

Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465

HB 2465 enacts the Adoption Savings Account Act (Act); establishes modifications to the Kansas adjusted gross income (KAGI) of an individual for contributions to an adoption savings account (account); amends the adoption tax credit; enacts the Pregnancy Resource Act providing a tax credit for certain contributions to certain pregnancy resource centers and residential maternity facilities; and enacts a sales tax exemption for pregnancy resource centers and residential maternity facilities.

Adoption Savings Accounts

The bill allows an individual, on and after July 1, 2025, to open an account with a financial institution and designate the entirety of the account as an account that will be used to pay or reimburse a designated beneficiary's eligible expenses for the adoption of a child. The bill allows an individual to be the account holder of multiple accounts or jointly own an account, provided the individual files a joint income tax return.

The bill requires the account holder, by April 15 of the year after the taxable year in which the account holder established the account, to designate a prospective adoptive parent as the beneficiary of the account. The bill does not prohibit an account holder from designating the account holder as the designated beneficiary. An account holder is allowed to change the designated beneficiary at any time, but no account can have more than one designated beneficiary at one time. An individual can be the designated beneficiary of more than one account if the accounts are held by separate account holders, but no account holder is authorized to designate the same designated beneficiary on multiple accounts held by the same account holder, except when opening certificates of deposit.

The bill applies the following limits to an account established pursuant to the Act:

- Maximum contribution to an account in any tax year:
 - \$6,000 for an individual; and
 - \$12,000 for a married couple filing a joint return;
- Maximum amount of all contributions to an account in all tax years:
 - \$48,000 for an individual; and
 - \$96,000 for a married couple filing a joint return; and
- The maximum total allowable amount in an account is \$100,000.

The bill allows moneys to remain in an account for an unlimited duration without the interest or income being subject to recapture or penalty. Further, the bill prohibits the account

holder from using moneys in an account to pay expenses for administering the account, except for a service fee that may be deducted by a financial institution. In addition, the account holder is responsible for maintaining documentation for the account and for eligible expenses related to the designated beneficiary's purchase or construction of a primary residence.

Account Moneys

The bill allows the moneys in an account to be used for the following:

- Eligible expenses related to a designated beneficiary's adoption of a child, which includes:
 - Reasonable fees for legal and other professional services rendered in connection with an adoption or placement for an adoption;
 - Reasonable fees of a licensed child-placing agency;
 - Actual and necessary expenses incidental to the adoption or placement proceeding;
 - Actual medical expenses of the mother attributable to the pregnancy or birth;
 - Actual medical expenses of the child; and
 - Reasonable living expenses of the mother that are incurred during or as a result of the pregnancy;
- Eligible expenses that would have qualified pursuant to this section, in cases in which the adoption was not completed;
- Transfers to another newly created account;
- Investment in certificates of deposit opened and designated as adoption savings accounts; and
- Payment of service fees assessed by the financial institution.

The bill subjects moneys withdrawn from an account to recapture by the Secretary of Revenue (Secretary) in the tax year in which they were withdrawn if:

- The time of withdrawal is less than a year since the first deposit in the account; or
- The moneys are used for any purpose other than the expenses or transactions authorized pursuant to the uses outlined in this section.

Moneys subject to recapture are an amount equal to the amount withdrawn from an account and would be added to the KAGI of the account holder or of the designated beneficiary,

if the account holder is deceased. If any moneys are subject to recapture, the account holder is required to pay a penalty in the following amounts:

- If the withdrawal of moneys occurred 10 or fewer years after the first deposit of the account, 5.0 percent of the amount subject to recapture; or
- If the withdrawal of moneys occurred more than 10 years after the first deposit in the account, 10.0 percent of the amount subject to recapture.

The penalties do not apply if the withdrawn moneys are from an account in which the designated beneficiary is deceased and the account holder did not designate a new designated beneficiary during the same tax year.

If the account holder or account holders are deceased and the account does not have a surviving transfer-on-death beneficiary, the moneys in the account resulting from contributions or income earned from assets in the account are subject to recapture in the tax year of the death or deaths, but no penalty will be assessed.

Reports

The bill requires the Secretary to establish forms for an account holder to annually report information about any accounts held by the account holder. An account holder is required to annually file relevant supporting information with the account holder's state income tax return.

The bill requires the Secretary to adopt rules and regulations necessary to administer the Act prior to July 1, 2025.

Financial Institutions

The bill states financial institutions are not required to:

- Designate an account as an adoption savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems in any way;
- Track the use of moneys withdrawn from an account; or
- Report any information to the Department of Revenue (Department) or any other governmental agency that is not otherwise required to be reported by law.

The bill states financial institutions are not responsible or liable for:

- Determining or ensuring an account holder is eligible for a KAGI modification;
- Determining or ensuring moneys in the account are used for eligible expenses; or
- Reporting or remitting taxes or penalties related to the use of account moneys.

State Treasurer Marketing

The bill grants the State Treasurer non-exclusive authority to market the program to account holders and financial institutions throughout the state and report on such marketing in the Office of the State Treasurer's annual report.

Modifications to Kansas Adjusted Gross Income of an Individual

The bill adds, for purposes of determining the KAGI of an individual, to the federal adjusted gross income for all taxable years beginning after December 31, 2024:

- The amount of any contributions to, or earnings from, an account if:
 - Distributions from the account were not used to pay for expenses or transactions authorized by the bill; or
 - Were not held for the minimum length of time pursuant to the bill; and
- Contributions to, or earnings from, the account, including any amount resulting from the account holder not designating a surviving transfer-on-death beneficiary pursuant to the bill.

The bill also creates a subtraction modification from the federal adjusted gross income for all taxable years beginning after December 31, 2024, in the following amounts:

- The amount contributed to an account in an amount not to exceed \$6,000 for an individual or \$12,000 for a married couple filing a joint return; or
- Amounts received as income earned from assets in an account.

Adoption Tax Credit

The bill increases, beginning in tax year 2024, the adoption tax credit to 100.0 percent of the federal adoption tax credit. [Note: Prior law provided for a tax credit amount of 25.0 percent of the federal adoption tax credit and additional amounts of 25.0 percent if the child adopted was a Kansas resident prior to the adoption and 25.0 percent if the child was a Kansas resident prior to the adoption and is a child with special needs, as defined in federal law.]

Pregnancy Resource Act

The bill enacts the Pregnancy Resource Act, which creates a tax credit for contributions to non-profit pregnancy centers or residential maternity centers exempt from federal income tax pursuant to Section 501(c)(3) of the federal Internal Revenue Code, provided that such centers:

- Maintain a dedicated phone number for clients;

- Maintain a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offer services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirth; and
- Utilize health care providers, as licensed, registered, or certified by the Board of Healing Arts, Board of Nursing, or Behavioral Sciences Regulatory Board, in the performance of any available medical procedures.

The bill allows the credit to be claimed against income, privilege, or premium tax liability beginning in tax year 2024, in an amount equal to 70.0 percent of voluntary contributions made to such centers, and carried forward for up to five future tax years following the tax year in which the eligible contribution was made. The bill prohibits contributions from being payment for services rendered.

The aggregate amount of credits claimed is limited to \$10.0 million per tax year, with no more than \$5.0 million per tax year in credits claimed for contributions to any single organization.

Administration of Credits

Taxpayers claiming the credit are required to provide the Department with the amount of the contribution and the name of the organization to which it was made. Prior to claiming credits, taxpayers are required to make application on forms provided by the Department certifying the dollar amount of the contribution made or to be made within the calendar year.

The Department is required to allocate credits within 30 days after the receipt of an application. If the full credit amount cannot be allocated due to the annual aggregate limit having been reached, the Department is required to notify applicants within 30 days of any amount to be allocated. The bill requires prospective contributions to be made within 90 days of the allocation of a credit, which are otherwise to be canceled and reallocated.

Eligible charitable organizations are required to provide the Department with a written certification, made under penalty of perjury, of eligibility in regard to the requirements specified by the bill, along with any other information the Department requires to administer its provisions. The Department is required to review each such certification and make a determination of eligibility, and to make publicly available a list of eligible organizations. The Department is authorized to periodically request recertification from organizations.

Credits claimed by S-corporations, partnerships, limited liability companies, or other pass-through entities are to be distributed proportionally among shareholders, partners, or members according to ownership or as mutually agreed to by the parties.

Sales Tax Exemption for Pregnancy Resource Centers and Residential Maternity Facilities

The bill creates a sales tax exemption for purchases by a pregnancy resource center or residential maternity facility, which would be defined as a Kansas non-profit organization exempt from the federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code that:

- Maintains a dedicated phone number for clients;
- Maintains a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offers services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirth; and
- Utilizes healthcare providers, as licensed, registered, or certified by the Board of Healing Arts, Board of Nursing, or Behavioral Sciences Regulatory Board, in the performance of any available medical procedures.