

HOUSE BILL No. 2449

By Committee on Taxation

3-19

AN ACT concerning income taxation; relating to income tax credits; net operating losses; amending K.S.A. 40-2246, 79-32,176 and 79-32,190 and K.S.A. 2002 Supp. 79-32,143, 79-32,197, 79-32,206 and 79-32,210 and repealing the existing sections.

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

Section 1. K.S.A. 40-2246 is hereby amended to read as follows: 40-2246. (a) A credit against the taxes otherwise due under the Kansas income tax act shall be allowed to an employer for amounts paid during the taxable year for purposes of this act on behalf of an eligible employee as defined in K.S.A. 40-2239 and amendments thereto to provide health insurance or care.

(b) The amount of the credit allowed by subsection (a) shall be \$35 per month per eligible covered employee or 50% of the total amount paid by the employer during the taxable year, whichever is less, for the first two years of participation. In the third year, the credit shall be equal to 75% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fourth year, the credit shall be equal to 50% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. In the fifth year, the credit shall be equal to 25% of the lesser of \$35 per month per employee or 50% of the total amount paid by the employer during the taxable year. For the sixth and subsequent years, no credit shall be allowed.

(c) If the credit allowed by this section is claimed, the amount of any deduction allowable under the Kansas income tax act for expenses described in this section shall be reduced by the dollar amount of the credit. The election to claim the credit shall be made at the time of filing the tax return in accordance with law. If the credit allowed by this section exceeds the taxes imposed under the Kansas income tax act for the taxable year, that portion of the credit which exceeds those taxes ~~shall be re-funded to the taxpayer~~ *may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability.*

(d) Any amount of expenses paid by an employer under this act shall

1 not be included as income to the employee for purposes of the Kansas
2 income tax act. If such expenses have been included in federal taxable
3 income of the employee, the amount included shall be subtracted in ar-
4 riving at state taxable income under the Kansas income tax act.

5 (e) This section shall apply to all taxable years commencing after De-
6 cember 31, ~~1999~~ 2002.

7 Sec. 2. K.S.A. 2002 Supp. 79-32,143 is hereby amended to read as
8 follows: 79-32,143. (a) For net operating losses incurred in taxable years
9 beginning after December 31, 1987, a net operating loss deduction shall
10 be allowed in the same manner that it is allowed under the federal internal
11 revenue code except that such net operating loss may only be carried
12 forward to each of the 10 taxable years following the taxable year of the
13 net operating loss. For net operating farm losses, as defined by subsection
14 (i) of section 172 of the federal internal revenue code, incurred in taxable
15 years beginning after December 31, 1999, a net operating *farm* loss de-
16 duction shall be allowed in the same manner that it is allowed under the
17 federal internal revenue code except that such net operating *farm* loss
18 may be carried forward to each of the 10 taxable years following the
19 taxable year of the net operating *farm* loss. The amount of the net op-
20 erating loss that may be carried back, *if a net operating farm loss*, or
21 forward for Kansas income tax purposes shall be that portion of the fed-
22 eral net operating loss allocated to Kansas under this act in the taxable
23 year that the net operating loss is sustained.

24 (b) The amount of the loss to be carried back, *if a net operating farm*
25 *loss*, or forward will be the federal net operating loss after (1) all modi-
26 fications required under this act applicable to the net loss in the year the
27 loss was incurred; and (2) after apportionment as to source in the case of
28 corporations, nonresident individuals for losses incurred in taxable years
29 beginning prior to January 1, 1978, and nonresident estates and trusts in
30 the same manner that income for such corporations, nonresident individ-
31 uals, estates and trusts is required to be apportioned.

32 (c) If a net operating loss was incurred in a taxable year beginning
33 prior to January 1, 1988, the amount of the net operating loss that may
34 be carried back and carried forward and the period for which it may be
35 carried back and carried forward shall be determined under the provisions
36 of the Kansas income tax laws which were in effect during the year that
37 such net operating loss was incurred.

38 (d) If any portion of a net operating loss described in subsections (a)
39 and (b) is not utilized prior to the final year of the carryforward period
40 provided in subsection (a), a refund shall be allowable in such final year
41 in an amount equal to the refund which would have been allowable in
42 the taxable year the loss was incurred by utilizing the three year carryback
43 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,

1 multiplied by a fraction, the numerator of which is the unused portion of
2 such net operating loss in the final year, and the denominator of which
3 is the amount of such net operating loss which could have been carried
4 back to the three years immediately preceding the year in which the loss
5 was incurred. In no event may such fraction exceed 1.

6 (e) Notwithstanding any other provisions of the Kansas income tax
7 act, the net operating loss as computed under subsections (a), (b) and (c)
8 of this section shall be allowed in full in determining Kansas taxable in-
9 come or at the option of the taxpayer allowed in full in determining Kansas
10 adjusted gross income.

11 (f) No refund of income tax which results from a net operating loss
12 carry back shall be allowed in an amount exceeding \$1,500 in any year.
13 Any excess amount may be carried back, *if a net operating farm loss*, or
14 forward to any other year or years as provided by this section.

15 Sec. 3. K.S.A. 79-32,176 is hereby amended to read as follows: 79-
16 32,176. (a) Any resident individual taxpayer who makes expenditures for
17 the purpose of making all or any portion of an existing facility accessible
18 to individuals with a disability, which facility is used as, or in connection
19 with, such taxpayer’s principal dwelling or the principal dwelling of a
20 lineal ascendant or descendant, including construction of a small barrier
21 free living unit attached to such principal dwelling, shall be entitled to
22 claim a tax credit in an amount equal to the applicable percentage of such
23 expenditures or \$9,000, whichever is less, against the income tax liability
24 imposed against such taxpayer pursuant to article 32 of chapter 79 of the
25 Kansas Statutes Annotated. Nothing in this subsection shall be deemed
26 to prevent any such taxpayer from claiming such credit: (1) For each
27 principal dwelling in which the taxpayer or lineal ascendant or descendant
28 may reside, or facility used in connection therewith; or (2) more than
29 once, but not more often than once every four-year period of time. The
30 applicable percentage of such expenditures eligible for credit shall be as
31 set forth in the following schedule:

Kansas Adjusted Gross Income	% of Taxpayers expenditures eligible for credit
\$0 to \$25,000.....	100%
Over \$25,000 but not over \$30,000	90%
Over \$30,000 but not over \$35,000	80%
Over \$35,000 but not over \$40,000	70%
Over \$40,000 but not over \$45,000	60%
Over \$45,000 but not over \$55,000	50%
Over \$55,000	0

41 Such tax credit shall be deducted from the taxpayer’s income tax liability
42 for the taxable year in which the expenditures are made by the taxpayer.
43 If the amount of such tax credit exceeds the taxpayer’s income tax liability

1 for such taxable year, the amount thereof which exceeds such tax liability
2 may be carried over for deduction from the taxpayer's income tax liability
3 in the next succeeding taxable year or years until the total amount of the
4 tax credit has been deducted from tax liability, except that no such tax
5 credit shall be carried over for deduction after the fourth taxable year
6 succeeding the taxable year in which the expenditures are made.

7 ~~(b) Notwithstanding the provisions of subsection (a), if the amount~~
8 ~~of the taxpayer's tax liability is less than \$2,250 in the first year in which~~
9 ~~the credit is claimed under this section, an amount equal to the amount~~
10 ~~by which 1/4 of the credit allowable under this section exceeds such tax~~
11 ~~liability shall be refunded to the taxpayer and the amount by which such~~
12 ~~credit exceeds such tax liability less the amount of such refund may be~~
13 ~~carried over for the next three succeeding taxable years. If the amount of~~
14 ~~the taxpayer's tax liability is less than \$2,250 in the second year in which~~
15 ~~the credit is claimed under this section, an amount equal to the amount~~
16 ~~by which 1/3 of the amount of the credit carried over from the first taxable~~
17 ~~year exceeds such tax liability shall be refunded to the taxpayer and the~~
18 ~~amount by which the amount of the credit carried over from the first~~
19 ~~taxable year exceeds such tax liability less the amount of such refund may~~
20 ~~be carried over for the next two succeeding taxable years. If the amount~~
21 ~~of the taxpayer's tax liability is less than \$2,250 in the third year in which~~
22 ~~the credit is claimed under this section, an amount equal to the amount~~
23 ~~by which 1/2 of the amount carried over from the second taxable year~~
24 ~~exceeds such tax liability shall be refunded to the taxpayer and the amount~~
25 ~~by which the amount of the credit carried over from the second taxable~~
26 ~~year exceeds such tax liability less the amount of such refund may be~~
27 ~~carried over to the next succeeding taxable year. If the amount of the~~
28 ~~credit carried over from the third taxable year exceeds the taxpayer's~~
29 ~~income tax liability for such year, the amount thereof which exceeds such~~
30 ~~tax liability shall be refunded to the taxpayer. The provisions of this section~~
31 ~~shall apply to all taxable years commencing after December 31, 2002.~~

32 Sec. 4. K.S.A. 79-32,190 is hereby amended to read as follows: 79-
33 32,190. (a) Any taxpayer that pays for or provides child day care services,
34 including the provision of the service of locating such services, to its em-
35 ployees or that provides facilities and necessary equipment for child day
36 care services shall be allowed a credit against the privilege or income tax
37 imposed by articles 11 and 32 of chapter 79 of the Kansas Statutes An-
38 notated as follows:

39 (1) Thirty percent of the total amount expended in the state during
40 the taxable year by a taxpayer for child day care services purchased to
41 provide care for the dependent children of the taxpayer's employees or
42 for the provision of the service of locating such services for such children;

43 (2) (A) in the taxable year in which a facility providing child day care

1 services in the state for use primarily by the dependent children of the
2 taxpayer's employees is established, 50% of the total amount expended
3 during such year by a taxpayer in the establishment and operation of such
4 facility;

5 (B) in the taxable years other than the taxable year to which paragraph
6 (2)(A) applies, 30% of the amount equal to the total amount expended
7 during the taxable year by a taxpayer for the operation of a facility de-
8 scribed in paragraph (2)(A) less the amount of moneys received by the
9 taxpayer for use of such facility for child day care services;

10 (3) (A) in the taxable year in which a facility providing child day care
11 services in the state for use primarily by the dependent children of the
12 taxpayers' employees is established in conjunction with one or more other
13 taxpayers, 50% of the total amount expended during such year by a tax-
14 payer in the establishment and operation of such facility;

15 (B) in the taxable years other than the taxable year to which paragraph
16 (3)(A) applies, 30% of the amount equal to the total amount expended
17 during the taxable year by a taxpayer for the operation of a facility de-
18 scribed in paragraph (3)(A) less the amount of moneys received by the
19 taxpayer for use of such facility for child day care services.

20 (b) No credit shall be allowed under this section unless the child day
21 care facility or provider is licensed or registered pursuant to Kansas law.

22 (c) The credit allowed by paragraphs (1), (2)(B) and (3)(B) of sub-
23 section (a) shall not exceed \$30,000 for any taxpayer during any taxable
24 year. The credit allowed by paragraphs (2)(A) and (3)(A) of subsection
25 (a) shall not exceed \$45,000 for any taxpayer during any taxable year. *For*
26 *all taxable years commencing after December 31, 2002*, the amount of the
27 credit which exceeds the tax liability for a taxable year ~~shall be refunded~~
28 ~~to the taxpayer~~ *may be carried over for deduction from the taxpayer's*
29 *income tax liability in the next succeeding taxable year or years until the*
30 *total amount of the tax credit has been deducted from tax liability.* If the
31 taxpayer is a corporation having an election in effect under subchapter S
32 of the federal internal revenue code or a partnership, the credit provided
33 by this section shall be claimed by the shareholders of such corporation
34 or the partners of such partnership in the same manner as such share-
35 holders or partners account for their proportionate shares of the income
36 or loss of the corporation or partnership.

37 (d) The aggregate amount of credits claimed under this act for any
38 fiscal year shall not exceed \$3,000,000.

39 Sec. 5. K.S.A. 2002 Supp. 79-32,197 is hereby amended to read as
40 follows: 79-32,197. The amount of credit allowed pursuant to K.S.A. 79-
41 32,196, and amendments thereto, shall not exceed 50% of the total
42 amount contributed during the taxable year by the business firm to a
43 community service organization or governmental entity for programs ap-

1 proved pursuant to K.S.A. 79-32,198, and amendments thereto. The
2 amount of credit allowed pursuant to K.S.A. 79-32,196, and amendments
3 thereto, shall not exceed 70% of the total amount contributed during the
4 taxable year by the business firm in a rural community to a community
5 service organization or governmental entity located therein for programs
6 approved pursuant to K.S.A. 79-32,198, and amendments thereto. *For all*
7 *taxable years commencing after December 31, 2002*, if the amount of the
8 credit allowed by K.S.A. 79-32,196, and amendments thereto, exceeds
9 the taxpayer's income tax liability imposed under the Kansas income tax
10 act, such excess amount ~~shall be refunded to the taxpayer~~ *may be carried*
11 *over for deduction from the taxpayer's income tax liability in the next*
12 *succeeding taxable year or years until the total amount of the tax credit*
13 *has been deducted from tax liability.* In no event shall the total amount
14 of credits allowed under this section exceed \$4,130,000 for any one fiscal
15 year.

16 Sec. 6. K.S.A. 2002 Supp. 79-32,206 is hereby amended to read as
17 follows: 79-32,206. For all taxable years commencing after December 31,
18 2001, there shall be allowed as a credit against the tax liability of a taxpayer
19 imposed under the Kansas income tax act, the premiums tax upon insur-
20 ance companies imposed pursuant to K.S.A. 40-252, and amendments
21 thereto, and the privilege tax as measured by net income of financial
22 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
23 Statutes Annotated, an amount equal to 15% of the property tax levied
24 for property tax years 2002, 2003 and 2004, 20% of the property tax levied
25 for property tax years 2005 and 2006, and 25% of the property tax levied
26 for property tax year 2007, and all such years thereafter, actually and
27 timely paid during an income or privilege taxable year upon commercial
28 and industrial machinery and equipment classified for property taxation
29 purposes pursuant to section 1 of article 11 of the Kansas constitution in
30 subclass (5) or (6) of class 2, machinery and equipment classified for such
31 purposes in subclass (2) of class 2. For all taxable years commencing after
32 December 31, 2004, there shall be allowed as a credit against the tax
33 liability of a taxpayer imposed under the Kansas income tax act an amount
34 equal to 20% of the property tax levied for property tax years 2005 and
35 2006, and 25% of the property tax levied for property tax year 2007 and
36 all such years thereafter, actually and timely paid during an income tax-
37 able year upon machinery and equipment classified for property tax pur-
38 poses pursuant to section 1 of article 11 of the Kansas constitution in
39 subclass (3) of class 2. ~~Prior to the 2004 legislative session, the joint com-~~
40 ~~mittee on economic development shall conduct a study of the economic~~
41 ~~impact of the foregoing provision.~~ *For all taxable years commencing after*
42 *December 31, 2002*, if the amount of such tax credit exceeds the taxpayer's
43 income tax liability for the taxable year, the amount thereof which exceeds

1 such tax liability ~~shall be refunded to the taxpayer~~ *may be carried over*
2 *for deduction from the taxpayer's income tax liability in the next succeed-*
3 *ing taxable year or years until the total amount of the tax credit has been*
4 *deducted from tax liability.* If the taxpayer is a corporation having an
5 election in effect under subchapter S of the federal internal revenue code,
6 a partnership or a limited liability company, the credit provided by this
7 section shall be claimed by the shareholders of such corporation, the
8 partners of such partnership or the members of such limited liability
9 company in the same manner as such shareholders, partners or members
10 account for their proportionate shares of the income or loss of the cor-
11 poration, partnership or limited liability company.

12 Sec. 7. K.S.A. 2002 Supp. 79-32,210 is hereby amended to read as
13 follows: 79-32,210. (a) For all taxable years commencing after December
14 31, 2000, and with respect to property initially acquired and first placed
15 into service in this state on and after January 1, 2001, there shall be
16 allowed as a credit against the tax liability imposed by the Kansas income
17 tax act of a telecommunications company, as defined in K.S.A. 79-3271
18 and amendments thereto, an amount equal to the difference between the
19 property tax levied for property tax year 2001, and all such years there-
20 after, and actually and timely paid during the appropriate income taxable
21 year upon property assessed at the 33% assessment rate and the property
22 tax which would be levied and paid on such property if assessed at a 25%
23 assessment rate.

24 (b) *For taxable years commencing after December 31, 2002,* if the
25 amount of the tax credit determined under subsection (a) exceeds the tax
26 liability for the telecommunications company for any taxable year, the
27 amount thereof which exceeds such tax liability ~~shall be refunded to the~~
28 ~~telecommunications company~~ *may be carried over for deduction from the*
29 *taxpayer's income tax liability in the next succeeding taxable year or years*
30 *until the total amount of the tax credit has been deducted from tax liability.*
31 If the telecommunications company is a corporation having an election
32 in effect under subchapter S of the federal internal revenue code, a part-
33 nership or a limited liability company, the credit provided by this section
34 shall be claimed by the shareholders of such corporation, the partners of
35 such partnership or the members of such limited liability company in the
36 same manner as such shareholders, partners or members account for their
37 proportionate shares of income or loss of the corporation, partnership or
38 limited liability company.

39 (c) As used in this section, the term "acquired" shall not include the
40 transfer of property pursuant to an exchange for stock securities, or the
41 transfer of assets of one business entity to another due to a merger or
42 other consolidation.

43 Sec. 8. K.S.A. 40-2246, 79-32,176 and 79-32,190 and K.S.A. 2002

1 Supp. 79-32,143, 79-32,197, 79-32,206 and 79-32,210 are hereby re-
2 pealed.

3 Sec. 9. This act shall take effect and be in force from and after its
4 publication in the statute book.

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