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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

March 10, 2015

The Honorable Marvin Kleeb, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Fiscal Note for HB 2392 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2392 is respectfully submitted to your committee.

Calculations for Kansas income taxes are based on the Kansas adjusted gross income, which is calculated by adding or subtracting certain types of income from the amount of federal adjusted gross income. HB 2392 would exclude passive income and passive losses as modifications to federal adjusted gross income for Kansas income tax purposes. Examples of passive income include certain rents, royalties, and earnings from a business that the taxpayer is not directly involved in the management of the business. The bill would become effective in tax year 2015.

Estimated State Fiscal Effect				
	FY 2015 SGF	FY 2015 All Funds	FY 2016 SGF	FY 2016 All Funds
Revenue	--	--	$65,000,000	$65,000,000
Expenditure	--	--	$33,600	$33,600
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2392 would increase State General Fund revenues by $65.0 million in FY 2016 and by $50.0 million in FY 2017. The increase in revenues and how the November 10, 2014 consensus revenue estimate for FY 2016 would be affected are shown in the following table:

Effect on FY 2016 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov.10, 2014)	Change in Revenue FY 2016	Proposed Adjusted CRE FY 2016
Motor Carrier	$ 12,000	$ --	$ 12,000
Income Taxes:			
Individual	2,300,000	65,000	2,365,000
Corporate	470,000	--	470,000
Financial Institutions	39,000	--	39,000
Excise Taxes:			
Retail Sales	2,270,000	--	2,270,000
Compensating Use	380,000	--	380,000
Cigarette	88,000	--	88,000
Severance	115,900	--	115,900
All Other Excise Taxes	114,100	--	114,100
Other Taxes	181,600	--	181,600
Total Taxes	$5,970,600	$ 65,000	$6,035,600
Other Revenues:			
Interest	$ 8,000	$ --	$ 8,000
Transfers	(222,500)	--	(222,500)
Agency Earnings	55,300	--	55,300
Total Other Revenues	($ 159,200)	$ --	($ 159,200)
Total Receipts	$5,811,400	$ 65,000	$5,876,400

To formulate these estimates, the Department of Revenue reviewed data from the Internal Revenue Service (IRS) on the amount of passive income and passive losses. The IRS indicates that passive income and passive losses are about 23.0 percent of all business income reported on lines 12, 17, and 18 of the federal form 1040. Assuming that passive income and losses represent about 23.0 of net business income excluded for Kansas tax purposes, the impact of not allowing passive income and losses to be claimed as a modification for Kansas tax purposes would result in an increase in tax liability by approximately $50.0 million per tax year. The Department of Revenue estimates that it would collect approximately $65.0 million in FY 2016, including $50.0 million for tax year 2015 and $15.0 million from estimated payments for tax year 2016. The Department of Revenue estimates that it would collect approximately $50.0 million in FY 2017, including the remaining $35.0 million in tax liability for tax year 2016 and $15.0 million from estimated payments for tax year 2017.

The Department indicates that the bill would require $33,600 from the State General Fund in FY 2016 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are decreased, the amount available for possible debt setoffs is also reduced. However, the Department is unable to make a precise estimate of the amount of debts setoffs that will no longer be intercepted as a result of the bill. Any fiscal effect associated with HB 2392 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, Department of Revenue
Colleen Becker, Department of Administration