SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2465

As Amended by Senate Committee of the Whole

Brief*

HB 2465, as amended, would make changes to the SALT Parity Act, provide for subtraction modifications for certain net operating losses and tax credit disallowances, and clarify and modify the disallowed business interest deduction.

SALT Parity Act Changes

The bill would include a legislative finding that the purpose of the SALT Parity Act tax credit is to avoid double taxation of income on electing pass-through entity owners.

The bill would specify that the tax rate for tax under the SALT Parity Act would be the highest rate of tax imposed by the Kansas individual income tax.

The bill would also clarify that the tax on electing entities under the SALT Parity Act would be levied on:

- The *pro rata* or distributive share of the entity's income for each nonresident owner that is attributable to Kansas; and
- The *pro rata* or distributive share of the entity's income for each resident owner calculated either before or after allocation and apportionment to Kansas. Entities would be required to use the same method of calculation for all resident owners.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

The bill would provide that tax credits attributable to the electing entity would be passed through to and claimed by the entity owner.

The bill would also provide that addition and subtraction modifications and expensing deductions that are attributable to the activities of electing pass-through entities would be claimed on the tax returns of the entity and the entity's owners in the same proportion and manner as they would have applied without the SALT Parity Act election.

The provisions of the bill would be retroactive to tax year 2022.

Net Operating Loss Subtraction Modification

The bill would create a subtraction modification allowing taxpayers who carried back federal net operating losses in tax years 2018 through 2020 pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act to subtract such amounts from their income for purposes of determining Kansas adjusted gross income. Taxpayers would be permitted to carry forward such net operating loss for up to 20 years if the amount exceeds the Kansas adjusted gross income of the taxpayer.

The bill would extend the deadline for eligible taxpayers to file amended returns for tax years 2018 through 2020 until April 15, 2025.

Federal Tax Credit Disallowance Subtraction Modifications

The bill would enact, beginning in tax year 2021, a subtraction modification in determining Kansas adjusted gross income equal to the amount of federal disallowance related to any federal credit under Subsection (a) of Section 280C of the federal Internal Revenue Code and, effective for tax years 2020 and 2021, the amount of federal disallowance related to the Employee Retention Tax Credit.

For the Employee Retention Tax Credit disallowance, the taxpayer would be required to prove that Kansas income tax had previously been paid on the disallowed amount and would be permitted to file a claim for refund or amended return on or before April 15, 2025.

The bill would also eliminate statutory references to repealed federal tax credits.

[*Note*: Subsection (a) of Section 280C of the Internal Revenue Code generally pertains to disallowed deductions associated with employment-related tax credits.]

Disallowed Business Interest

The bill would clarify the addition and subtraction modifications for disallowed business interest to specify that the addition modification is applicable to interest expenses paid or accrued in previous tax years and carried forward to the current tax year and that the subtraction modification is for interest expense actually paid or accrued in the current tax year.

The bill would also provide for tax year 2021 to include a subtraction modification for interest expenses paid or accrued in tax year 2021 to include the sum of interest expenses paid or accrued in tax years 2018, 2019, and 2020, less the sum of the amounts allowed as a deduction pursuant to Section 163 of the federal Internal Revenue Code in tax years 2018, 2019, and 2020.

Golden Years Homestead Property Tax Refund Changes

The bill would make changes to the refund option providing for a refund of the amount of tax in excess of the base year amount under the Homestead Property Tax Refund

Act, which it would rename the Golden Years Homestead Property Tax Freeze Program.

[*Note:* The Homestead Property Tax Refund Act includes three different refund options. The other two refund options would not be impacted by the bill.]

The bill would, for purposes of only this refund option, exclude from the definition of "household income" all Social Security benefits, of which one-half are currently included in the definition.

The bill would increase the maximum amount of income for which taxpayers would be eligible for this refund option from $50,000 to $80,000.

The bill would increase the maximum appraised value of an eligible claimant's home in the base year from $350,000 to $595,000 and provide for future increases to this amount based upon the average percentage change in statewide residential valuation of existing residential real estate for the preceding ten years.

The changes to the refund option would be retroactive to tax year 2022, and the deadline to file claims for tax year 2022 and 2023 would be extended from April 15, 2023, to April 15, 2025.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Helgerson.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by a representative of the Kansas Society of Certified Public Accountants, who generally stated the bill would resolve technical discrepancies related to the SALT Parity Act.

No other testimony was provided.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Kansas Society of Certified Public Accountants, who generally stated the bill would resolve technical discrepancies related to the SALT Parity Act.

Written-only proponent testimony was provided by a representative of the Kansas Chamber of Commerce.

No other testimony was provided.

The Senate Committee amended the bill to modify the SALT Parity Act clarification and insert the contents related to subtraction modifications for net operating losses, employment-related tax credits, and disallowed business interest.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to insert the provisions related to the Golden Years Homestead Property Tax Freeze Program.

Fiscal Information

According to the Department of Revenue, the bill, as amended, would have the following fiscal effect:

($ in millions)

Net Operating Losses	(16.8)	-	-
Section 280C Employement Tax Credits	(1.1)	(0.4)	(0.4)
Employee Tetention Credit	(40.4)	(5.6)	-
Golden Years Changes	(56.3)	(39.0)	(49.1)
Total State General Fund	**(114.6)**	**(45.0)**	**(49.5)**

The Department of Revenue indicates the provisions relating to the SALT Parity Act and disallowed business interest would have no fiscal effect.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Taxation; income tax; SALT Parity Act; disallowed credit deductions; disallowed business interest deductions; net operating losses; homestead refunds