SENATE BILL No. 234

By Committee on Assessment and Taxation

2-16

Balloon Amendment
Senate Committee on Assessment and Taxation
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Office of Revisor of Statutes

AN ACT concerning state finances; relating to state general fund tax receipts and expenditures; providing a tax amnesty; creating a budget stabilization fund and tax reduction fund; ending balances; income tax rates, itemized deductions; reports to the legislature; amending K.S.A. 75-3722 and 75-6704 and K.S.A. 2014 Supp. 75-3721, 75-6702, 79-32,110, 79-32,120 and 79-32,269 and repealing the existing sections.

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

New Section 1. (a) (1) Notwithstanding the provisions of any other law to the contrary, with respect to the following taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties and interest with respect to unpaid taxes or taxes due and owing shall apply upon compliance with the provisions of this section and if such tax liability is paid in full within the amnesty period, from September 1, 2015, to October 15, 2015: (A) Privilege tax under K.S.A. 79-1106 et seq., and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A. 2006 Supp. 79-15,100 et seq., prior to its repeal; (C) taxes under the Kansas income tax act, K.S.A 79-3201 et seq., and amendments thereto; (D) taxes under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto; (E) taxes under the Kansas cigarette and tobacco products act, K.S.A. 79-3301 et seq., and amendments thereto; (F) taxes under the Kansas retailers' sales tax act, K.S.A. 79-3601 et seq., and amendments thereto, and the Kansas compensating tax act, K.S.A. 79-3701 et seq., and amendments thereto; (G) local sales and use taxes under K.S.A. 12-187 et seq., and amendments thereto; (H) liquor enforcement tax under K.S.A. 79-4101 et seq., and amendments thereto; and (J) mineral severance tax under K.S.A. 79-4216 et seq., and amendments thereto.

(I) liquor drink tax under K.S.A. 79-41a01 et seq., and amendments thereto;

(2) Amnesty under this section shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2013. For the eligible taxes and tax periods, amnesty shall apply to the under-reporting of such tax liabilities, the nonpayment of such taxes and the nonreporting of such tax liabilities.

(3) Amnesty shall not apply to any matter or matters for which, on or after September 1, 2015, any one of the following circumstances exist: (A) The taxpayer has received notice of the commencement of an audit; (B) an

(e) For such tax returns for which amnesty has been requested, nothing in this section shall be interpreted to prohibit the department from adjusting such tax return as a result of a federal, department or other state agency audit.

(f) Fraud or intentional misrepresentation of a material fact in connection with an application for amnesty shall void such application and any waiver of penalties and interest from amnesty.

(g) The department may promulgate such rules and regulations or issue administrative guidelines as are necessary to administer the provisions of this section.

New Sec. 2. (a) The budget stabilization fund and the tax reduction fund are hereby established in the state treasury.

(b) (1) For the fiscal year ending June 30, 2016, on August 15, 2015, the director of accounts and reports shall transfer $22,900,000 from the state general fund to the budget stabilization fund.

(2) For the fiscal year ending June 30, 2017, on August 15, 2016, the director of accounts and reports shall transfer $58,000,000 from the state general fund to the budget stabilization fund. For the fiscal year ending June 30, 2017, on August 15, 2016, the director of accounts and reports shall transfer $28,700,000 from the state general fund to the tax reduction fund.

(3) Commencing with fiscal year 2017, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the selected actual state general fund receipts for the immediately preceding fiscal year by more than ~~102%~~ but less than ~~103%~~, the director of the budget and the director of legislative research shall jointly certify the amount that is more than ~~102%~~ but less than ~~103%~~ of such selected actual state general fund receipts for the immediately preceding fiscal year to the secretary of revenue. On or before August 15 following the end of such fiscal year, such certified amount shall be transferred from the state general fund to the budget stabilization fund.

3%

2%

(c) When the legislature is in session, moneys may be appropriated out of the tax reduction fund through legislative enactment pursuant to K.S.A. 2014 Supp. 79-32,269, and amendments thereto.

(d) (1) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the budget stabilization fund interest earnings based on:

(A) The average daily balance of moneys in the budget stabilization fund, for the preceding month; and

(B) the net earnings rate of the pooled money investment portfolio for the preceding month.

(2) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the tax reduction

~~and normal tax imposed on trust companies and savings and loan associations, rate reductions shall be proportionately applied for the tax on corporations, the tax on national banking associations and state banks, and the tax on trust companies and savings and loan associations. Such rate reductions shall be first applied to the surtax until reduced to 0% and then applied to the normal tax for each such tax. In any such computation by the secretary pursuant to this subsection in which any such tax is below 0.4%, such tax rate shall be 0%. Based on such determination, the secretary shall reduce the surtax and the normal tax on corporations prescribed by K.S.A. 79-32,110, and amendments thereto, the surtax and normal tax on national banking associations and state banks prescribed by K.S.A. 79-1107, and amendments thereto, and the surtax and normal tax on trust companies and savings and loan associations prescribed by K.S.A. 79-1108, and amendments thereto, as required by this section~~ *commencing with fiscal year 2017, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the selected actual state general fund receipts from the immediately preceding fiscal year by more than* ~~*103%*~~ 3%*, the director of the budget and the director of legislative research shall jointly certify such excess amount to the secretary of revenue, which amount shall be transferred from the state general fund to the tax reduction fund on or before August 15 following the end of such fiscal year. At the commencement of the next regular legislative session, the secretary shall submit a report to the governor, speaker of the house of representatives and the president of the senate showing such certified amount transferred to the tax reduction fund and available for tax reduction. The governor may then recommend the individual income tax rate reductions to go into effect for the next tax year estimated to decrease by such certified amount, or in addition, any accumulated balance in the tax reduction fund, the individual income tax receipts during the fiscal year after the next fiscal year. If the individual income tax rate is 0%, then the governor may recommend reductions in surtax and normal tax rates on corporations, national banking associations, state banks, trust companies and savings and loan associations. Such rate changes as recommended by the governor may then only be established by an act of the legislature. If the governor makes no such recommendation, the legislature may, through legislative enactment, establish such tax rates to go into effect for the next tax year estimated to decrease by such certified amount, or in addition, any accumulated balance in the tax reduction fund, the individual income tax receipts during the fiscal year after the next fiscal year. If the individual income tax rate is 0%, then the legislature may, through legislative enactment, enact reductions in the surtax and normal tax rates on corporations, national banking associations, state banks, trust companies*