

HOUSE BILL No. 2918

By Committee on Taxation

2-19

9 AN ACT concerning taxation; relating to homestead property tax re-
10 funds; certain social security payments; amending K.S.A. 2007 Supp.
11 79-4502 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2007 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) "Income" means the sum of adjusted gross income under the
18 Kansas income tax act, maintenance, support money, cash public assis-
19 tance and relief, not including any refund granted under this act, the gross
20 amount of any pension or annuity, including all monetary retirement ben-
21 efits from whatever source derived, including but not limited to, all pay-
22 ments received under the railroad retirement act, except disability pay-
23 ments, payments received under the federal social security act, except
24 that for determination of what constitutes income such amount shall not
25 exceed 50% of any such social security payments *and shall not include*
26 *any social security payments to a claimant who prior to attaining full*
27 *retirement age had been receiving disability payments under the federal*
28 *social security act in an amount not to exceed the amount of such disability*
29 *payments or 50% of any such social security payments, whichever is*
30 *greater*, all dividends and interest from whatever source derived not in-
31 cluded in adjusted gross income, workers compensation and the gross
32 amount of "loss of time" insurance. Income does not include gifts from
33 nongovernmental sources or surplus food or other relief in kind supplied
34 by a governmental agency, nor shall net operating losses and net capital
35 losses be considered in the determination of income. Income does not
36 include veterans disability pensions. Income does not include disability
37 payments received under the federal social security act.

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

41 (c) "Household income" means all income received by all persons of
42 a household in a calendar year while members of such household.

43 (d) "Homestead" means the dwelling, or any part thereof, whether

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

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

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

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

1 taxes accrued shall be that percentage of the total property taxes accrued
2 as the value of the homestead is of the total value. For the purpose of
3 this act, the word “unit” refers to that parcel of property covered by a
4 single tax statement of which the homestead is a part.

5 (g) “Disability” means:

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

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

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

35 (i) “Rent constituting property taxes accrued” means 15% of the gross
36 rent actually paid in cash or its equivalent in 2007 or any taxable year
37 thereafter by a claimant and claimant’s household solely for the right of
38 occupancy of a Kansas homestead on which ad valorem property taxes
39 were levied in full for that year. When a household occupies two or more
40 different homesteads in the same calendar year, rent constituting prop-
41 erty taxes accrued shall be computed by adding the rent constituting
42 property taxes accrued for each property rented by the household while
43 occupied by the household as its homestead during the year.

- 1 (j) "Gross rent" means the rental paid at arm's length solely for the
2 right of occupancy of a homestead or space rental paid to a landlord for
3 the parking of a mobile home, exclusive of charges for any utilities, serv-
4 ices, furniture and furnishings or personal property appliances furnished
5 by the landlord as a part of the rental agreement, whether or not expressly
6 set out in the rental agreement. Whenever the director of taxation finds
7 that the landlord and tenant have not dealt with each other at arms length
8 and that the gross rent charge was excessive, the director may adjust the
9 gross rent to a reasonable amount for the purposes of the claim.
- 10 Sec. 2. K.S.A. 2007 Supp. 79-4502 is hereby repealed.
- 11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.