

HOUSE BILL No. 2489

By Committee on Taxation

I-17

House Bill No. 2489
Proposed Amendment
KDOR Amendments
For House Committee on Taxation
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Office of Revisor of Statutes

1 AN ACT concerning the multistate tax compact; relating to the
2 apportionment of corporate income, election; amending K.S.A. 79-
3 4301 and 79-4302 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 79-4301 is hereby amended to read as follows: 79-
7 4301. "The multistate tax compact" is hereby enacted into law and entered
8 into with all jurisdictions legally joining therein, in the form substantially
9 as follows:
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MULTISTATE TAX COMPACT

ARTICLE I.—Purposes

The purposes of this compact are to:

- 13 (1) Facilitate proper determination of state and local tax liability of
- 14 multistate taxpayers, including the equitable apportionment of tax bases
- 15 and settlement of apportionment disputes.
- 16 (2) Promote uniformity or compatibility in significant components of
- 17 tax systems.
- 18 (3) Facilitate taxpayer convenience and compliance in the filing of
- 19 tax returns and in other phases of tax administration.
- 20 (4) Avoid duplicative taxation.
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ARTICLE II.—Definitions

As used in this compact:

- 24 (1) "State" means a state of the United States, the District of
- 25 Columbia, the Commonwealth of Puerto Rico, or any territory or
- 26 possession of the United States.
- 27 (2) "Subdivision" means any governmental unit or special district of a
- 28 state.
- 29 (3) "Taxpayer" means any corporation, partnership, firm, association,
- 30 governmental unit or agency or person acting as a business entity in more
- 31 than one state.
- 32 (4) "Income tax" means a tax imposed on or measured by net income
- 33 including any tax imposed on or measured by an amount arrived at by
- 34 deducting expenses from gross income, one or more forms of which
- 35 expenses are not specifically and directly related to particular transactions.
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1 other form of remuneration paid to employees for personal services.

2 (d) "Financial organization" means any bank, trust company, savings
3 bank, industrial bank, land bank, safe deposit company, private banker,
4 savings and loan association, credit union, cooperative bank, small loan
5 company, sales finance company, investment company, or any type of
6 insurance company.

7 (e) "Nonbusiness income" means all income other than business
8 income.

9 (f) "Public utility" means any business entity (1) which owns or
10 operates any plant, equipment, property, franchise, or license for the
11 transmission of communications, transportation of goods or persons,
12 except by pipeline, or the production, transmission, sale, delivery, or
13 furnishing of electricity, water or steam; and (2) whose rates of charges for
14 goods or services have been established or approved by a federal, state or
15 local government or governmental agency.

16 (g) "Sales" means all gross receipts of the taxpayer not allocated
17 under paragraphs of this article.

18 (h) "State" means any state of the United States, the District of
19 Columbia, the Commonwealth of Puerto Rico, any territory or possession
20 of the United States, and any foreign country or political subdivision
21 thereof.

22 (i) "This state" means the state in which the relevant tax return is filed
23 or, in the case of application of this article to the apportionment and
24 allocation of income for local tax purposes, the subdivision or local taxing
25 district in which the relevant tax return is filed.

26 (2) Any taxpayer having income from business activity which is
27 taxable both within and without this state, other than activity as a financial
28 organization or public utility or the rendering of purely personal services
29 by an individual, shall allocate and apportion his net income as provided in
30 this article. If a taxpayer has income from business activity as a public
31 utility but derives the greater percentage of his income from activities
32 subject to this article, the taxpayer may elect to allocate and apportion his
33 entire net income as provided in this article.

34 (3) For purposes of allocation and apportionment of income under
35 this article, a taxpayer is taxable in another state if (1) in that state he is
36 subject to a net income tax, a franchise tax measured by net income, a
37 franchise tax for the privilege of doing business, or a corporate stock tax,
38 or (2) that state has jurisdiction to subject the taxpayer to a net income tax
39 regardless of whether, in fact, the state does or does not.

40 (4) Rents and royalties from real or tangible personal property, capital
41 gains, interest, dividends or patent or copyright royalties, to the extent that
42 they constitute nonbusiness income, shall be allocated as provided in
43 paragraphs 5 through 8 of this article.

For taxable years commencing after December 31,
2007, in the case of sales of business assets, other
than sales of tangible personal property sold in the
ordinary course of the taxpayer's trade or business,
only the net gain from such sales shall be included in
the sales factor.

Allocable nonbusiness income shall be
limited to the total nonbusiness income
received which is in excess of any related
expenses which have been allowed as a
deduction during the income year.