

**SENATE BILL No. 236**

By Committee on Assessment and Taxation

3-22

1 AN ACT concerning income taxation; relating to certain net operating  
2 losses; amending K.S.A. 2016 Supp. 79-32,143 and repealing the  
3 existing section.  
4

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

6 Section 1. K.S.A. 2016 Supp. 79-32,143 is hereby amended to read as  
7 follows: 79-32,143. (a) For net operating losses incurred in taxable years  
8 beginning after December 31, 1987, a net operating loss deduction shall be  
9 allowed in the same manner that it is allowed under the federal internal  
10 revenue code except that such net operating loss may only be carried  
11 forward to each of the 10 taxable years following the taxable year of the  
12 net operating loss. For net operating farm losses, as defined by subsection  
13 (i) of section 172 of the federal internal revenue code, incurred in taxable  
14 years beginning after December 31, 1999, a net operating loss deduction  
15 shall be allowed in the same manner that it is allowed under the federal  
16 internal revenue code except that such net operating loss may be carried  
17 forward to each of the 10 taxable years following the taxable year of the  
18 net operating loss. The amount of the net operating loss that may be  
19 carried back or forward for Kansas income tax purposes shall be that  
20 portion of the federal net operating loss allocated to Kansas under this act  
21 in the taxable year that the net operating loss is sustained.

22 (b) The amount of the loss to be carried back or forward will be the  
23 federal net operating loss after: (1) All modifications required under this  
24 act applicable to the net loss in the year the loss was incurred; and (2) after  
25 apportionment as to source in the case of corporations, nonresident  
26 individuals for losses incurred in taxable years beginning prior to January  
27 1, 1978, and nonresident estates and trusts in the same manner that income  
28 for such corporations, nonresident individuals, estates and trusts is  
29 required to be apportioned.

30 (c) If a net operating loss was incurred in a taxable year beginning  
31 prior to January 1, 1988, the amount of the net operating loss that may be  
32 carried back and carried forward and the period for which it may be  
33 carried back and carried forward shall be determined under the provisions  
34 of the Kansas income tax laws which were in effect during the year that  
35 such net operating loss was incurred.

36 (d) If any portion of a net operating loss described in subsections (a)

1 and (b) is not utilized prior to the final year of the carryforward period  
2 provided in subsection (a), a refund shall be allowable in such final year in  
3 an amount equal to the refund which would have been allowable in the  
4 taxable year the loss was incurred by utilizing the three year carryback  
5 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,  
6 multiplied by a fraction, the numerator of which is the unused portion of  
7 such net operating loss in the final year, and the denominator of which is  
8 the amount of such net operating loss which could have been carried back  
9 to the three years immediately preceding the year in which the loss was  
10 incurred. In no event may such fraction exceed 1.

11 (e) Notwithstanding any other provisions of the Kansas income tax  
12 act, the net operating loss as computed under subsections (a), (b) and (c) of  
13 this section shall be allowed in full in determining Kansas taxable income  
14 or at the option of the taxpayer allowed in full in determining Kansas  
15 adjusted gross income.

16 (f) No refund of income tax which results from a net operating farm  
17 loss carry back shall be allowed in an amount exceeding \$1,500 in any  
18 year. Any overpayment in excess of \$1,500 may be carried forward to any  
19 year or years after the year of the loss and may be claimed as a credit  
20 against the tax. The refundable portion of such credit shall not exceed  
21 \$1,500 in any year.

22 (g) For tax year 2013, and all tax years thereafter, a net operating loss  
23 allowed by this section shall only be available to taxpayers subject to the  
24 income tax on corporations imposed pursuant to ~~subsection (e)~~ of K.S.A.  
25 79-32,110(c), and amendments thereto, and used only to determine such  
26 taxpayer's corporate income tax liability.

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

37 Sec. 2. K.S.A. 2016 Supp. 79-32,143 is hereby repealed.

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