

HOUSE BILL No. 2446

By Committee on Taxation

3-19

1 AN ACT concerning taxation; relating to sales and compensating use tax;
2 imposing tax on sales of digital property and subscription services;
3 requiring the collection and remittance for sales, compensating use and
4 transient guest taxes and prepaid wireless 911 fees made on
5 marketplace facilitator platforms; providing nexus for certain retailers
6 and removing click-through nexus provisions; relating to income tax;
7 providing for addition and subtraction modifications for the treatment
8 of global intangible low-taxed income, business interest, capital
9 contributions, business meals and payment protection program loans
10 and expenses; expanding the expense deduction for income tax
11 taxpayers and calculating the deduction amount; providing a refundable
12 food sales tax credit; discontinuing the nonrefundable food sales tax
13 credit; increasing the Kansas standard deduction; providing an
14 exemption of unemployment or other compensation income attributable
15 as a result of identity fraud; amending K.S.A. 79-32,117, 79-32,119,
16 79-32,138, 79-32,143a, 79-32,271, 79-3602 and 79-3702 and K.S.A.
17 2020 Supp. 79-3603 and repealing the existing sections.

18

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

20 New Section 1. The provisions of sections 1 through 10, and
21 amendments thereto, shall be part of and supplemental to the Kansas
22 retailers' sales tax act.

23 New Sec. 2. As used in this act:

24 (a) "Act" means sections 1 through 10, and amendments thereto.

25 (b) "Affiliated person" means a person that, with respect to another
26 person:

27 (1) Has an ownership interest of more than 5%, whether direct or
28 indirect, in the other person; or

29 (2) is related to the other person because a third person, or group of
30 third persons who are affiliated persons with respect to each other, holds
31 an ownership interest of more than 5%, whether direct or indirect, in the
32 related persons.

33 (c) "Cumulative gross receipts" means gross receipts as defined in
34 K.S.A. 79-3602, and amendments thereto, and includes the gross receipts
35 received by the marketplace facilitator from such facilitator's own direct
36 sales combined with the gross receipts received from sales such facilitator

1 facilitates for sellers or marketplace sellers.

2 (d) "Department" means the Kansas department of revenue.

3 (e) (1) "Marketplace facilitator" means a person that, pursuant to an
4 agreement with a marketplace seller, facilitates sales by such marketplace
5 seller through a physical or electronic marketplace operated by the person,
6 and:

7 (A) Engages directly or indirectly, through one or more affiliated
8 persons in any of the following:

9 (i) Transmitting or otherwise communicating the offer or acceptance
10 between a buyer and marketplace seller;

11 (ii) owning or operating the infrastructure, electronic or physical, or
12 technology that brings buyers and marketplace sellers together;

13 (iii) providing a virtual currency that buyers are allowed or required
14 to use to purchase products from the marketplace seller; or

15 (iv) software development or research and development activities
16 related to any of the activities described in this subsection, if such
17 activities are directly related to a physical or electronic marketplace
18 operated by the person or an affiliated person; and

19 (B) engages in any of the following activities with respect to the
20 marketplace seller's products:

21 (i) Payment processing services;

22 (ii) fulfillment, delivery or storage services;

23 (iii) listing products for sale;

24 (iv) setting prices;

25 (v) branding sales as those of the marketplace facilitator;

26 (vi) order taking;

27 (vii) advertising or promotion; or

28 (viii) providing customer service or accepting or assisting with
29 returns or exchanges.

30 (2) A "marketplace facilitator" does not include a person who:

31 (A) Provides internet advertising services, including listing products
32 for sale, so long as the person does not also engage in any of the activities
33 described in subsection (e)(1)(A) in addition to any of the activities
34 described in subsection (e)(1)(B); or

35 (B) with respect to rental of rooms, lodgings, accommodations,
36 homes, apartments, cabins, residential dwelling units or hotel rooms in a
37 hotel, as defined in K.S.A. 36-501, and amendments thereto, operates a
38 marketplace or a portion of a marketplace that enables consumers to rent
39 rooms, lodgings, accommodations, homes, apartments, cabins, residential
40 dwelling units or hotel rooms in a hotel, as defined in K.S.A. 36-501, and
41 amendments thereto, or acts as an accommodation broker as defined in
42 K.S.A. 12-1692, and amendments thereto.

43 (3) The exclusion in subsection (e)(2)(B) does not apply to a

1 marketplace facilitator or that portion of a marketplace facilitator that
2 facilitates the sale of the rental of rooms, lodgings, accommodations,
3 homes, apartments, cabins, residential dwelling units or hotel rooms in
4 hotels, as defined in K.S.A. 36-501, and amendments thereto, or acts as an
5 accommodation broker as defined in K.S.A. 12-1692, and amendments
6 thereto, who also engages in any of the activities described in subsection
7 (e)(1)(A) in addition to any of the activities described in subsection (e)(1)
8 (B).

9 (f) "Marketplace seller" means a seller that makes retail sales through
10 any physical or electronic marketplaces operated by a marketplace
11 facilitator regardless of whether the seller is required to be registered with
12 the department.

13 (g) "Sale" or "sales" means the same as defined in K.S.A. 79-
14 3602(kk), and amendments thereto, whether or not such sales qualify for a
15 sales tax exemption.

16 (h) "Seller" means the same as defined in K.S.A. 79-3602(mm), and
17 amendments thereto, and includes marketplace facilitators, whether
18 making sales in the seller's own right or on behalf of marketplace sellers.

19 (i) "Tax" means the sales tax imposed under K.S.A. 79-3603, and
20 amendments thereto, or the use tax imposed under K.S.A. 79-3703, and
21 amendments thereto.

22 (j) Definitions of words and phrases in K.S.A. 79-3602, and
23 amendments thereto, apply to this act, unless the context requires a
24 different meaning.

25 New Sec. 3. (a) On and after July 1, 2021, any marketplace facilitator
26 that meets the criteria in subsection (b) or that has a physical presence in
27 this state, must collect and remit retail sales or use tax on all taxable retail
28 sales made or facilitated by the marketplace facilitator into this state
29 pursuant to this act. Marketplace facilitators must begin collecting state
30 and local retail sales or use taxes on taxable retail sales made or facilitated
31 by the marketplace facilitator sourced to this state beginning on the first
32 day of the next calendar month that is at least 30 days from the date that
33 the marketplace facilitator met the threshold described in subsection (b).

34 (b) A marketplace facilitator is subject to subsection (a) if:

35 (1) (A) For the period beginning on January 1, 2021, through June 30,
36 2021, the marketplace facilitator had cumulative gross receipts from retail
37 sales sourced to this state of \$50,000 or more; or

38 (B) during the current or immediately preceding calendar year, the
39 marketplace facilitator had cumulative gross receipts from retail sales
40 sourced to this state of \$50,000 or more.

41 (2) (A) For any marketplace facilitator who satisfies the provisions of
42 subsection (b)(1)(A), such retailer shall not be required to collect and remit
43 any taxes from sales occurring prior to July 1, 2021.

1 (B) For any marketplace facilitator who satisfies the provisions of
2 subsection (b)(1)(B) for sales in the current calendar year for the first time,
3 such marketplace facilitator shall be required to collect and remit the tax
4 on the cumulative gross receipts from sales in the current calendar year by
5 the marketplace facilitator to customers in this state.

6 New Sec. 4. (a) In addition to other applicable recordkeeping
7 requirements, the department may require a marketplace facilitator to
8 provide or make available to the department any information the
9 department determines is reasonably necessary to enforce the provisions of
10 this act, the Kansas retailers' sales tax act and the Kansas compensating tax
11 act. Such information may include documentation of sales made by
12 marketplace sellers through the marketplace facilitator's physical or
13 electronic marketplace. The department may prescribe by rules and
14 regulations the form and manner for providing this information.

15 (b) A marketplace facilitator is relieved of liability under this act for
16 failure to collect the correct amount of tax to the extent that the
17 marketplace facilitator can show to the department's satisfaction that the
18 error was due to incorrect or insufficient information given to the
19 marketplace facilitator by the marketplace seller, unless the marketplace
20 facilitator and marketplace seller are affiliated persons. When the
21 marketplace facilitator is relieved of liability under this subsection, the
22 marketplace seller is solely liable for the amount of uncollected tax due.

23 (c) Except as otherwise provided in this section, a marketplace seller
24 obligated to collect the taxes imposed under this act is not required to
25 collect such taxes on all taxable retail sales through a marketplace operated
26 by a marketplace facilitator if the marketplace seller entered into an
27 agreement with the marketplace facilitator indicating that the marketplace
28 facilitator is registered with the department and will collect all applicable
29 taxes due under this act, the Kansas retailers' sales tax act or the Kansas
30 compensating tax act on all taxable retail sales made on behalf of the
31 marketplace seller through the marketplace operated by the marketplace
32 facilitator. This subsection does not relieve a marketplace seller from
33 liability for uncollected taxes due under this act, the Kansas retailers' sales
34 tax act or the Kansas compensating tax act resulting from a marketplace
35 facilitator's failure to collect the proper amount of tax due when the error
36 was due to incorrect or insufficient information given to the marketplace
37 facilitator by the marketplace seller.

38 (d) No class action may be brought against a marketplace facilitator
39 in any court of this state on behalf of purchasers arising from or in any
40 way related to an overpayment of sales or use tax or other applicable taxes
41 and fees collected by the marketplace facilitator, regardless of whether that
42 claim is characterized as a tax refund claim. Nothing in this subsection
43 affects a purchaser's right to seek a refund from the department as

1 provided by the Kansas retailers' sales tax act.

2 (e) The department shall solely audit the marketplace facilitator for
3 sales made by the marketplace seller but facilitated by the marketplace
4 facilitator. The department shall not audit marketplace sellers for sales
5 facilitated by a marketplace facilitator except to the extent the marketplace
6 facilitator seeks relief under subsection (b) or (c).

7 New Sec. 5. (a) Except as otherwise provided in this act, taxes
8 imposed under the Kansas retailers' sales tax act or the Kansas
9 compensating tax act and payable by a consumer directly to the
10 department are due, on returns prescribed by the department, as prescribed
11 by those acts.

12 (b) Nothing in this act affects the obligation of any purchaser from
13 this state to remit retail sales or use tax as to any applicable taxable sale in
14 which the seller does not collect and remit retail sales or use tax.

15 New Sec. 6. (a) A marketplace facilitator that is subject to section 3,
16 and amendments thereto, and is complying with the requirements of the
17 Kansas retailers' sales tax act or the Kansas compensating tax act may only
18 seek a recovery of retail sales and use taxes, penalties or interest from the
19 department by following the recovery procedures established under the
20 Kansas retailers' sales tax act. However, no claim may be granted on the
21 basis that the taxpayer lacked a physical presence in this state and
22 complied with the tax collection provisions of the Kansas retailers' sales
23 tax act or the Kansas compensating tax act voluntarily.

24 (b) Neither the state nor any marketplace facilitator who collects and
25 remits retail sales or use tax under section 3, and amendments thereto, is
26 liable to a purchaser that claims that the retail sales or use tax has been
27 over-collected because a provision of this act is later deemed unlawful.

28 New Sec. 7. (a) A marketplace seller or a marketplace facilitator that
29 is obligated to collect and remit the taxes imposed under this act, the
30 Kansas retailers' sales tax act or the Kansas compensating tax act shall also
31 collect and remit transient guest taxes pursuant to K.S.A. 12-1697, and
32 amendments thereto, and 911 fees pursuant to K.S.A. 2020 Supp. 12-5369,
33 12-5370 and 12-5371, and amendments thereto.

34 (b) Beginning on and after July 1, 2021, the collection and remittance
35 obligations of a marketplace facilitator under this act also apply to any
36 other taxes and fees, as defined under this section, that are imposed on a
37 retail sale made or facilitated by the marketplace facilitator, whether in its
38 own right or as an agent of a marketplace seller, regardless of whether the
39 marketplace seller has a tax collection obligation. No marketplace
40 facilitator shall be required to collect and remit any 911 fees pursuant to
41 K.S.A. 2020 Supp. 12-5369, 12-5370 and 12-5371, and amendments
42 thereto, prior to January 1, 2022.

43 New Sec. 8. Except as otherwise provided in this act, the provisions

1 of K.S.A. 79-3601 through 79-3696, and amendments thereto, relating to
2 enforcement, collection and administration, insofar as practicable, shall
3 have full force and effect with respect to taxes imposed under the
4 provisions of this act.

5 New Sec. 9. The secretary of revenue shall adopt such rules and
6 regulations as deemed necessary for the administration of this act.

7 New Sec. 10. If any provision of sections 1 through 9, and
8 amendments thereto, or the application thereof to any person or
9 circumstance is held invalid, the invalidity shall not affect other provisions
10 or applications that can be given effect without the invalid provision or
11 application, and to this end, the provisions are severable.

12 New Sec. 11. Notwithstanding any other provision of law, for any
13 individual whose identity was fraudulently used to secure unemployment
14 compensation or any other type of compensation, if such individual never
15 received such compensation, such compensation shall not be considered
16 gross income and shall not be taxable for Kansas income tax purposes
17 after determination by the department of revenue that the benefits were
18 obtained fraudulently by another individual.

19 The department of revenue shall provide a method for any taxpayer
20 subject to the Kansas income tax act to report to the department of revenue
21 whether such taxpayer was a victim of fraud due to identity theft and
22 whether such fraud resulted in the reporting of any income to the federal
23 internal revenue service. The report shall include, but not be limited to, the
24 amount of the income reported to the federal internal revenue service due
25 to fraud, if known.

26 New Sec. 12. (a) For any taxable year commencing after December
27 31, 2020, a credit shall be allowed against the tax imposed by the Kansas
28 income tax act on the Kansas taxable income of an individual taxpayer
29 who: (1) Purchased food in this state; (2) had federal adjusted gross
30 income for the tax year that did not exceed \$30,000 if single filing status
31 or married filing separate filing status or \$40,000 if head of household
32 filing status or married filing jointly filing status; and (3) meets the
33 qualifications in subsection (b).

34 (b) The taxpayer filing single, head of household or married filing
35 separate or the taxpayer and taxpayer's spouse if married filing jointly
36 must be domiciled in this state during the entire tax year. For purposes of
37 this credit, "domicile" shall not include any correctional institution, or
38 portion thereof, as defined in K.S.A. 75-5202, and amendments thereto,
39 any juvenile correctional facility, or portion thereof, as defined in K.S.A.
40 38-2302, and amendments thereto, any correctional facility of the federal
41 bureau of prisons located in the state of Kansas or any city or county jail
42 facility in the state of Kansas.

43 (c) The amount of the credit shall be \$60 for single filing status and

1 married filing separate filing status, \$180 for head of household filing
2 status and \$240 for married filing jointly filing status.

3 (d) If the amount of the credit allowed exceeds the taxpayer's income
4 tax liability under the Kansas income tax act, such excess amount shall be
5 refunded to the taxpayer.

6 (e) In the case of all tax years commencing after December 31, 2021,
7 the threshold income amounts and the amounts of the tax credit, as
8 prescribed in this section, shall be increased by an amount equal to such
9 threshold amount and tax credit amount multiplied by the cost-of-living
10 adjustment determined under section 1(f)(3) of the federal internal revenue
11 code for the calendar year in which the taxable year commences.

12 (f) The county treasurer of each county shall mail to each taxpayer
13 with the property tax statement of such taxpayer information provided by
14 the secretary of revenue with respect to claiming of a refund of retailers'
15 sales taxes paid upon food pursuant to this section.

16 (g) The secretary of revenue is hereby authorized to adopt such rules
17 and regulations as may be necessary for the administration of the
18 provisions of this section.

19 Sec. 13. K.S.A. 79-32,117 is hereby amended to read as follows: 79-
20 32,117. (a) The Kansas adjusted gross income of an individual means such
21 individual's federal adjusted gross income for the taxable year, with the
22 modifications specified in this section.

23 (b) There shall be added to federal adjusted gross income:

24 (i) Interest income less any related expenses directly incurred in the
25 purchase of state or political subdivision obligations, to the extent that the
26 same is not included in federal adjusted gross income, on obligations of
27 any state or political subdivision thereof, but to the extent that interest
28 income on obligations of this state or a political subdivision thereof issued
29 prior to January 1, 1988, is specifically exempt from income tax under the
30 laws of this state authorizing the issuance of such obligations, it shall be
31 excluded from computation of Kansas adjusted gross income whether or
32 not included in federal adjusted gross income. Interest income on
33 obligations of this state or a political subdivision thereof issued after
34 December 31, 1987, shall be excluded from computation of Kansas
35 adjusted gross income whether or not included in federal adjusted gross
36 income.

37 (ii) Taxes on or measured by income or fees or payments in lieu of
38 income taxes imposed by this state or any other taxing jurisdiction to the
39 extent deductible in determining federal adjusted gross income and not
40 credited against federal income tax. This paragraph shall not apply to taxes
41 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
42 amendments thereto, for privilege tax year 1995, and all such years
43 thereafter.

1 (iii) The federal net operating loss deduction, except that the federal
2 net operating loss deduction shall not be added to an individual's federal
3 adjusted gross income for tax years beginning after December 31, 2016.

4 (iv) Federal income tax refunds received by the taxpayer if the
5 deduction of the taxes being refunded resulted in a tax benefit for Kansas
6 income tax purposes during a prior taxable year. Such refunds shall be
7 included in income in the year actually received regardless of the method
8 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
9 be deemed to have resulted if the amount of the tax had been deducted in
10 determining income subject to a Kansas income tax for a prior year
11 regardless of the rate of taxation applied in such prior year to the Kansas
12 taxable income, but only that portion of the refund shall be included as
13 bears the same proportion to the total refund received as the federal taxes
14 deducted in the year to which such refund is attributable bears to the total
15 federal income taxes paid for such year. For purposes of the foregoing
16 sentence, federal taxes shall be considered to have been deducted only to
17 the extent such deduction does not reduce Kansas taxable income below
18 zero.

19 (v) The amount of any depreciation deduction or business expense
20 deduction claimed on the taxpayer's federal income tax return for any
21 capital expenditure in making any building or facility accessible to the
22 handicapped, for which expenditure the taxpayer claimed the credit
23 allowed by K.S.A. 79-32,177, and amendments thereto.

24 (vi) Any amount of designated employee contributions picked up by
25 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
26 and amendments thereto.

27 (vii) The amount of any charitable contribution made to the extent the
28 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
29 32,196, and amendments thereto.

30 (viii) The amount of any costs incurred for improvements to a swine
31 facility, claimed for deduction in determining federal adjusted gross
32 income, to the extent the same is claimed as the basis for any credit
33 allowed pursuant to K.S.A. 79-32,204, and amendments thereto.

34 (ix) The amount of any ad valorem taxes and assessments paid and
35 the amount of any costs incurred for habitat management or construction
36 and maintenance of improvements on real property, claimed for deduction
37 in determining federal adjusted gross income, to the extent the same is
38 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
39 and amendments thereto.

40 (x) Amounts received as nonqualified withdrawals, as defined by
41 K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a
42 family postsecondary education savings account, such amounts were
43 subtracted from the federal adjusted gross income pursuant to K.S.A. 79-

1 32,117(c)(xv), and amendments thereto, or if such amounts are not already
2 included in the federal adjusted gross income.

3 (xi) The amount of any contribution made to the same extent the
4 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-
5 50,154, and amendments thereto.

6 (xii) For taxable years commencing after December 31, 2004,
7 amounts received as withdrawals not in accordance with the provisions of
8 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution
9 to an individual development account, such amounts were subtracted from
10 the federal adjusted gross income pursuant to subsection (c)(xiii), or if
11 such amounts are not already included in the federal adjusted gross
12 income.

13 (xiii) The amount of any expenditures claimed for deduction in
14 determining federal adjusted gross income, to the extent the same is
15 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,217
16 through 79-32,220 or 79-32,222, and amendments thereto.

17 (xiv) The amount of any amortization deduction claimed in
18 determining federal adjusted gross income to the extent the same is
19 claimed for deduction pursuant to K.S.A. 79-32,221, and amendments
20 thereto.

21 (xv) The amount of any expenditures claimed for deduction in
22 determining federal adjusted gross income, to the extent the same is
23 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223
24 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
25 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
26 32,251 through 79-32,254, and amendments thereto.

27 (xvi) The amount of any amortization deduction claimed in
28 determining federal adjusted gross income to the extent the same is
29 claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-
30 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

31 (xvii) The amount of any amortization deduction claimed in
32 determining federal adjusted gross income to the extent the same is
33 claimed for deduction pursuant to K.S.A. 79-32,256, and amendments
34 thereto.

35 (xviii) For taxable years commencing after December 31, 2006, the
36 amount of any ad valorem or property taxes and assessments paid to a state
37 other than Kansas or local government located in a state other than Kansas
38 by a taxpayer who resides in a state other than Kansas, when the law of
39 such state does not allow a resident of Kansas who earns income in such
40 other state to claim a deduction for ad valorem or property taxes or
41 assessments paid to a political subdivision of the state of Kansas in
42 determining taxable income for income tax purposes in such other state, to
43 the extent that such taxes and assessments are claimed as an itemized

1 deduction for federal income tax purposes.

2 (xix) For taxable years beginning after December 31, 2012, and
3 ending before January 1, 2017, the amount of any: (1) Loss from business
4 as determined under the federal internal revenue code and reported from
5 schedule C and on line 12 of the taxpayer's form 1040 federal individual
6 income tax return; (2) loss from rental real estate, royalties, partnerships, S
7 corporations, except those with wholly owned subsidiaries subject to the
8 Kansas privilege tax, estates, trusts, residual interest in real estate
9 mortgage investment conduits and net farm rental as determined under the
10 federal internal revenue code and reported from schedule E and on line 17
11 of the taxpayer's form 1040 federal individual income tax return; and (3)
12 farm loss as determined under the federal internal revenue code and
13 reported from schedule F and on line 18 of the taxpayer's form 1040
14 federal income tax return; all to the extent deducted or subtracted in
15 determining the taxpayer's federal adjusted gross income. For purposes of
16 this subsection, references to the federal form 1040 and federal schedule
17 C, schedule E, and schedule F, shall be to such form and schedules as they
18 existed for tax year 2011, and as revised thereafter by the internal revenue
19 service.

20 (xx) For taxable years beginning after December 31, 2012, and
21 ending before January 1, 2017, the amount of any deduction for self-
22 employment taxes under section 164(f) of the federal internal revenue
23 code as in effect on January 1, 2012, and amendments thereto, in
24 determining the federal adjusted gross income of an individual taxpayer, to
25 the extent the deduction is attributable to income reported on schedule C,
26 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
27 tax return.

28 (xxi) For taxable years beginning after December 31, 2012, and
29 ending before January 1, 2017, the amount of any deduction for pension,
30 profit sharing, and annuity plans of self-employed individuals under
31 section 62(a)(6) of the federal internal revenue code as in effect on January
32 1, 2012, and amendments thereto, in determining the federal adjusted gross
33 income of an individual taxpayer.

34 (xxii) For taxable years beginning after December 31, 2012, and
35 ending before January 1, 2017, the amount of any deduction for health
36 insurance under section 162(l) of the federal internal revenue code as in
37 effect on January 1, 2012, and amendments thereto, in determining the
38 federal adjusted gross income of an individual taxpayer.

39 (xxiii) For taxable years beginning after December 31, 2012, and
40 ending before January 1, 2017, the amount of any deduction for domestic
41 production activities under section 199 of the federal internal revenue code
42 as in effect on January 1, 2012, and amendments thereto, in determining
43 the federal adjusted gross income of an individual taxpayer.

1 (xxiv) For taxable years commencing after December 31, 2013, that
2 portion of the amount of any expenditure deduction claimed in
3 determining federal adjusted gross income for expenses paid for medical
4 care of the taxpayer or the taxpayer's spouse or dependents when such
5 expenses were paid or incurred for an abortion, or for a health benefit plan,
6 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
7 an optional rider for coverage of abortion in accordance with K.S.A. 2020
8 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and
9 assessments are claimed as an itemized deduction for federal income tax
10 purposes.

11 (xxv) For taxable years commencing after December 31, 2013, that
12 portion of the amount of any expenditure deduction claimed in
13 determining federal adjusted gross income for expenses paid by a taxpayer
14 for health care when such expenses were paid or incurred for abortion
15 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and
16 amendments thereto, when such expenses were paid or incurred for
17 abortion coverage or amounts contributed to health savings accounts for
18 such taxpayer's employees for the purchase of an optional rider for
19 coverage of abortion in accordance with K.S.A. 2020 Supp. 40-2,190, and
20 amendments thereto, to the extent that such taxes and assessments are
21 claimed as a deduction for federal income tax purposes.

22 (xxvi) For all taxable years beginning after December 31, 2016, the
23 amount of any charitable contribution made to the extent the same is
24 claimed as the basis for the credit allowed pursuant to K.S.A. 72-99a07,
25 and amendments thereto, and is also claimed as an itemized deduction for
26 federal income tax purposes.

27 *(xxvii) For all taxable years commencing after December 31, 2020,*
28 *the amount deducted by reason of a carryforward of disallowed business*
29 *interest pursuant to section 163(j) of the federal internal revenue code of*
30 *1986, as in effect on January 1, 2018.*

31 (c) There shall be subtracted from federal adjusted gross income:

32 (i) Interest or dividend income on obligations or securities of any
33 authority, commission or instrumentality of the United States and its
34 possessions less any related expenses directly incurred in the purchase of
35 such obligations or securities, to the extent included in federal adjusted
36 gross income but exempt from state income taxes under the laws of the
37 United States.

38 (ii) Any amounts received which are included in federal adjusted
39 gross income but which are specifically exempt from Kansas income
40 taxation under the laws of the state of Kansas.

41 (iii) The portion of any gain or loss from the sale or other disposition
42 of property having a higher adjusted basis for Kansas income tax purposes
43 than for federal income tax purposes on the date such property was sold or

1 disposed of in a transaction in which gain or loss was recognized for
2 purposes of federal income tax that does not exceed such difference in
3 basis, but if a gain is considered a long-term capital gain for federal
4 income tax purposes, the modification shall be limited to that portion of
5 such gain which is included in federal adjusted gross income.

6 (iv) The amount necessary to prevent the taxation under this act of
7 any annuity or other amount of income or gain which was properly
8 included in income or gain and was taxed under the laws of this state for a
9 taxable year prior to the effective date of this act, as amended, to the
10 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
11 the right to receive the income or gain, or to a trust or estate from which
12 the taxpayer received the income or gain.

13 (v) The amount of any refund or credit for overpayment of taxes on
14 or measured by income or fees or payments in lieu of income taxes
15 imposed by this state, or any taxing jurisdiction, to the extent included in
16 gross income for federal income tax purposes.

17 (vi) Accumulation distributions received by a taxpayer as a
18 beneficiary of a trust to the extent that the same are included in federal
19 adjusted gross income.

20 (vii) Amounts received as annuities under the federal civil service
21 retirement system from the civil service retirement and disability fund and
22 other amounts received as retirement benefits in whatever form which
23 were earned for being employed by the federal government or for service
24 in the armed forces of the United States.

25 (viii) Amounts received by retired railroad employees as a
26 supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and
27 228c(a)(1) et seq.

28 (ix) Amounts received by retired employees of a city and by retired
29 employees of any board of such city as retirement allowances pursuant to
30 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
31 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
32 amendments thereto.

33 (x) For taxable years beginning after December 31, 1976, the amount
34 of the federal tentative jobs tax credit disallowance under the provisions of
35 26 U.S.C. § 280C. For taxable years ending after December 31, 1978, the
36 amount of the targeted jobs tax credit and work incentive credit
37 disallowances under 26 U.S.C. § 280C.

38 (xi) For taxable years beginning after December 31, 1986, dividend
39 income on stock issued by Kansas venture capital, inc.

40 (xii) For taxable years beginning after December 31, 1989, amounts
41 received by retired employees of a board of public utilities as pension and
42 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
43 and amendments thereto.

1 (xiii) For taxable years beginning after December 31, 2004, amounts
2 contributed to and the amount of income earned on contributions deposited
3 to an individual development account under K.S.A. 74-50,201 et seq., and
4 amendments thereto.

5 (xiv) For all taxable years commencing after December 31, 1996, that
6 portion of any income of a bank organized under the laws of this state or
7 any other state, a national banking association organized under the laws of
8 the United States, an association organized under the savings and loan
9 code of this state or any other state, or a federal savings association
10 organized under the laws of the United States, for which an election as an
11 S corporation under subchapter S of the federal internal revenue code is in
12 effect, which accrues to the taxpayer who is a stockholder of such
13 corporation and which is not distributed to the stockholders as dividends of
14 the corporation. For taxable years beginning after December 31, 2012, and
15 ending before January 1, 2017, the amount of modification under this
16 subsection shall exclude the portion of income or loss reported on schedule
17 E and included on line 17 of the taxpayer's form 1040 federal individual
18 income tax return.

19 (xv) For all taxable years beginning after December 31, 2017, the
20 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple
21 filing a joint return, for each designated beneficiary that are contributed to:
22 (1) A family postsecondary education savings account established under
23 the Kansas postsecondary education savings program or a qualified tuition
24 program established and maintained by another state or agency or
25 instrumentality thereof pursuant to section 529 of the internal revenue
26 code of 1986, as amended, for the purpose of paying the qualified higher
27 education expenses of a designated beneficiary; or (2) an achieving a
28 better life experience (ABLE) account established under the Kansas ABLE
29 savings program or a qualified ABLE program established and maintained
30 by another state or agency or instrumentality thereof pursuant to section
31 529A of the internal revenue code of 1986, as amended, for the purpose of
32 saving private funds to support an individual with a disability. The terms
33 and phrases used in this paragraph shall have the meaning respectively
34 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and
35 amendments thereto, and the provisions of such sections are hereby
36 incorporated by reference for all purposes thereof.

37 (xvi) For all taxable years beginning after December 31, 2004,
38 amounts received by taxpayers who are or were members of the armed
39 forces of the United States, including service in the Kansas army and air
40 national guard, as a recruitment, sign up or retention bonus received by
41 such taxpayer as an incentive to join, enlist or remain in the armed services
42 of the United States, including service in the Kansas army and air national
43 guard, and amounts received for repayment of educational or student loans

1 incurred by or obligated to such taxpayer and received by such taxpayer as
2 a result of such taxpayer's service in the armed forces of the United States,
3 including service in the Kansas army and air national guard.

4 (xvii) For all taxable years beginning after December 31, 2004,
5 amounts received by taxpayers who are eligible members of the Kansas
6 army and air national guard as a reimbursement pursuant to K.S.A. 48-
7 281, and amendments thereto, and amounts received for death benefits
8 pursuant to K.S.A. 48-282, and amendments thereto, ~~or pursuant to section~~
9 ~~1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and~~
10 ~~amendments thereto~~, to the extent that such death benefits are included in
11 federal adjusted gross income of the taxpayer.

12 (xviii) For the taxable year beginning after December 31, 2006,
13 amounts received as benefits under the federal social security act which
14 are included in federal adjusted gross income of a taxpayer with federal
15 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
16 status is single, head of household, married filing separate or married filing
17 jointly; and for all taxable years beginning after December 31, 2007,
18 amounts received as benefits under the federal social security act which
19 are included in federal adjusted gross income of a taxpayer with federal
20 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
21 status is single, head of household, married filing separate or married filing
22 jointly.

23 (xix) Amounts received by retired employees of Washburn university
24 as retirement and pension benefits under the university's retirement plan.

25 (xx) For taxable years beginning after December 31, 2012, and
26 ending before January 1, 2017, the amount of any: (1) Net profit from
27 business as determined under the federal internal revenue code and
28 reported from schedule C and on line 12 of the taxpayer's form 1040
29 federal individual income tax return; (2) net income, not including
30 guaranteed payments as defined in section 707(c) of the federal internal
31 revenue code and as reported to the taxpayer from federal schedule K-1,
32 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
33 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
34 partnerships, S corporations, estates, trusts, residual interest in real estate
35 mortgage investment conduits and net farm rental as determined under the
36 federal internal revenue code and reported from schedule E and on line 17
37 of the taxpayer's form 1040 federal individual income tax return; and (3)
38 net farm profit as determined under the federal internal revenue code and
39 reported from schedule F and on line 18 of the taxpayer's form 1040
40 federal income tax return; all to the extent included in the taxpayer's
41 federal adjusted gross income. For purposes of this subsection, references
42 to the federal form 1040 and federal schedule C, schedule E, and schedule
43 F, shall be to such form and schedules as they existed for tax year 2011

1 and as revised thereafter by the internal revenue service.

2 (xxi) For all taxable years beginning after December 31, 2013,
3 amounts equal to the unreimbursed travel, lodging and medical
4 expenditures directly incurred by a taxpayer while living, or a dependent
5 of the taxpayer while living, for the donation of one or more human organs
6 of the taxpayer, or a dependent of the taxpayer, to another person for
7 human organ transplantation. The expenses may be claimed as a
8 subtraction modification provided for in this section to the extent the
9 expenses are not already subtracted from the taxpayer's federal adjusted
10 gross income. In no circumstances shall the subtraction modification
11 provided for in this section for any individual, or a dependent, exceed
12 \$5,000. As used in this section, "human organ" means all or part of a liver,
13 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
14 paragraph shall take effect on the day the secretary of revenue certifies to
15 the director of the budget that the cost for the department of revenue of
16 modifications to the automated tax system for the purpose of
17 implementing this paragraph will not exceed \$20,000.

18 (xxii) For taxable years beginning after December 31, 2012, and
19 ending before January 1, 2017, the amount of net gain from the sale of: (1)
20 Cattle and horses, regardless of age, held by the taxpayer for draft,
21 breeding, dairy or sporting purposes, and held by such taxpayer for 24
22 months or more from the date of acquisition; and (2) other livestock,
23 regardless of age, held by the taxpayer for draft, breeding, dairy or
24 sporting purposes, and held by such taxpayer for 12 months or more from
25 the date of acquisition. The subtraction from federal adjusted gross income
26 shall be limited to the amount of the additions recognized under the
27 provisions of subsection (b)(xix) attributable to the business in which the
28 livestock sold had been used. As used in this paragraph, the term
29 "livestock" ~~shall~~ does not include poultry.

30 (xxiii) For all taxable years beginning after December 31, 2012,
31 amounts received under either the Overland Park, Kansas police
32 department retirement plan or the Overland Park, Kansas fire department
33 retirement plan, both as established by the city of Overland Park, pursuant
34 to the city's home rule authority.

35 (xxiv) For taxable years beginning after December 31, 2013, and
36 ending before January 1, 2017, the net gain from the sale from Christmas
37 trees grown in Kansas and held by the taxpayer for six years or more.

38 (xxv) *For all taxable years commencing after December 31, 2020,*
39 *100% of global intangible low-taxed income under section 951A of the*
40 *federal internal revenue code of 1986, before any deductions allowed*
41 *under section 250(a)(1)(B) of such code.*

42 (xxvi) *For all taxable years commencing after December 31, 2020,*
43 *the amount disallowed as a deduction pursuant to section 163(j) of the*

1 *federal internal revenue code of 1986, as in effect on January 1, 2018.*

2 (xxvii) *For taxable years commencing after December 31, 2020, the*
3 *amount disallowed as a deduction pursuant to section 274 of the federal*
4 *internal revenue code of 1986 for meal expenditures shall be allowed to*
5 *the extent such expense was deductible for determining federal income tax*
6 *and was allowed and in effect on December 31, 2017.*

7 (xxviii) *For taxable years commencing after December 31, 2019,*
8 *amounts received from the paycheck protection program pursuant to*
9 *sections 1102 and 1106 of Public Law 116-136, if such amounts were*
10 *included in the taxpayer's federal adjusted gross income.*

11 (xxix) *For taxable years commencing after December 31, 2019, the*
12 *amount of any expenses provided under section 276 of the consolidated*
13 *appropriations act, 2021 and not allowed as a deduction in determining*
14 *the federal adjusted gross income of an individual taxpayer.*

15 (d) There shall be added to or subtracted from federal adjusted gross
16 income the taxpayer's share, as beneficiary of an estate or trust, of the
17 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
18 amendments thereto.

19 (e) The amount of modifications required to be made under this
20 section by a partner which relates to items of income, gain, loss, deduction
21 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
22 amendments thereto, to the extent that such items affect federal adjusted
23 gross income of the partner.

24 (f) No taxpayer shall be assessed penalties and interest from the
25 underpayment of taxes due to changes to this section that became law on
26 July 1, 2017, so long as such underpayment is rectified on or before April
27 17, 2018.

28 Sec. 14. K.S.A. 79-32,119 is hereby amended to read as follows: 79-
29 32,119. (a) The Kansas standard deduction of an individual, including a
30 husband and wife who are either both residents or who file a joint return as
31 if both were residents, shall be equal to the sum of the standard deduction
32 amount allowed pursuant to this section, and the additional standard
33 deduction amount allowed pursuant to this section for each such deduction
34 allowable to such individual or to such husband and wife under the federal
35 internal revenue code. ~~For tax year 1998 through tax year 2012, the~~
36 ~~standard deduction amount shall be as follows: Single individual filing~~
37 ~~status, \$3,000; married filing status, \$6,000; and head of household filing~~
38 ~~status, \$4,500.~~

39 (b) For tax year 1998, and all tax years thereafter, the additional
40 standard deduction amount shall be as follows: Single individual and head
41 of household filing status, \$850; and married filing status, \$700.

42 (c) (1) ~~For tax year 2013, and all tax years thereafter through tax year~~
43 ~~2020,~~ the standard deduction amount of an individual, including husband

1 and wife who are either both residents or who file a joint return as if both
2 were residents, shall be as follows: Single individual filing status, \$3,000;
3 married filing status, \$7,500; and head of household filing status, \$5,500.

4 (2) *For tax year 2021, and all tax years thereafter, the standard*
5 *deduction amount of an individual, including husband and wife who are*
6 *either both residents or who file a joint return as if both were residents,*
7 *shall be as follows: Single individual filing status, \$4,250; married filing*
8 *status, \$8,500; and head of household filing status, \$6,500.*

9 (d) For purposes of ~~the foregoing~~ *this section*, the federal standard
10 deduction allowable to a husband and wife filing separate Kansas income
11 tax returns shall be determined on the basis that separate federal returns
12 were filed, and the federal standard deduction of a husband and wife filing
13 a joint Kansas income tax return shall be determined on the basis that a
14 joint federal income tax return was filed.

15 Sec. 15. K.S.A. 79-32,138 is hereby amended to read as follows: 79-
16 32,138. (a) Kansas taxable income of a corporation taxable under this act
17 shall be the corporation's federal taxable income for the taxable year with
18 the modifications specified in this section, *except that in determination of*
19 *such federal taxable income for all taxable years commencing after*
20 *December 31, 2020, section 118 of the federal internal revenue code of*
21 *1986 shall be applied as in effect on December 21, 2017.*

22 (b) There shall be added to federal taxable income:

23 (i) The same modifications as are set forth in K.S.A. 79-32,117(b),
24 and amendments thereto, with respect to resident individuals, except
25 subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

26 (ii) the amount of all depreciation deductions claimed for any
27 property upon which the deduction allowed by K.S.A. 79-32,221, 79-
28 32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-
29 32,256, and amendments thereto, is claimed;

30 (iii) the amount of any charitable contribution deduction claimed for
31 any contribution or gift to or for the use of any racially segregated
32 educational institution;

33 (iv) for taxable years commencing December 31, 2013, that portion
34 of the amount of any expenditure deduction claimed in determining federal
35 adjusted gross income for expenses paid by a taxpayer for health care
36 when such expenses were paid or incurred for abortion coverage, a health
37 benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when
38 such expenses were paid or incurred for abortion coverage or amounts
39 contributed to health savings accounts for such taxpayer's employees for
40 the purchase of an optional rider for coverage of abortion in accordance
41 with K.S.A. 2020 Supp. 40-2,190, and amendments thereto;

42 (v) the amount of any charitable contribution deduction claimed for
43 any contribution or gift made to a scholarship granting organization to the

1 extent the same is claimed as the basis for the credit allowed pursuant to
2 K.S.A. 72-4357, and amendments thereto; ~~and~~

3 (vi) the federal net operating loss deduction; *and*

4 (vii) *for all taxable years commencing after December 31, 2020, the*
5 *amount of any deduction claimed under section 250(a)(1)(B) of the federal*
6 *internal revenue code of 1986.*

7 (c) There shall be subtracted from federal taxable income:

8 (i) The same modifications as are set forth in K.S.A. 79-32,117(c),
9 and amendments thereto, with respect to resident individuals, except
10 subsection (c)(xx);

11 (ii) the federal income tax liability for any taxable year commencing
12 prior to December 31, 1971, for which a Kansas return was filed after
13 reduction for all credits thereon, except credits for payments on estimates
14 of federal income tax, credits for gasoline and lubricating oil tax, and for
15 foreign tax credits if, on the Kansas income tax return for such prior year,
16 the federal income tax deduction was computed on the basis of the federal
17 income tax paid in such prior year, rather than as accrued. Notwithstanding
18 the foregoing, the deduction for federal income tax liability for any year
19 shall not exceed that portion of the total federal income tax liability for
20 such year which bears the same ratio to the total federal income tax
21 liability for such year as the Kansas taxable income, as computed before
22 any deductions for federal income taxes and after application of
23 subsections (d) and (e) ~~of this section~~ as existing for such year, bears to the
24 federal taxable income for the same year;

25 (iii) an amount for the amortization deduction allowed pursuant to
26 K.S.A. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-
27 32,250, 79-32,255 or 79-32,256, and amendments thereto;

28 (iv) for all taxable years commencing after December 31, 1987, the
29 amount included in federal taxable income pursuant to the provisions of
30 section 78 of the internal revenue code; and

31 ~~for all taxable years commencing after December 31, 1987, 80%~~
32 ~~of dividends from corporations incorporated outside of the United States~~
33 ~~or the District of Columbia which are included in federal taxable income.~~
34 *As used in this paragraph, "dividends" includes amounts included in*
35 *income under section 965 of the federal internal revenue code of 1986, net*
36 *of the deduction permitted by section 965(c) of the federal internal*
37 *revenue code of 1986. For all taxable years commencing after December*
38 *31, 2020, this paragraph does not apply to amounts excluded from income*
39 *pursuant to K.S.A. 79-32,117(c)(xxv), and amendments thereto, or*
40 *amounts added back pursuant to K.S.A. 79-32,138(b)(vii), and*
41 *amendments thereto.*

42 (d) If any corporation derives all of its income from sources within
43 Kansas in any taxable year commencing after December 31, 1979, its

1 Kansas taxable income shall be the sum resulting after application of
2 subsections (a) through (c) ~~hereof~~. Otherwise, such corporation's Kansas
3 taxable income in any such taxable year, after excluding any refunds of
4 federal income tax and before the deduction of federal income taxes
5 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
6 3271 ~~to K.S.A. through 79-3293, inclusive~~, and amendments thereto, plus
7 any refund of federal income tax as determined under K.S.A. 79-32,117(b)
8 (iv), and amendments thereto, and minus the deduction for federal income
9 taxes as provided by subsection (c)(ii) shall be such corporation's Kansas
10 taxable income.

11 (e) A corporation may make an election with respect to its first
12 taxable year commencing after December 31, 1982, whereby no addition
13 modifications as provided for in subsection (b)(ii) and subtraction
14 modifications as provided for in subsection (c)(iii) as those subsections
15 existed prior to their amendment by this act, shall be required to be made
16 for such taxable year.

17 Sec. 16. K.S.A. 79-32,143a is hereby amended to read as follows: 79-
18 32,143a. (a) For taxable years beginning after December 31, ~~2014~~ 2020, a
19 taxpayer may elect to take an expense deduction from Kansas net income
20 before expensing or recapture allocated or apportioned to this state for the
21 cost of the following property placed in service in this state during the
22 taxable year: (1) Tangible property eligible for depreciation under the
23 modified accelerated cost recovery system in section 168 of the internal
24 revenue code, as amended, but not including residential rental property,
25 nonresidential real property, any railroad grading or tunnel bore or any
26 other property with an applicable recovery period in excess of 25 years as
27 defined under section 168(c) or (g) of the internal revenue code, as
28 amended; and (2) computer software as defined in section 197(e)(3)(B)
29 of the internal revenue code, as amended, and as described in section 197(e)
30 (3)(A)(i) of the internal revenue code, as amended, to which section 167 of
31 the internal revenue code, as amended, applies. If such election is made,
32 the amount of expense deduction for such cost shall equal the difference
33 between the depreciable cost of such property for federal income tax
34 purposes and the *sum of the* amount of bonus depreciation being claimed
35 for such property pursuant to section 168(k) *and the amount of expensing*
36 *deduction being claimed for such property pursuant to section 179* of the
37 internal revenue code, as amended, for federal income tax purposes in such
38 tax year, ~~but without regard to any expense deduction being claimed for~~
39 ~~such property under section 179 of the internal revenue code, as amended,~~
40 multiplied by the applicable factor, determined by using, the table
41 provided in subsection (f), based on the method of depreciation selected
42 pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue
43 code, as amended, and the applicable recovery period for such property as

1 defined under section 168(c) or (g) of the internal revenue code, as
2 amended. This election shall be made by the due date of the original
3 return, including any extensions, and may be made only for the taxable
4 year in which the property is placed in service, and once made, shall be
5 irrevocable. ~~If the section 179 expense deduction election has been made
6 for federal income tax purposes for any asset, the applicable factor to be
7 utilized is in the IRC § 168 (b)(1) column of the table provided in
8 subsection (f) for the applicable recovery period of the respective assets.~~

9 (b) If the amount of expense deduction calculated pursuant to
10 subsection (a) exceeds the taxpayer's Kansas net income before expensing
11 or recapture allocated or apportioned to this state, such excess amount
12 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-
13 32,143, and amendments thereto.

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

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

42 (e) Any member of a unitary group filing a combined report may
43 elect to take an expense deduction pursuant to subsection (a) for an

1 investment in property made by any member of the combined group,
 2 provided that the amount calculated pursuant to subsection (a) may only be
 3 deducted from the Kansas net income before expensing or recapture
 4 allocated to or apportioned to this state by such member making the
 5 election.

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

8 Factors				
9	IRC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)
10	Recover Period	Depreciation	Depreciation	Depreciation
11	(year)	Method	Method	Method
12	2.5	*	.077	.092
13	3	.075	.091	.106
14	3.5	*	.102	.116
15	4	*	.114	.129
16	5	.116	.135	.150
17	6	*	.154	.170
18	6.5	*	.163	.179
19	7	.151	.173	.190
20	7.5	*	.181	.199
21	8	*	.191	.208
22	8.5	*	.199	.217
23	9	*	.208	.226
24	9.5	*	.216	.235
25	10	.198	.224	.244
26	10.5	*	.232	.252
27	11	*	.240	.261
28	11.5	*	.248	.269
29	12	*	.256	.277
30	12.5	*	.263	.285
31	13	*	.271	.293
32	13.5	*	.278	.300
33	14	*	.285	.308
34	15	*	.299	.323
35	16	*	.313	.337
36	16.5	*	.319	.344
37	17	*	.326	.351
38	18	*	.339	.365
39	19	*	.351	.378
40	20	*	.363	.391
41	22	*	.386	.415
42	24	*	.408	.438
43	25	*	.419	.449

44 *Not Applicable

1 (g) If a taxpayer elects to expense any investment pursuant to
2 subsection (a), such taxpayer shall not be eligible for any tax credit,
3 accelerated depreciation, or deduction for such investment allowed
4 pursuant to K.S.A. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-
5 32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-
6 32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-
7 32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments
8 thereto.

9 (h) (1) For tax year 2013, the deduction allowed by this section shall
10 only be available to taxpayers subject to the income tax on corporations
11 imposed pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and
12 amendments thereto, and used only to determine such taxpayer's corporate
13 income tax liability.

14 (2) For tax ~~year~~ *years* 2014, ~~and all tax years thereafter through 2020,~~
15 the deduction allowed by this section shall only be available to taxpayers
16 subject to the income tax on corporations imposed pursuant to ~~subsection~~
17 ~~(e)~~ of K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax
18 imposed upon any national banking association, state bank, savings bank,
19 trust company or savings and loan association pursuant to article 11 of
20 chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and
21 used only to determine such taxpayer's corporate income or privilege tax
22 liability.

23 *(i) For tax year 2021, and all tax years thereafter, the deduction*
24 *allowed by this section shall be available to all taxpayers subject to the*
25 *income tax imposed pursuant to K.S.A. 79-32,110, and amendments*
26 *thereto, or the privilege tax imposed upon any national banking*
27 *association, state bank, savings bank, trust company or savings and loan*
28 *association pursuant to article 11 of chapter 79 of the Kansas Statutes*
29 *Annotated, and amendments thereto, and used only to determine such*
30 *taxpayer's income or privilege tax liability.*

31 Sec. 17. K.S.A. 79-32,271 is hereby amended to read as follows: 79-
32 32,271. (a) For any taxable year commencing after December 31, 2014,
33 *and ending prior to January 1, 2021*, a credit shall be allowed against the
34 tax imposed by the Kansas income tax act on the Kansas taxable income of
35 an individual income taxpayer who purchased food in this state, had
36 federal adjusted gross income for the tax year that did not exceed \$30,615,
37 and meets the qualifications in subsections (b) and (c).

38 (b) During the entire tax year a taxpayer filing single, head of
39 household, or married filing separate, or the taxpayer and the taxpayer's
40 spouse if married filing jointly, must be domiciled in this state. For
41 purposes of this credit, "domicile" shall not include any correctional
42 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
43 thereto, any juvenile correctional facility, or portion thereof, as defined in

1 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
2 federal bureau of prisons located in the state of Kansas, or any city or
3 county jail facility in the state of Kansas.

4 (c) During the entire tax year a taxpayer filing single, head of
5 household, or married filing separate, or the taxpayer or the taxpayer's
6 spouse if married filing jointly, must be either: (1) A person having a
7 disability, regardless of age; (2) a person without a disability who is 55
8 years of age or older; or (3) a person without a disability who is younger
9 than 55 years of age who claims an exemption for one or more dependent
10 children under 18 years of age.

11 (d) The amount of the credit shall be \$125 for every exemption
12 claimed on the taxpayer's federal income tax return, except that no
13 exemption shall be counted for a dependent unless the dependent is a child
14 under 18 years of age.

15 (e) The credit allowed under this provision shall be applied against
16 the taxpayer's income tax liability after all other credits allowed under the
17 income tax act. It shall not be refundable and may not be carried forward.

18 (f) (1) Every taxpayer claiming the credit shall supply the division in
19 support of a claim, reasonable proof of domicile, age and disability.

20 (2) A claim alleging disability shall be supported by a report of the
21 examining physician of the claimant with a statement or certificate that the
22 applicant has a disability as defined in subsection (g).

23 (g) "Disability" means:

24 (1) Inability to engage in any substantial gainful activity by reason of
25 any medically determinable physical or mental impairment which can be
26 expected to result in death or has lasted or can be expected to last for a
27 continuous period of not less than 12 months, and an individual shall be
28 determined to be under a disability only if the physical or mental
29 impairment or impairments are of such severity that the individual is not
30 only unable to do the individual's previous work but cannot, considering
31 age, education and work experience, engage in any other kind of
32 substantial gainful work which exists in the national economy, regardless
33 of whether such work exists in the immediate area in which the individual
34 lives or whether a specific job vacancy exists for the individual, or whether
35 the individual would be hired if application was made for work. For
36 purposes of this paragraph, with respect to any individual, "work which
37 exists in the national economy" means work which exists in significant
38 numbers either in the region where the individual lives or in several
39 regions of the country; and "physical or mental impairment" means an
40 impairment that results from anatomical, physiological or psychological
41 abnormalities which are demonstrable by medically acceptable clinical and
42 laboratory diagnostic techniques; or

43 (2) blindness and inability by reason of blindness to engage in

1 substantial gainful activity requiring skills or abilities comparable to those
2 of any gainful activity in which the individual has previously engaged with
3 some regularity and over a substantial period of time. For purposes of this
4 paragraph, "blindness" means central visual acuity of $^{20}/_{200}$ or less in the
5 better eye with the use of a correcting lens. An eye which is accompanied
6 by a limitation in the fields of vision such that the widest diameter of the
7 visual field subtends an angle no greater than 20 degrees shall be
8 considered for the purpose of this paragraph as having a central visual
9 acuity of $^{20}/_{200}$ or less.

10 (h) The secretary of revenue is hereby authorized to adopt such rules
11 and regulations as may be necessary for the administration of the
12 provisions of this section.

13 Sec. 18. K.S.A. 79-3602 is hereby amended to read as follows: 79-
14 3602. Except as otherwise provided, as used in the Kansas retailers' sales
15 tax act:

16 (a) "Agent" means a person appointed by a seller to represent the
17 seller before the member states.

18 (b) "Agreement" means the multistate agreement entitled the
19 streamlined sales and use tax agreement approved by the streamlined sales
20 tax implementing states at Chicago, Illinois, on November 12, 2002.

21 (c) "Alcoholic beverages" means beverages that are suitable for
22 human consumption and contain 0.05% or more of alcohol by volume.

23 (d) *"Ancillary services" means services that are associated with or*
24 *incidental to the provision of telecommunications services, including, but*
25 *not limited to, detailed communications billing, directory assistance,*
26 *vertical service and voice mail services.*

27 (e) *"Applications" means software programs, services or resources*
28 *made available to users via the internet, designed to perform a group of*
29 *coordinated functions, tasks or activities and includes, but is not limited*
30 *to, cloud-based applications, desktop applications, mobile applications,*
31 *native applications and web applications.*

32 (f) "Certified automated system (CAS)" means software certified
33 under the agreement to calculate the tax imposed by each jurisdiction on a
34 transaction, determine the amount of tax to remit to the appropriate state
35 and maintain a record of the transaction.

36 ~~(e)~~(g) "Certified service provider (CSP)" means an agent certified
37 under the agreement to perform all the seller's sales and use tax functions,
38 other than the seller's obligation to remit tax on its own purchases.

39 ~~(f)~~(h) "Computer" means an electronic device that accepts
40 information in digital or similar form and manipulates it for a result based
41 on a sequence of instructions.

42 ~~(g)~~(i) "Computer software" means a set of coded instructions
43 designed to cause a computer or automatic data processing equipment to

1 perform a task.

2 (j) *"Conference bridging service" means an ancillary service that*
3 *links two or more participants of an audio or video conference call and*
4 *may include the provision of a telephone number. "Conference bridging*
5 *service" does not include the telecommunications services used to reach*
6 *the conference bridge.*

7 (h)(k) *"Delivered electronically" means delivered to the purchaser by*
8 *means other than tangible storage media.*

9 (i)(l) *"Delivery charges" means charges by the seller of personal*
10 *property or services for preparation and delivery to a location designated*
11 *by the purchaser of personal property or services including, but not limited*
12 *to, transportation, shipping, postage, handling, crating and packing.*
13 *"Delivery charges" shall not include charges for delivery of direct mail if*
14 *the charges are separately stated on an invoice or similar billing document*
15 *given to the purchaser.*

16 (m) *"Detailed telecommunications billing service" means an*
17 *ancillary service of separately stating information pertaining to individual*
18 *calls on a customer's billing statement.*

19 (n) *"Digital audio-visual works" means a series of related images*
20 *that, when shown in succession, impart an impression of motion, with*
21 *accompanying sounds, if any, and includes, but is not limited to, movies,*
22 *motion pictures, musical videos, news and entertainment programs and*
23 *live events. "Digital audio-visual works" does not include video greeting*
24 *cards, video games or electronic games.*

25 (o) *"Digital audio works" means works that result from the fixation of*
26 *a series of musical, spoken or other sounds and includes, but is not limited*
27 *to, ringtones, recorded or live songs, music, readings of books or other*
28 *written materials, speeches or other sound recordings. "Digital audio*
29 *works" does not include audio greeting cards sent by electronic mail.*

30 (p) *"Digital books" means works that are generally recognized in the*
31 *ordinary and usual sense as books, including any literary work expressed*
32 *in words, numbers or other verbal or numerical symbols or indicia if the*
33 *literary work is generally recognized in the ordinary or usual sense as a*
34 *book. "Digital books" does not include digital audio-visual works, digital*
35 *audio works, periodicals, magazines, newspapers or other news or*
36 *information products, chat rooms or web logs.*

37 (q) (1) *"Digital code" means a code that provides a purchaser with a*
38 *right to obtain one or more types of digital property. A "digital code" may*
39 *be obtained by any means, including electronic mail messaging or by*
40 *tangible means, regardless of the code's designation as a song code, video*
41 *code or book code.*

42 (2) *"Digital code" does not include a code that represents:*

43 (A) *A stored monetary value that is deducted from a total as it is used*

1 by the purchaser; or

2 (B) a redeemable card, gift card or gift certificate that entitles the
3 holder to select specific types of digital property.

4 (r) "Digital property" means media or products that are encoded in
5 machine-readable formats and includes, but is not limited to, any of the
6 following that are transferred electronically:

7 (1) Digital audio-visual works;

8 (2) digital audio works;

9 (3) digital books;

10 (4) artwork;

11 (5) digital photographs and pictures;

12 (6) periodicals;

13 (7) newspapers;

14 (8) magazines;

15 (9) video, audio and other greeting cards;

16 (10) graphics;

17 (11) templates;

18 (12) patterns;

19 (13) desktop applications;

20 (14) mobile applications;

21 (15) web applications;

22 (16) cloud-based applications;

23 (17) native applications;

24 (18) online games;

25 (19) video games;

26 (20) electronic games;

27 (21) any digital code related to any of the items listed above; or

28 (22) any streaming services related to any of the items listed above.

29 ~~(j)~~(s) "Direct mail" means printed material delivered or distributed by
30 United States mail or other delivery services to a mass audience or to
31 addressees on a mailing list provided by the purchaser or at the direction of
32 the purchaser when the cost of the items are not billed directly to the
33 recipients. "Direct mail" includes tangible personal property supplied
34 directly or indirectly by the purchaser to the direct mail seller for inclusion
35 in the package containing the printed material. "Direct mail" does not
36 include multiple items of printed material delivered to a single address.

37 ~~(k)~~(t) "Director" means the state director of taxation.

38 (u) "Directory assistance" means an ancillary service of providing
39 telephone number information or address information, or both.

40 ~~(h)~~(v) "Educational institution" means any nonprofit school, college
41 and university that offers education at a level above the 12th grade, and
42 conducts regular classes and courses of study required for accreditation by,
43 or membership in, the higher learning commission, the state board of

1 education, or that otherwise qualify as an "educational institution," as
2 defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall
3 include: (1) A group of educational institutions that operates exclusively
4 for an educational purpose; (2) nonprofit endowment associations and
5 foundations organized and operated exclusively to receive, hold, invest
6 and administer moneys and property as a permanent fund for the support
7 and sole benefit of an educational institution; (3) nonprofit trusts,
8 foundations and other entities organized and operated principally to hold
9 and own receipts from intercollegiate sporting events and to disburse such
10 receipts, as well as grants and gifts, in the interest of collegiate and
11 intercollegiate athletic programs for the support and sole benefit of an
12 educational institution; and (4) nonprofit trusts, foundations and other
13 entities organized and operated for the primary purpose of encouraging,
14 fostering and conducting scholarly investigations and industrial and other
15 types of research for the support and sole benefit of an educational
16 institution.

17 ~~(m)~~(w) "Electronic" means relating to technology having electrical,
18 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

19 (x) "*Entity-based exemption*" means an exemption based on who
20 purchases the product or who sells the product. An exemption that is
21 available to all individuals shall not be considered an "*entity-based*
22 *exemption*".

23 ~~(n)~~(y) "Food and food ingredients" means substances, whether in
24 liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold
25 for ingestion or chewing by humans and are consumed for their taste or
26 nutritional value. "Food and food ingredients" does not include alcoholic
27 beverages or tobacco.

28 ~~(o)~~(z) "Gross receipts" means the total selling price or the amount
29 received as defined in this act, in money, credits, property or other
30 consideration valued in money from sales at retail within this state; and
31 embraced within the provisions of this act. The taxpayer, may take credit
32 in the report of gross receipts for: (1) An amount equal to the selling price
33 of property returned by the purchaser when the full sale price thereof,
34 including the tax collected, is refunded in cash or by credit; and (2) an
35 amount equal to the allowance given for the trade-in of property.

36 ~~(p)~~(aa) "Ingredient or component part" means tangible personal
37 property ~~which~~ that is necessary or essential to, and which is actually used
38 in and becomes an integral and material part of tangible personal property
39 or services produced, manufactured or compounded for sale by the
40 producer, manufacturer or compounder in its regular course of business.
41 The following items of tangible personal property are hereby declared to
42 be ingredients or component parts, but the listing of such property shall not
43 be deemed to be exclusive nor shall such listing be construed to be a

1 restriction upon, or an indication of, the type or types of property to be
2 included within the definition of "ingredient or component part" as herein
3 set forth:

4 (1) Containers, labels and shipping cases used in the distribution of
5 property produced, manufactured or compounded for sale ~~which~~ *that* are
6 not to be returned to the producer, manufacturer or compounder for reuse.

7 (2) Containers, labels, shipping cases, paper bags, drinking straws,
8 paper plates, paper cups, twine and wrapping paper used in the distribution
9 and sale of property taxable under the provisions of this act by wholesalers
10 and retailers and ~~which~~ *that* is not to be returned to such wholesaler or
11 retailer for reuse.

12 (3) Seeds and seedlings for the production of plants and plant
13 products produced for resale.

14 (4) Paper and ink used in the publication of newspapers.

15 (5) Fertilizer used in the production of plants and plant products
16 produced for resale.

17 (6) Feed for animals, fowl and aquatic plants and animals, the
18 primary purpose of which is use in agriculture or aquaculture, as defined in
19 K.S.A. 47-1901, and amendments thereto, the production of food for
20 human consumption, the production of animal, dairy, poultry or aquatic
21 plant and animal products, fiber, fur, or the production of offspring for use
22 for any such purpose or purposes.

23 *(bb) "International" means a telecommunications service that*
24 *originates or terminates in the United States and terminates or originates*
25 *outside the United States, respectively. The United States includes the*
26 *District of Columbia or a United States territory or possession.*

27 *(cc) "Interstate" means a telecommunications service that originates*
28 *in a state within the United States, or a United States territory or*
29 *possession, and terminates in a different state within the United States or a*
30 *United States territory or possession.*

31 *(dd) "Intrastate" means a telecommunications service that originates*
32 *in a state within the United States or a United States territory or*
33 *possession and terminates in the same state within the United States or a*
34 *United States territory or possession.*

35 ~~(e)~~ *(ee) "Isolated or occasional sale" means the nonrecurring sale of*
36 *tangible personal property, or services taxable hereunder by a person not*
37 *engaged at the time of such sale in the business of selling such property or*
38 *services. Any religious organization ~~which~~ *that* makes a nonrecurring sale*
39 *of tangible personal property acquired for the purpose of resale shall be*
40 *deemed to be not engaged at the time of such sale in the business of selling*
41 *such property. Such term shall include: (1) Any sale by a bank, savings and*
42 *loan institution, credit union or any finance company licensed under the*
43 *provisions of the Kansas uniform consumer credit code of tangible*

1 personal property ~~which~~ *that* has been repossessed by any such entity; and
2 (2) any sale of tangible personal property made by an auctioneer or agent
3 on behalf of not more than two principals or households if such sale is
4 nonrecurring and any such principal or household is not engaged at the
5 time of such sale in the business of selling tangible personal property.

6 ~~(+)(ff)~~ "Lease or rental" means any transfer of possession or control of
7 tangible personal property for a fixed or indeterminate term for
8 consideration. ~~A~~ "Lease or rental" may include future options to purchase
9 or extend.

10 (1) "Lease or rental" does not include:

11 (A) A transfer of possession or control of property under a security
12 agreement or deferred payment plan that requires the transfer of title upon
13 completion of the required payments;

14 (B) a transfer or possession or control of property under an agreement
15 that requires the transfer of title upon completion of required payments and
16 payment of an option price does not exceed the greater of \$100 or 1% of
17 the total required payments; or

18 (C) providing tangible personal property along with an operator for a
19 fixed or indeterminate period of time. A condition of this exclusion is that
20 the operator is necessary for the equipment to perform as designed. For the
21 purpose of this subsection, an operator must do more than maintain,
22 inspect or set-up the tangible personal property.

23 (2) "Lease or rental" does include agreements covering motor
24 vehicles and trailers where the amount of consideration may be increased
25 or decreased by reference to the amount realized upon sale or disposition
26 of the property as defined in 26 U.S.C. § 7701(h)(1).

27 (3) This definition shall be used for sales and use tax purposes
28 regardless if a transaction is characterized as a lease or rental under
29 generally accepted accounting principles, the internal revenue code, the
30 uniform commercial code, K.S.A. 84-1-101 et seq., and amendments
31 thereto, or other provisions of federal, state or local law.

32 (4) This definition will be applied only prospectively from the
33 effective date of this act and will have no retroactive impact on existing
34 leases or rentals.

35 ~~(s)(gg)~~ "Load and leave" means delivery to the purchaser by use of a
36 tangible storage media where the tangible storage media is not physically
37 transferred to the purchaser.

38 ~~(+)(hh)~~ "Member state" means a state that has entered in the
39 agreement, pursuant to provisions of article VIII of the agreement.

40 ~~(+)(ii)~~ "Model 1 seller" means a seller that has selected a CSP as its
41 agent to perform all the seller's sales and use tax functions, other than the
42 seller's obligation to remit tax on its own purchases.

43 ~~(+)(jj)~~ "Model 2 seller" means a seller that has selected a CAS to

1 perform part of its sales and use tax functions, but retains responsibility for
2 remitting the tax.

3 ~~(w)~~(kk) "Model 3 seller" means a seller that has sales in at least five
4 member states, has total annual sales revenue of at least \$500,000,000, has
5 a proprietary system that calculates the amount of tax due each jurisdiction
6 and has entered into a performance agreement with the member states that
7 establishes a tax performance standard for the seller. As used in this
8 subsection, a seller includes an affiliated group of sellers using the same
9 proprietary system.

10 ~~(x)~~(ll) "Municipal corporation" means any city incorporated under the
11 laws of Kansas.

12 ~~(y)~~(mm) "Nonprofit blood bank" means any nonprofit place,
13 organization, institution or establishment that is operated wholly or in part
14 for the purpose of obtaining, storing, processing, preparing for transfusing,
15 furnishing, donating or distributing human blood or parts or fractions of
16 single blood units or products derived from single blood units, whether or
17 not any remuneration is paid therefor, or whether such procedures are done
18 for direct therapeutic use or for storage for future use of such products.

19 (nn) *"Over-the-counter drug" means a drug that contains a label that*
20 *identifies the product as a drug as required by 21 C.F.R. § 201.66. The*
21 *over-the-counter drug label includes: (1) A drug facts panel; or (2) a*
22 *statement of the active ingredients with a list of those ingredients*
23 *contained in the compound, substance or preparation. "Over-the-counter*
24 *drugs" do not include grooming and hygiene products such as soaps,*
25 *cleaning solutions, shampoo, toothpaste, antiperspirants and suntan*
26 *lotions and screens.*

27 ~~(z)~~(oo) "Persons" means any individual, firm, copartnership, joint
28 adventure, association, corporation, estate or trust, receiver or trustee, or
29 any group or combination acting as a unit, and the plural as well as the
30 singular number; and shall specifically mean any city or other political
31 subdivision of the state of Kansas engaging in a business or providing a
32 service specifically taxable under the provisions of this act.

33 ~~(aa)~~(pp) "Political subdivision" means any municipality, agency or
34 subdivision of the state which is, or shall hereafter be, authorized to levy
35 taxes upon tangible property within the state or ~~which~~ that certifies a levy
36 to a municipality, agency or subdivision of the state which is, or shall
37 hereafter be, authorized to levy taxes upon tangible property within the
38 state. Such term also shall include any public building commission,
39 housing, airport, port, metropolitan transit or similar authority established
40 pursuant to law and the horsethief reservoir benefit district established
41 pursuant to K.S.A. 82a-2201, and amendments thereto.

42 ~~(bb)~~(qq) "Prescription" means an order, formula or recipe issued in
43 any form of oral, written, electronic or other means of transmission by a

1 duly licensed practitioner authorized by the laws of this state.

2 ~~(ee)~~(rr) "Prewritten computer software" means computer software,
3 including prewritten upgrades, which is not designed and developed by the
4 author or other creator to the specifications of a specific purchaser. The
5 combining of two or more prewritten computer software programs or
6 prewritten portions thereof does not cause the combination to be other than
7 prewritten computer software. Prewritten computer software includes
8 software designed and developed by the author or other creator to the
9 specifications of a specific purchaser when it is sold to a person other than
10 the purchaser. Where a person modifies or enhances computer software of
11 which the person is not the author or creator, the person shall be deemed to
12 be the author or creator only of such person's modifications or
13 enhancements. Prewritten computer software or a prewritten portion
14 thereof that is modified or enhanced to any degree, where such
15 modification or enhancement is designed and developed to the
16 specifications of a specific purchaser, remains prewritten computer
17 software, except that where there is a reasonable, separately stated charge
18 or an invoice or other statement of the price given to the purchaser for
19 such modification or enhancement, such modification or enhancement
20 shall not constitute prewritten computer software.

21 ~~(dd)~~(ss) "Property which is consumed" means tangible personal
22 property which is essential or necessary to and which is used in the actual
23 process of and consumed, depleted or dissipated within one year in: (1)
24 The production, manufacture, processing, mining, drilling, refining or
25 compounding of tangible personal property; (2) the providing of services;
26 (3) the irrigation of crops, for sale in the regular course of business; or (4)
27 the storage or processing of grain by a public grain warehouse or other
28 grain storage facility, and which is not reusable for such purpose. The
29 following is a listing of tangible personal property, included by way of
30 illustration but not of limitation, which qualifies as property which is
31 consumed:

32 (A) Insecticides, herbicides, germicides, pesticides, fungicides,
33 fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and
34 chemicals for use in commercial or agricultural production, processing or
35 storage of fruit, vegetables, feeds, seeds, grains, animals or animal
36 products whether fed, injected, applied, combined with or otherwise used;

37 (B) electricity, gas and water; and

38 (C) petroleum products, lubricants, chemicals, solvents, reagents and
39 catalysts.

40 ~~(ee)~~(tt) "Purchase price" applies to the measure subject to use tax and
41 has the same meaning as sales price.

42 ~~(ff)~~(uu) "Purchaser" means a person to whom a sale of personal
43 property is made or to whom a service is furnished.

1 ~~(gg)~~(vv) "Quasi-municipal corporation" means any county, township,
2 school district, drainage district or any other governmental subdivision in
3 the state of Kansas having authority to receive or hold moneys or funds.

4 ~~(hh)~~(ww) "Registered under this agreement" means registration by a
5 seller with the member states under the central registration system
6 provided in article IV of the agreement.

7 ~~(ii)~~(xx) "Retailer" means a seller regularly engaged in the business of
8 selling, leasing or renting tangible personal property at retail or furnishing
9 electrical energy, gas, water, services or entertainment, and selling only to
10 the user or consumer and not for resale.

11 ~~(jj)~~(yy) "Retail sale" or "sale at retail" means any sale, lease or rental
12 for any purpose other than for resale, sublease or subrent.

13 ~~(kk)~~(zz) "Sale" or "sales" means the exchange of tangible personal
14 property, as well as the sale thereof for money, and every transaction,
15 conditional or otherwise, for a consideration, constituting a sale, including
16 the sale or furnishing of electrical energy, gas, water, services or
17 entertainment taxable under the terms of this act and including, except as
18 provided in the following provision, the sale of the use of tangible personal
19 property by way of a lease, license to use or the rental thereof regardless of
20 the method by which the title, possession or right to use the tangible
21 personal property is transferred. The term "sale" or "sales" shall not mean
22 the sale of the use of any tangible personal property used as a dwelling by
23 way of a lease or rental thereof for a term of more than 28 consecutive
24 days.

25 ~~(H)~~(aaa) (1) "Sales or selling price" applies to the measure subject to
26 sales tax and means the total amount of consideration, including cash,
27 credit, property and services, for which personal property or services are
28 sold, leased or rented, valued in money, whether received in money or
29 otherwise, without any deduction for the following:

30 (A) The seller's cost of the property sold;
31 (B) the cost of materials used, labor or service cost, interest, losses,
32 all costs of transportation to the seller, all taxes imposed on the seller and
33 any other expense of the seller;

34 (C) charges by the seller for any services necessary to complete the
35 sale, other than delivery and installation charges;

36 (D) delivery charges; and

37 (E) installation charges.

38 (2) "Sales or selling price" includes consideration received by the
39 seller from third parties if:

40 (A) The seller actually receives consideration from a party other than
41 the purchaser and the consideration is directly related to a price reduction
42 or discount on the sale;

43 (B) the seller has an obligation to pass the price reduction or discount

1 through to the purchaser;

2 (C) the amount of the consideration attributable to the sale is fixed
3 and determinable by the seller at the time of the sale of the item to the
4 purchaser; and

5 (D) one of the following criteria is met:

6 (i) The purchaser presents a coupon, certificate or other
7 documentation to the seller to claim a price reduction or discount where
8 the coupon, certificate or documentation is authorized, distributed or
9 granted by a third party with the understanding that the third party will
10 reimburse any seller to whom the coupon, certificate or documentation is
11 presented;

12 (ii) the purchaser identifies to the seller that the purchaser is a
13 member of a group or organization entitled to a price reduction or
14 discount. A preferred customer card that is available to any patron does not
15 constitute membership in such a group; or

16 (iii) the price reduction or discount is identified as a third party price
17 reduction or discount on the invoice received by the purchaser or on a
18 coupon, certificate or other documentation presented by the purchaser.

19 (3) "Sales or selling price" shall not include:

20 (A) Discounts, including cash, term or coupons that are not
21 reimbursed by a third party that are allowed by a seller and taken by a
22 purchaser on a sale;

23 (B) interest, financing and carrying charges from credit extended on
24 the sale of personal property or services, if the amount is separately stated
25 on the invoice, bill of sale or similar document given to the purchaser;

26 (C) any taxes legally imposed directly on the consumer that are
27 separately stated on the invoice, bill of sale or similar document given to
28 the purchaser;

29 (D) the amount equal to the allowance given for the trade-in of
30 property, if separately stated on the invoice, billing or similar document
31 given to the purchaser; and

32 (E) commencing on July 1, 2018, and ending on June 30, 2021, cash
33 rebates granted by a manufacturer to a purchaser or lessee of a new motor
34 vehicle if paid directly to the retailer as a result of the original sale.

35 ~~(mm)~~(bbb) "Seller" means a person making sales, leases or rentals of
36 personal property or services.

37 ~~(nn)~~(ccc) "Service" means those services described in and taxed
38 under the provisions of K.S.A. 79-3603, and amendments thereto.

39 ~~(oo)~~(ddd) "Sourcing rules" means the rules set forth in K.S.A. 79-
40 3670 through 79-3673, ~~K.S.A. and 12-191 and 12-191a~~, and amendments
41 thereto, which shall apply to identify and determine the state and local
42 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
43 particular retail sale.

1 ~~(pp)~~(eee) "Tangible personal property" means personal property that
 2 can be seen, weighed, measured, felt or touched, or that is in any other
 3 manner perceptible to the senses. Tangible personal property includes
 4 electricity, water, gas, steam and prewritten computer software.

5 ~~(qq)~~(fff) "Taxpayer" means any person obligated to account to the
 6 director for taxes collected under the terms of this act.

7 (ggg) "*Telecommunications service*" means the electronic
 8 transmission, conveyance or routing of voice, data, audio, video or any
 9 other information or signals to a point, or between or among points. The
 10 term "*telecommunications service*" includes such transmission,
 11 conveyance or routing in which computer processing applications are
 12 used to act on the form, code or protocol of the content for purposes of
 13 transmissions, conveyance or routing without regard to whether such
 14 service is referred to as voice over internet protocol service or is classified
 15 by the federal communications commission as enhanced or value added.
 16 "*Telecommunications service*" does not include:

17 (1) *Data processing and information services that allow data to be*
 18 *generated, acquired, stored, processed or retrieved and delivered by an*
 19 *electronic transmission to a purchaser when such purchaser's primary*
 20 *purpose for the underlying transaction is the processed data or*
 21 *information;*

22 (2) *installation or maintenance of wiring or equipment on a*
 23 *customer's premises;*

24 (3) *tangible personal property;*

25 (4) *advertising, including, but not limited to, directory advertising;*

26 (5) *billing and collection services provided to third parties;*

27 (6) *internet access service;*

28 (7) *radio and television audio and video programming services,*
 29 *regardless of the medium, including the furnishing of transmission,*
 30 *conveyance and routing of such services by the programming service*
 31 *provider. Radio and television audio and video programming services*
 32 *shall include, but not be limited to, cable service as defined in 47 U.S.C. §*
 33 *522(6) and audio and video programming services delivered by*
 34 *commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;*

35 (8) *ancillary services; or*

36 (9) *digital products delivered electronically, including, but not limited*
 37 *to, software, music, video, reading materials or ring tones.*

38 ~~(rr)~~(hhh) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco
 39 or any other item that contains tobacco.

40 ~~(ss)~~—"Entity-based exemption" means an exemption based on who
 41 purchases the product or who sells the product. An exemption that is
 42 available to all individuals shall not be considered an entity-based
 43 exemption.

1 ~~(tt) "Over-the-counter drug" means a drug that contains a label that~~
2 ~~identifies the product as a drug as required by 21 C.F.R. § 201.66. The~~
3 ~~over-the-counter drug label includes: (1) A drug facts panel; or (2) a~~
4 ~~statement of the active ingredients with a list of those ingredients~~
5 ~~contained in the compound, substance or preparation. Over-the-counter~~
6 ~~drugs do not include grooming and hygiene products such as soaps,~~
7 ~~cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan~~
8 ~~lotions and screens.~~

9 ~~(uu) "Ancillary services" means services that are associated with or~~
10 ~~incidental to the provision of telecommunications services, including, but~~
11 ~~not limited to, detailed telecommunications billing, directory assistance,~~
12 ~~vertical service and voice mail services.~~

13 ~~(vv) "Conference bridging service" means an ancillary service that~~
14 ~~links two or more participants of an audio or video conference call and~~
15 ~~may include the provision of a telephone number. Conference bridging~~
16 ~~service does not include the telecommunications services used to reach the~~
17 ~~conference bridge.~~

18 ~~(ww) "Detailed telecommunications billing service" means an~~
19 ~~ancillary service of separately stating information pertaining to individual~~
20 ~~calls on a customer's billing statement.~~

21 ~~(xx) "Directory assistance" means an ancillary service of providing~~
22 ~~telephone number information or address information, or both.~~

23 ~~(iii) "Value-added non-voice data service" means a service that~~
24 ~~otherwise meets the definition of telecommunications services in which~~
25 ~~computer processing applications are used to act on the form, content,~~
26 ~~code or protocol of the information or data primarily for a purpose other~~
27 ~~than transmission, conveyance or routing.~~

28 ~~(yy)(jjj) "Vertical service" means an ancillary service that is offered~~
29 ~~in connection with one or more telecommunications services, which offers~~
30 ~~advanced calling features that allow customers to identify callers and to~~
31 ~~manage multiple calls and call connections, including conference bridging~~
32 ~~services.~~

33 ~~(zz)(lll) "Voice mail service" means an ancillary service that enables~~
34 ~~the customer to store, send or receive recorded messages. "Voice mail~~
35 ~~service" does not include any vertical services that the customer may be~~
36 ~~required to have in order to utilize the voice mail service.~~

37 ~~(aaa) "Telecommunications service" means the electronic~~
38 ~~transmission, conveyance or routing of voice, data, audio, video or any~~
39 ~~other information or signals to a point, or between or among points. The~~
40 ~~term telecommunications service includes such transmission, conveyance~~
41 ~~or routing in which computer processing applications are used to act on the~~
42 ~~form, code or protocol of the content for purposes of transmissions,~~
43 ~~conveyance or routing without regard to whether such service is referred to~~

1 as voice over internet protocol services or is classified by the federal
 2 communications commission as enhanced or value added.
 3 Telecommunications service does not include:

4 (1) Data processing and information services that allow data to be
 5 generated, acquired, stored, processed or retrieved and delivered by an
 6 electronic transmission to a purchaser where such purchaser's primary
 7 purpose for the underlying transaction is the processed data or
 8 information;

9 (2) installation or maintenance of wiring or equipment on a
 10 customer's premises;

11 (3) tangible personal property;

12 (4) advertising, including, but not limited to, directory advertising;

13 (5) billing and collection services provided to third parties;

14 (6) internet access service;

15 (7) radio and television audio and video programming services,
 16 regardless of the medium, including the furnishing of transmission,
 17 conveyance and routing of such services by the programming service
 18 provider. Radio and television audio and video programming services shall
 19 include, but not be limited to, cable service as defined in 47 U.S.C. §
 20 522(6) and audio and video programming services delivered by
 21 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

22 (8) ancillary services; or

23 (9) digital products delivered electronically, including, but not limited
 24 to, software, music, video, reading materials or ring tones.

25 (bbb)(mmm) "800 service" means a telecommunications service that
 26 allows a caller to dial a toll-free number without incurring a charge for the
 27 call. The service is typically marketed under the name 800, 855, 866, 877
 28 and 888 toll-free calling, and any subsequent numbers designated by the
 29 federal communications commission.

30 (eee)(nnn) "900 service" means an inbound toll telecommunications
 31 service purchased by a subscriber that allows the subscriber's customers to
 32 call in to the subscriber's prerecorded announcement or live service. "900
 33 service" does not include the charge for collection services provided by the
 34 seller of the telecommunications services to the subscriber, or service or
 35 product sold by the subscriber to the subscriber's customer. The service is
 36 typically marketed under the name 900 service, and any subsequent
 37 numbers designated by the federal communications commission.

38 (ddd) "Value-added non-voice data service" means a service that
 39 otherwise meets the definition of telecommunications services in which
 40 computer processing applications are used to act on the form, content,
 41 code or protocol of the information or data primarily for a purpose other
 42 than transmission, conveyance or routing.

43 (eee) "International" means a telecommunications service that

1 originates or terminates in the United States and terminates or originates
 2 outside the United States, respectively. United States includes the District
 3 of Columbia or a U.S. territory or possession.

4 ~~(fff) "Interstate" means a telecommunications service that originates~~
 5 ~~in one United States state, or a United States territory or possession, and~~
 6 ~~terminates in a different United States state or a United States territory or~~
 7 ~~possession.~~

8 ~~(ggg) "Intrastate" means a telecommunications service that originates~~
 9 ~~in one United States state or a United States territory or possession, and~~
 10 ~~terminates in the same United States state or a United States territory or~~
 11 ~~possession.~~

12 Sec. 19. K.S.A. 2020 Supp. 79-3603 is hereby amended to read as
 13 follows: 79-3603. For the privilege of engaging in the business of selling
 14 tangible personal property at retail in this state or rendering or furnishing
 15 any of the services taxable under this act, there is hereby levied and there
 16 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,
 17 2021, 16.154% of the 6.5% rate imposed shall be levied for the state
 18 highway fund, the state highway fund purposes and those purposes
 19 specified in K.S.A. 68-416, and amendments thereto, and all revenue
 20 collected and received from such tax levy shall be deposited in the state
 21 highway fund. Within a redevelopment district established pursuant to
 22 K.S.A. 74-8921, and amendments thereto, there is hereby levied and there
 23 shall be collected and paid an additional tax at the rate of 2% until the
 24 earlier of the date the bonds issued to finance or refinance the
 25 redevelopment project have been paid in full or the final scheduled
 26 maturity of the first series of bonds issued to finance any part of the
 27 project. *Such tax shall be imposed* upon:

28 (a) The gross receipts received from the sale of tangible personal
 29 property at retail within this state;

30 (b) the gross receipts from intrastate, interstate or international
 31 telecommunications services and any ancillary services sourced to this
 32 state in accordance with K.S.A. 79-3673, and amendments thereto, except
 33 that telecommunications service does not include: (1) Any interstate or
 34 international 800 or 900 service; (2) any interstate or international private
 35 communications service as defined in K.S.A. 79-3673, and amendments
 36 thereto; (3) any value-added ~~nonvoice~~ *non-voice* data service; (4) any
 37 telecommunication service to a provider of telecommunication services
 38 ~~which~~ *that* will be used to render telecommunications services, including
 39 carrier access services; or (5) any service or transaction defined in this
 40 section among entities classified as members of an affiliated group as
 41 provided by section 1504 of the federal internal revenue code of 1986, as
 42 in effect on January 1, 2001;

43 (c) the gross receipts from the sale or furnishing of gas, water,

1 electricity and heat, which sale is not otherwise exempt from taxation
2 under the provisions of this act, and whether furnished by municipally or
3 privately owned utilities, except that, on and after January 1, 2006, for
4 sales of gas, electricity and heat delivered through mains, lines or pipes to
5 residential premises for noncommercial use by the occupant of such
6 premises, and for agricultural use and also, for such use, all sales of
7 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
8 gas, coal, wood and other fuel sources for the production of heat or
9 lighting for noncommercial use of an occupant of residential premises, the
10 state rate shall be 0%, but such tax shall not be levied and collected upon
11 the gross receipts from: (1) The sale of a rural water district benefit unit;
12 (2) a water system impact fee, system enhancement fee or similar fee
13 collected by a water supplier as a condition for establishing service; or (3)
14 connection or reconnection fees collected by a water supplier;

15 (d) the gross receipts from the sale of meals or drinks furnished at any
16 private club, drinking establishment, catered event, restaurant, eating
17 house, dining car, hotel, drugstore or other place where meals or drinks are
18 regularly sold to the public;

19 (e) the gross receipts from the sale of admissions to any place
20 providing amusement, entertainment or recreation services including
21 admissions to state, county, district and local fairs, but such tax shall not
22 be levied and collected upon the gross receipts received from sales of
23 admissions to any cultural and historical event which occurs triennially;

24 (f) the gross receipts from the operation of any coin-operated device
25 dispensing or providing tangible personal property, amusement or other
26 services except laundry services, whether automatic or manually operated;

27 (g) the gross receipts from the service of renting of rooms by hotels,
28 as defined by K.S.A. 36-501, and amendments thereto, or by
29 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
30 thereto, but such tax shall not be levied and collected upon the gross
31 receipts received from sales of such service to the federal government and
32 any agency, officer or employee thereof in association with the
33 performance of official government duties;

34 (h) the gross receipts from the service of renting or leasing of tangible
35 personal property except such tax shall not apply to the renting or leasing
36 of machinery, equipment or other personal property owned by a city and
37 purchased from the proceeds of industrial revenue bonds issued prior to
38 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
39 12-1749, and amendments thereto, and any city or lessee renting or leasing
40 such machinery, equipment or other personal property purchased with the
41 proceeds of such bonds who shall have paid a tax under the provisions of
42 this section upon sales made prior to July 1, 1973, shall be entitled to a
43 refund from the sales tax refund fund of all taxes paid thereon;

1 (i) the gross receipts from the rendering of dry cleaning, pressing,
2 dyeing and laundry services except laundry services rendered through a
3 coin-operated device whether automatic or manually operated;

4 (j) the gross receipts from the rendering of the services of washing
5 and washing and waxing of vehicles;

6 (k) the gross receipts from cable, community antennae and other
7 subscriber radio and television services;

8 (l) (1) except as otherwise provided by paragraph (2), the gross
9 receipts received from the sales of tangible personal property to all
10 contractors, subcontractors or repairmen for use by them in erecting
11 structures, or building on, or otherwise improving, altering, or repairing
12 real or personal property.

13 (2) Any such contractor, subcontractor or repairman who maintains
14 an inventory of such property both for sale at retail and for use by them for
15 the purposes described by paragraph (1) shall be deemed a retailer with
16 respect to purchases for and sales from such inventory, except that the
17 gross receipts received from any such sale, other than a sale at retail, shall
18 be equal to the total purchase price paid for such property and the tax
19 imposed thereon shall be paid by the deemed retailer;

20 (m) the gross receipts received from fees and charges by public and
21 private clubs, drinking establishments, organizations and businesses for
22 participation in sports, games and other recreational activities, but such tax
23 shall not be levied and collected upon the gross receipts received from: (1)
24 Fees and charges by any political subdivision, by any organization exempt
25 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
26 thereto, or by any youth recreation organization exclusively providing
27 services to persons 18 years of age or younger which is exempt from
28 federal income taxation pursuant to section 501(c)(3) of the federal
29 internal revenue code of 1986, for participation in sports, games and other
30 recreational activities; and (2) entry fees and charges for participation in a
31 special event or tournament sanctioned by a national sporting association
32 to which spectators are charged an admission—~~which~~ *that* is taxable
33 pursuant to subsection (e);

34 (n) the gross receipts received from dues charged by public and
35 private clubs, drinking establishments, organizations and businesses,
36 payment of which entitles a member to the use of facilities for recreation
37 or entertainment, but such tax shall not be levied and collected upon the
38 gross receipts received from: (1) Dues charged by any organization exempt
39 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
40 amendments thereto; and (2) sales of memberships in a nonprofit
41 organization—~~which~~ *that* is exempt from federal income taxation pursuant
42 to section 501(c)(3) of the federal internal revenue code of 1986, and
43 whose purpose is to support the operation of a nonprofit zoo;

1 (o) the gross receipts received from the isolated or occasional sale of
2 motor vehicles or trailers but not including: (1) The transfer of motor
3 vehicles or trailers by a person to a corporation or limited liability
4 company solely in exchange for stock securities or membership interest in
5 such corporation or limited liability company; (2) the transfer of motor
6 vehicles or trailers by one corporation or limited liability company to
7 another when all of the assets of such corporation or limited liability
8 company are transferred to such other corporation or limited liability
9 company; or (3) the sale of motor vehicles or trailers—~~which~~ *that* are
10 subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq.,
11 and amendments thereto, by an immediate family member to another
12 immediate family member. For the purposes of paragraph (3), immediate
13 family member means lineal ascendants or descendants, and their spouses.
14 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
15 on the isolated or occasional sale of motor vehicles or trailers on and after
16 July 1, 2004, which the base for computing the tax was the value pursuant
17 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
18 such amount was higher than the amount of sales tax which would have
19 been paid under the law as it existed on June 30, 2004, shall be refunded to
20 the taxpayer pursuant to the procedure prescribed by this section. Such
21 refund shall be in an amount equal to the difference between the amount of
22 sales tax paid by the taxpayer and the amount of sales tax which would
23 have been paid by the taxpayer under the law as it existed on June 30,
24 2004. Each claim for a sales tax refund shall be verified and submitted not
25 later than six months from the effective date of this act to the director of
26 taxation upon forms furnished by the director and shall be accompanied by
27 any additional documentation required by the director. The director shall
28 review each claim and shall refund that amount of tax paid as provided by
29 this act. All such refunds shall be paid from the sales tax refund fund, upon
30 warrants of the director of accounts and reports pursuant to vouchers
31 approved by the director of taxation or the director's designee. No refund
32 for an amount less than \$10 shall be paid pursuant to this act. In
33 determining the base for computing the tax on such isolated or occasional
34 sale, the fair market value of any motor vehicle or trailer traded in by the
35 purchaser to the seller may be deducted from the selling price;

36 (p) the gross receipts received for the service of installing or applying
37 tangible personal property which when installed or applied is not being
38 held for sale in the regular course of business, and whether or not such
39 tangible personal property when installed or applied remains tangible
40 personal property or becomes a part of real estate, except that no tax shall
41 be imposed upon the service of installing or applying tangible personal
42 property in connection with the original construction of a building or
43 facility, the original construction, reconstruction, restoration, remodeling,

1 renovation, repair or replacement of a residence or the construction,
2 reconstruction, restoration, replacement or repair of a bridge or highway.

3 For the purposes of this subsection:

4 (1) "Original construction"~~shall mean~~ *means* the first or initial
5 construction of a new building or facility. The term "original construction"
6 shall include the addition of an entire room or floor to any existing
7 building or facility, the completion of any unfinished portion of any
8 existing building or facility and the restoration, reconstruction or
9 replacement of a building, facility or utility structure damaged or
10 destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice
11 loading and attendant winds, terrorism or earthquake, but such term,
12 except with regard to a residence, shall not include replacement,
13 remodeling, restoration, renovation or reconstruction under any other
14 circumstances;

15 (2) "building"~~shall mean~~ *means* only those enclosures within which
16 individuals customarily are employed, or which are customarily used to
17 house machinery, equipment or other property, and including the land
18 improvements immediately surrounding such building;

19 (3) "facility"~~shall mean~~ *means* a mill, plant, refinery, oil or gas well,
20 water well, feedlot or any conveyance, transmission or distribution line of
21 any cooperative, nonprofit, membership corporation organized under or
22 subject to the provisions of K.S.A. 17-4601 et seq., and amendments
23 thereto, or municipal or quasi-municipal corporation, including the land
24 improvements immediately surrounding such facility;

25 (4) "residence"~~shall mean~~ *means* only those enclosures within which
26 individuals customarily live;

27 (5) "utility structure"~~shall mean~~ *means* transmission and distribution
28 lines owned by an independent transmission company or cooperative, the
29 Kansas electric transmission authority or natural gas or electric public
30 utility; and

31 (6) "windstorm"~~shall mean~~ *means* straight line winds of at least 80
32 miles per hour as determined by a recognized meteorological reporting
33 agency or organization;

34 (q) the gross receipts received for the service of repairing, servicing,
35 altering or maintaining tangible personal property~~which that~~ when such
36 services are rendered is not being held for sale in the regular course of
37 business, and whether or not any tangible personal property is transferred
38 in connection therewith. The tax imposed by this subsection shall be
39 applicable to the services of repairing, servicing, altering or maintaining an
40 item of tangible personal property~~which that~~ has been and is fastened to,
41 connected with or built into real property;

42 (r) the gross receipts from fees or charges made under service or
43 maintenance agreement contracts for services, charges for the providing of

- 1 which are taxable under the provisions of subsection (p) or (q);
- 2 (s) on and after January 1, 2005, the gross receipts received from the
3 sale of prewritten computer software and the sale of the services of
4 modifying, altering, updating or maintaining prewritten computer
5 software, whether the prewritten computer software is installed or
6 delivered electronically by tangible storage media physically transferred to
7 the purchaser or by load and leave;
- 8 (t) the gross receipts received for telephone answering services;
- 9 (u) the gross receipts received from the sale of prepaid calling service
10 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
11 amendments thereto;
- 12 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
13 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
14 exempt from taxes imposed pursuant to this section; ~~and~~
- 15 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
16 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
17 pursuant to this section; *and*
- 18 (x) *all sales of digital property, and subscription services thereto,*
19 *regardless of whether: (1) The purchaser has the right to permanently use*
20 *the property; (2) the purchaser's right to access or retain the property is*
21 *not permanent; or (3) the purchaser's right to use is conditioned upon*
22 *continued payment.*
- 23 Sec. 20. K.S.A. 79-3702 is hereby amended to read as follows: 79-
24 3702. For the purposes of this act:
- 25 (a) "Purchase price" means the consideration paid or given or
26 contracted to be paid or given by any person to the seller of an article of
27 tangible personal property for the article purchased. The term shall
28 include, in addition to the consideration paid or given or contracted to be
29 paid or given, the actual cost of transportation from the place where the
30 article was purchased to the person using the same in this state. If a cash
31 discount is allowed and taken on the sale it shall be deducted in arriving at
32 the purchase price.
- 33 (b) ~~The meaning ascribed to words and phrases in K.S.A. 79-3602,~~
34 ~~and amendments thereto, insofar as is practicable, shall be applicable~~
35 ~~herein unless otherwise provided.~~ *Definitions of words and phrases in*
36 *K.S.A. 79-3602, and amendments thereto, apply to this act, unless the*
37 *context requires a different meaning.* The provisions of K.S.A. 79-3601 ~~to~~
38 ~~through 79-3625, inclusive, 79-3650, K.S.A. 79-3693 and 79-3694, and~~
39 ~~amendments thereto, relating to enforcement, collection and~~
40 ~~administration, insofar as practicable, shall have full force and effect with~~
41 ~~respect to taxes imposed under the provisions of this act.~~
- 42 (c) "Use" means the exercise within this state by any person of any
43 right or power over tangible personal property incident to the ownership of

1 that property, except that it shall not include processing, or the sale of the
2 property in the regular course of business, and except storage as
3 hereinafter defined.

4 (d) "Storage" means any keeping or retaining in this state for any
5 purpose except sale in the regular course of business or subsequent use
6 solely outside this state of tangible personal property purchased from a
7 retailer.

8 (e) "Storage" and "use" do not include the keeping, retaining or
9 exercising of any right or power over tangible personal property shipped or
10 brought into this state for the purpose of subsequently transporting it
11 outside the state for use thereafter solely outside the state, or for the
12 purpose of being processed, fabricated, or manufactured into, attached to
13 or incorporated into, other tangible personal property to be transported
14 outside the state and thereafter used solely outside the state.

15 (f) "Property used in processing" means:

16 (1) Any tangible personal property—~~which~~ *that*, when used in
17 fabrication, compounding, manufacturing or germination, becomes an
18 integral part of the new article resulting from such fabrication,
19 compounding, manufacturing, or germination, and intended to be sold
20 ultimately at retail; and

21 (2) fuel—~~which~~ *that* is consumed in creating power, heat, or steam for
22 processing or for generating electric current.

23 (g) "Retailer" means every person engaged in the business of selling
24 tangible personal property for use within the meaning of this act, except
25 that, when in the opinion of the director it is necessary for the efficient
26 administration of this act to regard any salesperson, representatives,
27 truckers, peddlers or canvassers as the agents of the dealers, distributors,
28 supervisors, employers or persons under whom they operate or from whom
29 they obtain the tangible personal property sold by them, irrespective of
30 whether they are making sales on their own behalf or on behalf of such
31 dealers, distributors, supervisors, employers, or persons, the director may
32 so regard them and may regard the dealers, distributors, supervisors,
33 employers, or persons as retailers for the purposes of this act.

34 (h) (1) "Retailer doing business in this state" or any like term, means:

35 (A) Any retailer maintaining in this state, permanently, temporarily,
36 directly or indirectly through a subsidiary, agent or representative, an
37 office, distribution house, sales house, warehouse or other place of
38 business;

39 (B) any retailer utilizing an employee, independent contractor, agent,
40 representative, salesperson, canvasser, solicitor or other person operating
41 in this state either permanently or temporarily, for the purpose of selling,
42 delivering, installing, assembling, servicing, repairing, soliciting sales or
43 the taking of orders for tangible personal property;

1 (C) any retailer, including a contractor, repair person or other service
2 provider, who enters this state to perform services that are enumerated in
3 K.S.A. 79-3603, and amendments thereto, and who is required to secure a
4 retailer's sales tax registration certificate before performing those services;

5 (D) any retailer deriving rental receipts from a lease of tangible
6 personal property situated in this state;

7 (E) any person regularly maintaining a stock of tangible personal
8 property in this state for sale in the normal course of business; and

9 (F) any retailer who has any other contact with this state that would
10 allow this state to require the retailer to collect and remit tax under the
11 provisions of the constitution and laws of the United States.

12 (2) A retailer shall be presumed to be doing business in this state if
13 any of the following occur:

14 (A) Any person, other than a common carrier acting in its capacity as
15 such, that has nexus with the state sufficient to require such person to
16 collect and remit taxes under the provisions of the constitution and laws of
17 the United States if such person were making taxable retail sales of
18 tangible personal property or services in this state:

19 (i) Sells the same or a substantially similar line of products as the
20 retailer and does so under the same or a substantially similar business
21 name;

22 (ii) maintains a distribution house, sales house, warehouse or similar
23 place of business in Kansas that delivers or facilitates the sale or delivery
24 of property sold by the retailer to consumers;

25 (iii) uses trademarks, service marks, or trade names in the state that
26 are the same or substantially similar to those used by the retailer;

27 (iv) delivers, installs, assembles or performs maintenance services for
28 the retailer's customers within the state;

29 (v) facilitates the retailer's delivery of property to customers in the
30 state by allowing the retailer's customers to pick up property sold by the
31 retailer at an office, distribution facility, warehouse, storage place or
32 similar place of business maintained by the person in the state;

33 (vi) has a franchisee or licensee operating under its trade name if the
34 franchisee or the licensee is required to collect the tax under the Kansas
35 retailers' sales tax act; or

36 (vii) conducts any other activities in the state that are significantly
37 associated with the retailer's ability to establish and maintain a market in
38 the state for the retailer's sales.

39 (B) Any affiliated person conducting activities in this state described
40 in subparagraph (A) or (C) has nexus with this state sufficient to require
41 such person to collect and remit taxes under the provisions of the
42 constitution and laws of the United States if such person were making
43 taxable retail sales of tangible personal property or services in this state.

1 (C) The retailer enters into an agreement with one or more residents
2 of this state under which the resident, for a commission or other
3 consideration, directly or indirectly ~~refers potential customers, whether by~~
4 ~~a link or an internet website,~~ *sells tangible personal property or services*
5 *for or on behalf of the retailer* by telemarketing, by an in-person oral
6 presentation, or otherwise, ~~to the retailer, if the cumulative gross receipts~~
7 ~~from sales by the retailer to customers in the state who are referred to the~~
8 ~~retailer by all residents with this type of an agreement with the retailer is in~~
9 ~~excess of \$10,000 during the preceding 12 months.~~ This presumption may
10 be rebutted by submitting proof that the residents with whom the retailer
11 has an agreement did not engage in any activity within the state that was
12 significantly associated with the retailer's ability to establish or maintain
13 the retailer's market in the state during the preceding 12 months. Such
14 proof may consist of sworn written statements from all of the residents
15 with whom the retailer has an agreement stating that they did not engage in
16 any solicitation in the state on behalf of the retailer during the preceding
17 year, provided that such statements were provided and obtained in good
18 faith. This subparagraph shall take effect 90 days after the enactment of
19 this statute and shall apply to sales made and uses occurring on or after the
20 effective date of this subparagraph and without regard to the date the
21 retailer and the resident entered into the agreement described in this
22 subparagraph. The term "preceding 12 months" as used in this
23 subparagraph includes the 12 months commencing prior to the effective
24 date of this subparagraph.

25 (D) The presumptions in subparagraphs (A) and (B) may be rebutted
26 by demonstrating that the activities of the person or affiliated person in the
27 state are not significantly associated with the retailer's ability to establish
28 or maintain a market in this state for the retailer's sales.

29 (3) The processing of orders electronically, by fax, telephone, the
30 internet or other electronic ordering process, does not relieve a retailer of
31 responsibility for collection of the tax from the purchaser if the retailer is
32 doing business in this state pursuant to this section.

33 (i) "Director" means the director of taxation.

34 (j) ~~As used in this section, "Affiliated person" means any person that~~
35 ~~is a member of the same "controlled group of corporations" as defined in~~
36 ~~section 1563(a) of the federal internal revenue code as the retailer or any~~
37 ~~other entity that, notwithstanding its form of organization, bears the same~~
38 ~~ownership relationship to the retailer as a corporation that is a member of~~
39 ~~the same "controlled group of corporations" as defined in section 1563(a)~~
40 ~~of the federal internal revenue code the same as defined in section 2, and~~
41 ~~amendments thereto.~~

42 Sec. 21. K.S.A. 79-32,117, 79-32,119, 79-32,138, 79-32,143a, 79-
43 32,271, 79-3602 and 79-3702 and K.S.A. 2020 Supp. 79-3603 are hereby

1 repealed.

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