

HOUSE BILL No. 2981

By Committee on Taxation

2-22

9 AN ACT concerning income taxation; relating to compensation of certain
10 persons serving in armed forces; amending K.S.A. 79-3221 and K.S.A.
11 2005 Supp. 79-32,117 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 79-3221 is hereby amended to read as follows: 79-
15 3221. (a) All returns required by this act shall be made as nearly as prac-
16 tical in the same form as the corresponding form of income tax return by
17 the United States.

18 (b) All returns shall be filed in the office of the director of taxation
19 on or before the 15th day of the fourth month following the close of the
20 taxable year, except as provided in subsection (c) hereof. Tentative returns
21 may be filed before the close of the taxable year and the estimated tax
22 computed on such return, paid, but no interest will be paid on any over-
23 payment of tax liability, computed on such tentative return.

24 (c) The director of taxation may grant a reasonable extension of time
25 for filing returns in accordance with rules and regulations of the secretary
26 of revenue. Whenever any such extension of time to file is requested by
27 a taxpayer and granted by the director with respect to any tax year com-
28 mencing after December 31, 1992, no penalty authorized by K.S.A. 79-
29 3228, and amendments thereto, shall be imposed if 90% of the liability
30 is paid on or before the original due date.

31 (d) In the case of an individual serving in the armed forces of the
32 United States, or serving in support of such armed forces, *outside the*
33 *United States* or in an area designated by the president of the United
34 States by executive order as a "combat zone" as defined under 26 U.S.C.
35 112 at any time during the period designated by the president by exec-
36 utive order as the period of combatant activities in such zone for the
37 purposes of such section, or hospitalized as a result of injury received or
38 sickness incurred while serving *outside the United States* or in such an
39 area during such time, ~~the such~~ period of service ~~in such area~~, plus the
40 period of continuous qualified hospitalization attributable to such injury
41 or sickness, and the next 180 days thereafter, shall be disregarded in
42 determining, under article 32 of chapter 79 of the Kansas Statutes An-
43 notated, in respect of any tax liability ~~including any interest, penalty,~~

1 additional amount, or addition to the tax), of such individual:

2 (1) Whether any of the following acts was performed within the time
3 prescribed therefor: (A) Filing any return of income tax; (B) payment of
4 any income tax or installment thereof; (C) filing a notice of appeal with
5 the director of taxation or the board of tax appeals for redetermination
6 of a deficiency or for a review of a decision rendered by either the director
7 or the board of tax appeals; (D) allowance of a credit or refund of any
8 income tax; (E) filing a claim for credit or refund of any income tax; (F)
9 bringing suit upon any such claim for credit or refund; (G) assessment of
10 any income tax; (H) giving or making any notice or demand for the pay-
11 ment of any income tax, or with respect to any liability to the state of
12 Kansas in respect of any income tax; (I) collection, by the director of
13 taxation or his or her agent, by warrant, levy or otherwise, of the amount
14 of any liability in respect to any income tax; (J) bringing suit by the state
15 of Kansas, or any officer on its behalf, in respect to any liability in respect
16 of any income tax; and (K) any other act required or permitted under the
17 Kansas income tax act specified in rules and regulations adopted by the
18 secretary of revenue under this section;

19 (2) The amount of any credit or refund.

20 (e) (1) Subsection (d) shall not apply for purposes of determining the
21 amount of interest on any overpayment of tax.

22 (2) If an individual is entitled to the benefits of subsection (d) with
23 respect to any return and such return is timely filed ~~and~~, determined after
24 the application of such subsection), subsections (e)(5) and (e)(7) of K.S.A.
25 79-32,105, and amendments thereto, shall not apply.

26 (f) The provisions of subsection (d) and the subsequent subsections
27 of this section shall apply to the spouse of any individual entitled to the
28 benefits of subsection (d). Except in the case of the combat zone desig-
29 nated for purposes of the Vietnam conflict, the preceding sentence shall
30 not cause subsection (d) and the subsequent subsections of this section
31 to apply for any spouse for any taxable year beginning more than two
32 years after *the date such individual's service outside the United States has*
33 *ended* or the date designated under 26 U.S.C. 112 as the date of termi-
34 nation of combatant activities in a combat zone.

35 (g) The period of service ~~in the area~~ referred to in subsection (d) shall
36 include the period during which an individual entitled to benefits under
37 subsection (d) is in a missing status, within the meaning of 26 U.S.C.
38 6013(f)(3).

39 (h) (1) Notwithstanding the provisions of subsection (d), any action
40 or proceeding authorized by K.S.A. 79-3229, and amendments thereto,
41 as well as any other action or proceeding authorized by law in connection
42 therewith, may be taken, begun or prosecuted. In any other case in which
43 the secretary determines that collection of the amount of any assessment

1 would be jeopardized by delay, the provisions of subsection (d) shall not
2 operate to stay collection of such amount by levy or otherwise as author-
3 ized by law. There shall be excluded from any amount assessed or col-
4 lected pursuant to this subsection the amount of interest, penalty, addi-
5 tional amount, and addition to the tax, if any, in respect of the period
6 disregarded under subsection (d). In any case to which this paragraph
7 relates, if the secretary is required to give any notice to or make any
8 demand upon any person, such requirement shall be deemed to be sat-
9 isfied if the notice or demand is prepared and signed, in any case in which
10 the address of such person last known to the secretary is in an area for
11 which United States post offices under instructions of the postmaster
12 general are not, by reason of the combatant activities, accepting mail for
13 delivery at the time the notice or demand is signed. In such case the
14 notice or demand shall be deemed to have been given or made upon the
15 date it is signed.

16 (2) The assessment or collection of any tax under the provisions of
17 article 32 of chapter 79 of the Kansas Statutes Annotated, or any action
18 or proceeding by or on behalf of the state in connection therewith, may
19 be made, taken, begun or prosecuted in accordance with law, without
20 regard to the provisions of subsection (d), unless prior to such assessment,
21 collection, action or proceeding it is ascertained that the person con-
22 cerned is entitled to the benefits of subsection (d).

23 (i) (1) Any individual who performed Desert Shield services ~~and~~ and
24 the spouse of such individual~~, shall be entitled to the benefits of subsec-~~
25 tion (d) and the subsequent subsections of this section in the same man-
26 ner as if such services were services referred to in subsection (d).

27 (2) For purposes of this subsection, the term “Desert Shield services”
28 means any services in the armed forces of the United States or in support
29 of such armed forces if:

30 (A) Such services are performed in the area designated by the pres-
31 ident as the “Persian Gulf Desert Shield area”, and

32 (B) such services are performed during the period beginning on Au-
33 gust 2, 1990, and ending on the date on which any portion of the area
34 referred to in subparagraph (A) is designated by the president as a combat
35 zone pursuant to 26 U.S.C. 112.

36 (j) For purposes of subsection (d), the term “qualified hospitaliza-
37 tion” means:

38 (1) Any hospitalization outside the United States, and

39 (2) any hospitalization inside the United States, except that not more
40 than five years of hospitalization may be taken into account under this
41 paragraph. This paragraph shall not apply for purposes of applying sub-
42 section (d) and the subsequent subsections of this section with respect to
43 the spouse of an individual entitled to the benefits of subsection (d).

1 Sec. 2. K.S.A. 2005 Supp. 79-32,117 is hereby amended to read as
2 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
3 means such individual's federal adjusted gross income for the taxable year,
4 with the modifications specified in this section.

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

6 (i) Interest income less any related expenses directly incurred in the
7 purchase of state or political subdivision obligations, to the extent that
8 the same is not included in federal adjusted gross income, on obligations
9 of any state or political subdivision thereof, but to the extent that interest
10 income on obligations of this state or a political subdivision thereof issued
11 prior to January 1, 1988, is specifically exempt from income tax under the
12 laws of this state authorizing the issuance of such obligations, it shall be
13 excluded from computation of Kansas adjusted gross income whether or
14 not included in federal adjusted gross income. Interest income on obli-
15 gations of this state or a political subdivision thereof issued after Decem-
16 ber 31, 1987, shall be excluded from computation of Kansas adjusted
17 gross income whether or not included in federal adjusted gross income.

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

24 (iii) The federal net operating loss deduction.

25 (iv) Federal income tax refunds received by the taxpayer if the de-
26 duction of the taxes being refunded resulted in a tax benefit for Kansas
27 income tax purposes during a prior taxable year. Such refunds shall be
28 included in income in the year actually received regardless of the method
29 of accounting used by the taxpayer. For purposes hereof, a tax benefit
30 shall be deemed to have resulted if the amount of the tax had been de-
31 ducted in determining income subject to a Kansas income tax for a prior
32 year regardless of the rate of taxation applied in such prior year to the
33 Kansas taxable income, but only that portion of the refund shall be in-
34 cluded as bears the same proportion to the total refund received as the
35 federal taxes deducted in the year to which such refund is attributable
36 bears to the total federal income taxes paid for such year. For purposes
37 of the foregoing sentence, federal taxes shall be considered to have been
38 deducted only to the extent such deduction does not reduce Kansas tax-
39 able income below zero.

40 (v) The amount of any depreciation deduction or business expense
41 deduction claimed on the taxpayer's federal income tax return for any
42 capital expenditure in making any building or facility accessible to the
43 handicapped, for which expenditure the taxpayer claimed the credit al-

1 lowed by K.S.A. 79-32,177, and amendments thereto.

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

5 (vii) The amount of any charitable contribution made to the extent
6 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
7 79-32,196, and amendments thereto.

8 (viii) The amount of any costs incurred for improvements to a swine
9 facility, claimed for deduction in determining federal adjusted gross in-
10 come, to the extent the same is claimed as the basis for any credit allowed
11 pursuant to K.S.A. 2005 Supp. 79-32,204 and amendments thereto.

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

18 (x) Amounts received as nonqualified withdrawals, as defined by
19 K.S.A. 2005 Supp. 75-643, and amendments thereto, if, at the time of
20 contribution to a family postsecondary education savings account, such
21 amounts were subtracted from the federal adjusted gross income pur-
22 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and
23 amendments thereto, or if such amounts are not already included in the
24 federal adjusted gross income.

25 (xi) The amount of any contribution made to the same extent the
26 same is claimed as the basis for the credit allowed pursuant to K.S.A.
27 2005 Supp. 74-50,154, and amendments thereto.

28 (xii) For taxable years commencing after December 31, 2004,
29 amounts received as withdrawals not in accordance with the provisions
30 of K.S.A. 2005 Supp. 74-50,204, and amendments thereto, if, at the time
31 of contribution to an individual development account, such amounts were
32 subtracted from the federal adjusted gross income pursuant to paragraph
33 (xiii) of subsection (c), or if such amounts are not already included in the
34 federal adjusted gross income.

35 (c) There shall be subtracted from federal adjusted gross income:

36 (i) Interest or dividend income on obligations or securities of any
37 authority, commission or instrumentality of the United States and its pos-
38 sessions less any related expenses directly incurred in the purchase of
39 such obligations or securities, to the extent included in federal adjusted
40 gross income but exempt from state income taxes under the laws of the
41 United States.

42 (ii) Any amounts received which are included in federal adjusted
43 gross income but which are specifically exempt from Kansas income tax-

- 1 ation under the laws of the state of Kansas.
- 2 (iii) The portion of any gain or loss from the sale or other disposition
3 of property having a higher adjusted basis for Kansas income tax purposes
4 than for federal income tax purposes on the date such property was sold
5 or disposed of in a transaction in which gain or loss was recognized for
6 purposes of federal income tax that does not exceed such difference in
7 basis, but if a gain is considered a long-term capital gain for federal in-
8 come tax purposes, the modification shall be limited to that portion of
9 such gain which is included in federal adjusted gross income.
- 10 (iv) The amount necessary to prevent the taxation under this act of
11 any annuity or other amount of income or gain which was properly in-
12 cluded in income or gain and was taxed under the laws of this state for a
13 taxable year prior to the effective date of this act, as amended, to the
14 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
15 the right to receive the income or gain, or to a trust or estate from which
16 the taxpayer received the income or gain.
- 17 (v) The amount of any refund or credit for overpayment of taxes on
18 or measured by income or fees or payments in lieu of income taxes im-
19 posed by this state, or any taxing jurisdiction, to the extent included in
20 gross income for federal income tax purposes.
- 21 (vi) Accumulation distributions received by a taxpayer as a beneficiary
22 of a trust to the extent that the same are included in federal adjusted
23 gross income.
- 24 (vii) Amounts received as annuities under the federal civil service
25 retirement system from the civil service retirement and disability fund
26 and other amounts received as retirement benefits in whatever form
27 which were earned for being employed by the federal government or for
28 service in the armed forces of the United States.
- 29 (viii) Amounts received by retired railroad employees as a supple-
30 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
31 et seq.
- 32 (ix) Amounts received by retired employees of a city and by retired
33 employees of any board of such city as retirement allowances pursuant to
34 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
35 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
36 amendments thereto.
- 37 (x) For taxable years beginning after December 31, 1976, the amount
38 of the federal tentative jobs tax credit disallowance under the provisions
39 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
40 the amount of the targeted jobs tax credit and work incentive credit dis-
41 allowances under 26 U.S.C. 280 C.
- 42 (xi) For taxable years beginning after December 31, 1986, dividend
43 income on stock issued by Kansas Venture Capital, Inc.

- 1 (xii) For taxable years beginning after December 31, 1989, amounts
2 received by retired employees of a board of public utilities as pension and
3 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
4 and amendments thereto.
- 5 (xiii) For taxable years beginning after December 31, 2004, amounts
6 contributed to and the amount of income earned on contributions de-
7 posited to an individual development account under K.S.A. 2005 Supp.
8 74-50,201, et seq., and amendments thereto.
- 9 (xiv) For all taxable years commencing after December 31, 1996, that
10 portion of any income of a bank organized under the laws of this state or
11 any other state, a national banking association organized under the laws
12 of the United States, an association organized under the savings and loan
13 code of this state or any other state, or a federal savings association or-
14 ganized under the laws of the United States, for which an election as an
15 S corporation under subchapter S of the federal internal revenue code is
16 in effect, which accrues to the taxpayer who is a stockholder of such
17 corporation and which is not distributed to the stockholders as dividends
18 of the corporation.
- 19 (xv) For all taxable years beginning after December 31, 1999,
20 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a
21 joint return, for each designated beneficiary which are contributed to a
22 family postsecondary education savings account established under the
23 Kansas postsecondary education savings program for the purpose of pay-
24 ing the qualified higher education expenses of a designated beneficiary
25 at an institution of postsecondary education. For all taxable years begin-
26 ning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000
27 for a married couple filing a joint return, for each designated beneficiary
28 which are contributed to a family postsecondary education savings ac-
29 count established under the Kansas postsecondary education savings pro-
30 gram for the purpose of paying the qualified higher education expenses
31 of a designated beneficiary at an institution of postsecondary education.
32 The terms and phrases used in this paragraph shall have the meaning
33 respectively ascribed thereto by the provisions of K.S.A. 2005 Supp. 75-
34 643, and amendments thereto, and the provisions of such section are
35 hereby incorporated by reference for all purposes thereof.
- 36 (xvi) For the tax year beginning after December 31, 2004, an amount
37 not exceeding \$500; for the tax year beginning after December 31, 2005,
38 an amount not exceeding \$600; for the tax year beginning after December
39 31, 2006, an amount not exceeding \$700; for the tax year beginning after
40 December 31, 2007, an amount not exceeding \$800; for the tax year
41 beginning December 31, 2008, an amount not exceeding \$900; and for
42 all taxable years commencing after December 31, 2009, an amount not
43 exceeding \$1,000 of the premium costs for qualified long-term care in-

1 surance contracts, as defined by subsection (b) of section 7702B of public
2 law 104-191.

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

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

21 (xix) *For all taxable years beginning after December 31, 2005,*
22 *amounts received by taxpayers who are serving in the armed forces of the*
23 *United States, including members of the Kansas army and air national*
24 *guard, as compensation for such services performed by such taxpayers*
25 *while serving outside the United States.*

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

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

35 Sec. 3. K.S.A. 79-3221 and K.S.A. 2005 Supp. 79-32,117 are hereby
36 repealed.

37 Sec. 4. This act shall take effect and be in force from and after its
38 publication in the statute book.