

HOUSE BILL No. 2123

By Representatives Fairchild, Lee-Hahn, Murphy and Sutton

1-25

1 AN ACT concerning legal tender; establishing the Kansas legal tender act;
2 reaffirmation of gold and silver coin as legal tender; income taxation
3 subtraction modification for gains from the sale of specie; amending
4 K.S.A. 79-32,117 and repealing the existing section.

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

7 New Section 1. Sections 1 through 6, and amendments thereto, shall
8 be known and may be cited as the Kansas legal tender act.

9 New Sec. 2. As used in the Kansas legal tender act:

10 (a) "Legal tender" means a recognized medium of exchange for the
11 payment of debts and taxes; and

12 (b) "specie" means: (1) Coin having gold or silver content; or (2)
13 refined gold or silver bullion that is coined, stamped or imprinted with its
14 weight and purity and valued primarily based on its metal content and not
15 its form.

16 New Sec. 3. Specie legal tender in Kansas consists of:

17 (a) Specie coin issued by the United States government at any time;
18 or

19 (b) any other specie that a court of competent jurisdiction, by final
20 and unappealable order, rules to be within state authority to make or
21 designate as legal tender.

22 New Sec. 4. (a) No specie or legal tender shall be characterized as
23 personal property for taxation or regulatory purposes.

24 (b) The exchange of one type or form of legal tender for another type
25 or form of legal tender shall not give rise to any tax liability of any kind.

26 (c) The purchase, sale or exchange of any type or form of specie shall
27 not give rise to any tax liability of any kind.

28 New Sec. 5. Unless expressly provided by statute or by contract, no
29 person shall have the right to compel any other person to tender specie or
30 to accept specie as tender.

31 New Sec. 6. (a) The attorney general shall enforce this act without
32 prejudice to any private right of action.

33 (b) Kansas courts shall require specific performance as a remedy for
34 breach of any contract designating a type or form of specie as tender.

35 Sec. 7. K.S.A. 79-32,117 is hereby amended to read as follows: 79-
36 32,117. (a) The Kansas adjusted gross income of an individual means such

1 individual's federal adjusted gross income for the taxable year, with the
2 modifications specified in this section.

3 (b) There shall be added to federal adjusted gross income:

4 (i) Interest income less any related expenses directly incurred in the
5 purchase of state or political subdivision obligations, to the extent that the
6 same is not included in federal adjusted gross income, on obligations of
7 any state or political subdivision thereof, but to the extent that interest
8 income on obligations of this state or a political subdivision thereof issued
9 prior to January 1, 1988, is specifically exempt from income tax under the
10 laws of this state authorizing the issuance of such obligations, it shall be
11 excluded from computation of Kansas adjusted gross income whether or
12 not included in federal adjusted gross income. Interest income on
13 obligations of this state or a political subdivision thereof issued after
14 December 31, 1987, shall be excluded from computation of Kansas
15 adjusted gross income whether or not included in federal adjusted gross
16 income.

17 (ii) Taxes on or measured by income or fees or payments in lieu of
18 income taxes imposed by this state or any other taxing jurisdiction to the
19 extent deductible in determining federal adjusted gross income and not
20 credited against federal income tax. This paragraph shall not apply to taxes
21 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
22 amendments thereto, for privilege tax year 1995, and all such years
23 thereafter.

24 (iii) The federal net operating loss deduction, except that the federal
25 net operating loss deduction shall not be added to an individual's federal
26 adjusted gross income for tax years beginning after December 31, 2016.

27 (iv) Federal income tax refunds received by the taxpayer if the
28 deduction of the taxes being refunded resulted in a tax benefit for Kansas
29 income tax purposes during a prior taxable year. Such refunds shall be
30 included in income in the year actually received regardless of the method
31 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
32 be deemed to have resulted if the amount of the tax had been deducted in
33 determining income subject to a Kansas income tax for a prior year
34 regardless of the rate of taxation applied in such prior year to the Kansas
35 taxable income, but only that portion of the refund shall be included as
36 bears the same proportion to the total refund received as the federal taxes
37 deducted in the year to which such refund is attributable bears to the total
38 federal income taxes paid for such year. For purposes of the foregoing
39 sentence, federal taxes shall be considered to have been deducted only to
40 the extent such deduction does not reduce Kansas taxable income below
41 zero.

42 (v) The amount of any depreciation deduction or business expense
43 deduction claimed on the taxpayer's federal income tax return for any

1 capital expenditure in making any building or facility accessible to the
2 handicapped, for which expenditure the taxpayer claimed the credit
3 allowed by K.S.A. 79-32,177, and amendments thereto.

4 (vi) Any amount of designated employee contributions picked up by
5 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
6 and amendments thereto.

7 (vii) The amount of any charitable contribution made to the extent the
8 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
9 32,196, and amendments thereto.

10 (viii) The amount of any costs incurred for improvements to a swine
11 facility, claimed for deduction in determining federal adjusted gross
12 income, to the extent the same is claimed as the basis for any credit
13 allowed pursuant to K.S.A. 79-32,204, and amendments thereto.

14 (ix) The amount of any ad valorem taxes and assessments paid and
15 the amount of any costs incurred for habitat management or construction
16 and maintenance of improvements on real property, claimed for deduction
17 in determining federal adjusted gross income, to the extent the same is
18 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
19 and amendments thereto.

20 (x) Amounts received as nonqualified withdrawals, as defined by
21 K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a
22 family postsecondary education savings account, such amounts were
23 subtracted from the federal adjusted gross income pursuant to K.S.A. 79-
24 32,117(c)(xv), and amendments thereto, or if such amounts are not already
25 included in the federal adjusted gross income.

26 (xi) The amount of any contribution made to the same extent the
27 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-
28 50,154, and amendments thereto.

29 (xii) For taxable years commencing after December 31, 2004,
30 amounts received as withdrawals not in accordance with the provisions of
31 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution
32 to an individual development account, such amounts were subtracted from
33 the federal adjusted gross income pursuant to subsection (c)(xiii), or if
34 such amounts are not already included in the federal adjusted gross
35 income.

36 (xiii) The amount of any expenditures claimed for deduction in
37 determining federal adjusted gross income, to the extent the same is
38 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,217
39 through 79-32,220 or 79-32,222, and amendments thereto.

40 (xiv) The amount of any amortization deduction claimed in
41 determining federal adjusted gross income to the extent the same is
42 claimed for deduction pursuant to K.S.A. 79-32,221, and amendments
43 thereto.

1 (xv) The amount of any expenditures claimed for deduction in
2 determining federal adjusted gross income, to the extent the same is
3 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223
4 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
5 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
6 32,251 through 79-32,254, and amendments thereto.

7 (xvi) The amount of any amortization deduction claimed in
8 determining federal adjusted gross income to the extent the same is
9 claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-
10 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

11 (xvii) The amount of any amortization deduction claimed in
12 determining federal adjusted gross income to the extent the same is
13 claimed for deduction pursuant to K.S.A. 79-32,256, and amendments
14 thereto.

15 (xviii) For taxable years commencing after December 31, 2006, the
16 amount of any ad valorem or property taxes and assessments paid to a state
17 other than Kansas or local government located in a state other than Kansas
18 by a taxpayer who resides in a state other than Kansas, when the law of
19 such state does not allow a resident of Kansas who earns income in such
20 other state to claim a deduction for ad valorem or property taxes or
21 assessments paid to a political subdivision of the state of Kansas in
22 determining taxable income for income tax purposes in such other state, to
23 the extent that such taxes and assessments are claimed as an itemized
24 deduction for federal income tax purposes.

25 (xix) For taxable years beginning after December 31, 2012, and
26 ending before January 1, 2017, the amount of any: (1) Loss from business
27 as determined under the federal internal revenue code and reported from
28 schedule C and on line 12 of the taxpayer's form 1040 federal individual
29 income tax return; (2) loss from rental real estate, royalties, partnerships, S
30 corporations, except those with wholly owned subsidiaries subject to the
31 Kansas privilege tax, estates, trusts, residual interest in real estate
32 mortgage investment conduits and net farm rental as determined under the
33 federal internal revenue code and reported from schedule E and on line 17
34 of the taxpayer's form 1040 federal individual income tax return; and (3)
35 farm loss as determined under the federal internal revenue code and
36 reported from schedule F and on line 18 of the taxpayer's form 1040
37 federal income tax return; all to the extent deducted or subtracted in
38 determining the taxpayer's federal adjusted gross income. For purposes of
39 this subsection, references to the federal form 1040 and federal schedule
40 C, schedule E, and schedule F, shall be to such form and schedules as they
41 existed for tax year 2011, and as revised thereafter by the internal revenue
42 service.

43 (xx) For taxable years beginning after December 31, 2012, and

1 ending before January 1, 2017, the amount of any deduction for self-
2 employment taxes under section 164(f) of the federal internal revenue
3 code as in effect on January 1, 2012, and amendments thereto, in
4 determining the federal adjusted gross income of an individual taxpayer, to
5 the extent the deduction is attributable to income reported on schedule C,
6 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
7 tax return.

8 (xxi) For taxable years beginning after December 31, 2012, and
9 ending before January 1, 2017, the amount of any deduction for pension,
10 profit sharing, and annuity plans of self-employed individuals under
11 section 62(a)(6) of the federal internal revenue code as in effect on January
12 1, 2012, and amendments thereto, in determining the federal adjusted gross
13 income of an individual taxpayer.

14 (xxii) For taxable years beginning after December 31, 2012, and
15 ending before January 1, 2017, the amount of any deduction for health
16 insurance under section 162(l) of the federal internal revenue code as in
17 effect on January 1, 2012, and amendments thereto, in determining the
18 federal adjusted gross income of an individual taxpayer.

19 (xxiii) For taxable years beginning after December 31, 2012, and
20 ending before January 1, 2017, the amount of any deduction for domestic
21 production activities under section 199 of the federal internal revenue code
22 as in effect on January 1, 2012, and amendments thereto, in determining
23 the federal adjusted gross income of an individual taxpayer.

24 (xxiv) For taxable years commencing after December 31, 2013, that
25 portion of the amount of any expenditure deduction claimed in
26 determining federal adjusted gross income for expenses paid for medical
27 care of the taxpayer or the taxpayer's spouse or dependents when such
28 expenses were paid or incurred for an abortion, or for a health benefit plan,
29 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
30 an optional rider for coverage of abortion in accordance with K.S.A. 2020
31 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and
32 assessments are claimed as an itemized deduction for federal income tax
33 purposes.

34 (xxv) For taxable years commencing after December 31, 2013, that
35 portion of the amount of any expenditure deduction claimed in
36 determining federal adjusted gross income for expenses paid by a taxpayer
37 for health care when such expenses were paid or incurred for abortion
38 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and
39 amendments thereto, when such expenses were paid or incurred for
40 abortion coverage or amounts contributed to health savings accounts for
41 such taxpayer's employees for the purchase of an optional rider for
42 coverage of abortion in accordance with K.S.A. 2020 Supp. 40-2,190, and
43 amendments thereto, to the extent that such taxes and assessments are

1 claimed as a deduction for federal income tax purposes.

2 (xxvi) For all taxable years beginning after December 31, 2016, the
3 amount of any charitable contribution made to the extent the same is
4 claimed as the basis for the credit allowed pursuant to K.S.A. 72-99a07,
5 and amendments thereto, and is also claimed as an itemized deduction for
6 federal income tax purposes.

7 (c) There shall be subtracted from federal adjusted gross income:

8 (i) Interest or dividend income on obligations or securities of any
9 authority, commission or instrumentality of the United States and its
10 possessions less any related expenses directly incurred in the purchase of
11 such obligations or securities, to the extent included in federal adjusted
12 gross income but exempt from state income taxes under the laws of the
13 United States.

14 (ii) Any amounts received which are included in federal adjusted
15 gross income but which are specifically exempt from Kansas income
16 taxation under the laws of the state of Kansas.

17 (iii) The portion of any gain or loss from the sale or other disposition
18 of property having a higher adjusted basis for Kansas income tax purposes
19 than for federal income tax purposes on the date such property was sold or
20 disposed of in a transaction in which gain or loss was recognized for
21 purposes of federal income tax that does not exceed such difference in
22 basis, but if a gain is considered a long-term capital gain for federal
23 income tax purposes, the modification shall be limited to that portion of
24 such gain which is included in federal adjusted gross income.

25 (iv) The amount necessary to prevent the taxation under this act of
26 any annuity or other amount of income or gain which was properly
27 included in income or gain and was taxed under the laws of this state for a
28 taxable year prior to the effective date of this act, as amended, to the
29 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
30 the right to receive the income or gain, or to a trust or estate from which
31 the taxpayer received the income or gain.

32 (v) The amount of any refund or credit for overpayment of taxes on
33 or measured by income or fees or payments in lieu of income taxes
34 imposed by this state, or any taxing jurisdiction, to the extent included in
35 gross income for federal income tax purposes.

36 (vi) Accumulation distributions received by a taxpayer as a
37 beneficiary of a trust to the extent that the same are included in federal
38 adjusted gross income.

39 (vii) Amounts received as annuities under the federal civil service
40 retirement system from the civil service retirement and disability fund and
41 other amounts received as retirement benefits in whatever form which
42 were earned for being employed by the federal government or for service
43 in the armed forces of the United States.

1 (viii) Amounts received by retired railroad employees as a
2 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
3 228c (a)(1) et seq.

4 (ix) Amounts received by retired employees of a city and by retired
5 employees of any board of such city as retirement allowances pursuant to
6 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
7 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
8 amendments thereto.

9 (x) For taxable years beginning after December 31, 1976, the amount
10 of the federal tentative jobs tax credit disallowance under the provisions of
11 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
12 amount of the targeted jobs tax credit and work incentive credit
13 disallowances under 26 U.S.C. § 280 C.

14 (xi) For taxable years beginning after December 31, 1986, dividend
15 income on stock issued by Kansas venture capital, inc.

16 (xii) For taxable years beginning after December 31, 1989, amounts
17 received by retired employees of a board of public utilities as pension and
18 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
19 and amendments thereto.

20 (xiii) For taxable years beginning after December 31, 2004, amounts
21 contributed to and the amount of income earned on contributions deposited
22 to an individual development account under K.S.A. 74-50,201 et seq., and
23 amendments thereto.

24 (xiv) For all taxable years commencing after December 31, 1996, that
25 portion of any income of a bank organized under the laws of this state or
26 any other state, a national banking association organized under the laws of
27 the United States, an association organized under the savings and loan
28 code of this state or any other state, or a federal savings association
29 organized under the laws of the United States, for which an election as an
30 S corporation under subchapter S of the federal internal revenue code is in
31 effect, which accrues to the taxpayer who is a stockholder of such
32 corporation and which is not distributed to the stockholders as dividends of
33 the corporation. For taxable years beginning after December 31, 2012, and
34 ending before January 1, 2017, the amount of modification under this
35 subsection shall exclude the portion of income or loss reported on schedule
36 E and included on line 17 of the taxpayer's form 1040 federal individual
37 income tax return.

38 (xv) For all taxable years beginning after December 31, 2017, the
39 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple
40 filing a joint return, for each designated beneficiary that are contributed to:
41 (1) A family postsecondary education savings account established under
42 the Kansas postsecondary education savings program or a qualified tuition
43 program established and maintained by another state or agency or

1 instrumentality thereof pursuant to section 529 of the internal revenue
2 code of 1986, as amended, for the purpose of paying the qualified higher
3 education expenses of a designated beneficiary; or (2) an achieving a
4 better life experience (ABLE) account established under the Kansas ABLE
5 savings program or a qualified ABLE program established and maintained
6 by another state or agency or instrumentality thereof pursuant to section
7 529A of the internal revenue code of 1986, as amended, for the purpose of
8 saving private funds to support an individual with a disability. The terms
9 and phrases used in this paragraph shall have the meaning respectively
10 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and
11 amendments thereto, and the provisions of such sections are hereby
12 incorporated by reference for all purposes thereof.

13 (xvi) For all taxable years beginning after December 31, 2004,
14 amounts received by taxpayers who are or were members of the armed
15 forces of the United States, including service in the Kansas army and air
16 national guard, as a recruitment, sign up or retention bonus received by
17 such taxpayer as an incentive to join, enlist or remain in the armed services
18 of the United States, including service in the Kansas army and air national
19 guard, and amounts received for repayment of educational or student loans
20 incurred by or obligated to such taxpayer and received by such taxpayer as
21 a result of such taxpayer's service in the armed forces of the United States,
22 including service in the Kansas army and air national guard.

23 (xvii) For all taxable years beginning after December 31, 2004,
24 amounts received by taxpayers who are eligible members of the Kansas
25 army and air national guard as a reimbursement pursuant to K.S.A. 48-
26 281, and amendments thereto, and amounts received for death benefits
27 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
28 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
29 amendments thereto, to the extent that such death benefits are included in
30 federal adjusted gross income of the taxpayer.

31 (xviii) For the taxable year beginning after December 31, 2006,
32 amounts received as benefits under the federal social security act which
33 are included in federal adjusted gross income of a taxpayer with federal
34 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
35 status is single, head of household, married filing separate or married filing
36 jointly; and for all taxable years beginning after December 31, 2007,
37 amounts received as benefits under the federal social security act which
38 are included in federal adjusted gross income of a taxpayer with federal
39 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
40 status is single, head of household, married filing separate or married filing
41 jointly.

42 (xix) Amounts received by retired employees of Washburn university
43 as retirement and pension benefits under the university's retirement plan.

1 (xx) For taxable years beginning after December 31, 2012, and
2 ending before January 1, 2017, the amount of any: (1) Net profit from
3 business as determined under the federal internal revenue code and
4 reported from schedule C and on line 12 of the taxpayer's form 1040
5 federal individual income tax return; (2) net income, not including
6 guaranteed payments as defined in section 707(c) of the federal internal
7 revenue code and as reported to the taxpayer from federal schedule K-1,
8 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
9 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
10 partnerships, S corporations, estates, trusts, residual interest in real estate
11 mortgage investment conduits and net farm rental as determined under the
12 federal internal revenue code and reported from schedule E and on line 17
13 of the taxpayer's form 1040 federal individual income tax return; and (3)
14 net farm profit as determined under the federal internal revenue code and
15 reported from schedule F and on line 18 of the taxpayer's form 1040
16 federal income tax return; all to the extent included in the taxpayer's
17 federal adjusted gross income. For purposes of this subsection, references
18 to the federal form 1040 and federal schedule C, schedule E, and schedule
19 F, shall be to such form and schedules as they existed for tax year 2011
20 and as revised thereafter by the internal revenue service.

21 (xxi) For all taxable years beginning after December 31, 2013,
22 amounts equal to the unreimbursed travel, lodging and medical
23 expenditures directly incurred by a taxpayer while living, or a dependent
24 of the taxpayer while living, for the donation of one or more human organs
25 of the taxpayer, or a dependent of the taxpayer, to another person for
26 human organ transplantation. The expenses may be claimed as a
27 subtraction modification provided for in this section to the extent the
28 expenses are not already subtracted from the taxpayer's federal adjusted
29 gross income. In no circumstances shall the subtraction modification
30 provided for in this section for any individual, or a dependent, exceed
31 \$5,000. As used in this section, "human organ" means all or part of a liver,
32 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
33 paragraph shall take effect on the day the secretary of revenue certifies to
34 the director of the budget that the cost for the department of revenue of
35 modifications to the automated tax system for the purpose of
36 implementing this paragraph will not exceed \$20,000.

37 (xxii) For taxable years beginning after December 31, 2012, and
38 ending before January 1, 2017, the amount of net gain from the sale of: (1)
39 Cattle and horses, regardless of age, held by the taxpayer for draft,
40 breeding, dairy or sporting purposes, and held by such taxpayer for 24
41 months or more from the date of acquisition; and (2) other livestock,
42 regardless of age, held by the taxpayer for draft, breeding, dairy or
43 sporting purposes, and held by such taxpayer for 12 months or more from

1 the date of acquisition. The subtraction from federal adjusted gross income
2 shall be limited to the amount of the additions recognized under the
3 provisions of subsection (b)(xix) attributable to the business in which the
4 livestock sold had been used. As used in this paragraph, the term
5 "livestock" shall not include poultry.

6 (xxiii) For all taxable years beginning after December 31, 2012,
7 amounts received under either the Overland Park, Kansas police
8 department retirement plan or the Overland Park, Kansas fire department
9 retirement plan, both as established by the city of Overland Park, pursuant
10 to the city's home rule authority.

11 (xxiv) For taxable years beginning after December 31, 2013, and
12 ending before January 1, 2017, the net gain from the sale from Christmas
13 trees grown in Kansas and held by the taxpayer for six years or more.

14 (xxv) *For all taxable years beginning after December 31, 2020, the*
15 *amount of any net gain from the sale of specie, as defined in section 2, and*
16 *amendments thereto.*

17 (d) There shall be added to or subtracted from federal adjusted gross
18 income the taxpayer's share, as beneficiary of an estate or trust, of the
19 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
20 amendments thereto.

21 (e) The amount of modifications required to be made under this
22 section by a partner which relates to items of income, gain, loss, deduction
23 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
24 amendments thereto, to the extent that such items affect federal adjusted
25 gross income of the partner.

26 (f) No taxpayer shall be assessed penalties and interest from the
27 underpayment of taxes due to changes to this section that became law on
28 July 1, 2017, so long as such underpayment is rectified on or before April
29 17, 2018.

30 Sec. 8. K.S.A. 79-32,117 is hereby repealed.

31 Sec. 9. This act shall take effect and be in force from and after its
32 publication in the statute book.