SENATE BILL No. 430

By Committee on Ways and Means


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

New Section 1. (a) As used in this section, "selected actual state general fund receipts" means receipts from the following taxes and fees: Individual and corporation income taxes imposed under K.S.A. 79-32,110, and amendments thereto, financial institutions privilege taxes imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, retail sales taxes imposed under K.S.A. 79-3601 et seq., and amendments thereto, compensating use taxes imposed under K.S.A. 79-3701 et seq., and amendments thereto, cigarette and tobacco product taxes imposed under K.S.A. 79-3301 et seq., and amendments thereto, cereal malt beverage and liquor gallonage taxes imposed under K.S.A. 41-501 et seq., and amendments thereto, liquor enforcement taxes imposed under K.S.A. 79-4101 et seq., and amendments thereto, liquor drink taxes imposed under K.S.A. 79-41a01 et seq., and amendments thereto, corporation franchise taxes imposed under K.S.A. 79-5401, and amendments thereto, annual franchise fees charged pursuant to law and mineral severance taxes imposed under K.S.A. 79-4216 et seq., and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), commencing with fiscal year 2013, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the selected actual state general fund receipts for the immediately preceding fiscal year, the director of budget and the director of legislative research shall jointly certify such excess amount to the secretary of revenue. Upon receipt of such certified amount, the secretary shall compute the percentage increase in selected actual state general receipts in such fiscal year. Based on such percentage of calculated receipt growth, the secretary shall reduce individual income tax rates prescribed by K.S.A. 79-32,110, and amendments thereto, by a percentage equal to such percentage of
calculated receipt growth for each income tax category and bracket for the income tax year in which the increase in selected actual state general fund receipts occurred. In any computation by the secretary pursuant to this section in which an individual income tax rate for any income tax category or bracket is below .4%, such rate shall be 0%.

(2) In any fiscal year in which the amount of selected actual state general fund receipts are less than the selected actual state general fund receipts from the immediately preceding fiscal year, the director of budget and the director of legislative research shall certify such amount and fact to the secretary of revenue. Upon receipt of such amount and fact, the secretary of revenue shall not make any adjustment to the individual income tax rates for that tax year.

(c) Any reduction in individual income tax rates prescribed by this section shall be reported to the chairperson of the assessment and taxation committee of the senate, the chairperson of the taxation committee of the house of representatives and the governor, and shall be published in the Kansas register prior to September 15 in any year in which there is such a reduction.

New Sec. 2. (a) If any person sells or leases tangible personal property to the state, a state department, a state agency or an agent thereof, that person and any affiliated person shall, as a prerequisite for any such sale or lease, register with the department of revenue as a retailer and comply with all legal requirements imposed on a retailer, including the requirement to collect and remit sales or use tax on all taxable sales of tangible personal property to customers in this state.

(b) Any ruling, agreement or contract, whether written or oral, expressed or implied, between a retailer and this state’s executive branch, or any other state agency or department, stating, agreeing or ruling that the retailer is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center or fulfillment center in the state that is owned or operated by the retailer or an affiliated person of the retailer shall be null and void unless it is specifically approved by a majority vote of each of the houses of the Kansas legislature.

(c) As used in this section, "affiliated person" means any person that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code.

Sec. 3. K.S.A. 2011 Supp. 40-2246 is hereby amended to read as follows: 40-2246. (a) A credit against the taxes otherwise due under the Kansas income tax act shall be allowed to an employer for amounts paid
during the taxable year for purposes of this act on behalf of an eligible employee as defined in K.S.A. 40-2239, and amendments thereto, to provide health insurance or care and amounts contributed to health savings accounts of eligible covered employees.

(b) (1) For employers that have established a small employer health benefit plan after December 31, 1999, but prior to January 1, 2005, the amount of the credit allowed by subsection (a) shall be $35 per month per eligible covered employee or 50% of the total amount paid by the employer during the taxable year, whichever is less, for the first two years of participation. In the third year, the credit shall be equal to 75% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fourth year, the credit shall be equal to 50% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fifth year, the credit shall be equal to 25% of the lesser of $35 per month per employee or 50% of the total amount paid by the employer during the taxable year. For the sixth and subsequent years, no credit shall be allowed.

(2) For employers that have established a small employer health benefit plan or made contributions to a health savings account of an eligible covered employee after December 31, 2004, the amount of credit allowed by subsection (a) shall be $70 per month per eligible covered employee for the first 12 months of participation, $50 per month per eligible covered employee for the next 12 months of participation and $35 per eligible covered employee for the next 12 months of participation. After 36 months of participation, no credit shall be allowed.

(c) If the credit allowed by this section is claimed, the amount of any deduction allowable under the Kansas income tax act for expenses described in this section shall be reduced by the dollar amount of the credit. The election to claim the credit shall be made at the time of filing the tax return in accordance with law. If Commencing in tax year 2012, and all tax years thereafter, the credit allowed by this section exceeds shall not exceed the taxes imposed under the Kansas income tax act for the taxable year, that portion of the credit which exceeds those taxes shall be refunded to the taxpayer reduced by the sum of any other credits allowable against the tax liability of the taxpayer pursuant to law.

(d) Any amount of expenses paid by an employer under this act shall not be included as income to the employee for purposes of the Kansas income tax act. If such expenses have been included in federal taxable income of the employee, the amount included shall be subtracted in arriving at state taxable income under the Kansas income tax act.

(e) The secretary of revenue shall promulgate rules and regulations to carry out the provisions of this section.
(f) This section shall apply to all taxable years commencing after December 31, 1999.

Sec. 4. K.S.A. 2011 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) Resident Individuals. Except as otherwise provided by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

1. Married individuals filing joint returns.
2. (A) For tax years 2011 and 2012:
   
   If the taxable income is: | The tax is: |
   Not over $30,000 | 3.5% of Kansas taxable income |
   Over $30,000 but not over $60,000 | $1,050 plus 6.25% of excess over $30,000 |
   Over $60,000 | $2,925 plus 6.45% of excess over $60,000 |

3. (B) For tax year 2013, and all tax years thereafter:

   If the taxable income is: | The tax is: |
   Not over $30,000 | 3.25% of Kansas taxable income |
   Over $30,000 | $975 plus 5.95% of excess over $30,000 |

4. All other individuals.

5. (A) For tax year 1997:

   If the taxable income is: | The tax is: |
   Not over $20,000 | 4.1% of Kansas taxable income |
   Over $20,000 but not over $30,000 | $820 plus 7.5% of excess over $20,000 |
   Over $30,000 | $1,570 plus 7.75% of excess over $30,000 |

(B) For tax year 1998, and all tax years thereafter years 2011 and 2012:

6. If the taxable income is: | The tax is: |
   Not over $15,000 | 3.5% of Kansas taxable income |
   Over $15,000 but not over $30,000 | $525 plus 6.25% of excess over $15,000 |
   Over $30,000 | 1,462.50 plus 6.45% of excess over $30,000 |

(B) For tax year 2013, and all tax years thereafter:

If the taxable income is: | The tax is: |
Not over $15,000............................................3.25% of Kansas taxable income
Over $15,000............................................$487.50 plus 5.95% of excess over $15,000

(b) Nonresident Individuals. A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) Corporations. A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) For tax years 2011 and 2012, the normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation. For tax year 2013, and all tax years thereafter, the normal tax shall be in an amount equal to 3.95% of the Kansas taxable income of such corporation; and

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of $50,000;

(B) for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the Kansas taxable income of such corporation in excess of $50,000; and

(C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to 3% of the Kansas taxable income of such corporation in excess of $50,000.

d) Fiduciaries. A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in paragraph (2) of subsection (a) hereof.

e) Tax rates provided in this section shall be adjusted pursuant to the provisions of section 1, and amendments thereto.

Sec. 5. K.S.A. 2011 Supp. 79-32,143 is hereby amended to read as follows: 79-32,143. (a) For net operating losses incurred in taxable years beginning after December 31, 1987, 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. For net operating farm losses, as defined by subsection (i) of 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. 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 which 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 which 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 1.

(e) Notwithstanding any other provisions of the Kansas income tax
act, the net operating loss as computed under subsections (a), (b) and (c) of
this section 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) Commencing in tax year 2012, and all tax years thereafter, no
refund of income tax which 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.

Sec. 6. K.S.A. 79-32,176 is hereby amended to read as follows: 79-
32,176. (a) Any resident individual taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, which facility is used as, or in connection with, such taxpayer's principal dwelling or the principal dwelling of a lineal ascendant or descendant, including construction of a small barrier free living unit attached to such principal dwelling, shall be entitled to claim a tax credit in an amount equal to the applicable percentage of such expenditures or $9,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be deemed to prevent any such taxpayer from claiming such credit: (1) For each principal dwelling in which the taxpayer or lineal ascendant or descendant may reside, or facility used in connection therewith; or (2) more than once, but not more often than once every four-year period of time. The applicable percentage of such expenditures eligible for credit shall be as set forth in the following schedule:

<table>
<thead>
<tr>
<th>Taxpayers</th>
<th>Kansas Adjusted Gross Income</th>
<th>% of expenditures eligible for credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 to $25,000</td>
<td>.................................</td>
<td>100%</td>
</tr>
<tr>
<td>Over $25,000 but not over $30,000</td>
<td>.................................</td>
<td>90%</td>
</tr>
<tr>
<td>Over $30,000 but not over $35,000</td>
<td>.................................</td>
<td>80%</td>
</tr>
<tr>
<td>Over $35,000 but not over $40,000</td>
<td>.................................</td>
<td>70%</td>
</tr>
<tr>
<td>Over $40,000 but not over $45,000</td>
<td>.................................</td>
<td>60%</td>
</tr>
<tr>
<td>Over $45,000 but not over $55,000</td>
<td>.................................</td>
<td>50%</td>
</tr>
<tr>
<td>Over $55,000</td>
<td>.................................</td>
<td>0</td>
</tr>
</tbody>
</table>

Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than $2,250 in the first year in which the credit is claimed under this section, an amount equal to the amount by which $9,000 of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be
carried over for the next three succeeding taxable years. If the amount of
the taxpayer's tax liability is less than $2,250 in the second year in which
the credit is claimed under this section, an amount equal to the amount by
which \( \frac{1}{3} \) of the amount of the credit carried over from the first taxable-
year exceeds such tax liability shall be refunded to the taxpayer and the
amount by which the amount of the credit carried over from the first-
taxable year exceeds such tax liability less the amount of such refund may
be carried over for the next two succeeding taxable years. If the amount of
the taxpayer's tax liability is less than $2,250 in the third year in which the-
credit is claimed under this section, an amount equal to the amount by
which \( \frac{1}{2} \) of the amount carried over from the second taxable year exceeds-
such tax liability shall be refunded to the taxpayer and the amount by
which the amount of the credit carried over from the second taxable year
exceeds such tax liability less the amount of such refund may be carried
over to the next succeeding taxable year. If the amount of the credit carried
over from the third taxable year exceeds the taxpayer’s income tax liability
for such year, the amount thereof which exceeds such tax liability shall be
refunded to the taxpayer. The provisions of this section shall apply to tax
year 2012, and all tax years thereafter.

Sec. 7. K.S.A. 2011 Supp. 79-32,197 is hereby amended to read as
follows: 79-32,197. The amount of credit allowed pursuant to K.S.A. 79-
32,196, and amendments thereto, shall not exceed 50% of the total amount
contributed during the taxable year by the business firm to a community
service organization or governmental entity for programs approved
pursuant to K.S.A. 79-32,198, and amendments thereto. The amount of
credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto,
shall not exceed 70% of the total amount contributed during the taxable
year by the business firm in a rural community to a community service
organization or governmental entity located therein for programs approved
pursuant to K.S.A. 79-32,198, and amendments thereto. \( \text{If Commencing in tax year 2012, and all tax years thereafter, the amount of the credit allowed by K.S.A. 79-32,196, and amendments thereto, exceeds shall not exceed} \) the taxpayer's income tax liability imposed under the Kansas
income tax act, such excess amount shall be refunded to the taxpayer
reduced by the sum of any other credits allowable against the tax liability
of the taxpayer pursuant to law. In no event shall the total amount of
credits allowed under this section exceed $4,130,000 for any one fiscal
year.

Sec. 8. K.S.A. 2011 Supp. 79-32,205 is hereby amended to read as
follows: 79-32,205. (a) There shall be allowed as a credit against the tax
liability of a resident individual imposed under the Kansas income tax act
an amount equal to 18% for tax years 2010 through 2012, and an amount
equal to 17% for tax year 2013, and all tax years thereafter, of the amount
of the earned income credit allowed against such taxpayer's federal income
tax liability pursuant to section 32 of the federal internal revenue code for
the taxable year in which such credit was claimed against the taxpayer's
federal income tax liability.

(b) Commencing in tax year 2012, and all tax years thereafter, the
amount of the credit allowed by subsection (a) exceeds shall not exceed
the taxpayer's income tax liability imposed under the Kansas income tax
act, such excess amount shall be refunded to the taxpayer reduced by the
sum of any other credits allowable against the tax liability of the taxpayer
pursuant to law.

Sec. 9. K.S.A. 2011 Supp. 79-32,210 is hereby amended to read as
follows: 79-32,210. (a) For all taxable years commencing after December
31, 2000, and with respect to property initially acquired and first placed
into service in this state on and after January 1, 2001, there shall be
allowed as a credit against the tax liability imposed by the Kansas income
tax act of a telecommunications company, as defined in K.S.A. 79-3271
and amendments thereto, an amount equal to the difference between the
property tax levied for property tax year 2001, and all such years
thereafter, and actually and timely paid during the appropriate income
taxable year upon property assessed at the 33% assessment rate and the
property tax which would be levied and paid on such property if assessed
at a 25% assessment rate.

(b) Commencing in tax 2012, and all tax years thereafter, the
amount of the tax credit determined under subsection (a) exceeds shall not exceed
the tax liability for the telecommunications company for any
taxable year, the amount thereof which exceeds such tax liability shall be
refunded to the telecommunications company reduced by the sum of any
other credits allowable against the tax liability of the taxpayer pursuant to
law. If the telecommunications company is a corporation having an
election in effect under subchapter S of the federal internal revenue code, a
partnership or a limited liability company, the credit provided by this
section shall be claimed by the shareholders of such corporation, the
partners of such partnership or the members of such limited liability
company in the same manner as such shareholders, partners or members
account for their proportionate shares of income or loss of the corporation,
partnership or limited liability company.

(c) As used in this section, the term "acquired" shall not include the
transfer of property pursuant to an exchange for stock securities, or the
transfer of assets of one business entity to another due to a merger or other
consolidation.

Sec. 10. K.S.A. 2011 Supp. 79-32,211a is hereby amended to read as
follows: 79-32,211a. (a) For taxable years commencing after December
31, 2006, subject to the provisions of subsection (d), any taxpayer which
contributes, gifts or donates to a state-owned historic site or an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which such organization owns and operates an historic site, to be used for the purpose of restoration, preservation or operation of such state-owned historic site or historic site or the establishment or maintenance of an endowment to provide for the future stability of such state-owned historic site or historic site shall be allowed a credit against the tax imposed by the Kansas income tax act, the premiums tax upon insurance companies imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in an amount equal to 50% of such contribution, gift or donation, if the total amount of such contribution, gift or donation is at least $1,000. The amount of the credit shall not exceed $2,500 for any one taxpayer in any one taxable year. In no event shall the total amount of credits allowed under this section exceed $200,000 in any one fiscal year.

(b) The credit allowed by this section shall be deducted from the taxpayer's income, premiums or privilege tax liability imposed for the taxable year in which the contribution, gift or donation is made.

(c) For tax year 2012, the amount of the credit allowed by this section shall not exceed the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer reduced by the sum of any other credits allowable against the tax liability of the taxpayer pursuant to law.

(d) The partnership historic site committee created pursuant to K.S.A. 2011 Supp. 75-2732, and amendments thereto, shall develop a prioritized list of historic sites other than state-owned historic sites to which contributions, gifts or donations to organizations which own and operate an historic site qualify for the tax credit provided in this section. As used in this section: (1) "Contributions, gifts or donations" includes monetary contributions, gifts or donations and in kind contributions, gifts or donations that have an established market value;

(2) "historic site" means any building or structure that is significant in the history, architecture, archeology or culture of the state of Kansas or Kansas communities or the nation. Such historic site must be listed on the national register of historic places or the register of historic Kansas places, be open to the public or have the potential to be open to the public for at least 500 hours a year and be owned and operated for the purpose of educating the public about a specific aspect of Kansas and United States history; and

(3) "state-owned historic site" means an historic site under the
jurisdiction and control of the state historical society.

(e) Any contribution, gift or donation that is the basis of the credit provided in this section shall not qualify as a qualified expenditure for the purpose of qualifying for the credit provided in K.S.A. 79-32,211, and amendments thereto.

(f) The provisions of this section shall expire on June 30, 2012.

Sec. 11. K.S.A. 2011 Supp. 79-3635 is hereby amended to read as follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of retailers' sales taxes paid upon food during the calendar year 2010 and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of $17,500 or less, an amount equal to $90. There shall be allowed for each member of a household of a claimant having income of more than $17,500 but not more than $35,000, an amount equal to $45. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of $45 or $90, as the case requires. All such claims shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by a person or persons designated by the director.

(2) As an alternative to the procedure described by subsection (a)(1), for all taxable years commencing after December 31, 2009, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to $45 or $90, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of $45 or $90, as the case requires. If Commencing in tax year 2012, and all tax years thereafter, the amount of such tax credit exceeds the claimant's income tax liability for such taxable year, such excess amount shall be refunded to the claimant reduced by the sum of any other credits allowable against the tax liability of the taxpayer pursuant to law.

(b) A head of household shall make application for refunds for all members of the same household upon a common form provided for the making of joint claims. All claims paid to members of the same household shall be paid as a joint claim by means of a single warrant.

(c) No claim for a refund of taxes under the provisions of K.S.A. 79-3632 et seq., and amendments thereto, shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid. The director of taxation may: (1) Extend the time for filing any claim under the provisions of this act when good cause
exists therefor; or (2) accept a claim filed after the deadline for filing in the
case of sickness, absence or disability of the claimant if such claim has
been filed within four years of such deadline.

(d) In the case of all tax years commencing after December 31, 2010,
the threshold income amounts prescribed in this section and subsection (c)
of K.S.A. 79-3633, and amendments thereto, and the amounts of refund of
taxes and the amounts of the tax credit, both as prescribed in this section,
shall be increased by an amount equal to such threshold amount multiplied
by the cost-of-living adjustment determined under section 1 (f)(3) of the
federal internal revenue code for the calendar year in which the taxable
year commences.

Sec. 12. K.S.A. 2011 Supp. 79-3702 is hereby amended to read as
follows: 79-3702. For the purposes of this act: (a) "Purchase price" means
the consideration paid or given or contracted to be paid or given by any
person to the seller of an article of tangible personal property for the article
purchased. The term shall include, in addition to the consideration paid or
given or contracted to be paid or given, the actual cost of transportation
from the place where the article was purchased to the person using the
same in this state. If a cash discount is allowed and taken on the sale it
shall be deducted in arriving at the purchase price.

(b) The meaning ascribed to words and phrases in K.S.A. 79-3602,
and amendments thereto, insofar as is practicable, shall be applicable
herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-
3625, inclusive, 79-3650, K.S.A. 2011 Supp. 79-3693 and 79-3694, and
amendments thereto, relating to enforcement, collection and
administration, insofar as practicable, shall have full force and effect with
respect to taxes imposed under the provisions of this act.

(c) "Use" means the exercise within this state by any person of any
right or power over tangible personal property incident to the ownership of
that property, except that it shall not include processing, or the sale of the
property in the regular course of business, and except storage as
hereinafter defined.

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

(e) "Storage" and "use" do not include the keeping, retaining or
exercising of any right or power over tangible personal property shipped or
brought into this state for the purpose of subsequently transporting it
outside the state for use thereafter solely outside the state, or for the
purpose of being processed, fabricated, or manufactured into, attached to
or incorporated into, other tangible personal property to be transported
outside the state and thereafter used solely outside the state.
(f) "Property used in processing" means: (1) Any tangible personal property which, when used in fabrication, compounding, manufacturing or germination, becomes an integral part of the new article resulting from such fabrication, compounding, manufacturing, or germination, and intended to be sold ultimately at retail; (2) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

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

(h) (1) "Retailer doing business in this state" or any like term, means:
(A) Any retailer having or maintaining in this state, permanently, temporarily, directly or indirectly through a subsidiary, agent or representative, an office, distribution house, sales house, warehouse or other place of business;
(B) any retailer having an employee, independent contractor, agent, representative, salesperson, canvasser or solicitor operating in this state either permanently or temporarily, under the authority of the retailer or its subsidiary, for the purpose of selling, delivering, installing, assembling, servicing, repairing, soliciting sales or the taking of orders for tangible personal property;
(C) any retailer, including a contractor, repair person or other service provider, who enters this state to perform services that are enumerated in K.S.A. 79-3603 and amendments thereto, and who is required to secure a retailer's sales tax registration certificate before performing those services;
(D) any retailer deriving rental receipts from a lease of tangible personal property situated in this state;
(E) any person having a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act;
(F) any person regularly maintaining a stock of tangible personal property in this state for sale in the normal course of business; and
(G) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States.
(2) A retailer shall be presumed to be doing business in this state if:

(A) Both of the following conditions exist:

(i) The retailer holds a substantial ownership interest in, or is owned in whole substantial part by, a retailer maintaining a sales location in Kansas; and

(ii) the retailer sells the same or a substantially similar line of products as the related Kansas retailer and does so under the same or a substantially similar business name, or the Kansas facilities or Kansas employees of the related Kansas retailer are used to advertise, promote or facilitate sales by the retailer to consumers.

(B) The retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers or facilitates the delivery of property sold by the retailer to consumers.

(C) For purposes of paragraphs (A) and (B):

(i) "Substantial ownership interest" means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer; and

(ii) "ownership" means and includes both direct ownership, and indirect ownership though a parent, subsidiary or affiliate.

(D) The retailer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website, by telemarketing, by an in-person oral presentation, or otherwise, to the retailer; if the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer is in excess of $10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the residents with whom the retailer has an agreement did not engage in any activity within the state that was significantly associated with the retailer’s ability to establish or maintain the retailer’s market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the retailer has an agreement stating that they did not engage in any solicitation in the state on behalf of the retailer during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the enactment of this statute and shall apply to sales made and uses occurring on or after the effective date of this subparagraph and without regard to the date the retailer and the resident entered into the agreement described
in this subparagraph. The term "preceding 12 months" as used in this subparagraph includes the 12 months commencing prior to the effective date of this subparagraph.

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

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

Sec. 13. K.S.A. 2011 Supp. 79-4217 is hereby amended to read as follows: 79-4217. (a) There is hereby imposed an excise tax upon the severance and production of coal, oil or gas from the earth or water in this state for sale, transport, storage, profit or commercial use, subject to the following provisions of this section. Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in K.S.A. 79-4216, and amendments thereto, in proportion to their respective beneficial interest in the coal, oil or gas severed. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the gas severed and subject to such tax. The rate of such tax shall be 8% of the gross value of all oil or gas severed from the earth or water in this state and subject to the tax imposed under this act. The rate of such tax with respect to coal shall be $1 per ton. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or determined by tank tables compiled to show less than 100% of the full capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

(b) The following shall be exempt from the tax imposed under this section:

(1) The severance and production of gas which is: (A) Injected into the earth for the purpose of lifting oil, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed; (C)
lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month having a gross value of not more than $87 per day, which well has not been significantly curtailed by reason of mechanical failure or other disruption of production; in the event that the production of gas from more than one well is gauged by a common meter, eligibility for exemption hereunder shall be determined by computing the gross value of the average daily combined production from all such wells and dividing the same by the number of wells gauged by such meter; (E) inadvertently lost on the lease or production unit by reason of leaks, blowouts or other accidental losses; (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed; or (G) placed in underground storage for recovery at a later date and which was either originally severed outside of the state of Kansas, or as to which the tax levied pursuant to this act has been paid;

(2) the severance and production of oil which is: (A) From a lease or production unit whose average daily production is five barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (B) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production is six barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is $16 or less, whose average daily production is seven barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is $15 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is $14 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is $13 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (C) from a lease or production unit, whose production results from a tertiary recovery process. "Tertiary recovery process" means the process or processes described in subparagraphs (1) through (9) of 10 C.F.R. § 212.78(c) as in effect on June 1, 1979; (D) from a lease or production unit, the producing well or wells upon which have a completion depth of less than 2,000 feet and whose average daily production resulting from a water flood process, is six barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (E) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production resulting from a water flood process, is seven barrels or less per producing well or, if the price of oil as determined
pursuant to subsection (d) is $16 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is $15 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is $14 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (F) test, frac or swab oil which is sold or exchanged for value; or (G) inadvertently lost on the lease or production unit by reason of leaks or other accidental means;

(3) (A) any taxpayer applying for an exemption pursuant to subsection (b)(2)(A) and (B) shall make application biennially to the director of taxation therefor. Exemptions granted pursuant to subsection (b)(2)(A) and (B) shall be valid for a period of two years following the date of certification thereof by the director of taxation; (B) any taxpayer applying for an exemption pursuant to subsection (b)(2)(D) or (E) shall make application biennially to the director of taxation therefor. Such application shall be accompanied by proof of the approval of an application for the utilization of a water flood process therefor by the corporation commission pursuant to rules and regulations adopted under the authority of K.S.A. 55-152 and amendments thereto and proof that the oil produced therefrom is kept in a separate tank battery and that separate books and records are maintained therefor. Such exemption shall be valid for a period of two years following the date of certification thereof by the director of taxation; (C) any exemption granted pursuant to subsections (b) (2)(A), (B), (D) or (E) with an odd lease number and an exemption termination date between June 1, 2004, and May 31, 2005, inclusive, shall be valid for a period of one year following the date of certification; and (D) notwithstanding the provisions of paragraph (A) or (B), any exemption in effect on the effective date of this act affected by the amendments to subsection (b)(2) by this act shall be redetermined in accordance with such amendments. Any such exemption, and any new exemption established by such amendments and applied for after the effective date of this shall be valid for a period commencing with May 1, 1998, and ending on April 30, 1999.

(4) the severance and production of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, and prior to July 1, 2012, as determined by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil or gas was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this
paragraph shall be valid for a period of 24 months following the month in
which oil or gas was first produced from such pool. The term "pool"
means an underground accumulation of oil or gas in a single and separate
natural reservoir characterized by a single pressure system so that
production from one part of the pool affects the reservoir pressure
throughout its extent;

(5) the severance and production of oil of not more than 50 barrels
per day from any pool from which oil was first produced on or after July 1, 2012, as determined by the state corporation commission and certified to
the director of taxation, and continuing for a period of 24 months from the
month in which oil was first produced from such pool as evidenced by an
affidavit of completion of a well, filed with the state corporation
commission and certified to the director of taxation. Exemptions granted
for production from any well pursuant to this subsection shall be valid for
a period of 24 months following the month in which oil was first produced
from such pool. The term "pool" means an underground accumulation of
oil in a single and separate natural reservoir characterized by a single
pressure system so that production from one part of the pool affects the
reservoir pressure throughout its extent;

(6) the severance and production of oil or gas from a three-year
inactive well, as determined by the state corporation commission and
certified to the director of taxation, for a period of 10 years after the date
of receipt of such certification. As used in this paragraph, "three-year
inactive well" means any well that has not produced oil or gas in more
than one month in the three years prior to the date of application to the
state corporation commission for certification as a three-year inactive well.
An application for certification as a three-year inactive well shall be in
such form and contain such information as required by the state
corporation commission, and shall be made prior to July 1, 1996. The
commission may revoke a certification if information indicates that a
certified well was not a three-year inactive well or if other lease
production is credited to the certified well. Upon notice to the operator that
the certification for a well has been revoked, the exemption shall not be
applied to the production from that well from the date of revocation;

(6)(7) (A) The incremental severance and production of oil or gas
which results from a production enhancement project begun on or after
July 1, 1998, shall be exempt for a period of seven years from the startup
date of such project. As used in this paragraph (6):

(1) "Incremental severance and production" means the amount of oil
or natural gas which is produced as the result of a production enhancement
project which is in excess of the base production of oil or natural gas, and
is determined by subtracting the base production from the total monthly
production after the production enhancement project is completed.
(2) "Base production" means the average monthly amount of production for the twelve-month period immediately prior to the production enhancement project beginning date, minus the monthly rate of production decline for the well or project for each month beginning 180 days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the well or project for the twelve-month period immediately prior to the production enhancement project beginning date, except that the monthly rate of production decline shall be equal to zero in the case where the well or project has experienced no monthly decline during the twelve-month period immediately prior to the production enhancement project beginning date. Such monthly rate of production decline shall be continued as the decline that would have occurred except for the enhancement project. Any well or project which may have produced during the twelve-month period immediately prior to the production enhancement project beginning date but is not capable of production on the project beginning date shall have a base production equal to zero. The calculation of the base production amount shall be evidenced by an affidavit and supporting documentation filed by the applying taxpayer with the state corporation commission.

(3) "Workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery of oil or gas, including but not limited to acidizing, reperforation, fracture treatment, sand/paraffin/scale removal or other wellbore cleanouts, casing repair, squeeze cementing, initial installation, or enhancement of artificial lifts including plunger lifts, rods, pumps, submersible pumps and coiled tubing velocity strings, downsizing existing tubing to reduce well loading, downhole commingling, bacteria treatments, polymer treatments, upgrading the size of pumping unit equipment, setting bridge plugs to isolate water production zones, or any combination of the aforementioned operations; "workover" shall not mean the routine maintenance, routine repair, or like for-like replacement of downhole equipment such as rods, pumps, tubing packers or other mechanical device.

(4) "Production enhancement project" means performing or causing to be performed the following:

(i) Workover;

(ii) recompletion to a different producing zone in the same well bore, except recompletions in formations and zones subject to a state corporation commission proration order;

(iii) secondary recovery projects;

(iv) addition of mechanical devices to dewater a gas or oil well;

(v) replacement or enhancement of surface equipment;

(vi) installation or enhancement of compression equipment, line
looping or other techniques or equipment which increases production from a well or a group of wells in a project;

(vii) new discoveries of oil or gas which are discovered as a result of the use of new technology, including, but not limited to, three dimensional seismic studies.

(B) The state corporation commission shall adopt rules and regulations necessary to efficiently and properly administer the provisions of this paragraph (6) including rules and regulations for the qualification of production enhancement projects, the procedures for determining the monthly rate of production decline, criteria for determining the share of incremental production attributable to each well when a production enhancement project includes a group of wells, criteria for determining the start up date for any project for which an exemption is claimed, and determining new qualifying technologies for the purposes of paragraph (6) subsection (7)(A)(4)(vii).

(C) Any taxpayer applying for an exemption pursuant to this paragraph (6) shall make application to the director of taxation. Such application shall be accompanied by a state corporation commission certification that the production for which an exemption is sought results from a qualified production enhancement project and certification of the base production for the enhanced wells or group of wells, and the rate of decline to be applied to that base production. The secretary of revenue shall provide credit for any taxes paid between the project startup date and the certification of qualifications by the commission.

(D) The exemptions provided for in this paragraph (6) shall not apply for 12 months beginning July 1 of the year subsequent to any calendar year during which: (1) In the case of oil, the secretary of revenue determines that the weighted average price of Kansas oil at the wellhead has exceeded $20.00 per barrel; or (2) in the case of natural gas the secretary of revenue determines that the weighted average price of Kansas gas at the wellhead has exceeded $2.50 per Mcf.

(E) The provisions of this paragraph (6) shall not affect any other exemption allowable pursuant to this section; and

(7) for the calendar year 1988, and any year thereafter, the severance or production of the first 350,000 tons of coal from any mine as certified by the state geological survey.

(c) No exemption shall be granted pursuant to subsection (b)(3) or (4) to any person who does not have a valid operator's license issued by the state corporation commission, and no refund of tax shall be made to any taxpayer attributable to any production in a period when such taxpayer did not hold a valid operator's license issued by the state corporation commission.

(d) On April 15, 1988, and on April 15 of each year thereafter, the
secretary of revenue shall determine from statistics compiled and provided
by the United States department of energy, the average price per barrel
paid by the first purchaser of crude oil in this state for the six-month
period ending on December 31 of the preceding year. Such price shall be
used for the purpose of determining exemptions allowed by subsection (b)
(2)(B) or (E) for the twelve-month period commencing on May 1 of such
year and ending on April 30 of the next succeeding year.
32,110, 79-32,143, 79-32,197, 79-32,205, 79-32,210, 79-32,211a, 79-
3635, 79-3702 and 79-4217 are hereby repealed.
Sec. 15. This act shall take effect and be in force from and after its
publication in the statute book.