

HOUSE BILL No. 2669

By Representatives Whipple, Curtis, Highberger, Sawyer, Trimmer and Winn

2-10

1 AN ACT concerning taxation; enacting the food sales tax refund act;
2 repealing the food sales tax credit; repealing K.S.A. 2015 Supp. 79-
3 32,271.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. The provisions of sections 1 through 9, and amendments
7 thereto, shall be known and may be cited as the food sales tax refund act.

8 Sec. 2. As used in the food sales tax refund act, unless the context
9 clearly indicates otherwise:

10 (a) "Income" means adjusted gross income determined under the
11 Kansas income tax act without regard to the modifications specified by
12 K.S.A. 79-32,117(c)(i), (ii), (vii), (ix), (xii), (xx), (xxii) or (xiv), and
13 amendments thereto. Notwithstanding the provisions of this subsection,
14 the term "income" shall include Kansas public employee retirement system
15 benefits.

16 (b) "Household" means a claimant and all other persons for whom a
17 personal exemption is claimed who together occupy a common residence.

18 (c) "Claimant" means a person who has filed a claim for a refund or
19 credit under the provisions of this act and was, during the entire calendar
20 year preceding the calendar year in which the claim was filed for relief
21 under this act, domiciled in this state, was a member of a household, had
22 income of not more than \$36,700 in the calendar year for which a claim
23 was filed and was: (1) A person having a disability; (2) a person other than
24 a person included under paragraph (1), who has attained 55 years of age in
25 the calendar year for which a claim is filed; or (3) a person other than a
26 person included under paragraph (1) or (2) having one or more dependent
27 children under 18 years of age residing at the person's homestead during
28 the calendar year for which a claim is filed.

29 (d) "Head of household" means the person filing a claim under the
30 provisions of this act.

31 (e) "Disability" means: (1) Inability to engage in any substantial
32 gainful activity by reason of any medically determinable physical or
33 mental impairment which can be expected to result in death or has lasted
34 or can be expected to last for a continuous period of not less than 12
35 months, and an individual shall be determined to have a disability only if
36 the physical or mental impairment or impairments are of such severity that

1 the individual is not only unable to do the individual's previous work, but
2 cannot, considering age, education and work experience, engage in any
3 other kind of substantial gainful work which exists in the national
4 economy, regardless of whether such work exists in the immediate area in
5 which the individual lives or whether a specific job vacancy exists for the
6 individual, or whether the individual would be hired if application was
7 made for work. For purposes of the preceding sentence with respect to any
8 individual, "work which exists in the national economy" means work
9 which exists in significant numbers either in the region where the
10 individual lives or in several regions of the country; for purposes of this
11 subsection, a "physical or mental impairment" is an impairment that results
12 from anatomical, physiological or psychological abnormalities which are
13 demonstrable by medically acceptable clinical and laboratory diagnostic
14 techniques; or

15 (2) blindness and inability by reason of blindness to engage in
16 substantial gainful activity requiring skills or abilities comparable to those
17 of any gainful activity in which the individual has previously engaged with
18 some regularity and over a substantial period of time.

19 (f) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the better
20 eye with the use of a correcting lens. An eye which is accompanied by a
21 limitation in the fields of vision such that the widest diameter of the visual
22 field subtends an angle no greater than 20 degrees shall be considered for
23 the purpose of this subsection as having a central visual acuity of $^{20}/_{200}$ or
24 less.

25 Sec. 3. The right to file a claim for a refund under the food sales tax
26 refund act shall be personal to the claimant and shall not survive the
27 claimant's death, but such right may be exercised on behalf of a claimant
28 by the claimant's legal guardian, conservator or attorney-in-fact. When a
29 claimant dies after having filed a timely claim, the amount thereof shall be
30 disbursed to another member of the household as determined by the
31 director of taxation. If the claimant was the only member of the claimant's
32 household, the claim may be paid to the claimant's executor or
33 administrator, but if neither is appointed and qualified, the amount of the
34 claim may be paid upon a claim duly made to any heir at law. In the
35 absence of any such claim within two years of the filing of the claim, the
36 amount of the claim shall escheat to the state.

37 Sec. 4. (a) (1) A claimant shall be entitled to a refund of retailers'
38 sales taxes paid upon food during the calendar year 2016 and each year
39 thereafter in the amount hereinafter provided. There shall be allowed for
40 each member of a household of a claimant having income of \$18,350 or
41 less, an amount equal to \$94. There shall be allowed for each member of a
42 household of a claimant having income of more than \$18,350 but not more
43 than \$36,700, an amount equal to \$47. There shall be allowed for a

1 claimant who qualifies for an additional personal exemption amount
2 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional
3 amount of \$47 or \$94, as the case requires. All such claims shall be paid
4 from the sales tax refund fund upon warrants of the director of accounts
5 and reports pursuant to vouchers approved by the director of taxation or by
6 a person or persons designated by the director.

7 (2) As an alternative to the procedure described in subsection (a)(1),
8 for all taxable years commencing after December 31, 2015, there shall be
9 allowed as a credit against the tax liability of a resident individual imposed
10 under the Kansas income tax act an amount equal to \$47 or \$94, as the
11 case requires, for each member of a household. There shall be allowed for
12 a claimant who qualifies for an additional personal exemption amount
13 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional
14 amount of \$47 or \$94, as the case requires. If the amount of such tax credit
15 exceeds the claimant's income tax liability for such taxable year, such
16 excess amount shall be refunded to the claimant.

17 (b) A head of household shall make application for refunds for all
18 members of the same household upon a common form provided for the
19 making of joint claims. All claims paid to members of the same household
20 shall be paid as a joint claim by means of a single warrant.

21 (c) No claim for a refund of taxes under the provisions of the food
22 sales tax refund act shall be paid or allowed unless such claim is actually
23 filed with and in the possession of the department of revenue on or before
24 April 15 of the year next succeeding the year in which such taxes were
25 paid. The director of taxation may: (1) Extend the time for filing any claim
26 under the provisions of this act when good cause exists therefor; or (2)
27 accept a claim filed after the deadline for filing in the case of sickness,
28 absence or disability of the claimant if such claim has been filed within
29 four years of such deadline.

30 (d) In the case of all tax years commencing after December 31, 2015,
31 the threshold income amounts prescribed in this section and section 2(c),
32 and amendments thereto, and the amounts of refund of taxes and the
33 amounts of the tax credit, both as prescribed in this section, shall be
34 increased by an amount equal to such threshold amount multiplied by the
35 cost-of-living adjustment determined under section 1(f)(3) of the federal
36 internal revenue code for the calendar year in which the taxable year
37 commences.

38 Sec. 5. (a) In administering the food sales tax refund act, the division
39 of taxation shall make available suitable forms with instructions for
40 claimants. Copies of such forms shall also be made available to all county
41 clerks and county treasurers in sufficient numbers to supply claimants
42 residing in their respective counties. It shall be the duty of the county clerk
43 to assist any claimant seeking assistance in the filing of a claim under the

1 provisions of this act. The county treasurer of each county shall mail to
2 each taxpayer with the property tax statement of such taxpayer information
3 on the claiming of a refund of retailers' sales taxes paid upon food, which
4 shall be provided by the secretary of revenue.

5 (b) The secretary of revenue is hereby authorized to adopt such rules
6 and regulations as may be necessary for the administration of the
7 provisions of this act.

8 Sec. 6. Every claimant for the refund of taxes under the provisions of
9 the food sales tax refund act shall supply to the division of taxation in
10 support of a claim, a valid social security number issued by the social
11 security administration for each claimant, every household member and
12 every dependent child, a clear statement as to whether such claimant
13 qualifies for a refund under the provisions of section 2, and amendments
14 thereto, reasonable proof of age or disability and household income. A
15 claim alleging disability shall be supported by a report of the examining
16 physician of the claimant with a statement or certificate that the applicant
17 has a disability within the meaning of section 2, and amendments thereto.

18 Sec. 7. In any case in which it is determined that a claim was filed
19 with fraudulent intent, the claim shall be disallowed, and, if the claim has
20 been paid, the amount paid may be recovered by assessment as income
21 taxes are assessed, and such assessment shall bear interest from the date of
22 payment of the claim, until recovered, at the rate prescribed by K.S.A. 79-
23 2968(a), and amendments thereto. The claimant in such case, and any
24 person who assisted in the preparation or filing of such claim or supplied
25 information upon which such claim was prepared, with fraudulent intent,
26 shall be guilty of a class B misdemeanor.

27 Sec. 8. No claim for refund under the provisions of sections 1 through
28 9, and amendments thereto, shall be allowed any claimant who fails to
29 provide a valid social security number issued by the social security
30 administration for the claimant, every household member and every
31 dependent child.

32 Sec. 9. The director of taxation shall examine all claims for refund
33 under the provisions of sections 1 through 9, and amendments thereto, and
34 shall issue final determinations thereon in the manner prescribed by K.S.A.
35 79-3226, and amendments thereto, relating to income taxes.

36 Sec. 10. K.S.A. 2015 Supp. 79-32,271 is hereby repealed.

37 Sec. 11. This act shall take effect and be in force from and after its
38 publication in the statute book.