

Tax Provisions—Adoption Tax Credits; Agricultural Projects Sales Tax Exemption; Livestock Net Gain Deduction; Dwelling and Accessibility Credits; Other Provisions; SB 265

SB 265 makes changes to the definition of income within the Homestead Refund Program; removes the income tax withholding requirement for nonresident pass-through entities; clarifies amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; reinstates two adoption tax credits; provides an income tax subtraction modification associated with organ donation; creates a sales tax exemption for certain materials, machinery and equipment installed as a part of certain animal production and aquaculture projects; creates a tax deduction for the net gain from the sale of certain livestock; reinstates two tax credits for expenditures used to make a dwelling or facility accessible for persons with disabilities; and repeals the sunset date for the Kansas Taxpayer Transparency Act.

Homestead Refund Program

The bill changes the definition of “income” to disregard the new “non-wage business income” exemption for the purpose of calculating income for both the homestead refund and the Selective Assistance for Effective Senior Relief (SAFESR) tax credit of the Homestead Refund Program. Under the current definition of “income” for the Homestead Refund Program, any person whose sole income was exempt under the “non-wage business income” exemption (created by the passage of 2012 HB 2117) qualifies for the refund, assuming the other eligibility qualifications were met.

Nonresident Pass-Through Entity Withholding Requirement

The bill removes the requirement that nonresident subchapter S corporations, partnerships, and limited liability companies withhold income tax from shareholders, partners, and members.

Kansas Adjusted Gross Income

The bill clarifies that the amount added to federal adjusted gross income for any deduction for self-employment taxes under section 164(f) of the federal Internal Revenue Code for purposes of determining Kansas adjusted gross income is limited to the deduction attributable to income reported on schedule C, E, or F and on line 12, 17, or 18 of the federal form 1040.

Adoption Tax Credits

The bill reinstates two adoption tax credits removed during the 2012 Legislative Session. One credit allows for a credit equal to 25 percent of the federal adoption tax credit. An additional 25 percent of the federal adoption tax credit is allowed if the child adopted was a Kansas resident prior to adoption. An additional 25 percent of the federal adoption tax credit is allowed if the child adopted was a child with special needs, as defined by the federal Internal Revenue

Code. The other credit the bill allows is a \$1,500 credit for the adoption of a child with special needs or a child in the custody of the Secretary for Children and Families.

Agricultural Projects Sales Tax Exemption

The bill creates a sales tax exemption for certain animal production and aquaculture businesses classified under subsector 112 of the North American Industry Classification System (NAICS) for the purchase of materials, machinery, and equipment for the purpose of constructing, reconstructing, enlarging, or remodeling the business.

Living Donor Organ Donations

The bill authorizes certain expenses associated with the donation of one or more human organs, as outlined in the bill, to be claimed as a subtraction modification on a taxpayer's tax return beginning with tax year 2014. The subtraction modification for any individual or dependent is limited to \$5,000. The provisions take effect on the day the Secretary of Revenue certifies to the Director of the Budget that the cost to the Department of Revenue for modifications to the automated tax system to accomplish the intent of the bill would not exceed \$20,000.

Livestock Net Gain Deduction

The bill creates an income tax deduction from federal adjusted gross income in determining Kansas adjusted gross income for the net gain of the sale of any cattle or horses held by the taxpayer for draft, breeding, dairy, or sporting purposes that were held by the taxpayer for 24 months or more from the date of acquisition. The bill creates the same deduction for other livestock held for draft, breeding, dairy, or sporting purposes for 12 months or more from the date of acquisition. The deduction is limited to the amount of losses reported on schedules C, E, and F and lines 12, 17, and 18 of the federal form 1040 attributable to the business in which the livestock sold had been used.

Dwelling and Facility Accessibility Credits

The bill further reinstates, retroactive to tax year 2013, an individual income tax credit repealed in 2012 to provide reimbursement under certain circumstances for a portion of the costs associated with modifying a taxpayer's principal residence to make it more accessible to persons with disabilities. The maximum amount allowed is \$9,000, and the credit phases out altogether at federal adjusted gross income of \$55,000 and above. The bill also reinstates, retroactive to tax year 2013, a second credit to provide reimbursement for a portion of the costs borne by individual income taxpayers making other facilities more accessible to persons with disabilities. This credit, which also was repealed in 2012 for individual (but not corporation) income taxpayers, generally is limited to 50 percent of qualifying expenditures and capped at \$10,000.

Taxpayer Transparency Act Sunset Repeal

The bill repeals the sunset date for the Kansas Taxpayer Transparency Act. The Act was scheduled to sunset on June 30, 2014.