

HOUSE BILL No. 2909

By Representative Burgess

2-14

9 AN ACT concerning taxation; relating to homestead property tax re-
10 funds; definition of income; amending K.S.A. 2005 Supp. 79-4502 and
11 repealing the existing section.

12

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

14 Section 1. K.S.A. 2005 Supp. 79-4502 is hereby amended to read as
15 follows: 79-4502. As used in this act, unless the context clearly indicates
16 otherwise:

17 (a) (1) "Income" means the sum of: (A) Adjusted gross income under
18 the Kansas income tax act;

19 (B) maintenance, support money, cash public assistance and relief,
20 not including any refund granted under this act;

21 (C) the gross amount of any pension or annuity, including all mone-
22 tary retirement benefits from whatever source derived, including, but not
23 limited to:

24 (i) All payments received under the railroad retirement act, except
25 disability payments; and

26 (ii) all payments received under the federal social security act, except
27 disability payments; *and payments received by an individual who had*
28 *received disability payments under the federal social security act prior to*
29 *attaining the age of retirement under such act;*

30 (D) all dividends and interest from whatever source derived not in-
31 cluded in adjusted gross income; *and*

32 (E) workers compensation and the gross amount of "loss of time"
33 insurance.

34 (2) Income does not include:

35 (A) Gifts from nongovernmental sources or surplus food or other re-
36 lief in kind supplied by a governmental agency; ~~nor shall;~~

37 (B) net operating losses and net capital losses ~~be considered in the~~
38 ~~determination of income. Income does not include; and~~

39 (C) veterans disability pensions.

40 (b) "Household" means a claimant, a claimant and spouse who oc-
41 cupy the homestead or a claimant and one or more individuals not related
42 as husband and wife who together occupy a homestead.

43 (c) "Household income" means all income received by all persons of

1 a household in a calendar year while members of such household.

2 (d) "Homestead" means the dwelling, or any part thereof, whether
3 owned or rented, which is occupied as a residence by the household and
4 so much of the land surrounding it, as defined as a home site for ad
5 valorem tax purposes, and may consist of a part of a multi-dwelling or
6 multi-purpose building and a part of the land upon which it is built or a
7 manufactured home or mobile home and the land upon which it is situ-
8 ated. "Owned" includes a vendee in possession under a land contract, a
9 life tenant, a beneficiary under a trust and one or more joint tenants or
10 tenants in common.

11 (e) "Claimant" means a person who has filed a claim under the pro-
12 visions of this act and was, during the entire calendar year preceding the
13 year in which such claim was filed for refund under this act, except as
14 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
15 this state and was: (1) A person having a disability; (2) a person who is 55
16 years of age or older or (3) a person other than a person included under
17 (1) or (2) having one or more dependent children under 18 years of age
18 residing at the person's homestead during the calendar year immediately
19 preceding the year in which a claim is filed under this act.

20 When a homestead is occupied by two or more individuals and more
21 than one of the individuals is able to qualify as a claimant, the individuals
22 may determine between them as to whom the claimant will be. If they
23 are unable to agree, the matter shall be referred to the secretary of rev-
24 enue whose decision shall be final.

25 (f) "Property taxes accrued" means property taxes, exclusive of special
26 assessments, delinquent interest and charges for service, levied on a
27 claimant's homestead in 1979 or any calendar year thereafter by the state
28 of Kansas and the political and taxing subdivisions of the state. When a
29 homestead is owned by two or more persons or entities as joint tenants
30 or tenants in common and one or more of the persons or entities is not
31 a member of claimant's household, "property taxes accrued" is that part
32 of property taxes levied on the homestead that reflects the ownership
33 percentage of the claimant's household. For purposes of this act, property
34 taxes are "levied" when the tax roll is delivered to the local treasurer with
35 the treasurer's warrant for collection. When a claimant and household
36 own their homestead part of a calendar year, "property taxes accrued"
37 means only taxes levied on the homestead when both owned and occupied
38 as a homestead by the claimant's household at the time of the levy, mul-
39 tiplied by the percentage of 12 months that the property was owned and
40 occupied by the household as its homestead in the year. When a house-
41 hold owns and occupies two or more different homesteads in the same
42 calendar year, property taxes accrued shall be the sum of the taxes allo-
43 cable to those several properties while occupied by the household as its

1 homestead during the year. Whenever a homestead is an integral part of
2 a larger unit such as a multi-purpose or multi-dwelling building, property
3 taxes accrued shall be that percentage of the total property taxes accrued
4 as the value of the homestead is of the total value. For the purpose of
5 this act, the word “unit” refers to that parcel of property covered by a
6 single tax statement of which the homestead is a part.

7 (g) “Disability” means:

8 (1) Inability to engage in any substantial gainful activity by reason of
9 any medically determinable physical or mental impairment which can be
10 expected to result in death or has lasted or can be expected to last for a
11 continuous period of not less than 12 months, and an individual shall be
12 determined to be under a disability only if the physical or mental im-
13 pairment or impairments are of such severity that the individual is not
14 only unable to do the individual’s previous work but cannot, considering
15 age, education and work experience, engage in any other kind of sub-
16 stantial gainful work which exists in the national economy, regardless of
17 whether such work exists in the immediate area in which the individual
18 lives or whether a specific job vacancy exists for the individual, or whether
19 the individual would be hired if application was made for work. For pur-
20 poses of the preceding sentence (with respect to any individual), “work
21 which exists in the national economy” means work which exists in signif-
22 icant numbers either in the region where the individual lives or in several
23 regions of the country; for purposes of this subsection, a “physical or
24 mental impairment” is an impairment that results from anatomical, physi-
25 ological or psychological abnormalities which are demonstrable by medi-
26 cally acceptable clinical and laboratory diagnostic techniques; or

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

31 (h) “Blindness” means central visual acuity of $\frac{20}{200}$ or less in the bet-
32 ter eye with the use of a correcting lens. An eye which is accompanied
33 by a limitation in the fields of vision such that the widest diameter of the
34 visual field subtends an angle no greater than 20 degrees shall be consid-
35 ered for the purpose of this paragraph as having a central visual acuity of
36 $\frac{20}{200}$ or less.

37 (i) “Rent constituting property taxes accrued” means 20% of the gross
38 rent actually paid in cash or its equivalent in 1979 or any taxable year
39 thereafter by a claimant and claimant’s household solely for the right of
40 occupancy of a Kansas homestead on which ad valorem property taxes
41 were levied in full for that year. When a household occupies two or more
42 different homesteads in the same calendar year, rent constituting prop-
43 erty taxes accrued shall be computed by adding the rent constituting

1 property taxes accrued for each property rented by the household while
2 occupied by the household as its homestead during the year.

3 (j) "Gross rent" means the rental paid at arm's length solely for the
4 right of occupancy of a homestead or space rental paid to a landlord for
5 the parking of a mobile home, exclusive of charges for any utilities, serv-
6 ices, furniture and furnishings or personal property appliances furnished
7 by the landlord as a part of the rental agreement, whether or not expressly
8 set out in the rental agreement. Whenever the director of taxation finds
9 that the landlord and tenant have not dealt with each other at arms length
10 and that the gross rent charge was excessive, the director may adjust the
11 gross rent to a reasonable amount for the purposes of the claim.

12 Sec. 2. K.S.A. 2005 Supp. 79-4502 is hereby repealed.

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