

**79-32,262. Tax credit for certain capital investments in a business located in or near certain cities made within three years of occurrence of certain major disasters.** (a) Subject to limitations contained herein, for tax years 2008, 2009 and 2010, any taxpayer who makes a capital investment in a business which is located in the city of Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha or Osawatomie, Kansas, or within one mile of the city limits of any such city as long as such business is located in Kansas, when such investment is made within three years of the date of the occurrence of the disaster which is the subject of major disaster declaration DR 1699 or DR 1711 as the case may be shall be allowed a credit not to exceed 10% of such investment against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The total amount of credit allowed pursuant to this section for any one taxpayer shall not exceed \$100,000. In no event shall the total amount of credits or refunds allowed under this section exceed \$5,000,000 for any one fiscal year. The amount of credit allowed under this section shall be reduced by an amount equal to any assistance payment received by the taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments thereto, or an assistance payment received by the taxpayer pursuant to the southeast Kansas business restoration assistance program as approved by the state finance council for the same investment as provided in this section. Notwithstanding any other provision of law, no taxpayer shall claim more than one credit allowed under this subsection for the same investment as provided in this section, except that nothing contained in this provision shall prevent a taxpayer from making a claim for and being allowed credit pursuant to this subsection in a subsequent tax year when such taxpayer was not allowed the credit in a previous tax year. If the amount of the tax credit determined under this section exceeds the income, privilege or premium tax liability for the taxpayer for any taxable year in which the qualified investment is made, the amount thereof which exceeds such tax liability may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified investment was made.

(b) (1) For tax years 2008, 2009 and 2010, a taxpayer may receive a refund of tax liability in lieu of the credit provided in this act. The refund shall be in an amount up to 50% of the credit earned by the taxpayer. The amount of refund allowed under this subsection shall be reduced by an amount equal to any assistance payment received by the taxpayer pursuant to the provisions of K.S.A. 75-3713e, and amendments thereto, or an assistance payment received by the taxpayer pursuant to the southeast Kansas business restoration assistance program as approved by the state finance council for the same investment as provided in this section. Notwithstanding any other provision of law, no taxpayer shall claim more than one refund allowed under this subsection for the same investment, except that nothing contained in this provision shall prevent a taxpayer from electing to receive a refund and receiving such refund in a subsequent tax year when such taxpayer was not allowed such refund in a previous tax year.

(2) A claim for refund shall be made prior to the taxpayer claiming any credit on which the refund is based. Should the taxpayer elect to receive the cash in lieu of the credit, the remaining portion of the tax credit shall be lost. Any refund pursuant to this subsection shall be allowed against the tax liability imposed under the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated in the tax year the qualified investment is placed into service. The amount of such refund which exceeds such tax liability shall be refunded to the taxpayer.

(3) The secretary of revenue shall submit an annual report to the legislature detailing taxpayers that have been allowed a credit and that have made the election to receive a refund in lieu of the credit. The annual report shall provide the aggregate amount of such credits and refunds. Such report shall be due during the legislative session, commencing with the 2009 legislative session.

(c) As used in this section, "capital investment" means an investment in the construction, equipment, reconstruction, maintenance, repair, enlargement, furnishing or remodeling of real property, and the purchase, lease or repair of tangible personal property. A "capital investment" shall not include inventory or property held for sale in the ordinary course of business.

(d) The secretary of revenue shall adopt rules and regulations to carry out the provisions of this act.

**History:** L. 2008, ch. 182, § 8; June 5.