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March 10, 2022

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

RE: Considerations for SB 495 – Rick Najjar, Jeff Farrell – **BKD, LLP**

Thank you, Senator Tyson and Committee members for the opportunity to provide information on SB 495.

The KSCPA expressed well in its testimony the necessary fixes for Kansas to remain on par with surrounding states. SB 495 will address these concerns, ensuring Kansas income tax paid by business owners is deductible for federal income tax purposes, and allowing a credit for taxes paid to other states that also have a pass-through entity regime. The credit for taxes paid is imperative to ensuring Kansas residents do not pay tax twice on income they have earned outside of Kansas' borders. In other words, the credit for taxes paid ensures a level playing field for Kansas residents who may be taxed on a portion of their income by another state. If Kansas residents suddenly found the credit for taxes paid unavailable due to the taxing regimes of other states – taxing income at the entity level rather than the individual level – this level playing would surely be lost. The same tax paid to the same state would no longer be creditable because the tax is paid at the entity level rather than the individual level all while the economic burden of the tax would remain with the Kansas resident. Without our proposed changes, Kansas residents would lose their credit for taxes paid due to nothing more than a change in the manner in which the tax is paid than a change to the substance of the tax itself.

In addition to these changes, it is important to ensure Kansas businesses are able to access credits earned from increasing employment and investment in Kansas, whether or not they elect to be taxed at the entity level. Since the 1980s, credits like the High Performance Incentive Program have provided a crucial incentive for business to bring much needed jobs to Kansas. However, these carefully crafted credits face a possible disruption. In its current proposed form, SB 495 would disallow any credits earned by a pass-through entity during a tax year where the entity made a pass-though entity election if the entity no longer qualifies for the election. As we have seen, the SALT cap is a highly debated topic in Congress. The future of the SALT cap is uncertain. If the SALT cap is later repealed and Kansas no longer offers the pass-through entity election, we suggest SB 495 provides for the ability transfer of any credits from the pass-through entity to its owners. We have suggested changes to this end. These credits encourage investment in Kansas and protecting their ability to be utilized will help further this goal.

Thank you for the opportunity to help further support Kansas businesses under SB 495.

Senate Assessment and Taxation
Date: 3/10

Attachment # 15