

**As Amended by House Committee**

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*Session of 2014*

**HOUSE BILL No. 2464**

By Committee on Taxation

1-21

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1 AN ACT concerning taxation; relating to deductions, privilege tax; certain  
2 depreciable property; amending K.S.A. 2013 Supp. 79-32,143a and  
3 repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 79-32,143a is hereby amended to read  
7 as follows: 79-32,143a. (a) For taxable years beginning after December 31,  
8 2011, a taxpayer may elect to take an expense deduction from Kansas net  
9 income before expensing or recapture allocated or apportioned to this state  
10 for the cost of the following property placed in service in this state during  
11 the taxable year: (1) Tangible property eligible for depreciation under the  
12 modified accelerated cost recovery system in section 168 of the internal  
13 revenue code, as amended, but not including residential rental property,  
14 nonresidential real property, any railroad grading or tunnel bore or any  
15 other property with an applicable recovery period in excess of 25 years as  
16 defined under section 168(c) or (g) of the internal revenue code, as  
17 amended; and (2) computer software as defined in section 197(e)(3)(B) of  
18 the internal revenue code, as amended, and as described in section 197(e)  
19 (3)(A)(i) of the internal revenue code, as amended, to which section 167 of  
20 the internal revenue code, as amended, applies. If such election is made,  
21 the amount of expense deduction for such cost shall equal the difference  
22 between the depreciable cost of such property for federal income tax  
23 purposes and the amount of bonus depreciation being claimed for such  
24 property pursuant to section 168(k) of the internal revenue code, as  
25 amended, for federal income tax purposes in such tax year, but without  
26 regard to any expense deduction being claimed for such property under  
27 section 179 of the internal revenue code, as amended, multiplied by the  
28 applicable factor, determined by using, the table provided in subsection (f),  
29 based on the method of depreciation selected pursuant to section 168(b)  
30 (1), (2), or (3) or (g) of the internal revenue code, as amended, and the  
31 applicable recovery period for such property as defined under section  
32 168(c) or (g) of the internal revenue code, as amended. This election shall  
33 be made by the due date of the original return, including any extensions,  
34 and may be made only for the taxable year in which the property is placed  
35 in service, and once made, shall be irrevocable. If the section 179 expense  
36 deduction election has been made for federal income tax purposes for any

1 asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column  
2 of the table provided in subsection (f) for the applicable recovery period of  
3 the respective assets.

4 (b) If the amount of expense deduction calculated pursuant to  
5 subsection (a) exceeds the taxpayer's Kansas net income before expensing  
6 or recapture allocated or apportioned to this state, such excess amount  
7 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-  
8 32,143, and amendments thereto.

9 (c) If the property for which an expense deduction is taken pursuant  
10 to subsection (a) is subsequently sold during the applicable recovery  
11 period for such property as defined under section 168(c) of the internal  
12 revenue code, as amended, and in a manner that would cause recapture of  
13 any previously taken expense or depreciation deductions for federal  
14 income tax purposes, or if the situs of such property is otherwise changed  
15 such that the property is relocated outside the state of Kansas during such  
16 applicable recovery period, then the expense deduction determined  
17 pursuant to subsection (a) shall be subject to recapture and treated as  
18 Kansas taxable income allocated to this state. The amount of recapture  
19 shall be the Kansas expense deduction determined pursuant to subsection  
20 (a) multiplied by a fraction, the numerator of which is the number of years  
21 remaining in the applicable recovery period for such property as defined  
22 under section 168(c) or (g) of the internal revenue code, as amended, after  
23 such property is sold or removed from the state including the year of such  
24 disposition, and the denominator of which is the total number of years in  
25 such applicable recovery period.

26 (d) The situs of tangible property for purposes of claiming and  
27 recapture of the expense deduction shall be the physical location of such  
28 property. If such property is mobile, the situs shall be the physical location  
29 of the business operations from where such property is used or based. The  
30 situs of computer software shall be apportioned to Kansas based on the  
31 fraction, the numerator of which is the number of the taxpayer's users  
32 located in Kansas of licenses for such computer software used in the active  
33 conduct of the taxpayer's business operations, and the denominator of  
34 which is the total number of the taxpayer's users of the licenses for such  
35 computer software used in the active conduct of the taxpayer's business  
36 operations everywhere.

37 (e) Any member of a unitary group filing a combined report may  
38 elect to take an expense deduction pursuant to subsection (a) for an  
39 investment in property made by any member of the combined group,  
40 provided that the amount calculated pursuant to subsection (a) may only be  
41 deducted from the Kansas net income before expensing or recapture  
42 allocated to or apportioned to this state by such member making the  
43 election.

1 (f) The following table shall be used in determining the expense  
 2 deduction calculated pursuant to subsection (a):

3 Factors

4 IRC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)
5 Recover Period	Depreciation	Depreciation	Depreciation
6 (year)	Method	Method	Method
7 2.5	*	.077	.092
8 3	.075	.091	.106
9 3.5	*	.102	.116
10 4	*	.114	.129
11 5	.116	.135	.150
12 6	*	.154	.170
13 6.5	*	.163	.179
14 7	.151	.173	.190
15 7.5	*	.181	.199
16 8	*	.191	.208
17 8.5	*	.199	.217
18 9	*	.208	.226
19 9.5	*	.216	.235
20 10	.198	.224	.244
21 10.5	*	.232	.252
22 11	*	.240	.261
23 11.5	*	.248	.269
24 12	*	.256	.277
25 12.5	*	.263	.285
26 13	*	.271	.293
27 13.5	*	.278	.300
28 14	*	.285	.308
29 15	*	.299	.323
30 16	*	.313	.337
31 16.5	*	.319	.344
32 17	*	.326	.351
33 18	*	.339	.365
34 19	*	.351	.378
35 20	*	.363	.391
36 22	*	.386	.415
37 24	*	.408	.438
38 25	*	.419	.449

39 \*Not Applicable

40 (g) If a taxpayer elects to expense any investment pursuant to  
 41 subsection (a), such taxpayer shall not be eligible for any tax credit,  
 42 accelerated depreciation, or deduction for such investment allowed  
 43 pursuant to K.S.A. 2013 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-  
 44 32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-

1 32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-  
2 32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and  
3 amendments thereto.

4 (h) **(1)** For tax year 2013, ~~and all tax years thereafter~~, the deduction  
5 allowed by this section shall only be available to taxpayers subject to the  
6 income tax on corporations imposed pursuant to subsection (c) of K.S.A.  
7 79-32,110, and amendments thereto, ~~or the privilege tax imposed upon any~~  
8 ~~national banking association, state bank, savings bank, trust company or~~  
9 ~~savings and loan association pursuant to article 11 of chapter 79 of the~~  
10 ~~Kansas Statutes Annotated, and amendments thereto~~, and used only to  
11 determine such taxpayer's corporate income ~~or privilege~~-tax liability.

12 **(2)** For tax year 2014, and all tax years thereafter, the deduction  
13 allowed by this section shall only be available to taxpayers subject to  
14 the income tax on corporations imposed pursuant to subsection (c) of  
15 K.S.A. 79-32,110, and amendments thereto, or the privilege tax  
16 imposed upon any national banking association, state bank, savings  
17 bank, trust company or savings and loan association pursuant to  
18 article 11 of chapter 79 of the Kansas Statutes Annotated, and  
19 amendments thereto, and used only to determine such taxpayer's  
20 corporate income or privilege tax liability.

21 Sec. 2. K.S.A. 2013 Supp. 79-32,143a is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its  
23 publication in the statute book.