SENATE BILL No. 125

By Committee on Assessment and Taxation

AN ACT concerning income taxation; relating to certain net operating losses; allowing a carryback on loss from the sale of certain historic hotels; amending K.S.A. 2022 Supp. 79-32,143 and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 79-32,143 is hereby amended to read as follows: 79-32,143. (a) (1) (A) For net operating losses incurred in taxable years prior to January 1, 2018, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code, except that such net operating loss may only be carried forward to each of the 10 taxable years following the taxable year of the net operating loss.

(B) For net operating losses incurred in taxable years beginning after December 31, 2017, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code, except that such net operating loss deduction may only be carried forward.

(2) For net operating farm losses, as defined by section 172 of the federal internal revenue code, incurred in taxable years beginning after December 31, 1999, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code except that such net operating loss may be carried forward to each of the 10 taxable years following the taxable year of the net operating loss.

(c) The amount of the net operating loss that may be carried back or forward for Kansas income tax purposes shall be that portion of the federal net operating loss allocated to Kansas under this act in the taxable year that the net operating loss is sustained.

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

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

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

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

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

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

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

Sec. 2. K.S.A. 2022 Supp. 79-32,143 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.