2013

Corporate Income Tax

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What's New

TAX CREDITS REPEALED. Beginning with tax year 2013, tax credits for contributions to a regional foundation (K-32), a historic site (K-75), or a community college for deferred maintenance (K-84) are no longer available. Additionally, no new tax credits will be allowed for contributions to a law enforcement training center (K-72), to a university for deferred maintenance (K-85), or toward film production (K-86); however, the law provides that unused credits may be carried forward as long as they meet statutory requirements.

NEW LINE ON FORMS K-120 AND K-121. These forms contain a new line for reporting a recapture amount of an expensing deduction. If the property for which an expense deduction was taken is subsequently sold during the applicable recovery period for such property, or is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined shall be subject to recapture and treated as Kansas taxable income allocated to this state. See Schedule K-120EX.

General Information

If any due date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.

Who Must File a Return

A Kansas Corporate income tax return must be filed by all corporations doing business in or deriving income from sources within Kansas who are required to file a federal income tax return, whether or not a tax is due.

Unitary Groups (for taxable years after December 31, 1990): If any member of a unitary group has activity in Kansas exceeding that protected by 15 U.S.C. Section 381, all unitary group members having Kansas property, payroll, or sales must file Kansas returns and pay the tax due.

Corporations which elect under subchapter S of the IRC (Internal Revenue Code) not to be taxed as a corporation must file a Kansas Partnership or S Corporation return, Form K-120S. All other corporations must file Form K-120.

Exempt Organizations: Any corporation exempt from federal income tax under the provisions of the IRC, and who files Form 990 or Form 990EZ, is exempt for Kansas income tax purposes in each year in which such corporation satisfies the IRC requirement for exemption. However, a corporation that is subject to the tax on unrelated business income by the IRC, who files a Form 990T, is also subject to the tax on unrelated business income for Kansas purposes and must file on Kansas Form K-120.

In addition to the corporations exempt from federal income tax, there shall also be exempt for Kansas income tax purposes, insurance companies, banks, trust companies, savings and loan associations, and any other organizations specifically exempt under the laws of the State of Kansas. (National bank associations, banks, trust companies, and savings and loan associations are required to file privilege tax on Kansas Form K-130. Insurance companies are subject to a Premium Tax.)

When and Where to File

Calendar Year: If your return is based on a calendar year, it must be filed by April 15, 2014.

Fiscal Year: If your return is based on a tax year other than a calendar year, it must be filed no later than the 15th day of the fourth month following the end of your tax year.

Conformity to Federal Due Dates: Kansas returns are due one (1) month after the federal due date. If the original federal due date is not the 15th day of the third month after the close of a taxable year, the corporation is required to complete item "I" in the taxpayer information section of Form K-120 and enclose a letter indicating the authorizing federal statute. Do not enter your extended due date.

Amended Returns: If the amended return will result in a refund then it must be filed within three (3) years from the date the original return was due including any extensions allowed pursuant to law, or two (2) years from the date the tax claimed to be refunded or against which the credit claimed was paid, whichever periods expires later.

Mail your Corporate Income Tax return and any payment due to the following address: KANSAS CORPORATE TAX, KANSAS DEPARTMENT OF REVENUE, 915 SW HARRISON ST., TOPEKA, KS 66612-1588

Accounting Period

The taxable year for Kansas is the same as the taxable year for federal income tax purposes. If your taxable year changes, or the method of your accounting is changed for federal income tax purposes, then the taxable year and method of accounting shall be similarly changed for Kansas income tax purposes.

Confidential Information

Income tax information disclosed to KDOR, either on returns or through department investigation, is held in strict confidence by law. KDOR, the IRS (Internal Revenue Service), the Multi-state Tax Commission and several other states have an agreement under which some tax information is exchanged. This is to verify the accuracy and consistency of information reported on federal and Kansas tax returns.

Completing Your Return

All applicable lines on Form K-120 and Form K-120AS must be completed. Be certain to **complete all boxes in the Taxpayer Information section of the return.**

All corporations filing a combined return (single or multiple), or authorized to file using the alternative or separate accounting method, must complete lines 1 through 20 using the total combined income column from Schedule K-121.

Nonbusiness Income Claimed: Any taxpayer that claims nonbusiness income on the Kansas return is required to clearly demonstrate that the transaction or activity which gave rise to the income was unusual in nature and infrequent in occurrence or that the income was earned in the course of activities unrelated to the taxpayer's regular business operations in Kansas. The taxpayer must also submit a schedule as required by line 12 of the *Specific Line Instructions for Form K-120*. If the taxpayer does not demonstrate that the income is nonbusiness and does not submit the required schedules, the income will be considered business income by KDOR and the department will apportion that income accordingly.

Extension of Time to File

*An extension of time to **file** is not an extension to **pay**.*

If you are unable to complete your return by the filing deadline, you may request an extension of time to file. If you filed federal Form 7004 with the IRS for an extension, enclose a copy of that form with your completed K-120 *to automatically receive a six-month extension to file your Kansas return.* Kansas does not have a separate extension request form. If you are entitled to a refund, an extension is not required to file the return after the original due date.

To pay the balance due for an extension, use the Kansas Corporate Payment Voucher (K-120V) and mark the box indicating an extension payment. If you do not pay the tax due (may be estimated) by the original due date, you will owe interest and may also be charged a penalty on any balance due.

Federal Return

You must enclose with Form K-120 a copy of the following federal return pages as filed with the IRS. **Do not enclose copies of proforma returns.** KDOR reserves the right to request additional information as necessary.

- Pages 1 through 5 of the federal return or consolidated federal return, whichever is applicable. If a consolidated return, you must enclose a company-by-company spreadsheet of income and expense to total the consolidated federal taxable income and a company-by-company spreadsheet of the consolidated balance sheet including Schedules M-1 and M-2.
- **Federal schedules to support any Kansas modifications claimed on Form K-120.**
- Federal Forms 851, 1118, and 5471, as applicable.

Estimated Tax

Every corporation shall pay estimated tax for the taxable year if its Kansas income tax liability can reasonably be expected to exceed $500. Any corporation which began business in Kansas during this tax year is not required to pay estimated tax and no underpayment of estimated tax penalty will be imposed for this initial year. NOTE: Current year estimated payments cannot be used to off-set prior year tax liabilities. See K.A.R. 92-11-22(c).

For your convenience, Kansas offers simple electronic payment solutions for your estimate tax that are available 24 hours a day, 7 days a week! There are many advantages to paying electronically – no check to write or voucher to complete and mail, and you get immediate acknowledgment that your payment was received. Additionally, reducing paper consumption is both cost effective and environmentally friendly. Visit our web site at **webtax.org** to choose a paperless payment option.

Business Income Election

A taxpayer may elect to have all income derived from the acquisition, management, use, or disposition of tangible and intangible property treated as business income. The election is effective and irrevocable for the taxable year of the election and the following nine taxable years. It is binding on all members of a unitary group of corporations. To make the election, a corporation must file Form K-120EL with KDOR within the time limits established by law.

- A corporation not previously doing business in Kansas that intends to make this election for its initial year of business must file Form K-120EL within 60 days after filing the articles of incorporation or application for authority to engage in business with the Kansas Secretary of State.
- For corporations currently doing business in Kansas, the election must be filed on or before the last day of the tax year immediately preceding the tax year for which the election is made.

Form K-120EL must be sent separately from the Corporate Income Tax return.

Amending Your Return

You must file an amended Kansas return when: 1) an error was made on your Kansas return, 2) there is a change (error or adjustment) on another state's return, 3) there is a change (error or adjustment) on your federal return. **Check the AMENDED box in the Taxpayer Information section of Form K-120 if you are amending your 2013 Kansas return**. Be sure to enclose any applicable supporting documents, such as a copy of the other state's amended return or a copy of the IRS amended return or Revenue Agent's Report or adjustment letter showing and explaining the adjustments. If additional tax is due, complete and enclose Form K-120V, marking an "X" in the "Amended Payment" box.

Amended Federal Return: If you are filing an amended federal income tax return, for the same taxable year as your Kansas amended return, you must enclose a complete copy of the amended federal return and full explanations

Amending Your Return (continued)

of all changes made on your amended Kansas return. If your amended federal return is adjusted or disallowed, you must provide KDOR with a copy of the adjustment or denial letter.

Pay the full amount of tax and interest due on an amended return and no penalty will be assessed. Consult KDOR's web site for annual interest rates.

If you did not file a Kansas return when you filed your original federal return, and the federal return has since been amended or adjusted, use the information on the amended or adjusted federal return to complete your original Kansas return. A copy of both the original and amended federal returns should be enclosed with the Kansas return along with an explanation of the changes.

Federal Audit: Any taxpayer whose income has been adjusted by the IRS must file an amended return with Kansas and include a copy of the Revenue Agent's Report or adjustment letter showing and explaining the adjustments. These adjustments must be submitted within 180 days of the date the federal adjustments are paid, agreed to, or become final, whichever is earlier. Failure by the taxpayer to notify KDOR within the 180 day period-shall not bar KDOR from assessing additional taxes or proceeding in court to collect such taxes. Failure by the taxpayer to comply with the requirements for filing returns shall toll the periods of limitation for KDOR to assess or collect taxes.

Definitions

Business Income: For tax years commencing after December 31, 2007, "business income" means: 1) Income arising from transactions and activity in the regular course of the taxpayer's trade or business; 2) income arising from transactions and activity involving tangible and intangible property or assets used in the operation of the taxpayer's trade or business; or 3) income of the taxpayer that may be apportioned to this state under the provisions of the Constitution of the United States and laws thereof, except that a taxpayer may elect that all income constitutes business income.

Unitary Business; A multistate business is unitary when the operations conducted in one state benefit or are benefited by the operations conducted in another state or states. The essential test to be applied is whether or not the operation of the portion of the business within the state is dependent upon or contributory to the operation of the business outside the state. If there is such a relationship, the business is unitary. Stated another way, the test is whether the various parts of a business are interdependent and of mutual benefit so as to form one business rather than several business entities and not whether the operating experience of the parts are the same at all places.

Activity Wholly Within Kansas—Single Entity: If a particular trade or business is carried on exclusively within Kansas or if the activities outside of Kansas are such that federal Public Law 86-272 prohibits another state from imposing a tax, then the entire net income is subject to the Kansas income tax.

Activity Wholly Within Kansas—Consolidated: If two or more corporations file a federal income tax return on a consolidated basis, and if each of such corporations derive all of their income and expenses from sources within Kansas, they must file a consolidated return for Kansas income tax purposes.

Single Entity Apportionment Method: Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or the rendering of purely personal services by an individual, shall allocate and apportion net income as provided in the Uniform Division of Income for Tax Purposes Act.

Combined Income Method—Single Corporate Filing: When a group of corporations conduct a unitary business both within and outside of Kansas, the source of income shall be determined by the combined income approach. The combined income approach is the computation by formula apportionment of the business income of a unitary trade or business properly reportable to Kansas by members of a unitary group. The property, payroll, or sales factor for each member of a unitary business shall be determined by dividing the property, payroll, or sales figure for Kansas by the total property, payroll, or sales figure of the entire group. The average is multiplied by the income of the unitary group to determine the income of the company derived from sources in Kansas.

The Kansas Corporate Tax return filed on the combined income approach must include Schedule K-121.

Any corporation which files a consolidated return for federal purposes and a combined report for Kansas purposes must submit a copy of the consolidated federal Form 1120 and all other schedules and statements necessary to support the taxable income reported on the Kansas return. Schedule K-121 must be used to determine income of the corporation. Schedule K-121 single entity Kansas taxable income is then shown on line 21, Form K-120. The single entity tax from Schedule K-121 is entered on line 25, Form K-120. All corporations filing a combined return (single or multiple) must complete lines 1 through 20 of Form K-120 using the total combined income column from Schedule K-121.

Combined Income Method—Multiple Corporation Filing: This method is the same as 'Combined Income Method—Single Corporation Filing' except that any corporation filing using the combined income method with more than one entity doing business in Kansas may file one Kansas return reporting the total combined income on that return and computing and paying the tax due on that return. Schedule K-121 must be used to determine the Kansas taxable income of each separate corporation. Schedule K-121 combined Kansas taxable income is then entered on line 21, Form K-120. The tax rate is then applied to the Kansas taxable income of each corporation with one surtax exemption allowed for each corporate taxpayer. The total tax due for all corporations is then shown on line 25, Form K-120. All corporations filing a combined return (single or multiple) must complete lines 1 through 20 of Form K-120 using the total combined income column from Schedule K-121.

Definitions (continued)

Qualified Elective Two-Factor Method: This method may be used by any taxpayer who qualifies and elects to utilize the two-factor formula of property and sales. A qualified taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. An election must be made by including a statement with the original tax return indicating that the taxpayer elects to utilize this apportionment method. The election will be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election will be binding on all members of a unitary group of corporations.

Common Carrier Method: All business income of railroads and interstate motor carriers of persons or property for-hire shall be apportioned to this state on the basis of mileage. For railroads, multiply the business income by a fraction, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere. For interstate motor carriers, multiply the business income by a fraction, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.

If a unitary group of corporations consists of one or more corporations engaged in railroad or interstate motor carrier operations, including the interstate transport of persons or property for hire by rail or motor carrier, and one or more corporations not engaged in railroad or interstate motor carrier operations, the following method shall be used to determine the apportionable income of the group members engaged in railroad or interstate motor carrier operations. (a) A three-factor formula consisting of property, payroll, and sales shall be used to divide the apportionable business income of the unitary group between each corporation engaged in railroad or interstate motor carrier operations and all other members of the unitary group. The apportionment factor numerators shall consist of the property, payroll, and sales of each corporation engaged in railroad or interstate motor carrier operations. The apportionment factor denominators shall consist of the property, payroll, and sales of the entire unitary group. For purposes of this subsection, the property, payroll, and sales factors shall be as defined in the uniform division of income for tax purposes act, K.S.A. 79-3271 et seq., and amendments thereto, and the regulations promulgated under this act. (b) The apportionable business income of each corporation engaged in railroad or interstate motor carrier operations shall be determined by multiplying the apportionable business income of the unitary group by the fraction computed according to subsection (a). (c) The apportionable business income of each corporation engaged in railroad or interstate motor carrier operations as determined according to subsection (b) shall then be apportioned to this state by using the single-factor mileage formula set forth in K.S.A. 79-3279(a), and amendments thereto. (d) The apportionable business income of each corporation in the unitary group that is not engaged in railroad or interstate motor carrier operations shall be determined by subtracting the amount determined in subsection (b) from the apportionable business income of the unitary group. (e) The apportionable business income of each corporation in the unitary group that is not engaged in railroad or interstate motor carrier operations, as determined in subsection (d), shall be apportioned to this state by using the applicable apportionment formula specified in K.S.A. 79-3279(b), and amendments thereto. K.A.R. 92-12-114.

Alternative Accounting Method: If the uniform allocation and apportionment provisions do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the Secretary of Revenue may require, in respect to all or any part of the taxpayer's business activity, if reasonable: (a) Separate accounting; (b) the exclusion of one or more of the factors; (c) the inclusion of one or more additional factors; or (d) the employment of any other method to effect an equitable allocation and apportionment of the taxpayer's income. A copy of the letter from KDOR granting the use of an alternative method must be enclosed with the return when filed. Enter the amount determined on your separate schedule on line 21, Form K-120. All corporations filing a combined return (single or multiple), or authorized to file using the alternative or separate accounting method, must complete lines 1 through 20 using the total combined income column from Schedule K-121.

Separate Accounting Method: The separate method of reporting income to Kansas is allowable only in unusual circumstances and with the permission of KDOR where the use of the three-factor formula does not fairly represent the taxpayer's business activity. Before a taxpayer engaged in a multistate business may use the separate accounting method, the following requirements must be satisfied:

- The books and records are kept by recognized accounting standards to reflect accurately the amount of income of the multistate business which was realized in Kansas during the taxable period;
- The management functions of the business operations within Kansas are separate and distinct so that in conducting the Kansas business operations the management within Kansas did not utilize or incur centralized management services consisting of operational supervision, advertising, accounting, insurance, financing, personnel, physical facilities, technical and research, sales and servicing or purchasing during the taxable period;
- The business operations within Kansas are separate and distinct and do not contribute to or depend upon the overall operations of the company, and there are no interstate, intercompany, or interdivisional purchases, sales or transfers during the taxable period.

If all three requirements are not satisfied, the taxpayer shall determine Kansas taxable income by use of the apportionment formula.

Enter the amount determined on your separate schedule on line 21, Form K-120. All corporations filing a combined return (single or multiple), or are authorized to file using the alternative or separate accounting method, must complete lines 1 through 20 using the total combined income column from Schedule K-121.

Instructions for Form K-120, Pages 1 and 2

TAXPAYER INFORMATION

Beginning and Ending Dates: Enter the beginning and ending dates of the corporation's tax year, even if it is a calendar year.

Name and Address: PRINT or TYPE the corporate name and address in the spaces provided.

Information Requested in Boxes A through J: Complete all requested information. For item A, see page 5. For Item B, enter the NAICS code. For items E and F, use the standard two-letter state abbreviation. If any *taxpayer information* has changed from the last original return you filed, be sure to check the change box "J".

Final Return: If a final return is being filed and the corporation is being liquidated, enter the discontinuation date in box "D" and enclose a copy of the federal form that states the federal code section the corporation was liquidated under.

INCOME

LINE 1—FEDERAL TAXABLE INCOME. Enter federal taxable income after net operating loss and special deductions. All corporations filing a combined return (single or multiple), or are authorized to file using the alternative or separate accounting method, must complete lines 1 through 20. Combined income filers must use the total combined income column from Schedule K-121. A copy of certain pages of the federal return must be enclosed in all cases. See instructions on page 3.

LINE 2—TOTAL STATE AND MUNICIPAL INTEREST. Enter interest income received, credited, or earned by you during the taxable year from any state or municipal obligations such as bonds and mutual funds. Reduce the income amount by any related expenses (such as management or trustee fees) directly incurred in purchasing these state or political subdivision obligations.

DO NOT include interest income or obligations of the state of Kansas or any Kansas political subdivision issued after December 31, 1987, or the following bonds exempted by Kansas law:

- Board of Regents Bonds for Kansas Colleges & Universities
- Electrical Generation Revenue Bonds
- Industrial Revenue Bonds
- Kansas Highway Bonds
- Kansas Turnpike Authority Bonds
- Urban Renewal Bonds

If you are a shareholder in a fund that invests in both Kansas and other states' bonds, only the Kansas bonds are exempt. Use the information provided by your fund administrator to determine the amount of taxable (non-Kansas) bond interest to enter here.

LINE 3—TAXES ON OR MEASURED BY INCOME OR FEES OR PAYMENTS IN LIEU OF INCOME TAXES. Enter the taxes on or measured by income or fees or payments in lieu of income taxes which you deducted on your federal return in arriving at your federal taxable income. Federal environmental tax must be added back to federal taxable income to the extent it is used as a deduction in arriving at federal taxable income. **You must complete Part IV - Schedule of Taxes.**

LINE 4—FEDERAL NET OPERATING LOSS DEDUCTION. Enter the federal net operating loss deduction that was claimed on the federal income tax return for the taxable year.

LINE 5—OTHER ADDITIONS TO FEDERAL TAXABLE INCOME. Enter on line 5 any of the following which are additions to your federal taxable income and enclose applicable schedules.

- **Learning Quest 529 Education Savings Program.** Amount of any "nonqualified withdrawal" from Learning Quest.

(Tax credits for the additions that follow may be claimed in Part I of Form K-120 – schedules required.)

- **Disabled Access Credit (Business).** Amount of depreciation deduction or business expense deduction claimed on your federal return that was used to determine the disabled access credit on your Schedule K-37.
- **Small Employer Healthcare Credit.** Reduce the amount of expense deduction that is included in federal taxable income by the dollar amount of the credit claimed. Complete Schedule K-57 and enclose it with your return.
- **Community Service Contribution Credit.** Amount of any charitable contribution claimed on your federal return used to compute the Community Service Contribution Credit on Schedule K-60.
- **Swine Facility Improvement Credit.** Amount of any costs claimed on your federal return and used as the basis for this credit on Schedule K-38.
- **Individual Development Account (IDA) Credit.** Amount of the contribution claimed to the extent the same is the basis for claiming the IDA credit on Schedule K-68.
- **Expenditures–Energy Credits.** Amount of any expenditures claimed to the extent the same is claimed as the basis for any credit allowed on Schedule K-81 or carry forward amount on Schedule K-73, K-77, K-79, K-82, or K-83.
- **Amortization–Energy Credits.** Carry forward amount of any amortization deduction claimed—to the extent the same is claimed on the federal return for deduction—with regard to Schedule K-73, K-77, K-79, K-82 or K-83 and any amount claimed in determining federal adjusted gross income on carbon dioxide recapture, sequestration or utilization machinery and equipment, or waste heat utilization system property.

LINE 6—TOTAL ADDITIONS TO FEDERAL TAXABLE INCOME. Add lines 2 through 5 and enter the result on line 6.

LINE 7—INTEREST ON U.S. GOVERNMENT OBLIGATION. Enter any interest or dividend income received from obligations or securities of any authority, commission or instrumentality of the United States and its possessions that was included in your federal taxable income. This includes U.S. Savings Bonds, U.S. Treasury Bills, and the Federal Land Bank. You must reduce the interest amount by any related expenses (such as management or trustee fees) directly incurred in the purchase of these securities.

If you are a shareholder in a mutual fund that invests in both exempt and taxable federal obligations, only that portion of the distribution attributable to the exempt federal obligations may be subtracted here.

Enclose a schedule showing the name of each U.S. government obligation interest deduction claimed.

Interest from the following are taxable to Kansas and may NOT be entered on this line:

- Federal National Mortgage Association (FNMA)
- Government National Mortgage Association (GNMA)
- Federal Home Loan Mortgage Corporation (FHLMC)

LINE 8—IRC SECTION 78 AND 80% OF FOREIGN DIVIDENDS. Enter the amount included in federal taxable income pursuant to the provisions of Section 78 of the Internal Revenue Code and 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income. Enclose a schedule to support the amount shown.

LINE 9—OTHER SUBTRACTIONS FROM FEDERAL TAXABLE INCOME. Enter on line 9, a total of the following subtractions from your federal taxable income (schedule required):

- **Refunds or Credits.** Any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in federal taxable income.
- **Jobs and WIN Tax Credit.** Amount of federal targeted jobs and WIN credit.
- **Kansas Venture Capital, Inc. Dividends.** Dividend income received as a result of investing in stock issued by Kansas Venture Capital, Inc.
- **Electrical Generation Revenue Bonds.** Gain from the sale of Electrical Generation Revenue Bonds that was included in your federal taxable income.
- **Learning Quest Education Savings Program.** Amount of contributions deposited in the Learning Quest Education Savings Program or from a qualified 529 tuition program established by another state, to a maximum of $3,000 per student (beneficiary).
- **Sale of Kansas Turnpike Bonds.** Gain from the sale of Kansas Turnpike Bonds that was included in your federal taxable income.
- **Amortization–Energy Credits.** Carry forward amount of amortization deduction allowed relating to Schedule K-73, K-77, K-79, K-82 or K-83, and amount of amortization deduction allowed for carbon dioxide capture, sequestration or utilization machinery and equipment, or waste heat utilization system property. (55% of the amortization costs may be subtracted in the first year and 5% may be subtracted for each of the succeeding 9 years.)

LINE 10—TOTAL SUBTRACTIONS FROM FEDERAL TAXABLE INCOME. Add lines 7 through 9 and enter the result on line 10.

LINE 11—NET INCOME BEFORE APPORTIONMENT. Add lines 1 through 6 and subtract line 10.

APPORTIONMENT and ALLOCATION

LINE 12—NONBUSINESS INCOME—TOTAL COMPANY. Enter total amount of nonbusiness net income everywhere that is to be directly allocated.

Any taxpayer that claims nonbusiness income on the Kansas return is required to clearly demonstrate that the transaction or activity which gave rise to the income was unusual in nature and infrequent in occurrence and tangible or intangible property or assets were not used in the operations of the taxpayer's regular trade or business. The taxpayer must also submit a schedule as required below. If the taxpayer does not demonstrate that the income is nonbusiness and does not submit required schedule(s), the income will be considered business income and KDOR will apportion it accordingly.

From the items of income directly allocated, there shall be deducted the expenses related thereto. The term *expenses related thereto* as used in this paragraph means any allowable deduction or portion thereof attributable to such income and a ratable part of any other allowable deductions which cannot definitely be allocated to some item or class of income.

A schedule must be submitted with the return showing the: 1) gross income from each class of income being specifically allocated, 2) amount of each class of related expenses together with an explanation or computations showing how amounts were arrived at, 3) total amount of the related expense for each income class, and 4) net income for each income class. The schedules should provide appropriate columns as set forth above for items specifically assigned to Kansas and for nonbusiness items specifically assigned outside Kansas. An explanation must also be enclosed to explain specifically why each item of income arose from unusual and infrequent transactions outside of the regular course of the corporation's trade or business.

LINE 13—APPORTIONABLE BUSINESS INCOME. Subtract line 12 from line 11. Enter the result on line 13.

LINE 14—AVERAGE PERCENT TO KANSAS. Enter applicable percentages in spaces A, B & C. (If qualified and utilizing the elective two-factor formula, do not enter a percentage in space B.) Enter on line 14 the average percent from Form K-120AS, Part VI, line E **or** K-121, Part II, line 5. Round percentage to the fourth decimal point. **If your business is wholly within Kansas enter 100.0000.**

LINE 15—AMOUNT TO KANSAS. Multiply line 13 by line 14. Enter the result on line 15.

LINE 16—NONBUSINESS INCOME–KANSAS. Enter the total amount of nonbusiness net income directly allocated to Kansas. Enclose a schedule to support the amount shown.

LINE 17—KANSAS EXPENSING RECAPTURE (K-120EX). If you have a Kansas expensing recapture amount from Schedule K-120EX, enter the amount on line 17 and enclose a copy of your completed K-120EX and federal Form 4562.

LINE 18—KANSAS EXPENSING DEDUCTION (K-120EX). Enter the amount of your Kansas expensing deduction and enclose a copy of your completed K-120EX and federal Form(s) 4562. Also enclose any schedule necessary to enable KDOR to reconcile the federal Form 4562 amounts to the expensing claimed on the K-120EX. **Important**—The deduction must qualify under IRC Section 168: Modified accelerated cost recovery system (MACRS).

NET INCOME and TAXABLE INCOME

LINE 19—KANSAS NET INCOME BEFORE NOL DEDUCTION. Add lines 15, 16, and 17; then subtract line 18 and enter the result.

LINE ~~19~~20—KANSAS NET OPERATING LOSS (NOL) DEDUCTION. Enter amount of any Kansas net operating loss carry forward to which you are entitled. This amount cannot exceed amount on line 19. Submit a separate schedule to support the amount shown and any remaining carry over available.

LINE 21—COMBINED REPORT OR ALTERNATIVE/SEPARATE ACCOUNTING INCOME. If you are filing a combined report (Schedule K-121) or are authorized to file using the alternative or separate accounting method, enter on line 21 the Kansas taxable income from line 21 of Schedule K-121 **or** a separate schedule prepared by you (Separate/Alternative Method of Reporting).

LINE ~~21~~22—KANSAS TAXABLE INCOME. Subtract line 20 from line 19 or enter the amount from line 21, whichever is applicable. If the result is a negative figure, enter zero.

TAX

If filing Form K-121, skip lines 23 and 24 and proceed to line 25.

LINE 23—NORMAL TAX. Multiply the amount shown on line 22 by 4% and enter the result.

LINE 24—SURTAX. Multiply the amount shown on line 22 in excess of $50,000 by 3**%** and enter the result.

LINE 25—TOTAL TAX. Add lines 23 and 24 and enter result. If Schedule K-121 was used to determine income, enter the tax computed on Schedule K-121, line 24.

LINE 26—TOTAL NONREFUNDABLE CREDITS. Enter total nonrefundable credits from Part I, line 27 (cannot exceed the amount on line 25 of K-120).

LINE 27—BALANCE. Subtract line 26 from line 25 and enter result. This amount cannot be less than zero.

LINE 28—ESTIMATED TAX PAID AND AMOUNT CREDITED FORWARD. Enter total of all your 2013 estimated tax payments plus any 2012 overpayment you had credited forward to 2013.

LINE 29—OTHER TAX PAYMENTS. Enter any withholding amounts reported on Form K-19. Enclose Form(s) K-19.

LINE 30—AMOUNT PAID WITH KANSAS EXTENSION. Enter amount paid with your request for an extension of time to file.

LINE 31—TOTAL OF OTHER REFUNDABLE CREDITS. Enter total of all other refundable credits from Part I, line 34.

LINE 32—PAYMENT REMITTED ON ORIGINAL RETURN. Use this line if you are filing an amended Corporate Income Tax return for the 2013 tax year. Enter amount of money you remitted to KDOR with your original 2013 return or any payment remitted with a previously filed 2013 amended return, including penalty and interest.

LINE 33—OVERPAYMENT FROM ORIGINAL RETURN. Use this line ONLY if you are filing an amended income tax return for the 2013 tax year. Enter amount of overpayment shown on your original return. Since you were refunded the overpayment or it was credited forward, the amount is a subtraction entry.

LINE 34—TOTAL PREPAID CREDITS. Add lines 28 through 32 and subtract line 33. Enter the result on line 34.

BALANCE DUE

LINE 35—BALANCE DUE. If line 27 is greater than line 34, subtract line 34 from line 27 and enter the result.

If the amount on line 35 is not paid by the due date or if a balance due return is filed after the due date, penalty and interest are added according to the rules outlined in lines 36 and 37.

Extension of Time to File: Interest is due on a delinquent tax balance even if you have been granted an extension of time. If **90%** of your tax is paid on or before the original due date of your return, an automatic extension is applied and no penalty is assessed.

LINE 36—INTEREST. If you paid your tax after the original due date, compute interest at the rate of .333% per month (or fraction thereof) on the balance due and enter the result on line 36.

LINE 37—PENALTY. If you paid your tax after the original due date, compute the penalty at 1% for each month (or portion thereof) the return is late or the tax is unpaid on the balance due amount, up to a maximum of 24%. Enter this amount on line 37.

LINE 38—ESTIMATED TAX PENALTY. If underpayment of estimated tax penalty is due, enter the amount from your Schedule K-220 on line 38 and enclose Schedule K-220 with the return. If you are annualizing to compute the penalty, check the box on line 38. Any corporation which began business in Kansas during this period is not required to file a declaration, and no underpayment of estimate tax penalty will be imposed.

LINE 39—TOTAL TAX, INTEREST & PENALTY DUE. Add the amounts on lines 35 through 38 and enter result. If amount due is $5.00 or more **complete Form K-120V,** Corporate Payment Voucher and enclose it with your return and payment (do not use staples or tape to attach your documents together). Make check or money order payable to "Kansas Corporate Tax."

Returned checks: A fee of $30.00, plus costs for a registered letter (currently $10.86), is charged on all returned checks.

OVERPAYMENT

LINE 40—OVERPAYMENT. If line 34 is greater than the sum of line 27 and line 38, subtract the sum of line 27 and line 38 from line 34 and enter the result on line 40.

LINE 41—REFUND. Enter that part of line 40 you wish to be refunded. No refunds issued on amounts less than $5.00.

LINE 42—CREDIT FORWARD. Enter the portion of line 40 you wish to have applied to your 2014 Kansas estimated tax (must be $1 or more). If the amount on line 40 is less than $5.00, you may carry it forward to 2014 as an additional credit even if you don't make estimated tax payments. The amount on this line cannot exceed the total of lines 28, 29 and 30.

SIGNATURE and VERIFICATION

The return must be signed and sworn to by the president, vice-president, or other principal officer. If the return is prepared by a firm or corporation, sign the return in the name of the firm or corporation. Any person or persons who prepares the return for compensation must sign the return and provide their EIN or SSN.

Instructions for Form K-120, Pages 3 and 4

PART I — NONREFUNDABLE and REFUNDABLE CREDITS

Every corporation must complete PART I to claim a Kansas tax credit. First, complete the appropriate tax credit schedule, then enclose them with your Kansas corporate income tax return. Credit schedules are available on our web site.

SCHEDULE OF NONREFUNDABLE CREDITS

LINES 1 THROUGH 26. Enter on lines 1 through 26 any non-refundable tax credits for which you are eligible. You must complete and enclose with Form K-120 the applicable credit schedule(s).

LINE 27—TOTAL NONREFUNDABLE CREDITS. Add lines 1 through 26 and enter the total on line 27 and on line 26 of Form K-120. This amount cannot exceed your total tax on line 25 of Form K-120. **Important––**If filing a combined return (K-121), the amount of nonrefundable credits for each separate entity cannot exceed that entity's tax liability.

SCHEDULE OF REFUNDABLE CREDITS

LINES 28 THROUGH 33. Enter on lines 28 through 33 any refundable tax credits for which you are eligible. You must complete and enclose with your K-120 the applicable credit schedule(s).

LINE 34—TOTAL REFUNDABLE CREDITS. Add amounts on lines 28 through 33 and enter total here and line 31 of Form K-120.

PART II — ADDITIONAL INFORMATION

All corporations must answer all of the questions in Part II.

PART III — AFFILIATED CORPORATIONS DOING BUSINESS IN KANSAS

Every corporation must complete the information in this section for every affiliated corporation doing business in Kansas. If additional space is needed, enclose a separate schedule.

PART IV — SCHEDULE OF TAXES

Every corporation must complete this section so KDOR can verify the amount of taxes to be added back on line 3 of the return. If taxes are included elsewhere in the federal return, you must complete a schedule and enclose it with the Kansas return.

PART V — SCHEDULE OF INTEREST INCOME

Every corporation must complete this section if they are claiming a modification for interest income on United States obligations on line 7, page 1 of Form K-120.

You must complete and enclose Parts VI, VII, & VIII, of Form K-120AS with your K-120 if the corporation is doing business within and outside of Kansas and utilizing the apportionment formula to determine Kansas income.

PART VI—APPORTIONMENT FORMULA

Part VI is to be used by corporations which derive income from sources both within and without Kansas for the purpose of allocating and apportioning income. All business income is apportionable to Kansas by one of the following methods:

- Most corporations will multiply business income 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.
- Railroads will multiply business income by a fraction, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere.
- Interstate motor carriers will multiply business income by a fraction, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.
- A qualifying taxpayer may elect to multiply business income by a fraction, the numerator of which is the property factor plus the sales factor, and the denominator of which is two. A qualifying taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. For additional information relating to this method and to determine if you are qualified, you may review K.S.A. 79-3279. If you qualify to use this method you are required to complete, for the first year, the payroll information on Form K-120AS, Part VI, line B ***or*** Form K-121, Part II, Section 2.
- Single Factor Apportionment–all years beginning after 12/31/01, and at the election of the taxpayer made at the time of filing of the original return, the qualifying business income of any investment funds service corporation organized as a corporation or S corporation which maintains its primary headquarters and operations or is a branch facility that employs at least 100 individuals on a full-time equivalent basis in this state and has any investment company fund shareholders residenced in this state shall be apportioned to this state as provided in this subsection, as follows:

  By multiplying the investment funds service corporation's qualifying business income from administration, distribution and management services provided to each investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the investment company's fund shareholders residenced in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year.

Descriptions of each of the factors in the three-factor formula follow. The laws applicable to these factors are contained in K.S.A. 79-3280 through K.S.A. 79-3287. The applicable regulations are contained in K.A.R. 92-12-84 through K.A.R. 92-12-103, all of which can be found in our Policy Information Library at: **ksrevenue.org**

LINE A—Property Factor. The property factor shall include all real and tangible personal property owned or rented and used during the income year to produce business income. Property used in connection with the production of nonbusiness income shall be excluded from the factor. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the income year for the production of business income. Property used in the production of business income shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its sale or conversion to the production of nonbusiness income.

The numerator of the property factor shall include the average value of the taxpayer's real and tangible personal property owned and used in Kansas during the income year for the production of income, plus the value of rented real and tangible personal property so used. Property owned by the taxpayer in transit between locations of the taxpayer shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property, such as construction equipment, trucks and/or leased electronic equipment which are located within and without Kansas during the income year, shall be determined for purposes of the numerator of the factor on the basis of total time within Kansas during the income year. Property owned by the taxpayer shall be valued at its original cost. As a general rule, "original cost" is deemed to be the basis of the property for federal income tax purposes at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange, abandonment, etc. Property rented by the taxpayer is valued at eight times the net annual rental rate. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the income year. However, the Director of Taxation may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the taxpayer's property for the income year.

LINE B—Payroll Factor. The payroll factor shall include the total amount paid by the taxpayer for compensation during the tax period. The total amount "paid" to the employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report such compensation under such method for unemployment compensation purposes. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. The compensation of any employee on account of activities which are connected with the production of nonbusiness income shall be excluded from the factor. The denominator of the payroll factor is the total compensation paid everywhere during the income year.

The numerator of the payroll factor is the total amount paid in Kansas during the income year by the taxpayer for compensation. Compensation is paid in Kansas if any one of the following tests, applied consecutively, are met: (a) The employee's service is

performed entirely within Kansas; (b) The employee's service is performed both inside and outside of Kansas, but the service performed without this State is "incidental" to the employee's service in Kansas (the word "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction); (c) If the employee's services are performed both inside and outside of Kansas, the employee's compensation will be attributed to Kansas if: (1) the employee's base of operations is in Kansas; or (2) there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in Kansas; or (3) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in Kansas. The term "base of operation" is the place from where employees begin work and to which they customarily return in order to receive instructions from the taxpayer or communications from his customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

LINE C—Sales Factor. For purposes of the sales factor of the apportionment formula, the term "sales" means all gross receipts derived by the taxpayer from transactions and activity in the regular course of such trade or business. The following are rules for determining "sales" in various situations:

- In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the income year) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. "Gross receipts" for this purpose means gross sales, less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.
- In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, "sale" includes the entire reimbursed cost, plus the fee.
- In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, "sales" includes the gross receipts from the performance of such services, including fees, commissions, and similar items.
- In the case of a taxpayer engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing the use of the property.
- In the case of a taxpayer engaged in the disposition of non-inventory assets and property used or purchased in the regular course of business, "sales" includes the capital gain or ordinary gain realized from such disposition. The term "sales" does not include the return of capital or recovery of basis with respect to non-inventory capital assets.
- For all taxable years beginning after December 31, 2007, in the case of sales of intangible business assets, only the net gains from the sale shall be included in the sales factor.

The numerator of the sales factor shall include gross receipts attributable to Kansas and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-priced differential charges incidental to such gross receipts shall be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

Sale of Tangible Personal Property in this State:

- Gross receipts from sales of tangible personal property (except sales to the United States Government) are in this state if:
  - the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale.
  - the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.
- Property shall be deemed to be delivered or shipped to a purchaser in this state if the recipient is located in this state, even though the property is ordered from outside this state.
- Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.
- The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.
- When property being shipped by a seller from the state of origin to a consignee in another state is diverted while enroute to a purchaser in this state, the sales are in this state.
- If a taxpayer whose salesman operates from an office in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply.
  1) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in such state;
  2) If the taxpayer is not taxable in the state from which the property is shipped, then the sale is in this state.

Sales to the United States Government: Gross receipts from the sales of tangible personal property to the United States Government are to be included in Kansas if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. Only sales for which the United States Government makes direct payment to the seller pursuant to the terms of its contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, does not constitute sales to the United States Government.

Sales Other Than Sales of Tangible Personal Property: K.S.A. 79-3287 provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government). Under this section gross receipts are attributed to Kansas if the income-producing activity which gave rise to the receipts is performed within Kansas or if property producing the receipts is located within Kansas.

Gross receipts are attributed to Kansas if, with respect to a single item of income, the income-producing activity is performed within and without Kansas but the greater proportion of the income-producing activity is performed in Kansas, based on costs of performance. In cases where services are performed partly within

and partly without Kansas, the services performed in each state will usually constitute a separate income-producing activity; in such case, the gross receipts for the performance of services attributable to Kansas shall be measured by the ratio which the time spent in performing such services in this state bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, such as time expended in negotiating the contract, is excluded from the computation.

LINE D(1) — TOTAL PERCENT. If you are utilizing the three-factor formula to apportion income to Kansas, add lines A, B and C.

LINE D(2) — TOTAL PERCENT. If you are qualified and are utilizing the elective two-factor formula to apportion income to Kansas, add lines A and C.

LINE E — AVERAGE PERCENT. Divide line D(1) or D(2), whichever is applicable, by the number of factors used in the formula. For instance, if you are using the three-factor formula and the corporation does not have payroll anywhere, divide by 2.

Consistency in Reporting

In completing Form K-120, K-120AS and K-121, if, with respect to prior tax years and to filing other states' tax returns, the taxpayer departs from or modifies the manner in which income has been classified as business income from nonbusiness income, in valuing property or of excluding or including property in the property factor, in the treatment of compensation paid in the payroll factor, or in excluding or including gross receipts in the sales factor, the taxpayer shall disclose by separate enclosed schedule the nature and extent of the variance or modification. Only inconsistencies in the denominators of the property, payroll, and sales factors which materially affect the amount of business income apportioned to Kansas need to be disclosed. Inconsistencies in the determination of nonbusiness income and in the denominators of the factors due to a difference in state laws or regulations must be identified by that state's statute or regulation section number and shown on the separate schedule. The amount of each inconsistency by state is to be shown.

When a taxpayer makes sales of tangible personal property which are shipped from Kansas and assigned to a state in which the taxpayer does not file a return or report, the taxpayer shall identify the state to which the property is shipped, report the total amount of sales assigned to such state, and furnish the facts upon which the taxpayer relies as establishing jurisdiction to tax by such state.

PART VII — ADDITIONAL INFORMATION

All corporations must answer all questions.

PART VIII — AFFILIATED CORPORATION INFORMATION

All corporations must complete this section and indicate which of the affiliated corporations have property or payroll or sales in either the "total company" factors or the "within Kansas" factors of the apportionment formula on Part VI of the return.

State of Kansas
Department of Revenue
Docking State Office Building, 915 SW Harrison St.
Topeka, KS 66612-1588

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KANSAS DEPT.
OF REVENUE

Taxpayer Assistance

ksrevenue.org

Filing. For assistance in completing your Kansas Corporate Income Tax return, contact our Taxpayer Assistance Center.

Tax Assistance Center
Docking State Office Building - 1st floor
915 SW Harrison Street
Topeka, KS 66612-1588

PHONE: (785) 368-8222
FAX: (785) 291-3614

HOURS: 8:00 a.m. to 4:45 p.m. (M-F)

Forms. If you choose to file paper, FILE the ORIGINAL form, not a copy; or a form from an *approved* software package. Visit our web site for a list of *approved* software vendors. To obtain a KDOR printed form, call the Taxpayer Assistance Center.

Electronic File & Pay Options

webtax.org

KS WebTax is an on-line business center and a convenient, secure and easy way to manage your business accounts. Businesses can make electronic payments, file sales, use and withholding tax returns, and view on-line activity. KS WebTax simplifies your accounting process by having everything available in one easy-to-access location.

IRS e-File is a fast, accurate, and safe way to file a federal and Kansas tax return. Ask your preparer about e-File or visit our web site for a list of authorized e-File providers and software products.

Direct Payment can be made through our on-line business center, KS WebTax, using Electronic Funds Transfer (EFT) or through IRS e-File software. Direct payments can also be made by telephone. To use the telephone service, go to our web site and complete Form EF-101, Authorization for Electronic Funds Transfer. After you receive confirmation that the EF-101 has been processed, make your payment by calling the EFT Payment System at 1-877-600-5640.

Credit Card payments for your Kansas tax can be made on-line or by phone through third-party vendors. Services and fees vary, but all vendors accept major credit cards. Visit our web site for a list of vendors authorized to accept payments for Kansas.