

KANSAS DEPARTMENT OF REVENUE

2010 Legislative Enactments & Changes



(Rev. 9-27-10)

KDOR Taxpayer Education:

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Customer Relations:

- **Income Tax:** 785-368-8222 Option 4
- **Business Tax:** 785-368-8222 Option 5
- **Spanish Line:** 785-368-8222 Option 6

Problem Resolution Officer:

Bob Clelland
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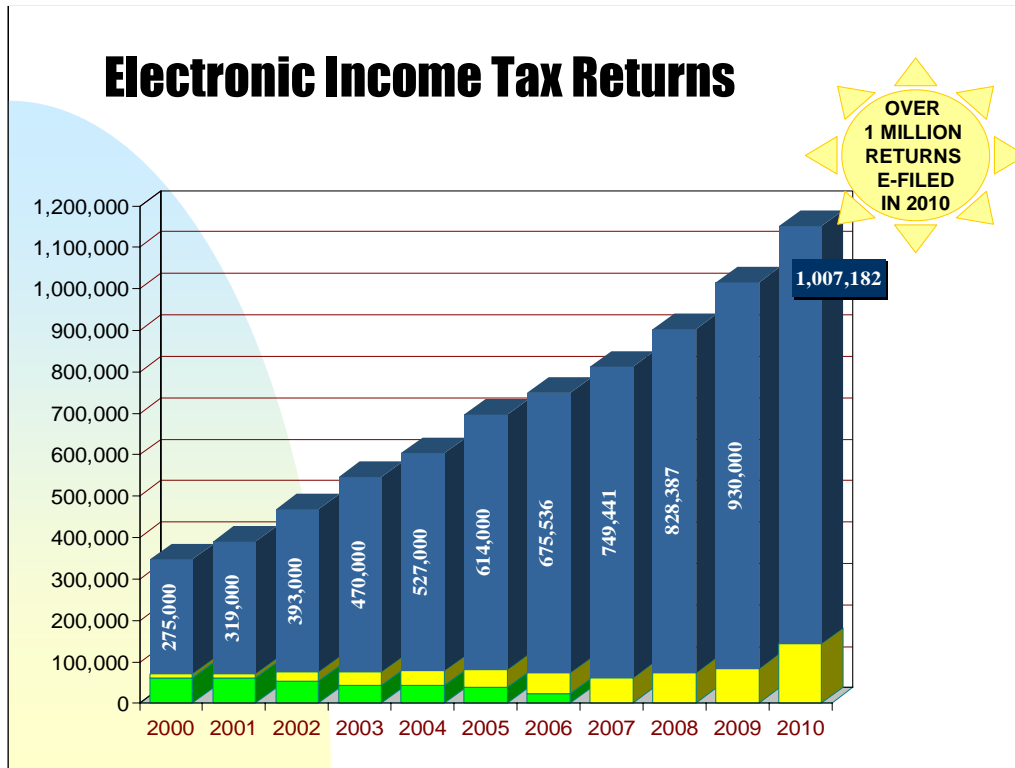
KDOR web site: www.ksrevenue.org

e-commerce web site: www.webtax.org

For a PIN number to WebFile: 1-785-368-8222

- **Option 5: Business Tax, Withholding Tax**
- **Option 2: Sales Tax**

Forms Order Line: 785-296-4937



As of June 15, 2010

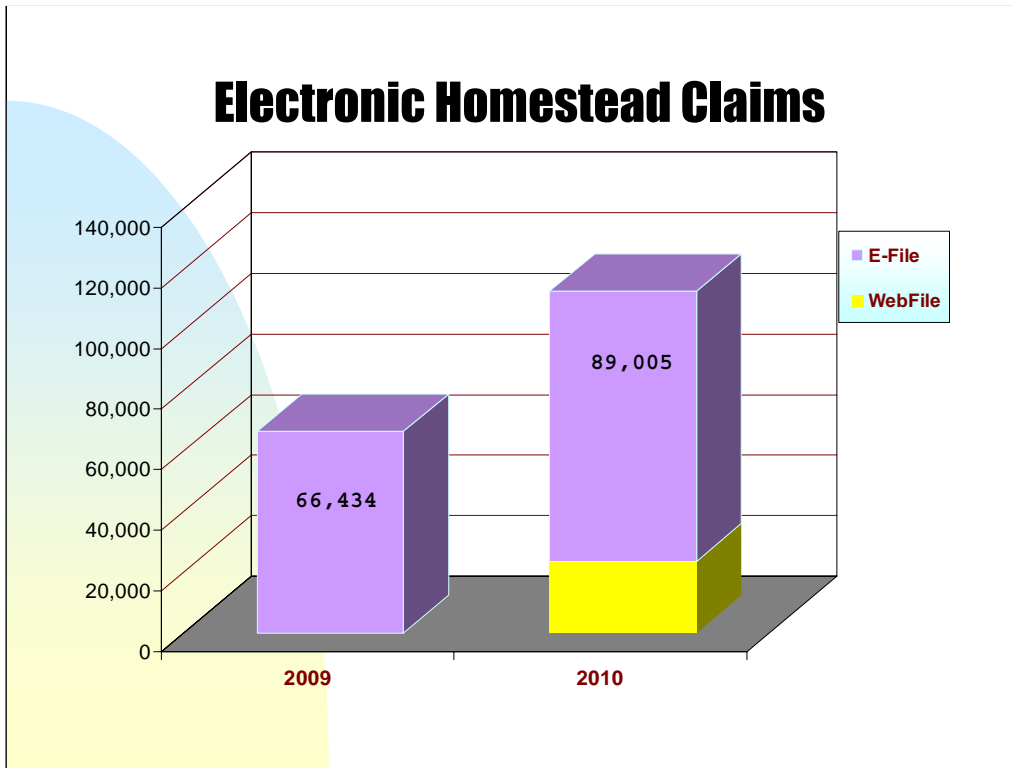
E-File statistics:

WebFile: 143,245; (+68.76%)

IRS E-File: 1,007,182; (+10.21%)

Total Electronic - Individual Income: 1,150,427 (+15.18%).

Corporate & Partnership- IRS E-File: 31,381 (+44.97%)



- **Homestead :**
 - WebFile: 23,636 First year.
 - IRS E-File: 89,005; (+33.76%)
 - **YTD Total Electronic – Homestead : 112,641 (69.28%)**

INDIVIDUAL INCOME TAX

ELECTRONIC FILING REQUIRED:

- A PAID PREPARER FILING 50 OR MORE RETURNS PER YEAR SHALL FILE BY ELECTRONIC MEANS NOT LESS THAN 90% OF SUCH RETURNS ELIGIBLE FOR ELECTRONIC FILING.

2010 STATS



2,783 practitioners filed Kansas income tax returns
 2,515 practitioners complied with mandate (90% electronic).
 268 practitioners did not comply with mandate. Down ↓ from 496 in 2009
 The practitioner compliance rate was 90% compliance, ↑ up from 82% compliance in 2009.

•2008 Senate Substitute for HB 2434., Section 19

•K.S.A. 79-3220(a)(2) *In accordance with the provisions of section 1, and amendments thereto, an individual who is required to file a return may file such return by electronic means in a manner approved by the secretary of revenue. A paid preparer who prepares 50 or more returns per year shall file by electronic means not less than 90% of such returns eligible for electronic filing. The requirements of this subsection may be waived by the secretary of revenue for a paid preparer if the paid preparer demonstrates a hardship in complying with the requirements of this subsection.*

•Effective July 1, 2008

•Call 800-525-3901 – KDOR’s EFT Unit

2010 MANDATE STATS			
268 Noncompliant Practitioners:		Number of paper returns filed	Number of Electronic returns filed
10	Waiver requests	272	174
35	preparers filed between 80%-90% electronically	3,797	26,397
12	preparers filed between 70%-80% electronically	72	2,348
11	preparers filed between 60%-70% electronically	965	1,881
17	preparers filed between 50%-60% electronically	2,641	3,291
5	preparers filed between 40%-50% electronically	309	267
4	preparers filed between 30%-40% electronically	549	327
9	preparers filed between 20%-30% electronically	1,739	564
4	preparers filed between 10%-20% electronically	358	38
13	preparers filed between 1%-10% electronically	2,064	56
158	preparers filed 0% electronically	15,904	0
Total		28,670	35,343
2,515 Compliant Practitioners		Number of Paper returns filed	Number of Electronic returns filed
Total		18,636	607,518

Electronic File Reoccurring problems

- **Homestead:**
 - Birth dates for household members must be the full date of birth.
 - Returns without reporting the prior year Fed EIC.
- **Credits:**
 - Adoption credit (K47). Qualifier boxes on the top of the form (25%, 50% or 75%) not checked.
 - Use WebFile to amending one of the deferred maintenance credits (K84, K85) until your particular software allows amendeds through efile.
- **Corporate/Partnership:**
 - Efile required fields in header for 1120/1120S/1065 returns not filled out including the Business Representative First & Last Name, Title, and Phone fields of the header were transmitted incomplete.
 - Credit schedules required fields transmitted without being completed.
- **New stuff for next filing season:**
 - New Schedule CR required when claiming a tax credit amount on K-40 Line 15 and/or Line 24.
 - For VITA/AARP volunteers, state-only returns.
 - Higher volume of Modernized efile returns for the 1040/K40 program. What does modernized efile mean?
 - Submission ID rather than Document Control Number.
 - Faster confirmation (we process 24 hours a day, 7 days a week).
 - Preparers can attach PDFs of supporting documents.
 - Amended returns and prior year returns accepted (check with your software to be sure).

Homestead:

Birth dates for household members must be the full date of birth. Again in tax year 2009 we received a large number of returns where the preparer is only entering a birth year, or entering the birth year twice to fill up the date field of MMDDYYYY. If the child was born in 1995 we received returns showing the DOB as 19951995. While we did not reject returns with this type of error last year, Modernized efile will reject these types of formatting errors this year. We must receive a full, complete date such as 01/01/1995 or 12/31/1995, etc...

We have been receiving some homestead returns without reporting the prior year Fed EIC. We catch this and if refund has been issued, we collect the refund back plus penalty and interest. Especially if the filer was a customer of the same preparer the year before - the preparer should have that prior year EIC amount readily available.

Credits:

Adoption credit (K47). Preparers- be sure to check one of the qualifier boxes on the top of the form (25%, 50% or 75%). We are receiving some K-47's with no box checked.

If preparer has to amend an efile return claiming one of the deferred maintenance credits (K84, K85) they must amend electronically or the credits will be denied. Modernized efile supports amended returns, but software is slow to support this new feature. Use WebFile, until your particular software allows amendeds through efile.

Corporate/Partnership:

Efile uses a standardized header for all 1120/1120S/1065 returns. This header has required fields (Business Representative First & Last Name, Title, Phone) We rejected several hundred returns for this reason until the preparer filled out these fields and retransmitted the returns. Part of this was due to software problems in not alerting the preparer that these fields were required.

Most credit schedules have required fields. Review each credit schedule before transmitting to be sure that all the applicable fields on the form are completed, otherwise the submission will be rejected. For instance, K-34 depending on whether its a retail service or manufacturer nonmanufacturer, data in the applicable columns must be present, along with the number of qualified employees, the payroll for those qualified employees, and then the total employment and the total payroll in KS.

What's New for the up coming filing season:

New Schedule CR will be required any time a filer is claiming a tax credit amount on K-40 Line 15 and/or Line 24.

VITA/AARP volunteers: The I.R.S. will no longer accept a \$0 federal return in order to get the KS return to be efiled. Terry Hunt worked with TaxWise software vendors to allow state-only returns and now you may send a K-40/K-40H/K-40PT without sending anything to IRS.

We anticipate a much higher volume of Modernized efile returns for the 1040/K40 program. Kansas was the first state to receive modernized returns, and we have 10 software companies that implemented modernized for Kansas last year. We should add several more this year.

What does modernized efile mean?

- Submission ID rather than Document Control Number,
- Faster confirmation (we process 24 hours a day, 7 days a week).
- Preparers can attach PDFs of supporting documents,
- Amended returns and prior year returns accepted (check with your software to be sure).

INCOME TAX

SUBTRACTION MODIFICATION:

(As defined by subsection (b) of Section 7702B of Public Law 104-191)

Premium costs for Qualified Long-Term Care Insurance Contracts (LTC). Last year for increase in amount of subtraction for LTC.

- **\$1,000** Subtraction modification - TY 2010 – Single, HOH & MFS.
- **\$2,000** Subtraction modification - TY 2010 – MFJ –when both purchase a LTC contract.

Line A14 of Schedule S

• **2004 HB 2545, Sec. 17.** KSA 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.....

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

*(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December 31, 2006, an amount not exceeding \$700; for the tax year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; **and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.***

• **Public Law 104-191, Sec. 7702B. Treatment of Qualified Long-Term Care Insurance.**

(b) Qualified Long-Term Insurance Contract. - For purposes of this title -

(1) IN GENERAL. - The term "Qualified long-term care insurance contract" means any insurance contract if -

(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

(C) such contract is guaranteed renewable,

(D) such contract does not provide for a cash surrender value or other money that can be -

(1) paid, assigned, or pledged as collateral for a loan, or (ii) borrowed, other than as provided in subparagraph (E) or paragraph (2)(C),

(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

(F) such contract meets the requirements of subsection (g).

• **TY 2010 - \$1000 per LTC Contract per Taxpayer. Single, Head of Household & Married Filing Separate purchasing a LTC Contact for the named taxpayer - limited to one (1) \$1000 subtraction modification per return. Married Filing Joint - purchasing a LTC for BOTH named taxpayers - limited to two (2) \$1000 subtraction modifications per return (for a total subtraction of \$2,000).**

• Line A14 on Schedule S - Subtraction Modification for Premium Costs

• This subtraction modification is in ADDITION to any federal allowances.

INCOME TAX

EARNED INCOME CREDIT (EIC)

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.

Line 23 of Kansas Individual Tax Form K-40.

INCOME TAX

CREDIT REDUCTION: SB 430

Corrections to “Haircut”

- **Non-Refundable credits:** *K.S.A. 79-32,264*
 - **Total credit shall not exceed the lesser of 90% of total credit(s) or 90% of the tax as computed prior to the allowance of any credits.**
- **Refundable Credits**
 - **90% of total credit(s) earned. Unused 10% of credit will be lost.**
- **Effective for both 2009 and 2010 Tax Years.**

2009 SB 430, Section Sec. 5. K.S.A. 2009 Supp. 79-32,264 is hereby amended to read as follows: 79-32,264. (a) For tax years 2009 and 2010, for any tax credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176, 79-32,177, 79-32,190 and 79-32,200 and K.S.A. 2009 Supp. 40-2246, 74-50,154, 74-50,173, 74-50,208, 74-8133, 74-8205, 74-99c09, 79-32,153, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-32,202, 79-32,204, 79-32,207, 79-32,211a, 79-32,212, 79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246, and 79-32,252, 79-32,261 and 79-32,262, and amendments thereto, and if nonrefundable, K.S.A. 79-32,261 and 79-32,262, and amendments thereto, and for tax year 2009, for the tax credit provided under K.S.A. 2009 Supp. 74-99c09, and amendments thereto, the total of any such credit or credits allowed 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, shall not exceed the lesser of 90% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 90% of the tax as computed prior to the allowance of any such credit or credits. Except as otherwise provided by subsections (c) and (d), the amount of such credit or credits that may be carried forward in any succeeding taxable year shall be reduced by an amount equal to the lesser of 10% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 10% of the tax as computed prior to the allowance of any such credits. (b) For tax years 2009 and 2010, for any tax credit provided under K.S.A. 40-2246 and 79-32,190 and K.S.A. 2009 Supp. 79-32,206 and 79-32,210 74-50,208, 79-32,206, 79-32,210 and 79-32,211a, and amendments thereto, and if refundable, K.S.A. 79-32,261 and 79-32,262, and amendments thereto, and for tax year 2009, for the tax credit provided under K.S.A. 2009 Supp. 74-50,154, and amendments thereto, the total amount of any credits refunded or allowed 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, shall not exceed 90% of the total amount of tax credit or credits earned, and the remaining portion of such tax credit or credits shall be lost. (c) For any tax credit or credits earned pursuant to K.S.A. 79-32,160a, and amendments thereto, other than tax credits earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year prior to 2009 and carried forward from such prior tax year and claimed in tax years 2009 or 2010, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto. (d) For any tax credit earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, by a taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto, who has received prior to June 1, 2009, written approval from the secretary of commerce of a certificate of intent to invest in a qualified business facility, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto. (e) For any tax credit or credits earned pursuant to K.S.A. 74-8133, and amendments thereto, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a) from tax years 2009 or 2010, may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 74-8133, and amendments thereto.

INCOME TAX

CREDIT REDUCTION “HAIRCUT”: SB 430

• Regional Foundation Contribution (K-32)

K.S.A. 74-50,154

- In place of 10% “Haircut” reduction for TY 2010, credit is capped at **\$1.8 million** for TY 2010 (FY 2011).
- Capped at \$2.0 million for TY 2009 and 2011 (FY 2010 & 2012).
- “Haircut” reduction applies for TY 2009 only (FY 2010).

• Center for Entrepreneurship (K-31)

K.S.A. 74-99c09

- In place of 10% “Haircut” reduction for TY 2010, credit is capped at **\$1.8 million** for TY 2010. (FY 2011)
- “Haircut” reduction applies for TY 2009 only (FY 2010).

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SB 430 Section 1. K.S.A. 2009 Supp 74-50,154 (**REGIONAL FOUNDATION CREDIT**)

(b) For taxable years commencing after December 31, 2004, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act. (c) (1) On December 31, 2007, June 30, 2008, and each June 30 thereafter, each regional foundation shall transfer 5% of funds raised in the previous fiscal year from the marketing of the rural business tax credits to be credited to the enterprise facilitation fund created in K.S.A.2009 Supp. 74-50,155, and amendments thereto.

(2) The secretary of commerce may adopt rules and regulations for the disbursement of regional foundation funds to the enterprise facilitation fund.

(d) (1) The secretary of commerce is hereby authorized to adopt rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in the region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations adopted pursuant to subsection (d)(1) to

use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and \$2,000,000 per year for fiscal years 2007 through, and including, 2010, and fiscal year 2012, and \$1,800,000 for fiscal year 2011. Each region as defined by this act shall receive an equal share of this allocation.

SB 430 Sec. 3. K.S.A. 2009 Supp. 74-99c09 is hereby amended to read as follows:

(CENTER FOR ENTREPRENEURSHIP CREDIT)

(d) The secretary of revenue shall not allow tax credits of more than \$50,000 that are attributable to an individual contributor in the Kansas center for entrepreneurship each year. In no event shall the total amount of tax credits allowed under this section exceed \$2,000,000 for any one fiscal year, **except that for fiscal year 2011, the total amount of credits allowed under this section shall not exceed \$1,800,000.**

Claim the Regional Foundation Credit on Schedule K-32.

INCOME TAX

CREDIT REDUCTION “HAIRCUT”: SB 430

- **ANGEL INVESTOR (K-30)** K.S.A. 74-8133
 - Continues to have the “Haircut” reduction however the amount of the reductions for TY 2009 & 2010 may be carried forward and used starting in TY 2011.
- **HISTORICAL PRESERVATION CREDIT (K-35)** K.S.A. 79-32,211
 - FY 2011 \$3.75 million cap repealed.
 - No cap for FY 2012 or later.

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• **SB 430 Sec. 2.** K.S.A. 2009 Supp. 74-8133 is hereby amended to read as follows: 74-8133. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.

(b) The secretary of revenue shall not allow tax credits of more than \$50,000 for a single Kansas business or a total of \$250,000 in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year 2016. The total amount of tax credits which may be allowed under this section shall not exceed \$4,000,000 during the tax year 2007 and **\$6,000,000 for tax year 2008 and each tax year thereafter, except that for tax year 2011, the total amount of tax credits which may be allowed under this section shall not exceed \$5,000,000. The balance of unissued tax credits may be carried over for issuance in future years until 2016.**

(c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code.

SB 430 Sec. 5. K.S.A. 2009 Supp. 79-32,264 is hereby amended to read as follows: 79-32,264. (a) For tax years 2009 and 2010, for any tax credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176, 79-32,177, **79-32,190** and 79-32,200 and K.S.A. 2009 Supp. **40-2246, 74-50,154, 74-50,173, 74-50,208, 74-8133, 74-8205, 74-99c09, 79-32,153, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-32,202, 79-32,204, 79-32,207, 79-32,211a, 79-32,212, 79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246, and 79-32,252, 79-32,261 and 79-32,262, and amendments thereto, and if nonrefundable, K.S.A. 79-32,261 and 79-32,262, and amendments thereto, and for tax year 2009, for the tax credit provided under K.S.A. 2009 Supp. 74-99c09, and amendments thereto, the total of any such credit or credits allowed 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, shall not exceed the lesser of 90% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 90% of the tax as computed prior to the allowance of any such credit or credits. Except as otherwise provided by subsections (c) and (d), the amount of such credit or credits that may be carried forward in any succeeding taxable year shall be reduced by an amount equal to the lesser of 10% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 10% of the tax as computed prior to the allowance of any such credits**

(e) **For any tax credit or credits earned pursuant to K.S.A. 74-8133, and amendments thereto, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a) from tax years 2009 or 2010, may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 74-8133, and amendments thereto**

• **Claim Angel Credit on Schedule K-30**

• SB 430 Sec. 4. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read as follows: 79-32,211. (a) For all taxable years commencing after December 31, 2006, there shall be allowed a tax credit against the income, privilege or premium tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal to 25% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equal \$5,000 or more; or in an amount equal to 30% of qualified expenditures incurred in the restoration and preservation of a qualified historic structure which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code and which is not income producing pursuant to a qualified rehabilitation plan by a qualified taxpayer if the total amount of such expenditures equals \$5,000 or more. In no event shall the total amount of credits allowed under this section **exceed \$3,750,000 for fiscal years year 2010. If the amount of such tax credit exceeds the qualified taxpayer's income, privilege or premium tax liability for the year in which the qualified rehabilitation plan was placed in service, as defined by section 47(b)(1) of the federal internal revenue code and federal regulation section 1.48-12(f)(2), such excess amount may be carried over for deduction from such taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the 10th taxable year succeeding the taxable year in which the qualified rehabilitation plan was placed in service.**

• **Claim the Historical Preservation Credit on Schedule K-35**

INCOME TAX

No Change from 2009.

- **FILM PRODUCTION CREDIT:**

NOT AVAILABLE FOR TYs 2009 & 2010

- **The Following credits receive no “Haircut” reduction:**

- **K-40, Line 13 Credit for Taxes paid to Other States.**
- **K-40, Line 14 Credit for Child & Dependent Care Expenses**
- **K-40, Line 23 Earned Income Credit**
- **K-40, Line 25 Food Sales Tax Refund**

2009 Senate Substitute for HB 2365, New Section 7.

K.S.A. 2008 Supp. 79-32,258 is hereby amended to read as follows: 79-32,258. (a) Except as otherwise provided, for all taxable years commencing after December 31, 2006, a credit against the tax imposed by the Kansas income tax act shall be allowed for direct production expenditures made by an eligible film production company, except that such provisions shall not be applicable for tax years 2009 and 2010. Such credit shall be in an amount equal to 30% of direct production expenditures made in Kansas that are directly attributable to the production of a film in Kansas and that have been awarded by the department of revenue. The tax credit shall be deducted from the eligible film production company's income tax liability for the taxable year in which the expenditures are made by the eligible film production company. If the amount of the film production tax credit allowed exceeds the film production company's income tax liability for the taxable year, the taxpayer may carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the third taxable year succeeding the year in which the costs are incurred. If the eligible film production company is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability entity, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the member of such limited liability entity in the same manner as such shareholder, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability entity.

K-86 Film Production Credit

CORPORATE INCOME TAX

“SURTAX” RATE:

- **TY 2010 = 3.05%**
- **Surtax drops 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.

SALES TAX

- Kansas state Sales Tax Rate INCREASE TO 6.3% effective July 1, 2010.
- Effective JULY 1, 2013 Sales Tax Rate decreases to 5.7%.
- See Notice 10-02 and 10-03

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HB 2360 Section 1. K.S.A. 2009 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at 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%.

See Notice 10-02

See Notice 10-03 for instructions on reporting sales tax involving both sales tax rates.

SALES TAX

MANDATORY ELECTRONIC FILING: *HB 430*

- Businesses will be required to file Retailers' Sales, Compensating Use, and Withholding Tax returns electronically effective July 1, 2010.
- KDOR will continue to provide paper forms as needed only through **September 30, 2010.**
- After September 30, 2010, KDOR will NO longer have printed paper forms available for distribution.

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In accordance with Senate Bill 430 passed by the 2010 Kansas Legislature and subsequently signed into law by the Governor, businesses will be required to submit Retailers' Sales, Compensating Use, and Withholding Tax returns electronically. This new law takes effect July 1, 2010. To ensure a smooth transition for Kansas businesses the Kansas Department of Revenue (KDOR) will continue to provide paper forms as needed through September 30, 2010. PLEASE NOTE: After September 30, 2010, KDOR will no longer have printed paper forms available for distribution.

Kansas offers several electronic filing solutions. You can use WebTax for online filing and payment for most business tax accounts. First, create a user login ID and select a password then attach your business tax accounts. Each tax account has a unique Personal Identification Number (PIN) that only needs to be entered once. This PIN binds your account to your login ID. For future filings, you simply log into your account using your self-selected user login and password. A history of all returns filed or payments made is retained in WebTax.

You can also use the telephone to file returns and make payments for several tax accounts. Like WebTax, you will need a PIN to access the correct tax account. The telephone option requires that you use this PIN each time you file or make payment.

For your PIN assignment, call 1-785-368-8222. If you prefer you may e-mail Electronic Services at eservices@kdor.state.ks.us.

Payments are made through EFT transfer (ACH Debit or ACH Credit) on or before the due date. Credit card payments are also accepted through third-party vendors. Visit our web site at webtax.org for a current list of vendors and their services.

The online WebTax application and the telephone filing options are simple, safe, and FREE and conveniently available 24 hours a day, 7 days a week. You also receive immediate confirmation that your return is filed.

HB 430 Sec. 11. K.S.A. 2009 Supp. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section in the manner prescribed by the director, including electronic filing, upon forms or format prescribed by the director.

Retailers' Sales *and* Compensating Use Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORM TYPES ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE www.webtax.org	Use WebTax to file <u>single</u> and <u>multiple jurisdiction</u> sales and use tax returns. WebTax allows filers to upload jurisdictions and tax payments directly into returns. Users can also copy jurisdiction information from previous returns into their current return saving time and improving accuracy.	<ul style="list-style-type: none"> ▪ ST-16 ▪ ST-36 ▪ CT-9U ▪ CT-10U 	<ul style="list-style-type: none"> ▪ Internet access ▪ PIN(s) ▪ EIN 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use Web Tax Now" button. ➤ Create a user login and select a password. ➤ Contact Electronic Services for your PIN assignment. ➤ Connect your tax account to your login and begin filing.
BY PHONE 1-877-317-5639	This TeleFile system can be used to file <u>single jurisdiction</u> sales tax returns. Using a touch-tone phone, tax information is entered from a completed worksheet into the TeleFile system. Your assigned Personal Identification Number (PIN) and federal Employer Identification Number (EIN) remains the same for each filing period.	<ul style="list-style-type: none"> ▪ ST-16 	<ul style="list-style-type: none"> ▪ Touch-tone telephone ▪ TeleFile worksheet ▪ PIN(s) ▪ EIN 	<ul style="list-style-type: none"> ➤ Complete a TeleFile worksheet (it can be downloaded from our web site at ksrevenue.org/pdf/forms/st16tel.pdf or you may make copies of your current worksheet to use for future filing periods). ➤ Contact Electronic Services for your PIN assignment. ➤ Call 1-877-317-5639 and use your PIN and your federal EIN to access the TeleFile system. Using the keypads of your touch-tone phone, enter the information from your worksheet.

Withholding Tax

ELECTRONIC OPTIONS	PROGRAM DESCRIPTION	FORM TYPES ACCEPTED	REQUIREMENTS	GETTING STARTED
ONLINE www.webtax.org	KW-5 Deposit Reports can be made using the WebTax application. After connecting to your Withholding account, simply click the "Make an EFT Payment" link to complete your filing and payment. WebTax also allows you to file your KW-3 Annual Withholding Tax return and W-21099 Withholding Reports electronically. A Form EF-101 , Authorization for Electronic Funds Transfer, must be submitted for ACH Credit * before using the EFT payment method. This form is available from our web site (ksrevenue.org) or by calling 1-800-525-3901 or, if in Topeka, call 296-6993.	<ul style="list-style-type: none"> ▪ KW-3 ▪ KW-5 ▪ W-2 ▪ 1099 	<ul style="list-style-type: none"> ▪ Internet access ▪ PIN(s) ▪ EIN ▪ EF-101 form (ACH Credit Payments) 	<ul style="list-style-type: none"> ➤ Go to webtax.org and click the "Use WebTax Now" button. ➤ Create a user login and select a password. ➤ Contact Electronic Services for your PIN assignment. ➤ Connect your tax account to your login and begin filing. ➤ Submit a Form EF-101, Authorization for Electronic Funds Transfer (ACH Credit* payers only).
BY PHONE 1-877-600-5640	A KW-5 return with payment can be made through the EFT Payments telephone system. A Form EF-101 , Authorization for Electronic Funds Transfer, must be submitted for ACH Debit * before using the EFT payment method. This form is available from our web site (ksrevenue.org) or by calling 1-800-525-3901 or, if in Topeka, call 296-6993.	<ul style="list-style-type: none"> ▪ KW-5 	<ul style="list-style-type: none"> ▪ Touch-tone telephone ▪ PIN(s) ▪ EIN ▪ EF-101 form (ACH Debit Payments) 	<ul style="list-style-type: none"> ➤ Submit a Form EF-101, Authorization for Electronic Funds Transfer. ➤ Contact Electronic Services for your PIN assignment. ➤ Call 1-877-600-5640 and use your PIN and your federal EIN to access the EFT Payments system. Using the keypads of your touch-tone phone, follow the phone prompts to complete your payment and submit your return.

* **ACH Debit:** Kansas Department of Revenue debits the tax payment from your bank account. **ACH Credit:** You initiate a tax payment through your bank.

SALES TAX

Conformity to Streamlined Sales Tax SB 430

Amendments to KDOR's statutes to conform to the Streamlined and Use Tax Agreement

K.S.A. 2009 Supp. 79-3609

- Defines : "taken in good faith" for Sales tax exemption certificates obtained from purchasers within 120 days after audit staff request.
 - Statutorily available in jurisdiction and on date of transaction.
 - Applicable to item purchased.
 - Reasonable for purchaser's type of business.
- Established that if the retailer knew the information on the exemption certificate was false, then the exemption certificate will not relieve the retailer from liability for the tax.

Streamlined Sales Tax Amendments

The Department's statutes governing the administration and contents of sales tax exemption certificates, K.S.A. 2009 Supp. 79-3609 and 79-3651, were amended to conform to 2009 amendments to Section 317 of the Streamlined Sales and Use Tax Agreement.

Retailers must obtain sales tax exemption certificates from their purchasers within 90 days of the transaction in order to be protected against liability for failing to collect, report and remit sales tax on taxable transactions identified in an audit. If the retailer did not obtain an exemption certificate within that time frame, when department audit staff notifies the retailer of an audit and requests copies all exemption certificates, the retailer has 120 days thereafter to obtain exemption certificates from the purchaser, "taken in good faith." The amendment to 79-3609 now defines what "taken in good faith" means:

The seller obtain[s] a certificate that claims an exemption that (i) was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, (ii) could be applicable to the item being purchased, and (iii) is reasonable for the purchaser's type of business.

K.S.A. 2009 Supp. 79-3609 is also amended to provide that, for exemption certificates provided during the 120 days after audit notification and not obtained within 90 days of the transaction, if the Department establishes that the retailer knew the information on the exemption certificate was materially false, or had reason to know it, or knowing participated in activity purposefully evading the tax, then the exemption certificate will not relieve the retailer from liability for the tax.

Sales Tax

Conformity to Streamlined Sales Tax SB 430

SST agreement changes continued.

K.S.A. 2009 Supp. 79-3651

- Specifies the contents of sales tax exemption certificates for entity based exemptions.
 - Must be signed by an authorized signature but retailer need **NOT** verify it is signed by an officer, manager or other administrator.
 - Retailer can require payment by check, voucher or warrant of exempt entity, but **NOT** mandatory to do so.

79-3651(f) Amendments

K.S.A. 2009 Supp. 79-3651(f) specifies the contents of sales tax exemption certificates for entity-based exemptions. K.S.A. 2009 Supp. 79-3651(f) is amended to strike the provisions stating that the purchaser must indicate on the exemption certificate form the specific statutory subsection under which the exemption is being claimed, that the certificate must be signed by an officer, manager, or other administrator of the non-profit entity, and that payment must be made by the exempt entity's check, voucher or warrant, in order for the retailer to be protected from liability for the tax. The signature on the exemption certificate must be an "authorized signature"—but the retailer does not have to verify that the signature is an officer, manager or other administrator of the exempt entity. Also, the retailer may require that payments be made on an exempt entities check, warrant, voucher, or charged directly to the entities account as a condition honoring the exemption claim.

Sec. 12. K.S.A. 2009 Supp. 79-3609 is hereby amended to read as follows: 79-3609. (a) Every person engaged in the business of selling tangible personal property at retail or furnishing services taxable in this state, shall keep records and books of all such sales, together with invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be available for and subject to inspection by the director, or the director's duly authorized agents and employees, for a period of three years from the last day of the calendar year or of the fiscal year of the retailer, whichever comes later, to which the records pertain. Such records shall be preserved during the entire period during which they are subject to inspection by the director, unless the director in writing previously authorizes their disposal. Any person selling tangible personal property or furnishing taxable services shall be prohibited from asserting that any sales are exempt from taxation unless the retailer has in the retailer's possession a properly executed exemption certificate provided by the consumer claiming the exemption, except as follows: (1) A retailer is relieved of liability for tax otherwise applicable if the retailer obtains a fully completed exemption certificate or captures the relevant data elements required by the director within 90 days subsequent to the date of the sale; or (2) if the retailer has not obtained an exemption certificate or all relevant data elements, the retailer, within 120 days subsequent to a request for substantiation by the director, either may prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith which meets the requirements specified in this subsection, or obtain other information establishing that the transaction was not subject to tax. Otherwise, the sales shall be deemed to be taxable sales under this act. *The seller shall obtain an exemption certificate that claims an exemption that was authorized pursuant to Kansas law on the date of the transaction in the jurisdiction where the transaction is sourced pursuant to law, could be applicable to the item being purchased and is reasonable for the purchaser's type of business. If the seller obtains an exemption certificate or other information as described in this subsection, the seller is relieved of any liability for the tax on the transaction unless it is discovered through the audit process that the seller had knowledge or had reason to know at the time such information was provided that the information relating to the exemption claimed was materially false or the seller otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction, and it must be established that the seller had knowledge or had reason to know at the time the information was provided that the information was materially false.*

SALES TAX

Conformity to Streamlined Sales Tax SB 430

Agreement changes continued.

K.S.A. 2009 Supp.79-3666

Notice is required before a state sales tax rate change.

If less than 30 days, a seller is relieved from failing to collect sales tax at the changed state rate for 30 days after the state rate change.

79-3666 Amendments

The Agreement requires that for state sales tax rate changes, there must be at least 30 days between the effective date of a law enacting a state rate change and the date when the new rate actually starts to apply, or if not, retailers will be held harmless for failing to collect the correct rate for 30 days after date of enactment of the law raising the rate. K.S.A. 2009 Supp. 79-3666 is amended to conform to this requirement.

SALES TAX

Streamlined Sales Tax Amendments SB 430

SST agreement changes continued.

K.S.A. 2009 Supp. 79-3672

- Changes in provisions governing direct mail sourcing
 - Defines advertising and promotional direct mail as printed material that meets the definition of direct mail for which the primary purpose is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization.
 - Does **NOT** include purchases of data processing services that are more than incidental to producing direct mail.

79-3672--Direct Mail Sourcing Amendments

“Direct mail” is printed material delivered to a mass audience and not paid for by the recipients.

K.S.A. 2009 Supp. 79-3672 states the direct mail sourcing rule: sourced to recipient's mailbox, subject to exceptions. If the purchaser of the direct mail (retailer sending out an advertising brochure to customers) provides the seller of the direct mail (printer and mailer of the brochure) a direct pay permit or a direct mail form, then the purchaser must self-accrue, report and remit the applicable sales tax on the transaction, and the seller is relieved of that obligation. If the purchaser provides the seller information showing the jurisdictions to which the direct mail is delivered to recipients, then the seller is obligated to collect and remit sales tax on the transaction, sourcing it to the appropriate jurisdictions of the recipients. If the purchaser does not provide any of the above, then as a “default” rule, the seller sources the sale to it’s location.

Two sub-definitions of direct mail are added: **"advertising and promotional direct mail"** (advertising brochures, catalogs, etc.) and "other direct mail" (business correspondence such as monthly account statements, invoices, privacy statements, and anything else mailed to a mass audience). A different “default” sourcing rule now applies for “other direct mail.” When the purchaser of "other direct mail" does not provide the seller a direct pay permit, direct mail form, or taxing jurisdiction information, the seller sources “other direct mail” to the purchaser’s address, instead of the seller’s location.

“Direct mail” does not include purchases of data processing services that are more than incidental to producing direct mail. Data processing services are not taxable in Kansas.

WITHHOLDING

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) HB 2554

● **PEAK Expanded** HB 2554

- 1) **Relocate:** to Kansas an existing out of state business facility, office, department, or other operation ; Effective July 1, 2010
- 2) **Locate** a new business facility, office, department or other operation in Kansas; Effective July 1, 2010 ; **OR**
- 3) **Expand** an existing Kansas business facility, office, department or other operation; Has a FY cap of \$4.8 million. Effective January 01, 2012.
 - To pay for this expansion of PEAK, HB 2554 repeals the B & J tax credits (both jobs and investment) for all metro counties starting in tax year 2011. (*Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte*). Retains the current provisions for B & J credits in all non-metro counties.
 - Business can apply for a written determination from KDOR allowing the taxpayer to claim B & J credit earned in TY 2011 or 2012 where the investment in a metro county has commenced on or before May 17, 2010 and will not be completed and placed into service until after December 31, 2010 but before January 1, 2013. See Revenue Ruling [19-2010-01](#)
 - Retains application for project exemption certificate under KSA 79-3606(cc) in all counties.

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HB 2554 Sec. 4. K.S.A. 2009 Supp. 74-50,212 is hereby amended to read as follows: 74-50,212.

(a)(2) locate a new business facility, office, department or other operation in Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas; or (3) expand a business facility, office, department or other operation located in the state of Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas, except that no payroll withholding taxes shall be retained prior to January 1, 2012.

HB 2554 Sec. 9. K.S.A. 2009 Supp. 79-32,153 is hereby amended to read as follows: 79-32,153. (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. 2009 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.

WITHHOLDING

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) HB 2554

- Secretary of Commerce now has discretion to approve or disapprove applications for the PEAK program.
- Median county wage OR NAICS code industry average instead of the county average wage is the basis now.
- Clarification that only the withholding for those NEW employees paid the county median wage or higher or the NAICS code industry average wage or higher may be retained.
- Leavenworth county is now considered a Metro County.

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HB 2554 Sec e. K.S.A 2009 Supp. 74-50,213 is hereby amended to read as follows: 74-50,213. (b) **The secretary may either approve or disapprove the application.** Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section. (1) *The amount of Kansas payroll withholding tax being retained by the qualified company pursuant to this act in a manner prescribed by the director of taxation; and (2) a form designed by the secretary of revenue pursuant to section 12, and amendments thereto. The completed form shall be submitted electronically or in the manner prescribed by the secretary of revenue.* (b) The secretary of revenue *may adopt rules and regulations* necessary to implement and administer the provisions of this section. The secretary of revenue and the secretary of commerce shall work together to coordinate a set of procedures to implement the provisions of this act

HB 2554 Sec. 3. K.S.A. 2009 Supp. 74-50,211 is hereby amended to read as follows: 74-50,211. As used in this act, unless the context otherwise requires: (a) "Act" means the provisions of K.S.A. 2009 Supp. 74-50,210 through 74-50,216, and amendments thereto. (b) "County median wage" means the median wage paid to employees located in the county where the qualified company intends to employ new employees as reported by the department of labor in its annual report for the previous year. (d) (e) "High-impact project" means a business development project for which the qualified company shall meet the requirements of subsection (c) of K.S.A. 2009 Supp. 74-50,212, and amendments thereto. (e) "NAICS" means the North American industry classification system. (f) "Metropolitan county" means the county of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte.

HB 2554 Sec. 3 K.S.A 2009 Supp. 74-50,211; (j) "New employee" means a person newly employed by the qualified company in the qualified company's business operating in Kansas during the taxable year for which benefits are sought under K.S.A. 2009 Supp. 74-50,212, and amendments thereto. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the Kansas business on: (1) A regular, full-time basis; or (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year. Employees acquired or relocated to Kansas from another state through an expansion or relocation of a business operation to Kansas from another state performing functions directly related to a relocating, expanding, or new business facility, office, department or other operation shall be considered as new employees.

K.S.A. 2009 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such **new employees being paid the county median wage or higher for a period of up to: (1) Seven years if the median wage paid to the new employees is equal to at least 100% of the county median wage.**

WITHHOLDING

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) HB 2554

- **Businesses can now participate in both IMPACT and PEAK programs, as long as the same jobs are not used to qualify for both programs. Prohibition on all other withholding-based programs still in effect.**
- **PEAK capped at \$4.8 million in any fiscal year on or after July 1, 2011.**
- **Cost Benefit:**
 - **Legislative Post Audit now required to conduct an audit on the effectiveness of PEAK program in fostering economic growth, creating new jobs, and promoting the location of business facilities, other operations, and jobs in Kansas. The outcome will be reported to the Legislature at the beginning of the 2015 session.**

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HB 2554 Sec. 5. K.S.A. 2009 Supp. 74-50,213 is hereby amended to read as follows: 74-50,213. (a) Any qualified company meeting the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include: (1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of K.S.A. 2009 Supp. 74-50,212, and amendments thereto. (f) A qualified company seeking benefits shall be allowed to participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto, but shall not be allowed to participate in any other program in which any portion of such qualified company's Kansas payroll withholding taxes have been pledged to finance indebtedness or transferred to or for the benefit of such company. A qualified company shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments thereto, if such credits would otherwise be earned for the hiring of new employees and the qualified company has retained any Kansas payroll withholding taxes from wages of such employees. A qualified company shall not be eligible to receive benefits under K.S.A. 2009 Supp. 74-50,212, and amendments thereto, and under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new employees. (g) 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. 2009 Supp. 74-50,211, and amendments thereto, under this act exceed \$4,800,000 in any fiscal year commencing on or after July 1, 2011. (h) The secretary shall adopt rules and regulations necessary to implement and administer the provisions of this act.

HB 2554 New Sec. 13. The legislative post auditor shall conduct an audit of the promoting employment across Kansas act under this section in accordance with the provisions of the legislative post audit act. The audit shall focus on the effectiveness of the act in fostering economic growth, creating new jobs and promoting the location of business facilities, other operations and jobs in Kansas. Such audit shall be submitted to the legislature at the beginning of the regular session of the legislature held during 2015. The audit shall make a recommendation on the retention or adjustment of the limitation described in subsection (g) of K.S.A. 2009 Supp. 74-50,213, and amendments thereto.

WITHHOLDING

NEW & OLD PEAK COMPARISON

(OLD) PEAK 2009 SB 97

- Only available to relocate an existing out of state business facility or operation to Kansas.
- AVERAGE COUNTY WAGE.
- Commerce has interpreted to mean that the company can only retain the withholding for those employees paid the county average wage or higher.
- Metro counties: Douglas, Johnson, Sedgwick, Shawnee, Wyandotte
- Cannot participate in more than one withholding based incentive program.
- No job tax credits allowed under Business & Job Development or Research & Development credits for a PEAK-qualified company

(NEW) PEAK 2010 HB 2554

- 1) **Relocate** to Kansas an existing out of state business facility, office, department, or other operation ; **Effective July 1, 2010**
- 2) **Locate** a new business facility, office, department or other operation in Kansas; **Effective July 1, 2010** ; **OR**
- 3) **Expand** an existing Kansas business facility, office, department or other operation. **Effective January 01, 2012.** *(with FY Cap of \$4.8 million)*
- Secretary of Commerce has discretion to approve or disapprove applications for the PEAK program.
- Median county wage OR NAICS CODE Average.
- Clarifies that the business facility, office, department, or other operation can only retain the withholding for those **NEW** employees paid the county median wage or higher or the NAICS Code industry average wage. Applies to either prong (county median wage or NAICS code industry average wage)
- Added Leavenworth to Metro Counties.
- Can participate in both IMPACT and PEAK, as long as the same jobs are not used to qualify for both programs. Prohibition on all other withholding-based programs still in effect.
- No tax credits allowed under B & J, R & D or HPIP for a PEAK-qualified company (K-34,K-53,K-59).Repeals the B & J tax credits (both jobs and investment) for metro counties starting in tax year 2011. Retains the current provisions for B & J credits in all non-metro counties. Retains sales tax exemption in all counties.
- Requires the Legislative Post Audit to conduct an audit on the effectiveness of PEAK in fostering economic growth, creating new jobs, and promoting the location of business facilities, other operations, and jobs in Kansas. The outcome will be reported to the Legislature at the beginning of the 2015 session.

FOOD SALES REFUNDS

2010 NEW INCOME THRESHOLDS & REFUND AMOUNTS: HB 2360

<u>INCOME</u>	<u>REFUND</u>
• \$0 TO \$17,500	\$90 per exemption
• \$17,501 TO \$35,000	\$45 per exemption

• **2010 HB 2360, Section 6 and Section 7.**

• **Sec. 6. K.S.A. 2009 Supp. 79-3633** is hereby amended to read as follows: 79-3633. As used in K.S.A. 79-3620 and 79-3632 to 79-3639 and amendments thereto, unless the context clearly indicates otherwise:

(a) “Income” means adjusted gross income determined under the Kansas income tax act without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto.

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

(c) “Claimant” means a person who has filed a claim for a refund or credit under the provisions of this act and was, during the entire calendar year preceding the year in which the claim was filed for relief under this act, domiciled in this state, was a member of a household, **for tax years commencing after December 31, 2009, had income of not more than \$35,000 in the calendar year for which a claim is filed and was:** (1) A person having a disability; (2) a person other than a person included under (1), who has attained 55 years of age in the calendar year for which a claim is filed or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person’s homestead during the calendar year for which a claim is filed.

• **Sec. 7. K.S.A. 2009 Supp. 79-3635** is hereby amended to read as follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of retailers’ sales taxes paid upon food during the calendar year **2010** and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of **\$17,500 or less, an amount equal to \$90. There shall be allowed for each member of a household of a claimant having income of more than \$17,500 but not more than \$35,000, an amount equal to \$45. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$45 or \$90, as the case requires. All such claims shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by a person or persons designated by the director.** (2) As an alternative to the procedure described by subsection (a)(1), for all taxable years commencing after December 31, 2009, 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 **\$45 or \$90, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$45 or \$90, as the case requires.** If the amount of such tax credit exceeds the claimant’s income tax liability for such taxable year, such excess amount shall be refunded to the claimant.

Effective January 1, 2010

SAFE SENIOR

(SELECTIVE ASSISTANCE FOR EFFECTIVE SENIOR RELIEF)

Federal Poverty Level for two persons has been frozen. 2009 amounts remain in effect for 2010.

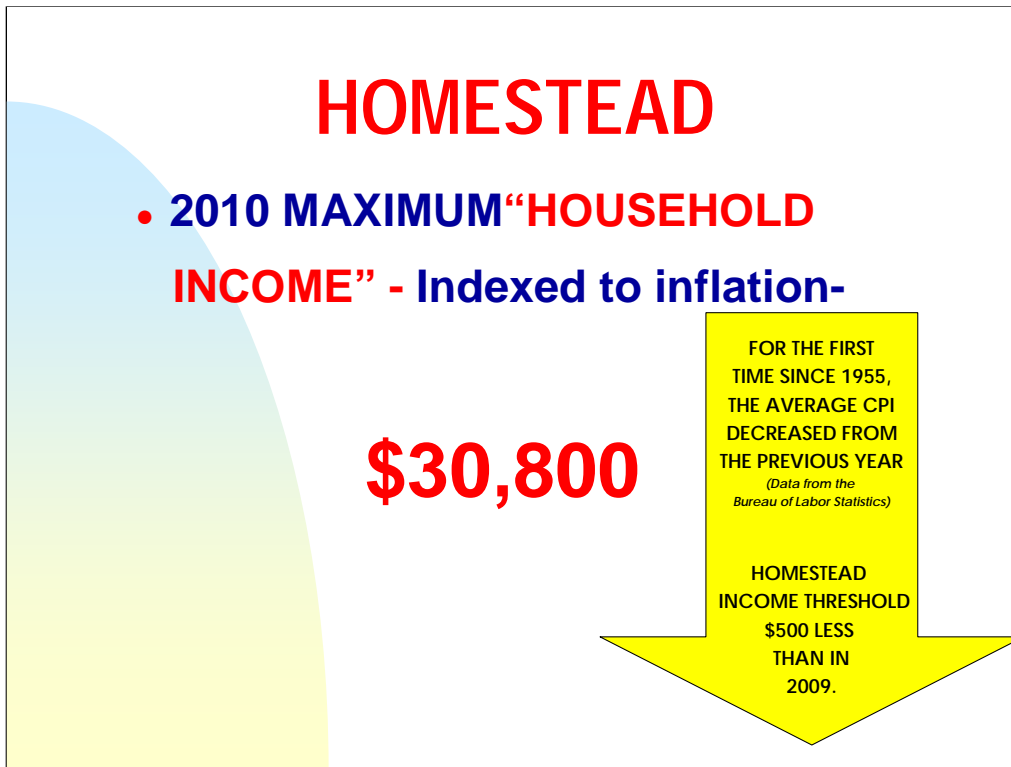
No change to SAFE SENIOR FOR 2010

- **WHO** – Homeowners, 65 Years of Age or older, with household income of **\$17,500** or less. “Household Income” is ALL Income – including Social Security.
- **REFUND** – **45%** of the property taxes actually and timely paid on real or personal property used as their principal place of residence.
- **FORM K-40PT** – MAY BE ELECTRONICALLY FILED (e-file or Webfile)
- 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, 2010) first half of the property taxes. The homestead (the residence) must be appraised at less than \$350,000.



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**

Maximum “HOUSEHOLD INCOME” is Indexed to inflation every year. The index used is the average Consumers Price Index for the U.S. City average (CPI-U) from the United States Bureau of Labor Statistics (BLS). The CPI-U declined for the first time since 1955. Typically indexing the income threshold to inflation would increase the threshold. However, unlike the Safe Senior property tax refund claim that uses the poverty guide lines provided by the U.S. Department of Health & Human Services HHS, the Homestead refund claim uses the CPI-U from the BLS which is not frozen. Thus the income threshold for Homestead will be decreasing for 2010 and the Safe Senior income threshold will not.

FRANCHISE

- **ONLY APPLIES TO ENTITIES WITH EQUITY OF \$1 MILLION OR MORE**
- **This is the last year of franchise tax.**
2010 = .03125% (.0003125)
- **NO FRANCHISE TAX FOR TY 2011 AND AFTER.**

- **2007 HB 2264, Section 1.**

- K.S.A. 79-5401(a) (1) Subject to the limitations provided in subsection (g), for any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state and which has taxable equity attributable to Kansas *for the tax year commencing after December 31, 2005, of \$100,000 or more, and for tax years commencing after December 31, 2006, through December 31, 2009, of \$1,000,000 or more*, such entity shall pay an annual franchise tax to the secretary of revenue for tax years commencing after December 31, 2005, and December 31, 2006, at the rate of .125%, for the tax year commencing after December 31, 2007, at the rate of .09375%, for the tax year commencing after December 31, 2008, at the rate of .0625%, and for the tax year commencing after December 31, 2009, at the rate of .03125%, of such entity's taxable equity attributable to Kansas, except that such annual franchise tax for any such entity shall not exceed \$20,000.

- Similar language in separate paragraphs for "foreign or domestic LLC, LLPs, and for "any business trust".

- Threshold - \$1,000,000 for TY 2007 and after – no Franchise Tax Due if "taxable equity attributable to Kansas" is less than \$1,000,000.

Rates:

TY 2007 = .125%	(.00125)
TY 2008 = .09375%	(.0009375)
TY 2009 = .0625%	(.000625)
TY 2010 = .03125%	(.0003125)

COMPENSATING USE TAX

	<u>#of Taxpayers</u>	<u>Amount Reported</u>
2009	27,828	\$982,114
	(as of 8/16/10)	
2008	30,609	\$1,005,362
2007	33,154	\$1,283,411
2006	32,981	\$1,020,274

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- 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 effect since 1937.

INTANGIBLES TAX *SB 430*

- Taxpayers with intangibles earnings are now required to file their Local Intangible Tax Returns with the **County Clerk** on or before April 15.
- Intangibles forms will be provided by the **County Clerk**.

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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 that 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.

Amnesty Program SB 572

SEPTEMBER 1, 2010 – OCTOBER 15, 2010

- Penalty and interest **abated** for delinquent taxes paid in full.
- Only good for unpaid liabilities due and unpaid for tax periods ending on or before December 31, 2008.
- Good for the following Kansas taxes: privilege, estate, income, withholding, estimated, cigarette and tobacco, retailer's sales, compensating use, local sales and use tax, liquor enforcement, liquor drink, and mineral severance.
- Not available for Liabilities:
 - In audits,
 - Subject to administrative or judicial appeal,
 - In bankruptcy
 - Involved in a criminal investigation.
- Information will be posted on KDOR website.

Section 164 of SB 572 provides an amnesty program for delinquent tax liability for certain taxes administered by the department (income, withholding, sales, privilege, severance, estate, liquor, cigarette and tobacco products) for tax periods ending on or before December 31, 2008. The amnesty period is between September 1, 2010 and October 15, 2010. Amnesty applies to interest and penalty if the delinquent tax liability is paid in full during the amnesty period. Amnesty must be timely applied for within the amnesty period and is not available for audits, or tax liability subject to administrative or judicial appeal, in bankruptcy, or in criminal investigation or certain criminal or civil litigation. The Department's Compliance and Enforcement staff will be administering this program. (a) (1) Notwithstanding the provisions of any other law to the contrary, with respect to the following taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties and interest with respect to unpaid taxes or taxes due and owing shall apply upon compliance with the provisions of this section and if such tax liability is paid in full within the amnesty period, from September 1, 2010, to October 15, 2010: (A) Privilege tax under K.S.A. 79-1106 et seq., and amendments thereto; (B) taxes under the Kansas estate tax act, K.S.A. 2009 Supp. 79-15,100 et seq., and amendments thereto; (C) taxes under the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto; (D) taxes under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto; (E) taxes under the Kansas cigarette and tobacco products act, K.S.A. 79-3301 et seq., and amendments thereto; (F) taxes under the Kansas retailers' sales tax act, K.S.A. 79-3601 et seq., and amendments thereto and the Kansas compensating tax act, K.S.A. 79-3701 et seq., and amendments thereto; (G) local sales and use taxes under K.S.A. 12-187 et seq., and amendments thereto; (H) liquor enforcement tax under K.S.A. 79-4101 et seq., and amendments thereto; (I) liquor drink tax under K.S.A. 79-41a01 et seq., and amendments thereto; and (J) mineral severance tax under K.S.A. 79-4216 et seq., and amendments thereto. (2) Amnesty under this section shall apply only to tax liabilities due and unpaid for tax periods ending on or before December 31, 2008. For the eligible taxes and tax periods, amnesty shall apply to the under-reporting of such tax liabilities, the nonpayment of such taxes and the nonreporting of such tax liabilities. (3) Amnesty shall not apply to any matter or matters for which, on or after September 1, 2010, any one of the following circumstances exist: (A) The taxpayer has received notice of the commencement of an audit; (B) an audit is in progress; (C) the taxpayer has received notice of an assessment pursuant to K.S.A. 79-2971 or 79-3643, and amendments thereto; (D) as a result of an audit, the taxpayer has received notice of a proposed or estimated assessment or notice of an assessment; (E) the time to administratively appeal an issued assessment has not yet expired; or (F) an assessment resulting from an audit, or any portion of such assessment, is pending in the administrative appeals process before the secretary or secretary's designee pursuant to K.S.A. 79-3226 or 79-3610, and amendments thereto, or the state court of tax appeals, or is pending in the judicial review process before any state or federal district or appellate court. Amnesty shall not apply to any matter that is the subject of an assessment, or any portion of an assessment, which has been affirmed by a reviewing state or federal district or appellate court. Amnesty shall not apply to any party to any criminal investigation or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency or fraud in relation to any tax imposed by the state of Kansas. (b) Upon written application by the taxpayer, on forms prescribed by the secretary of revenue, and upon compliance with the provisions of this section, the department of revenue may waive the imposition and collection of any penalty or interest which may be applicable with respect to taxes eligible for amnesty. The department of revenue may require all applications for amnesty pursuant to this section be submitted electronically. (c) Amnesty for penalties and interest shall be granted only to those eligible taxpayers who, within the amnesty period of September 1, 2010, to October 15, 2010, and in accordance with rules and regulations established by the secretary of revenue, have properly filed a tax return for each taxable period for which amnesty is requested, paid the entire balance of tax due and obtained approval of such amnesty by the department of revenue. (d) If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the secretary of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal with respect to such tax liability. No tax payment received pursuant to this section shall be eligible for refund or credit. No payment of penalties or interest made prior to September 1, 2010, shall be eligible for amnesty. (e) For tax returns for which amnesty has been requested, nothing in this section shall be interpreted to prohibit the department from adjusting such tax return as a result of a federal, department or other state agency audit. (f) Fraud or intentional misrepresentation of a material fact in connection with an application for amnesty shall void such application and any waiver of penalties and interest from amnesty. (g) The department may issue administrative guidelines as are necessary to administer the provisions of this section.

Misc. Changes

- The federal definition of "willfully" was adopted. A person acts "willfully" when he or she acts with reckless disregard of a known or obvious risk that the applicable taxes are not being paid. This is the definition used by the internal revenue service under 26 U.S.C. 6672, now referenced in Kansas tax law.
- \$10 fee for pay plans. An administrative service fee of \$10.00 is now imposed when an installment pay plan is set for **more than 90 days**. (*The \$10.00 fee is added to the first installment payment*).
- Kansas enterprise zone act changed citations from **(SIC)** standard industrial classification code to **(NAICS)** the north American industry classification system.
- Notice 10-01 -effective July 1, 2010 the petroleum products inspection fee has been restored to \$.015 per barrel on gasoline and diesel. (*Current rate is \$.0135 per barrel*).
- **5%** interest rate for calendar year 2011 (.0417 monthly rate) **no change**.
- Due date for tax year 2010 is **April 18, 2011**. Taxpayers will have extra time to file and pay income tax because the 15th of April is an observed legal holiday in D.C for emancipation day, which actually falls on Saturday, April 16. 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 I.R.S.
- Discount rate for Oklahoma retailers collecting Kansas retailers' compensating USE tax reduced to 1% effective July 1, 2010.

• Federal Definition of "Willfully" Adopted 26 U.S.C. § 6672 (SB 430)

Taxes such as withholding tax, sales tax, and liquor excise tax are known as "trust fund taxes." Businesses collect these taxes from employees and customers. They hold the funds in trust and later remit them to the KDOR. Kansas statutes provide that any person who is responsible for collecting and remitting these taxes on behalf of a business entity shall be personally liable for any unpaid tax liabilities, provided he or she "willfully" fails to collect and remit the amounts owed. The Kansas personal responsibility statutes, K.S.A. 79-2971, 79-32,100c, 79-32,107, and 79-3643 were amended to provide that the term "willfully" shall have the same meaning as when used in a comparable context in the Internal Revenue Code. This ensures that individuals who are found to be personally responsible for federal trust fund taxes will likewise be responsible for Kansas trust fund taxes. A person acts willfully when he or she acts with reckless disregard of a known or obvious risk that the applicable taxes are not being paid. This is the definition used by the Internal Revenue Service under 26 U.S.C. § 6672.

• \$10 Fee for Pay Plans

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.

• Enterprise Zone Act changes (SIC) Code to the (NAICS) code. HB 2553

Sec. 2. K.S.A. 2009 Supp. 74-50,131 is hereby amended to read as follows: 74-50,131. Commencing after December 31, 1999: (a) As used in this act: "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the sub sectors 221, 311 to 339, 423 to 425, 481 to 519, 521 to 721 and 811 to 928 or is identified as a corporate or regional headquarters or back-office operation of a national or multi-national corporation regardless of NAICS designation. The secretary of commerce shall determine eligibility when a difference exists between a firm's primary business activity and NAICS designation. A business establishment may be assigned NAICS designation according to the primary business activity at a single physical location in the state. (b) In the case of firms in NAICS sub sectors 221, 423 to 425, 481 to 519, 521 to 721 and 811 to 928, the business establishment must also demonstrate the following: (1) More than 1/2 of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas; or (2) more than 1/2 of its gross revenues are a result of sales to Kansas manufacturing firms within NAICS sub sectors 311 to 339;

• **Petroleum Products Inspection Fee** is collected from the position holder/supplier at the terminal or from the first importer of the fuel. The fee effective January 1, 2009 is \$.0135 per barrel. The fee is used for the inspection program overseen by the Department of Agriculture, Division of Weights and Measures.

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