

SENATE BILL No. 236

By Committee on Assessment and Taxation

3-22

1 AN ACT concerning income taxation; relating to certain net operating
2 losses; amending K.S.A. ~~2016~~ **2017** Supp. 79-32,143 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. ~~2016~~ **2017** Supp. 79-32,143 is hereby amended to
7 read as follows: 79-32,143. (a) For net operating losses incurred in taxable
8 years beginning after December 31, 1987, a net operating loss deduction
9 shall be allowed in the same manner that it is allowed under the federal
10 internal revenue code except that such net operating loss may only be
11 carried forward to each of the 10 taxable years following the taxable year
12 of the net operating loss. For net operating farm losses, as defined by
13 subsection (i) of section 172 of the federal internal revenue code, incurred
14 in taxable years beginning after December 31, 1999, a net operating loss
15 deduction shall be allowed in the same manner that it is allowed under the
16 federal internal revenue code except that such net operating loss may be
17 carried forward to each of the 10 taxable years following the taxable year
18 of the net operating loss. The amount of the net operating loss that may be
19 carried back or forward for Kansas income tax purposes shall be that
20 portion of the federal net operating loss allocated to Kansas under this act
21 in the taxable year that the net operating loss is sustained.

22 (b) The amount of the loss to be carried back or forward will be the
23 federal net operating loss after: (1) All modifications required under this
24 act applicable to the net loss in the year the loss was incurred; and (2) after
25 apportionment as to source in the case of corporations, nonresident
26 individuals for losses incurred in taxable years beginning prior to January
27 1, 1978, and nonresident estates and trusts in the same manner that income
28 for such corporations, nonresident individuals, estates and trusts is
29 required to be apportioned.

30 (c) If a net operating loss was incurred in a taxable year beginning
31 prior to January 1, 1988, the amount of the net operating loss that may be
32 carried back and carried forward and the period for which it may be
33 carried back and carried forward shall be determined under the provisions
34 of the Kansas income tax laws which were in effect during the year that
35 such net operating loss was incurred.

36 (d) If any portion of a net operating loss described in subsections (a)

1 and (b) is not utilized prior to the final year of the carryforward period
2 provided in subsection (a), a refund shall be allowable in such final year in
3 an amount equal to the refund which would have been allowable in the
4 taxable year the loss was incurred by utilizing the three year carryback
5 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
6 multiplied by a fraction, the numerator of which is the unused portion of
7 such net operating loss in the final year, and the denominator of which is
8 the amount of such net operating loss which could have been carried back
9 to the three years immediately preceding the year in which the loss was
10 incurred. In no event may such fraction exceed 1.

11 (e) Notwithstanding any other provisions of the Kansas income tax
12 act, the net operating loss as computed under subsections (a), (b) and (c) of
13 this section shall be allowed in full in determining Kansas taxable income
14 or at the option of the taxpayer allowed in full in determining Kansas
15 adjusted gross income.

16 (f) No refund of income tax which results from a net operating farm
17 loss carry back shall be allowed in an amount exceeding \$1,500 in any
18 year. Any overpayment in excess of \$1,500 may be carried forward to any
19 year or years after the year of the loss and may be claimed as a credit
20 against the tax. The refundable portion of such credit shall not exceed
21 \$1,500 in any year.

22 (g) For tax year 2013, and all tax years thereafter, a net operating loss
23 allowed by this section shall only be available to taxpayers subject to the
24 income tax on corporations imposed pursuant to ~~subsection (e)~~ of K.S.A.
25 79-32,110(c), and amendments thereto, and used only to determine such
26 taxpayer's corporate income tax liability.

27 (h) *Notwithstanding any other provisions of the Kansas income tax*
28 *act, for tax year 2006, if a net operating loss is incurred from the sale at a*
29 *loss of a historic hotel located in a community with less than 2,500 citizens*
30 *improved by funds borrowed on both such hotel and farmland owned by*
31 *the taxpayer that is located within 20 miles of such hotel, and previously*
32 *the farmland was sold at a gain and in which case a majority of the*
33 *proceeds were used to pay off the mortgage on such hotel, the net*
34 *operating loss may be carried back three years to offset the gain on the sale*
35 *of such farmland. The taxpayer may file an amended return for the three*
36 *prior years.*

37 Sec. 2. K.S.A. ~~2016~~ 2017 Supp. 79-32,143 is hereby repealed.

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