

HOUSE BILL No. 2060

By Committee on Taxation

1-23

1 AN ACT concerning taxation; relating to food sales tax refunds and
2 homestead property tax refunds; certain confined persons; **earned**
3 **income tax credit**; amending K.S.A. 79-4505 and K.S.A. 2012 Supp.
4 **79-32,205, 79-4502, 79-4508 and 79-4509** and repealing the existing
5 sections.
6

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

8 New Section 1. No claim for the refund of certain retailers' sales taxes
9 paid upon food filed on or after June 30, 2011, shall be paid or allowed for
10 any person confined in **and claiming as a household** any correctional
11 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
12 thereto, any juvenile correctional facility, or portion thereof, as defined in
13 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
14 federal bureau of prisons located in the state of Kansas, or any city or
15 county jail facility in the state of Kansas.

16 **Sec. 2. On July 1, 2103, K.S.A. 2012 Supp. 79-32,205 is hereby**
17 **amended to read as follows: 79-32,205. (a) There shall be allowed as a**
18 **credit against the tax liability of a resident individual imposed under the**
19 **Kansas income tax act an amount equal to 18% for tax years 2010**
20 **through 2012, and an amount equal to ~~17%~~ 9% for tax year 2013, and**
21 **all tax years thereafter, of the amount of the earned income credit**
22 **allowed against such taxpayer's federal income tax liability pursuant to**
23 **section 32 of the federal internal revenue code for the taxable year in**
24 **which such credit was claimed against the taxpayer's federal income tax**
25 **liability.**

26 **(b) If the amount of the credit allowed by subsection (a) exceeds the**
27 **taxpayer's income tax liability imposed under the Kansas income tax act,**
28 **such excess amount shall be refunded to the taxpayer.**

29 **Sec. ~~2~~ 3.** K.S.A. 2012 Supp. 79-4502 is hereby amended to read as
30 follows: 79-4502. As used in this act, unless the context clearly indicates
31 otherwise:

32 (a) "Income" means the sum of adjusted gross income under the
33 Kansas income tax act, maintenance, support money, cash public
34 assistance and relief, not including any refund granted under this act, the

1 gross amount of any pension or annuity, including all monetary retirement
2 benefits from whatever source derived, including but not limited to, all
3 payments received under the railroad retirement act, except disability
4 payments, payments received under the federal social security act, except
5 that for determination of what constitutes income such amount shall not
6 exceed 50% of any such social security payments and shall not include any
7 social security payments to a claimant who prior to attaining full
8 retirement age had been receiving disability payments under the federal
9 social security act in an amount not to exceed the amount of such disability
10 payments or 50% of any such social security payments, whichever is
11 greater, all dividends and interest from whatever source derived not
12 included in adjusted gross income, workers compensation and the gross
13 amount of "loss of time" insurance. Income does not include gifts from
14 nongovernmental sources or surplus food or other relief in kind supplied
15 by a governmental agency, nor shall net operating losses and net capital
16 losses be considered in the determination of income. Income does not
17 include veterans disability pensions. Income does not include disability
18 payments received under the federal social security act.

19 (b) "Household" means a claimant, a claimant and spouse who
20 occupy the homestead or a claimant and one or more individuals not
21 related as husband and wife who together occupy a homestead.

22 (c) "Household income" means all income received by all persons of
23 a household in a calendar year while members of such household.

24 (d) "Homestead" means the dwelling, or any part thereof, owned and
25 occupied as a residence by the household and so much of the land
26 surrounding it, as defined as a home site for ad valorem tax purposes, and
27 may consist of a part of a multi-dwelling or multi-purpose building and a
28 part of the land upon which it is built or a manufactured home or mobile
29 home and the land upon which it is situated. "Owned" includes a vendee in
30 possession under a land contract, a life tenant, a beneficiary under a trust
31 and one or more joint tenants or tenants in common. *For purposes of this*
32 *subsection, "homestead" shall not include any correctional facility, or*
33 *portion thereof, as defined in K.S.A. 75-5202, and amendments thereto,*
34 *any juvenile correctional facility, or portion thereof, as defined in K.S.A.*
35 *38-2302, and amendments thereto, any correctional facility of the federal*
36 *bureau of prisons located in the state of Kansas, or any city or county jail*
37 *facility in the state of Kansas.*

38 (e) "Claimant" means a person who has filed a claim under the
39 provisions of this act and was, during the entire calendar year preceding
40 the year in which such claim was filed for refund under this act, except as
41 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
42 this state and was: (1) A person having a disability; (2) a person who is 55
43 years of age or older; (3) a disabled veteran; (4) the surviving spouse of

1 active duty military personnel who died in the line of duty; or (5) a person
2 other than a person included under (1), (2), (3) or (4) having one or more
3 dependent children under 18 years of age residing at the person's
4 homestead during the calendar year immediately preceding the year in
5 which a claim is filed under this act. The surviving spouse of a disabled
6 veteran who was receiving benefits pursuant to subsection (e)(3) of this
7 section at the time of the veterans' death, shall be eligible to continue to
8 receive benefits until such time the surviving spouse remarries.

9 When a homestead is occupied by two or more individuals and more
10 than one of the individuals is able to qualify as a claimant, the individuals
11 may determine between them as to whom the claimant will be. If they are
12 unable to agree, the matter shall be referred to the secretary of revenue
13 whose decision shall be final.

14 ~~For purposes of this subsection, "claimant" shall not include any~~
15 ~~person confined in any correctional facility, or portion thereof, as defined~~
16 ~~in K.S.A. 75-5202, and amendments thereto, any juvenile correctional~~
17 ~~facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments~~
18 ~~thereto, any correctional facility of the federal bureau of prisons located in~~
19 ~~the state of Kansas, or any city or county jail facility in the state of~~
20 ~~Kansas.~~

21 (f) "Property taxes accrued" means property taxes, exclusive of
22 special assessments, delinquent interest and charges for service, levied on
23 a claimant's homestead in 1979 or any calendar year thereafter by the state
24 of Kansas and the political and taxing subdivisions of the state. When a
25 homestead is owned by two or more persons or entities as joint tenants or
26 tenants in common and one or more of the persons or entities is not a
27 member of claimant's household, "property taxes accrued" is that part of
28 property taxes levied on the homestead that reflects the ownership
29 percentage of the claimant's household. For purposes of this act, property
30 taxes are "levied" when the tax roll is delivered to the local treasurer with
31 the treasurer's warrant for collection. When a claimant and household own
32 their homestead part of a calendar year, "property taxes accrued" means
33 only taxes levied on the homestead when both owned and occupied as a
34 homestead by the claimant's household at the time of the levy, multiplied
35 by the percentage of 12 months that the property was owned and occupied
36 by the household as its homestead in the year. When a household owns and
37 occupies two or more different homesteads in the same calendar year,
38 property taxes accrued shall be the sum of the taxes allocable to those
39 several properties while occupied by the household as its homestead
40 during the year. Whenever a homestead is an integral part of a larger unit
41 such as a multi-purpose or multi-dwelling building, property taxes accrued
42 shall be that percentage of the total property taxes accrued as the value of
43 the homestead is of the total value. For the purpose of this act, the word

1 "unit" refers to that parcel of property covered by a single tax statement of
2 which the homestead is a part.

3 (g) "Disability" means:

4 (1) Inability to engage in any substantial gainful activity by reason of
5 any medically determinable physical or mental impairment which can be
6 expected to result in death or has lasted or can be expected to last for a
7 continuous period of not less than 12 months, and an individual shall be
8 determined to be under a disability only if the physical or mental
9 impairment or impairments are of such severity that the individual is not
10 only unable to do the individual's previous work but cannot, considering
11 age, education and work experience, engage in any other kind of
12 substantial gainful work which exists in the national economy, regardless
13 of whether such work exists in the immediate area in which the individual
14 lives or whether a specific job vacancy exists for the individual, or whether
15 the individual would be hired if application was made for work. For
16 purposes of the preceding sentence (with respect to any individual), "work
17 which exists in the national economy" means work which exists in
18 significant numbers either in the region where the individual lives or in
19 several regions of the country; for purposes of this subsection, a "physical
20 or mental impairment" is an impairment that results from anatomical,
21 physiological or psychological abnormalities which are demonstrable by
22 medically acceptable clinical and laboratory diagnostic techniques; or

23 (2) blindness and inability by reason of blindness to engage in
24 substantial gainful activity requiring skills or abilities comparable to those
25 of any gainful activity in which the individual has previously engaged with
26 some regularity and over a substantial period of time.

27 (h) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the
28 better eye with the use of a correcting lens. An eye which is accompanied
29 by a limitation in the fields of vision such that the widest diameter of the
30 visual field subtends an angle no greater than 20 degrees shall be
31 considered for the purpose of this paragraph as having a central visual
32 acuity of $^{20}/_{200}$ or less.

33 (i) "Disabled veteran" means a person who is a resident of Kansas
34 and has been honorably discharged from active service in any branch of
35 the armed forces of the United States or Kansas national guard and who
36 has been certified by the United States department of veterans affairs or its
37 successor to have a 50% permanent disability sustained through military
38 action or accident or resulting from disease contracted while in such active
39 service.

40 Sec. ~~3~~ 4. K.S.A. 79-4505 is hereby amended to read as follows: 79-
41 4505. Except as provided in K.S.A. 79-4517, and amendments thereto, no
42 claim in respect of property taxes levied in any year shall be paid or
43 allowed unless such claim is actually filed with and in the possession of

1 the department of revenue on or before April 15 of the year next
 2 succeeding the year in which ~~said~~ such taxes were levied. No claim filed
 3 on or after June 30, 2011, in respect of property taxes levied in any year
 4 shall be paid or allowed for any person confined in **and claiming as a**
 5 **homestead** any correctional facility, or portion thereof, as defined in
 6 K.S.A. 75-5202, and amendments thereto, any juvenile correctional
 7 facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments
 8 thereto, any correctional facility of the federal bureau of prisons located in
 9 the state of Kansas, or any city or county jail facility in the state of
 10 Kansas.

11 **Sec. 5. On July 1, 2103, K.S.A. 2012 Supp. 79-4508 is hereby**
 12 **amended to read as follows: 79-4508. (a) Commencing in the tax year**
 13 **beginning after December 31, ~~2005~~ 2012, the amount of any claim**
 14 **pursuant to this act shall be computed by ~~deducting the amount computed~~**
 15 **under column (2) from the amount of claimant's property tax accrued.**

	(1)	(2)
Claimants household		Deduction from property tax
income		accrued
	But not	
At least	more than	
\$0	\$6,000	\$0
6,001	7,000	4%
7,001	16,000	4% plus 4% of every \$1,000, or
		fraction thereof, of income in
		excess of \$7,001
16,001	27,000	40% plus 5% of every \$1,000,
		or fraction thereof, of income in
		excess of \$16,001
27,001	27,600	95% using the following table:
If the amount on line 10 Form K-40H is		Enter this percent on line
between:		14 of Form K-40H:
\$0 and \$15,510		100%
\$15,511 and \$16,000		95%
\$16,001 and \$17,000		90%
\$17,001 and \$18,000		85%
\$18,001 and \$19,000		80%
\$19,001 and \$20,000		75%
\$20,001 and \$21,000		70%
\$21,001 and \$22,000		65%
\$22,001 and \$23,000		60%
\$23,001 and \$24,000		55%
\$24,001 and \$25,000		50%
\$25,001 and \$26,000		45%

1	\$26,001 and \$27,000	40%
2	\$27,001 and \$28,000	35%
3	\$28,001 and \$29,000	30%
4	\$29,001 and \$30,000	25%
5	\$30,001 and \$31,000	20%
6	\$31,001 and \$32,000	15%
7	\$32,001 and \$33,000	10%
8	\$33,001 and \$34,400	5%
9	\$34,401 and over	0%

10 **(b) The director of taxation shall prepare a table under which**
 11 **claims under this act shall be determined. The amount of claim for each**
 12 **bracket shall be computed only to the nearest \$1.**

13 **(c) The claimant may elect not to record the amount claimed on the**
 14 **claim. The claim allowable to persons making this election shall be**
 15 **computed by the department which shall notify the claimant by mail of**
 16 **the amount of the allowable claim.**

17 **(d) In the case of all tax years commencing after December 31,**
 18 **2004 2012, the upper limit threshold amount amounts prescribed in this**
 19 **section, shall be increased by an amount equal to such threshold amount**
 20 **multiplied by the cost-of-living adjustment determined under section 1(f)**
 21 **(3) of the federal internal revenue code for the calendar year in which**
 22 **the taxable year commences.**

23 **Sec. 6. On July 1, 2103, K.S.A. 2012 Supp. 79-4509 is hereby**
 24 **amended to read as follows: 79-4509. In the event property taxes**
 25 **accrued exceeds ~~\$700~~ \$1,200 for a household in any one year, the**
 26 **amount thereof shall, for purposes of this act, be deemed to have been**
 27 **~~\$700~~ \$1,200.**

28 **Sec. ~~4~~ 7. K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 are hereby**
 29 **repealed.**

30 **Sec. 8. On July 1, 2013, K.S.A. 2012 Supp. 79-32,205, 79-4508 and**
 31 **79-4509 are hereby repealed.**

32 **Sec. ~~5~~ 9. This act shall take effect and be in force from and after its**
 33 **publication in the Kansas register.**