

As Amended by House Committee

[As Amended by Senate Committee of the Whole]

Session of 2004

SENATE BILL No. 390

By Senator Vratil

1-29

12 AN ACT concerning taxation; relating to **resident trust defined for**
13 **income tax purposes**; amount of refunds of homestead property tax;
14 amending K.S.A. **79-32,109**, 79-4508 and **79-4509** and repealing the
15 existing section sections.
16

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

18 **Section 1. K.S.A. 79-32,109 is hereby amended to read as fol-**
19 **lows: 79-32,109. As used in this act, unless the context otherwise**
20 **requires:**

21 (a) Any term used in this act shall have the same meaning as
22 when used in a comparable context in the federal internal revenue
23 code. Any reference in this act to the “federal internal revenue
24 code” shall mean the provisions of the federal internal revenue
25 code of 1986, and amendments thereto, and other provisions of
26 the laws of the United States relating to federal income taxes, as
27 the same may be or become effective at any time, or from time to
28 time, for the taxable year.

29 (b) “Resident individual” means a natural person who is dom-
30 icated in this state. A natural person who spends in the aggregate
31 more than six months of the taxable year within this state shall be
32 presumed to be a resident for purposes of this act in absence of
33 proof to the contrary. A nonresident individual means an individ-
34 ual other than a resident individual.

35 (c) “Resident estate” means the estate of a deceased person
36 whose domicile was in this state at the time of such person’s death.
37 “Nonresident estate” means an estate other than a resident estate.

38 (d) “Resident trust” means a trust which is administered in this
39 state. A trust shall not be deemed to be administered in this state solely
40 because it is subject to the jurisdiction of a district court within this state:
41 (1) A trust created by will of a decedent who at the time of death was
42 domiciled in Kansas, and such trust has at least one income beneficiary
43 who, on the last day of the taxable year, was a resident of Kansas; (2) a

1 *trust created by, or consisting of property of, a person domiciled in Kansas*
2 *on the date the trust or portion of the trust became irrevocable, and such*
3 *trust has at least one income beneficiary who, on the last day of the taxable*
4 *year, was a resident of Kansas; or (3) a trust administered in this state.*

5 “Nonresident trust” means a trust other than a resident trust.

6 (e) **“Resident partner” means a partner who is a resident in-**
7 **dividual, a resident estate, or a resident trust. “Nonresident part-**
8 **ner” means a partner other than a resident partner.**

9 (f) **“Resident beneficiary” means a beneficiary of an estate or**
10 **trust which beneficiary is a resident individual, a resident estate,**
11 **or a resident trust. “Nonresident beneficiary” means a beneficiary**
12 **other than a resident beneficiary.**

13 (g) **“Director” means the director of taxation.**

14 (h) **“Modified Kansas source income” means that part of a non-**
15 **resident individual’s Kansas adjusted gross income as set forth in**
16 **K.S.A. 79-32,117, and amendments thereto, derived from sources**
17 **in Kansas. Items of income including unemployment compensa-**
18 **tion, gain, loss or deduction reflected in Kansas adjusted gross in-**
19 **come shall be considered derived from sources in Kansas to the**
20 **extent that they are attributable to: (1) The ownership of any in-**
21 **terest in real or tangible personal property in this state; (2) a busi-**
22 **ness, trade, profession or occupation carried on in this state; (3) a**
23 **business, trade, profession or occupation carried on partly within**
24 **and partly without this state as determined by the uniform division**
25 **of income for tax purposes act as set forth in K.S.A. 79-3271**
26 **through K.S.A. 79-3293, and amendments thereto; (4) the distrib-**
27 **utive share of partnership income, gain, loss and deduction deter-**
28 **mined under this section as if the partnership were a nonresident**
29 **individual; (5) the share of estate or trust income, gain, loss and**
30 **deduction determined under K.S.A. 79-32,137, and amendments**
31 **thereto; (6) prizes won from lottery games conducted by the Kan-**
32 **sas lottery; (7) any winnings from parimutuel wagering derived**
33 **from the conduct of parimutuel activities within this state; or (8)**
34 **income from intangible personal property, including annuities,**
35 **dividends, interest, and gains from the disposition of intangible**
36 **personal property to the extent that such income is from property**
37 **employed in a trade, business, profession or occupation carried on**
38 **in Kansas. A nonresident, other than a dealer holding property**
39 **primarily for sale to customers in the ordinary course of such**
40 **dealer’s trade or business, shall not be deemed to carry on a busi-**
41 **ness, trade, profession or occupation in Kansas solely by reason of**
42 **the purchase and sale of property for such nonresident’s own**
43 **account.**

1 **“Modified Kansas source income” shall not include: (1) Com-**
 2 **penetration paid by the United States for service in the armed forces**
 3 **of the United States, performed during an induction period by an**
 4 **individual not domiciled in this state; or (2) such individual’s share**
 5 **of distributed or undistributed taxable income or net operating**
 6 **loss of a corporation which is an electing small business corpora-**
 7 **tion unless an agreement is filed as provided in K.S.A. 79-32,139,**
 8 **and amendments thereto, in which event, the “modified Kansas**
 9 **source income” of such nonresident individual shall include such**
 10 **individual’s share of such corporation’s distributed and undistri-**
 11 **buted taxable income or net operating loss as such share is deter-**
 12 **mined under the internal revenue code only to the extent, how-**
 13 **ever, that such income, gain or loss is at the corporate level,**
 14 **derived from sources within Kansas.**

15 Section ~~±~~ **2.** K.S.A. 79-4508 is hereby amended to read as follows:
 16 79-4508. (a) *Commencing in the tax year beginning after December 31,*
 17 2003, the amount of any claim pursuant to this act shall be computed by
 18 deducting the amount computed under column (2) from the amount of
 19 claimant’s property tax accrued and/or rent constituting property tax
 20 accrued.

(1)		(2)
Claimants household income		Deduction from property tax accrued and/or rent constituting property tax accrued
At least	But not more than	
\$0	\$3,000	\$0
3,001	4,000	12%
4,001	25,000 26,300	12% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$4,001
\$0	\$6,000	\$0
6,001	7,000	10%
7,001	17,000	10% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$7,000 but less than or equal to \$17,000
17,001	25,000	50% plus 5% of every \$1,000, or fraction thereof, of income in excess of \$17,000 but less than or equal to \$25,000
25,001	26,300	95%

1 (b) The director of taxation shall prepare a table under which claims
2 under this act shall be determined. The amount of claim for each bracket
3 shall be computed only to the nearest \$1.

4 (c) The claimant may elect not to record the amount claimed on the
5 claim. The claim allowable to persons making this election shall be com-
6 puted by the department which shall notify the claimant by mail of the
7 amount of the allowable claim.

8 ~~(d) In the case of all tax years commencing after December 31, 2003,~~
9 ~~the upper limit threshold amount prescribed in this section, shall be in-~~
10 ~~creased by an amount equal to such threshold amount multiplied by the~~
11 ~~cost-of-living adjustment determined under section 1(f)(3) of the federal~~
12 ~~internal revenue code for the calendar year in which the taxable year~~
13 ~~commences.~~

14 **Sec. 3. K.S.A. 79-4509 is hereby amended to read as follows:**
15 **79-4509. In the event property taxes accrued, rent constituting**
16 **property taxes accrued or their sum exceeds \$600 \$720 for a house-**
17 **hold in any one year, the amount thereof shall, for purposes of this**
18 **act, be deemed to have been \$600 \$720.**

19 ~~Sec. 4.~~ K.S.A. ~~79-32,109~~, 79-4508 ~~is~~ **and 79-4509** are hereby
20 repealed.

21 ~~Sec. 5.~~ This act shall take effect and be in force from and after its
22 publication in the statute book.