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HOUSE BILL No. 2430

By Committee on Taxation

5-5

Balloon Amendment
House Committee on Taxation
Removing employee requirements and certification
Waiver of penalties and interest

AN ACT concerning income taxation; relating to determination of income, subtraction modifications; rates for resident individuals with income from certain businesses who employ one or more persons; amending K.S.A. 2014 Supp. 79-32,110, 79-32,111 and 79-32,117 and repealing the existing sections.

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

New Section 1. (a) As used in this section:

(1) "Business entity" means a limited liability company, S corporation, partnership, association, sole proprietorship, joint venture or other similar form of business organization. The term "business entity" shall not include any business organization subject to the income tax on corporations under K.S.A. 79-32,110(c), and amendments thereto, the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto;

(2) ~~"employee" means:~~

~~(A) Any natural person employed by a business entity and performing duties for such business entity for compensation subject to employer withholding taxes pursuant to K.S.A. 79-3295 et seq., and amendments thereto; and~~

~~(B) any natural person who performs duties for the business entity but is employed by a third-party employer for compensation subject to employer withholding taxes pursuant to K.S.A. 79-3295 et seq., and amendments thereto, who serves as the legal employer while furnishing such employee to such business entity;~~

~~(3)~~ (A) "qualified income" means:

(i) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(ii) net income from partnerships, S corporations, estates and trusts as determined under the federal internal revenue code and reported from parts II or III of schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(iii) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return;

(B) qualified income shall not include any rental income or royalties paid to the taxpayer, including royalties from intellectual property; and

~~(4)~~ 3 "qualified loss" means:

(A) Net loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(B) net loss from partnerships, S corporations, estates and trusts as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(C) net farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return.

(b) ~~(1)~~ For tax year 2015, and all tax years thereafter, any individual who has an ownership interest in a business entity shall be eligible for the lowest marginal individual income tax rate applicable under K.S.A. 2014 Supp. 79-32,110, and amendments thereto, with respect to qualified income received from such business ~~entity under paragraph (2) if such business entity has at least one employee who has been compensated for at least 2080 hours of work or paid time off for the business entity in the previous tax year~~.

~~(2) (A)~~ Any qualified income of the individual received from a business entity ~~meeting the requirements of subsection (b)(1)~~ shall be taxed at the lowest rate for resident individuals pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto. Remaining income of the individual shall be taxed pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto, without regard to the provisions of this section.

~~(B) To the extent permitted under federal income tax law, any qualified loss of the individual received from a business entity meeting the requirements of subsection (b)(1) may be claimed against any qualified income of the individual received from a business entity that meets the requirements of subsection (b)(1).~~

(c) ~~(1) Any business entity that employs one or more persons shall certify to the secretary of revenue that: (A) The business entity has at least one employee; (B) the business entity employed at least one person who has been compensated as an employee of such business entity for at least 2080 hours of work or paid time off in the previous calendar year; (C) any qualified income of the individual received from such business entity is eligible for the lowest marginal individual income tax rate applicable~~

~~under K.S.A. 2014 Supp. 79-32,110, and amendments thereto; and (D) any qualified loss of the individual received from such business entity is eligible to be claimed against any qualified income pursuant to subsection (b)(1)(B).~~

~~(2) The certification required by this subsection shall include: (A) The name, social security number, position, location of employment, name of employer, employer FEIN and annual hours compensated for the employee being relied upon for qualification for benefits; and (B) the name, address and social security number of each individual owner of the business entity. Any taxpayer seeking benefits under this section shall provide a copy of the certification with the taxpayer's individual income tax return.~~]

The director of taxation shall not assess any penalties or interest arising from the underpayment of taxes under this section which occurs before January 1, 2016.

(d) The secretary of revenue shall adopt all necessary rules and regulations to implement and administer the provisions of this section.

Sec. 2. K.S.A. 2014 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110.(a) *Resident Individuals.* Except as otherwise provided by ~~subsection (a) of~~ K.S.A. 79-3220*(a) and section 1*, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(A) For tax year 2012:

If the taxable income is:	The tax is:
Not over $30,000	3.5% of Kansas taxable income
Over $30,000 but not over $60,000	$1,050 plus 6.25% of excess over $30,000
Over $60,000	$2,925 plus 6.45% of excess over $60,000

(B) For tax year 2013:

If the taxable income is:	The tax is:
Not over $30,000	3.0% of Kansas taxable income
Over $30,000	$900 plus 4.9% of excess over $30,000

(C) For tax year 2014:

If the taxable income is:	The tax is:
Not over $30,000	2.7% of Kansas taxable income
Over $30,000	$810 plus 4.8% of excess over $30,000

(D) For tax year 2015:

If the taxable income is:	The tax is:
Not over $30,000	2.7% of Kansas taxable income
Over $30,000	$810 plus 4.6% of excess over $30,000