

SENATE BILL No. 46

By Committee on Assessment and Taxation

1-21

1 AN ACT concerning income taxation; relating to Kansas adjusted gross
2 income; providing a subtraction modification for amounts received
3 from ~~employer-sponsored~~ retirement plans; amending K.S.A. 79-
4 32,117 and repealing the existing section.

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

7 Section 1. K.S.A. 79-32,117 is hereby amended to read as follows:
8 79-32,117. (a) The Kansas adjusted gross income of an individual means
9 such individual's federal adjusted gross income for the taxable year, with
10 the modifications specified in this section.

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

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

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

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

35 (iv) Federal income tax refunds received by the taxpayer if the
36 deduction of the taxes being refunded resulted in a tax benefit for Kansas

1 income tax purposes during a prior taxable year. Such refunds shall be
2 included in income in the year actually received regardless of the method
3 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
4 be deemed to have resulted if the amount of the tax had been deducted in
5 determining income subject to a Kansas income tax for a prior year
6 regardless of the rate of taxation applied in such prior year to the Kansas
7 taxable income, but only that portion of the refund shall be included as
8 bears the same proportion to the total refund received as the federal taxes
9 deducted in the year to which such refund is attributable bears to the total
10 federal income taxes paid for such year. For purposes of the foregoing
11 sentence, federal taxes shall be considered to have been deducted only to
12 the extent such deduction does not reduce Kansas taxable income below
13 zero.

14 (v) The amount of any depreciation deduction or business expense
15 deduction claimed on the taxpayer's federal income tax return for any
16 capital expenditure in making any building or facility accessible to the
17 handicapped, for which expenditure the taxpayer claimed the credit
18 allowed by K.S.A. 79-32,177, and amendments thereto.

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

22 (vii) The amount of any charitable contribution made to the extent the
23 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
24 32,196, and amendments thereto.

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

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

35 (x) Amounts received as nonqualified withdrawals, as defined by
36 K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a
37 family postsecondary education savings account, such amounts were
38 subtracted from the federal adjusted gross income pursuant to K.S.A. 79-
39 32,117(c)(xv), and amendments thereto, or if such amounts are not already
40 included in the federal adjusted gross income.

41 (xi) The amount of any contribution made to the same extent the
42 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-
43 50,154, and amendments thereto.

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

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

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

16 (xv) The amount of any expenditures claimed for deduction in
17 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. 79-32,223
19 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
20 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
21 32,251 through 79-32,254, and amendments thereto.

22 (xvi) The amount of any amortization deduction claimed in
23 determining federal adjusted gross income to the extent the same is
24 claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-
25 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

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

30 (xviii) For taxable years commencing after December 31, 2006, the
31 amount of any ad valorem or property taxes and assessments paid to a state
32 other than Kansas or local government located in a state other than Kansas
33 by a taxpayer who resides in a state other than Kansas, when the law of
34 such state does not allow a resident of Kansas who earns income in such
35 other state to claim a deduction for ad valorem or property taxes or
36 assessments paid to a political subdivision of the state of Kansas in
37 determining taxable income for income tax purposes in such other state, to
38 the extent that such taxes and assessments are claimed as an itemized
39 deduction for federal income tax purposes.

40 (xix) For taxable years beginning after December 31, 2012, and
41 ending before January 1, 2017, the amount of any: (1) Loss from business
42 as determined under the federal internal revenue code and reported from
43 schedule C and on line 12 of the taxpayer's form 1040 federal individual

1 income tax return; (2) loss from rental real estate, royalties, partnerships, S
2 corporations, except those with wholly owned subsidiaries subject to the
3 Kansas privilege tax, estates, trusts, residual interest in real estate
4 mortgage investment conduits and net farm rental as determined under the
5 federal internal revenue code and reported from schedule E and on line 17
6 of the taxpayer's form 1040 federal individual income tax return; and (3)
7 farm loss as determined under the federal internal revenue code and
8 reported from schedule F and on line 18 of the taxpayer's form 1040
9 federal income tax return; all to the extent deducted or subtracted in
10 determining the taxpayer's federal adjusted gross income. For purposes of
11 this subsection, references to the federal form 1040 and federal schedule
12 C, schedule E, and schedule F, shall be to such form and schedules as they
13 existed for tax year 2011, and as revised thereafter by the internal revenue
14 service.

15 (xx) For taxable years beginning after December 31, 2012, and
16 ending before January 1, 2017, the amount of any deduction for self-
17 employment taxes under section 164(f) of the federal internal revenue
18 code as in effect on January 1, 2012, and amendments thereto, in
19 determining the federal adjusted gross income of an individual taxpayer, to
20 the extent the deduction is attributable to income reported on schedule C,
21 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
22 tax return.

23 (xxi) For taxable years beginning after December 31, 2012, and
24 ending before January 1, 2017, the amount of any deduction for pension,
25 profit sharing, and annuity plans of self-employed individuals under
26 section 62(a)(6) of the federal internal revenue code as in effect on January
27 1, 2012, and amendments thereto, in determining the federal adjusted gross
28 income of an individual taxpayer.

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

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

39 (xxiv) For taxable years commencing after December 31, 2013, that
40 portion of the amount of any expenditure deduction claimed in
41 determining federal adjusted gross income for expenses paid for medical
42 care of the taxpayer or the taxpayer's spouse or dependents when such
43 expenses were paid or incurred for an abortion, or for a health benefit plan,

1 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
2 an optional rider for coverage of abortion in accordance with K.S.A. 2020
3 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and
4 assessments are claimed as an itemized deduction for federal income tax
5 purposes.

6 (xxv) For taxable years commencing after December 31, 2013, that
7 portion of the amount of any expenditure deduction claimed in
8 determining federal adjusted gross income for expenses paid by a taxpayer
9 for health care when such expenses were paid or incurred for abortion
10 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and
11 amendments thereto, when such expenses were paid or incurred for
12 abortion coverage or amounts contributed to health savings accounts for
13 such taxpayer's employees for the purchase of an optional rider for
14 coverage of abortion in accordance with K.S.A. 2020 Supp. 40-2,190, and
15 amendments thereto, to the extent that such taxes and assessments are
16 claimed as a deduction for federal income tax purposes.

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

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

23 (i) Interest or dividend income on obligations or securities of any
24 authority, commission or instrumentality of the United States and its
25 possessions less any related expenses directly incurred in the purchase of
26 such obligations or securities, to the extent included in federal adjusted
27 gross income but exempt from state income taxes under the laws of the
28 United States.

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

32 (iii) The portion of any gain or loss from the sale or other disposition
33 of property having a higher adjusted basis for Kansas income tax purposes
34 than for federal income tax purposes on the date such property was sold or
35 disposed of in a transaction in which gain or loss was recognized for
36 purposes of federal income tax that does not exceed such difference in
37 basis, but if a gain is considered a long-term capital gain for federal
38 income tax purposes, the modification shall be limited to that portion of
39 such gain which is included in federal adjusted gross income.

40 (iv) The amount necessary to prevent the taxation under this act of
41 any annuity or other amount of income or gain which was properly
42 included in income or gain and was taxed under the laws of this state for a
43 taxable year prior to the effective date of this act, as amended, to the

1 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
2 the right to receive the income or gain, or to a trust or estate from which
3 the taxpayer received the income or gain.

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

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

11 (vii) Amounts received as annuities under the federal civil service
12 retirement system from the civil service retirement and disability fund and
13 other amounts received as retirement benefits in whatever form which
14 were earned for being employed by the federal government or for service
15 in the armed forces of the United States.

16 (viii) Amounts received by retired railroad employees as a
17 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
18 228c (a)(1) et seq.

19 (ix) Amounts received by retired employees of a city and by retired
20 employees of any board of such city as retirement allowances pursuant to
21 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
22 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
23 amendments thereto.

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

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

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

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

39 (xiv) For all taxable years commencing after December 31, 1996, that
40 portion of any income of a bank organized under the laws of this state or
41 any other state, a national banking association organized under the laws of
42 the United States, an association organized under the savings and loan
43 code of this state or any other state, or a federal savings association

1 organized under the laws of the United States, for which an election as an
2 S corporation under subchapter S of the federal internal revenue code is in
3 effect, which accrues to the taxpayer who is a stockholder of such
4 corporation and which is not distributed to the stockholders as dividends of
5 the corporation. For taxable years beginning after December 31, 2012, and
6 ending before January 1, 2017, the amount of modification under this
7 subsection shall exclude the portion of income or loss reported on schedule
8 E and included on line 17 of the taxpayer's form 1040 federal individual
9 income tax return.

10 (xv) For all taxable years beginning after December 31, 2017, the
11 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple
12 filing a joint return, for each designated beneficiary that are contributed to:
13 (1) A family postsecondary education savings account established under
14 the Kansas postsecondary education savings program or a qualified tuition
15 program established and maintained by another state or agency or
16 instrumentality thereof pursuant to section 529 of the internal revenue
17 code of 1986, as amended, for the purpose of paying the qualified higher
18 education expenses of a designated beneficiary; or (2) an achieving a
19 better life experience (ABLE) account established under the Kansas ABLE
20 savings program or a qualified ABLE program established and maintained
21 by another state or agency or instrumentality thereof pursuant to section
22 529A of the internal revenue code of 1986, as amended, for the purpose of
23 saving private funds to support an individual with a disability. The terms
24 and phrases used in this paragraph shall have the meaning respectively
25 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and
26 amendments thereto, and the provisions of such sections are hereby
27 incorporated by reference for all purposes thereof.

28 (xvi) For all taxable years beginning after December 31, 2004,
29 amounts received by taxpayers who are or were members of the armed
30 forces of the United States, including service in the Kansas army and air
31 national guard, as a recruitment, sign up or retention bonus received by
32 such taxpayer as an incentive to join, enlist or remain in the armed services
33 of the United States, including service in the Kansas army and air national
34 guard, and amounts received for repayment of educational or student loans
35 incurred by or obligated to such taxpayer and received by such taxpayer as
36 a result of such taxpayer's service in the armed forces of the United States,
37 including service in the Kansas army and air national guard.

38 (xvii) For all taxable years beginning after December 31, 2004,
39 amounts received by taxpayers who are eligible members of the Kansas
40 army and air national guard as a reimbursement pursuant to K.S.A. 48-
41 281, and amendments thereto, and amounts received for death benefits
42 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
43 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and

1 amendments thereto, to the extent that such death benefits are included in
2 federal adjusted gross income of the taxpayer.

3 (xviii) For the taxable year beginning after December 31, 2006,
4 amounts received as benefits under the federal social security act which
5 are included in federal adjusted gross income of a taxpayer with federal
6 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
7 status is single, head of household, married filing separate or married filing
8 jointly; and for all taxable years beginning after December 31, 2007,
9 amounts received as benefits under the federal social security act which
10 are included in federal adjusted gross income of a taxpayer with federal
11 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
12 status is single, head of household, married filing separate or married filing
13 jointly.

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

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

36 (xxi) For all taxable years beginning after December 31, 2013,
37 amounts equal to the unreimbursed travel, lodging and medical
38 expenditures directly incurred by a taxpayer while living, or a dependent
39 of the taxpayer while living, for the donation of one or more human organs
40 of the taxpayer, or a dependent of the taxpayer, to another person for
41 human organ transplantation. The expenses may be claimed as a
42 subtraction modification provided for in this section to the extent the
43 expenses are not already subtracted from the taxpayer's federal adjusted

1 gross income. In no circumstances shall the subtraction modification
2 provided for in this section for any individual, or a dependent, exceed
3 \$5,000. As used in this section, "human organ" means all or part of a liver,
4 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
5 paragraph shall take effect on the day the secretary of revenue certifies to
6 the director of the budget that the cost for the department of revenue of
7 modifications to the automated tax system for the purpose of
8 implementing this paragraph will not exceed \$20,000.

9 (xxii) For taxable years beginning after December 31, 2012, and
10 ending before January 1, 2017, the amount of net gain from the sale of: (1)
11 Cattle and horses, regardless of age, held by the taxpayer for draft,
12 breeding, dairy or sporting purposes, and held by such taxpayer for 24
13 months or more from the date of acquisition; and (2) other livestock,
14 regardless of age, held by the taxpayer for draft, breeding, dairy or
15 sporting purposes, and held by such taxpayer for 12 months or more from
16 the date of acquisition. The subtraction from federal adjusted gross income
17 shall be limited to the amount of the additions recognized under the
18 provisions of subsection (b)(xix) attributable to the business in which the
19 livestock sold had been used. As used in this paragraph, the term
20 "livestock" shall not include poultry.

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

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

29 *(xxv) For all taxable years beginning after December 31, 2020,*
30 *amounts received by retired individuals under—employer-sponsored—*
31 *qualified or nonqualified all retirement plans, including plans created by*
32 *self-employed individuals, to the extent included in federal adjusted gross*
33 *income.*

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

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

43 (f) No taxpayer shall be assessed penalties and interest from the

1 underpayment of taxes due to changes to this section that became law on
2 July 1, 2017, so long as such underpayment is rectified on or before April
3 17, 2018.

4 Sec. 2. K.S.A. 79-32,117 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.