

HOUSE BILL No. 2061

By Committee on Taxation

1-23

1 AN ACT concerning income taxation; relating to Kansas adjusted gross
2 income; addition modifications; losses by certain subchapter S
3 corporations; amending K.S.A. 2012 Supp. 79-32,117 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. 2012 Supp. 79-32,117 is hereby amended to read as
8 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
9 means such individual's federal adjusted gross income for the taxable year,
10 with 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.

33 (iv) Federal income tax refunds received by the taxpayer if the
34 deduction of the taxes being refunded resulted in a tax benefit for Kansas
35 income tax purposes during a prior taxable year. Such refunds shall be
36 included in income in the year actually received regardless of the method

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

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

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

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

23 (viii) The amount of any costs incurred for improvements to a swine
24 facility, claimed for deduction in determining federal adjusted gross
25 income, to the extent the same is claimed as the basis for any credit
26 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments
27 thereto.

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

34 (x) Amounts received as nonqualified withdrawals, as defined by
35 K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of
36 contribution to a family postsecondary education savings account, such
37 amounts were subtracted from the federal adjusted gross income pursuant
38 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
39 thereto, or if such amounts are not already included in the federal adjusted
40 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. 2012
43 Supp. 74-50,154, 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. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of
4 contribution to an individual development account, such amounts were
5 subtracted from the federal adjusted gross income pursuant to paragraph
6 (xiii) of subsection (c), or if such amounts are not already included in the
7 federal adjusted gross 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. 2012 Supp.
11 79-32,217 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. 2012 Supp. 79-32,221, and
15 amendments 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. 2012 Supp.
19 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
20 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
21 32,248 or 79-32,251 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. 2012 Supp. 79-32,227, 79-
25 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
26 thereto.

27 (xvii) The amount of any amortization deduction claimed in
28 determining federal adjusted gross income to the extent the same is
29 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and
30 amendments thereto.

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

41 (xix) For all taxable years beginning after December 31, 2012, the
42 amount of any: (1) Loss from business as determined under the federal
43 internal revenue code and reported from schedule C and on line 12 of the

1 taxpayer's form 1040 federal individual income tax return; (2) loss from
2 rental real estate, royalties, partnerships, S corporations *that are not wholly*
3 *owned subsidiaries subject to the Kansas privilege tax*, estates, trusts,
4 residual interest in real estate mortgage investment conduits and net farm
5 rental as determined under the federal internal revenue code and reported
6 from schedule E and on line 17 of the taxpayer's form 1040 federal
7 individual income tax return; and (3) farm loss as determined under the
8 federal internal revenue code and reported from schedule F and on line 18
9 of the taxpayer's form 1040 federal income tax return; all to the extent
10 deducted or subtracted in determining the taxpayer's federal adjusted gross
11 income. For purposes of this subsection, references to the federal form
12 1040 and federal schedule C, schedule E, and schedule F, shall be to such
13 form and schedules as they existed for tax year 2011, and as revised
14 thereafter by the internal revenue service.

15 (xx) For all taxable years beginning after December 31, 2012, the
16 amount of any deduction for self-employment taxes under section 164(f)
17 of the federal internal revenue code as in effect on January 1, 2012, and
18 amendments thereto, in determining the federal adjusted gross income of
19 an individual taxpayer.

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

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

30 (xxiii) For all taxable years beginning after December 31, 2012, the
31 amount of any deduction for domestic production activities under section
32 199 of the federal internal revenue code as in effect on January 1, 2012,
33 and amendments thereto, in determining the federal adjusted gross income
34 of an individual taxpayer.

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

36 (i) Interest or dividend income on obligations or securities of any
37 authority, commission or instrumentality of the United States and its
38 possessions less any related expenses directly incurred in the purchase of
39 such obligations or securities, to the extent included in federal adjusted
40 gross income but exempt from state income taxes under the laws of the
41 United States.

42 (ii) Any amounts received which are included in federal adjusted
43 gross income but which are specifically exempt from Kansas income

1 taxation under the laws of the state of Kansas.

2 (iii) The portion of any gain or loss from the sale or other disposition
3 of property having a higher adjusted basis for Kansas income tax purposes
4 than for federal income tax purposes on the date such property was sold or
5 disposed of in a transaction in which gain or loss was recognized for
6 purposes of federal income tax that does not exceed such difference in
7 basis, but if a gain is considered a long-term capital gain for federal
8 income tax purposes, the modification shall be limited to that portion of
9 such gain which is included in federal adjusted gross income.

10 (iv) The amount necessary to prevent the taxation under this act of
11 any annuity or other amount of income or gain which was properly
12 included in income or gain and was taxed under the laws of this state for a
13 taxable year prior to the effective date of this act, as amended, to the
14 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
15 the right to receive the income or gain, or to a trust or estate from which
16 the taxpayer received the income or gain.

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

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

24 (vii) Amounts received as annuities under the federal civil service
25 retirement system from the civil service retirement and disability fund and
26 other amounts received as retirement benefits in whatever form which
27 were earned for being employed by the federal government or for service
28 in the armed forces of the United States.

29 (viii) Amounts received by retired railroad employees as a
30 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
31 228c (a)(1) et seq.

32 (ix) Amounts received by retired employees of a city and by retired
33 employees of any board of such city as retirement allowances pursuant to
34 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
35 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
36 amendments thereto.

37 (x) For taxable years beginning after December 31, 1976, the amount
38 of the federal tentative jobs tax credit disallowance under the provisions of
39 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
40 amount of the targeted jobs tax credit and work incentive credit
41 disallowances under 26 U.S.C. § 280 C.

42 (xi) For taxable years beginning after December 31, 1986, dividend
43 income on stock issued by Kansas Venture Capital, Inc.

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

5 (xiii) For taxable years beginning after December 31, 2004, amounts
6 contributed to and the amount of income earned on contributions deposited
7 to an individual development account under K.S.A. 2012 Supp. 74-50,201
8 et seq., and amendments thereto.

9 (xiv) For all taxable years commencing after December 31, 1996, that
10 portion of any income of a bank organized under the laws of this state or
11 any other state, a national banking association organized under the laws of
12 the United States, an association organized under the savings and loan
13 code of this state or any other state, or a federal savings association
14 organized under the laws of the United States, for which an election as an
15 S corporation under subchapter S of the federal internal revenue code is in
16 effect, which accrues to the taxpayer who is a stockholder of such
17 corporation and which is not distributed to the stockholders as dividends of
18 the corporation. For all taxable years beginning after December 31, 2012,
19 the amount of modification under this subsection shall exclude the portion
20 of income or loss reported on schedule E and included on line 17 of the
21 taxpayer's form 1040 federal individual income tax return.

22 (xv) For all taxable years beginning after December 31, 2006,
23 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
24 joint return, for each designated beneficiary which are contributed to a
25 family postsecondary education savings account established under the
26 Kansas postsecondary education savings program or a qualified tuition
27 program established and maintained by another state or agency or
28 instrumentality thereof pursuant to section 529 of the internal revenue
29 code of 1986, as amended, for the purpose of paying the qualified higher
30 education expenses of a designated beneficiary at an institution of
31 postsecondary education. The terms and phrases used in this paragraph
32 shall have the meaning respectively ascribed thereto by the provisions of
33 K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of
34 such section are hereby incorporated by reference for all purposes thereof.

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

1 including service in the Kansas army and air national guard.

2 (xvii) For all taxable years beginning after December 31, 2004,
3 amounts received by taxpayers who are eligible members of the Kansas
4 army and air national guard as a reimbursement pursuant to K.S.A. 48-
5 281, and amendments thereto, and amounts received for death benefits
6 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
7 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
8 amendments thereto, to the extent that such death benefits are included in
9 federal adjusted gross income of the taxpayer.

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

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

23 (xx) For all taxable years beginning after December 31, 2012, the
24 amount of any: (1) Net profit from business as determined under the
25 federal internal revenue code and reported from schedule C and on line 12
26 of the taxpayer's form 1040 federal individual income tax return; (2) net
27 income from rental real estate, royalties, partnerships, S corporations,
28 estates, trusts, residual interest in real estate mortgage investment conduits
29 and net farm rental as determined under the federal internal revenue code
30 and reported from schedule E and on line 17 of the taxpayer's form 1040
31 federal individual income tax return; and (3) net farm profit as determined
32 under the federal internal revenue code and reported from schedule F and
33 on line 18 of the taxpayer's form 1040 federal income tax return; all to the
34 extent included in the taxpayer's federal adjusted gross income. For
35 purposes of this subsection, references to the federal form 1040 and
36 federal schedule C, schedule E, and schedule F, shall be to such form and
37 schedules as they existed for tax year 2011 and as revised thereafter by the
38 internal revenue service.

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

43 (e) The amount of modifications required to be made under this

1 section by a partner which relates to items of income, gain, loss, deduction
2 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
3 amendments thereto, to the extent that such items affect federal adjusted
4 gross income of the partner.

5 Sec. 2. K.S.A. 2012 Supp. 79-32,117 is hereby repealed.

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