

SENATE BILL No. 44

AN ACT relating to property taxation; concerning the administration of certain refunds thereof; amending K.S.A. 79-32,105, 79-4501 and 79-4521 and K.S.A. 2000 Supp. 79-255 and 79-4504 and repealing the existing sections.

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

Section 1. K.S.A. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide ad valorem tax refunds to: (a) ~~Certain female persons of qualifying age who are the surviving spouses of husbands who died during marriage, who own or rent their homestead, so long as they remain unmarried;~~ (b) certain persons other than persons included under the provisions of (a) who are of qualifying age who own or rent their homestead; ~~(c)~~ (b) certain persons who have a disability, who own or rent their homestead; and ~~(d)~~ (c) certain persons other than persons included under the provisions of (a); or (b) and (c) who have low incomes and dependent children and own or rent their homestead.

Sec. 2. K.S.A. 2000 Supp. 79-4504 is hereby amended to read as follows: 79-4504. Subject to the limitations provided in this act or the provisions of K.S.A. 79-4530, and amendments thereto, as the case requires, a claimant may claim property tax relief under the homestead property tax refund act or the provisions of K.S.A. 79-4530, and amendments thereto, with respect to property taxes accrued, and after audit by the division of taxation with respect to homestead property tax refund act, the allowable amount of such claim shall be paid, except as otherwise provided in K.S.A. 79-4521, to the claimant from ~~funds appropriated for such purposes~~ *the income tax refund fund* upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by any person designated by the claimant, but no warrant issued hereunder shall be drawn in an amount of less than \$5. No interest shall be allowed on any payment made to a claimant pursuant to this act.

Sec. 3. K.S.A. 79-4521 is hereby amended to read as follows: 79-4521. (a) ~~Beginning in 1992 2001, and in each succeeding year, any person who owns a homestead, as defined by K.S.A. 79-4502, and amendments thereto, and who will be entitled to claim a refund of property taxes under the provisions of article 45 of chapter 79 of the Kansas Statutes Annotated, may make application to the county clerk of the county in which the homestead is located for a certificate of eligibility for such refund and the director of taxation shall issue a certificate of eligibility for refund to each claimant who received a refund of property taxes under the homestead property tax refund act for the prior year. After the certificate has been completed by the claimant and the county clerk of the county in which the property is located, the claimant may present such certificate to the county treasurer on or before the time prescribed for the payment of the first half of taxes levied on such homestead in the current year in lieu of paying that portion of such taxes the first half of taxes on the claimant's homestead in the current year which equals the amount of the homestead property tax refund received by the claimant for taxes levied in the preceding year up to the amount of the first half of the property taxes due. Any person making an application shall present such proof as to eligibility for the refund as prescribed in rules and regulations adopted by the secretary of revenue. If the county clerk is satisfied that such person will be eligible for a refund, the county clerk shall make out a certificate of eligibility for such person on a form prescribed by the secretary of revenue. The certificate shall be signed by the county clerk and the person making application therefor. An eligible applicant shall also assign, in a space provided on the certificate, the refund to the county to pay the taxes on the applicant's homestead for the year in which such application is made.~~

(b) *Prior to presenting the certificate to the county treasurer the claimant shall sign the certificate, and shall also assign, in a space provided on the certificate, the refund to the county to pay the taxes on the claimant's homestead for the year in which such certificate is issued. The claimant shall then submit the certificate of eligibility to the county clerk for review. The county clerk shall review the claim, based on proof of eligibility as prescribed in rules and regulations adopted by the secretary of revenue, to determine whether the claimant will be eligible for the refund. If the county clerk is satisfied the claimant will be eligible, the county clerk shall sign the certificate and return it to the claimant.*

~~(b)~~ (c) The county treasurer shall send ~~daily~~ a copy of each certificate of eligibility to the director of taxation *by December 31 of each year*. After receiving a claim of any claimant who has obtained a certificate of eligibility under this section, the director shall examine the same, and if the claim is valid, the director of accounts and reports shall draw a warrant in favor of the county in which claimant's homestead is located upon a voucher approved by the director of taxation in the amount of the allowable claim for refund. Sufficient information to identify the claimant shall be directed to the county treasurer with each warrant. Any taxes levied in any year on the homestead of any claimant who has obtained the certificate of eligibility herein provided for in excess of the amount paid to the county by the state and by the claimant on or before December 20 of such year shall be paid by the claimant on or before June 20 of the succeeding year.

Sec. 4. K.S.A. 79-32,105 is hereby amended to read as follows: 79-32,105. (a) The director shall pay to the treasurer of the state daily the entire amount collected during the preceding day, under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the "Kansas income tax act" less amounts withheld as provided in subsection (b) and any amounts credited to the IMPACT program repayment fund or the IMPACT program services fund under K.S.A. 74-50,107 and amendments thereto, which amounts shall be credited to the state general fund.

(b) A revolving fund, designated as "income tax refund fund" not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds ~~and~~, for the payment of interest as provided in subsection (e), *for payment of homestead property tax refunds in accordance with the homestead property tax refund act and for payment of property tax refunds allowed pursuant to the provisions of K.S.A. 2000 Supp. 79-255, and amendments thereto*. The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer's tax liability in the taxpayer's next succeeding taxable year.

(d) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act for any period prior to January 1, 1995, 6% per annum for the period commencing on January 1, 1995, and ending on December 31, 1997, and at the rate prescribed and determined pursuant to K.S.A. 79-2968, and amendments thereto, for any period thereafter.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises. For purposes of this paragraph, the return for the loss year shall not be deemed to be filed before claim for such overpayment is filed;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a tax return which is filed after the last date prescribed for filing such return, determined with regard to extensions, no interest shall be allowed or paid for any period before the date on which the return is filed;

(6) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(7) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due thereon, is deposited in the United States mail.

Sec. 5. K.S.A. 2000 Supp. 79-255 is hereby amended to read as follows: 79-255. (a) For all taxable years commencing after December 31, 1999, and subject to the provisions of this section, there shall be allowed as a property tax refund to the operator of an oil lease an amount equal to 50% of the total amount of property tax levied and actually and timely paid by the operator for a property tax year which is attributable to the working interest of an oil lease the average daily production per well from which is 15 barrels or less when the price per barrel of oil is \$16 or less, as prescribed in the oil and gas appraisal guide by the director of property valuation for the applicable tax year. No refund shall be allowed for property tax paid upon machinery and equipment for which a credit is claimed pursuant to K.S.A. 2000 Supp. 79-32,206 and amendments thereto.

(b) No claim for a refund allowable pursuant to subsection (a) shall be paid unless filed with and in possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid, except that the director of taxation may extend the time for filing any claim or accept a claim filed after the deadline for filing when good cause exists therefor if the claim has been filed within three years of the deadline.

(c) The allowable amount of such claim shall be paid to the operator from ~~funds appropriated for such purposes~~ *the income tax refund fund* upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by any person designated by the claimant, but no warrant issued hereunder shall be drawn in an amount of less than \$5. No interest shall be allowed on any payment made to an operator pursuant to this section.

(d) Insofar as the same may be made applicable, the provisions of

K.S.A. 79-3226, and amendments thereto, shall apply to claims for refunds allowable pursuant to this section which may become in dispute.

(e) The department of revenue shall devise and provide forms and instructions necessary to administer this section, and the secretary of revenue may adopt rules and regulations for such purpose.

Sec. 6. K.S.A. 79-32,105, 79-4501 and 79-4521 and K.S.A. 2000 Supp. 79-255 and 79-4504 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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*President of the Senate.*

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*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*