SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 453

As Amended Without Recommendation by
Senate Committee on Assessment and Taxation

Brief*

SB 453, as amended, would make a number of changes to individual and corporation income tax provisions.

The bill would remove a restriction under current law preventing Kansas individual income taxpayers from itemizing deductions for state income tax purposes unless they are also itemizing deductions for federal income tax purposes. Beginning with tax year 2018, the bill would provide an option for taxpayers to take Kansas itemized deductions regardless of whether itemized or standard deductions are being claimed at the federal level.

The bill would accelerate the restoration of certain federal itemized deductions for state income tax purposes provided by income tax reform and restructuring legislation enacted in 2017 SB 30. Current law provides for the availability of itemized deductions for medical expenses, mortgage interest, and property taxes paid equivalent to 50.0 percent of the allowable federal amounts in tax year 2018, 75.0 percent in tax year 2019, and 100.0 percent beginning in tax year 2020. The bill would make these three itemized deductions available at 100.0 percent of the federal allowable amount beginning in tax year 2018.

Certain individual income taxpayers would become eligible to claim the expensing deduction (available under KSA 2017 Supp. 79-32,143a) for the costs of placing certain

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*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 tangible property and computer software into service in the state. These provisions would be retroactive to tax year 2017.

The bill would clarify for tax year 2017 and thereafter, the State would be taxing 20.0 percent of deferred foreign income, defined to include income under section 965(a) of the federal Internal Revenue Code (certain repatriation income) after allowing for deductions, and for tax year 2018 and thereafter, 20.0 percent of global intangible low-taxed income (GILTI) under section 250(b)(1) after allowing for deductions.

Certain member contributions made on a pre-tax basis to Kansas Board of Regents' retirement plans established pursuant to KSA 74-4925 would become subject to income tax beginning in tax year 2019.

The bill would allow a net operating loss to be carried back up to three years for the purposes of determining Kansas income tax liability under certain circumstances. The provision would be applicable only for taxpayers who incurred a loss from the sale of a historic hotel located in a community with a population of less than 2,500 people in tax year 2006. The bill would allow the filing of amended returns under such circumstances.

Background

As introduced, SB 453 dealt only with allowing all Kansas individual income taxpayers the choice of itemizing deductions. In the Senate Committee on Assessment and Taxation hearing, proponents included the Kansas Association of Realtors and the Kansas Building Industry Association. No opponent testimony was provided.

On April 2, the Senate Committee amended the bill to include the accelerated restoration of certain itemized deductions, and the repatriation and GILTI provisions (subject matter of Senate Sub. for HB 2228); the expensing provisions (subject matter of SB 303); the taxation of certain member contributions made to Kansas Board of Regents' retirement plans (subject matter of SB 213); and the authorization of net operating losses associated with the sale of certain hotels (subject matter of SB 236).

An updated fiscal note on SB 453, as amended, was not immediately available. However, the Department of Revenue had indicated in a memorandum on Senate Sub. for HB 2228 that the option for individual income taxpayers to itemize would have a negative but indeterminable impact on State General Fund receipts; and the repatriation and GILTI provisions would have a positive but indeterminable impact on State General Fund receipts.

The remaining provisions would have the following impact, based on previously issued fiscal notes on other bills mentioned above, as introduced:

(Dollars in millions)

	FY 2019	FY 2020	FY 2021
Medical Expense Deduction	$ (10.400)	$ (5.100)	$ 0.000
Property Tax Deduction	(21.300)	(11.700)	0.000
Mortgage Interest Deduction	(20.500)	(13.300)	0.000
Expensing	(21.100)	(9.800)	(9.900)
Certain Regents' Contributions	0.000	1.790	1.810
Hotel Loss	(0.028)	0.000	0.000
TOTAL	**$ (73.328)**	**$ (38.110)**	**$ (8.090)**