

SENATE BILL No. 213

By Committee on Assessment and Taxation

2-23

1 AN ACT concerning income taxation; relating to Kansas adjusted gross
2 income; providing addition modification related to retirement
3 contributions by certain employees of the state board of regents;
4 amending K.S.A. 2016 Supp. 79-32,117 and repealing the existing
5 section.
6

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

8 Section 1. K.S.A. 2016 Supp. 79-32,117 is hereby amended to read as
9 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
10 means such individual's federal adjusted gross income for the taxable year,
11 with the modifications specified in this section.

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

13 (i) Interest income less any related expenses directly incurred in the
14 purchase of state or political subdivision obligations, to the extent that the
15 same is not included in federal adjusted gross income, on obligations of
16 any state or political subdivision thereof, but to the extent that interest
17 income on obligations of this state or a political subdivision thereof issued
18 prior to January 1, 1988, is specifically exempt from income tax under the
19 laws of this state authorizing the issuance of such obligations, it shall be
20 excluded from computation of Kansas adjusted gross income whether or
21 not included in federal adjusted gross income. Interest income on
22 obligations of this state or a political subdivision thereof issued after
23 December 31, 1987, shall be excluded from computation of Kansas
24 adjusted gross income whether or not included in federal adjusted gross
25 income.

26 (ii) Taxes on or measured by income or fees or payments in lieu of
27 income taxes imposed by this state or any other taxing jurisdiction to the
28 extent deductible in determining federal adjusted gross income and not
29 credited against federal income tax. This paragraph shall not apply to taxes
30 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
31 amendments thereto, for privilege tax year 1995, and all such years
32 thereafter.

33 (iii) The federal net operating loss deduction.

34 (iv) Federal income tax refunds received by the taxpayer if the
35 deduction of the taxes being refunded resulted in a tax benefit for Kansas
36 income tax purposes during a prior taxable year. Such refunds shall be

1 included in income in the year actually received regardless of the method
2 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
3 be deemed to have resulted if the amount of the tax had been deducted in
4 determining income subject to a Kansas income tax for a prior year
5 regardless of the rate of taxation applied in such prior year to the Kansas
6 taxable income, but only that portion of the refund shall be included as
7 bears the same proportion to the total refund received as the federal taxes
8 deducted in the year to which such refund is attributable bears to the total
9 federal income taxes paid for such year. For purposes of the foregoing
10 sentence, federal taxes shall be considered to have been deducted only to
11 the extent such deduction does not reduce Kansas taxable income below
12 zero.

13 (v) The amount of any depreciation deduction or business expense
14 deduction claimed on the taxpayer's federal income tax return for any
15 capital expenditure in making any building or facility accessible to the
16 handicapped, for which expenditure the taxpayer claimed the credit
17 allowed by K.S.A. 79-32,177, and amendments thereto.

18 (vi) Any amount of designated employee contributions picked up by
19 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
20 and amendments thereto, *and commencing in tax year 2017, and all tax*
21 *years thereafter, any amount of member contributions made on a pretax*
22 *basis pursuant to K.S.A. 74-4925, and amendments thereto.*

23 (vii) The amount of any charitable contribution made to the extent the
24 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
25 32,196, and amendments thereto.

26 (viii) The amount of any costs incurred for improvements to a swine
27 facility, claimed for deduction in determining federal adjusted gross
28 income, to the extent the same is claimed as the basis for any credit
29 allowed pursuant to K.S.A. 2016 Supp. 79-32,204, and amendments
30 thereto.

31 (ix) The amount of any ad valorem taxes and assessments paid and
32 the amount of any costs incurred for habitat management or construction
33 and maintenance of improvements on real property, claimed for deduction
34 in determining federal adjusted gross income, to the extent the same is
35 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
36 and amendments thereto.

37 (x) Amounts received as nonqualified withdrawals, as defined by
38 K.S.A. 2016 Supp. 75-643, and amendments thereto, if, at the time of
39 contribution to a family postsecondary education savings account, such
40 amounts were subtracted from the federal adjusted gross income pursuant
41 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts
42 are not already included in the federal adjusted gross income.

43 (xi) The amount of any contribution made to the same extent the

1 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016
2 Supp. 74-50,154, and amendments thereto.

3 (xii) For taxable years commencing after December 31, 2004,
4 amounts received as withdrawals not in accordance with the provisions of
5 K.S.A. 2016 Supp. 74-50,204, and amendments thereto, if, at the time of
6 contribution to an individual development account, such amounts were
7 subtracted from the federal adjusted gross income pursuant to subsection
8 (c)(xiii), or if such amounts are not already included in the federal adjusted
9 gross income.

10 (xiii) The amount of any expenditures claimed for deduction in
11 determining federal adjusted gross income, to the extent the same is
12 claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp.
13 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

14 (xiv) The amount of any amortization deduction claimed in
15 determining federal adjusted gross income to the extent the same is
16 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,221, and
17 amendments thereto.

18 (xv) The amount of any expenditures claimed for deduction in
19 determining federal adjusted gross income, to the extent the same is
20 claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp.
21 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
22 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
23 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

24 (xvi) The amount of any amortization deduction claimed in
25 determining federal adjusted gross income to the extent the same is
26 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,227, 79-
27 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
28 thereto.

29 (xvii) The amount of any amortization deduction claimed in
30 determining federal adjusted gross income to the extent the same is
31 claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,256, and
32 amendments thereto.

33 (xviii) For taxable years commencing after December 31, 2006, the
34 amount of any ad valorem or property taxes and assessments paid to a state
35 other than Kansas or local government located in a state other than Kansas
36 by a taxpayer who resides in a state other than Kansas, when the law of
37 such state does not allow a resident of Kansas who earns income in such
38 other state to claim a deduction for ad valorem or property taxes or
39 assessments paid to a political subdivision of the state of Kansas in
40 determining taxable income for income tax purposes in such other state, to
41 the extent that such taxes and assessments are claimed as an itemized
42 deduction for federal income tax purposes.

43 (xix) For all taxable years beginning after December 31, 2012, the

1 amount of any: (1) Loss from business as determined under the federal
2 internal revenue code and reported from schedule C and on line 12 of the
3 taxpayer's form 1040 federal individual income tax return; (2) loss from
4 rental real estate, royalties, partnerships, S corporations, except those with
5 wholly owned subsidiaries subject to the Kansas privilege tax, estates,
6 trusts, residual interest in real estate mortgage investment conduits and net
7 farm rental as determined under the federal internal revenue code and
8 reported from schedule E and on line 17 of the taxpayer's form 1040
9 federal individual income tax return; and (3) farm loss as determined under
10 the federal internal revenue code and reported from schedule F and on line
11 18 of the taxpayer's form 1040 federal income tax return; all to the extent
12 deducted or subtracted in determining the taxpayer's federal adjusted gross
13 income. For purposes of this subsection, references to the federal form
14 1040 and federal schedule C, schedule E, and schedule F, shall be to such
15 form and schedules as they existed for tax year 2011, and as revised
16 thereafter by the internal revenue service.

17 (xx) For all taxable years beginning after December 31, 2012, the
18 amount of any deduction for self-employment taxes under section 164(f)
19 of the federal internal revenue code as in effect on January 1, 2012, and
20 amendments thereto, in determining the federal adjusted gross income of
21 an individual taxpayer, to the extent the deduction is attributable to income
22 reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's
23 form 1040 federal income tax return.

24 (xxi) For all taxable years beginning after December 31, 2012, the
25 amount of any deduction for pension, profit sharing, and annuity plans of
26 self-employed individuals under section 62(a)(6) of the federal internal
27 revenue code as in effect on January 1, 2012, and amendments thereto, in
28 determining the federal adjusted gross income of an individual taxpayer.

29 (xxii) For all taxable years beginning after December 31, 2012, the
30 amount of any deduction for health insurance under section 162(l) of the
31 federal internal revenue code as in effect on January 1, 2012, and
32 amendments thereto, in determining the federal adjusted gross income of
33 an individual taxpayer.

34 (xxiii) For all taxable years beginning after December 31, 2012, the
35 amount of any deduction for domestic production activities under section
36 199 of the federal internal revenue code as in effect on January 1, 2012,
37 and amendments thereto, in determining the federal adjusted gross income
38 of an individual taxpayer.

39 (xxiv) For taxable years commencing after December 31, 2013, that
40 portion of the amount of any expenditure deduction claimed in
41 determining federal adjusted gross income for expenses paid for medical
42 care of the taxpayer or the taxpayer's spouse or dependents when such
43 expenses were paid or incurred for an abortion, or for a health benefit plan,

1 as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, for the
2 purchase of an optional rider for coverage of abortion in accordance with
3 K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that
4 such taxes and assessments are claimed as an itemized deduction for
5 federal income tax purposes.

6 (xxv) For taxable years commencing after December 31, 2013, that
7 portion of the amount of any expenditure deduction claimed in
8 determining federal adjusted gross income for expenses paid by a taxpayer
9 for health care when such expenses were paid or incurred for abortion
10 coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731,
11 and amendments thereto, when such expenses were paid or incurred for
12 abortion coverage or amounts contributed to health savings accounts for
13 such taxpayer's employees for the purchase of an optional rider for
14 coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and
15 amendments thereto, to the extent that such taxes and assessments are
16 claimed as a deduction for federal income tax purposes.

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

18 (i) Interest or dividend income on obligations or securities of any
19 authority, commission or instrumentality of the United States and its
20 possessions less any related expenses directly incurred in the purchase of
21 such obligations or securities, to the extent included in federal adjusted
22 gross income but exempt from state income taxes under the laws of the
23 United States.

24 (ii) Any amounts received which are included in federal adjusted
25 gross income but which are specifically exempt from Kansas income
26 taxation under the laws of the state of Kansas.

27 (iii) The portion of any gain or loss from the sale or other disposition
28 of property having a higher adjusted basis for Kansas income tax purposes
29 than for federal income tax purposes on the date such property was sold or
30 disposed of in a transaction in which gain or loss was recognized for
31 purposes of federal income tax that does not exceed such difference in
32 basis, but if a gain is considered a long-term capital gain for federal
33 income tax purposes, the modification shall be limited to that portion of
34 such gain which is included in federal adjusted gross income.

35 (iv) The amount necessary to prevent the taxation under this act of
36 any annuity or other amount of income or gain which was properly
37 included in income or gain and was taxed under the laws of this state for a
38 taxable year prior to the effective date of this act, as amended, to the
39 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
40 the right to receive the income or gain, or to a trust or estate from which
41 the taxpayer received the income or gain.

42 (v) The amount of any refund or credit for overpayment of taxes on
43 or measured by income or fees or payments in lieu of income taxes

1 imposed by this state, or any taxing jurisdiction, to the extent included in
2 gross income for federal income tax purposes.

3 (vi) Accumulation distributions received by a taxpayer as a
4 beneficiary of a trust to the extent that the same are included in federal
5 adjusted gross income.

6 (vii) Amounts received as annuities under the federal civil service
7 retirement system from the civil service retirement and disability fund and
8 other amounts received as retirement benefits in whatever form which
9 were earned for being employed by the federal government or for service
10 in the armed forces of the United States.

11 (viii) Amounts received by retired railroad employees as a
12 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
13 228c (a)(1) et seq.

14 (ix) Amounts received by retired employees of a city and by retired
15 employees of any board of such city as retirement allowances pursuant to
16 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
17 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
18 amendments thereto.

19 (x) For taxable years beginning after December 31, 1976, the amount
20 of the federal tentative jobs tax credit disallowance under the provisions of
21 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
22 amount of the targeted jobs tax credit and work incentive credit
23 disallowances under 26 U.S.C. § 280 C.

24 (xi) For taxable years beginning after December 31, 1986, dividend
25 income on stock issued by Kansas venture capital, inc.

26 (xii) For taxable years beginning after December 31, 1989, amounts
27 received by retired employees of a board of public utilities as pension and
28 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
29 and amendments thereto.

30 (xiii) For taxable years beginning after December 31, 2004, amounts
31 contributed to and the amount of income earned on contributions deposited
32 to an individual development account under K.S.A. 2016 Supp. 74-50,201
33 et seq., and amendments thereto.

34 (xiv) For all taxable years commencing after December 31, 1996, that
35 portion of any income of a bank organized under the laws of this state or
36 any other state, a national banking association organized under the laws of
37 the United States, an association organized under the savings and loan
38 code of this state or any other state, or a federal savings association
39 organized under the laws of the United States, for which an election as an
40 S corporation under subchapter S of the federal internal revenue code is in
41 effect, which accrues to the taxpayer who is a stockholder of such
42 corporation and which is not distributed to the stockholders as dividends of
43 the corporation. For all taxable years beginning after December 31, 2012,

1 the amount of modification under this subsection shall exclude the portion
2 of income or loss reported on schedule E and included on line 17 of the
3 taxpayer's form 1040 federal individual income tax return.

4 (xv) For all taxable years beginning after December 31, 2006,
5 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
6 joint return, for each designated beneficiary which are contributed to a
7 family postsecondary education savings account established under the
8 Kansas postsecondary education savings program or a qualified tuition
9 program established and maintained by another state or agency or
10 instrumentality thereof pursuant to section 529 of the internal revenue
11 code of 1986, as amended, for the purpose of paying the qualified higher
12 education expenses of a designated beneficiary at an institution of
13 postsecondary education. The terms and phrases used in this paragraph
14 shall have the meaning respectively ascribed thereto by the provisions of
15 K.S.A. 2016 Supp. 75-643, and amendments thereto, and the provisions of
16 such section are hereby incorporated by reference for all purposes thereof.

17 (xvi) For all taxable years beginning after December 31, 2004,
18 amounts received by taxpayers who are or were members of the armed
19 forces of the United States, including service in the Kansas army and air
20 national guard, as a recruitment, sign up or retention bonus received by
21 such taxpayer as an incentive to join, enlist or remain in the armed services
22 of the United States, including service in the Kansas army and air national
23 guard, and amounts received for repayment of educational or student loans
24 incurred by or obligated to such taxpayer and received by such taxpayer as
25 a result of such taxpayer's service in the armed forces of the United States,
26 including service in the Kansas army and air national guard.

27 (xvii) For all taxable years beginning after December 31, 2004,
28 amounts received by taxpayers who are eligible members of the Kansas
29 army and air national guard as a reimbursement pursuant to K.S.A. 48-
30 281, and amendments thereto, and amounts received for death benefits
31 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
32 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
33 amendments thereto, to the extent that such death benefits are included in
34 federal adjusted gross income of the taxpayer.

35 (xviii) For the taxable year beginning after December 31, 2006,
36 amounts received as benefits under the federal social security act which
37 are included in federal adjusted gross income of a taxpayer with federal
38 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
39 status is single, head of household, married filing separate or married filing
40 jointly; and for all taxable years beginning after December 31, 2007,
41 amounts received as benefits under the federal social security act which
42 are included in federal adjusted gross income of a taxpayer with federal
43 adjusted gross income of \$75,000 or less, whether such taxpayer's filing

1 status is single, head of household, married filing separate or married filing
2 jointly.

3 (xix) Amounts received by retired employees of Washburn university
4 as retirement and pension benefits under the university's retirement plan.

5 (xx) For all taxable years beginning after December 31, 2012, the
6 amount of any: (1) Net profit from business as determined under the
7 federal internal revenue code and reported from schedule C and on line 12
8 of the taxpayer's form 1040 federal individual income tax return; (2) net
9 income, not including guaranteed payments as defined in section 707(c) of
10 the federal internal revenue code and as reported to the taxpayer from
11 federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the
12 taxpayer from federal schedule K-1, (form 1065) in box 4, from rental real
13 estate, royalties, partnerships, S corporations, estates, trusts, residual
14 interest in real estate mortgage investment conduits and net farm rental as
15 determined under the federal internal revenue code and reported from
16 schedule E and on line 17 of the taxpayer's form 1040 federal individual
17 income tax return; and (3) net farm profit as determined under the federal
18 internal revenue code and reported from schedule F and on line 18 of the
19 taxpayer's form 1040 federal income tax return; all to the extent included
20 in the taxpayer's federal adjusted gross income. For purposes of this
21 subsection, references to the federal form 1040 and federal schedule C,
22 schedule E, and schedule F, shall be to such form and schedules as they
23 existed for tax year 2011 and as revised thereafter by the internal revenue
24 service.

25 (xxi) For all taxable years beginning after December 31, 2013,
26 amounts equal to the unreimbursed travel, lodging and medical
27 expenditures directly incurred by a taxpayer while living, or a dependent
28 of the taxpayer while living, for the donation of one or more human organs
29 of the taxpayer, or a dependent of the taxpayer, to another person for
30 human organ transplantation. The expenses may be claimed as a
31 subtraction modification provided for in this section to the extent the
32 expenses are not already subtracted from the taxpayer's federal adjusted
33 gross income. In no circumstances shall the subtraction modification
34 provided for in this section for any individual, or a dependent, exceed
35 \$5,000. As used in this section, "human organ" means all or part of a liver,
36 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
37 paragraph shall take effect on the day the secretary of revenue certifies to
38 the director of the budget that the cost for the department of revenue of
39 modifications to the automated tax system for the purpose of
40 implementing this paragraph will not exceed \$20,000.

41 (xxii) For all taxable years beginning after December 31, 2012, the
42 amount of net gain from the sale of: (1) Cattle and horses, regardless of
43 age, held by the taxpayer for draft, breeding, dairy or sporting purposes,

1 and held by such taxpayer for 24 months or more from the date of
2 acquisition; and (2) other livestock, regardless of age, held by the taxpayer
3 for draft, breeding, dairy or sporting purposes, and held by such taxpayer
4 for 12 months or more from the date of acquisition. The subtraction from
5 federal adjusted gross income shall be limited to the amount of the
6 additions recognized under the provisions of subsection (b)(xix)
7 attributable to the business in which the livestock sold had been used. As
8 used in this paragraph, the term "livestock" shall not include poultry.

9 (xxiii) For all taxable years beginning after December 31, 2012,
10 amounts received under either the Overland Park, Kansas police
11 department retirement plan or the Overland Park, Kansas fire department
12 retirement plan, both as established by the city of Overland Park, pursuant
13 to the city's home rule authority.

14 (xxiv) For all taxable years beginning after December 31, 2013, the
15 net gain from the sale from Christmas trees grown in Kansas and held by
16 the taxpayer for six years or more.

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

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

26 Sec. 2. K.S.A. 2016 Supp. 79-32,117 is hereby repealed.

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