SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 265

As Amended by House Committee of the Whole

Brief*

SB 265, as amended, would make changes to the definition of income within the Homestead Refund Program; remove the income tax withholding requirement for nonresident pass through entities; clarify amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; and reinstate two adoption tax credits.

Homestead Refund Program

The bill would change 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) could qualify for the refund, assuming the other eligibility qualifications were met.

Nonresident Pass Through Entity Withholding Requirement

The bill would remove the requirement that nonresident subchapter S corporations, partnerships, and limited liability

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org companies withhold income tax from shareholders, partners, and members.

Kansas Adjusted Gross Income

The bill would clarify 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 would reinstate two adoption tax credits removed during the 2012 Legislative Session.

One credit would allow for a credit equal to 25 percent of the federal adoption tax credit. An additional 25 percent of the federal adoption tax credit would be allowed if the child adopted was a Kansas resident prior to adoption. An additional 25 percent of the federal adoption tax credit would be allowed if the child adopted was a child with special needs, as defined by the federal internal revenue code.

The other credit would allow for 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.

Background

The bill was introduced by the Senate Committee on Assessment and Taxation. A representative from the Department of Revenue requested the bill introduction and testified at the Senate Committee hearing that the amendment is a technical change to reflect the original intentions of the Homestead Refund and the SAFESR tax credit. There was no other testimony on the bill.

The Senate Committee on Assessment and Taxation amended the bill to make the change retroactive to 2013. The amendment was requested by the Department of Revenue.

The House Committee on Taxation amended the bill, also at the suggestion of the Department of Revenue, to add the provisions regarding the nonresident pass through entity withholding requirement and the Kansas adjusted gross income.

The bill was amended by the House Committee of the Whole to reinstate the two adoption tax credits.

According to the fiscal note prepared by the Division of the Budget, there is no fiscal impact associated with the bill, as the bill reflects the original intention of the definition of income for the Homestead Refund Program. If the bill is not passed, the fiscal note states, there possibly would be a negative impact to the State General Fund (SGF), as more taxpayers will be eligible for the refund or credit than originally intended. A fiscal note on the bill, as amended by the House Committee on Taxation, was not immediately available.

A fiscal note on the bill as amended by the House Committee of the Whole was not immediately available. However, the Department of Revenue estimates the amendment adopted by the House Committee of the Whole would reduce revenues to the SGF by $1.6 million per year.