

Tax Provisions—Various

SB 193 makes several changes with respect to a requirement that Social Security numbers be provided in order to claim most state tax credits; provides other administrative changes relative to the food sales tax rebate program; expands the Promoting Employment Across Kansas (PEAK) program; establishes a formula for calculating property taxes due on certain land legally described in plats; makes several changes in High Performance Incentive Program (HPIP) tax credits, including extending the carry-forward period from 10 to 16 years; and enacts a new sales tax exemption for game birds.

Social Security Number/Tax Credit Requirements

The bill provides that most credits available for income tax purposes will no longer be allowed relative to individuals and their spouses and dependents for whom valid federal Social Security numbers have not been provided. This disallowance provision does not apply to the credit for taxes paid to other states pursuant to KSA 79-32,111.

Additional provisions clarify that the disallowance provisions apply specifically to tax credits for dependent care and for food sales tax rebates, in addition to most other tax credits, and that food sales tax rebate claims will be required to contain clear statements as to which of the three qualifying demographic criteria claimants are seeking to utilize (age 55 and above, dependent children below age 18, or disability).

Language in the bill further provides that unless another identifying number has been assigned to an individual by the Internal Revenue Service for purposes of filing such individual's federal income tax return, Social Security numbers issued to the individual, the individual's spouse, and all dependents will be required to be used as the identifying number and included on Kansas returns.

PEAK Provisions

Additional sections of the bill expand the PEAK program in several ways. The program, which provides for a diversion of 95 percent of certain employee income taxes away from the State General Fund (SGF), is expanded from January 1, 2013 through December 31, 2014 to include "retained jobs," which generally are defined to mean jobs that would otherwise be lost but for employer participation in PEAK. The Secretary of Commerce will be required to consult with the Secretary of Revenue and the Governor prior to awarding PEAK benefits for retained jobs. The maximum amount of benefits that could be awarded for retained jobs would be limited to \$1.2 million in FY 2013; \$2.4 million in FY 2014; and \$1.2 million in FY 2015. The job retention benefits sunset altogether in tax year 2015.

Additional changes allow not-for-profit corporations to enter the program and allow qualified companies to utilize or contract with all third-party employers (as opposed to only unrelated third-party employers).

The bill also effectively provides a 95 percent individual income tax exemption (through an income tax credit mechanism) for certain Kansas source income received by Kansas resident owners of qualified companies who materially participate in the business activities.

Finally, a \$4.8 million cap for each fiscal year on the total amount of benefits granted to expanding businesses is increased to \$6.0 million in FY 2013.

Property Taxes on Certain Land Described in Plats

Additional sections of the bill provide a statutory formula for calculating and collecting extant property taxes and assessments on certain land legally described in plats filed with county registers of deeds. The new language requires that all property taxes and assessments levied against an original “parent” parcel be collected prior to the recording of the plat by a register of deeds. For situations when the amount of property tax levied by a taxing subdivision has not yet been certified, an estimated tax formula utilizing the most recent year’s mill levy and the latest certified valuation will be established for purposes of the collection prerequisite relative to having plats recorded. After the tax roll has been certified, refunds of any excess collections under the estimated tax formula subsequently will be provided, or additional liability would be assessed in the case of insufficiency.

HPIP Provisions

The current 10-year limitation on the carry-forward of HPIP credits is extended to 16 years. A requirement under the law that taxpayers continue to be re-certified annually by the state as qualifying for the program (in order to authorize unused tax credits to be carried forward) is eliminated and replaced with new language that requires taxpayers to self-certify under oath. One additional provision clarifies that all unused credits that had expired prior to tax year 2011 are not revived by this legislation.

Game Birds

The bill also provides a sales tax exemption for all sales of game birds for which the primary purpose is for hunting.