

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 270**

As Agreed to June 5, 2015

Brief*

SB 270 would make a number of changes in law regarding individual income tax, sales and compensating use tax provisions, motor vehicle registration and taxes, fire district taxation, and taxes on cigarettes, and would enact a tax amnesty for a number of tax sources.

Amnesty Provisions

The bill would authorize a tax amnesty for penalties and interest relative to certain delinquent taxes provided such taxes are paid in full from September 1, 2015, to October 15, 2015. The amnesty would apply to privilege, income, estate, cigarette, tobacco products, liquor enforcement, liquor drink, severance, state sales, state use, local sales, and local use taxes. The amnesty would be limited to penalties and interest applied to liabilities associated with tax periods ending on or before December 31, 2013.

The amnesty would not apply to any matter for which, on or after September 1, 2015, taxpayers have received notices of assessment or for which an audit had previously been initiated. Any fraud or intentional misrepresentation in connection with an amnesty application would void the application and waiver of any penalties and interest.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Individual Income Tax Provisions

Qualified Business Income Taxation

The bill would establish tax rates for certain businesses and would revise the additions and subtractions made to federal adjusted gross income to determine Kansas taxable income.

Starting in tax year 2015, an income tax on qualified income from limited liability companies, S corporations, partnerships, associations, sole proprietorships, joint ventures, or similar business organizations—but excluding certain other corporations and financial institutions—would be equal to the lowest rate for resident individuals, which under current law is equal to 2.7 percent of Kansas taxable income in 2015 and, under provisions in the bill, through tax year 2018, 2.4 percent in 2019, and 2.3 percent in 2020 and subsequent tax years. Qualified income would be offset by a claimed qualified loss. Non-qualified business income would be taxed at a higher rate as specified by current law. Under current law, certain business income is not taxed.

Also starting in tax year 2015, when individuals calculate their Kansas taxable incomes, the following adjustments would no longer be added to their federal adjusted gross incomes:

- Federal net operating loss deductions as reported from federal schedules C, E, and F;
- Self-employment taxes;
- Deductions for pension, profit sharing, and annuity plans of self-employed individuals;
- Deductions for health insurance; and
- Deductions for domestic production activities.

Also when calculating Kansas taxable income, individuals would no longer subtract the following adjustments from their federal adjusted gross incomes:

- Certain income reported on schedule E reported by financial institutions;
- Net profit from schedules C, E, and F; and
- The net gain from the sale of cattle and other livestock held by the taxpayer for a long-term period as specified by current law.

The Director of Taxation would not be permitted to assess penalties or interest arising from the underpayment of taxes owed under the bill for tax year 2015.

Rate Changes

Individual income tax rate reductions scheduled for future years would be decelerated. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket would become the tax rates through tax year 2018. The tax year 2019 rates would be 2.4 percent and 4.5 percent. The tax rates for tax year 2020 and all tax years thereafter would be 2.3 percent and 4.3 percent. A provision that could provide future formulaic income tax rate relief under certain circumstances, based on the extent to which revenue from a specified group of State General Fund (SGF) tax sources has increased over the previous fiscal year, would be repealed.

Low Income Tax Exclusion

The bill would provide that individual taxpayers with taxable income of \$5,000 or less and married taxpayers filing jointly with taxable income of \$12,500 or less would have no income tax liability beginning in tax year 2017.

Itemized Deductions Modification Acceleration

A number of changes would be enacted for Kansas itemized deductions retroactive to January 1 (the start of tax year 2015). With the exception of charitable contributions, mortgage interest, and property taxes paid, all Kansas itemized deductions would be repealed. The current changes in the percentage that could be deducted (“haircuts”) being phased in for mortgage interest and property taxes paid relative to the amount that otherwise is allowed for federal income tax purposes would be accelerated such that the final 50 percent haircut currently scheduled for tax year 2017 would be effective immediately. (Charitable contributions would remain fully deductible for Kansas taxpayers able to itemize at the state level, as under current law.)

Individual Development Account Tax Credit

The bill would restore, effective for tax year 2015, a tax credit that previously had been available for certain individual development account (IDA) contributions. That credit had been discontinued beginning in tax year 2013, pursuant to repeal in 2012 legislation.

ROZ Program

The Rural Opportunity Zone (ROZ) program, which provides an income tax exemption for certain individuals who establish residency in selected counties, would be extended. The program, which is currently scheduled to sunset in tax year 2017, would be extended for five years and be scheduled to sunset in tax year 2022. (The ROZ program also authorizes the repayment of student loans by participating counties and the state under specific circumstances.)

Christmas Tree Net Gain

The bill would create a subtraction modification from federal adjusted gross income in calculating Kansas adjusted gross income for the net gain from the sale of Christmas trees.

Social Security Number Requirement

The bill would require an individual claiming a tax credit to have a valid Social Security number for the entire taxable year for which the tax credit is claimed. An exception to this requirement would exist for military spouses in the event that the taxpayers are married filing jointly.

Sales and Use Tax Provisions

Sales and Use Tax Rates

The statewide sales tax and use tax rate would be increased from 6.15 percent to 6.45 percent on July 1, 2015. A second rate for purchases of food and food ingredients of 5.70 percent would become effective January 1, 2016.

Local Sales Tax Provisions

Additional provisions would authorize additional local sales tax authority for three counties—Thomas, Douglas, and Bourbon—for purposes of financing construction or remodeling of a courthouse, jail, law enforcement facility, or other county administrative facility. Thomas County would be granted an additional 0.5 percent authority, Douglas County would be granted an additional 0.5 percent authority, and Bourbon County would be granted additional authority of up to 1.0 percent.

Relative to this new authority, all counties also would have an exception to the normal countywide sales tax distribution formula, which otherwise requires that funds be shared with cities.

Voter approval would be required prior to the implementation of the new tax authority for Thomas County and Douglas County. For Bourbon County, the result of a previously held election would be declared valid for the implementation of the new tax authority.

Cigarette Tax Provisions

The bill would increase the state's cigarette tax by \$0.50 per pack to \$1.29 per pack beginning July 1, 2015.

The bill also would establish an inventory tax for all cigarettes on hand as of July 1, 2015. The inventory tax would be \$0.50 per pack for cigarettes on hand as of July 1, 2015. The inventory tax would be due on October 31, 2015.

Motor Vehicle Registration and Tax Provisions

The bill would require the Department of Revenue to mail a copy of the motor vehicle registration application to the owner of a motor vehicle, including all information required to enable the owner to register the vehicle and pay the tax by return mail.

An additional provision would allow for counties to opt out of the Department of Revenue mailing this information to the owners of vehicles registered in that county.

Fire Districts

A final section of the bill would clarify the property tax levying authority of consolidated fire districts with respect to their authority to levy more than 15 mills.

Conference Committee Action

The third Conference Committee on June 5 agreed to amend the contents of House Substitute for SB 270, as amended by the House on Final Action, by changing the repeal of the ROZ program sunset to a five-year extension of the program and retaining its other tax provisions. The Conference Committee also agreed to add provisions related to individual income tax and qualified business income taxation, rates, exclusions, itemized deductions, treatment of Christmas tree sale income, and Social Security number requirements for credits; statewide sales and use tax rates; cigarette taxes; and motor vehicle registration and tax provisions.

Background

The original bill would have made several changes to the Tax Credit for Low Income Students Scholarship Program Act. The House Taxation Committee, on May 13, struck the bill's original provisions; recommended a substitute bill be created; inserted various new provisions, including the tax amnesty provisions; and advanced the new substitute bill for further consideration without recommendation. The House Committee of the Whole, on May 15, adopted a minor technical amendment. On May 29, the House amended the bill on final action to remove the contents of the substitute bill, other than the amnesty provisions, and add the other provisions described above as being in the House Committee of the Whole version of the bill.

The qualified business income taxation provisions included in the Conference Committee Report are those of HB 2430, as amended by the House Committee on Taxation.

Based on the latest information available from the Department of Revenue, the Conference Committee Report would have the following impact on SGF receipts:

(\$ in millions)

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Tax on Qualified Business Income	\$ 101.100	\$ 82.000	\$ 86.100
Sales and Use Tax Changes	120.100	108.600	112.700
Itemized Deduction Changes	97.000	78.600	78.700
Tax Amnesty	30.000	0.000	0.000
Social Security Number Requirement	3.000	3.000	3.000
50-cent cigarette tax increase	40.400	36.400	36.000
IDA Credit Reinstatement	(0.300)	(0.300)	(0.300)
Low Income Tax Exclusion	0.000	0.000	(19.900)
ROZ Sunset Extension	0.000	0.000	(0.560)
Ind. Inc. Tax Rate Changes	26.400	98.600	242.200
TOTAL	<u>\$ 417.700</u>	<u>\$ 406.900</u>	<u>\$ 537.940</u>

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