UPDATED
SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 22

As Amended by Senate Committee of the Whole

Brief*

SB 22, as amended, would enact the Rebuilding Employers and Livelihoods while Investing in Everyone's Future (RELIEF) Act, amending income tax law relative to fraudulent unemployment benefits, standard and itemized deductions, certain retirement income, business income related to 2017 and 2020 federal legislation, and the business expensing deduction.

Fraudulent Compensation

The bill would clarify that victims of identify theft would not owe Kansas individual income tax on unemployment compensation or other compensation that was fraudulently obtained by another individual and would require the Department of Revenue to provide a method for any taxpayer to report whether the taxpayer was victim of fraud and the amount of fraudulent income for the taxpayer reported to the Internal Revenue Service.

Standard Deductions

The bill would increase the Kansas standard deduction amounts in tax year 2021 to $3,600 for single individual filing taxpayers, $6,600 for head of household filing taxpayers, and $9,000 for married taxpayers filing jointly and, in tax year 2022 and all tax years thereafter, to $4,050 for single

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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 individual filing taxpayers, $7,425 for head of household filing taxpayers, and $10,125 for married taxpayers filing jointly.

Itemized Deductions

Beginning in tax year 2020, the bill would provide individual income taxpayers the option to take Kansas itemized deductions regardless of whether deductions are itemized or the standard deduction is claimed for federal income tax purposes.

Retirement Income

The bill would, beginning in tax year 2021, exempt social security benefits and amounts received by retired individuals under employer-sponsored qualified and non-qualified retirement plans from the Kansas income tax to the extent such income is included in federal adjusted gross income.

Business Income

Global Intangible Low Tax Income (GILTI)

The bill would provide, beginning in tax year 2021, a subtraction modification exempting GILTI, as defined in section 951A of the federal Internal Revenue Code (IRC), before any deductions allowed under section 250(a)(1)(B) of the IRC.

Business Interest

The bill would provide, beginning in tax year 2021, a subtraction modification exempting certain business interest, to the extent such business interest is currently disallowed as a deduction pursuant to the IRC but was deductible under the IRC as in effect on December 31, 2017.

Capital Contributions

The bill would, beginning in tax year 2021, specify for Kansas corporation income tax purposes that the exemption from federal taxable income for capital contributions shall be the exemption as it existed in section 118 of the IRC as in effect on December 31, 2017.

FDIC Premiums

The bill would provide, beginning in tax year 2021, a subtraction modification for the amount disallowed as a deduction by section 162(r) of the IRC, as in effect on January 1, 2018, for Federal Deposit Insurance Corporation (FDIC) premiums paid by the taxpayer.

Business Meal Expenses

The bill would provide, beginning in tax year 2021, a subtraction modification exempting certain meal expenditures, to the extent such expenditures are currently disallowed as a deduction pursuant to the IRC but were deductible under the IRC as in effect on December 31, 2017.

Paycheck Protection Program Loans and Expenses

The bill would provide, beginning in tax year 2020, a subtraction modification exempting amounts received from the Paycheck Protection Program and any expenses paid with proceeds of Paycheck Protection Program loans, to the extent such amounts and expenses are included in the federal adjusted gross income of the taxpayer.

Expensing Deduction

The bill would allow individual income taxpayers to begin claiming the expensing deduction (provided by KSA 79-32,143(a)) for the costs of placing certain tangible property and computer software into service in the state beginning in tax year 2021. A second change, also effective with tax year 2021, would require all taxpayers claiming the Kansas expensing deduction to offset the amount of federal expensing deduction claimed pursuant to Section 179 of the IRC.

Effective Date

The bill would be in effect upon publication in the *Kansas Register.*

Background

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of the Kansas Chamber of Commerce.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on January 13 and 21, 2021, representatives of the Kansas Chamber of Commerce, Americans for Prosperity-Kansas, the Kansas Association of Realtors, the Kansas Policy Institute, and the National Federation of Independent Business spoke as **proponents** of the bill. Proponents stated the bill would resolve unintended tax increases that had occurred as a result of 2017 federal tax legislation and would allow Kansans to benefit from itemizing deductions.

Written-only **proponent** testimony was provided by the Kansas Bankers Association.

Representatives of the Center on Budget and Policy Priorities and Kansas Action for Children, and a private citizen, spoke as **opponents** to the bill, generally stating more effective tax relief options were available to Kansas.

There was no other testimony.

The Senate Committee amended the bill to provide for retroactive application of the provision allowing taxpayers the option to itemize deductions to tax year 2020, to eliminate retroactive application of business tax items, to eliminate a provision that would have provided conformity to federal law for net operating loss carryforward and carryback provisions, and to eliminate a provision that would have provided that GILTI be taxed as foreign divided income for tax years 2018 and 2019.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to extend the clarification that victims of identity theft would not be liable for income tax on unemployment compensation fraudulently received by another individual to any compensation fraudulently received by another individual and require the Department of Revenue to provide a method for such income to be reported, to add the provisions exempting certain retirement income, to increase the standard deduction amounts, and to change the effective date of the bill.

Fiscal Information

The Department of Revenue provided the following fiscal information for the bill, as amended by the Senate Committee of the Whole.

($ in millions)	FY 2022	FY 2023	FY 2024
Expensing Deduction	$2.30	$2.40	$2.50
Limitation on Deduction for Interest	-$30.60	-$37.50	-$38.60
Limitation on Deduction for FDIC Premiums	-$1.30	-$1.30	-$1.30
GILTI	-$24.20	-$23.50	-$23.70
Deduction for Meal Expenditure	$0.00	$0.00	-$3.10
Allowing Itemized Deductions*	-$127.80	-$65.70	-$66.30
Social Security Benefits Exemption	-$115.10	-$118.60	-$122.10
Retirement Benefits Exemption	-$125.10	-$126.30	-$127.60
Standard Deduction Increase	-$84.30	-$97.30	-$98.20
Capital Contributions	Negligible	Negligible	Negligible
Total State General Fund Impact	-$506.10	-$467.80	-$478.50

* Allowing itemized deductions is effective for TY 2020. FY 2022 includes estimate for TY 2020 (-$62.8) and TY 2021 (-$65.0).

The Department of Revenue also noted it is unable to determine the fiscal impact of provisions relating to the Paycheck Protection Program and of exempting GILTI before any deductions allowed under section 250(a)(10)(B) of the IRC. The Department of Revenue noted the interaction of the provisions allowing taxpayers to itemize and increasing the standard deduction would change the total impact of these two provisions, but is unable to estimate the magnitude of that change.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*

Taxation, income tax, unemployment fraud