March 10, 2022

Senate Committee on Assessment and Taxation, Honarable Caryn Tyson, Chair

RE: Considerations for SB 495 – Shawn Sullivan, member of the Kansas Society of CPAs (KSCPA)

Thank you, Senator Tyson and Committee members for the opportunity to provide information on SB 495 applicable to changes allowing pass-through entities to elect to pay state income tax at the entity level. On behalf of the Kansas Society of CPAs, the professional association representing over 2,000 Certified Public Accountants (CPAs) and accountants in Kansas, we offer the following perspectives of our member CPAs.

What are we trying to fix

Since the TCJA passed, 21 states have enacted legislation to partially mitigate the $10,000 limit on individual state tax deductions by allowing pass-through entities to elect to have state income taxes paid by the entity instead of the owner. If Kansas does not enact legislation to partially mitigate the limit, the following concerns exist -

- Taxes paid business entities like C Corporations remain fully deductible resulting in a competitive disadvantage to pass-through entities.
- Kansas business is at a competitive disadvantage to the states allowing taxing at the entity level instead of the owner level.
- Surrounding states enacting pass-through legislation include Oklahoma, Colorado and Arkansas which may encourage business to migrate to the surrounding state.

The Solution

Under current Kansas law, pass-through entities (S Corporations, Partnerships and Limited Liability Companies) pay entity taxes on the individual tax return. By allowing entities to make an annual election to pay state taxes at the entity level, benefits include -

- Kansas collects the same amount of revenue making the change revenue neutral. The state taxes are paid by the business instead of the owner.
- Owners will exclude any income from the electing entities on their Kansas income tax returns as they are not subject to tax on the portion of the income included on the entity return.
- The entity makes the election on the tax return each year.
- Recognize the value of similar credits paid by other states to pass-through owners.
- Non-residents are not required to file a tax return since the entity pays the tax.
- Effective date will not require amended tax returns.

Like any tax change, system programming changes are needed to the State's income tax system. However, the potential benefits such as economic growth may far outweigh the cost of making the system changes.

Elimination of the Federal SALT cap should not have an impact to state revenues if the election continues.

Thank you in advance for supporting SB 495.

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