

HOUSE BILL No. 2373

By Committee on Taxation

2-22

1 AN ACT concerning taxation; providing food sales tax refunds; income
2 tax, credits, certain taxpayers who purchased food in this state;
3 amending K.S.A. 2016 Supp. 79-32,271 and repealing the existing
4 section.

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

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

10 New Sec. 2. As used in the food sales tax refund act, unless the
11 context clearly indicates otherwise:

12 (a) "Income" means adjusted gross income determined under the
13 Kansas income tax act without regard to the modifications specified by
14 K.S.A. 79-32,117(c)(i), (vii), (ix), (xii), (xix), (xx), (xxii) and (xxiv), and
15 amendments thereto, and K.S.A. 79-32,117(c)(ii), and amendments
16 thereto, regarding Kansas public employee retirement system benefits.

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

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

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

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

1 physical or mental impairment or impairments are of such severity that the
2 individual is not only unable to do the individual's previous work but
3 cannot, considering age, education and work experience, engage in any
4 other kind of substantial gainful work that exists in the national economy,
5 regardless of whether such work exists in the immediate area in which the
6 individual lives or whether a specific job vacancy exists for the individual,
7 or whether the individual would be hired if application was made for work.
8 For purposes of the preceding sentence, with respect to any individual,
9 "work that exists in the national economy" means work that exists in
10 significant numbers, either in the region where the individual lives, or in
11 several regions of the country; for purposes of this subsection, a "physical
12 or mental impairment" is an impairment that results from anatomical,
13 physiological or psychological abnormalities that are demonstrable by
14 medically acceptable clinical and laboratory diagnostic 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 that 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 paragraph as having a central visual acuity of $^{20}/_{200}$ or
24 less.

25 New Sec. 3. The right to file a claim for a refund under the food sales
26 tax refund act shall be personal to the claimant and shall not survive such
27 claimant's death, but such right may be exercised on behalf of a claimant
28 by such claimant's legal guardian, conservator or attorney-in-fact. When a
29 claimant dies after having filed a timely claim, the amount of such claim
30 shall be disbursed to another member of the household as determined by
31 the director of taxation. If the claimant was the only member of such
32 claimant's household, the claim may be paid to such 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 New Sec. 4. (a) (1) A claimant shall be entitled to a refund of
38 retailers' sales taxes paid upon food during the calendar year 2018 and
39 each year thereafter in the amount hereinafter provided. There shall be
40 allowed for each member of a household of a claimant having income of
41 \$18,350 or less, an amount equal to \$94. There shall be allowed for each
42 member of a household of a claimant having income of more than
43 \$18,350, but not more than \$36,700, an amount equal to \$47. There shall

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

7 (2) As an alternative to the procedure described by subsection (a)(1),
8 for all taxable years commencing after December 31, 2017, 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; or (2) accept a
27 claim filed after the deadline for filing in the case of sickness, absence or
28 disability of the claimant if such claim has been filed within four years of
29 such deadline.

30 (d) In the case of all tax years commencing after December 31, 2017,
31 the threshold income amounts prescribed in this section and section 2, and
32 amendments thereto, and the amounts of refund of taxes and the amounts
33 of the tax credit, both as prescribed in this section, shall be increased by an
34 amount equal to such threshold amount multiplied by the cost-of-living
35 adjustment determined under section 1 (f)(3) of the federal internal
36 revenue code for the calendar year in which the taxable year commences.

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

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

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

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

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

26 New Sec. 8. The director of taxation shall examine all claims for
27 refund under the food sales tax refund act, and shall issue final
28 determinations of such claims in the manner prescribed by K.S.A. 79-
29 3226, and amendments thereto, relating to income taxes.

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

35 Sec. 10. K.S.A. 2016 Supp. 79-32,271 is hereby amended to read as
36 follows: 79-32,271. (a) For any taxable year commencing after December
37 31, 2014, and ending prior to January 1, 2018, a credit shall be allowed
38 against the tax imposed by the Kansas income tax act on the Kansas
39 taxable income of an individual income taxpayer who purchased food in
40 this state, had federal adjusted gross income for the tax year that did not
41 exceed \$30,615, and meets the qualifications in subsections (b) and (c).

42 (b) During the entire tax year a taxpayer filing single, head of
43 household, or married filing separate, or the taxpayer and the taxpayer's

1 spouse if married filing jointly, must be domiciled in this state. For
2 purposes of this credit, "domicile" shall not include any correctional
3 facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
4 thereto, any juvenile correctional facility, or portion thereof, as defined in
5 K.S.A. 38-2302, and amendments thereto, any correctional facility of the
6 federal bureau of prisons located in the state of Kansas, or any city or
7 county jail facility in the state of Kansas.

8 (c) During the entire tax year a taxpayer filing single, head of
9 household, or married filing separate, or the taxpayer or the taxpayer's
10 spouse if married filing jointly, must be either: (1) A person having a
11 disability, regardless of age; (2) a person without a disability who is 55
12 years of age or older; or (3) a person without a disability who is younger
13 than 55 years of age who claims an exemption for one or more dependent
14 children under 18 years of age.

15 (d) The amount of the credit shall be \$125 for every exemption
16 claimed on the taxpayer's federal income tax return, except that no
17 exemption shall be counted for a dependent unless the dependent is a child
18 under 18 years of age.

19 (e) The credit allowed under this provision shall be applied against
20 the taxpayer's income tax liability after all other credits allowed under the
21 income tax act. It shall not be refundable and may not be carried forward.

22 (f) (1) Every taxpayer claiming the credit shall supply the division in
23 support of a claim, reasonable proof of domicile, age and disability.

24 (2) A claim alleging disability shall be supported by a report of the
25 examining physician of the claimant with a statement or certificate that the
26 applicant has a disability as defined in subsection (g).

27 (g) "Disability" means: (1) Inability to engage in any substantial
28 gainful activity by reason of any medically determinable physical or
29 mental impairment which can be expected to result in death or has lasted
30 or can be expected to last for a continuous period of not less than 12
31 months, and an individual shall be determined to be under a disability only
32 if the physical or mental impairment or impairments are of such severity
33 that the individual is not only unable to do the individual's previous work
34 but cannot, considering age, education and work experience, engage in any
35 other kind of substantial gainful work which exists in the national
36 economy, regardless of whether such work exists in the immediate area in
37 which the individual lives or whether a specific job vacancy exists for the
38 individual, or whether the individual would be hired if application was
39 made for work. For purposes of this paragraph, with respect to any
40 individual, "work which exists in the national economy" means work
41 which exists in significant numbers either in the region where the
42 individual lives or in several regions of the country; and "physical or
43 mental impairment" means an impairment that results from anatomical,

1 physiological or psychological abnormalities which are demonstrable by
2 medically acceptable clinical and laboratory diagnostic techniques; or

3 (2) blindness and inability by reason of blindness to engage in
4 substantial gainful activity requiring skills or abilities comparable to those
5 of any gainful activity in which the individual has previously engaged with
6 some regularity and over a substantial period of time. For purposes of this
7 paragraph, "blindness" means central visual acuity of $^{20}/_{200}$ or less in the
8 better eye with the use of a correcting lens. An eye which is accompanied
9 by a limitation in the fields of vision such that the widest diameter of the
10 visual field subtends an angle no greater than 20 degrees shall be
11 considered for the purpose of this paragraph as having a central visual
12 acuity of $^{20}/_{200}$ or less.

13 (h) The secretary of revenue is hereby authorized to adopt such rules
14 and regulations as may be necessary for the administration of the
15 provisions of this section.

16 Sec. 11. K.S.A. 2016 Supp. 79-32,271 is hereby repealed.

17 Sec. 12. This act shall take effect and be in force from and after its
18 publication in the statute book.