

HOUSE BILL No. 2433

By Committee on Taxation

2-21

1 AN ACT concerning income taxation; relating to the determination of
2 Kansas adjusted gross income; allowing a taxpayer to elect the taxable
3 year in which a subtraction modification for contributions to a qualified
4 tuition program would be applied; amending K.S.A. 2022 Supp. 79-
5 32,117 and repealing the existing section.

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

8 Section 1. K.S.A. 2022 Supp. 79-32,117 is hereby amended to read as
9 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
10 means such individual's federal adjusted gross income for the taxable year,
11 with the modifications specified in this section.

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

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

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

33 (iii) The federal net operating loss deduction, except that the federal
34 net operating loss deduction shall not be added to an individual's federal
35 adjusted gross income for tax years beginning after December 31, 2016.

36 (iv) Federal income tax refunds received by the taxpayer if the

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

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

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

23 (vii) The amount of any charitable contribution made to the extent the
24 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
25 32,196, and amendments thereto.

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

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

36 (x) Amounts received as nonqualified withdrawals, as defined by
37 K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a
38 family postsecondary education savings account, such amounts were
39 subtracted from the federal adjusted gross income pursuant to K.S.A. 79-
40 32,117(c)(xv), and amendments thereto, or if such amounts are not already
41 included in the federal adjusted gross income.

42 (xi) The amount of any contribution made to the same extent the
43 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-

1 50,154, and amendments thereto.

2 (xii) For taxable years commencing after December 31, 2004,
3 amounts received as withdrawals not in accordance with the provisions of
4 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution
5 to an individual development account, such amounts were subtracted from
6 the federal adjusted gross income pursuant to subsection (c)(xiii), or if
7 such amounts are not already included in the federal adjusted gross
8 income.

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

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

17 (xv) The amount of any expenditures claimed for deduction in
18 determining federal adjusted gross income, to the extent the same is
19 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223
20 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
21 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
22 32,251 through 79-32,254, and amendments thereto.

23 (xvi) The amount of any amortization deduction claimed in
24 determining federal adjusted gross income to the extent the same is
25 claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-
26 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments 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. 79-32,256, and amendments
30 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 taxable years beginning after December 31, 2012, and
42 ending before January 1, 2017, the amount of any: (1) Loss from business
43 as determined under the federal internal revenue code and reported from

1 schedule C and on line 12 of the taxpayer's form 1040 federal individual
2 income tax return; (2) loss from rental real estate, royalties, partnerships, S
3 corporations, except those with wholly owned subsidiaries subject to the
4 Kansas privilege tax, estates, trusts, residual interest in real estate
5 mortgage investment conduits and net farm rental as determined under the
6 federal internal revenue code and reported from schedule E and on line 17
7 of the taxpayer's form 1040 federal individual income tax return; and (3)
8 farm loss as determined under the federal internal revenue code and
9 reported from schedule F and on line 18 of the taxpayer's form 1040
10 federal income tax return; all to the extent deducted or subtracted in
11 determining the taxpayer's federal adjusted gross income. For purposes of
12 this subsection, references to the federal form 1040 and federal schedule
13 C, schedule E, and schedule F, shall be to such form and schedules as they
14 existed for tax year 2011, and as revised thereafter by the internal revenue
15 service.

16 (xx) For taxable years beginning after December 31, 2012, and
17 ending before January 1, 2017, the amount of any deduction for self-
18 employment taxes under section 164(f) of the federal internal revenue
19 code as in effect on January 1, 2012, and amendments thereto, in
20 determining the federal adjusted gross income of an individual taxpayer, to
21 the extent the deduction is attributable to income reported on schedule C,
22 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
23 tax return.

24 (xxi) For taxable years beginning after December 31, 2012, and
25 ending before January 1, 2017, the amount of any deduction for pension,
26 profit sharing, and annuity plans of self-employed individuals under
27 section 62(a)(6) of the federal internal revenue code as in effect on January
28 1, 2012, and amendments thereto, in determining the federal adjusted gross
29 income of an individual taxpayer.

30 (xxii) For taxable years beginning after December 31, 2012, and
31 ending before January 1, 2017, the amount of any deduction for health
32 insurance under section 162(l) of the federal internal revenue code as in
33 effect on January 1, 2012, and amendments thereto, in determining the
34 federal adjusted gross income of an individual taxpayer.

35 (xxiii) For taxable years beginning after December 31, 2012, and
36 ending before January 1, 2017, the amount of any deduction for domestic
37 production activities under section 199 of the federal internal revenue code
38 as in effect on January 1, 2012, and amendments thereto, in determining
39 the federal adjusted gross income of an individual taxpayer.

40 (xxiv) For taxable years commencing after December 31, 2013, that
41 portion of the amount of any expenditure deduction claimed in
42 determining federal adjusted gross income for expenses paid for medical
43 care of the taxpayer or the taxpayer's spouse or dependents when such

1 expenses were paid or incurred for an abortion, or for a health benefit plan,
2 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
3 an optional rider for coverage of abortion in accordance with K.S.A. 40-
4 2,190, and amendments thereto, to the extent that such taxes and
5 assessments are claimed as an itemized deduction for federal income tax
6 purposes.

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

18 (xxvi) For all taxable years beginning after December 31, 2016, the
19 amount of any charitable contribution made to the extent the same is
20 claimed as the basis for the credit allowed pursuant to K.S.A. 72-4357, and
21 amendments thereto, and is also claimed as an itemized deduction for
22 federal income tax purposes.

23 (xxvii) For all taxable years commencing after December 31, 2020,
24 the amount deducted by reason of a carryforward of disallowed business
25 interest pursuant to section 163(j) of the federal internal revenue code of
26 1986, as in effect on January 1, 2018.

27 (xxviii) For all taxable years beginning after December 31, 2021, the
28 amount of any contributions to, or earnings from, a first-time home buyer
29 savings account if distributions from the account were not used to pay for
30 expenses or transactions authorized pursuant to K.S.A. 2022 Supp. 58-
31 4904, and amendments thereto, or were not held for the minimum length
32 of time required pursuant to K.S.A. 2022 Supp. 58-4904, and amendments
33 thereto. Contributions to, or earnings from, such account shall also include
34 any amount resulting from the account holder not designating a surviving
35 transfer on death beneficiary pursuant to K.S.A. 2022 Supp. 58-4904(e),
36 and amendments thereto.

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

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

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

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

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

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

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

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

31 (viii) Amounts received by retired railroad employees as a
32 supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and
33 228c(a)(1) et seq.

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

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

1 (xi) For taxable years beginning after December 31, 1986, dividend
2 income on stock issued by Kansas venture capital, inc.

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

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

11 (xiv) For all taxable years commencing after December 31, 1996, that
12 portion of any income of a bank organized under the laws of this state or
13 any other state, a national banking association organized under the laws of
14 the United States, an association organized under the savings and loan
15 code of this state or any other state, or a federal savings association
16 organized under the laws of the United States, for which an election as an
17 S corporation under subchapter S of the federal internal revenue code is in
18 effect, which accrues to the taxpayer who is a stockholder of such
19 corporation and which is not distributed to the stockholders as dividends of
20 the corporation. For taxable years beginning after December 31, 2012, and
21 ending before January 1, 2017, the amount of modification under this
22 subsection shall exclude the portion of income or loss reported on schedule
23 E and included on line 17 of the taxpayer's form 1040 federal individual
24 income tax return.

25 ~~(xv) For all taxable years beginning after December 31, 2017,~~ The
26 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple
27 filing a joint return, for each designated beneficiary that are contributed to:
28 (1) A family postsecondary education savings account established under
29 the Kansas postsecondary education savings program or a qualified tuition
30 program established and maintained by another state or agency or
31 instrumentality thereof pursuant to section 529 of the internal revenue
32 code of 1986, as amended, for the purpose of paying the qualified higher
33 education expenses of a designated beneficiary; or (2) an achieving a
34 better life experience (ABLE) account established under the Kansas ABLE
35 savings program or a qualified ABLE program established and maintained
36 by another state or agency or instrumentality thereof pursuant to section
37 529A of the internal revenue code of 1986, as amended, for the purpose of
38 saving private funds to support an individual with a disability. The terms
39 and phrases used in this paragraph shall have the meaning respectively
40 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and
41 amendments thereto, and the provisions of such sections are hereby
42 incorporated by reference for all purposes thereof. *Contributions made to*
43 *a qualified tuition program pursuant to this paragraph on and after*

1 *January 1 but prior to the date required for filing a return pursuant to*
2 *K.S.A. 79-3221, and amendments thereto, of the successive taxable year*
3 *may be elected by the taxpayer to apply to the prior taxable year if such*
4 *election is made at the time of filing the return. In no instance shall the*
5 *contribution be used as a modification in more than one taxable year.*

6 (xvi) For all taxable years beginning after December 31, 2004,
7 amounts received by taxpayers who are or were members of the armed
8 forces of the United States, including service in the Kansas army and air
9 national guard, as a recruitment, sign up or retention bonus received by
10 such taxpayer as an incentive to join, enlist or remain in the armed services
11 of the United States, including service in the Kansas army and air national
12 guard, and amounts received for repayment of educational or student loans
13 incurred by or obligated to such taxpayer and received by such taxpayer as
14 a result of such taxpayer's service in the armed forces of the United States,
15 including service in the Kansas army and air national guard.

16 (xvii) For all taxable years beginning after December 31, 2004,
17 amounts received by taxpayers who are eligible members of the Kansas
18 army and air national guard as a reimbursement pursuant to K.S.A. 48-
19 281, and amendments thereto, and amounts received for death benefits
20 pursuant to K.S.A. 48-282, and amendments thereto, to the extent that
21 such death benefits are included in federal adjusted gross income of the
22 taxpayer.

23 (xviii) For the taxable year beginning after December 31, 2006,
24 amounts received as benefits under the federal social security act which
25 are included in federal adjusted gross income of a taxpayer with federal
26 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
27 status is single, head of household, married filing separate or married filing
28 jointly; and for all taxable years beginning after December 31, 2007,
29 amounts received as benefits under the federal social security act which
30 are included in federal adjusted gross income of a taxpayer with federal
31 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
32 status is single, head of household, married filing separate or married filing
33 jointly.

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

36 (xx) For taxable years beginning after December 31, 2012, and
37 ending before January 1, 2017, the amount of any: (1) Net profit from
38 business as determined under the federal internal revenue code and
39 reported from schedule C and on line 12 of the taxpayer's form 1040
40 federal individual income tax return; (2) net income, not including
41 guaranteed payments as defined in section 707(c) of the federal internal
42 revenue code and as reported to the taxpayer from federal schedule K-1,
43 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal

1 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
2 partnerships, S corporations, estates, trusts, residual interest in real estate
3 mortgage investment conduits and net farm rental as determined under the
4 federal internal revenue code and reported from schedule E and on line 17
5 of the taxpayer's form 1040 federal individual income tax return; and (3)
6 net farm profit as determined under the federal internal revenue code and
7 reported from schedule F and on line 18 of the taxpayer's form 1040
8 federal income tax return; all to the extent included in the taxpayer's
9 federal adjusted gross income. For purposes of this subsection, references
10 to the federal form 1040 and federal schedule C, schedule E, and schedule
11 F, shall be to such form and schedules as they existed for tax year 2011
12 and as revised thereafter by the internal revenue service.

13 (xxi) For all taxable years beginning after December 31, 2013,
14 amounts equal to the unreimbursed travel, lodging and medical
15 expenditures directly incurred by a taxpayer while living, or a dependent
16 of the taxpayer while living, for the donation of one or more human organs
17 of the taxpayer, or a dependent of the taxpayer, to another person for
18 human organ transplantation. The expenses may be claimed as a
19 subtraction modification provided for in this section to the extent the
20 expenses are not already subtracted from the taxpayer's federal adjusted
21 gross income. In no circumstances shall the subtraction modification
22 provided for in this section for any individual, or a dependent, exceed
23 \$5,000. As used in this section, "human organ" means all or part of a liver,
24 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
25 paragraph shall take effect on the day the secretary of revenue certifies to
26 the director of the budget that the cost for the department of revenue of
27 modifications to the automated tax system for the purpose of
28 implementing this paragraph will not exceed \$20,000.

29 (xxii) For taxable years beginning after December 31, 2012, and
30 ending before January 1, 2017, the amount of net gain from the sale of: (1)
31 Cattle and horses, regardless of age, held by the taxpayer for draft,
32 breeding, dairy or sporting purposes, and held by such taxpayer for 24
33 months or more from the date of acquisition; and (2) other livestock,
34 regardless of age, held by the taxpayer for draft, breeding, dairy or
35 sporting purposes, and held by such taxpayer for 12 months or more from
36 the date of acquisition. The subtraction from federal adjusted gross income
37 shall be limited to the amount of the additions recognized under the
38 provisions of subsection (b)(xix) attributable to the business in which the
39 livestock sold had been used. As used in this paragraph, the term
40 "livestock" shall not include poultry.

41 (xxiii) For all taxable years beginning after December 31, 2012,
42 amounts received under either the Overland Park, Kansas police
43 department retirement plan or the Overland Park, Kansas fire department

1 retirement plan, both as established by the city of Overland Park, pursuant
2 to the city's home rule authority.

3 (xxiv) For taxable years beginning after December 31, 2013, and
4 ending before January 1, 2017, the net gain from the sale from Christmas
5 trees grown in Kansas and held by the taxpayer for six years or more.

6 (xxv) For all taxable years commencing after December 31, 2020,
7 100% of global intangible low-taxed income under section 951A of the
8 federal internal revenue code of 1986, before any deductions allowed
9 under section 250(a)(1)(B) of such code.

10 (xxvi) For all taxable years commencing after December 31, 2020,
11 the amount disallowed as a deduction pursuant to section 163(j) of the
12 federal internal revenue code of 1986, as in effect on January 1, 2018.

13 (xxvii) For taxable years commencing after December 31, 2020, the
14 amount disallowed as a deduction pursuant to section 274 of the federal
15 internal revenue code of 1986 for meal expenditures shall be allowed to
16 the extent such expense was deductible for determining federal income tax
17 and was allowed and in effect on December 31, 2017.

18 (xxviii) For all taxable years beginning after December 31, 2021: (1)
19 The amount contributed to a first-time home buyer savings account
20 pursuant to K.S.A. 2022 Supp. 58-4903, and amendments thereto, in an
21 amount not to exceed \$3,000 for an individual or \$6,000 for a married
22 couple filing a joint return; or (2) amounts received as income earned from
23 assets in a first-time home buyer savings account.

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

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

33 ~~(f) No taxpayer shall be assessed penalties and interest from the~~
34 ~~underpayment of taxes due to changes to this section that became law on~~
35 ~~July 1, 2017, so long as such underpayment is rectified on or before April~~
36 ~~17, 2018.~~

37 Sec. 2. K.S.A. 2022 Supp. 79-32,117 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.