

HOUSE BILL No. 2464

By Committee on Taxation

1-21

1 AN ACT concerning taxation; relating to deductions, privilege tax; certain
2 depreciable property; amending K.S.A. 2013 Supp. 79-32,143a and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2013 Supp. 79-32,143a is hereby amended to read
7 as follows: 79-32,143a. (a) For taxable years beginning after December 31,
8 2011, a taxpayer may elect to take an expense deduction from Kansas net
9 income before expensing or recapture allocated or apportioned to this state
10 for the cost of the following property placed in service in this state during
11 the taxable year: (1) Tangible property eligible for depreciation under the
12 modified accelerated cost recovery system in section 168 of the internal
13 revenue code, as amended, but not including residential rental property,
14 nonresidential real property, any railroad grading or tunnel bore or any
15 other property with an applicable recovery period in excess of 25 years as
16 defined under section 168(c) or (g) of the internal revenue code, as
17 amended; and (2) computer software as defined in section 197(e)(3)(B)
18 of the internal revenue code, as amended, and as described in section 197(e)
19 (3)(A)(i) of the internal revenue code, as amended, to which section 167 of
20 the internal revenue code, as amended, applies. If such election is made,
21 the amount of expense deduction for such cost shall equal the difference
22 between the depreciable cost of such property for federal income tax
23 purposes and the amount of bonus depreciation being claimed for such
24 property pursuant to section 168(k) of the internal revenue code, as
25 amended, for federal income tax purposes in such tax year, but without
26 regard to any expense deduction being claimed for such property under
27 section 179 of the internal revenue code, as amended, multiplied by the
28 applicable factor, determined by using, the table provided in subsection (f),
29 based on the method of depreciation selected pursuant to section 168(b)
30 (1), (2), or (3) or (g) of the internal revenue code, as amended, and the
31 applicable recovery period for such property as defined under section
32 168(c) or (g) of the internal revenue code, as amended. This election shall
33 be made by the due date of the original return, including any extensions,
34 and may be made only for the taxable year in which the property is placed
35 in service, and once made, shall be irrevocable. If the section 179 expense
36 deduction election has been made for federal income tax purposes for any

1 asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column
2 of the table provided in subsection (f) for the applicable recovery period of
3 the respective assets.

4 (b) If the amount of expense deduction calculated pursuant to
5 subsection (a) exceeds the taxpayer's Kansas net income before expensing
6 or recapture allocated or apportioned to this state, such excess amount
7 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-
8 32,143, and amendments thereto.

9 (c) If the property for which an expense deduction is taken pursuant
10 to subsection (a) is subsequently sold during the applicable recovery
11 period for such property as defined under section 168(c) of the internal
12 revenue code, as amended, and in a manner that would cause recapture of
13 any previously taken expense or depreciation deductions for federal
14 income tax purposes, or if the situs of such property is otherwise changed
15 such that the property is relocated outside the state of Kansas during such
16 applicable recovery period, then the expense deduction determined
17 pursuant to subsection (a) shall be subject to recapture and treated as
18 Kansas taxable income allocated to this state. The amount of recapture
19 shall be the Kansas expense deduction determined pursuant to subsection
20 (a) multiplied by a fraction, the numerator of which is the number of years
21 remaining in the applicable recovery period for such property as defined
22 under section 168(c) or (g) of the internal revenue code, as amended, after
23 such property is sold or removed from the state including the year of such
24 disposition, and the denominator of which is the total number of years in
25 such applicable recovery period.

26 (d) The situs of tangible property for purposes of claiming and
27 recapture of the expense deduction shall be the physical location of such
28 property. If such property is mobile, the situs shall be the physical location
29 of the business operations from where such property is used or based. The
30 situs of computer software shall be apportioned to Kansas based on the
31 fraction, the numerator of which is the number of the taxpayer's users
32 located in Kansas of licenses for such computer software used in the active
33 conduct of the taxpayer's business operations, and the denominator of
34 which is the total number of the taxpayer's users of the licenses for such
35 computer software used in the active conduct of the taxpayer's business
36 operations everywhere.

37 (e) Any member of a unitary group filing a combined report may
38 elect to take an expense deduction pursuant to subsection (a) for an
39 investment in property made by any member of the combined group,
40 provided that the amount calculated pursuant to subsection (a) may only be
41 deducted from the Kansas net income before expensing or recapture
42 allocated to or apportioned to this state by such member making the
43 election.

1 (f) The following table shall be used in determining the expense
 2 deduction calculated pursuant to subsection (a):

Factors				
IRC§168 Recover Period (year)	IRC§168(b)(1) Depreciation Method	IRC§168(b)(2) Depreciation Method	IRC§168(b)(3) or (g) Depreciation Method	
3				
4				
5				
6				
7	2.5	*	.077	.092
8	3	.075	.091	.106
9	3.5	*	.102	.116
10	4	*	.114	.129
11	5	.116	.135	.150
12	6	*	.154	.170
13	6.5	*	.163	.179
14	7	.151	.173	.190
15	7.5	*	.181	.199
16	8	*	.191	.208
17	8.5	*	.199	.217
18	9	*	.208	.226
19	9.5	*	.216	.235
20	10	.198	.224	.244
21	10.5	*	.232	.252
22	11	*	.240	.261
23	11.5	*	.248	.269
24	12	*	.256	.277
25	12.5	*	.263	.285
26	13	*	.271	.293
27	13.5	*	.278	.300
28	14	*	.285	.308
29	15	*	.299	.323
30	16	*	.313	.337
31	16.5	*	.319	.344
32	17	*	.326	.351
33	18	*	.339	.365
34	19	*	.351	.378
35	20	*	.363	.391
36	22	*	.386	.415
37	24	*	.408	.438
38	25	*	.419	.449

39 *Not Applicable

40 (g) If a taxpayer elects to expense any investment pursuant to
 41 subsection (a), such taxpayer shall not be eligible for any tax credit,
 42 accelerated depreciation, or deduction for such investment allowed
 43 pursuant to K.S.A. 2013 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-
 44 32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-

1 32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-
2 32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and
3 amendments thereto.

4 (h) For tax 2013, and all tax years thereafter, the deduction allowed
5 by this section shall only be available to taxpayers subject to the income
6 tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-
7 32,110, and amendments thereto, *or the privilege tax imposed upon any*
8 *national banking association, state bank, savings bank, trust company or*
9 *savings and loan association pursuant to article 11 of chapter 79 of the*
10 *Kansas Statutes Annotated, and amendments thereto*, and used only to
11 determine such taxpayer's corporate income *or privilege* tax liability.

12 Sec. 2. K.S.A. 2013 Supp. 79-32,143a is hereby repealed.

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