect and be in force from and after its
8 publication in the statute book.

9