

**SENATE BILL No. 260**

By Committee on Assessment and Taxation

2-20

1 AN ACT concerning income taxation; relating to certain modifications of  
2 Kansas adjusted gross income relative to passive income; amending  
3 K.S.A. 2014 Supp. 79-32,117 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2014 Supp. 79-32,117 is hereby amended to read as  
7 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
8 means such individual's federal adjusted gross income for the taxable year,  
9 with the modifications specified in this section.

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

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

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

31 (iii) The federal net operating loss deduction.

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

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

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

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

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

22 (viii) The amount of any costs incurred for improvements to a swine  
23 facility, claimed for deduction in determining federal adjusted gross  
24 income, to the extent the same is claimed as the basis for any credit  
25 allowed pursuant to K.S.A. 2014 Supp. 79-32,204, and amendments  
26 thereto.

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

33 (x) Amounts received as nonqualified withdrawals, as defined by  
34 K.S.A. 2014 Supp. 75-643, and amendments thereto, if, at the time of  
35 contribution to a family postsecondary education savings account, such  
36 amounts were subtracted from the federal adjusted gross income pursuant  
37 to ~~paragraph (xv) of subsection (e) of K.S.A. 79-32,117(c)(xv)~~, and  
38 amendments thereto, or if such amounts are not already included in the  
39 federal adjusted gross income.

40 (xi) The amount of any contribution made to the same extent the  
41 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2014  
42 Supp. 74-50,154, and amendments thereto.

43 (xii) For taxable years commencing after December 31, 2004,

1 amounts received as withdrawals not in accordance with the provisions of  
2 K.S.A. 2014 Supp. 74-50,204, and amendments thereto, if, at the time of  
3 contribution to an individual development account, such amounts were  
4 subtracted from the federal adjusted gross income pursuant to ~~paragraph~~  
5 ~~(xii)~~ of subsection (c)(*xiii*), or if such amounts are not already included in  
6 the federal adjusted gross income.

7 (xiii) The amount of any expenditures claimed for deduction in  
8 determining federal adjusted gross income, to the extent the same is  
9 claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp.  
10 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

11 (xiv) The amount of any amortization deduction claimed in  
12 determining federal adjusted gross income to the extent the same is  
13 claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,221, and  
14 amendments thereto.

15 (xv) The amount of any expenditures claimed for deduction in  
16 determining federal adjusted gross income, to the extent the same is  
17 claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp.  
18 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
19 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
20 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

21 (xvi) The amount of any amortization deduction claimed in  
22 determining federal adjusted gross income to the extent the same is  
23 claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,227, 79-  
24 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments  
25 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. 2014 Supp. 79-32,256, and  
29 amendments 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 all taxable years beginning after December 31, ~~2012~~ 2014,  
41 the amount of any: (1) Loss from business as determined under the federal  
42 internal revenue code and reported from schedule C and on line 12 of the  
43 taxpayer's form 1040 federal individual income tax return, *but not*

1 *including passive loss identified on line 16 of the taxpayer's federal form*  
 2 *8582 and reported on the taxpayer's form 1040 federal individual income*  
 3 *tax return from schedule C of such return; (2) loss from rental real estate,*  
 4 *royalties, partnerships, S corporations, except those with wholly owned*  
 5 *subsidiaries subject to the Kansas privilege tax, estates; and trusts, residual*  
 6 *interest in real estate mortgage investment conduits and net farm rental as*  
 7 *determined under the federal internal revenue code and reported from*  
 8 *schedule E and on line 17 of the taxpayer's form 1040 federal individual*  
 9 *income tax return, but not including passive loss identified on line 16 of*  
 10 *the taxpayer's federal form 8582 and reported on the taxpayer's form 1040*  
 11 *federal individual income tax return from schedule E of such return; and*  
 12 *(3) farm loss as determined under the federal internal revenue code and*  
 13 *reported from schedule F and on line 18 of the taxpayer's form 1040*  
 14 *federal income tax return, but not including passive loss identified on line*  
 15 *16 of the taxpayer's federal form 8582 and reported on the taxpayer's form*  
 16 *1040 federal individual income tax return from schedule F of such return;*  
 17 *all to the extent deducted or subtracted in determining the taxpayer's*  
 18 *federal adjusted gross income. For purposes of this subsection, references*  
 19 *to the federal form forms 1040 and 8582 and federal schedule C, schedule*  
 20 *E, and schedule F, shall be to such form forms and schedules as they*  
 21 *existed for tax year 2011, 2014, and as revised thereafter by the internal*  
 22 *revenue service.*

23 (xx) For all taxable years beginning after December 31, 2012, the  
 24 amount of any deduction for self-employment taxes under section 164(f)  
 25 of the federal internal revenue code as in effect on January 1, 2012, and  
 26 amendments thereto, in determining the federal adjusted gross income of  
 27 an individual taxpayer, to the extent the deduction is attributable to income  
 28 reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's  
 29 form 1040 federal income tax return.

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

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

40 (xxiii) For all taxable years beginning after December 31, 2012, the  
 41 amount of any deduction for domestic production activities under section  
 42 199 of the federal internal revenue code as in effect on January 1, 2012,  
 43 and amendments thereto, in determining the federal adjusted gross income

1 of an individual taxpayer.

2 (xxiv) For taxable years commencing after December 31, 2013, that  
3 portion of the amount of any expenditure deduction claimed in  
4 determining federal adjusted gross income for expenses paid for medical  
5 care of the taxpayer or the taxpayer's spouse or dependents when such  
6 expenses were paid or incurred for an abortion, or for a health benefit plan,  
7 as defined in K.S.A. 2014 Supp. 65-6731, and amendments thereto, for the  
8 purchase of an optional rider for coverage of abortion in accordance with  
9 K.S.A. 2014 Supp. 40-2,190, and amendments thereto, to the extent that  
10 such taxes and assessments are claimed as an itemized deduction for  
11 federal income tax purposes.

12 (xxv) For taxable years commencing after December 31, 2013, that  
13 portion of the amount of any expenditure deduction claimed in  
14 determining federal adjusted gross income for expenses paid by a taxpayer  
15 for health care when such expenses were paid or incurred for abortion  
16 coverage, a health benefit plan, as defined in K.S.A. 2014 Supp. 65-6731,  
17 and amendments thereto, when such expenses were paid or incurred for  
18 abortion coverage or amounts contributed to health savings accounts for  
19 such taxpayer's employees for the purchase of an optional rider for  
20 coverage of abortion in accordance with K.S.A. 2014 Supp. 40-2,190, and  
21 amendments thereto, to the extent that such taxes and assessments are  
22 claimed as a deduction for federal income tax purposes.

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

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

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

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

41 (iv) The amount necessary to prevent the taxation under this act of  
42 any annuity or other amount of income or gain which was properly  
43 included in income or gain and was taxed under the laws of this state for a

1 taxable year prior to the effective date of this act, as amended, to the  
2 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
3 the right to receive the income or gain, or to a trust or estate from which  
4 the taxpayer received the income or gain.

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

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

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

17 (viii) Amounts received by retired railroad employees as a  
18 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
19 228c (a)(1) et seq.

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

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

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

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

36 (xiii) For taxable years beginning after December 31, 2004, amounts  
37 contributed to and the amount of income earned on contributions deposited  
38 to an individual development account under K.S.A. 2014 Supp. 74-50,201  
39 et seq., and amendments thereto.

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

1 code of this state or any other state, or a federal savings association  
2 organized under the laws of the United States, for which an election as an  
3 S corporation under subchapter S of the federal internal revenue code is in  
4 effect, which accrues to the taxpayer who is a stockholder of such  
5 corporation and which is not distributed to the stockholders as dividends of  
6 the corporation. For all taxable years beginning after December 31, ~~2012~~  
7 ~~2014~~, the amount of modification under this subsection shall exclude the  
8 portion of income ~~or loss reported on schedule E and included on line 17~~  
9 ~~of the taxpayer's form 1040 federal individual income tax return claimed~~  
10 *as a subtraction modification pursuant to subsection (c)(xx)(2).*

11 (xv) For all taxable years beginning after December 31, 2006,  
12 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a  
13 joint return, for each designated beneficiary which are contributed to a  
14 family postsecondary education savings account established under the  
15 Kansas postsecondary education savings program or a qualified tuition  
16 program established and maintained by another state or agency or  
17 instrumentality thereof pursuant to section 529 of the internal revenue  
18 code of 1986, as amended, for the purpose of paying the qualified higher  
19 education expenses of a designated beneficiary at an institution of  
20 postsecondary education. The terms and phrases used in this paragraph  
21 shall have the meaning respectively ascribed thereto by the provisions of  
22 K.S.A. 2014 Supp. 75-643, and amendments thereto, and the provisions of  
23 such section are hereby incorporated by reference for all purposes thereof.

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

34 (xvii) For all taxable years beginning after December 31, 2004,  
35 amounts received by taxpayers who are eligible members of the Kansas  
36 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
37 281, and amendments thereto, and amounts received for death benefits  
38 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section  
39 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and  
40 amendments thereto, to the extent that such death benefits are included in  
41 federal adjusted gross income of the taxpayer.

42 (xviii) For the taxable year beginning after December 31, 2006,  
43 amounts received as benefits under the federal social security act which

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

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

12 (xx) For all taxable years beginning after December 31, ~~2012~~ 2014,  
13 the amount of any: (1) Net profit from business as determined under the  
14 federal internal revenue code and reported from schedule C and on line 12  
15 of the taxpayer's form 1040 federal individual income tax return, *but not*  
16 *including net passive income identified on line 4 of the taxpayer's federal*  
17 *form 8582 and reported on the taxpayer's form 1040 federal individual*  
18 *income tax return form schedule C of such return;* (2) net income from  
19 rental real estate, royalties, partnerships, S corporations, estates; *and trusts;*  
20 ~~residual interest in real estate mortgage investment conduits and net farm~~  
21 ~~rental~~ as determined under the federal internal revenue code and reported  
22 from schedule E and on line 17 of the taxpayer's form 1040 federal  
23 individual income tax return, *but not including net passive income*  
24 *identified on line 4 of the taxpayer's federal form 8582 and reported on the*  
25 *taxpayer's form 1040 federal individual income tax return form schedule E*  
26 *of such return;* and (3) net farm profit as determined under the federal  
27 internal revenue code and reported from schedule F and on line 18 of the  
28 taxpayer's form 1040 federal income tax return, *but not including net*  
29 *passive income identified on line 4 of the taxpayer's federal form 8582 and*  
30 *reported on the taxpayer's form 1040 federal individual income tax return*  
31 *form schedule F of such 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 forms~~ 1040 and 8582 and federal schedule C, schedule  
34 E, and schedule F, shall be to such ~~form forms~~ forms and schedules as they  
35 existed for tax year ~~2011~~ 2014 and as revised thereafter by the internal  
36 revenue service.

37 (xxi) For all taxable years beginning after December 31, 2013,  
38 amounts equal to the unreimbursed travel, lodging and medical  
39 expenditures directly incurred by a taxpayer while living, or a dependent  
40 of the taxpayer while living, for the donation of one or more human organs  
41 of the taxpayer, or a dependent of the taxpayer, to another person for  
42 human organ transplantation. The expenses may be claimed as a  
43 subtraction modification provided for in this section to the extent the



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

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

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

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

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

36 Sec. 2. K.S.A. 2014 Supp. 79-32,117 is hereby repealed.

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