

As Amended by Senate Committee

Session of 2014

SENATE BILL No. 265

By Committee on Assessment and Taxation

1-16

1 AN ACT concerning income tax; relating to homestead refund; income
2 defined, eligibility; amending K.S.A. 2013 Supp. 79-32,263 and 79-
3 4502 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 79-32,263 is hereby amended to read as
7 follows: 79-32,263. This act shall be known and may be cited as the
8 selective assistance for effective senior relief (SAFESR). There shall be
9 allowed as a credit against the tax liability of a taxpayer imposed under the
10 Kansas income tax act, the following: (a) For tax years 2008, 2009 and
11 2010, an amount equal to 45% of the amount of property and ad valorem
12 taxes actually and timely paid as described in this section; and (b) for tax
13 year 2011 and all tax years thereafter, an amount equal to 75% of the
14 amount of property and ad valorem taxes actually and timely paid by a
15 taxpayer who is 65 years of age or older and who has household income
16 equal to or less than 120% of the federal poverty level for two persons if
17 such taxes were paid upon real or personal property used for residential
18 purposes of such taxpayer which is the taxpayer's principal place of
19 residence for the tax year in which the tax credit is claimed. The amount of
20 any such credit for any such taxpayer shall not exceed the amount of
21 property and ad valorem taxes paid by such taxpayer as specified in this
22 section. A taxpayer shall not take the credit pursuant to this section if such
23 taxpayer has received a homestead property tax refund pursuant to K.S.A.
24 79-4501 et seq., and amendments thereto, for such property for such tax
25 year. Subject to the provisions of this section, if the amount of such tax
26 credit exceeds the taxpayer's income tax liability for the taxable year, the
27 amount of such excess credit which exceeds such tax liability shall be
28 refunded to the taxpayer. The secretary of revenue shall adopt rules and
29 regulations regarding the filing of documents that support the amount of
30 the credit claimed pursuant to this section. For purposes of this section,
31 "household income" means all income *as defined in K.S.A. 79-4502(a),*
32 *and amendments thereto,* including *any* payments received under the
33 federal social security act, received by persons of a household in a
34 calendar year while members of such household. The provisions of this act
35 shall be part of and supplemental to the homestead property tax refund act.

36 Sec. 2. K.S.A. 2013 Supp. 79-4502 is hereby amended to read as

1 follows: 79-4502. As used in this act, unless the context clearly indicates
2 otherwise:

3 (a) "Income" means the sum of adjusted gross income under the
4 Kansas income tax act *effective for tax year 2013 and thereafter without*
5 *regard to any modifications pursuant to K.S.A. 79-32,117(b)(xx) through*
6 *(xxiii) and (c)(xx), and amendments thereto*, maintenance, support money,
7 cash public assistance and relief, not including any refund granted under
8 this act, the gross amount of any pension or annuity, including all
9 monetary retirement benefits from whatever source derived, including but
10 not limited to, all payments received under the railroad retirement act,
11 except disability payments, payments received under the federal social
12 security act, except that for determination of what constitutes income such
13 amount shall not exceed 50% of any such social security payments and
14 shall not include any social security payments to a claimant who prior to
15 attaining full retirement age had been receiving disability payments under
16 the federal social security act in an amount not to exceed the amount of
17 such disability payments or 50% of any such social security payments,
18 whichever is greater, all dividends and interest from whatever source
19 derived not included in adjusted gross income, workers compensation and
20 the gross amount of "loss of time" insurance. Income does not include gifts
21 from nongovernmental sources or surplus food or other relief in kind
22 supplied by a governmental agency, nor shall net operating losses and net
23 capital losses be considered in the determination of income. Income does
24 not include veterans disability pensions. Income does not include disability
25 payments received under the federal social security act.

26 (b) "Household" means a claimant, a claimant and spouse who
27 occupy the homestead or a claimant and one or more individuals not
28 related as husband and wife who together occupy a homestead.

29 (c) "Household income" means all income received by all persons of
30 a household in a calendar year while members of such household.

31 (d) "Homestead" means the dwelling, or any part thereof, owned and
32 occupied as a residence by the household and so much of the land
33 surrounding it, as defined as a home site for ad valorem tax purposes, and
34 may consist of a part of a multi-dwelling or multi-purpose building and a
35 part of the land upon which it is built or a manufactured home or mobile
36 home and the land upon which it is situated. "Owned" includes a vendee in
37 possession under a land contract, a life tenant, a beneficiary under a trust
38 and one or more joint tenants or tenants in common.

39 (e) "Claimant" means a person who has filed a claim under the
40 provisions of this act and was, during the entire calendar year preceding
41 the year in which such claim was filed for refund under this act, except as
42 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
43 this state and was: (1) A person having a disability; (2) a person who is 55

1 years of age or older; (3) a disabled veteran; (4) the surviving spouse of
2 active duty military personnel who died in the line of duty; or (5) a person
3 other than a person included under (1), (2), (3) or (4) having one or more
4 dependent children under 18 years of age residing at the person's
5 homestead during the calendar year immediately preceding the year in
6 which a claim is filed under this act. The surviving spouse of a disabled
7 veteran who was receiving benefits pursuant to subsection (e)(3) of this
8 section at the time of the veterans' death, shall be eligible to continue to
9 receive benefits until such time the surviving spouse remarries.

10 When a homestead is occupied by two or more individuals and more
11 than one of the individuals is able to qualify as a claimant, the individuals
12 may determine between them as to whom the claimant will be. If they are
13 unable to agree, the matter shall be referred to the secretary of revenue
14 whose decision shall be final.

15 (f) "Property taxes accrued" means property taxes, exclusive of
16 special assessments, delinquent interest and charges for service, levied on
17 a claimant's homestead in 1979 or any calendar year thereafter by the state
18 of Kansas and the political and taxing subdivisions of the state. When a
19 homestead is owned by two or more persons or entities as joint tenants or
20 tenants in common and one or more of the persons or entities is not a
21 member of claimant's household, "property taxes accrued" is that part of
22 property taxes levied on the homestead that reflects the ownership
23 percentage of the claimant's household. For purposes of this act, property
24 taxes are "levied" when the tax roll is delivered to the local treasurer with
25 the treasurer's warrant for collection. When a claimant and household own
26 their homestead part of a calendar year, "property taxes accrued" means
27 only taxes levied on the homestead when both owned and occupied as a
28 homestead by the claimant's household at the time of the levy, multiplied
29 by the percentage of 12 months that the property was owned and occupied
30 by the household as its homestead in the year. When a household owns and
31 occupies two or more different homesteads in the same calendar year,
32 property taxes accrued shall be the sum of the taxes allocable to those
33 several properties while occupied by the household as its homestead
34 during the year. Whenever a homestead is an integral part of a larger unit
35 such as a multi-purpose or multi-dwelling building, property taxes accrued
36 shall be that percentage of the total property taxes accrued as the value of
37 the homestead is of the total value. For the purpose of this act, the word
38 "unit" refers to that parcel of property covered by a single tax statement of
39 which the homestead is a part.

40 (g) "Disability" means:

41 (1) Inability to engage in any substantial gainful activity by reason of
42 any medically determinable physical or mental impairment which can be
43 expected to result in death or has lasted or can be expected to last for a

1 continuous period of not less than 12 months, and an individual shall be
2 determined to be under a disability only if the physical or mental
3 impairment or impairments are of such severity that the individual is not
4 only unable to do the individual's previous work but cannot, considering
5 age, education and work experience, engage in any other kind of
6 substantial gainful work which exists in the national economy, regardless
7 of whether such work exists in the immediate area in which the individual
8 lives or whether a specific job vacancy exists for the individual, or whether
9 the individual would be hired if application was made for work. For
10 purposes of the preceding sentence (with respect to any individual), "work
11 which exists in the national economy" means work which exists in
12 significant numbers either in the region where the individual lives or in
13 several regions of the country; for purposes of this subsection, a "physical
14 or mental impairment" is an impairment that results from anatomical,
15 physiological or psychological abnormalities which are demonstrable by
16 medically acceptable clinical and laboratory diagnostic techniques; or

17 (2) blindness and inability by reason of blindness to engage in
18 substantial gainful activity requiring skills or abilities comparable to those
19 of any gainful activity in which the individual has previously engaged with
20 some regularity and over a substantial period of time.

21 (h) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the
22 better eye with the use of a correcting lens. An eye which is accompanied
23 by a limitation in the fields of vision such that the widest diameter of the
24 visual field subtends an angle no greater than 20 degrees shall be
25 considered for the purpose of this paragraph as having a central visual
26 acuity of $^{20}/_{200}$ or less.

27 (i) "Disabled veteran" means a person who is a resident of Kansas
28 and has been honorably discharged from active service in any branch of
29 the armed forces of the United States or Kansas national guard and who
30 has been certified by the United States department of veterans affairs or its
31 successor to have a 50% permanent disability sustained through military
32 action or accident or resulting from disease contracted while in such active
33 service.

34 Sec. 3. K.S.A. 2013 Supp. 79-32,263 and 79-4502 are hereby
35 repealed.

36 Sec. 4. This act shall take effect and be in force from and after its
37 publication in the statute book.

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