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**HOUSE BILL No. 2436**

By Representatives Findley, Barnes, Burroughs, Crow, Flaharty, Kirk,  
Loganbill, O'Brien and Toelkes

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10 AN ACT relating to sales taxation; concerning refunds of sales tax paid  
11 on food; amending K.S.A. 2000 Supp. 79-3633 and 79-3635 and re-  
12 pealing the existing sections.

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

15 Section 1. K.S.A. 2000 Supp. 79-3633 is hereby amended to read as  
16 follows: 79-3633. As used in K.S.A. 79-3620 and 79-3632 to 79-3639 and  
17 amendments thereto, unless the context clearly indicates otherwise:

18 (a) "Income" means adjusted gross income determined under the  
19 Kansas income tax act without regard to the modifications specified by  
20 subsections (c)(i), (ii) regarding Kansas public employee retirement sys-  
21 tem retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and  
22 amendments thereto.

23 (b) "Household" means a claimant and all other persons for whom a  
24 personal exemption is claimed who together occupy a common residence.

25 (c) "Claimant" means a person who has filed a claim for a refund or  
26 credit under the provisions of this act and was, during the entire calendar  
27 year preceding the year in which the claim was filed for relief under this  
28 act, domiciled in this state, was a member of a household, had income of  
29 not more than ~~\$25,000~~ \$40,000 in the calendar year for which a claim is  
30 filed and was: (1) A person having a disability; (2) a person other than a  
31 person included under (1), who has attained 55 years of age in the cal-  
32 endar year for which a claim is filed or (3) a person other than a person  
33 included under (1) or (2) having one or more dependent children under  
34 18 years of age residing at the person's homestead during the calendar  
35 year for which a claim is filed.

36 (d) "Head of household" means the person filing a claim under the  
37 provisions of this act.

38 (e) "Disability" means (1) inability to engage in any substantial gainful  
39 activity by reason of any medically determinable physical or mental im-  
40 pairment which can be expected to result in death or has lasted or can  
41 be expected to last for a continuous period of not less than 12 months,  
42 and an individual shall be determined to be under a disability only if the  
43 physical or mental impairment or impairments are of such severity that

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

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

19 (f) "Blindness" means central visual acuity of  $\frac{20}{200}$  or less in the bet-  
20 ter eye with the use of a correcting lens. An eye which is accompanied  
21 by a limitation in the fields of vision such that the widest diameter of the  
22 visual field subtends an angle no greater than 20 degrees shall be consid-  
23 ered for the purpose of this paragraph as having a central visual acuity of  
24  $\frac{20}{200}$  or less.

25 Sec. 2. K.S.A. 2000 Supp. 79-3635 is hereby amended to read as  
26 follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of re-  
27 tailers' sales taxes paid upon food during the calendar year ~~1998~~ 2001 and  
28 each year thereafter in the amount hereinafter provided. There shall be  
29 allowed for each member of a household of a claimant having income of  
30 ~~\$12,500~~ \$20,000 or less, an amount equal to \$60. There shall be allowed  
31 for each member of a household of a claimant having income of more  
32 than ~~\$12,500~~ \$20,000 but not more than ~~\$25,000~~ \$40,000, an amount  
33 equal to \$30. There shall be allowed for a claimant who qualifies for an  
34 additional personal exemption amount pursuant to K.S.A. 79-32,121, and  
35 amendments thereto, an additional amount of \$30 or \$60, as the case  
36 requires. All such claims shall be paid from the sales tax refund fund upon  
37 warrants of the director of accounts and reports pursuant to vouchers  
38 approved by the director of taxation or by a person or persons designated  
39 by the director.

40 (2) As an alternative to the procedure described by paragraph 1, for  
41 all taxable years commencing after December 31, ~~1997~~ 2000, there shall  
42 be allowed as a credit against the tax liability of a resident individual  
43 imposed under the Kansas income tax act an amount equal to \$60 or \$30,

1 as the case requires, for each member of a household. There shall be  
2 allowed for a claimant who qualifies for an additional personal exemption  
3 amount pursuant to K.S.A. 79-32,121, and amendments thereto, an ad-  
4 ditional amount of \$30 or \$60, as the case requires. If the amount of such  
5 tax credit exceeds the claimant's income tax liability for such taxable year,  
6 such excess amount shall be refunded to the claimant.

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

11 (c) No claim for a refund of taxes under the provisions of K.S.A. 79-  
12 3632 *et seq.* shall be paid or allowed unless such claim is actually filed  
13 with and in the possession of the department of revenue on or before  
14 April 15 of the year next succeeding the year in which such taxes were  
15 paid. The director of taxation may: (1) Extend the time for filing any claim  
16 under the provisions of this act when good cause exists therefor; or (2)  
17 accept a claim filed after the deadline for filing in the case of sickness,  
18 absence or disability of the claimant if such claim has been filed within  
19 four years of such deadline.

20 Sec. 3. K.S.A. 2000 Supp. 79-3633 and 79-3635 are hereby repealed.

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

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