

SENATE BILL No. 22

By Committee on Assessment and Taxation

1-12

1 AN ACT concerning income taxation; relating to addition and subtraction
2 modifications for the treatment of global intangible low-taxed income,
3 business interest, capital contributions, FDIC premiums, business meals
4 and payment protection program loans and expenses; expanding the
5 expense deduction for income taxpayers and calculating the deduction
6 amount; providing the ability to elect to itemize for individuals;
7 exemption of unemployment compensation income attributable as a
8 result of identity fraud; increasing the net operating loss for
9 corporations; amending K.S.A. 79-32,117, 79-32,120, 79-32,138, 79-
10 32,143 and 79-32,143a and repealing the existing sections.

11

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

13 New Section 1. Notwithstanding any other provision of law, for any
14 individual whose identity was fraudulently used to secure unemployment
15 compensation, if such individual never received such compensation, such
16 compensation shall not be considered gross income and shall not be
17 taxable for Kansas income tax purposes after determination by the
18 department of revenue that the benefits were obtained fraudulently by
19 another individual.

20 Sec. 2. K.S.A. 79-32,117 is hereby amended to read as follows: 79-
21 32,117. (a) The Kansas adjusted gross income of an individual means such
22 individual's federal adjusted gross income for the taxable year, with the
23 modifications specified in this section.

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

25 (i) Interest income less any related expenses directly incurred in the
26 purchase of state or political subdivision obligations, to the extent that the
27 same is not included in federal adjusted gross income, on obligations of
28 any state or political subdivision thereof, but to the extent that interest
29 income on obligations of this state or a political subdivision thereof issued
30 prior to January 1, 1988, is specifically exempt from income tax under the
31 laws of this state authorizing the issuance of such obligations, it shall be
32 excluded from computation of Kansas adjusted gross income whether or
33 not included in federal adjusted gross income. Interest income on
34 obligations of this state or a political subdivision thereof issued after
35 December 31, 1987, shall be excluded from computation of Kansas
36 adjusted gross income whether or not included in federal adjusted gross

1 income.

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

9 (iii) The federal net operating loss deduction, except that the federal
10 net operating loss deduction shall not be added to an individual's federal
11 adjusted gross income for tax years beginning after December 31, 2016.

12 (iv) Federal income tax refunds received by the taxpayer if the
13 deduction of the taxes being refunded resulted in a tax benefit for Kansas
14 income tax purposes during a prior taxable year. Such refunds shall be
15 included in income in the year actually received regardless of the method
16 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
17 be deemed to have resulted if the amount of the tax had been deducted in
18 determining income subject to a Kansas income tax for a prior year
19 regardless of the rate of taxation applied in such prior year to the Kansas
20 taxable income, but only that portion of the refund shall be included as
21 bears the same proportion to the total refund received as the federal taxes
22 deducted in the year to which such refund is attributable bears to the total
23 federal income taxes paid for such year. For purposes of the foregoing
24 sentence, federal taxes shall be considered to have been deducted only to
25 the extent such deduction does not reduce Kansas taxable income below
26 zero.

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

32 (vi) Any amount of designated employee contributions picked up by
33 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
34 and amendments thereto.

35 (vii) The amount of any charitable contribution made to the extent the
36 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
37 32,196, and amendments thereto.

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

42 (ix) The amount of any ad valorem taxes and assessments paid and
43 the amount of any costs incurred for habitat management or construction

1 and maintenance of improvements on real property, claimed for deduction
2 in determining federal adjusted gross income, to the extent the same is
3 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
4 and amendments thereto.

5 (x) Amounts received as nonqualified withdrawals, as defined by
6 K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a
7 family postsecondary education savings account, such amounts were
8 subtracted from the federal adjusted gross income pursuant to K.S.A. 79-
9 32,117(c)(xv), and amendments thereto, or if such amounts are not already
10 included in the federal adjusted gross income.

11 (xi) The amount of any contribution made to the same extent the
12 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-
13 50,154, and amendments thereto.

14 (xii) For taxable years commencing after December 31, 2004,
15 amounts received as withdrawals not in accordance with the provisions of
16 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution
17 to an individual development account, such amounts were subtracted from
18 the federal adjusted gross income pursuant to subsection (c)(xiii), or if
19 such amounts are not already included in the federal adjusted gross
20 income.

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

25 (xiv) The amount of any amortization deduction claimed in
26 determining federal adjusted gross income to the extent the same is
27 claimed for deduction pursuant to K.S.A. 79-32,221, and amendments
28 thereto.

29 (xv) The amount of any expenditures claimed for deduction in
30 determining federal adjusted gross income, to the extent the same is
31 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223
32 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
33 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
34 32,251 through 79-32,254, and amendments thereto.

35 (xvi) The amount of any amortization deduction claimed in
36 determining federal adjusted gross income to the extent the same is
37 claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-
38 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

39 (xvii) The amount of any amortization deduction claimed in
40 determining federal adjusted gross income to the extent the same is
41 claimed for deduction pursuant to K.S.A. 79-32,256, and amendments
42 thereto.

43 (xviii) For taxable years commencing after December 31, 2006, the

1 amount of any ad valorem or property taxes and assessments paid to a state
2 other than Kansas or local government located in a state other than Kansas
3 by a taxpayer who resides in a state other than Kansas, when the law of
4 such state does not allow a resident of Kansas who earns income in such
5 other state to claim a deduction for ad valorem or property taxes or
6 assessments paid to a political subdivision of the state of Kansas in
7 determining taxable income for income tax purposes in such other state, to
8 the extent that such taxes and assessments are claimed as an itemized
9 deduction for federal income tax purposes.

10 (xix) For taxable years beginning after December 31, 2012, and
11 ending before January 1, 2017, the amount of any: (1) Loss from business
12 as determined under the federal internal revenue code and reported from
13 schedule C and on line 12 of the taxpayer's form 1040 federal individual
14 income tax return; (2) loss from rental real estate, royalties, partnerships, S
15 corporations, except those with wholly owned subsidiaries subject to the
16 Kansas privilege tax, estates, trusts, residual interest in real estate
17 mortgage investment conduits and net farm rental as determined under the
18 federal internal revenue code and reported from schedule E and on line 17
19 of the taxpayer's form 1040 federal individual income tax return; and (3)
20 farm loss as determined under the federal internal revenue code and
21 reported from schedule F and on line 18 of the taxpayer's form 1040
22 federal income tax return; all to the extent deducted or subtracted in
23 determining the taxpayer's federal adjusted gross income. For purposes of
24 this subsection, references to the federal form 1040 and federal schedule
25 C, schedule E, and schedule F, shall be to such form and schedules as they
26 existed for tax year 2011, and as revised thereafter by the internal revenue
27 service.

28 (xx) For taxable years beginning after December 31, 2012, and
29 ending before January 1, 2017, the amount of any deduction for self-
30 employment taxes under section 164(f) of the federal internal revenue
31 code as in effect on January 1, 2012, and amendments thereto, in
32 determining the federal adjusted gross income of an individual taxpayer, to
33 the extent the deduction is attributable to income reported on schedule C,
34 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
35 tax return.

36 (xxi) For taxable years beginning after December 31, 2012, and
37 ending before January 1, 2017, the amount of any deduction for pension,
38 profit sharing, and annuity plans of self-employed individuals under
39 section 62(a)(6) of the federal internal revenue code as in effect on January
40 1, 2012, and amendments thereto, in determining the federal adjusted gross
41 income of an individual taxpayer.

42 (xxii) For taxable years beginning after December 31, 2012, and
43 ending before January 1, 2017, the amount of any deduction for health

1 insurance under section 162(l) of the federal internal revenue code as in
2 effect on January 1, 2012, and amendments thereto, in determining the
3 federal adjusted gross income of an individual taxpayer.

4 (xxiii) For taxable years beginning after December 31, 2012, and
5 ending before January 1, 2017, the amount of any deduction for domestic
6 production activities under section 199 of the federal internal revenue code
7 as in effect on January 1, 2012, and amendments thereto, in determining
8 the federal adjusted gross income of an individual taxpayer.

9 (xxiv) For taxable years commencing after December 31, 2013, that
10 portion of the amount of any expenditure deduction claimed in
11 determining federal adjusted gross income for expenses paid for medical
12 care of the taxpayer or the taxpayer's spouse or dependents when such
13 expenses were paid or incurred for an abortion, or for a health benefit plan,
14 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
15 an optional rider for coverage of abortion in accordance with K.S.A. 2020
16 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and
17 assessments are claimed as an itemized deduction for federal income tax
18 purposes.

19 (xxv) For taxable years commencing after December 31, 2013, that
20 portion of the amount of any expenditure deduction claimed in
21 determining federal adjusted gross income for expenses paid by a taxpayer
22 for health care when such expenses were paid or incurred for abortion
23 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and
24 amendments thereto, when such expenses were paid or incurred for
25 abortion coverage or amounts contributed to health savings accounts for
26 such taxpayer's employees for the purchase of an optional rider for
27 coverage of abortion in accordance with K.S.A. 2020 Supp. 40-2,190, and
28 amendments thereto, to the extent that such taxes and assessments are
29 claimed as a deduction for federal income tax purposes.

30 (xxvi) For all taxable years beginning after December 31, 2016, the
31 amount of any charitable contribution made to the extent the same is
32 claimed as the basis for the credit allowed pursuant to K.S.A. 72-99a07,
33 and amendments thereto, and is also claimed as an itemized deduction for
34 federal income tax purposes.

35 (xxvii) *For all taxable years commencing after December 31, 2019,*
36 *the amount deducted by reason of a carryforward of disallowed business*
37 *interest pursuant to section 163(j) of the federal internal revenue code of*
38 *1986, as in effect on January 1, 2018.*

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

40 (i) Interest or dividend income on obligations or securities of any
41 authority, commission or instrumentality of the United States and its
42 possessions less any related expenses directly incurred in the purchase of
43 such obligations or securities, to the extent included in federal adjusted

1 gross income but exempt from state income taxes under the laws of the
2 United States.

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

6 (iii) The portion of any gain or loss from the sale or other disposition
7 of property having a higher adjusted basis for Kansas income tax purposes
8 than for federal income tax purposes on the date such property was sold or
9 disposed of in a transaction in which gain or loss was recognized for
10 purposes of federal income tax that does not exceed such difference in
11 basis, but if a gain is considered a long-term capital gain for federal
12 income tax purposes, the modification shall be limited to that portion of
13 such gain which is included in federal adjusted gross income.

14 (iv) The amount necessary to prevent the taxation under this act of
15 any annuity or other amount of income or gain which was properly
16 included in income or gain and was taxed under the laws of this state for a
17 taxable year prior to the effective date of this act, as amended, to the
18 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
19 the right to receive the income or gain, or to a trust or estate from which
20 the taxpayer received the income or gain.

21 (v) The amount of any refund or credit for overpayment of taxes on
22 or measured by income or fees or payments in lieu of income taxes
23 imposed by this state, or any taxing jurisdiction, to the extent included in
24 gross income for federal income tax purposes.

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

28 (vii) Amounts received as annuities under the federal civil service
29 retirement system from the civil service retirement and disability fund and
30 other amounts received as retirement benefits in whatever form which
31 were earned for being employed by the federal government or for service
32 in the armed forces of the United States.

33 (viii) Amounts received by retired railroad employees as a
34 supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and
35 228c(a)(1) et seq.

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

41 (x) For taxable years beginning after December 31, 1976, the amount
42 of the federal tentative jobs tax credit disallowance under the provisions of
43 26 U.S.C. § 280C. For taxable years ending after December 31, 1978, the

1 amount of the targeted jobs tax credit and work incentive credit
2 disallowances under 26 U.S.C. § 280C.

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

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

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

13 (xiv) For all taxable years commencing after December 31, 1996, that
14 portion of any income of a bank organized under the laws of this state or
15 any other state, a national banking association organized under the laws of
16 the United States, an association organized under the savings and loan
17 code of this state or any other state, or a federal savings association
18 organized under the laws of the United States, for which an election as an
19 S corporation under subchapter S of the federal internal revenue code is in
20 effect, which accrues to the taxpayer who is a stockholder of such
21 corporation and which is not distributed to the stockholders as dividends of
22 the corporation. For taxable years beginning after December 31, 2012, and
23 ending before January 1, 2017, the amount of modification under this
24 subsection shall exclude the portion of income or loss reported on schedule
25 E and included on line 17 of the taxpayer's form 1040 federal individual
26 income tax return.

27 (xv) For all taxable years beginning after December 31, 2017, the
28 cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple
29 filing a joint return, for each designated beneficiary that are contributed to:
30 (1) A family postsecondary education savings account established under
31 the Kansas postsecondary education savings program or a qualified tuition
32 program established and maintained by another state or agency or
33 instrumentality thereof pursuant to section 529 of the internal revenue
34 code of 1986, as amended, for the purpose of paying the qualified higher
35 education expenses of a designated beneficiary; or (2) an achieving a
36 better life experience (ABLE) account established under the Kansas ABLE
37 savings program or a qualified ABLE program established and maintained
38 by another state or agency or instrumentality thereof pursuant to section
39 529A of the internal revenue code of 1986, as amended, for the purpose of
40 saving private funds to support an individual with a disability. The terms
41 and phrases used in this paragraph shall have the meaning respectively
42 ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and
43 amendments thereto, and the provisions of such sections are hereby

1 incorporated by reference for all purposes thereof.

2 (xvi) For all taxable years beginning after December 31, 2004,
3 amounts received by taxpayers who are or were members of the armed
4 forces of the United States, including service in the Kansas army and air
5 national guard, as a recruitment, sign up or retention bonus received by
6 such taxpayer as an incentive to join, enlist or remain in the armed services
7 of the United States, including service in the Kansas army and air national
8 guard, and amounts received for repayment of educational or student loans
9 incurred by or obligated to such taxpayer and received by such taxpayer as
10 a result of such taxpayer's service in the armed forces of the United States,
11 including service in the Kansas army and air national guard.

12 (xvii) For all taxable years beginning after December 31, 2004,
13 amounts received by taxpayers who are eligible members of the Kansas
14 army and air national guard as a reimbursement pursuant to K.S.A. 48-
15 281, and amendments thereto, and amounts received for death benefits
16 pursuant to K.S.A. 48-282, and amendments thereto, ~~or pursuant to section~~
17 ~~1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and~~
18 ~~amendments thereto~~, to the extent that such death benefits are included in
19 federal adjusted gross income of the taxpayer.

20 (xviii) For the taxable year beginning after December 31, 2006,
21 amounts received as benefits under the federal social security act which
22 are included in federal adjusted gross income of a taxpayer with federal
23 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
24 status is single, head of household, married filing separate or married filing
25 jointly; and for all taxable years beginning after December 31, 2007,
26 amounts received as benefits under the federal social security act which
27 are included in federal adjusted gross income of a taxpayer with federal
28 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
29 status is single, head of household, married filing separate or married filing
30 jointly.

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

33 (xx) For taxable years beginning after December 31, 2012, and
34 ending before January 1, 2017, the amount of any: (1) Net profit from
35 business as determined under the federal internal revenue code and
36 reported from schedule C and on line 12 of the taxpayer's form 1040
37 federal individual income tax return; (2) net income, not including
38 guaranteed payments as defined in section 707(c) of the federal internal
39 revenue code and as reported to the taxpayer from federal schedule K-1,
40 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
41 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
42 partnerships, S corporations, estates, trusts, residual interest in real estate
43 mortgage investment conduits and net farm rental as determined under the

1 federal internal revenue code and reported from schedule E and on line 17
2 of the taxpayer's form 1040 federal individual income tax return; and (3)
3 net farm profit as determined under the federal internal revenue code and
4 reported from schedule F and on line 18 of the taxpayer's form 1040
5 federal income tax return; all to the extent included in the taxpayer's
6 federal adjusted gross income. For purposes of this subsection, references
7 to the federal form 1040 and federal schedule C, schedule E, and schedule
8 F, shall be to such form and schedules as they existed for tax year 2011
9 and as revised thereafter by the internal revenue service.

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

26 (xxii) For taxable years beginning after December 31, 2012, and
27 ending before January 1, 2017, the amount of net gain from the sale of: (1)
28 Cattle and horses, regardless of age, held by the taxpayer for draft,
29 breeding, dairy or sporting purposes, and held by such taxpayer for 24
30 months or more from the date of acquisition; and (2) other livestock,
31 regardless of age, held by the taxpayer for draft, breeding, dairy or
32 sporting purposes, and held by such taxpayer for 12 months or more from
33 the date of acquisition. The subtraction from federal adjusted gross income
34 shall be limited to the amount of the additions recognized under the
35 provisions of subsection (b)(xix) attributable to the business in which the
36 livestock sold had been used. As used in this paragraph, the term
37 "livestock" shall not include poultry.

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

43 (xxiv) For taxable years beginning after December 31, 2013, and

1 ending before January 1, 2017, the net gain from the sale from Christmas
2 trees grown in Kansas and held by the taxpayer for six years or more.

3 (xxv) *For all taxable years commencing after December 31, 2019,*
4 *100% of global intangible low-taxed income under section 951A of the*
5 *federal internal revenue code of 1986, before any deductions allowed*
6 *under section 250(a)(1)(B) of such code.*

7 (xxvi) *For all taxable years commencing after December 31, 2019,*
8 *the amount disallowed as a deduction pursuant to section 163(j) of the*
9 *federal internal revenue code of 1986, as in effect on January 1, 2018.*

10 (xxvii) *For taxable years commencing after December 31, 2019, the*
11 *amount disallowed as a deduction pursuant to section 274 of the federal*
12 *internal revenue code of 1986 for meal expenditures shall be allowed to*
13 *the extent such expense was deductible for determining federal income tax*
14 *and was allowed and in effect on December 31, 2017.*

15 (xxviii) *For taxable years commencing after December 31, 2019,*
16 *amounts received from the paycheck protection program pursuant to*
17 *sections 1102 and 1106 of Public Law 116-136, if such amounts were*
18 *included in the taxpayer's federal adjusted gross income.*

19 (xxix) *For taxable years commencing after December 31, 2019, the*
20 *amount of any expenses provided under section 276 of the consolidated*
21 *appropriations act, 2021 and not allowed as a deduction in determining*
22 *the federal adjusted gross income of an individual taxpayer.*

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

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

32 (f) No taxpayer shall be assessed penalties and interest from the
33 underpayment of taxes due to changes to this section that became law on
34 July 1, 2017, so long as such underpayment is rectified on or before April
35 17, 2018.

36 Sec. 3. K.S.A. 79-32,120 is hereby amended to read as follows: 79-
37 32,120. (a) (1) (A) *For all tax years prior to tax year 2021, if federal*
38 *taxable income of an individual is determined by itemizing deductions*
39 *from such individual's federal adjusted gross income, such individual may*
40 *elect to deduct the Kansas itemized deduction in lieu of the Kansas*
41 *standard deduction.*

42 (B) *For tax year 2021, and all tax years thereafter, an individual may*
43 *elect to deduct the Kansas itemized deduction in lieu of the Kansas*

1 *standard deduction, regardless of whether or not such individual's federal*
2 *taxable income is determined by itemizing deductions from such*
3 *individual's federal adjusted gross income.*

4 ~~(2) For the tax year commencing on January 1, 2013, the Kansas~~
5 ~~itemized deduction of an individual means 70% of the total amount of~~
6 ~~deductions from federal adjusted gross income, other than federal~~
7 ~~deductions for personal exemptions, as provided in the federal internal~~
8 ~~revenue code with the modifications specified in this section.~~

9 ~~(3) For the tax year commencing on January 1, 2014, the Kansas~~
10 ~~itemized deduction of an individual means 65% of the total amount of~~
11 ~~deductions from federal adjusted gross income, other than federal~~
12 ~~deductions for personal exemptions, as provided in the federal internal~~
13 ~~revenue code with the modifications specified in this section.~~

14 ~~(4)~~ For the tax years commencing on and after January 1, 2015, and
15 ending before January 1, 2018, the Kansas itemized deduction of an
16 individual means the following deductions from federal adjusted gross
17 income, other than federal deductions for personal exemptions, as
18 provided in the federal internal revenue code with the modifications
19 specified in this section: (A) 100% of charitable contributions that qualify
20 as charitable contributions allowable as deductions in section 170 of the
21 federal internal revenue code; (B) 50% of the amount of qualified
22 residence interest as provided in section 163(h) of the federal internal
23 revenue code; and (C) 50% of the amount of taxes on real and personal
24 property as provided in section 164(a) of the federal internal revenue code.

25 ~~(5)~~(3) For the tax year commencing on and after January 1, 2018, and
26 ending before January 1, 2019, the Kansas itemized deduction of an
27 individual means the following deductions from federal adjusted gross
28 income, other than federal deductions for personal exemptions, as
29 provided in the federal internal revenue code with the modifications
30 specified in this section: (A) 100% of charitable contributions that qualify
31 as charitable contributions allowable as deductions in section 170 of the
32 federal internal revenue code; (B) 50% of expenses for medical care
33 allowable as deductions in section 213 of the federal internal revenue
34 code; (C) 50% of the amount of qualified residence interest as provided in
35 section 163(h) of the federal internal revenue code; and (D) 50% of the
36 amount of taxes on real and personal property as provided in section
37 164(a) of the federal internal revenue code.

38 ~~(6)~~(4) For the tax year commencing on and after January 1, 2019, and
39 ending before January 1, 2020, the Kansas itemized deduction of an
40 individual means the following deductions from federal adjusted gross
41 income, other than federal deductions for personal exemptions, as
42 provided in the federal internal revenue code with the modifications
43 specified in this section: (A) 100% of charitable contributions that qualify

1 as charitable contributions allowable as deductions in section 170 of the
2 federal internal revenue code; (B) 75% of expenses for medical care
3 allowable as deductions in section 213 of the federal internal revenue
4 code; (C) 75% of the amount of qualified residence interest as provided in
5 section 163(h) of the federal internal revenue code; and (D) 75% of the
6 amount of taxes on real and personal property as provided in section
7 164(a) of the federal internal revenue code.

8 ~~(7)~~(5) For the tax years commencing on and after January 1, 2020, the
9 Kansas itemized deduction of an individual means the following
10 deductions from federal adjusted gross income, other than federal
11 deductions for personal exemptions, as provided in the federal internal
12 revenue code with the modifications specified in this section: (A) 100% of
13 charitable contributions that qualify as charitable contributions allowable
14 as deductions in section 170 of the federal internal revenue code; (B)
15 100% of expenses for medical care allowable as deductions in section 213
16 of the federal internal revenue code; (C) 100% of the amount of qualified
17 residence interest as provided in section 163(h) of the federal internal
18 revenue code; and (D) 100% of the amount of taxes on real and personal
19 property as provided in section 164(a) of the federal internal revenue code.

20 (b) The total amount of deductions from federal adjusted gross
21 income shall be reduced by the total amount of income taxes imposed by
22 or paid to this state or any other taxing jurisdiction to the extent that the
23 same are deducted in determining the federal itemized deductions and by
24 the amount of all depreciation deductions claimed for any real or tangible
25 personal property upon which the deduction allowed by K.S.A. 79-32,221,
26 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-
27 32,256, and amendments thereto, is or has been claimed.

28 Sec. 4. K.S.A. 79-32,138 is hereby amended to read as follows: 79-
29 32,138. (a) Kansas taxable income of a corporation taxable under this act
30 shall be the corporation's federal taxable income for the taxable year with
31 the modifications specified in this section, *except that in determination of*
32 *such federal taxable income for all taxable years commencing after*
33 *December 31, 2019, section 118 of the federal internal revenue code of*
34 *1986 shall be applied as in effect on December 21, 2017.*

35 (b) There shall be added to federal taxable income:

36 (i) The same modifications as are set forth in K.S.A. 79-32,117(b),
37 and amendments thereto, with respect to resident individuals, except
38 subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

39 (ii) the amount of all depreciation deductions claimed for any
40 property upon which the deduction allowed by K.S.A. 79-32,221, 79-
41 32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-
42 32,256, and amendments thereto, is claimed;

43 (iii) the amount of any charitable contribution deduction claimed for

1 any contribution or gift to or for the use of any racially segregated
2 educational institution;

3 (iv) for taxable years commencing December 31, 2013, that portion
4 of the amount of any expenditure deduction claimed in determining federal
5 adjusted gross income for expenses paid by a taxpayer for health care
6 when such expenses were paid or incurred for abortion coverage, a health
7 benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when
8 such expenses were paid or incurred for abortion coverage or amounts
9 contributed to health savings accounts for such taxpayer's employees for
10 the purchase of an optional rider for coverage of abortion in accordance
11 with K.S.A. 2020 Supp. 40-2,190, and amendments thereto;

12 (v) the amount of any charitable contribution deduction claimed for
13 any contribution or gift made to a scholarship granting organization to the
14 extent the same is claimed as the basis for the credit allowed pursuant to
15 K.S.A. 72-4357, and amendments thereto; ~~and~~

16 (vi) the federal net operating loss deduction; *and*

17 (vii) *for all taxable years commencing after December 31, 2019, the*
18 *amount of any deduction claimed under section 250(a)(1)(B) of the federal*
19 *internal revenue code of 1986.*

20 (c) There shall be subtracted from federal taxable income:

21 (i) The same modifications as are set forth in K.S.A. 79-32,117(c),
22 and amendments thereto, with respect to resident individuals, except
23 subsection (c)(xx);

24 (ii) the federal income tax liability for any taxable year commencing
25 prior to December 31, 1971, for which a Kansas return was filed after
26 reduction for all credits thereon, except credits for payments on estimates
27 of federal income tax, credits for gasoline and lubricating oil tax, and for
28 foreign tax credits if, on the Kansas income tax return for such prior year,
29 the federal income tax deduction was computed on the basis of the federal
30 income tax paid in such prior year, rather than as accrued. Notwithstanding
31 the foregoing, the deduction for federal income tax liability for any year
32 shall not exceed that portion of the total federal income tax liability for
33 such year which bears the same ratio to the total federal income tax
34 liability for such year as the Kansas taxable income, as computed before
35 any deductions for federal income taxes and after application of
36 subsections (d) and (e) ~~of this section~~ as existing for such year, bears to the
37 federal taxable income for the same year;

38 (iii) an amount for the amortization deduction allowed pursuant to
39 K.S.A. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-
40 32,250, 79-32,255 or 79-32,256, and amendments thereto;

41 (iv) for all taxable years commencing after December 31, 1987, the
42 amount included in federal taxable income pursuant to the provisions of
43 section 78 of the internal revenue code; ~~and~~

1 (v) ~~for all taxable years commencing after December 31, 1987, 80%~~
2 of dividends from corporations incorporated outside of the United States
3 or the District of Columbia which are included in federal taxable income.
4 *As used in this paragraph, "dividends" includes amounts included in*
5 *income under section 965 of the federal internal revenue code of 1986, net*
6 *of the deduction permitted by section 965(c) of the federal internal*
7 *revenue code of 1986. For all taxable years commencing prior to January*
8 *1, 2020, "dividends" also includes global intangible low-taxed income*
9 *included in income under section 951A of the federal internal revenue*
10 *code of 1986, net of the deduction in section 250(a)(1)(B) of the federal*
11 *internal revenue code of 1986. For all taxable years commencing after*
12 *December 31, 2019, this paragraph does not apply to amounts excluded*
13 *from income pursuant to K.S.A. 79-32,117(c)(xxv), and amendments*
14 *thereto, or amounts added back pursuant to K.S.A. 79-32,138(b)(vii), and*
15 *amendments thereto; and*

16 (vi) *for all taxable years commencing after December 31, 2019, the*
17 *amount disallowed as a deduction pursuant to section 162(r) of the federal*
18 *internal revenue code of 1986, as in effect on January 1, 2018.*

19 (d) If any corporation derives all of its income from sources within
20 Kansas in any taxable year commencing after December 31, 1979, its
21 Kansas taxable income shall be the sum resulting after application of
22 subsections (a) through (c) ~~hereof~~. Otherwise, such corporation's Kansas
23 taxable income in any such taxable year, after excluding any refunds of
24 federal income tax and before the deduction of federal income taxes
25 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
26 ~~3271 to K.S.A. through 79-3293, inclusive~~, and amendments thereto, plus
27 any refund of federal income tax as determined under K.S.A. 79-32,117(b)
28 (iv), and amendments thereto, and minus the deduction for federal income
29 taxes as provided by subsection (c)(ii) shall be such corporation's Kansas
30 taxable income.

31 (e) A corporation may make an election with respect to its first
32 taxable year commencing after December 31, 1982, whereby no addition
33 modifications as provided for in subsection (b)(ii) and subtraction
34 modifications as provided for in subsection (c)(iii) as those subsections
35 existed prior to their amendment by this act, shall be required to be made
36 for such taxable year.

37 Sec. 5. K.S.A. 79-32,143 is hereby amended to read as follows: 79-
38 32,143. (a) ~~For net operating losses incurred in taxable years beginning~~
39 ~~after December 31, 1987 Except as otherwise provided in subsection (h), a~~
40 net operating loss deduction shall be allowed in the same manner that it is
41 allowed under the federal internal revenue code except that such net
42 operating loss may only be carried forward to each of the 10 taxable years
43 following the taxable year of the net operating loss. For net operating farm

1 losses, as defined by ~~subsection (i) of~~ section 172(i) of the federal internal
2 revenue code, ~~incurred in taxable years beginning after December 31,~~
3 ~~1999~~, a net operating loss deduction shall be allowed in the same manner
4 that it is allowed under the federal internal revenue code except that such
5 net operating loss may be carried forward to each of the 10 taxable years
6 following the taxable year of the net operating loss. The amount of the net
7 operating loss that may be carried back or forward for Kansas income tax
8 purposes shall be that portion of the federal net operating loss allocated to
9 Kansas under this act in the taxable year that the net operating loss is
10 sustained.

11 (b) The amount of the loss to be carried back or forward will be the
12 federal net operating loss after: (1) All modifications required under this
13 act applicable to the net loss in the year the loss was incurred; and (2) after
14 apportionment as to source in the case of corporations, nonresident
15 individuals ~~for losses incurred in taxable years beginning prior to January~~
16 ~~1, 1978~~, and nonresident estates and trusts in the same manner that income
17 for such corporations, nonresident individuals, estates and trusts is
18 required to be apportioned.

19 (c) If a net operating loss was incurred in a taxable year beginning
20 prior to January 1, 1988, the amount of the net operating loss that may be
21 carried back and carried forward and the period for which it may be
22 carried back and carried forward shall be determined under the provisions
23 of the Kansas income tax laws which were in effect during the year that
24 such net operating loss was incurred.

25 (d) If any portion of a net operating loss described in subsections (a)
26 and (b) is not utilized prior to the final year of the carryforward period
27 provided in subsection (a), a refund shall be allowable in such final year in
28 an amount equal to the refund which would have been allowable in the
29 taxable year the loss was incurred by utilizing the three year carryback
30 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
31 multiplied by a fraction, the numerator of which is the unused portion of
32 such net operating loss in the final year, and the denominator of which is
33 the amount of such net operating loss which could have been carried back
34 to the three years immediately preceding the year in which the loss was
35 incurred. In no event may such fraction exceed 1.

36 (e) Notwithstanding any other provisions of the Kansas income tax
37 act, the net operating loss as computed under subsections (a), (b) and (c) ~~of~~
38 ~~this section~~ shall be allowed in full in determining Kansas taxable income
39 or at the option of the taxpayer allowed in full in determining Kansas
40 adjusted gross income.

41 (f) No refund of income tax which results from a net operating farm
42 loss carry back shall be allowed in an amount exceeding \$1,500 in any
43 year. Any overpayment in excess of \$1,500 may be carried forward to any

1 year or years after the year of the loss and may be claimed as a credit
2 against the tax. The refundable portion of such credit shall not exceed
3 \$1,500 in any year.

4 (g) For tax year 2013, and all tax years thereafter, a net operating loss
5 allowed by this section shall only be available to taxpayers subject to the
6 income tax on corporations imposed pursuant to ~~subsection (e) of K.S.A.~~
7 79-32,110(c), and amendments thereto, and used only to determine such
8 taxpayer's corporate income tax liability.

9 (h) *For tax years 2018, 2019 and 2020, the net operating loss,*
10 *including the calculation of any carry forward or carry back, shall be*
11 *equal and be determined by the federal net operating loss provided for in*
12 *the CARES act Public Law 116-136.*

13 Sec. 6. K.S.A. 79-32,143a is hereby amended to read as follows: 79-
14 32,143a. (a) For taxable years beginning after December 31, ~~2014~~ 2020, a
15 taxpayer may elect to take an expense deduction from Kansas net income
16 before expensing or recapture allocated or apportioned to this state for the
17 cost of the following property placed in service in this state during the
18 taxable year: (1) Tangible property eligible for depreciation under the
19 modified accelerated cost recovery system in section 168 of the internal
20 revenue code, as amended, but not including residential rental property,
21 nonresidential real property, any railroad grading or tunnel bore or any
22 other property with an applicable recovery period in excess of 25 years as
23 defined under section 168(c) or (g) of the internal revenue code, as
24 amended; and (2) computer software as defined in section 197(e)(3)(B) of
25 the internal revenue code, as amended, and as described in section 197(e)
26 (3)(A)(i) of the internal revenue code, as amended, to which section 167 of
27 the internal revenue code, as amended, applies. If such election is made,
28 the amount of expense deduction for such cost shall equal the difference
29 between the depreciable cost of such property for federal income tax
30 purposes and the *sum of the* amount of bonus depreciation being claimed
31 for such property pursuant to section 168(k) *and the amount of expensing*
32 *deduction being claimed for such property pursuant to section 179* of the
33 internal revenue code, as amended, for federal income tax purposes in such
34 tax year, ~~but without regard to any expense deduction being claimed for~~
35 ~~such property under section 179 of the internal revenue code, as amended,~~
36 multiplied by the applicable factor, determined by using, the table
37 provided in subsection (f), based on the method of depreciation selected
38 pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue
39 code, as amended, and the applicable recovery period for such property as
40 defined under section 168(c) or (g) of the internal revenue code, as
41 amended. This election shall be made by the due date of the original
42 return, including any extensions, and may be made only for the taxable
43 year in which the property is placed in service, and once made, shall be

1 irrevocable. ~~If the section 179 expense deduction election has been made~~
2 ~~for federal income tax purposes for any asset, the applicable factor to be~~
3 ~~utilized is in the IRC § 168 (b)(1) column of the table provided in~~
4 ~~subsection (f) for the applicable recovery period of the respective assets.~~

5 (b) If the amount of expense deduction calculated pursuant to
6 subsection (a) exceeds the taxpayer's Kansas net income before expensing
7 or recapture allocated or apportioned to this state, such excess amount
8 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-
9 32,143, and amendments thereto.

10 (c) If the property for which an expense deduction is taken pursuant
11 to subsection (a) is subsequently sold during the applicable recovery
12 period for such property as defined under section 168(c) of the internal
13 revenue code, as amended, and in a manner that would cause recapture of
14 any previously taken expense or depreciation deductions for federal
15 income tax purposes, or if the situs of such property is otherwise changed
16 such that the property is relocated outside the state of Kansas during such
17 applicable recovery period, then the expense deduction determined
18 pursuant to subsection (a) shall be subject to recapture and treated as
19 Kansas taxable income allocated to this state. The amount of recapture
20 shall be the Kansas expense deduction determined pursuant to subsection
21 (a) multiplied by a fraction, the numerator of which is the number of years
22 remaining in the applicable recovery period for such property as defined
23 under section 168(c) or (g) of the internal revenue code, as amended, after
24 such property is sold or removed from the state including the year of such
25 disposition, and the denominator of which is the total number of years in
26 such applicable recovery period.

27 (d) The situs of tangible property for purposes of claiming and
28 recapture of the expense deduction shall be the physical location of such
29 property. If such property is mobile, the situs shall be the physical location
30 of the business operations from where such property is used or based. The
31 situs of computer software shall be apportioned to Kansas based on the
32 fraction, the numerator of which is the number of the taxpayer's users
33 located in Kansas of licenses for such computer software used in the active
34 conduct of the taxpayer's business operations, and the denominator of
35 which is the total number of the taxpayer's users of the licenses for such
36 computer software used in the active conduct of the taxpayer's business
37 operations everywhere.

38 (e) Any member of a unitary group filing a combined report may
39 elect to take an expense deduction pursuant to subsection (a) for an
40 investment in property made by any member of the combined group,
41 provided that the amount calculated pursuant to subsection (a) may only be
42 deducted from the Kansas net income before expensing or recapture
43 allocated to or apportioned to this state by such member making the

election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

Factors				
IRC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)	
Recover Period	Depreciation	Depreciation	Depreciation	
(year)	Method	Method	Method	
2.5	*	.077	.092	
3	.075	.091	.106	
3.5	*	.102	.116	
4	*	.114	.129	
5	.116	.135	.150	
6	*	.154	.170	
6.5	*	.163	.179	
7	.151	.173	.190	
7.5	*	.181	.199	
8	*	.191	.208	
8.5	*	.199	.217	
9	*	.208	.226	
9.5	*	.216	.235	
10	.198	.224	.244	
10.5	*	.232	.252	
11	*	.240	.261	
11.5	*	.248	.269	
12	*	.256	.277	
12.5	*	.263	.285	
13	*	.271	.293	
13.5	*	.278	.300	
14	*	.285	.308	
15	*	.299	.323	
16	*	.313	.337	
16.5	*	.319	.344	
17	*	.326	.351	
18	*	.339	.365	
19	*	.351	.378	
20	*	.363	.391	
22	*	.386	.415	
24	*	.408	.438	
25	*	.419	.449	

*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed pursuant to K.S.A. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-

1 32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-
2 32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-
3 32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments
4 thereto.

5 (h) (1) For tax year 2013, the deduction allowed by this section shall
6 only be available to taxpayers subject to the income tax on corporations
7 imposed pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and
8 amendments thereto, and used only to determine such taxpayer's corporate
9 income tax liability.

10 (2) For tax ~~year~~ years 2014, ~~and all tax years thereafter through 2020,~~
11 the deduction allowed by this section shall only be available to taxpayers
12 subject to the income tax on corporations imposed pursuant to ~~subsection~~
13 ~~(e)~~ of K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax
14 imposed upon any national banking association, state bank, savings bank,
15 trust company or savings and loan association pursuant to article 11 of
16 chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and
17 used only to determine such taxpayer's corporate income or privilege tax
18 liability.

19 (i) *For tax year 2021, and all tax years thereafter, the deduction*
20 *allowed by this section shall be available to all taxpayers subject to the*
21 *income tax imposed pursuant to K.S.A. 79-32,110, and amendments*
22 *thereto, or the privilege tax imposed upon any national banking*
23 *association, state bank, savings bank, trust company or savings and loan*
24 *association pursuant to article 11 of chapter 79 of the Kansas Statutes*
25 *Annotated, and amendments thereto, and used only to determine such*
26 *taxpayer's income or privilege tax liability.*

27 Sec. 7. K.S.A. 79-32,117, 79-32,120, 79-32,138, 79-32,143 and 79-
28 32,143a are hereby repealed.

29 Sec. 8. This act shall take effect and be in force from and after its
30 publication in the statute book.