

HOUSE BILL No. 2316

By Committee on Taxation

2-7

1 AN ACT concerning income taxation; relating to certain net operating  
2 losses; allowing a carryback on loss from the sale of certain historic  
3 hotels; amending K.S.A. 2022 Supp. 79-32,143 and repealing the  
4 existing section.  
5

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

7 Section 1. ~~K.S.A. 2022~~ Supp. 79-32,143 is hereby amended to read as  
8 follows: 79-32,143. (a) (1) (A) For net operating losses incurred in taxable  
9 years prior to January 1, 2018, a net operating loss deduction shall be  
10 allowed in the same manner that it is allowed under the federal internal  
11 revenue code, except that such net operating loss may only be carried  
12 forward to each of the 10 taxable years following the taxable year of the  
13 net operating loss.

14 (B) For net operating losses incurred in taxable years beginning after  
15 December 31, 2017, a net operating loss deduction shall be allowed in the  
16 same manner that it is allowed under the federal internal revenue code,  
17 except that such net operating loss deduction may only be carried forward.

18 (2) For net operating farm losses, as defined by section 172 of the  
19 federal internal revenue code, incurred in taxable years beginning after  
20 December 31, 1999, a net operating loss deduction shall be allowed in the  
21 same manner that it is allowed under the federal internal revenue code  
22 except that such net operating loss may be carried forward to each of the  
23 10 taxable years following the taxable year of the net operating loss.

24 (3) The amount of the net operating loss that may be carried back or  
25 forward for Kansas income tax purposes shall be that portion of the federal  
26 net operating loss allocated to Kansas under this act in the taxable year that  
27 the net operating loss is sustained.

28 (b) The amount of the loss to be carried back or forward will be the  
29 federal net operating loss after: (1) All modifications required under this  
30 act applicable to the net loss in the year the loss was incurred; and (2) after  
31 apportionment as to source in the case of corporations, nonresident  
32 individuals for losses incurred in taxable years beginning prior to January  
33 1, 1978, and nonresident estates and trusts in the same manner that income  
34 for such corporations, nonresident individuals, estates and trusts is  
35 required to be apportioned.

36 (c) If a net operating loss was incurred in a taxable year beginning

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1 prior to January 1, 1988, the amount of the net operating loss that may be  
2 carried back and carried forward and the period for which it may be  
3 carried back and carried forward shall be determined under the provisions  
4 of the Kansas income tax laws that were in effect during the year that such  
5 net operating loss was incurred.

6 (d) If any portion of a net operating loss described in subsections (a)  
7 and (b) is not utilized prior to the final year of the carryforward period  
8 provided in subsection (a), a refund shall be allowable in such final year in  
9 an amount equal to the refund which would have been allowable in the  
10 taxable year the loss was incurred by utilizing the three year carryback  
11 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,  
12 multiplied by a fraction, the numerator of which is the unused portion of  
13 such net operating loss in the final year, and the denominator of which is  
14 the amount of such net operating loss that could have been carried back to  
15 the three years immediately preceding the year in which the loss was  
16 incurred. In no event may such fraction exceed one.

17 (e) Notwithstanding any other provisions of the Kansas income tax  
18 act, the net operating loss as computed under subsections (a), (b) and (c)  
19 shall be allowed in full in determining Kansas taxable income or at the  
20 option of the taxpayer allowed in full in determining Kansas adjusted gross  
21 income.

22 (f) No refund of income tax that results from a net operating farm loss  
23 carry back shall be allowed in an amount exceeding \$1,500 in any year.  
24 Any overpayment in excess of \$1,500 may be carried forward to any year  
25 or years after the year of the loss and may be claimed as a credit against  
26 the tax. The refundable portion of such credit shall not exceed \$1,500 in  
27 any year.

28 (g) For tax year 2013, and all tax years thereafter, a net operating loss  
29 allowed by this section shall only be available to taxpayers subject to the  
30 income tax on corporations imposed pursuant to K.S.A. 79-32,110(c), and  
31 amendments thereto, and used only to determine such taxpayer's corporate  
32 income tax liability.

33 (h) *Notwithstanding any other provisions of the Kansas income tax*  
34 *act, for tax year 2006, if a net operating loss is incurred from the sale at a*  
35 *loss of a historic hotel located in a community with less than 2,500 citizens*  
36 *improved by funds borrowed on both such hotel and farmland owned by*  
37 *the taxpayer that is located within 20 miles of such hotel, and previously*  
38 *the farmland was sold at a gain and in which case a majority of the*  
39 *proceeds were used to pay off the mortgage on such hotel, the net*  
40 *operating loss may be carried back three years to offset the gain on the*  
41 *sale of such farmland. The taxpayer may file an amended return for the*  
42 *three prior years and be paid a refund with interest.*

43 Sec. 2. K.S.A. ~~2022~~ Supp. 79-32,143 is hereby repealed.