

**Summary -- The Cost of the LLC, Sole Proprietor, and Farm Income
"Loophole Exemption" from Kansas State Income Tax**

There has been much discussion throughout Kansas, as to the Kansas Tax Exemption for certain categories of Taxpayers - - generally referred to as "Pass Through Entities" - - that was made effective by the Kansas Legislature on January 1, 2013. This Tax Exemption is commonly known as the "LLC Loophole Exemption."

However, there has been far less discussion about just "who" these "Pass Through Entities" are, and the amount of Income that is Tax Exempt in Kansas.

Much less discussed is the amount of Tax Revenue that has been foregone by Kansas in the 4 years from 2013 through 2016.

Categories of Tax Exempt Entities

(1) **Business Income from Sole Proprietorships** – that is, any type of any business or occupation, that does not operate as a Corporation, Partnership, or Limited Liability Company.

(2) **Income from Rental Real Estate, Royalties, and S Corporation, Partnership and Limited Liability Company Distributions** – again, this category applies to any type of business or occupation organized in these forms, as well as those businesses that rent properties or that receive oil and gas or other royalties.

(3) **Farm Income** – this category exempts all Farm Income from Kansas State Income Tax.

Financial Impact of Tax Exempt Entities on Kansas Tax Revenue

(a) **the amount of Tax Exempt Income of these "Pass Through Entities" exceeds \$11 Billion per year, and**

(b) **the amount of Foregone Taxes to Kansas is at least \$260 Million per year, and likely a materially greater amount – approximately One Billion Dollars in four years.**

(c) **the number of Kansas Tax Filers that claimed the Tax Exemption was 333,792 Tax Filers in 2013, and 299,708 Tax Filers in 2014.**

(d) Specifically, Tax Exempt Income that was Exempt from Kansas Income Tax, for these Pass Through Entities was:

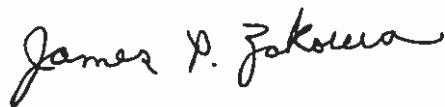
(i) \$11,570,464,959 in Tax Year 2013;

Business Income (Schedule C) Line A-24 (Sole Proprietors)	\$ 2,791,020,194
Income from Rental R.E., Royalties, Partnerships, etc. (Schedule E) Line A-25	\$ 8,031,405,342
Farm Income (Schedule F) Line A-26	\$ 748,039,423

(ii) \$11,302,373,453 in Tax Year 2014; and

Business Income (Schedule C) Line A-24 (Sole Proprietors)	\$ 2,761,770,740
Income from Rental R.E., Royalties, Partnerships, etc. (Schedule E) Line A-25	\$ 7,840,073,936
Farm Income (Schedule F) Line A-26	\$ 700,528,777

(iii) almost without question the amount of Tax Exempt Income / will exceed \$11 Billion for Tax Year 2015 and Tax Year 2016.



James P. Zakoura

Overland Park, Kansas

January 16, 2017

Policy & Research
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Topeka KS 66612-1588
Nick Jordan, Secretary
Richard Cram, Director



Phone: 785-296-3081
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www.ksrevenue.org
Sam Brownback, Governor

May 25, 2016

James Zakoura
7400 West 110th Street
Suite 750
Overland Park, KS 66210

Re: Kansas Open Records Act request on Revenue Rules regarding to Total amounts claimed by All KS Filers for tax years 2013 through 2015; Exempt income on Line A-24; A-25; A-26 of the K-40.

Dear Mr. Zakora:

This office is in receipt of your request under the Kansas Open Records Act (KORA). Here is the link that provides you the information that you requested as well as the attachment with the rest of the information that is not on the website.

Kansas Department of Revenue
Business Income Modification

		Tax Year 2014		Tax Year 2013
Business Income (Schedule C) Line A-24	\$	2,761,770,740	\$	2,791,020,194
Income from Rental R.E., Royalties, Partnerships, etc. (Schedule E) Line A-25	\$	7,840,073,936	\$	8,031,405,342
Farm Income (Schedule F) Line A-26	\$	700,528,777	\$	748,039,423

The link is: <http://www.ksrevenue.org/pdf/taxesfees/02-16TaxesFees.pdf#search=Comparative%20Statement%20>, I have also provided you a copy of the information that is published out on the website in a hard copy.

If you have any questions or concerns in regards to the status on this request, please contact our office at 785-296-3081 or you may email here at Shawnel.Neal@kdor.ks.gov.

Sincerely,

Shawnel Neal
Records Custodian
785-296-3081 (phone)
785-296-7928 (fax)
Shawnel.neal@kdor.ks.gov

Research and Analysis
Division of Taxation
915 SW Harrison St
Topeka KS 66612-1588
Nick Jordan, Secretary
Kathleen Smith, Director



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Sam Brownback, Governor

August 19, 2016

James P Zakoura
7400 W 110th Street, Suite 750
Overland Park, KS 66210

Re: Open Record Request: TY 2014 and TY 2015, Number of tax filers that used the exemption as reflected on lines A24, A25, and A26 of the Schedule S, Form K-40

This office is in receipt of your request under the Kansas Open Records Act (KORA). You have requested the number of tax filers that have used the exemption as reflected on lines A24, A25, and A26 for tax year 2014 and 2015.

Below is the information the Department of Revenue has compiled based on your request:

Kansas Department of Revenue
Tax Filers Claiming an Exemption
Schedule S Lines A-24, A-25, and A-26

Tax Year 2014	
<u>Line No.</u>	<u>Number of Filers</u>
A-24	137,407
A-25	138,481
A-26	23,820

Tax Year 2015 will be available in January 2017.

If you have any questions, please call me at 785-296-3070.

Sincerely,


Kathleen Smith
Office of Research & Analysis

SCHEDULE S

(Rev. 7/15)

DO NOT STAPLE

2015

KANSAS SUPPLEMENTAL SCHEDULE

114315

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Your First Name	Initial	Last Name
Spouse's First Name	Initial	Last Name

Enter the first four letters of your last name. Use ALL CAPITAL letters.

Your Social Security number

Enter the first four letters of your spouse's last name. Use ALL CAPITAL letters.

Spouse's Social Security number

IMPORTANT: Refer to the Schedule S instructions before completing Parts A, B, or C of this form. You must enclose all supportive documentation where indicated in the instructions.

PART A - Modifications to Federal Adjusted Gross Income

Additions

CAUTION: Line numbers that reference federal Form 1040 are from the 2014 forms and subject to change for tax year 2015.

- A1. State and municipal bond interest not specifically exempt from Kansas income tax (reduced by related expenses)
- A2. Contributions to all KPERS (Kansas Public Employees' Retirement Systems).....
- A3. Federal net operating loss carry forward
- A4. Business loss as reported on Schedule C and line 12 of your federal Form 1040
- A5. Kansas expensing recapture (enclose applicable schedules)
- A6. Loss from rental real estate, royalties, partnerships, S corporations, trusts, etc. as reported on Schedule E and line 17 of your federal Form 1040
- A7. Farm loss as reported on Schedule F and line 18 of your federal Form 1040.....
- A8. Deduction for self-employment taxes as reported on line 27 of your federal Form 1040
- A9. Deduction for self-employed SEP, SIMPLE, and qualified plans as reported on line 28 of your federal Form 1040
- A10. Deduction for self-employed health insurance as reported on line 29 of your federal Form 1040 ..
- A11. Domestic production activities deduction as reported on line 35 of your federal Form 1040
- A12. Partnership Guaranteed Payments as reported on federal Schedule K-1 (1065-B) in box 9 or (1065) in box 4
- A13. Other additions to federal adjusted gross income (see instructions and enclose list)
- A14. Total additions to federal adjusted gross income (add lines A1 through A13)

A1	00
A2	00
A3	00
A4	00
A5	00
A6	00
A7	00
A8	00
A9	00
A10	00
A11	00
A12	00
A13	00
A14	00

Subtractions

CAUTION: Line numbers that reference federal Form 1040 are from the 2014 forms and subject to change for tax year 2015.

- A15. Social Security benefits
- A16. KPERS lump sum distributions exempt from Kansas income tax
- A17. Interest on U.S. Government obligations (reduced by related expenses).....
- A18. State or local income tax refund (if included in line 1 of Form K-40).....
- A19. Retirement benefits specifically exempt from Kansas income tax (do NOT include social security benefits or KPERS lump sum distributions)
- A20. Military compensation of a nonresident servicemember (nonresidents only)
- A21. Contributions to Learning Quest or other states' qualified tuition program
- A22. Armed forces recruitment, sign-up, or retention bonus
- A23. Net gain from qualified sale of cattle, horses and other livestock as reported on your federal return ..
- ✓ A24. Business income as reported on Schedule C and line 12 of your federal Form 1040
- ✓ A25. Income from rental real estate, royalties, partnerships, S corporations, trusts, etc. as reported on Schedule E and line 17 of your federal Form 1040
- ✓ A26. Farm income as reported on Schedule F and line 18 of your federal Form 1040
- A27. Net gain from qualified sale of Christmas trees grown in Kansas and held at least 6 years as reported on your federal return
- A28. Other subtractions from federal adjusted gross income (see instructions and enclose list)
- A29. Total subtractions from federal adjusted gross income (add lines A15 through A28)

A15	00
A16	00
A17	00
A18	00
A19	00
A20	00
A21	00
A22	00
A23	00
A24	00
A25	00
A26	00
A27	00
A28	00
A29	00

Net Modification

- A30. Net modification to federal adjusted gross income (subtract line A29 from line A14). Enter total here and on line 2, Form K-40. If negative, shade minus box

A30	00
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