

HOUSE BILL No. 2078

By Special Committee on Assessment and Taxation

1-26

9 AN ACT concerning income taxation; relating to certain net operating
10 losses; amending K.S.A. 2008 Supp. 79-32,143 and repealing the ex-
11 isting section.
12

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

14 Section 1. K.S.A. 2008 Supp. 79-32,143 is hereby amended to read
15 as follows: 79-32,143. (a) For net operating losses incurred in taxable years
16 beginning after December 31, 1987, a net operating loss deduction shall
17 be allowed in the same manner that it is allowed under the federal internal
18 revenue code except that such net operating loss may only be carried
19 forward to each of the 10 taxable years following the taxable year of the
20 net operating loss. For net operating farm losses, as defined by subsection
21 (i) of section 172 of the federal internal revenue code, incurred in taxable
22 years beginning after December 31, 1999, a net operating loss deduction
23 shall be allowed in the same manner that it is allowed under the federal
24 internal revenue code except that such net operating loss may be carried
25 forward to each of the 10 taxable years following the taxable year of the
26 net operating loss. The amount of the net operating loss that may be
27 carried back or forward for Kansas income tax purposes shall be that
28 portion of the federal net operating loss allocated to Kansas under this
29 act in the taxable year that the net operating loss is sustained.

30 (b) The amount of the loss to be carried back or forward will be the
31 federal net operating loss after (1) all modifications required under this
32 act applicable to the net loss in the year the loss was incurred; and (2)
33 after apportionment as to source in the case of corporations, nonresident
34 individuals for losses incurred in taxable years beginning prior to January
35 1, 1978, and nonresident estates and trusts in the same manner that in-
36 come for such corporations, nonresident individuals, estates and trusts is
37 required to be apportioned.

38 (c) If a net operating loss was incurred in a taxable year beginning
39 prior to January 1, 1988, the amount of the net operating loss that may
40 be carried back and carried forward and the period for which it may be
41 carried back and carried forward shall be determined under the provisions
42 of the Kansas income tax laws which were in effect during the year that
43 such net operating loss was incurred.

1 (d) If any portion of a net operating loss described in subsections (a)
2 and (b) is not utilized prior to the final year of the carryforward period
3 provided in subsection (a), a refund shall be allowable in such final year
4 in an amount equal to the refund which would have been allowable in
5 the taxable year the loss was incurred by utilizing the three year carryback
6 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
7 multiplied by a fraction, the numerator of which is the unused portion of
8 such net operating loss in the final year, and the denominator of which
9 is the amount of such net operating loss which could have been carried
10 back to the three years immediately preceding the year in which the loss
11 was incurred. In no event may such fraction exceed 1.

12 (e) Notwithstanding any other provisions of the Kansas income tax
13 act, the net operating loss as computed under subsections (a), (b) and (c)
14 of this section shall be allowed in full in determining Kansas taxable in-
15 come or at the option of the taxpayer allowed in full in determining Kansas
16 adjusted gross income.

17 (f) No refund of income tax which results from a net operating farm
18 loss carry back shall be allowed in an amount exceeding \$1,500 in any
19 year. Any overpayment in excess of \$1,500 may be carried forward to any
20 year or years after the year of the loss and may be claimed as a credit
21 against the tax. The refundable portion of such credit shall not exceed
22 \$1,500 in any year.

23 (g) *Notwithstanding any other provisions of the Kansas income tax*
24 *act, for tax year 2006, if a net operating loss is incurred from the sale at*
25 *a loss of a historic hotel located in a community with less than 2,500*
26 *citizens improved by funds borrowed on both such hotel and farmland*
27 *owned by the taxpayer which is located within 20 miles of such hotel, and*
28 *previously the farmland was sold at a gain and in which case a majority*
29 *of the proceeds were used to pay off the mortgage on such hotel, the net*
30 *operating loss may be carried back three years to offset the gain on the*
31 *sale of such farmland.*

32 Sec. 2. K.S.A. 2008 Supp. 79-32,143 is hereby repealed.

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