

January 28, 2019

REVISED

The Honorable Susan Wagle, Chairperson
Senate Select Committee on Federal Tax Code Implementation
Statehouse, Room 333-E
Topeka, Kansas 66612

Dear Senator Wagle:

SUBJECT: Revised Fiscal Note for SB 22 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 22 is respectfully submitted to your committee.

Calculations for Kansas income taxes are based on the Kansas adjusted gross income, which is calculated by adding or subtracting certain types of income from the federal adjusted gross income. SB 22 would allow 100.0 percent of deferred foreign income (federal repatriation) that is included in the taxpayer's federal adjusted gross income, before allowable deductions, to be subtracted from income for Kansas income tax purposes beginning in tax year 2017. Additionally, all deductions from deferred foreign income would be added back for Kansas income tax purposes beginning in tax year 2017. This would exempt this income from state income taxes.

The bill would allow 100.0 percent of global intangible low-taxed income (GILTI), before allowable deductions, to be subtracted from income for Kansas income tax purposes beginning in tax year 2018. Additionally, all deductions from GILTI would be added back for Kansas income tax purposes beginning in tax year 2018. This would exempt this income from state income taxes.

The bill would allow the amount of disallowed business interest expenses to be subtracted from income for Kansas income tax purposes beginning in tax year 2018. Additionally, all deductions from the carry forward amount of disallowed business interest would be added back for Kansas income tax purposes beginning in tax year 2018. This would allow state taxpayers to claim the full amount of business interest expenses on state income tax returns.

The bill would allow taxpayers to deduct the costs of any disallowed Federal Deposit Insurance Corporation (FDIC) premiums beginning in tax year 2018. Corporate taxpayers would

be allowed to exclude contributions to capital from non-shareholders in the calculation of state income taxes beginning in tax year 2018. This provision would exclude contributions by governmental entity or civic group such as the values of state and local tax incentives from the calculation of income.

Under current law, a taxpayer is only allowed to use itemized deductions on a state income tax return if they also use itemized deductions on the federal income tax return. The bill would allow the taxpayer to use itemized deductions on the state income tax return regardless if they use itemized deductions on federal income tax return beginning in tax year 2018. Taxpayers would be allowed to file an amended return by December 31, 2019, in order to make this election for tax year 2018. Taxpayers would also be allowed to file amended returns for changes to deductions for a prior tax year that become law on July 1, 2019.

Estimated State Fiscal Effect				
	FY 2019 SGF	FY 2019 All Funds	FY 2020 SGF	FY 2020 All Funds
Revenue	--	--	(\$187,300,000)	(\$187,300,000)
Expenditure	--	--	\$819,547	\$819,547
FTE Pos.	--	--	--	--

In the original fiscal note issued, the Department of Revenue calculated the fiscal effect of allowing taxpayers to use itemized deductions on a state income tax return regardless if they use itemized deductions on the federal income tax return by reviewing data from tax year 2016. The Department is now able to analyze updated data from tax year 2017 and issued a revised fiscal note. The Department of Revenue estimates that SB 22 would decrease State General Fund revenues by \$187.3 million in FY 2020. The fiscal effect to state revenues during subsequent years would be as follows:

	<u>FY 2021</u>	<u>FY 2022</u>
State General Fund	(\$112,200,000)	(\$117,200,000)

The Department of Revenue estimates that exempting deferred foreign income would decrease State General Fund revenues by \$10.5 million in FY 2020, \$400,000 in FY 2021, and \$200,000 in FY 2022. Exempting GILTI would decrease State General Fund revenues by \$70.9 million in FY 2020, \$24.7 million in FY 2021, and \$24.2 million in FY 2022. Allowing taxpayers to claim disallowed business interest expenses is estimated to reduce State General Fund revenues by \$53.1 million in FY 2020, \$25.5 million in FY 2021, and \$30.6 million in FY 2022. The deduction for FDIC premiums would decrease State General Fund revenues by \$2.7 million in FY 2020 and by \$1.3 million in both FY 2021 and FY 2022. The exclusion of certain contributions to capital would reduce State General Fund receipts by a negligible amount. The Department of Revenue indicates that it used the 2017 report from the Federal Joint Commission on Taxation to estimate the impact of all federal tax policy changes on Kansas.

The Department of Revenue estimates that allowing taxpayers to use itemized deductions on a state income tax return regardless if they use itemized deductions on the federal income tax return would decrease State General Fund revenues by \$50.1 million in FY 2020, \$60.3 million in FY 2021, and \$60.9 million in FY 2022. To formulate these estimates, the Department of Revenue reviewed data on standard and itemized deductions from tax year 2017. Federal tax reform will entice more federal standard deduction users through the raising of the standard deduction and the limit on itemized deductions. Because the bill is retroactive to tax year 2018, the Department assumes individual income taxpayers would amend tax year 2018 returns and apply for refunds in FY 2020.

The Department of Revenue indicates that it would require a total \$819,547 from the State General Fund in FY 2020 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue and outside contract programmer services. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are increased, the amount available for possible debt setoffs is also increased. However, the Department is unable to make an estimate of the amount of additional debts setoffs that will be intercepted as a result of the bill. Any fiscal effect associated with SB 22 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first name "L." and last name "Campbell" clearly visible.

Larry L. Campbell
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Colleen Becker, Department of Administration