

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2060

By Committee on Taxation

1-23

1 AN ACT concerning taxation; relating to food sales tax refunds and
2 homestead property tax refunds; certain confined persons; amending
3 K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 and repealing the
4 existing sections.
5

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

7 New Section 1. No claim for the refund of certain retailers' sales taxes
8 paid upon food filed on or after June 30, 2011, shall be paid or allowed for
9 any person confined in **and claiming as a household** any correctional
10 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
11 thereto, any juvenile correctional facility, or portion thereof, as defined in
12 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
13 federal bureau of prisons located in the state of Kansas, or any city or
14 county jail facility in the state of Kansas.

15 Sec. 2. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as
16 follows: 79-4502. As used in this act, unless the context clearly indicates
17 otherwise:

18 (a) "Income" means the sum of adjusted gross income under the
19 Kansas income tax act, maintenance, support money, cash public
20 assistance and relief, not including any refund granted under this act, the
21 gross amount of any pension or annuity, including all monetary retirement
22 benefits from whatever source derived, including but not limited to, all
23 payments received under the railroad retirement act, except disability
24 payments, payments received under the federal social security act, except
25 that for determination of what constitutes income such amount shall not
26 exceed 50% of any such social security payments and shall not include any
27 social security payments to a claimant who prior to attaining full
28 retirement age had been receiving disability payments under the federal
29 social security act in an amount not to exceed the amount of such disability
30 payments or 50% of any such social security payments, whichever is
31 greater, all dividends and interest from whatever source derived not
32 included in adjusted gross income, workers compensation and the gross
33 amount of "loss of time" insurance. Income does not include gifts from
34 nongovernmental sources or surplus food or other relief in kind supplied
35 by a governmental agency, nor shall net operating losses and net capital
36 losses be considered in the determination of income. Income does not

1 include veterans disability pensions. Income does not include disability
2 payments received under the federal social security act.

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

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

8 (d) "Homestead" means the dwelling, or any part thereof, owned and
9 occupied as a residence by the household and so much of the land
10 surrounding it, as defined as a home site for ad valorem tax purposes, and
11 may consist of a part of a multi-dwelling or multi-purpose building and a
12 part of the land upon which it is built or a manufactured home or mobile
13 home and the land upon which it is situated. "Owned" includes a vendee in
14 possession under a land contract, a life tenant, a beneficiary under a trust
15 and one or more joint tenants or tenants in common. *For purposes of this*
16 *subsection, "homestead" shall not include any correctional facility, or*
17 *portion thereof, as defined in K.S.A. 75-5202, and amendments thereto,*
18 *any juvenile correctional facility, or portion thereof, as defined in K.S.A.*
19 *38-2302, and amendments thereto, any correctional facility of the federal*
20 *bureau of prisons located in the state of Kansas, or any city or county jail*
21 *facility in the state of Kansas.*

22 (e) "Claimant" means a person who has filed a claim under the
23 provisions of this act and was, during the entire calendar year preceding
24 the year in which such claim was filed for refund under this act, except as
25 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
26 this state and was: (1) A person having a disability; (2) a person who is 55
27 years of age or older; (3) a disabled veteran; (4) the surviving spouse of
28 active duty military personnel who died in the line of duty; or (5) a person
29 other than a person included under (1), (2), (3) or (4) having one or more
30 dependent children under 18 years of age residing at the person's
31 homestead during the calendar year immediately preceding the year in
32 which a claim is filed under this act. The surviving spouse of a disabled
33 veteran who was receiving benefits pursuant to subsection (e)(3) of this
34 section at the time of the veterans' death, shall be eligible to continue to
35 receive benefits until such time the surviving spouse remarries.

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

41 ~~*For purposes of this subsection, "claimant" shall not include any*~~
42 ~~*person confined in any correctional facility, or portion thereof, as defined*~~
43 ~~*in K.S.A. 75-5202, and amendments thereto, any juvenile correctional-*~~

1 ~~facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments~~
2 ~~thereto, any correctional facility of the federal bureau of prisons located in~~
3 ~~the state of Kansas, or any city or county jail facility in the state of~~
4 ~~Kansas.~~

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

30 (g) "Disability" means:

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

1 which exists in the national economy" means work which exists in
2 significant numbers either in the region where the individual lives or in
3 several regions of the country; for purposes of this subsection, a "physical
4 or mental impairment" is an impairment that results from anatomical,
5 physiological or psychological abnormalities which are demonstrable by
6 medically acceptable clinical and laboratory diagnostic techniques; or

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

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

17 (i) "Disabled veteran" means a person who is a resident of Kansas
18 and has been honorably discharged from active service in any branch of
19 the armed forces of the United States or Kansas national guard and who
20 has been certified by the United States department of veterans affairs or its
21 successor to have a 50% permanent disability sustained through military
22 action or accident or resulting from disease contracted while in such active
23 service.

24 Sec. 3. K.S.A. 79-4505 is hereby amended to read as follows: 79-
25 4505. Except as provided in K.S.A. 79-4517, and amendments thereto, no
26 claim in respect of property taxes levied in any year shall be paid or
27 allowed unless such claim is actually filed with and in the possession of
28 the department of revenue on or before April 15 of the year next
29 succeeding the year in which ~~said~~ such taxes were levied. *No claim filed*
30 *on or after June 30, 2011, in respect of property taxes levied in any year*
31 *shall be paid or allowed for any person confined in and claiming as a*
32 **homestead** *any correctional facility, or portion thereof, as defined in*
33 *K.S.A. 75-5202, and amendments thereto, any juvenile correctional*
34 *facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments*
35 *thereto, any correctional facility of the federal bureau of prisons located in*
36 *the state of Kansas, or any city or county jail facility in the state of*
37 *Kansas.*

38 Sec. 4. K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 are hereby
39 repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the Kansas register.