

HOUSE BILL No. 2709

By Committee on Taxation

2-24

9 AN ACT concerning income taxation; relating to determination of Kansas
10 adjusted gross income; certain excess employer social security taxes
11 paid; amending K.S.A. 2009 Supp. 79-32,117 and repealing the existing
12 section.
13

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

15 Section 1. K.S.A. 2009 Supp. 79-32,117 is hereby amended to read
16 as follows: 79-32,117. (a) The Kansas adjusted gross income of an indi-
17 vidual means such individual's federal adjusted gross income for the tax-
18 able year, with the modifications specified in this section.

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

20 (i) Interest income less any related expenses directly incurred in the
21 purchase of state or political subdivision obligations, to the extent that
22 the same is not included in federal adjusted gross income, on obligations
23 of any state or political subdivision thereof, but to the extent that interest
24 income on obligations of this state or a political subdivision thereof issued
25 prior to January 1, 1988, is specifically exempt from income tax under the
26 laws of this state authorizing the issuance of such obligations, it shall be
27 excluded from computation of Kansas adjusted gross income whether or
28 not included in federal adjusted gross income. Interest income on obli-
29 gations of this state or a political subdivision thereof issued after Decem-
30 ber 31, 1987, shall be excluded from computation of Kansas adjusted
31 gross income whether or not included in federal adjusted gross income.

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

38 (iii) The federal net operating loss deduction.

39 (iv) Federal income tax refunds received by the taxpayer if the de-
40 duction of the taxes being refunded resulted in a tax benefit for Kansas
41 income tax purposes during a prior taxable year. Such refunds shall be
42 included in income in the year actually received regardless of the method
43 of accounting used by the taxpayer. For purposes hereof, a tax benefit

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

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

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

19 (vii) The amount of any charitable contribution made to the extent
20 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
21 79-32,196, and amendments thereto.

22 (viii) The amount of any costs incurred for improvements to a swine
23 facility, claimed for deduction in determining federal adjusted gross in-
24 come, to the extent the same is claimed as the basis for any credit allowed
25 pursuant to K.S.A. 2009 Supp. 79-32,204 and amendments thereto.

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

32 (x) Amounts received as nonqualified withdrawals, as defined by
33 K.S.A. 2009 Supp. 75-643, and amendments thereto, if, at the time of
34 contribution to a family postsecondary education savings account, such
35 amounts were subtracted from the federal adjusted gross income pur-
36 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-
37 ments thereto, or if such amounts are not already included in the federal
38 adjusted gross income.

39 (xi) The amount of any contribution made to the same extent the
40 same is claimed as the basis for the credit allowed pursuant to K.S.A.
41 2009 Supp. 74-50,154, and amendments thereto.

42 (xii) For taxable years commencing after December 31, 2004,
43 amounts received as withdrawals not in accordance with the provisions

1 of K.S.A. 2009 Supp. 74-50,204, and amendments thereto, if, at the time
2 of contribution to an individual development account, such amounts were
3 subtracted from the federal adjusted gross income pursuant to paragraph
4 (xiii) of subsection (c), or if such amounts are not already included in the
5 federal adjusted gross income.

6 (xiii) The amount of any expenditures claimed for deduction in deter-
7 termining federal adjusted gross income, to the extent the same is claimed
8 as the basis for any credit allowed pursuant to K.S.A. 2009 Supp. 79-
9 32,217 through 79-32,220 or 79-32,222, and amendments thereto.

10 (xiv) The amount of any amortization deduction claimed in deter-
11 mining federal adjusted gross income to the extent the same is claimed
12 for deduction pursuant to K.S.A. 2009 Supp. 79-32,221, and amendments
13 thereto.

14 (xv) The amount of any expenditures claimed for deduction in deter-
15 mining federal adjusted gross income, to the extent the same is claimed
16 as the basis for any credit allowed pursuant to K.S.A. 2009 Supp. 79-
17 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
18 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
19 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

20 (xvi) The amount of any amortization deduction claimed in deter-
21 mining federal adjusted gross income to the extent the same is claimed
22 for deduction pursuant to K.S.A. 2009 Supp. 79-32,227, 79-32,232, 79-
23 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

24 (xvii) The amount of any amortization deduction claimed in deter-
25 mining federal adjusted gross income to the extent the same is claimed
26 for deduction pursuant to K.S.A. 2009 Supp. 79-32,256, and amendments
27 thereto.

28 (xviii) For taxable years commencing after December 31, 2006, the
29 amount of any ad valorem or property taxes and assessments paid to a
30 state other than Kansas or local government located in a state other than
31 Kansas by a taxpayer who resides in a state other than Kansas, when the
32 law of such state does not allow a resident of Kansas who earns income
33 in such other state to claim a deduction for ad valorem or property taxes
34 or assessments paid to a political subdivision of the state of Kansas in
35 determining taxable income for income tax purposes in such other state,
36 to the extent that such taxes and assessments are claimed as an itemized
37 deduction for federal income tax purposes.

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, 2004, amounts
9 contributed to and the amount of income earned on contributions de-
10 posited to an individual development account under K.S.A. 2009 Supp.
11 74-50,201, et seq., and amendments thereto.

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

22 (xv) For all taxable years beginning after December 31, 2006,
23 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
24 joint return, for each designated beneficiary which are contributed to a
25 family postsecondary education savings account established under the
26 Kansas postsecondary education savings program or a qualified tuition
27 program established and maintained by another state or agency or instru-
28 mentality thereof pursuant to section 529 of the internal revenue code of
29 1986, as amended, for the purpose of paying the qualified higher edu-
30 cation expenses of a designated beneficiary at an institution of postsecon-
31 dary education. The terms and phrases used in this paragraph shall have
32 the meaning respectively ascribed thereto by the provisions of K.S.A.
33 2009 Supp. 75-643, and amendments thereto, and the provisions of such
34 section are hereby incorporated by reference for all purposes thereof.

35 (xvi) For the tax year beginning after December 31, 2004, an amount
36 not exceeding \$500; for the tax year beginning after December 31, 2005,
37 an amount not exceeding \$600; for the tax year beginning after December
38 31, 2006, an amount not exceeding \$700; for the tax year beginning after
39 December 31, 2007, an amount not exceeding \$800; for the tax year
40 beginning December 31, 2008, an amount not exceeding \$900; and for
41 all taxable years commencing after December 31, 2009, an amount not
42 exceeding \$1,000 of the premium costs for qualified long-term care in-
43 surance contracts, as defined by subsection (b) of section 7702B of public

1 law 104-191.

2 (xvii) For all taxable years beginning after December 31, 2004,
3 amounts received by taxpayers who are or were members of the armed
4 forces of the United States, including service in the Kansas army and air
5 national guard, as a recruitment, sign up or retention bonus received by
6 such taxpayer as an incentive to join, enlist or remain in the armed services
7 of the United States, including service in the Kansas army and air national
8 guard, and amounts received for repayment of educational or student
9 loans incurred by or obligated to such taxpayer and received by such
10 taxpayer as a result of such taxpayer's service in the armed forces of the
11 United States, including service in the Kansas army and air national guard.

12 (xviii) For all taxable years beginning after December 31, 2004,
13 amounts received by taxpayers who are eligible members of the Kansas
14 army and air national guard as a reimbursement pursuant to K.S.A. 48-
15 281, and amendments thereto, and amounts received for death benefits
16 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
17 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
18 amendments thereto, to the extent that such death benefits are included
19 in federal adjusted gross income of the taxpayer.

20 (xix) For the taxable year beginning after December 31, 2006,
21 amounts received as benefits under the federal social security act which
22 are included in federal adjusted gross income of a taxpayer with federal
23 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
24 status is single, head of household, married filing separate or married
25 filing jointly; and for all taxable years beginning after December 31, 2007,
26 amounts received as benefits under the federal social security act which
27 are included in federal adjusted gross income of a taxpayer with federal
28 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
29 status is single, head of household, married filing separate or married
30 filing jointly.

31 (xx) Amounts received by retired employees of Washburn university
32 as retirement and pension benefits under the university's retirement plan.

33 (xxi) *For all taxable years after December 31, 2009, the amount of*
34 *excess employer social security taxes paid by a taxpayer with respect to*
35 *tips received by an employee for which the taxpayer claimed the credit*
36 *provided in section 45B of the federal internal revenue code. No subtrac-*
37 *tion shall be allowed pursuant to this subsection for excess employer social*
38 *security taxes paid by a taxpayer when such amount was claimed as a*
39 *deduction for federal income tax purposes.*

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

1 (e) The amount of modifications required to be made under this sec-
2 tion by a partner which relates to items of income, gain, loss, deduction
3 or credit of a partnership shall be determined under K.S.A. 79-32,131,
4 and amendments thereto, to the extent that such items affect federal
5 adjusted gross income of the partner.

6 Sec. 2. K.S.A. 2009 Supp. 79-32,117 is hereby repealed.

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