

SESSION OF 2009

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR SUBSTITUTE
FOR HOUSE BILL NO. 2365**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for Sub. for HB 2365 would enact new revenue settlement authority for the Secretary of Revenue; make several changes in the statute of limitation provisions relating to sales and income taxes; make a number of adjustments relative to the amount of various income, privilege, and premiums tax credits that may be claimed; clarify the sales tax treatment of purchases by or on behalf of a certain group; enact several new sales tax exemptions; clarify the estate tax relative to the valuation of agricultural land; and expand the Homestead Property Tax Refund program.

Settlement Authority

One section of the bill would grant the Secretary of Revenue additional authority to equitably resolve certain audit-related assessments that are pending in the administrative appeals process or the State Court of Tax Appeals; or are pending in the judicial review process before any state or federal district or appellate court. The settlement authority would include the ability to resolve amounts of tax, penalty, and interest in question. (Sub. for SB 337)

Income Tax – Statute of Limitations

Additional provisions would amend KSA 79-3220 to clarify deadlines applicable to filing income tax refund claims. The proposed amendment to subsection (c) would clarify that a

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

taxpayer has three years from the date the original return is due, including any extensions allowed, to file a refund claim.

The proposed amendment to subsection (f) would provide that notwithstanding any otherwise applicable statute of limitations, the Department of Revenue would have 180 days after receipt of a revenue adjustment report to assess any additional tax.

The proposed amendment to subsection (g) would toll the 180-day period if a taxpayer has failed to timely report a revenue adjustment report to the Department.

Sales/Use Tax - Statute of Limitations

The statute of limitations for sales and use tax refund claims would be reduced from three years to one year, effective for all claims filed after June 15, 2009.

Tax Credit - Various Adjustments

A tax credit for direct production expenditures by eligible film production companies would be suspended for tax years 2009-2010.

Numerous other tax credits generally would be given a ten percent "haircut" for tax years 2009-2010, including credits for:

Individual development accounts; facility or residential modification for handicapped accessibility; certain employee child day care provision expenses; provision of financial assistance to persons eligible for aid to families with dependent children; provision of small employer health benefit plans; donations to regional economic development foundations; purchase of agritourism liability insurance; donations from community service "program" contributors; angel investor qualified securities investments; certain venture capital company investments; donations for Kansas Center for Entrepreneurship; selected investments in qualified business facilities; interest rate reductions on certain agricultural

production loans; certain research and development expenditures; community service donations by business firms; certain alternative motor-fueled vehicle property expenditures; certain adoption expenses; improvements to qualified swine facilities; expenses associated with plugging abandoned oil or gas wells; retirement of bonded debt authorized by a city port authority; employer provision of health insurance for National Guard members; payment of salary to teachers by business firms pursuant to partnership agreements; certain oil refinery environmental compliance expenditures; “high performance” incentive program (HPIP) qualified investments; job expansion and investment program expenditures; certain nitrogen fertilizer plant expenditures; certain biomass-to-energy plant expenditures; certain power plant expenditures; contributions to the Kansas Law Enforcement Training Center; certain compensation paid to employees also in the National Guard; certain renewable electric cogeneration facility expenditures; certain storage and blending equipment expenditures; contributions for certain higher educational infrastructure programs; certain business capital investments made in or around disaster-area cities.

A specific statutory cap would be provided for historic preservation credits equivalent to 90 percent of the amount currently claimed.

Additional transitional provisions would assure that certain HPIP and job expansion and investment credits that otherwise could have been claimed during the haircut period could effectively be carried forward to future tax years.

Sales Tax Exemption – Goodwill

The bill also would clarify the sales-tax-exempt status of purchases made by or on behalf of Goodwill Industries Easter Seals of Kansas, Inc. and Goodwill Industries of Kansas, Inc. for the purpose of providing education, training, and employment opportunities for people with disabilities and other barriers to employment.

Another exemption would be provided for purchases by or on behalf of Sheltered Living, Inc.

The bill further would provide exemptions for purchases and sales made by or on behalf of the Kansas Fairgrounds Foundation for purposes of beautifying the state fairgrounds.

Finally, the bill would provide an exemption for purchases made by or on behalf of All American Beef Battalion, Inc., for the purpose of educating, promoting, and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services.

Estate Tax Provisions

Another section of the bill would clarify that agricultural land is to be use-valued for Kansas estate tax purposes, regardless of whether such land was held directly by decedents or was held in non-publicly traded legal entities, including certain partnerships, corporations, limited liability companies, or limited liability partnerships.

The clarification of the use-valuation provisions also would be retroactive relative to estates of decedents dying after December 31, 2006.

Homestead Provisions

The bill also would expand the definition of eligible claimants for the Homestead Property Tax Refund Program to include certain disabled veterans and surviving spouses of active-duty military personnel who have died in the line of duty.

Disabled veterans would be defined to include Kansas residents who have been honorably discharged from active service in the armed forces or Kansas National Guard and who have been certified to have a 50 percent or more permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

The bill further would clarify that surviving spouses of disabled veterans would continue to remain eligible until such time as they remarry.

Background

The subject matter of the original HB 2365 has already been enacted as part of SB 97. The Senate Assessment and Taxation Committee on May 7 voted to strip the bill's original provisions; create a substitute bill; and insert all of the other provisions hereinbefore described.

During Committee discussions, a number of Senators noted that in addition to the provisions in the substitute bill, another \$8.9 million in potential SGF resources had been identified by the end of FY 2010 relative to the current Consensus revenue estimates and expenditure assumptions.

The Senate Committee of the Whole on May 7 added the amendments relative to sales tax exemptions for the Sheltered Living; beef battalion; and state fairgrounds groups; and for the transitional language relative to certain tax credits.

The provisions of the bill would be expected to have the following impact:

	(\$ in millions)					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	5-yr total
Most Tax Credits – 10% Reduction for Two Years	\$ 9.200	\$ 8.800	\$ (1.900)	\$ (0.095)	\$ -	\$ 16.005
Suspend Film Credit for Two Years	\$ 1.000	\$ 1.000	\$ -	\$ -	\$ -	\$ 2.000
Statute of Limitations – Income Tax	\$ 3.000	\$ 3.000	\$ 3.000	\$ 3.000	\$ 3.000	\$ 15.000
Statute of Limitations – Sales and Use Tax	\$ 13.700	\$ 8.800	\$ 4.400	\$ 4.400	\$ 4.400	\$ 35.700
Settlement Authority	\$ 35.000	\$ (15.000)	\$ (5.000)	\$ -	\$ -	\$ 15.000
Estate Tax–Valuation of Agricultural Land	\$ (0.500)	\$ -	\$ -	\$ -	\$ -	\$ (0.500)
Sales Tax Exemption – Goodwill	\$ (0.038)	\$ (0.039)	\$ (0.040)	\$ (0.041)	\$ (0.042)	\$ (0.200)
Homestead Program – Expansion	\$ (0.215)	\$ (0.215)	\$ (0.215)	\$ (0.215)	\$ (0.215)	\$ (1.075)
Sales Tax Exemption – Beef Battalion	\$ (0.004)	\$ (0.004)	\$ (0.004)	\$ (0.004)	\$ (0.004)	\$ (0.020)
Sales Tax Exemption – Sheltered Living	\$ (0.030)	\$ (0.031)	\$ (0.031)	\$ (0.032)	\$ (0.032)	\$ (0.156)
Sales Tax Exemption – Fairgrounds	minimal	minimal	minimal	minimal	minimal	minimal
Total	\$ 61.113	\$ 6.311	\$ 0.210	\$ 7.013	\$ 7.107	\$ 81.754