

HOUSE BILL No. 2474

By Representatives Peck, Anthimides, Barker, Bradford, Carpenter, Christmann, Crum, Doll, Edwards, Garber, Goico, Osterman, Powell, Rothlisberg, Sutton and Thompson

1-22

1 AN ACT concerning sales taxation; relating to exemptions; certain
2 purchases by disabled veterans of the armed forces of the United
3 States; amending K.S.A. 2013 Supp. 79-32,270 and repealing the
4 existing section.
5

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

7 New Section 1. (a) Notwithstanding any provisions of the law to the
8 contrary, all sales of food and food ingredients, grooming and hygiene
9 products and household personal products to persons who are residents of
10 this state; have been honorably discharged from active service in any
11 branch of the armed forces of the United States; and who are certified by
12 the United States department of veterans affairs or its successor to be in
13 receipt of disability compensation at the 100% rate, provided that the
14 disability is permanent and was sustained through military action or
15 accident or resulted from disease contracted while in such active service,
16 shall be exempt from the Kansas retailers' sales tax act. As used in this
17 section, a sale of food and food ingredients does not include a sale of
18 alcoholic beverages as defined in K.S.A. 79-3602, and amendments
19 thereto; sales of prepared food as defined in this subsection; or sales of
20 tobacco as defined in K.S.A. 79-3602, and amendments thereto. Sales of
21 items for the benefit of the eligible person, as provided by this section,
22 which are purchased on behalf of such eligible person by a spouse of such
23 eligible person or by a member of the household in which the eligible
24 person resides, and who is authorized to make purchases on the eligible
25 person's behalf, shall also be exempt for purposes of this section.

26 (b) Sales qualifying for the exemption authorized by this section shall
27 not exceed \$20,000 per year per individual taxpayer.

28 (c) An eligible person claiming an exemption pursuant to this section,
29 prior to claiming any such exemption, shall apply to and obtain from the
30 secretary of revenue a veteran exemption identification number. The
31 secretary shall prescribe the application form for such number, and such
32 eligible person shall provide with the application, information sufficient to
33 establish that such eligible person qualifies for the sales tax exemption.
34 Such eligible person shall enter the issued identification number on any

1 exemption certificate presented to any retailer when claiming the sales tax
2 exemption on any qualifying purchases.

3 (d) Upon request of the secretary, an eligible person asserting or
4 claiming the exemption authorized by this section shall provide a
5 statement, executed under oath, that the total sales amounts for which the
6 exemption is applicable have not exceeded the individual taxpayer's
7 yearly limit prescribed by this section. If the amount of such exempt sales
8 exceeds such prescribed limit, the sales tax in excess of the authorized
9 amount shall be treated as a direct sales tax liability and may be recovered
10 by the department of revenue in the same manner as provided by the
11 Kansas retailers' sales tax act.

12 (e) As used in this section: (1) "Food and food ingredients" means
13 substances, whether in liquid, concentrated, solid, frozen, dried or
14 dehydrated form, that are sold for ingestion or chewing by humans and are
15 consumed for their taste or nutritional value, except that such defined term
16 shall not include alcoholic beverages or tobacco;

17 (2) (A) "prepared food" means any of the following:

18 (i) Food sold in a heated state or heated by the seller;

19 (ii) two or more food ingredients mixed or combined by the seller for
20 sale as a single item; or

21 (iii) food sold with eating utensils provided by the seller, including
22 plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does
23 not include a container or packaging used to transport the food.

24 (B) "Prepared food" does not include:

25 (i) Food that is only cut, repackaged or pasteurized by the seller;

26 (ii) eggs, fish, meat, poultry and foods containing these raw animal
27 foods requiring cooking by the consumer as recommended by the United
28 States food and drug administration, in chapter 3, part 401.11 of its food
29 code, so as to prevent foodborne illnesses;

30 (iii) if sold without eating utensils provided by the seller, bakery
31 items, including breads, rolls, buns, biscuits, bagels, croissants, pastries,
32 donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies and
33 tortillas; or

34 (iv) food sold by a seller whose primary North American industry
35 classification system, United States, 2002 edition, classification is
36 manufacturing in sector 311, except subsection 3118;

37 (3) "grooming and hygiene products" means soaps and cleaning
38 solutions, shampoo, toothpaste, mouthwash, antiperspirants and suntan
39 lotions and screens, regardless of whether such items are over-the-counter
40 drugs; and

41 (4) "household personal products" means shaving razors, shaving
42 cream, hair spray, lotions and creams, feminine products, facial tissue,
43 napkins, toilet tissue, paper towels, combs, hairbrushes, tooth brushes,

1 bandages and first aid ointments.

2 (f) The provisions of this section shall be part of and supplemental to
3 the Kansas retailers' sales tax act.

4 Sec. 2. K.S.A. 2013 Supp. 79-32,270 is hereby amended to read as
5 follows: 79-32,270. (a) For any taxable year commencing after December
6 31, 2012, a credit shall be allowed against the tax imposed by the Kansas
7 income tax act on the Kansas taxable income of an individual income
8 taxpayer who purchased food in this state, had federal adjusted gross
9 income for the tax year that did not exceed \$30,615, and meets the
10 qualifications in subsections (b) and (c). *The credit provided by this*
11 *section shall not be allowed to any individual who is eligible for and*
12 *receives an exemption for purchases of food and food ingredients under*
13 *section 1, and amendments thereto.*

14 (b) During the entire tax year a taxpayer filing single, head of
15 household, or married filing separate, or the taxpayer and the taxpayer's
16 spouse if married filing jointly, must be domiciled in this state. For
17 purposes of this credit, "domicile" shall not include any correctional
18 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
19 thereto, any juvenile correctional facility, or portion thereof, as defined in
20 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
21 federal bureau of prisons located in the state of Kansas, or any city or
22 county jail facility in the state of Kansas.

23 (c) During the entire tax year a taxpayer filing single, head of
24 household, or married filing separate, or the taxpayer or the taxpayer's
25 spouse if married filing jointly, must be either: (1) A person having a
26 disability, regardless of age; (2) a person without a disability who is 55
27 years of age or older; or (3) a person without a disability who is younger
28 than 55 years of age who claims an exemption for one or more dependent
29 children under 18 years of age.

30 (d) The amount of the credit shall be \$125 for every exemption
31 claimed on the taxpayer's federal income tax return, except that no
32 exemption shall be counted for a dependent unless the dependent is a child
33 under 18 years of age.

34 (e) The credit allowed under this provision shall be applied against
35 the taxpayer's income tax liability after all other credits allowed under the
36 income tax act. It shall not be refundable and may not be carried forward.

37 (f) (1) Every taxpayer claiming the credit shall supply the division in
38 support of a claim, reasonable proof of domicile, age and disability.

39 (2) A claim alleging disability shall be supported by a report of the
40 examining physician of the claimant with a statement or certificate that the
41 applicant has a disability as defined in subsection (g).

42 (g) "Disability" means: (1) Inability to engage in any substantial
43 gainful activity by reason of any medically determinable physical or

1 mental impairment which can be expected to result in death or has lasted
2 or can be expected to last for a continuous period of not less than 12
3 months, and an individual shall be determined to be under a disability only
4 if the physical or mental impairment or impairments are of such severity
5 that the individual is not only unable to do the individual's previous work
6 but cannot, considering age, education and work experience, engage in any
7 other kind of substantial gainful work which exists in the national
8 economy, regardless of whether such work exists in the immediate area in
9 which the individual lives or whether a specific job vacancy exists for the
10 individual, or whether the individual would be hired if application was
11 made for work. For purposes of this paragraph, with respect to any
12 individual, "work which exists in the national economy" means work
13 which exists in significant numbers either in the region where the
14 individual lives or in several regions of the country; and "physical or
15 mental impairment" means an impairment that results from anatomical,
16 physiological or psychological abnormalities which are demonstrable by
17 medically acceptable clinical and laboratory diagnostic techniques; or

18 (2) blindness and inability by reason of blindness to engage in
19 substantial gainful activity requiring skills or abilities comparable to those
20 of any gainful activity in which the individual has previously engaged with
21 some regularity and over a substantial period of time. For purposes of this
22 paragraph "blindness" means central visual acuity of $^{20}/_{200}$ or less in the
23 better eye with the use of a correcting lens. An eye which is accompanied
24 by a limitation in the fields of vision such that the widest diameter of the
25 visual field subtends an angle no greater than 20 degrees shall be
26 considered for the purpose of this paragraph as having a central visual
27 acuity of $^{20}/_{200}$ or less.

28 (h) The secretary of revenue is hereby authorized to adopt such rules
29 and regulations as may be necessary for the administration of the
30 provisions of this section.

31 Sec. 3. K.S.A. 2013 Supp. 79-32,270 is hereby repealed.

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