

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2109

As Further Amended by Senate Committee of
the Whole

Brief*

HB 2109, as further amended by the Senate Committee of the Whole, would make a number of changes in individual income tax laws, sales and compensating use tax provisions, motor vehicle registration and taxation laws, and property tax laws, and would enact a tax amnesty for a number of tax sources.

Amnesty Provisions

The bill would authorize a tax amnesty for penalties and interest relative to certain delinquent taxes provided such taxes are paid in full from September 1, 2015, to October 15, 2015. The amnesty would apply to privilege, income, estate, cigarette, tobacco products, liquor enforcement, liquor drink, severance, state sales, state use, local sales, and local use taxes. The amnesty would be limited to penalties and interest applied to liabilities associated with tax periods ending on or before December 31, 2013.

The amnesty would not apply to any matter for which, on or after September 1, 2015, taxpayers have received notices of assessment or for which an audit had previously been initiated. Any fraud or intentional misrepresentation in connection with an amnesty application would void the application and waiver of any penalties and interest.

*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>

Property Tax Provisions

The bill would prohibit cities and counties from adopting appropriations or budgets with revenues from certain increases in property taxes that exceed the rate of inflation until such resolutions proposing the increases have been approved at a regularly scheduled election.

The bill would eliminate a property tax exemption for property used exclusively by the alumni association of any public or nonprofit Kansas college or university.

Motor Vehicle Registration and Tax Provisions

The bill would require the Department of Revenue to mail a copy of the motor vehicle registration application to the owner of a motor vehicle, including all information required to enable the owner to register the vehicle and pay the tax by return mail.

Sales Tax Provisions

The statewide sales tax and use tax rate for purchases of food and food ingredients would be reduced from 6.15 percent to 5.70 percent on January 1, 2016.

Additional provisions of the bill would disallow all sales tax exemptions from applying to purchases made on behalf of any entity benefiting from a sales tax exemption. Only purchases made by the entity benefiting from the sales tax exemption would continue to be exempt from sales tax.

Individual Income Tax Provisions

Christmas Tree Net Gain

The bill would create a subtraction modification from federal adjusted gross income in calculating Kansas adjusted

gross income for the net gain from the sale of Christmas trees.

Social Security Number Requirement

An additional provision would require an individual claiming a tax credit to have a valid Social Security number for the entire taxable year for which the tax credit is claimed.

Background

The original bill would have amended the Kansas Probate Code concerning transfer-on-death deeds. In a series of meetings beginning May 12, the Senate Assessment and Taxation Committee struck the original provisions of HB 2109, recommended a substitute bill be created, inserted many of the other provisions described above and, on May 19, advanced the new substitute bill for further consideration, without recommendation.

Senate Committee of the Whole – May 27

The Senate Committee of the Whole, on May 27, amended the substitute bill to reduce the sales tax rate on food to 5.7 percent (the Senate Assessment and Taxation Committee version had set the food rate at 6.0 percent); to remove a number of proposed changes in the motor vehicle tax that had been included in the Senate Assessment and Taxation Committee version; to remove statutory disposition of revenue provisions that would have effectively produced an equivalent amount of receipts from the motor fuels tax increase for the State General Fund (SGF) at the expense of the State Highway Fund (SHF); to clarify that the payroll tax credit only applies relative to persons employed in Kansas; to reduce the proposed cigarette tax increase to 18 cents per pack (which had been 50 cents in the Senate Assessment and Taxation Committee version) while earmarking \$10.0 million of cigarette tax receipts for the newly created Tobacco Cessation Fund; and to make a minor technical amendment.

Senate Committee on Assessment and Taxation – May 30

At a meeting at the rail on May 30, the Senate Committee on Assessment and Taxation amended the bill to remove provisions making changes to individual income tax laws, sales and compensating use tax provisions, motor fuel taxes, and taxes on cigarettes and tobacco products and recommended the bill favorably for passage containing only the tax amnesty provisions.

Senate Committee of the Whole – May 31

On May 31, the Senate Committee of the Whole further amended the bill to add the following: the requirement that a taxpayer have a valid Social Security number for the entire tax year in which an individual income tax is claimed; the provision related to sales tax treatment for purchases made on behalf of an entity that would otherwise benefit from a sales tax exemption; the subtraction modification for the net gain from the sale of Christmas trees; the provision requiring the Department of Revenue to mail motor vehicle registration and tax documents; and the reduction of the sales and compensating use tax rate.

Senate Committee of the Whole – June 1

On June 1, the Senate Committee of the Whole further amended the bill to add the provision providing the low income tax exclusion.

Senate Committee of the Whole – June 2

On June 2, the Senate Committee of the Whole further amended the bill to add the provision requiring a vote at a regularly scheduled election for cities and counties to adopt budgets including certain property tax increases. Additional amendments removed a provision which would have provided an income tax exclusion to certain taxpayers and lowered the statewide sales and use tax for food to 5.7 percent beginning January 1, 2015.

Senate Committee of the Whole – June 3

On June 3, the Senate Committee of the Whole adopted a technical amendment to reconcile provisions contained in the bill.

Fiscal Effect

The Kansas Department of Revenue indicated the total amount of additional tax receipts collected as a result of the tax amnesty would be \$36.088 million, \$30.000 million of which would be deposited in the SGF, \$2.471 million of which would be deposited in the SHF, and \$3.618 million of which would be returned to local units levying sales and use taxes. The latest estimated disaggregation of the amnesty receipts by tax source is as follows:

	(\$ in millions)			
	<u>SGF</u>	<u>SHF</u>	<u>Local</u>	<u>Total</u>
Sales	\$ 10.000	\$ 2.059	\$ 3.015	\$ 15.073
Use	2.000	0.412	0.603	3.015
Individual Income	12.000	0.000	0.000	12.000
Corporate Income	5.000	0.000	0.000	5.000
Cigarette	0.500	0.000	0.000	.500
Liquor Enforcement	0.500	0.000	0.000	.500
TOTAL	\$ 30.000	\$ 2.471	\$ 3.618	\$ 36.088

Relative to the combined provisions of the bill for the SGF, the following table provides a disaggregation through FY 2018:

	(\$ in millions)			
	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>3-Yr. Total</u>
Amnesty	\$ 30.000	\$ 0.000	\$ 0.000	\$ 30.000
Social Security Number Requirement	3.000	3.000	3.000	9.000
Sales Tax on Food to 5.7%	(12.353)	(30.838)	(31.995)	(75.186)
TOTAL	\$ 20.647	\$ (27.838)	\$ (28.995)	\$ (39.186)

Certain other provisions of the bill may have a small, but indeterminate, effect upon state and local receipts.