

MEMORANDUM

To: Division of Budget
 From: Kansas Department of Revenue
 Date: 04/01/2013
 Subject: Senate Bill 240, Introduced as a Senate Bill

Brief of Bill

Senate Bill 240, as introduced, would amend several statutes relating to corporate income tax.

Section 1 of the bill amends KSA 2012 Supp. 79-32,110 to cut the corporate income surtax from current 3% to 2% for tax year 2014 and thereafter.

Section 2 of the bill amends KSA 2012 Supp. 74-99c09 to eliminate the center for entrepreneurship credit for corporate income tax filers for tax year 2014 and thereafter.

Section 3 of the bill amends KSA 2012 Supp. 79-32,117 to remove the federal net operating loss add back modification to federal gross income for tax year 2014 and thereafter. The bill will also repeal KSA 2012 Supp. 79-32,143, a statute that allows deduction for Kansas net operating losses.

Section 4 of the bill amends KSA 79-32,196 to eliminate the community service organization contribution credit for corporate income tax filers for tax year 2014 and thereafter.

Section 5 of the bill amends KSA 2012 Supp. 79-32,211 to eliminate the historic structure restoration and preservation credit for corporate income tax payers starting tax year 2014.

Section 6 of the bill provides that for the above eliminated credits for corporate filers, those credits earned in any tax year prior to 2014 which are unused, may continue to be claimed, subject to the carry forward limitations.

Section 7 of the bill repeals most of the tax credits currently available to corporate tax filers: These credits include:

Abandoned well plugging credit (KSA 79-32,207); Agritourism liability insurance credit (KSA 32-1483); Alternative fuel tax credit (KSA 79-32,201); Assistive technology contribution credit (KSA 65-7107); Disabled access credit (KSA 79-32,175, 79-1117); Environmental compliance credit (KSA 79-32,222); HPIP KSA 79-32,160a(e); IDA account credit KSA (74-50,208); Research and development (KSA 79-32,182b); Single city port authority (KSA 79-32,212); Small employer health benefit plan contribution credit (KSA 40-2246); Swine facility improvement credit (KSA 79-32,204); Tele-communications credit (KSA 79-32,210); Temporary assistance to families TAF credit (KSA 79-32,200, 39-7,132); and Venture capital credits and local see capital (KSA 74-8206, KSA 74-8304, KSA 74-8316, and KSA 74-8401).

The bill shall be effective after its publication in Kansas statute books.

Fiscal Impact

- I. The bill would cut the corporate surtax by 1% from current 3% to 2% for tax year 2014 and thereafter. We expect this will reduce the state general fund by \$50 million for FY 2014 and thereafter.
- II. The bill repeals most of the tax credit currently available to corporate tax filers: The amounts of credits allowed in tax year 2010 for the following repealed credits are listed below:

Abandoned well plugging credit (KSA 79-32,207)	confidential	(less than 5 claimants)
Agritourism liability insurance credit (KSA 32-1483)	\$863	(16 claimants)
Alternative fuel tax credit (KSA 79-32,201)	\$114,816	(14 claimants)
Assistive technology contribution credit (KSA 65-7107)	\$0	
Community entrepreneurship investor credit (KSA 74-99c09)	\$297,611	(21 claimants)
Community service contribution credit (KSA 79-32,196; 79-32,197)	\$825,629	(1102 claimants)
Disabled access credit (KSA 79-32,175, 79-1117)	\$19,948	(14 claimants)
Environmental compliance credit (KSA 79-32,222)	\$0	
HPIP KSA 79-32,160a(e)	\$20.776 million	(119 claimants)*

*For projection purposes, we are assuming \$30 million would be the value of HPIP credits to be claimed in FY 14. Also, please note that there are \$428 million in pending HPIP carry forward credits. Approximately 2/3 of the HPIP credits claimed/yr are earned in that tax year, and 1/3 are carry forward credits.

Historic preservation credit (KSA 79-32,211)	\$705,340	(360 claimants)
IDA account credit KSA (74-50,208)	\$6,030	(7 claimants)

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Research and development (KSA 79-32,182b)	\$2,003,881	(118 claimants)
Single city port authority (KSA 79-32,212)	\$0	
Small employer health benefit plan contribution credit (KSA 40-2246)	\$248,095	(60 claimants)
Swine facility improvement credit (KSA 79-32,204)	\$0	
Telecommunications credit (KSA 79-32,210)	\$4,225,452	(49 claimants)
Temporary assistance to families TAF credit (KSA 79-32,200, 39-7,132)	\$0	
Venture capital credits and local see capital (KSA 74-8206, KSA 74-8304, KSA 74-8316, and KSA 74-8401)	\$0	

Based on information above, we project that the total amount of credits allowed for the above repealed credits for FY 2014 is about \$40 million.

III. The bill will also repeal the federal net operating loss (NOL) addback modifications and the Kansas net operating loss deduction. Corporate net operating losses are extremely volatile over business cycles. However, the two basically cancel each other out over a prolonged period, as shown in the table below:

	Federal net operating loss deduction	KS Net Operating Loss Deduction
TY 2006 Total	-\$46,358,427	\$25,557,170
TY 2007 Total	-\$55,869,282	\$18,190,947
TY 2008 Total	-\$37,946,550	\$12,603,063
TY 2009 Total	-\$43,986,831	\$92,643,764
TY 2010 Total	-\$40,448,665	\$67,083,471
5-Year Avg	-\$44,921,951	\$43,215,683

We don't expect that repealing both the federal NOL subtraction modification and the Kansas NOL deduction will have a significant impact on state general fund in FY 2014 and beyond.

In summary, passage of this bill will reduce the state general fund by \$10 million for FY 2014 and thereafter.

Administrative Impact

The department needs to update K-120; update CP and schedule S; add new credit to web/efile; update electronic, channel and ATP edits; update credits database and change to ACSS program. The estimated IS resources necessary to implement this bill are 1,784 hours of ADII time. The estimated user testing resources necessary to implement the bill are 3,562 hours of MSAI time. At \$30/hour, the total administrative cost is \$160,380 for FY 2014.

Administrative Problems and Comments: Credits that would still be in place upon passage of the bill include the following: KSA 79-32,190-Child Day Care Assistance credit-individual taxpayers only; KSA79-32,177-Disabled Access credit-individual taxpayers only; KSA74-50,132-HighPerformance Incentive Program Training and Education Credit; KSA74-50,173-Agritourism Liability Insurance credit-individual taxpayers only; KSA 74-8133-Angel Investor credit-sunsets in 2016; KSA 74-99c09-Centerfor Entrepreneurship credit-individual taxpayers only; KSA 79-32,196-Community Service Contribution credit-individual taxpayers only; KSA 79-32,211-Historic Preservation credit-individual taxpayers only;

Taxpayer/Customer Impact: None.

Legal Impact: None.

Approved By:

