

## HOUSE BILL No. 2871

By Representative Garner

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AN ACT relating to income taxation; allowing deduction of certain nursing or assisted living facility costs; amending K.S.A. 2001 Supp. 79-32,117 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been de-

1 ducted in determining income subject to a Kansas income tax for a prior  
2 year regardless of the rate of taxation applied in such prior year to the  
3 Kansas taxable income, but only that portion of the refund shall be in-  
4 cluded as bears the same proportion to the total refund received as the  
5 federal taxes deducted in the year to which such refund is attributable  
6 bears to the total federal income taxes paid for such year. For purposes  
7 of the foregoing sentence, federal taxes shall be considered to have been  
8 deducted only to the extent such deduction does not reduce Kansas tax-  
9 able income below zero.

10 (v) The amount of any depreciation deduction or business expense  
11 deduction claimed on the taxpayer's federal income tax return for any  
12 capital expenditure in making any building or facility accessible to the  
13 handicapped, for which expenditure the taxpayer claimed the credit al-  
14 lowed by K.S.A. 79-32,177, and amendments thereto.

15 (vi) Any amount of designated employee contributions picked up by  
16 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
17 and amendments to such sections.

18 (vii) The amount of any charitable contribution made to the extent  
19 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
20 79-32,196, and amendments thereto.

21 (viii) The amount of any costs incurred for improvements to a swine  
22 facility, claimed for deduction in determining federal adjusted gross in-  
23 come, to the extent the same is claimed as the basis for any credit allowed  
24 pursuant to K.S.A. 2001 Supp. 79-32,204 and amendments thereto.

25 (ix) The amount of any ad valorem taxes and assessments paid and  
26 the amount of any costs incurred for habitat management or construction  
27 and maintenance of improvements on real property, claimed for deduc-  
28 tion in determining federal adjusted gross income, to the extent the same  
29 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203  
30 and amendments thereto.

31 (x) Amounts received as nonqualified withdrawals, as defined by  
32 K.S.A. 2001 Supp. 75-643, and amendments thereto, if, at the time of  
33 contribution to a family postsecondary education savings account, such  
34 amounts were subtracted from the federal adjusted gross income pur-  
35 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-  
36 ments thereto, or if such amounts are not already included in the federal  
37 adjusted gross income.

38 (c) There shall be subtracted from federal adjusted gross income:

39 (i) Interest or dividend income on obligations or securities of any  
40 authority, commission or instrumentality of the United States and its pos-  
41 sessions less any related expenses directly incurred in the purchase of  
42 such obligations or securities, to the extent included in federal adjusted  
43 gross income but exempt from state income taxes under the laws of the

1 United States.

2 (ii) Any amounts received which are included in federal adjusted  
3 gross income but which are specifically exempt from Kansas income tax-  
4 ation under the laws of the state of Kansas.

5 (iii) The portion of any gain or loss from the sale or other disposition  
6 of property having a higher adjusted basis for Kansas income tax purposes  
7 than for federal income tax purposes on the date such property was sold  
8 or disposed of in a transaction in which gain or loss was recognized for  
9 purposes of federal income tax that does not exceed such difference in  
10 basis, but if a gain is considered a long-term capital gain for federal in-  
11 come tax purposes, the modification shall be limited to that portion of  
12 such gain which is included in federal adjusted gross income.

13 (iv) The amount necessary to prevent the taxation under this act of  
14 any annuity or other amount of income or gain which was properly in-  
15 cluded in income or gain and was taxed under the laws of this state for a  
16 taxable year prior to the effective date of this act, as amended, to the  
17 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
18 the right to receive the income or gain, or to a trust or estate from which  
19 the taxpayer received the income or gain.

20 (v) The amount of any refund or credit for overpayment of taxes on  
21 or measured by income or fees or payments in lieu of income taxes im-  
22 posed by this state, or any taxing jurisdiction, to the extent included in  
23 gross income for federal income tax purposes.

24 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
25 of a trust to the extent that the same are included in federal adjusted  
26 gross income.

27 (vii) Amounts received as annuities under the federal civil service  
28 retirement system from the civil service retirement and disability fund  
29 and other amounts received as retirement benefits in whatever form  
30 which were earned for being employed by the federal government or for  
31 service in the armed forces of the United States.

32 (viii) Amounts received by retired railroad employees as a supple-  
33 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
34 *et seq.*

35 (ix) Amounts received by retired employees of a city and by retired  
36 employees of any board of such city as retirement allowances pursuant to  
37 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
38 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
39 amendments thereto.

40 (x) For taxable years beginning after December 31, 1976, the amount  
41 of the federal tentative jobs tax credit disallowance under the provisions  
42 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
43 the amount of the targeted jobs tax credit and work incentive credit dis-

1 allowances under 26 U.S.C. 280 C.

2 (xi) For taxable years beginning after December 31, 1986, dividend  
3 income on stock issued by Kansas Venture Capital, Inc.

4 (xii) For taxable years beginning after December 31, 1989, amounts  
5 received by retired employees of a board of public utilities as pension and  
6 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
7 and amendments thereto.

8 (xiii) For taxable years beginning after December 31, 1993, the  
9 amount of income earned on contributions deposited to an individual  
10 development account under K.S.A. 79-32,117h, and amendments thereto.

11 (xiv) For all taxable years commencing after December 31, 1996, that  
12 portion of any income of a bank organized under the laws of this state or  
13 any other state, a national banking association organized under the laws  
14 of the United States, an association organized under the savings and loan  
15 code of this state or any other state, or a federal savings association or-  
16 ganized under the laws of the United States, for which an election as an  
17 S corporation under subchapter S of the federal internal revenue code is  
18 in effect, which accrues to the taxpayer who is a stockholder of such  
19 corporation and which is not distributed to the stockholders as dividends  
20 of the corporation.

21 (xv) For all taxable years beginning after December 31, 1999,  
22 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a  
23 joint return, for each designated beneficiary which are contributed to a  
24 family postsecondary education savings account established under the  
25 Kansas postsecondary education savings program for the purpose of pay-  
26 ing the qualified higher education expenses of a designated beneficiary  
27 at an institution of postsecondary education. The terms and phrases used  
28 in this paragraph shall have the meaning respectively ascribed thereto by  
29 the provisions of K.S.A. 2001 Supp. 75-643, and amendments thereto,  
30 and the provisions of such section are hereby incorporated by reference  
31 for all purposes thereof.

32 (xvi) *For all taxable years commencing after December 31, 2001,*  
33 *amounts, not to exceed \$1,000 per month, expended by a person for the*  
34 *provision of his or her care at a nursing facility or assisted living facility,*  
35 *as such terms are defined by the provisions of K.S.A. 39-923, and amend-*  
36 *ments thereto.*

37 (d) There shall be added to or subtracted from federal adjusted gross  
38 income the taxpayer's share, as beneficiary of an estate or trust, of the  
39 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and  
40 amendments thereto.

41 (e) The amount of modifications required to be made under this sec-  
42 tion by a partner which relates to items of income, gain, loss, deduction  
43 or credit of a partnership shall be determined under K.S.A. 79-32,131,

1 and amendments thereto, to the extent that such items affect federal  
2 adjusted gross income of the partner.

3 Sec. 2. K.S.A. 2001 Supp. 79-32,117 is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its  
5 publication in the statute book.

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