



KANSAS DEPARTMENT OF REVENUE

2011 Legislative Enactments & Changes

(Rev. 8/25/11)

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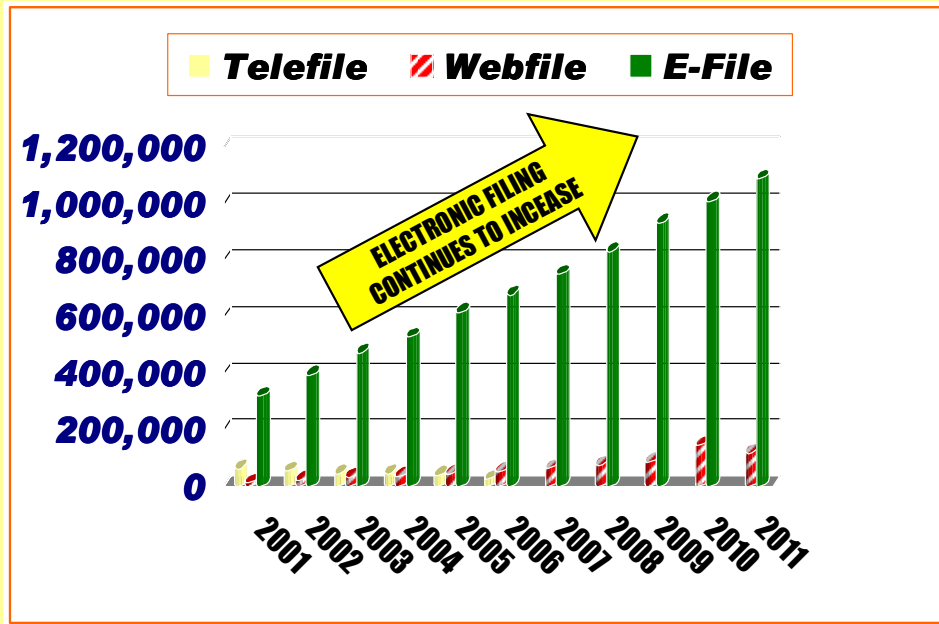
For a PIN number to WebFile:

(800) 525-3901

Forms Order Line:

(785)-296-4937

ELECTRONIC FILING



Income Tax Electronically filed in 2011

E-file 1,086,651

WebFile 116,265

TOTAL 1,202,916, up 5%

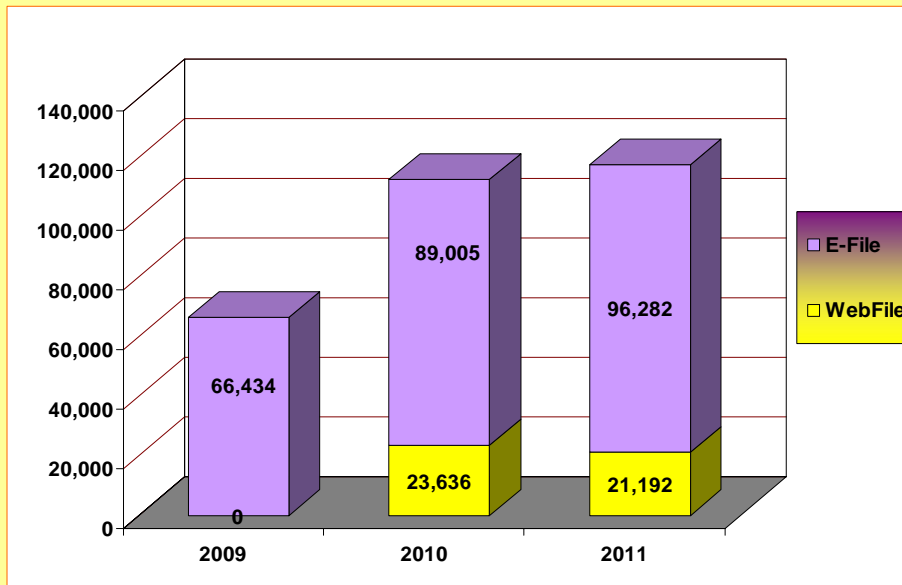
Corporate Tax Electronically filed 2011

E-file 38,749, up 23%

KDOR will be capturing the dependent information on the K-40. The data captured will most likely be pulled from what is entered on the federal return, but we will also be asking for date-of-birth (DOB). The IRS does not ask for DOB therefore a separate screen or entry may be provided to capture the new REQUIRED dependent data on the K-40 return.

We are working with TaxWise to correct the issue of sending unlinked KS returns. However, it still may be possible for income tax preparation volunteers to send KS returns by themselves - and therefore the volunteers should always wait for federal acceptance before transmitting the KS return(s).

ELECTRONIC HOMESTEAD FILING



Homestead :

WebFile: 21,192

IRS E-File: 96,282

YTD Total Electronic – Homestead : 117,474 up 5%

INCOME / FOOD SALES TAX

SOCIAL SECURITY NUMBER REQUIRED FOR DEPENDENTS SB 193

- **SSN for dependents is required in order to claim most Kansas tax credits.**
- **SSN for dependents is required in order to claim a Food Sales Tax refund, Credit for Dependent Care and the EIC.**
- **Does not apply to credit for taxes paid to another state.**
- **Effective starting tax years 2011 and after.**
- **SSN information is captured on Kansas K-40. Kansas also will also be asking for dependent date-of-birth.**

SB 193

New Section 1. Except as otherwise provided, no credit provided under the Kansas income tax act, and amendments thereto, shall be allowed any individual who fails to provide a valid social security number issued to such individual, the individual's spouse and dependents of the individual for purposes of section 205 (c)(2)(A) of the social security act on such individual's Kansas income tax return as the identifying number for such individual for tax purposes. The provisions of this section shall not apply to the credit provided by K.S.A. 79-32,111, and amendments thereto.

Sec. 2.K.S.A. 2010 Supp. 79-3221 is hereby amended to read as follows: 79-3221. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. **Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security number issued to an individual, the individual's spouse, and all dependents of such individual for purposes of section 205 (c)(2)(A) of the social security act shall be used as the identifying number and included on the return when filing such return.**

Sec. 3.K.S.A. 79-32,111a is hereby amended to read as follows: 79-32,111a. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 25% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to 26 U.S.C. § 21 for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability. (b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law. (c) **No credit provided under this section shall be allowed any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.** **New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child.**

New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child. (b) The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto. **Sec. 5.K.S.A. 79-3637** is hereby amended to read as follows: 79-3637. Every claimant for the refund of taxes under the provisions of K.S.A. 79-3620 and 79-3632 to 79-3639, and amendments thereto, shall supply to the division in support of a claim, **a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of subsection (c)(1), (c)(2) or (c)(3) of K.S.A. 79-3633, and amendments thereto,** reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (f) of K.S.A. 79-3633, and amendments thereto.

RURAL OPPORTUNITY ZONE (ROZ)

SB 198 for TY 2012

- **Kansas Income Tax Credit (KDOR)** For tax years 2012-2016, resident taxpayers would receive a full credit against their Kansas Income Tax liability provided they have been:
 - Domiciled outside Kansas for five or more years immediately prior to establishing domicile in a ROZ on or after July 1, 2011;
 - Had Kansas source income of less than \$10,000 for **EACH** of the 5 years immediately prior to establishing residency in a ROZ; and
 - Were domiciled in a ROZ during the **ENTIRE** year for which the credit is to be claimed.
 - Credit may be claimed **only** between tax years 2012 to 2016. Credit is **NOT retroactive**. The more years the taxpayer is domiciled in Kansas between 2012 and 2016, the more years the taxpayer can claim the credit.
- **Assistance with Student Loan Repayment (KDOC)**
 - A ROZ county would have to pass a resolution to participate in the program.
 - Kansas will offer to pay 20% of the outstanding loan balance up to \$3,000 per year maximum benefit \$15,000. May be graduates of an in-state or out-of-state institution. *Contact the Kansas Department of Commerce for more details.*

SENATE BILL No. 198

AN ACT concerning economic development; creating rural opportunity zones; relating to income taxation, credit for certain taxpayers, amount and requirements; student loan repayment program. *Be it enacted by the Legislature of the State of Kansas:*

Section 1. As used in sections 1 through 3, and amendments thereto: (a) "Institution of higher education" means a public or private nonprofit educational institution that meets the requirements of participation in programs under the higher education act of 1965, as amended, 34 C.F.R. 600;

(b) "rural opportunity zone" means Barber, Chautauqua, Cheyenne, Clark, Cloud, Comanche, Decatur, Edwards, Elk, Gove, Graham, Greeley, Greenwood, Hamilton, Harper, Hodgeman, Jewell, Kearney, Kingman, Kiowa, Lane, Lincoln, Logan, Marion, Mitchell, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Republic, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Trego, Thomas, Wallace, Washington, Wichita, Wilson or Woodson counties;

(c) "secretary" means the secretary of commerce; and

(d) "student loan" means a federal student loan program supported by the federal government and a nonfederal loan issued by a lender such as a bank, savings and loan or credit union to help students and parents pay school expenses for attendance at an institution of higher education.

Sec. 2. (a) For taxable years commencing after December 31, 2011, and before January 1, 2017, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to the resident individual's income tax liability under the provisions of the Kansas income tax act, when the resident individual:

(1) Establishes domicile in a rural opportunity zone on or after July 1, 2011, and prior to January 1, 2016, and was domiciled outside this state for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state;

(2) had Kansas source income less than \$10,000 in any one year for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state; and

(3) was domiciled in a rural opportunity zone during the entire taxable year for which such credit is claimed.

(b) A resident individual may claim the credit authorized by this section for not more than five consecutive years following establishment of their domicile in a rural opportunity zone.

(c) The maximum amount of any refund under this section shall be equal to the amount withheld from the resident individual's wages or payments other than wages pursuant to K.S.A. 79-3294 et seq., and amendments thereto, or paid by the resident individual as estimated taxes pursuant to K.S.A. 79-32,101 et seq., and amendments thereto.

(d) No credit shall be allowed under this section if:

(1) The resident individual's income tax return on which the credit is claimed is not timely filed, including any extension; or

(2) the resident individual is delinquent in filing any return with, or paying any tax due to, the state of Kansas or any political subdivision thereof.

(a) This section shall be part of and supplemental to the Kansas income tax act.

Sec. 3. (a) Any county that has been designated a rural opportunity zone pursuant to section 1, and amendments thereto, may participate in the program provided in this section by authorizing such participation by the county commission of such county through a duly enacted written resolution. Such county shall provide a certified copy of such resolution to the secretary of commerce on or before January 1, 2012, for calendar year 2012, or on or before January 1 for each calendar year thereafter, in which a county chooses to participate. Such resolution shall obligate the county to participate in the program provided by this section for a period of five years, and shall be irrevocable. Such resolution shall specify the maximum amount of outstanding student loan balance for each resident individual to be repaid as provided in subsection (b), except the maximum amount of such balance shall be \$15,000.

(b) If a county submits a resolution as provided in subsection (a), under the program provided in this section, subject to subsection (d), the state of Kansas and such county which chooses to participate as provided in sub S section (a), shall agree to pay in equal shares the outstanding student loan balance of any resident individual who qualifies to have such individual's student loans repaid under the provisions of subsection (c) over a five-year period, except that the maximum amount of such balance shall be \$15,000. The amount of such repayment shall be equal to 20% of the outstanding student loan balance of the individual in a year over the five-year repayment period. The state of Kansas is not obligated to pay the student loan balance of any resident individual who qualifies pursuant to subsection (c) prior to the county submitting a resolution to the secretary pursuant to subsection

(a). Each such county shall certify to the secretary that such county has made the payment required by this subsection.

(c) A resident individual shall be entitled to have such individual's outstanding student loan balance paid for attendance at an institution of higher education where such resident individual earned an associate, bachelor or post-graduate degree under the provisions of this section when such resident individual establishes domicile in a county designated as a rural opportunity zone which participates in the program as provided in subsection (a), on and after the date in which such county commenced such participation, and prior to July 1, 2016. Such resident individual may enroll in this program in a form and manner prescribed by the secretary. Subject to subsection (d), once enrolled such resident individual shall be entitled to full participation in the program for five years, except that if the resident individual relocates outside the rural opportunity zone for which the resident individual first qualified, such resident individual forfeits such individual's eligibility to participate, and obligations under this section of the state and the county terminate. No resident individual shall enroll and be eligible to participate in this program after June 30, 2016.

(d) The provisions of this act shall be subject to appropriation acts. Nothing in this act guarantees a resident individual a right to the benefits provided in this section. The county may continue to participate even if the state does not participate.

(e) The secretary shall adopt rules and regulations necessary to administer the provisions of this section.

(f) On January 1, 2012, and annually thereafter until January 1, 2017, the secretary of commerce shall report to the senate committee on assessment and taxation and the house of representatives committee on taxation as to how many residents applied for the rural opportunity zone tax credit.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

INCOME TAX

INDIVIDUAL DEVELOPMENT ACCOUNT CREDIT SB 61

Effective for tax years commencing **January 1, 2011 or later** the amount of credit allowed for contributions made to an Individual Development Account Reserve Fund was increased from 50% to **75%** of contributions made.

SB 61

Section 1. K.S.A. 2010 Supp. 74-50,208 is hereby amended to read as follows: 74-50,208. (a) A program contributor shall be allowed a credit against state income tax imposed under the Kansas income tax act in an amount not to exceed **75%** of the contribution amount. If the amount of the credit allowed by this section exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer. No credit pursuant to this section shall be allowed for any contribution made by a program contributor which also qualified for a community services tax credit pursuant to the provisions of K.S.A. 79-32,195 et seq., and amendments thereto. (b) The administration of the community-based organization, with the cooperation of the participating financial institutions, shall submit the names of contributors and the total amount each contributor contributes to the individual development account reserve fund for the calendar year. The secretary of revenue shall determine the date by which such information shall be submitted to the department of revenue by the local administrator. (c) The total tax credits authorized pursuant to this section shall not exceed \$500,000 in any fiscal year. (d) **The provisions of this section shall be applicable to all taxable years commencing after December 31, 2010.**

Filed on Schedule K-68

HPIP CHANGES

INCOME TAX

- **Effective starting tax year 2011 and after**, HPIP carryforward on unexpired credits is increased from 10 to 16 years to those investments that were placed into service in taxable years commencing after December 31, 2000. SB 193
- **Effective starting tax year 2011 and after**, Recertification by the Department of Commerce every year to qualify for the HPIP program to authorize unused tax credits to be carried forward, has been changed to a requirement of the taxpayers to certify under oath that they meet the qualifications of the HPIP program. SB 196
- **Effective for tax year beginning on or after January 1, 2012**, HPIP qualified minimum investment threshold in Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte counties increased from \$50,000 to **\$1 million**. SB 196

SB 193 (e) Notwithstanding the foregoing provisions of this section, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to *article 11* of chapter 79 of the Kansas Statutes Annotated for the taxable year, **the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the 16th taxable year succeeding the taxable year in which such credit initially was claimed and no carryforward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131 and amendments thereto, and this act. In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.** (f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto. (g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental *amendments* thereto.

SB 196 (e) Notwithstanding the foregoing provisions of this section, *and except as otherwise provided in this subsection*, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. **For tax years beginning on or after January 1, 2012, for a qualified business facility investment in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte counties, such credit shall be in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a qualified business facility pursuant to this subsection in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and commences investments in a qualified business facility prior to December 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and subsection (e) of 79-32,160a, and amendments thereto, in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000. Timing modifications may be authorized at the discretion of the secretary of commerce and the secretary of revenue during the transition period.**

INCOME TAX

BUSINESS MACHINERY & EQUIPMENT TAX CREDIT CHANGES SB 196

- Tax credit for property taxes paid on business machinery & equipment is repealed and will no longer be available starting in Tax Year 2012.
- The entire credit expires whether it is refundable or being applied against tax liability.

SB 196

Sec. 11. K.S.A. 2010 Supp. 79-32,206 is hereby amended to read as follows: 79-32,206. **For all taxable years commencing after December 31, 2001, and before January 1, 2012,** there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the premiums tax upon insurance companies imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, an amount equal to 15% of the property tax levied for property tax years 2002, 2003 House Substitute for and 2004, 20% of the property tax levied for property tax years 2005 and 2006, and 25% of the property tax levied for property tax year 2007, and all such years thereafter, actually and timely paid during an income or privilege taxable year upon commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (5) or (6) of class 2, machinery and equipment classified for such purposes in subclass (2) of class 2. **For all taxable years commencing after December 31, 2004, and before January 1, 2012,** there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to 20% of the property tax levied for property tax years 2005 and 2006, and 25% of the property tax levied for property tax year 2007 and all such years thereafter, actually and timely paid during an income taxable year upon railroad machinery and equipment classified for property tax purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (3) of class 2. If the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of credit claimed pursuant to this section.

INCOME TAX

BUSINESS & JOB DEVELOPMENT CREDIT

SB 196

• **No New Business & Job Development Credits (B & J) for Metropolitan (Metro) counties**

No new B & J credits may be earned for any qualified business facility located in the metro counties (Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte) for investments placed into service in tax years commencing after December 31, 2010.

• **No New Business & Job Development Credits (B & J) for Non-Metropolitan counties**

No new B & J credits may be earned for any qualified business facility located in counties other than metro counties for investments placed into service in tax years commencing after December 31, 2011.

• **Any remaining credit(s) may be carried forward**

Remaining credits may be carried forward to succeeding tax years as long as all requirements are met under K.S.A. 79-32,160(a).

• **Any remaining credit(s) may be re-computed**

Any remaining credits may be re-computed for the remaining 9 years as long as all requirements continue to be met under K.S.A. 79-32,153.

SB 196 New Sec. 3. Except as otherwise provided, for taxable years commencing after December 31, 2011, **no credits may be earned through the Kansas enterprise zone act**, K.S.A. 79-32,160a; or the job expansion and investment tax credit act, K.S.A. 79-32,153. Any carry forward credit that has been earned through the Kansas enterprise zone act, K.S.A. 79-32,160a, and is remaining after December 31, 2011, may be carried forward to succeeding taxable years as long as all requirements continue to be met. Any credit that has been earned through the job expansion and investment tax credit act, K.S.A. 79-32,153, with years left in recomputing the credit after December 31, 2011, may continue for the remainder of the nine-year period as long as all requirements continue to be met.

79-32,153. Credit against tax for establishment of qualified business facility; conditions; amount; limitations. (a) For taxable years commencing after December 31, 1997, **any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2010 Supp. 74-50,114 or 74-50,211**, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility, and for each of the nine succeeding taxable years. No credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if (1) the employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

79-32, 160a. Tax credits for establishment of qualified business facility; conditions; amount; limitations (a) For taxable years commencing after December 31, 1999, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, **and effective for tax years commencing after December 31, 2010, located in an area other than a metropolitan county as defined in either K.S.A. 2010 Supp. 74-50,114 or 74-50,211, and amendments thereto**, and also meets the definition of a business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2010 Supp. 79-32,243, and amendments thereto.

(g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto.

INCOME TAX

CREDITS RECENTLY ENDED, ENDING OR SOON TO END

CREDIT	LAST YEAR TO CLAIM
(K-73) Petroleum Refinery Credit	2010
(K-77) Qualifying Pipeline Credit	2010
(K-78) Nitrogen Fertilizer Plant Credit	2010
(K-79) BioMass-To-Energy Plant Credit	2010
(K-80) Integrated Coal Gasification Power Plant Credit	2010
(K-34) Business & Job Development Credit (<i>metro counties</i>)	2010
(K-34) Business & Job Development Credit (<i>counties other than metro</i>)	2011
(K-64) Business Machinery & Equipment	2011
(K-82) Storage and Blending Equipment Credit	2011
(K-83) Electric Cogeneration Facility Credit	2011
(K-32) Regional Foundation Credit	2012
(K-84) Technical and Community College Deferred Maintenance	2012
(K-85) University Deferred Maintenance	2012

PEAK TAX CREDIT SB 193

INCOME TAX

A credit shall be allowed for a Kansas resident individual taxpayer that owns a qualified company under PEAK but does not have any wage withholding because of passive entity structure. Taxpayer must MATERIALLY participate in the business activities of the qualified company.

- 95% income tax credit against tax liability attributed to relocated business .
- Business must relocate to Kansas
- Owners participation in business must be REGULAR, CONTINUOUS and SUBSTANTIAL.
- Effective starting tax year 2011.
- Apportion business income to Kansas then Apportion Kansas income to qualified business File on Schedule
- Requires Schedule K-88. (Electronic filing only)

New Sec. 13.(a) For taxable years commencing after December 31, 2010, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to 95% of the resident individual's income tax liability under the provisions of the Kansas income tax act for Kansas source income received from a qualified company that is business income attributable to business activities conducted at the business facility, office, department or other operation relocated to Kansas when the taxpayer owns such qualified company and materially participates in such business activities conducted at such relocated business facility, office, department or other operation of such qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto. A taxpayer shall be treated as materially participating in such qualified company's business activities conducted at such business facility, office, department or other operation relocated to Kansas only if the taxpayer is involved in such business activities of such qualified company on a basis which is regular, continuous and substantial. A taxpayer may claim the credit authorized by this section during any tax year in which the qualified company owned by the taxpayer qualifies for benefits under provisions of K.S.A. 74-50,212, and amendments thereto. (b) Business income attributable to the business activities conducted at the business facility, office, department or other operation relocated to Kansas of a qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto, shall be determined by multiplying the business income of the company apportioned to this state by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. For purposes of this subsection, the property factor is a fraction, the numerator of which is the average value of the company's real and tangible personal property owned or rented and used during the tax period at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the average value of the company's real and tangible personal property owned or rented and used within this state during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the company for compensation at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the total compensation paid by the company in this state during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the relocated facility, office, department or other relocated operation in this state during the tax period, and the denominator of which is the total sales of the company in this state during the tax period.

Formula: You must first find the business income apportioned to Kansas. You may use the Kansas Corporation Apportionment Schedule form K-120AS to help you with this. Next, from the business income apportioned to Kansas you must find the Business Income from business facility, office, department or other operation relocated to Kansas using the following formula:

Property factor + Payroll factor + Sales factor ÷ 3

Property Factor =	The average value of the company's real and tangible personal property owned or rented and used during the tax period at such relocated facility, office, department or other relocated operation in Kansas	÷	The average value of the company's real and tangible personal property owned or rented and used within Kansas during the tax period.
Payroll Factor =	The total amount paid during the tax period by the company for compensation at such relocated facility, office, department or other relocated operation in Kansas	÷	The total compensation paid by the company in Kansas during the tax period
Sales Factor =	The total sales of the relocated facility, office, department or other relocated operation in Kansas during the tax period	÷	The total sales of the company in Kansas during the tax period.

INCOME TAX

EARNED INCOME CREDIT (EIC)

2010 HB 2360

- EIC INCREASED FOR TY 2010 - 2012 TO **18%** OF FEDERAL EIC.
- EIC WILL RETURN TO **17%** OF FEDERAL EIC IN TY 2013.

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2010 HB 2360 Sec. 10. K.S.A. 2009 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the **Kansas income tax act an amount equal to 18% for tax years 2010 through 2012**, and an amount equal to 17% for tax year 2013, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

WITHHOLDING

Promoting Employment Across Kansas Act (PEAK) Expanded SB 193

- Expand definition of “**Qualified company**” to include any not-for-profit corporation which locates within the state of Kansas a regional, national or international headquarters.
- Expanded to allow companies to utilize or contract with all third-party employers not just **unrelated** third-party employers.
- Total amount of benefits granted for expanding businesses went from \$4.8 million effective FY 2012 to \$6.0 million effective FY 2013.
- Expanded to include **Retention** of employees of an existing business located in Kansas.
 - Effective January 1, 2013 to December 31, 2014
 - Capped at \$1.2 Million for fiscal years 2013 & 2015
 - Capped at \$2.4 million for fiscal year 2014
 - Provides discretion to the Secretary of Commerce to award PEAK benefits when deemed necessary.

(B) “Qualified company” also includes any not-for-profit corporation which locates within the state of Kansas a regional, national or international headquarters and which meets the requirements of subparagraph (A).

(m) “Retained job” means an existing job which will be lost without participation by the employer under the provisions of the promoting employment across Kansas act.

(e) Commencing January 1, 2013, and ending December 31, 2014, any company, which meets the criteria provided pursuant to the provisions of K.S.A. 2010 Supp. 74-50,211, and amendments thereto, that retains the employees of an existing business unit located in Kansas and enters into an agreement with the secretary pursuant to K.S.A. 2010 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company’s Kansas payroll withholding taxes for such employees for a period of up to five years.

(f) (1) Commencing January 1, 2013, and ending December 31, 2014, pursuant to the provisions of subsection (e), the secretary of commerce, in the secretary’s sole determination, may provide the benefits of the promoting employment across Kansas act for situations where it is deemed necessary by the secretary that the state of Kansas provide incentives for a company or its operations currently located in Kansas to remain in Kansas so as to keep its retained jobs. The secretary shall establish and verify that a prospective company has competitive alternatives that it is seriously considering and that a company’s relocation may be imminent. Furthermore, the secretary shall assess: (A) Whether the retention of the company or its operations is important to the economic vitality of the state; (B) the area where such company or operations is located; or (C) whether the retention of the company or its operations is important to a particular industry in the state due to any number of factors including, but not limited to, the quantity, quality or wages of the retained jobs involved. (2) Effective January 1, 2013, and ending December 31, 2014, the secretary may use the promoting employment across Kansas act in conjunction with other economic development programs to develop a retention package.

(g) The provisions of this act as in effect prior to the effective date of this act shall apply to employers who have entered into agreements with the secretary prior to July 1, 2011. The provisions of this act shall apply to employers who enter into agreements with the secretary on and after July 1, 2011.

(g) (1) Under no circumstances shall the total amount of benefits authorized or granted to the aggregate of all expanding businesses, as such term is defined in K.S.A. 2010 Supp. 74-50,211, and amendments thereto, under this act exceed \$4,800,000 in the fiscal year commencing on July 1, 2011, and \$6,000,000 in any fiscal year commencing on or after July 1, 2012. (2) Under no circumstances shall the total amount of benefits authorized or granted to the aggregate of businesses under subsections (e) or (f) of K.S.A. 2010 Supp. 74-50,212, and amendments thereto, exceed \$1,200,000 in the fiscal year commencing on July 1, 2012, \$2,400,000 in the fiscal year commencing on July 1, 2013, and \$1,200,000 in the fiscal year commencing on July 1, 2014.

FOOD SALES TAX

2011 INDEXING INCOME THRESHOLDS & REFUND AMOUNT:

INCOME	REFUND
• \$0 TO \$17,700	\$91 Refund per exemption
• \$17,701 to \$35,400	\$46 Refund per exemption

***** Must provide SSN for all dependents *****

SB 193

K.S.A. 79-3635(d) In the case of all tax years commencing after December 31, 2010, the threshold income amounts prescribed in this section and subsection (c) of K.S.A. 79-3633, and amendments thereto, and the amounts of refund of taxes and the amounts of the tax credit, both as prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1 (f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.

SB 193 New Sec. 4.(a) No claim for refund under the provisions of K.S.A. 79-3620 and 79-3632 through 79-3639, and amendments thereto, shall be allowed any claimant who fails to provide a valid social security number issued by the social security administration for the claimant, every household member and every dependent child. (b) The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 79-3620 and **79-3632** through 79-3639, and amendments thereto. Sec. 5.K.S.A. 79-3637 is hereby amended to read as follows: 79-3637. Every claimant for the refund of taxes under the provisions of K.S.A. 79-3620 and 79-3632 to 79-3639, *and amendments thereto*, shall supply to the division in support of a claim, **a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of subsection (c)(1), (c)(2) or (c)(3) of K.S.A. 79-3633, and amendments thereto**, reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (f) of K.S.A. 79-3633, *and amendments thereto*.

HOMESTEAD

2011 MAXIMUM
“HOUSEHOLD INCOME”
- Indexed to inflation-
\$31,200

2005 SB 133, Sec. 1.

- K.S.A. 79-4508(d) *In the case of all tax years commencing after December 31, 2004, the upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*
- Household Income limit for TY 2007 - \$29,100
- Household Income limit for TY 2008 - \$29,700
- Household Income limit for TY 2009 - \$31,300
- Household Income limit for TY 2010 - \$30,800
- Household Income limit for TY 2011 - **\$31,200**

SAFE SENIOR

(SELECTIVE ASSISTANCE FOR EFFECTIVE SENIOR RELIEF)

WHO – Homeowners, 65 Years of Age or older, with household income of **\$17,700** or less. “Household Income” is ALL Income – including Social Security.

REFUND – **75%** of the property taxes actually and timely paid on real or personal property used as their principal place of residence.

FORM K-40PT – Preferred method of filing is ELECTRONICALLY FILED (e-file or WebFile). Faster refunds and more accurate.

**MAY CLAIM EITHER SAFE SENIOR OR HOMESTEAD
BUT NOT BOTH**

2008 Senate Substitute for HB 2434, Sec. 12.

This act shall be known and may be cited as the selective assistance for effective senior relief (SAFESR). There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the following: (a) For tax years 2008, 2009 and 2010, an amount equal to 45% of the amount of property and ad valorem taxes actually and timely paid as described in this section; and **(b) for tax year 2011 and all tax years thereafter, an amount equal to 75%** of the amount of property and ad valorem taxes actually and timely paid by a taxpayer who is 65 years of age or older and who has household income equal to or less than 120% of **the federal poverty level for two persons** if such taxes were paid upon real or personal property used for residential purposes of such taxpayer which is the taxpayer’s principal place of residence for the tax year in which the tax credit is claimed. The amount of any such credit for any such taxpayer shall not exceed the amount of property and ad valorem taxes paid by such taxpayer as specified in this section. A taxpayer shall not take the credit pursuant to this section if such taxpayer has received a homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and amendments thereto, for such property for such tax year. Subject to the provisions of this section, if the amount of such tax credit exceeds the taxpayer’s income tax liability for the taxable year, the amount of such excess credit which exceeds such tax liability shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of the credit claimed pursuant to this section. For purposes of this section, “household income” means all income, including payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

NOTES: Any claimant that was disabled prior to age 65 may exclude Social Security Benefits received after age 65 from “household income” for Safe Senior purposes. A Safe Senior claimant may check the Advancement box on the K-40PT and be “advanced” the amount of this year’s Safe Senior Refund against next year’s (December 20, 2011) first half of the property taxes. The homestead (the residence) must be appraised at less than \$350,000.

SALES / USE TAX

CHANGE TO STATUTE OF LIMITATION SB 10

- The statute of limitation for sales and use tax Refund Claims has been increased from 1 year to 3 years.
- Effective for all claims filed after July 1, 2011.

SB 10

(b) The amount of tax imposed by this act is to be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall ***begin*** after the expiration of such period. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may ***begin*** at any time, within two years from the discovery of such fraud. No assessment shall be made for any period preceding the date of registration of the retailer by more than three years except in cases of fraud. **For any refund or credit claim filed after July 1, 2011, no refund or credit shall be allowed by the director after three years from the due date of the return for the reporting period as provided by K.S.A. 79-3607, and amendments thereto, unless before the expiration of such period a claim therefor is filed by the taxpayer, and, except as otherwise provided in K.S.A. 2010 Supp. 79-3694, and amendments thereto, no suit or action to recover on any claim for refund shall be commenced, until after the expiration of six months from the date of filing such claim satisfying the requirements specified by K.S.A. 2010 Supp. 79-3693, and amendments thereto, therefor with the director. A refund claim shall not be deemed filed unless such claim is complete as required by K.S.A. 2010 Supp. 79-3693, and amendments thereto. For all mailed returns, including refund claims, each return or refund claim shall be presumed to have been filed with the department on the postmark date of such return or refund claim or if such date is illegible, the date three days prior to the date such return or refund claim is received.**

SALES TAX

ENTERPRISE ZONE SALES TAX EXEMPTION SB 196

- Effective January 1, 2012, sales tax exemption ends for taxpayers qualifying as manufacturing, nonmanufacturing or retail businesses.
- The Enterprise Zone sales tax exemption will continue to apply for HPIP qualified projects.

SB 196

(cc) all sales of tangible personal property or services purchased **prior to January 1, 2012, except as otherwise provided**, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, **and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business.** When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto. **Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier**

74-50,115. Same; sales tax exemption; requirements. (a) A manufacturing business may be eligible for a sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the manufacturing business complies with the following requirements

SALES / USE TAX

HUNTING

- **Effective July 1, 2011, sales of game birds for which the primary purpose is use in hunting are exempt from Kansas sales tax.** SB 193
- **No sales tax on guided and non-guided hunting** Revenue Ruling No. 19-2011-01

Revenue Ruling No. 19-2011-01

Sales Tax Treatment of Charges for Participation in Guided and Non-guided Hunting and Certain Sales of Game Birds

This revenue ruling provides the Department's interpretation on the sales tax treatment of charges for guided and non-guided hunts, and certain sales of game birds. Effective May 7, 2008, the Department had suspending enforcement of collection of sales tax on charges for participation in guided or non-guided hunts, and on the retail sale of game birds, pending review of its prior interpretation that such charges were subject to sales tax. Effective as of the date of this revenue ruling, the Department is reversing that prior determination and has now determined that the gross receipts from participation in guided and non-guided hunting are not subject to Kansas retailers' sales tax and do not fall within any current sales tax imposition statute.

K.S.A. 79-3603(m) imposes sales tax on the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities. K.A.R. 92-19-22b(a)(1) contains the following definition:

"Sports, games, and other recreational activities" shall mean diversions that restore or refresh strength and spirits by means of pastime, exercise, or similar activities that involve strength, speed, dexterity, stamina, or training. These activities shall include golf, pool, billiards, skating, bowling, swimming, skiing, baseball, softball, basketball, volleyball, racquetball, handball, squash, tennis, carnival rides, motor sports, batting practice, skeet, trap, target shooting, horse riding, pinball, darts, electronic games, physical fitness services, and all other similar activities.

"Hunting" does not fall within the definition of "sports, games, and other recreational activities" contained in K.A.R. 92-19-22b(a)(1).

If game birds are purchased by a controlled shooting area operator from a bird breeder for release at a controlled shooting area, such a transaction shall be considered a retail sale of tangible personal property subject to sales tax. Any charges for hunters later shooting and taking any such game birds released at the controlled shooting area will not be considered a transaction subject to sales tax.

Taxable sales of meals, tangible personal property and lodging are subject to sales tax. Collection and remittance of applicable sales tax on those items should continue. In order not to be considered taxable as part of the sales meals, tangible personal property and lodging, charges for participation in guided and non-guided hunting should be billed separately from charges for taxable sales of meals, tangible personal property, and lodging.

Section 15 of 2011 Senate Bill 193 amended K.S.A. 79-3606 to provide a new sales tax exemption at (gggg) for: "all sales of game birds for which the primary purpose is use in hunting." This law is effective on July 1, 2011. As of that date, the sale of game birds for which the primary purpose is use in hunting shall be exempt from sales tax, effective July 1, 2011

This revenue ruling replaces and supersedes all prior advice, revenue rulings and rulings that have been issued regarding this issue. Questions concerning this revenue ruling should be directed to the Office of Policy and Research, telephone no. 785-296-3081.

COMPENSATING USE TAX

	# of Taxpayers	Amt Reported
2010	23,294	\$1,012,424
	(as of 6/17/11)	
2009	27,828	\$982,114
2008	30,609	\$1,005,362
2007	33,154	\$1,283,411

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79-3703. Compensating use tax imposed; rate. There is hereby levied and here shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount equal to the consideration paid by the taxpayer multiplied by the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.7%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Kansas Compensating Use Tax was added to the K-40 (line 18) in 2004. Kansas imposes a use tax on goods purchased by Kansans (individuals and businesses) from outside Kansas and that are used, stored, or consumed in Kansas on which;

- no sales tax was paid, or
- a sales tax less than the Kansas rate was paid.

The purpose of compensating use tax is to protect Kansas businesses from unfair competition from out-of-state retailers who sell goods tax-free; use tax "compensates" for the lack of sales tax paid at the time of purchase. A use tax also helps to assure fairness to Kansans who purchase similar items in Kansas and pay Kansas sales tax on them. This is not a new concept. Compensating use tax in Kansas has been in effect since 1937.

CORPORATE INCOME TAX

Expensing (TY 2012) SB 196

This new expense deduction is available to all Kansas businesses for certain qualifying machinery and equipment, as well as canned computer software, placed into service in Kansas starting in tax year 2012.

- **A one time deduction is allowed for machinery and equipment purchased in the year that it is placed in service in Kansas.**
- **The expensing deduction is the difference between the cost of the item and the present value of the stream of depreciation deductions allowed under normal federal depreciable life.**
- **Recapture may occur if property is later moved out of state or sold.**
- **If the expensing deduction is claimed then the taxpayer is not eligible to claim many Kansas tax credits, accelerated depreciation, or deductions.**

New Sec. 2. (a) For taxable years beginning after December 31, 2011, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto. (c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period. (d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere. (e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election. If the business claims the expense deduction, it will not be eligible for the following investment related tax credits or other incentives: high performance incentive program credit; research and development credit; alternative fuel vehicle credit; swine facility improvement credit; historic preservation credit; refinery credit or accelerated depreciation; oil or gas pipeline or accelerated depreciation; integrated coal or coke gasification nitrogen fertilizer plant credit or accelerated depreciation; biomass-to-energy plant credit or accelerated depreciation; integrated coal gasification power plant credit; renewable electric cogeneration facility credit or accelerated depreciation; biofuel storage and blending equipment credit or accelerated depreciation; carbon dioxide capture equipment credit; or film production credit.

CORPORATE INCOME TAX

“SURTAX” RATE:

**Surtax dropped to 3% for TY
2011 and all years thereafter.**

2008 Senate Substitute for HB 2434, Section 22

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of \$50,000; (B) for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the Kansas taxable income of such corporation in excess of \$50,000; and (C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to 3% of the Kansas taxable income of such corporation in excess of \$50,000.

FRANCHISE

**NO KANSAS FRANCHISE TAX
FOR TAX YEAR 2011 AND AFTER.**

K.S.A. 79-5401

(g) The provisions of this section shall apply to all tax years commencing after December 31, 2003, **but shall not apply to any tax year commencing after December 31, 2010.** (h) The provisions of this section shall be known and may be cited as the Kansas franchise tax act.

WIRELESS FEE

PREPAID WIRELESS 911 FEE SB 50

- Imposes a prepaid wireless 911 fee of 1.06 percent per retail transaction which occurs in Kansas, with the fee to be paid by the consumer (e.g., the purchaser of the prepaid card), effective January 1, 2012;
- Prepaid wireless fee should be separately stated on the invoice and should not be charged on applicable sales tax and sales tax should not be charged on the fee.
- Requires sellers to remit all prepaid wireless 911 fees collected to the Department of Revenue by electronic filing, at the same filing frequency as they remit sales tax;
- Requires the Department of Revenue to transfer all remitted prepaid wireless 911 fees to the Local Collection Point Administrator (LCPA) within 30 days of receipt;
- Authorizes the Department of Revenue to audit a seller's prepaid wireless 911 fee compliance at the time of sales and use tax audits;

SB 50

New Sec. 10. (a) There is hereby imposed a prepaid wireless 911 fee of 1.06% per retail transaction or, on and after the effective date of an adjusted amount per retail transaction that is established under subsection (f), such adjusted amount. (b) The prepaid wireless 911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 fee shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer. (c) For purposes of subsection (b), a retail transaction that is effected in person by a consumer in a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for the purposes of subsection (c)(3) of K.S.A. 79-3673, and amendments thereto. (d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller nor of any provider, except that the seller shall be liable to remit all prepaid wireless 911 fees that the seller collects from consumers pursuant to this section, and amendments thereto, including all such fees that the seller is deemed to collect where the amount of the charge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller. (e) The amount of the prepaid wireless 911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency. (f) The prepaid wireless 911 fee shall be proportionately increased or reduced, as applicable, upon any change to the fee imposed by subsection (a) of section 8, and amendments thereto. The adjusted amount shall be determined by dividing the amount of the fee imposed by subsection (a) of section 8, and amendments thereto, by \$50. Such increase or reduction shall be effective on the effective date of the change to the fee imposed by subsection (a) of section 8, and amendments thereto, or, if later, the first day of the calendar quarter to occur at least 60 days after the enactment to the change to the fee imposed by subsection (a) of section 8, and amendments thereto. The department shall provide not less than 60 days' notice of such increase or decrease on the department's website. (g) When prepaid wireless service is sold with one or more other products or services for a single, non-itemized price, then the percentage specified in subsection (a) shall apply to the entire non-itemized price unless the seller elects to apply such percentage to: (1) If the amount of the prepaid wireless service is disclosed to the consumer as a dollar amount, such dollar amount; or (2) if the seller can identify the portion of the price that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, such portion. (h) This section shall take effect on and after January 1, 2012.

New Sec. 11. (a) Prepaid wireless 911 fees collected by sellers shall be remitted to the department by electronic filing that is consistent with the provisions of article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The department shall establish registration and payment procedures for the collection of the prepaid wireless 911 fee.

PROPERTY TAX

DELINQUENCIES & UNDER PAYMENT OF PROPERTY TAX

- Beginning on January 1, 2012 for any underpayment or delinquency for property taxes in amounts of **\$10,000** or more, interest will accrue at a rate of **10%** per year or the federal rate plus 1% which ever is greater. This establishes the "base" prescribed in K.S.A. 79-2968.
- The actual interest rate for delinquent or underpayment of property taxes on real property is prescribed in K.S.A. 79-2004a which says the rate is "the rate prescribed in K.S.A. 79-2968, and amendments thereto, **plus two percentage points**. The interest rate would then be **12%** for amounts of **\$10,000** or more.

SB 10 Sec. 5. On and after July 1, 2011, K.S.A. 79-2968 is hereby amended to read as follows: 79-2968. Except as otherwise specifically provided by law, whenever interest is charged under any law of this state upon any delinquent or unpaid taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, or whenever interest is allowed under any law of this state upon any overpayment of taxes levied or imposed by the state of Kansas or any taxing subdivision thereof, the rate thereof shall be the underpayment rate per annum prescribed and determined under paragraph (2) of subsection (a) of section 6621, without regard to subsection (c) thereof, of the federal internal revenue code, as in effect on September 1, 1996, and which rate is in effect thereunder on July 1 of the year immediately preceding the calendar year for which the rate is being annually fixed hereunder, plus one percentage point, if computed annually. **Beginning on January 1, 2012, the rate for property tax delinquencies or underpayments of \$10,000 or more shall be as provided for under this section or 10% per annum, whichever is greater** In the event the interest rate prescribed under this section cannot be determined by reference to section 6621 of the federal internal revenue code, as in effect on September 1, 1996, the rate at which interest shall be collected on underpayments shall be the rate prescribed by K.S.A. 16-204, and amendments thereto, for interest on judgments for the applicable period.

79-2004. Time for payment of real estate taxes; interest, when; distribution of interest to city, when.
(a) Except as provided by K.S.A. 79-4521, any person charged with real property taxes on the tax books in the hands of the county treasurer may pay, at such person's option, the full amount thereof on or before December 20 of each year, or 1/2 thereof on or before December 20 and the remaining 1/2 on or before May 10 next ensuing. If the full amount of the real property taxes listed upon any tax statement is \$10 or less the entire amount of such tax shall be due and payable on or before December 20.

In case the first half of the real property taxes remains unpaid after December 20, the first half of the tax shall draw interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum and may be paid at any time prior to May 10 following by paying 1/2 of the tax together with interest at such rate from December 20 to date of payment. Subject to the provisions of subsection (d), **all real property taxes of the preceding year and accrued interest thereon which remain due and unpaid on May 11 shall accrue interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, plus two percentage points, per annum from May 10 until paid, or until the real property is sold for taxes by foreclosure as provided by law. Except as provided by subsection (c), all interest herein provided shall be credited to the county general fund, and whenever any such interest is paid the county treasurer shall enter the amount of interest so paid on the tax rolls in the proper column and account for such sum.**

I.R.S. Rev. Rul. 2011-5

(2) Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

INTANGIBLES TAX

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Reminder from last year 2010 SB 430

- Taxpayers with intangibles earnings are required to file their local intangible tax returns with the county clerk on or before **April 15. (Not April 17)**
- **Intangibles forms** will be provided by the **County Clerk.**

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2010 SB 430 Removed Requirement For Filing Intangibles Tax Return with the Kansas Department of Revenue (KDOR). Only certain counties impose the intangibles tax, which is billed by the county clerk along with personal property tax. K.S.A. 12-1,104 required taxpayers to file their intangibles tax returns with the KDOR along with their income tax returns. KDOR then collected the intangible tax returns and sent them to the appropriate county clerk, and those returns were used to bill the intangibles tax levied by the county. SB 430 Section 6 amended K.S.A. 12-1,104 so that taxpayers no longer file their intangibles tax returns with the KDOR. They file the return directly with the county. This eliminates one step of return processing and facilitates the Department's effort to move taxpayers to electronic filing and reduce the amount of paper returns the Department handles.

SB 430, Sec. 6. K.S.A. 12-1,104 is hereby amended to read as follows: 12-1,104. (a) Every taxpayer receiving earnings which are taxable under the provisions of this act shall file a return on or before **April 15 following the taxable year**, with the county clerk of the county in which the gross earnings has acquired situs. Such return shall contain such information and be made upon forms prescribed by the director of taxation **and provided by the county clerk**. The county clerk shall compute the tax due and payable on such taxable earnings of each taxpayer and shall certify such amount to the county treasurer. The director of taxation shall **prescribe to the county clerk the form** for the making of such return and a current listing of each taxing subdivision imposing a tax on gross earnings derived from money, notes and other evidence of debt for which the listing has been received pursuant to subsection (d) of K.S.A. 12-1,101 by July 15 of the year preceding the year of imposition of the tax.

Miscellaneous

- REMINDER FROM LAST YEAR, \$10 fee for pay plans. An administrative service fee of \$10 is now imposed when an installment pay plan is set for **more than 90 days**. (*The \$10 fee is added to the first installment payment*).
- **5%** interest rate for calendar year 2012 (.0417 monthly rate)
NO Change.
- Due date for tax year 2011 is **April 17, 2012**. Taxpayers will have extra time to file and pay income tax because the 15th of April falls on a **Sunday** and **Monday, April 16**, is an observed legal holiday in D.C for emancipation day. By law, filing and payment deadlines that fall on a legal holiday are timely satisfied if met on the next business day. Under a federal statute enacted decades ago, holidays observed in the District of Columbia have an impact nationwide, not just in D.C. the IRS follows D.C.'s holidays for filing purposes and Kansas follows the IRS.
- No Phase Out for Itemized deductions.

• \$10 Fee for Pay Plans

2010 SB 430, New Sec. 17. For any tax established pursuant to law which is administered by the Kansas department of revenue, any taxpayer having a delinquent tax liability and entering into an agreement with the department providing for an installment payment plan allowing the pay off of such liability in a time period in excess of 90 days from the date when such agreement is entered into shall be assessed a service fee of \$10. The secretary of revenue shall remit all moneys received by or for the secretary from such fees and collected under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the recovery fund for enforcement actions and attorney fees. The secretary of revenue shall remit the first \$350,000 of delinquent taxes, including penalties and interest, collected during any fiscal year for income tax or any other tax that would otherwise be deposited 100% in the state general fund, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the recovery fund for enforcement actions and attorney fees. All expenditures from the recovery fund for enforcement actions and attorney fees shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or by a person or persons designated by the secretary.

• Section 6072(a) of the Internal Revenue Code imposes a deadline of April 15 for filing income tax returns. When April 15 falls on a Saturday, Sunday, or legal holiday, a return is considered timely filed if filed on the next succeeding day that is not a Saturday, Sunday, or legal holiday. I.R.C. § 7503. Legal holiday means a legal holiday in the District of Columbia. *Id.*

Under District of Columbia law, Emancipation Day, April 16, is a legal holiday. D.C. Code § 28-2701 (2010). When April 16 falls on a Saturday, the preceding day is the observed holiday, and when it falls on a Sunday, the succeeding day is the observed holiday. *Id.* Because Emancipation Day is a legal holiday in the District of Columbia, in certain years it will have implications for taxpayers nationwide with respect to the filing deadlines for all tax forms and payments required to be filed or completed on or before April 15, including the Form 1040 series tax returns.

Effect of Emancipation Day on Filing Deadlines

For taxpayers nationwide, when Emancipation Day, April 16, falls on a:

For example, in 2011, Emancipation Day falls on a Saturday, meaning that it will be observed on Friday, April 15, 2011. The filing deadline for all tax forms and payments required to be filed or completed on or before April 15 (as described in Section 6072(a), including the Form 1040 series of returns) will be Monday, April 18, 2011. The IRS will widely publicize the rule in this notice in affected years to remind the public that the filing deadline is extended.

• **Itemized deductions** are no longer limited by your adjusted gross income (From I.R.S. Website)

• Again for TY 2010, **No bulk form orders of Income and Homestead Booklets or forms** will be shipped to libraries, stores or counties.