KSCPA
Kansas Society of CPAs

Informational Briefing: Itemized Deductions

January 24, 2019

House Taxation Committee
Informational Briefing: Itemized Deductions
Honorable Steven Johnson, Chair
Kansas State Capitol, Room 112-N
Topeka, KS 66612

RE: Informational Briefing: Itemized Deductions – Cheryl Hayward, CPA, member of the Kansas Society of CPAs

Good afternoon. Thank you, Representative Johnson and Committee members, for the opportunity to provide an informational briefing on itemized deductions and specifically outlining federal tax law reform changes in this area and the potential impact of removing the restriction preventing Kansas individual taxpayers from itemizing deductions for state income tax purposes unless they also itemize for federal. I am Cheryl Hayward, a CPA with a firm in Topeka, KS and I am representing the Kansas Society of CPAs - the primary professional association representing CPAs in Kansas with over 2,700 members across the state. The information provided today represents the perspectives of our member CPAs and their individual and business clients in the Kansas community. This information is not authoritative and the KSCPA is not taking a position on policy.

Federal Tax Law Change – Individuals	**Current Kansas Law – Individuals**
Standard Deduction The standard deduction nearly doubles 2017: $6,350 single filers 2018: $12,000 S 12,700 MFJ 24,000 MFJ	Taxpayers must take the standard deduction on their Kansas return if they take the standard deduction on the Federal return. $3,000 S 7,500 MFJ
Federal Itemized deductions • Limits mortgage interest deduction (new loans >$750,000 instead of $1M; Eliminates interest deduction of home equity loans)	50% allowed on Fed.-2018 75% allowed on Fed.-2019 100% allowed on Fed. 2020
• State & Local Tax Deduction capped at $10K	Real Estate Tax and Personal Property Tax, 50, 75 and 100% allowed on Fed. For 2018, 2019 and 2020. Nothing for State Income Tax in any year.
• Lowers medical expense deduction floor to 7.5% of AGI (from 10%)	50% allowed on Fed.-2018 75% allowed on Fed.-2019 100% allowed on Fed. 2020

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Federal Tax Law Change – Individuals	Current Kansas Law – Individuals
• Increases AGI limitation on charitable cash contributions to 60% (from 50%)	100% of amount allowed on Fed. return each year.
• Overall limitation repealed	No adjustment for KS for any year.
• Casualty losses limited	Not applicable to KS
• Eliminates other miscellaneous deductions (2% floor)	Not applicable to KS

What are the potential impacts to Kansas Taxpayers and Tax Practitioners?

1. The higher federal standard deduction will lead fewer taxpayers to claim itemized deductions on their federal return. According to the *Tax Foundation, "*The Joint Committee on Taxation estimates that the number of filers who itemize will fall from 46.5 million in 2017 to just over 18 million in 2018, meaning that about 88% of the 150 million households that file taxes will take the increased standard deduction". This could increase the Kansas tax liability for the Kansas taxpayers who itemized on their Kansas return in prior years. If in past years, the taxpayer benefited from claiming itemized deductions instead of the standard deduction, it is expected that the taxpayer's Kansas taxable income will increase because the state standard deduction is likely less than what the taxpayer's Kansas itemized deductions would have been.
    a. For example: A married couple who in the past had $15,000 of Kansas itemized deductions, will no longer be allowed to itemize and instead are limited to taking the $7,500 standard deduction under current Kansas law. Assuming they have Kansas taxable income of $60,000.00 or more, their contribution to the windfall will be $427 (5.7% of the $7,500).

2. Retroactive timing of allowing changes on the 2018 Kansas income tax returns would create an undue administrative burden for CPA practitioners, software vendors and the Kansas Department of Revenue resulting in delayed filings of 2018 returns.
    a. Tax software vendors would need to update tax programs and forms which would cause a delay in processing 2018 tax returns for filing.
    b. If returns are originally filed under current Kansas law, practitioners and taxpayers would need to take additional time to go back through filed returns to determine if it is beneficial to amend returns to claim itemized deductions instead of the standard deduction. As a result, this creates an undue burden on the taxpayer (time and costs) and will also increase the volume of returns filed with the Kansas Department of Revenue.

Questions for Consideration

1. Has the legislature considered increasing the 2018 Kansas standard deduction for everyone?
2. Has the legislature considered a relief for penalty and interest for balance due in 2019?
3. Has the legislature considered a phased in approach allowing itemization?
4. Will the potential choice to itemize include non-residents too or just residents?

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What are potential abuses?

1. CPAs and tax preparers make a reasonable effort to obtain from the taxpayer the information necessary to provide appropriate answers to all questions on a tax return before signing as preparer, however the taxpayer is ultimately responsible for accuracy and completeness of the returns. Since information is voluntarily provided by the taxpayer, potential abuses would ultimately be recognized by audits performed by the Kansas Department of Revenue. *Currently, the Department accepts itemized deductions taken on the Federal return, adjusted as necessary for conformity to Kansas law. Rarely does KDOR audit an individual taxpayer to confirm itemized deductions.*

Explanation of Federal and State Earned Income Tax Credit Comparison

1. The federal credit is based on the <u>filing status</u> and <u>adjusted gross income</u> of the taxpayer and the number of qualifying children claimed on the federal income tax return. Investment income must be $3,500 or less for the year.
2. The maximum amount of the federal credit for Tax Year 2018 is:
   - $6,431 with three or more qualifying children.
   - $5,716 with two qualifying children.
   - $3,461 with one qualifying child.
   - $519 with no qualifying children.
3. Federal Tax Law Change in 2018 – The Tax Cuts and Jobs Act established the Chained Consumer Price Index (C-CPI-U) for determining adjustments for the Earned Income Tax Credit and other tax provisions starting with tax year 2018.
4. Kansas Earned Income Credit is for residents only – not part-year residence or nonresidents – and is a percent of the federal EITC. <u>The percent is 17% of the federal EITC. This credit is a refundable tax credit.</u>

What are other neighboring states doing?

See following pages for Colorado, Kansas, Missouri, Nebraska and Oklahoma

State Tax Chart for Neighboring States **Date Prepared: 1/21/2019**

Changes after 01/01/2018 are highlighted. *We recommend you reference cited authority for more information.*

Personal Income Tax > Calculation of Income > Personal and Other Exemptions > Personal and Dependent Exemptions

The deduction and dependency exemptions previously allowed under IRC Sec. 151 are temporarily repealed for tax years 2018 through 2025 by the Tax Cuts and Jobs Act (P.L. 115-97). Before repeal, as a general rule, individual taxpayers were entitled to claim a single personal exemption and an exemption for their spouse, if filing a joint return. Taxpayers could also claim an additional exemption for each individual who was their dependent during the tax year. The exemption was adjusted annually for inflation. This chart describes the exemption amounts allowed by each state and the District of Columbia.

Jurisdiction	Personal and Dependent Exemptions	Comment	Citation
Colorado	Same as federal due to income tax starting point.		Colo. Rev. Stat. §39-22-104 Colo. Rev. Stat. §39-22-106
Kansas	$2,250, plus additional $2,250 exemption if filing status is head of household.		Kan. Stat. Ann. §79-32,121
Missouri	Effective January 1, 2019, Missouri will not allow personal and dependent exemptions when a taxpayer's federal exemption amount is zero. Otherwise, exemption allowed is: $2,100 if filing status is single or married filing separately; $3,500 if filing status is head of household or qualifying widow(er) with dependent child; $4,200 if filing status is married filing joint federal and combined state return; $4,200 if filing status is married filing separately and spouse not filing; $1,200 for each dependent claimed on federal return; and additional $1,000 for each dependent who is 65 or older and did not receive Medicaid or state funding.	For tax years beginning on or after January 1, 2017, a resident taxpayer with Missouri adjusted gross income of less than $20,000 is allowed an additional $500 personal exemption deduction and an additional $500 deduction for his or her spouse, if the taxpayer is entitled to a personal exemption deduction for federal income tax purposes and his or her spouse's Missouri adjusted gross income is less than $20,000. For taxable years beginning on or after January 1, 2015, dependent exemption allowed in any year that a stillborn child was born, if the child would otherwise have been a member of the taxpayer's household and a certificate of birth resulting in stillbirth has been issued. We recommend you reference cited authority for more information.	Mo. Rev. Stat. §143.151 Mo. Rev. Stat. §143.161

State Tax Chart for Neighboring States **Date Prepared: 1/21/2019 © 2019 CCH Incorporated and its affiliates**

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Jurisdiction	Personal and Dependent Exemptions	Comment	Citation
Nebraska	No exemptions.	Tax credits allowed instead of exemptions. We recommend you reference cited authority for more information.	Neb. Rev. Stat. §77-2716.01(1)
Oklahoma	$1,000 for each personal and dependent exemption claimed on federal return, plus additional exemption for each taxpayer who is blind and an additional exemption for each taxpayer who is 65 if federal AGI is equal to or less than: $15,000 and filing status is single; $12,500 and filing status is married filing separately; $19,000 and filing status is head of household; or $25,000 and filing status is married filing jointly.		Okla. Stat. tit.68, §2358(E)(1)

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Personal Income Tax > Calculation of Income > Standard Deduction

Under IRC Sec. 63, most individual taxpayers who do not itemize their deductions can subtract a standard deduction amount from adjusted gross income to arrive at taxable income. The basic standard deduction amount depends on filing status. The dollar amount of the standard deduction changes every year based on cost-of-living adjustments. An additional standard deduction is provided for elderly/blind taxpayers. The federal standard deduction for 2017 is: $12,700 for joint filers and surviving spouses, $6,350 for single and married filing separately, and $9,350 for heads of household. The federal standard deduction for 2018 are: $24,000 joint filers and surviving spouses, $12,000 for single and married filing separately, and $18,000 for heads of household. This chart identifies whether the state allows a standard deduction and an additional deduction for elderly/blind taxpayers that is the same or similar to the federal deductions.

Jurisdiction	Standard Deduction	Comment	Citation
Colorado	Same as federal due to income tax starting point.		Form 104 Instructions, Individual Income Tax Return
Kansas	For tax years after 2012: $3,000 if filing status is single or married filing separately; $5,500 if filing status is head of household; $7,500 if filing status is married filing jointly; and $3,850 to $10,300 based on filing status for each taxpayer who is 65 or older and each taxpayer who is blind.	For tax years before 2013: $3,000 if filing status is single or married filing separately; $4,500 if filing status is head of household; $6,000 if filing status is married filing jointly; and $3,700 to $8,800 based on filing status for each taxpayer who is 65 or older and each taxpayer who is blind. We recommend you reference cited authority for more information.	Kan. Stat. Ann. §79-32,119
Missouri	Same as federal.		Mo. Rev. Stat. §143.131

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Jurisdiction	Standard Deduction	Comment	Citation
Nebraska	Tax year 2018: $6,750, if filing status is single or married filing separately; $9,900, if filing status is head of household; $13,500, if filing status is married filing jointly or qualifying widow(er); and $8,050 to $18,700 based on filing status for each taxpayer who is 65 or older and each taxpayer who is blind.	Tax year 2017: $6,350, if filing status is single or married filing separately; $9,350, if filing status is head of household; $12,700, if filing status is married filing jointly or qualifying widow(er); and $7,600 to $17,700 based on filing status for each taxpayer who is 65 or older and each taxpayer who is blind. Tax year 2016: $6,300, if filing status is single or married filing separately; $9,300, if filing status is head of household; $12,600, if filing status is married filing jointly or qualifying widow(er); and $7,550 to $17,600 based on filing status for each taxpayer who is 65 or older and each taxpayer who is blind.	Neb. Rev. Stat. §77-2716.01
Oklahoma	Tax years after 2016 $6,350 if filing status is single or married filing separately; $12,700 if filing status is married filing jointly or qualifying widow(er); $9,350 if filing status is head of household.	No additional deduction for elderly/blind taxpayers. 2016 tax year $6,300 if filing status is single or married filing separately; $12,600 if filing status is married filing jointly or qualifying widow(er); $9,300 if filing status is head of household. 2015 tax year $6,300 if filing status is single or married filing separately; $12,600 if filing status is married filing jointly or qualifying widow(er); $9,250 if filing status is head of household. 2014 tax year $6,200 if filing status is single or married filing separately; $12,400 if filing status is married filing jointly or qualifying widow(er); $9,100 if filing status is head of household.	Okla. Stat. tit.68, §2358(E)(2)(g) Okla. Stat. tit.68, §2358(E)(2)€

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Personal Income Tax > Calculation of Income > Itemized Deductions

Individual income taxpayers are allowed to subtract either a standard deduction or itemized deductions when computing taxable income subject to federal income tax. Itemized deductions are claimed on line 40 of federal Form 1040; federal Schedule A is used to compute itemized deductions. In general, federal itemized deductions allowed include:

- medical and dental expenses;
- interest paid, including home mortgage interest, investment interest, and qualified mortgage insurance premiums;
- gifts to charity;
- casualty and theft losses;
- job expenses and other expenses, such as certain legal and accounting fees and custodial fees; and
- other miscellaneous deductions, such as gambling losses to the extent of gambling winnings, deduction for repayment of income under a claim of right, and certain unrecovered investment in a pension.

The Tax Cuts and Jobs Act (P.L. 115-97) limited multiple deductions for tax years 2018 through 2025. Including deduction for:

- state and local taxes;
- home mortgage interest;
- personal casualty and theft loss; and
- temporarily repealing the deductibility of miscellaneous itemizeded deductions and the phaseout or overall limitation on itemized deductions.

Other temporary changes include:

- reducing the medical expense deduction for 2017 and 2018; and
- relief from the casualty loss rule for net disaster losses occurring in 2016 and 2017.

This chart indicates whether each state allows federal itemized deductions and, if applicable, which federal itemized deductions are modified. If a state does not allow federal itemized deductions, the itemized deductions allowed are specified.

Jurisdiction	Itemized Deductions	Comment	Citation
Colorado	Starting point adopts federal itemized deductions.		Colo. Rev. Stat. §39-22-104 Colo. Rev. Stat. §39-22-116(5)

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Jurisdiction	Itemized Deductions	Comment	Citation
Kansas	For tax year 2018, itemized deductions limited to: charitable contribution deduction equal to the amount allowed as a federal deduction; mortgage interest deduction equal to 50% of the federal deduction; property tax deduction equal to 50% of the federal deduction; and medical expenses deduction equal to 50% of the federal deduction.	Tax Years After 2019 Itemized deductions limited to a charitable contribution deduction equal to the amount allowed as a federal deduction, a mortgage interest deduction equal to the amount of the federal deduction, a property tax deduction equal to the amount of the federal deduction, and a medical expense deduction equal to the amount of the federal deduction. Tax Year 2019 Itemized deductions limited to a charitable contribution deduction equal to the amount allowed as a federal deduction, a mortgage interest deduction equal to 75% of the federal deduction, a property tax deduction equal to 75% of the federal deduction, and a medical expense deduction equal to 75% of the federal deduction.	Kan. Stat. Ann. §79-32,120
Missouri	Same as federal with modifications to: taxes paid. Additional deductions for: approved literary, musical, scholastic, artistic, or other cultural contributions to tax exempt agency or nonprofit institution; and social security, railroad retirement, self-employment, and local earnings taxes.		Mo. Rev. Stat. §143.141
Nebraska	Same as federal with modifications to: taxes paid.		Neb. Rev. Stat. §77-2716.01(3) Neb. Admin. Code 22-002.09

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Jurisdiction	Itemized Deductions	Comment	Citation
Oklahoma	Same as federal.	Itemized deductions, other than charitable contributions and medical expenses, limited to $17,000 annually for tax years after 2017. We recommend you reference cited authority for more information.	Okla. Admin. Code §710:50-3-35 Okla. Stat. tit. 68, §2358(E)(3)

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