

CORRECTED
As Amended by Senate Committee

Session of 2013

SENATE BILL No. 79

By Committee on Assessment and Taxation

1-25

1 AN ACT concerning taxation; relating to income tax deductions and
2 modifications; severance tax; sales tax; amending K.S.A. 79-32,109
3 and K.S.A. 2012 Supp. **79-32,117**, 79-32,118, 79-32,266, 79-3620 and
4 79-4217 and repealing the existing sections; also repealing K.S.A. 79-
5 3632 and K.S.A. 2012 Supp. 79-32,117a and 79-3639a.

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

8 Section 1. K.S.A. 79-32,109 is hereby amended to read as follows:
9 79-32,109. As used in this act, unless the context otherwise requires:

10 (a) (1) Any term used in this act shall have the same meaning as when
11 used in a comparable context in the federal internal revenue code. Any
12 reference in this act to the "federal internal revenue code" shall mean the
13 provisions of the federal internal revenue code of 1986, and amendments
14 thereto, and other provisions of the laws of the United States relating to
15 federal income taxes, as the same may be or become effective at any time,
16 or from time to time, for the taxable year.

17 (2) *Any reference in this act to a federal form or schedule, or to a line*
18 *number on a federal form or schedule, shall be to such form, schedule and*
19 *line number as they existed for tax year 2011 and as revised thereafter by*
20 *the internal revenue service. Any such reference shall include comparable*
21 *federal forms, schedules, and line numbers used by non-United States*
22 *residents when filing their federal income tax return with the internal*
23 *revenue service.*

24 (b) "Resident individual" means a natural person who is domiciled in
25 this state. A natural person who spends in the aggregate more than six
26 months of the taxable year within this state shall be presumed to be a
27 resident for purposes of this act in absence of proof to the contrary. A
28 nonresident individual means an individual other than a resident
29 individual.

30 (c) "Resident estate" means the estate of a deceased person whose
31 domicile was in this state at the time of such person's death. "Nonresident
32 estate" means an estate other than a resident estate.

33 (d) "Resident trust" means a trust which is administered in this state.
34 A trust shall not be deemed to be administered in this state solely because
35 it is subject to the jurisdiction of a district court within this state.

1 "Nonresident trust" means a trust other than a resident trust.

2 (e) "Resident partner" means a partner who is a resident individual, a
3 resident estate, or a resident trust. "Nonresident partner" means a partner
4 other than a resident partner.

5 (f) "Resident beneficiary" means a beneficiary of an estate or trust
6 which beneficiary is a resident individual, a resident estate, or a resident
7 trust. "Nonresident beneficiary" means a beneficiary other than a resident
8 beneficiary.

9 (g) "Director" means the director of taxation.

10 (h) "Modified Kansas source income" means that part of a
11 nonresident individual's Kansas adjusted gross income as set forth in
12 K.S.A. 79-32,117, and amendments thereto, derived from sources in
13 Kansas. Items of income including unemployment compensation, gain,
14 loss or deduction reflected in Kansas adjusted gross income shall be
15 considered derived from sources in Kansas to the extent that they are
16 attributable to: (1) The ownership of any interest in real or tangible
17 personal property in this state; (2) a business, trade, profession or
18 occupation carried on in this state; (3) a business, trade, profession or
19 occupation carried on partly within and partly without this state as
20 determined by the uniform division of income for tax purposes act as set
21 forth in K.S.A. 79-3271 through K.S.A. 79-3293, and amendments thereto;
22 (4) the distributive share of partnership income, gain, loss and deduction
23 determined under this section as if the partnership were a nonresident
24 individual; (5) the share of estate or trust income, gain, loss and deduction
25 determined under K.S.A. 79-32,137, and amendments thereto; (6) prizes
26 won from lottery games conducted by the Kansas lottery; (7) any winnings
27 from parimutuel wagering derived from the conduct of parimutuel
28 activities within this state; or (8) income from intangible personal property,
29 including annuities, dividends, interest, and gains from the disposition of
30 intangible personal property to the extent that such income is from
31 property employed in a trade, business, profession or occupation carried
32 on in Kansas. A nonresident, other than a dealer holding property primarily
33 for sale to customers in the ordinary course of such dealer's trade or
34 business, shall not be deemed to carry on a business, trade, profession or
35 occupation in Kansas solely by reason of the purchase and sale of property
36 for such nonresident's own account.

37 "Modified Kansas source income" shall not include: (1) Compensation
38 paid by the United States for service in the armed forces of the United
39 States, performed during an induction period by an individual not
40 domiciled in this state; or (2) such individual's share of distributed or
41 undistributed taxable income or net operating loss of a corporation which
42 is an electing small business corporation unless an agreement is filed as
43 provided in K.S.A. 79-32,139, and amendments thereto, in which event,

1 the "modified Kansas source income" of such nonresident individual shall
2 include such individual's share of such corporation's distributed and
3 undistributed taxable income or net operating loss as such share is
4 determined under the internal revenue code only to the extent, however,
5 that such income, gain or loss is at the corporate level, derived from
6 sources within Kansas.

7 ***Sec. 2. K.S.A. 2012 Supp. 79-32,117 is hereby amended to read as***
8 ***follows: 79-32,117. (a) The Kansas adjusted gross income of an***
9 ***individual means such individual's federal adjusted gross income for the***
10 ***taxable year, with the modifications specified in this section.***

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

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

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

32 ***(iii) The federal net operating loss deduction.***

33 ***(iv) Federal income tax refunds received by the taxpayer if the***
34 ***deduction of the taxes being refunded resulted in a tax benefit for***
35 ***Kansas income tax purposes during a prior taxable year. Such refunds***
36 ***shall be included in income in the year actually received regardless of***
37 ***the method of accounting used by the taxpayer. For purposes hereof, a***
38 ***tax benefit shall be deemed to have resulted if the amount of the tax had***
39 ***been deducted in determining income subject to a Kansas income tax for***
40 ***a prior year regardless of the rate of taxation applied in such prior year***
41 ***to the Kansas taxable income, but only that portion of the refund shall***
42 ***be included as bears the same proportion to the total refund received as***
43 ***the federal taxes deducted in the year to which such refund is***

1 *attributable bears to the total federal income taxes paid for such year.*
2 *For purposes of the foregoing sentence, federal taxes shall be*
3 *considered to have been deducted only to the extent such deduction does*
4 *not reduce Kansas taxable income below zero.*

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

10 *(vi) Any amount of designated employee contributions picked up by*
11 *an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,*
12 *and amendments thereto.*

13 *(vii) The amount of any charitable contribution made to the extent*
14 *the same is claimed as the basis for the credit allowed pursuant to K.S.A.*
15 *79-32,196, and amendments thereto.*

16 *(viii) The amount of any costs incurred for improvements to a*
17 *swine facility, claimed for deduction in determining federal adjusted*
18 *gross income, to the extent the same is claimed as the basis for any*
19 *credit allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and*
20 *amendments thereto.*

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

27 *(x) Amounts received as nonqualified withdrawals, as defined by*
28 *K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of*
29 *contribution to a family postsecondary education savings account, such*
30 *amounts were subtracted from the federal adjusted gross income*
31 *pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and*
32 *amendments thereto, or if such amounts are not already included in the*
33 *federal adjusted gross income.*

34 *(xi) The amount of any contribution made to the same extent the*
35 *same is claimed as the basis for the credit allowed pursuant to K.S.A.*
36 *2012 Supp. 74-50,154, and amendments thereto.*

37 *(xii) For taxable years commencing after December 31, 2004,*
38 *amounts received as withdrawals not in accordance with the provisions*
39 *of K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time*
40 *of contribution to an individual development account, such amounts*
41 *were subtracted from the federal adjusted gross income pursuant to*
42 *paragraph (xiii) of subsection (c), or if such amounts are not already*
43 *included in the federal adjusted gross income.*

1 (xiii) *The amount of any expenditures claimed for deduction in*
2 *determining federal adjusted gross income, to the extent the same is*
3 *claimed as the basis for any credit allowed pursuant to K.S.A. 2012*
4 *Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments*
5 *thereto.*

6 (xiv) *The amount of any amortization deduction claimed in*
7 *determining federal adjusted gross income to the extent the same is*
8 *claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and*
9 *amendments thereto.*

10 (xv) *The amount of any expenditures claimed for deduction in*
11 *determining federal adjusted gross income, to the extent the same is*
12 *claimed as the basis for any credit allowed pursuant to K.S.A. 2012*
13 *Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-*
14 *32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245*
15 *through 79-32,248 or 79-32,251 through 79-32,254, and amendments*
16 *thereto.*

17 (xvi) *The amount of any amortization deduction claimed in*
18 *determining federal adjusted gross income to the extent the same is*
19 *claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-*
20 *32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments*
21 *thereto.*

22 (xvii) *The amount of any amortization deduction claimed in*
23 *determining federal adjusted gross income to the extent the same is*
24 *claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and*
25 *amendments thereto.*

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

36 (xix) *For all taxable years beginning after December 31, 2012, the*
37 *amount of any: (1) Loss from business as determined under the federal*
38 *internal revenue code and reported from schedule C and on line 12 of*
39 *the taxpayer's form 1040 federal individual income tax return; (2) loss*
40 *from rental real estate, royalties, partnerships, S corporations except*
41 *those with wholly owned subsidiaries subject to the Kansas privilege tax,*
42 *estates, trusts, residual interest in real estate mortgage investment*
43 *conduits and net farm rental as determined under the federal internal*

1 *revenue code and reported from schedule E and on line 17 of the*
2 *taxpayer's form 1040 federal individual income tax return; and (3) farm*
3 *loss as determined under the federal internal revenue code and reported*
4 *from schedule F and on line 18 of the taxpayer's form 1040 federal*
5 *income tax return; all to the extent deducted or subtracted in*
6 *determining the taxpayer's federal adjusted gross income. For purposes*
7 *of this subsection, references to the federal form 1040 and federal*
8 *schedule C, schedule E, and schedule F, shall be to such form and*
9 *schedules as they existed for tax year 2011, and as revised thereafter by*
10 *the internal revenue service.*

11 *(xx) For all taxable years beginning after December 31, 2012, the*
12 *amount of any deduction for self-employment taxes under section 164(f)*
13 *of the federal internal revenue code as in effect on January 1, 2012, and*
14 *amendments thereto, in determining the federal adjusted gross income*
15 *of an individual taxpayer.*

16 *(xxi) For all taxable years beginning after December 31, 2012, the*
17 *amount of any deduction for pension, profit sharing, and annuity plans*
18 *of self-employed individuals under section 62(a)(6) of the federal*
19 *internal revenue code as in effect on January 1, 2012, and amendments*
20 *thereto, in determining the federal adjusted gross income of an*
21 *individual taxpayer.*

22 *(xxii) For all taxable years beginning after December 31, 2012, the*
23 *amount of any deduction for health insurance under section 162(l) of*
24 *the federal internal revenue code as in effect on January 1, 2012, and*
25 *amendments thereto, in determining the federal adjusted gross income*
26 *of an individual taxpayer.*

27 *(xxiii) For all taxable years beginning after December 31, 2012, the*
28 *amount of any deduction for domestic production activities under*
29 *section 199 of the federal internal revenue code as in effect on January*
30 *1, 2012, and amendments thereto, in determining the federal adjusted*
31 *gross income of an individual taxpayer.*

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

33 *(i) Interest or dividend income on obligations or securities of any*
34 *authority, commission or instrumentality of the United States and its*
35 *possessions less any related expenses directly incurred in the purchase*
36 *of such obligations or securities, to the extent included in federal*
37 *adjusted gross income but exempt from state income taxes under the*
38 *laws of the United States.*

39 *(ii) Any amounts received which are included in federal adjusted*
40 *gross income but which are specifically exempt from Kansas income*
41 *taxation under the laws of the state of Kansas.*

42 *(iii) The portion of any gain or loss from the sale or other*
43 *disposition of property having a higher adjusted basis for Kansas income*

1 *tax purposes than for federal income tax purposes on the date such*
2 *property was sold or disposed of in a transaction in which gain or loss*
3 *was recognized for purposes of federal income tax that does not exceed*
4 *such difference in basis, but if a gain is considered a long-term capital*
5 *gain for federal income tax purposes, the modification shall be limited to*
6 *that portion of such gain which is included in federal adjusted gross*
7 *income.*

8 *(iv) The amount necessary to prevent the taxation under this act of*
9 *any annuity or other amount of income or gain which was properly*
10 *included in income or gain and was taxed under the laws of this state for*
11 *a taxable year prior to the effective date of this act, as amended, to the*
12 *taxpayer, or to a decedent by reason of whose death the taxpayer*
13 *acquired the right to receive the income or gain, or to a trust or estate*
14 *from which the taxpayer received the income or gain.*

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

19 *(vi) Accumulation distributions received by a taxpayer as a*
20 *beneficiary of a trust to the extent that the same are included in federal*
21 *adjusted gross income.*

22 *(vii) Amounts received as annuities under the federal civil service*
23 *retirement system from the civil service retirement and disability fund*
24 *and other amounts received as retirement benefits in whatever form*
25 *which were earned for being employed by the federal government or for*
26 *service in the armed forces of the United States.*

27 *(viii) Amounts received by retired railroad employees as a*
28 *supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and*
29 *228c (a)(1) et seq.*

30 *(ix) Amounts received by retired employees of a city and by retired*
31 *employees of any board of such city as retirement allowances pursuant*
32 *to K.S.A. 13-14,106, and amendments thereto, or pursuant to any*
33 *charter ordinance exempting a city from the provisions of K.S.A. 13-*
34 *14,106, and amendments thereto.*

35 *(x) For taxable years beginning after December 31, 1976, the*
36 *amount of the federal tentative jobs tax credit disallowance under the*
37 *provisions of 26 U.S.C. § 280 C. For taxable years ending after*
38 *December 31, 1978, the amount of the targeted jobs tax credit and work*
39 *incentive credit disallowances under 26 U.S.C. § 280 C.*

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

42 *(xii) For taxable years beginning after December 31, 1989,*
43 *amounts received by retired employees of a board of public utilities as*

1 *pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a*
2 *and 13-1249, and amendments thereto.*

3 *(xiii) For taxable years beginning after December 31, 2004,*
4 *amounts contributed to and the amount of income earned on*
5 *contributions deposited to an individual development account under*
6 *K.S.A. 2012 Supp. 74-50,201 et seq., and amendments thereto.*

7 *(xiv) For all taxable years commencing after December 31, 1996,*
8 *that portion of any income of a bank organized under the laws of this*
9 *state or any other state, a national banking association organized under*
10 *the laws of the United States, an association organized under the savings*
11 *and loan code of this state or any other state, or a federal savings*
12 *association organized under the laws of the United States, for which an*
13 *election as an S corporation under subchapter S of the federal internal*
14 *revenue code is in effect, which accrues to the taxpayer who is a*
15 *stockholder of such corporation and which is not distributed to the*
16 *stockholders as dividends of the corporation. For all taxable years*
17 *beginning after December 31, 2012, the amount of modification under*
18 *this subsection shall exclude the portion of income or loss reported on*
19 *schedule E and included on line 17 of the taxpayer's form 1040 federal*
20 *individual income tax return.*

21 *(xv) For all taxable years beginning after December 31, 2006,*
22 *amounts not exceeding \$3,000, or \$6,000 for a married couple filing a*
23 *joint return, for each designated beneficiary which are contributed to a*
24 *family postsecondary education savings account established under the*
25 *Kansas postsecondary education savings program or a qualified tuition*
26 *program established and maintained by another state or agency or*
27 *instrumentality thereof pursuant to section 529 of the internal revenue*
28 *code of 1986, as amended, for the purpose of paying the qualified higher*
29 *education expenses of a designated beneficiary at an institution of*
30 *postsecondary education. The terms and phrases used in this paragraph*
31 *shall have the meaning respectively ascribed thereto by the provisions of*
32 *K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions*
33 *of such section are hereby incorporated by reference for all purposes*
34 *thereof.*

35 *(xvi) For all taxable years beginning after December 31, 2004,*
36 *amounts received by taxpayers who are or were members of the armed*
37 *forces of the United States, including service in the Kansas army and air*
38 *national guard, as a recruitment, sign up or retention bonus received by*
39 *such taxpayer as an incentive to join, enlist or remain in the armed*
40 *services of the United States, including service in the Kansas army and*
41 *air national guard, and amounts received for repayment of educational*
42 *or student loans incurred by or obligated to such taxpayer and received*
43 *by such taxpayer as a result of such taxpayer's service in the armed*

1 *forces of the United States, including service in the Kansas army and air*
2 *national guard.*

3 *(xvii) For all taxable years beginning after December 31, 2004,*
4 *amounts received by taxpayers who are eligible members of the Kansas*
5 *army and air national guard as a reimbursement pursuant to K.S.A. 48-*
6 *281, and amendments thereto, and amounts received for death benefits*
7 *pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to*
8 *section 1 or section 2 of chapter 207 of the 2005 session laws of Kansas,*
9 *and amendments thereto, to the extent that such death benefits are*
10 *included in federal adjusted gross income of the taxpayer.*

11 *(xviii) For the taxable year beginning after December 31, 2006,*
12 *amounts received as benefits under the federal social security act which*
13 *are included in federal adjusted gross income of a taxpayer with federal*
14 *adjusted gross income of \$50,000 or less, whether such taxpayer's filing*
15 *status is single, head of household, married filing separate or married*
16 *filing jointly; and for all taxable years beginning after December 31,*
17 *2007, amounts received as benefits under the federal social security act*
18 *which are included in federal adjusted gross income of a taxpayer with*
19 *federal adjusted gross income of \$75,000 or less, whether such*
20 *taxpayer's filing status is single, head of household, married filing*
21 *separate or married filing jointly.*

22 *(xix) Amounts received by retired employees of Washburn*
23 *university as retirement and pension benefits under the university's*
24 *retirement plan.*

25 *(xx) For all taxable years beginning after December 31, 2012, the*
26 *amount of any: (1) Net profit from business as determined under the*
27 *federal internal revenue code and reported from schedule C and on line*
28 *12 of the taxpayer's form 1040 federal individual income tax return; (2)*
29 *net income from rental real estate, royalties, partnerships, S*
30 *corporations, estates, trusts, residual interest in real estate mortgage*
31 *investment conduits and net farm rental as determined under the federal*
32 *internal revenue code and reported from schedule E and on line 17 of*
33 *the taxpayer's form 1040 federal individual income tax return; and (3)*
34 *net farm profit as determined under the federal internal revenue code*
35 *and reported from schedule F and on line 18 of the taxpayer's form*
36 *1040 federal income tax return; all to the extent included in the*
37 *taxpayer's federal adjusted gross income. For purposes of this*
38 *subsection, references to the federal form 1040 and federal schedule C,*
39 *schedule E, and schedule F, shall be to such form and schedules as they*
40 *existed for tax year 2011 and as revised thereafter by the internal*
41 *revenue service.*

42 *(d) There shall be added to or subtracted from federal adjusted*
43 *gross income the taxpayer's share, as beneficiary of an estate or trust, of*

1 *the Kansas fiduciary adjustment determined under K.S.A. 79-32,135,*
2 *and amendments thereto.*

3 *(e) The amount of modifications required to be made under this*
4 *section by a partner which relates to items of income, gain, loss,*
5 *deduction or credit of a partnership shall be determined under K.S.A.*
6 *79-32,131, and amendments thereto, to the extent that such items affect*
7 *federal adjusted gross income of the partner.*

8 Sec. ~~2~~ 3. K.S.A. 2012 Supp. 79-32,118 is hereby amended to read as
9 follows: 79-32,118. ~~Commencing in tax year 2013,~~ The Kansas deduction
10 of an individual shall be such individual's Kansas standard deduction
11 *unless such individual elects to deduct such individual's Kansas itemized*
12 *deductions under the conditions set forth in K.S.A. 79-32,120, and*
13 *amendments thereto.*

14 Sec. ~~3~~ 4. K.S.A. 2012 Supp. 79-32,266 is hereby amended to read as
15 follows: 79-32,266. (a) For taxable years commencing after December 31,
16 2010, there shall be allowed as a credit against the tax liability of a
17 resident individual taxpayer an amount equal to 95% of the resident
18 individual's income tax liability under the provisions of the Kansas income
19 tax act for Kansas source income received from a qualified company that
20 is business income attributable to business activities conducted at the
21 business facility, office, department or other operation relocated to Kansas
22 when the taxpayer owns such qualified company and materially
23 participates in such business activities conducted at such relocated
24 business facility, office, department or other operation of such qualified
25 company which qualified for benefits under the provisions of subsection
26 (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer shall be
27 treated as materially participating in such qualified company's business
28 activities conducted at such business facility, office, department or other
29 operation relocated to Kansas only if the taxpayer is involved in such
30 business activities of such qualified company on a basis which is regular,
31 continuous and substantial. A taxpayer may claim the credit authorized by
32 this section during any tax year in which the qualified company owned by
33 the taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212,
34 and amendments thereto.

35 (b) Business income attributable to the business activities conducted
36 at the business facility, office, department or other operation relocated to
37 Kansas of a qualified company which qualified for benefits under the
38 provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments
39 thereto, shall be determined by multiplying the business income of the
40 company apportioned to this state by a fraction, the numerator of which is
41 the property factor plus the payroll factor plus the sales factor, and the
42 denominator of which is three. For purposes of this subsection, the
43 property factor is a fraction, the numerator of which is the average value of

1 the company's real and tangible personal property owned or rented and
2 used during the tax period at such relocated facility, office, department or
3 other relocated operation in Kansas, and the denominator of which is the
4 average value of the company's real and tangible personal property owned
5 or rented and used within this state during the tax period. The payroll
6 factor is a fraction, the numerator of which is the total amount paid during
7 the tax period by the company for compensation at such relocated facility,
8 office, department or other relocated operation in Kansas, and the
9 denominator of which is the total compensation paid by the company in
10 this state during the tax period. The sales factor is a fraction, the numerator
11 of which is the total sales of the relocated facility, office, department or
12 other relocated operation in this state during the tax period, and the
13 denominator of which is the total sales of the company in this state during
14 the tax period.

15 (c) This credit shall not be available to any taxpayer making a
16 modification under (b)(xix) or ~~(e)(xxi)~~ (c)(xx) of K.S.A. 79-32,117, and
17 amendments thereto.

18 (d) The secretary of revenue shall adopt rules and regulations
19 regarding the filing of documents that support the qualifications of the
20 taxpayer for the credit claimed pursuant to this section.

21 ~~Sec. 5.~~ K.S.A. 2012 Supp. 79-3620 is hereby amended to read as
22 follows: 79-3620. (a) All revenue collected or received by the director of
23 taxation from the taxes imposed by this act shall be remitted to the state
24 treasurer in accordance with the provisions of K.S.A. 75-4215, and
25 amendments thereto. Upon receipt of each such remittance, the state
26 treasurer shall deposit the entire amount in the state treasury, less amounts
27 withheld as provided in subsection (b) and amounts credited as provided in
28 subsection (c), (d) and (e), to the credit of the state general fund.

29 (b) A refund fund, designated as "sales tax refund fund" not to exceed
30 \$100,000 shall be set apart and maintained by the director from sales tax
31 collections and estimated tax collections and held by the state treasurer for
32 prompt payment of all sales tax refunds ~~including refunds authorized~~
33 ~~under the provisions of K.S.A. 79-3635, and amendments thereto.~~ Such
34 fund shall be in such amount, within the limit set by this section, as the
35 director shall determine is necessary to meet current refunding
36 requirements under this act. In the event such fund as established by this
37 section is, at any time, insufficient to provide for the payment of refunds
38 due claimants thereof, the director shall certify the amount of additional
39 funds required to the director of accounts and reports who shall promptly
40 transfer the required amount from the state general fund to the sales tax
41 refund fund, and notify the state treasurer, who shall make proper entry in
42 the records.

43 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or

1 received from the tax imposed by K.S.A. 79-3603, and amendments
2 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
3 exclusive of amounts credited pursuant to subsection (d), in the state
4 highway fund.

5 (2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or
6 received from the tax imposed by K.S.A. 79-3603, and amendments
7 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
8 exclusive of amounts credited pursuant to subsection (d), in the state
9 highway fund.

10 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the revenue
11 collected and received from the tax imposed by K.S.A. 79-3603, and
12 amendments thereto, at the rate of 5.3%, and deposited as provided by
13 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
14 the state highway fund.

15 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the revenue
16 collected and received from the tax imposed by K.S.A. 79-3603, and
17 amendments thereto, at the rate of 5.3%, and deposited as provided by
18 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
19 the state highway fund.

20 (5) On July 1, 2010, the state treasurer shall credit 11.427% of the
21 revenue collected and received from the tax imposed by K.S.A. 79-3603,
22 and amendments thereto, at the rate of 6.3%, and deposited as provided by
23 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
24 the state highway fund.

25 (6) On July 1, 2011, the state treasurer shall credit 11.26% of the
26 revenue collected and received from the tax imposed by K.S.A. 79-3603,
27 and amendments thereto, at the rate of 6.3%, and deposited as provided by
28 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
29 the state highway fund.

30 (7) On July 1, 2012, the state treasurer shall credit 11.233% of the
31 revenue collected and received from the tax imposed by K.S.A. 79-3603,
32 and amendments thereto, at the rate of 6.3%, and deposited as provided by
33 subsection (a), exclusive of amounts credited pursuant to subsection (d), in
34 the state highway fund, as well as such revenue collected and received at
35 the rate of 6.3%, after June 30, 2013.

36 (8) On July 1, 2013, and thereafter, the state treasurer shall credit
37 18.421% of the revenue collected and received from the tax imposed by
38 K.S.A. 79-3603, and amendments thereto, at the rate of 5.7%, and
39 deposited as provided by subsection (a), exclusive of amounts credited
40 pursuant to subsection (d), in the state highway fund.

41 (d) The state treasurer shall credit all revenue collected or received
42 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
43 certified by the director, from taxpayers doing business within that portion

1 of a STAR bond project district occupied by a STAR bond project or
2 taxpayers doing business with such entity financed by a STAR bond
3 project as defined in K.S.A. 2012 Supp. 12-17,162, and amendments
4 thereto, that was determined by the secretary of commerce to be of
5 statewide as well as local importance or will create a major tourism area
6 for the state or the project was designated as a STAR bond project as
7 defined in K.S.A. 2012 Supp. 12-17,162, and amendments thereto, to the
8 city bond finance fund, which fund is hereby created. The provisions of
9 this subsection shall expire when the total of all amounts credited
10 hereunder and under subsection (d) of K.S.A. 79-3710, and amendments
11 thereto, is sufficient to retire the special obligation bonds issued for the
12 purpose of financing all or a portion of the costs of such STAR bond
13 project.

14 (e) All revenue certified by the director of taxation as having been
15 collected or received from the tax imposed by subsection (c) of K.S.A. 79-
16 3603, and amendments thereto, on the sale or furnishing of gas, water,
17 electricity and heat for use or consumption within the intermodal facility
18 district described in this subsection, shall be credited by the state treasurer
19 to the state highway fund. Such revenue may be transferred by the
20 secretary of transportation to the rail service improvement fund pursuant to
21 law. The provisions of this subsection shall take effect upon certification
22 by the secretary of transportation that a notice to proceed has been
23 received for the construction of the improvements within the intermodal
24 facility district, but not later than December 31, 2010, and shall expire
25 when the secretary of revenue determines that the total of all amounts
26 credited hereunder and pursuant to subsection (e) of K.S.A. 79-3710, and
27 amendments thereto, is equal to \$53,300,000, but not later than December
28 31, 2045. Thereafter, all revenues shall be collected and distributed in
29 accordance with applicable law. For all tax reporting periods during which
30 the provisions of this subsection are in effect, none of the exemptions
31 contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply
32 to the sale or furnishing of any gas, water, electricity and heat for use or
33 consumption within the intermodal facility district. As used in this
34 subsection, "intermodal facility district" shall consist of an intermodal
35 transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and
36 amendments thereto, located in Johnson county within the polygonal-
37 shaped area having Waverly Road as the eastern boundary, 191st Street as
38 the southern boundary, Four Corners Road as the western boundary, and
39 Highway 56 as the northern boundary, and the polygonal-shaped area
40 having Poplar Road as the eastern boundary, 183rd Street as the southern
41 boundary, Waverly Road as the western boundary, and the BNSF mainline
42 track as the northern boundary, that includes capital investment in an
43 amount exceeding \$150 million for the construction of an intermodal

1 facility to handle the transfer, storage and distribution of freight through
2 railway and trucking operations.

3 ~~Sec. 6.~~ K.S.A. 2012 Supp. 79-4217 is hereby amended to read as
4 follows: 79-4217. (a) There is hereby imposed an excise tax upon the
5 severance and production of coal, oil or gas from the earth or water in this
6 state for sale, transport, storage, profit or commercial use, subject to the
7 following provisions of this section. Such tax shall be borne ratably by all
8 persons within the term "producer" as such term is defined in K.S.A. 79-
9 4216, and amendments thereto, in proportion to their respective beneficial
10 interest in the coal, oil or gas severed. Such tax shall be applied equally to
11 all portions of the gross value of each barrel of oil severed and subject to
12 such tax and to the gross value of the gas severed and subject to such tax.
13 The rate of such tax shall be 8% of the gross value of all oil or gas severed
14 from the earth or water in this state and subject to the tax imposed under
15 this act. The rate of such tax with respect to coal shall be \$1 per ton. For
16 the purposes of the tax imposed hereunder the amount of oil or gas
17 produced shall be measured or determined: (1) In the case of oil, by tank
18 tables compiled to show 100% of the full capacity of tanks without
19 deduction for overage or losses in handling; allowance for any reasonable
20 and bona fide deduction for basic sediment and water, and for correction of
21 temperature to 60 degrees Fahrenheit will be allowed; and if the amount of
22 oil severed has been measured or determined by tank tables compiled to
23 show less than 100% of the full capacity of tanks, such amount shall be
24 raised to a basis of 100% for the purpose of the tax imposed by this act;
25 and (2) in the case of gas, by meter readings showing 100% of the full
26 volume expressed in cubic feet at a standard base and flowing temperature
27 of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is
28 sold and purchased; correction to be made for pressure according to
29 Boyle's law, and used for specific gravity according to the gravity at which
30 the gas is sold and purchased, or if not so specified, according to the test
31 made by the balance method.

32 (b) The following shall be exempt from the tax imposed under this
33 section:

34 (1) The severance and production of gas which is: (A) Injected into
35 the earth for the purpose of lifting oil, recycling or repressuring; (B) used
36 for fuel in connection with the operation and development for, or
37 production of, oil or gas in the lease or production unit where severed; (C)
38 lawfully vented or flared; (D) severed from a well having an average daily
39 production during a calendar month having a gross value of not more than
40 \$87 per day, which well has not been significantly curtailed by reason of
41 mechanical failure or other disruption of production; in the event that the
42 production of gas from more than one well is gauged by a common meter,
43 eligibility for exemption hereunder shall be determined by computing the

1 gross value of the average daily combined production from all such wells
2 and dividing the same by the number of wells gauged by such meter; (E)
3 inadvertently lost on the lease or production unit by reason of leaks,
4 blowouts or other accidental losses; (F) used or consumed for domestic or
5 agricultural purposes on the lease or production unit from which it is
6 severed; or (G) placed in underground storage for recovery at a later date
7 and which was either originally severed outside of the state of Kansas, or
8 as to which the tax levied pursuant to this act has been paid;

9 (2) the severance and production of oil which is: (A) From a lease or
10 production unit whose average daily production is five barrels or less per
11 producing well, which well or wells have not been significantly curtailed
12 by reason of mechanical failure or other disruption of production; (B) from
13 a lease or production unit, the producing well or wells upon which have a
14 completion depth of 2,000 feet or more, and whose average daily
15 production is six barrels or less per producing well or, if the price of oil as
16 determined pursuant to subsection (d) is \$16 or less, whose average daily
17 production is seven barrels or less per producing well, or, if the price of oil
18 as determined pursuant to subsection (d) is \$15 or less, whose average
19 daily production is eight barrels or less per producing well, or, if the price
20 of oil as determined pursuant to subsection (d) is \$14 or less, whose
21 average daily production is nine barrels or less per producing well, or, if
22 the price of oil as determined pursuant to subsection (d) is \$13 or less,
23 whose average daily production is 10 barrels or less per producing well,
24 which well or wells have not been significantly curtailed by reason of
25 mechanical failure or other disruption of production; (C) from a lease or
26 production unit, whose production results from a tertiary recovery process.
27 "Tertiary recovery process" means the process or processes described in
28 subparagraphs (1) through (9) of 10 C.F.R. § 212.78(c) as in effect on June
29 1, 1979; (D) from a lease or production unit, the producing well or wells
30 upon which have a completion depth of less than 2,000 feet and whose
31 average daily production resulting from a water flood process, is six
32 barrels or less per producing well, which well or wells have not been
33 significantly curtailed by reason of mechanical failure or other disruption
34 of production; (E) from a lease or production unit, the producing well or
35 wells upon which have a completion depth of 2,000 feet or more, and
36 whose average daily production resulting from a water flood process, is
37 seven barrels or less per producing well or, if the price of oil as determined
38 pursuant to subsection (d) is \$16 or less, whose average daily production is
39 eight barrels or less per producing well, or, if the price of oil as determined
40 pursuant to subsection (d) is \$15 or less, whose average daily production is
41 nine barrels or less per producing well, or, if the price of oil as determined
42 pursuant to subsection (d) is \$14 or less, whose average daily production is
43 10 barrels or less per producing well, which well or wells have not been

1 significantly curtailed by reason of mechanical failure or other disruption
2 of production; (F) test, frac or swab oil which is sold or exchanged for
3 value; or (G) inadvertently lost on the lease or production unit by reason of
4 leaks or other accidental means;

5 (3) (A) any taxpayer applying for an exemption pursuant to
6 subsection (b)(2)(A) and (B) shall make application biennially to the
7 director of taxation therefor. Exemptions granted pursuant to subsection
8 (b)(2)(A) and (B) shall be valid for a period of two years following the
9 date of certification thereof by the director of taxation; (B) any taxpayer
10 applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall
11 make application biennially to the director of taxation therefor. Such
12 application shall be accompanied by proof of the approval of an
13 application for the utilization of a water flood process therefor by the
14 corporation commission pursuant to rules and regulations adopted under
15 the authority of K.S.A. 55-152, and amendments thereto, and proof that
16 the oil produced therefrom is kept in a separate tank battery and that
17 separate books and records are maintained therefor. Such exemption shall
18 be valid for a period of two years following the date of certification thereof
19 by the director of taxation; (C) any exemption granted pursuant to
20 subsections (b)(2)(A), (B), (D) or (E) with an odd lease number and an
21 exemption termination date between June 1, 2004, and May 31, 2005,
22 inclusive, shall be valid for a period of one year following the date of
23 certification; and (D) notwithstanding the provisions of paragraph (A) or
24 (B), any exemption in effect on the effective date of this act affected by the
25 amendments to subsection (b)(2) by this act shall be redetermined in
26 accordance with such amendments. Any such exemption, and any new
27 exemption established by such amendments and applied for after the
28 effective date of this *act* shall be valid for a period commencing with May
29 1, 1998, and ending on April 30, 1999;

30 (4) the severance and production of gas or oil from any pool from
31 which oil or gas was first produced on or after April 1, 1983, and prior to
32 July 1, 2012, as determined by the state corporation commission and
33 certified to the director of taxation, and continuing for a period of 24
34 months from the month in which oil or gas was first produced from such
35 pool as evidenced by an affidavit of completion of a well, filed with the
36 state corporation commission and certified to the director of taxation.
37 Exemptions granted for production from any well pursuant to this
38 paragraph shall be valid for a period of 24 months following the month in
39 which oil or gas was first produced from such pool. The term "pool"
40 means an underground accumulation of oil or gas in a single and separate
41 natural reservoir characterized by a single pressure system so that
42 production from one part of the pool affects the reservoir pressure
43 throughout its extent;

1 (5) the severance and production of oil from any *well within a pool*
2 *from which oil was first produced on or after July 1, 2012, as certified by*
3 *the state corporation commission to the director of taxation, and from*
4 *which the average daily severance and production of oil during the initial*
5 *six months of production from the date of first production from such ~~pool~~*
6 *producing well, which well has not been significantly curtailed by reason*
7 *of mechanical failure or other disruption of production, does not exceed*
8 *50 barrels per day ~~as certified by the state corporation commission and~~*
9 *~~certified to the director of taxation,~~ and continuing for a period of 24*
10 *months from the month in which oil was first produced from such pool as*
11 *evidenced by an affidavit of completion of a well, filed with the state*
12 *corporation commission and certified to the director of taxation.*
13 *Exemptions granted for production from any well pursuant to this*
14 *subsection shall be valid for a period of 24 months following the month in*
15 *which oil was first produced from such pool. The term "pool" means an*
16 *underground accumulation of oil in a single and separate natural reservoir*
17 *characterized by a single pressure system so that production from one part*
18 *of the pool affects the reservoir pressure throughout its extent. For any*
19 *such well that has qualified for exemption, if the average daily severance*
20 *and production of oil from such well exceeds 50 barrels per day within any*
21 *qualifying one-month production period after the initial qualifying*
22 *production period, the exemption for such well shall be terminated as of*
23 *the commencement of such one-month production period;*

24 (6) the severance and production of oil or gas from a three-year
25 inactive well, as determined by the state corporation commission and
26 certified to the director of taxation, for a period of 10 years after the date
27 of receipt of such certification. As used in this paragraph, "three-year
28 inactive well" means any well that has not produced oil or gas in more
29 than one month in the three years prior to the date of application to the
30 state corporation commission for certification as a three-year inactive well.
31 An application for certification as a three-year inactive well shall be in
32 such form and contain such information as required by the state
33 corporation commission, and shall be made prior to July 1, 1996. The
34 commission may revoke a certification if information indicates that a
35 certified well was not a three-year inactive well or if other lease
36 production is credited to the certified well. Upon notice to the operator that
37 the certification for a well has been revoked, the exemption shall not be
38 applied to the production from that well from the date of revocation;

39 (7) (A) The incremental severance and production of oil or gas which
40 results from a production enhancement project begun on or after July 1,
41 1998, shall be exempt for a period of seven years from the start-up date of
42 such project. As used in this paragraph:

43 (1) "Incremental severance and production" means the amount of oil

1 or natural gas which is produced as the result of a production enhancement
2 project which is in excess of the base production of oil or natural gas, and
3 is determined by subtracting the base production from the total monthly
4 production after the production enhancement project is completed.

5 (2) "Base production" means the average monthly amount of
6 production for the twelve-month period immediately prior to the
7 production enhancement project beginning date, minus the monthly rate of
8 production decline for the well or project for each month beginning 180
9 days prior to the project beginning date. The monthly rate of production
10 decline shall be equal to the average extrapolated monthly decline rate for
11 the well or project for the twelve-month period immediately prior to the
12 production enhancement project beginning date, except that the monthly
13 rate of production decline shall be equal to zero in the case where the well
14 or project has experienced no monthly decline during the twelve-month
15 period immediately prior to the production enhancement project beginning
16 date. Such monthly rate of production decline shall be continued as the
17 decline that would have occurred except for the enhancement project. Any
18 well or project which may have produced during the twelve-month period
19 immediately prior to the production enhancement project beginning date
20 but is not capable of production on the project beginning date shall have a
21 base production equal to zero. The calculation of the base production
22 amount shall be evidenced by an affidavit and supporting documentation
23 filed by the applying taxpayer with the state corporation commission.

24 (3) "Workover" means any downhole operation in an existing oil or
25 gas well that is designed to sustain, restore or increase the production rate
26 or ultimate recovery of oil or gas, including, but not limited to, acidizing,
27 reperforation, fracture treatment, sand/paraffin/scale removal or other
28 wellbore cleanouts, casing repair, squeeze cementing, initial installation, or
29 enhancement of artificial lifts including plunger lifts, rods, pumps,
30 submersible pumps and coiled tubing velocity strings, downsizing existing
31 tubing to reduce well loading, downhole commingling, bacteria treatments,
32 polymer treatments, upgrading the size of pumping unit equipment, setting
33 bridge plugs to isolate water production zones, or any combination of the
34 aforementioned operations; "workover" shall not mean the routine
35 maintenance, routine repair, or like-for-like replacement of downhole
36 equipment such as rods, pumps, tubing packers or other mechanical
37 device.

38 (4) "Production enhancement project" means performing or causing
39 to be performed the following:

- 40 (i) Workover;
41 (ii) recompletion to a different producing zone in the same well bore,
42 except recompletions in formations and zones subject to a state
43 corporation commission proration order;

- 1 (iii) secondary recovery projects;
2 (iv) addition of mechanical devices to dewater a gas or oil well;
3 (v) replacement or enhancement of surface equipment;
4 (vi) installation or enhancement of compression equipment, line
5 looping or other techniques or equipment which increases production from
6 a well or a group of wells in a project; *or*
7 (vii) new discoveries of oil or gas which are discovered as a result of
8 the use of new technology, including, but not limited to, three dimensional
9 seismic studies.

10 (B) The state corporation commission shall adopt rules and
11 regulations necessary to efficiently and properly administer the provisions
12 of this paragraph including rules and regulations for the qualification of
13 production enhancement projects, the procedures for determining the
14 monthly rate of production decline, criteria for determining the share of
15 incremental production attributable to each well when a production
16 enhancement project includes a group of wells, criteria for determining the
17 start-up date for any project for which an exemption is claimed, and
18 determining new qualifying technologies for the purposes of subsection (b)
19 (7)(A)(4)(vii).

20 (C) Any taxpayer applying for an exemption pursuant to this
21 paragraph shall make application to the director of taxation. Such
22 application shall be accompanied by a state corporation commission
23 certification that the production for which an exemption is sought results
24 from a qualified production enhancement project and certification of the
25 base production for the enhanced wells or group of wells, and the rate of
26 decline to be applied to that base production. The secretary of revenue
27 shall provide credit for any taxes paid between the project start-up date
28 and the certification of qualifications by the commission.

29 (D) The exemptions provided for in this paragraph shall not apply for
30 12 months beginning July 1 of the year subsequent to any calendar year
31 during which: (1) In the case of oil, the secretary of revenue determines
32 that the weighted average price of Kansas oil at the wellhead has exceeded
33 \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue
34 determines that the weighted average price of Kansas gas at the wellhead
35 has exceeded \$2.50 per Mcf.

36 (E) The provisions of this paragraph shall not affect any other
37 exemption allowable pursuant to this section; and

38 (7) for the calendar year 1988, and any year thereafter, the severance
39 or production of the first 350,000 tons of coal from any mine as certified
40 by the state geological survey.

41 (c) No exemption shall be granted pursuant to subsection (b)(3) or (4)
42 to any person who does not have a valid operator's license issued by the
43 state corporation commission, and no refund of tax shall be made to any

1 taxpayer attributable to any production in a period when such taxpayer did
2 not hold a valid operator's license issued by the state corporation
3 commission.

4 (d) On April 15, 1988, and on April 15 of each year thereafter, the
5 secretary of revenue shall determine from statistics compiled and provided
6 by the United States department of energy, the average price per barrel
7 paid by the first purchaser of crude oil in this state for the six-month
8 period ending on December 31 of the preceding year. Such price shall be
9 used for the purpose of determining exemptions allowed by subsection (b)
10 (2)(B) or (E) for the twelve-month period commencing on May 1 of such
11 year and ending on April 30 of the next succeeding year.

12 ~~Sec.-6. 7.~~ K.S.A. 79-32,109 and 79-3632 and K.S.A. 2012 Supp. **79-**
13 **32,117**, 79-32,117n, 79-32,118, 79-32,266, 79-3620, 79-3639a and 79-
14 4217 are hereby repealed.

15 ~~Sec.-7. 8.~~ This act shall take effect and be in force from and after its
16 publication in the Kansas register.