

As Amended by House Committee

As Amended by Senate Committee

Session of 2021

SENATE BILL No. 50

By Committee on Assessment and Taxation

1-21

1 AN ACT concerning taxation; relating to ~~marketplace facilitators sales~~  
2 **and compensating use tax**; requiring the collection and remittance for  
3 sales, compensating use and transient guest taxes and prepaid wireless  
4 911 fees made on **marketplace facilitator** platforms; removing click-  
5 through nexus provisions; **relating to income tax; providing for**  
6 **addition and subtraction modifications for the treatment of global**  
7 **intangible low-taxed income, business interest, capital**  
8 **contributions, FDIC premiums and business meals; expanding the**  
9 **expense deduction for income taxpayers and calculating the**  
10 **deduction amount; providing the ability to elect to itemize for**  
11 **individuals; exemption of unemployment compensation income**  
12 **attributable as a result of identity fraud; removing the line for**  
13 **reporting compensating use tax from individual tax returns;**  
14 **extending the dates when corporate tax returns are required to be**  
15 **filed; increasing the Kansas standard deduction; providing for an**  
16 **extension of the corporate net operating loss carryforward period;**  
17 **amending K.S.A. 79-3221, 79-3221o, 79-32,117, 79-32,119, 79-32,120,**  
18 **79-32,138, 79-32,143, 79-32,143a and 79-3702 and repealing the**  
19 **existing ~~section~~ sections.**  
20

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

22 New Section 1. As used in sections 1 through 4, and amendments  
23 thereto:

24 (a) "Department" means the department of revenue.

25 (b) (1) "Marketplace facilitator" means a person, including any  
26 affiliate of the person, that:

27 (A) Contracts or otherwise agrees with marketplace sellers to  
28 facilitate for consideration, regardless of whether deducted as fees from  
29 the transaction, the sale of the marketplace seller's products or rooms,  
30 lodgings or accommodations through a physical or electronic marketplace  
31 operated, owned or otherwise controlled by the person; and

32 (B) either directly or indirectly through contracts, agreements or other  
33 arrangements with third parties, collects the payment from the purchaser  
34 and transmits all or part of the payment to the marketplace seller.

1 (2) A "marketplace facilitator" includes a person that provides a  
2 platform through which unaffiliated third parties offer to rent and collect  
3 consideration from occupants for rental, for a period of less than 29  
4 consecutive days, of rooms, lodgings, accommodations, homes,  
5 apartments, cabins or residential dwelling units that are intended to be  
6 used as a room, lodging or sleeping accommodation by one person or by  
7 two or more persons maintaining a common household, to the exclusion of  
8 all others. A person is not a marketplace facilitator with respect to the sale  
9 or charges for rooms, lodgings or sleeping accommodations, if such  
10 rooms, lodgings or sleeping accommodations are provided by a ~~lodging~~  
11 ~~establishment~~ **hotel** as described in K.S.A. 36-501, and amendments  
12 thereto, and the ~~lodging establishment~~ **hotel** provides the rooms, lodgings  
13 or sleeping accommodations for occupancy under a brand belonging to  
14 such person or the person facilitates sales or charges on behalf of the  
15 ~~lodging establishment~~ **hotel**.

16 (3) A "marketplace facilitator" does not include:

17 (A) A platform or forum that exclusively provides advertising  
18 services, including listing products for sale, so long as the advertising  
19 service platform or forum does not also engage directly or indirectly  
20 through one or more affiliated persons in the activities described in section  
21 1(b)(1)(A) or (b)(1)(B), and amendments thereto;

22 (B) a person whose principal activity with respect to marketplace  
23 sales is to provide payment processing services between two parties; or

24 (C) a derivatives clearing organization, designated contract market,  
25 foreign board of trade or swap execution facility, registered with the  
26 commodity futures trading commission, and any clearing members, futures  
27 commission merchants or brokers when using the services of the  
28 commodity futures trading commission.

29 (c) "Marketplace seller" means a seller that makes sales through any  
30 physical or electronic marketplace operated, owned or controlled by a  
31 marketplace facilitator.

32 (d) "Tax" means:

33 (1) The retailers' sales tax imposed under K.S.A. 79-3603, and  
34 amendments thereto;

35 (2) the compensating use tax imposed under K.S.A. 79-3703, and  
36 amendments thereto; or

37 (3) the transient guest tax imposed under K.S.A. 12-1693 or 12-1697,  
38 and amendments thereto, or any applicable city or county resolution or  
39 ordinance.

40 New Sec. 2. (a) **(1)** Any marketplace facilitator selling or facilitating  
41 the sale of property or services subject to tax in this state shall be required  
42 to collect and remit such taxes and follow all applicable procedures and  
43 requirements provided by law for the collection and remittance of such

1 taxes. A marketplace facilitator shall only be required to collect and remit  
2 such taxes if the following criteria are satisfied ~~in the previous~~ **during the**  
3 **current or immediately preceding** calendar year:

4 ~~(1)~~(A) The marketplace facilitator makes sales of property or services  
5 otherwise subject to tax in the state in an amount exceeding \$100,000; or

6 ~~(2)~~(B) if a marketplace facilitator makes or facilitates the sale of  
7 property or services subject to tax in the state, on its own behalf or on  
8 behalf of one or more marketplace sellers, for delivery into this state in an  
9 amount exceeding \$100,000.

10 **(2) For any marketplace facilitator who satisfies the provisions of**  
11 **this subsection for sales in the current calendar year for the first time,**  
12 **such marketplace facilitator shall be required to collect and remit the**  
13 **tax on any sales in excess of \$100,000 of cumulative gross receipts**  
14 **from sales in the current calendar year for delivery into this state.**

15 (b) The department may grant a waiver from the requirements of this  
16 section if a marketplace facilitator demonstrates, to the satisfaction of the  
17 department, that substantially all of its marketplace sellers already are  
18 collecting and remitting taxes to the department. If such waiver is granted,  
19 the taxes levied shall be collectible from the marketplace seller. The  
20 department shall promulgate rules and regulations that establish:

21 (1) The criteria for obtaining a waiver pursuant to this section;

22 (2) the process and procedure for a marketplace facilitator to apply  
23 for a waiver; and

24 (3) the process for providing notice to an affected marketplace  
25 facilitator and marketplace seller of a waiver obtained pursuant to this  
26 subsection.

27 (c) Nothing in this section shall prohibit the marketplace facilitator  
28 and the marketplace seller from contractually agreeing to have the  
29 marketplace seller collect and remit all applicable taxes and fees if the  
30 marketplace seller:

31 (1) Has annual gross sales in the United States over \$1,000,000,000,  
32 including the gross sales of any related entities, and, in the case of  
33 franchised entities, including the combined sales of all franchisees of a  
34 single franchisor;

35 (2) provides evidence to the marketplace facilitator that the  
36 marketplace seller is registered pursuant to K.S.A. 79-3608, and  
37 amendments thereto; and

38 (3) notifies the department in the manner prescribed by the  
39 department that the marketplace seller will collect and remit all applicable  
40 taxes and fees on sales through the marketplace and is liable for failure to  
41 collect or remit applicable taxes and fees on such sales.

42 (d) Prior to ~~January~~ **April** 1, 2022, if a marketplace facilitator sells or  
43 facilitates the sale of prepaid wireless service, the provider of such prepaid

1 wireless service is not liable for collection or payment of the prepaid  
2 wireless 911 fees imposed under K.S.A. 12-5371, and amendments  
3 thereto, unless such prepaid wireless provider is a marketplace seller  
4 collecting taxes under the provisions of a waiver granted in subsection (b).

5 (e) On and after ~~January~~ *April* 1, 2022, any marketplace facilitator  
6 that is obligated to collect the taxes imposed under this act, shall also  
7 collect and remit to the department applicable prepaid wireless 911 fees  
8 imposed under K.S.A. 12-5371, and amendments thereto.

9 New Sec. 3. (a) Except as provided in section 2(b) or (c), and  
10 amendments thereto, a marketplace facilitator doing business in this state  
11 under section 2, and amendments thereto, shall collect and remit the taxes  
12 on all taxable sales made by the marketplace facilitator or facilitated for  
13 marketplace sellers to customers in this state, regardless of whether the  
14 marketplace seller for whom sales are facilitated has registered to collect  
15 taxes or would have been required to collect taxes if the sale had not been  
16 facilitated by the marketplace facilitator. A marketplace facilitator has the  
17 same rights and duties as a seller to collect and remit all such taxes.  
18 Marketplace facilitators and marketplace sellers may enter into agreements  
19 with each other regarding fulfillment of the requirements of this section,  
20 but the marketplace facilitator remains the party that is liable to the state  
21 for fulfilling such requirements.

22 (b) A marketplace facilitator shall either:

23 (1) Report the tax imposed pursuant to subsection (a) separately from  
24 any taxes collected on taxable sales made directly by the marketplace  
25 facilitator, or affiliates of the marketplace facilitator, to customers in this  
26 state using a separate form to be published by the department; or

27 (2) report the tax imposed pursuant to subsection (a) combined with  
28 any taxes collected on taxable sales made directly by the marketplace  
29 facilitator, or affiliates of the marketplace facilitator.

30 (c) No class action may be brought against a marketplace facilitator  
31 in any court of this state on behalf of customers arising from or in any way  
32 related to an overpayment of tax collected on sales facilitated by the  
33 marketplace facilitator, regardless of whether that claim is characterized as  
34 a tax refund claim. Nothing in this subsection affects a customer's right to  
35 seek a refund as provided under K.S.A. 79-3650, and amendments thereto.

36 (d) Nothing in this section affects the obligation of any consumer to  
37 remit the tax for any taxable transaction for which a marketplace facilitator  
38 or seller does not collect and remit the tax.

39 (e) The department shall solely audit the marketplace facilitator for  
40 sales made by marketplace sellers but facilitated by the marketplace  
41 facilitator, except with respect to transactions that are subject to section  
42 2(b) or (c), and amendments thereto. The department shall not audit or  
43 otherwise assess tax against marketplace sellers for sales facilitated by a

1 marketplace facilitator except to the extent that the marketplace facilitator  
2 seeks relief under subsection (f) or with respect to transactions that are  
3 subject to section 2(b) or (c), and amendments thereto.

4 (f) A marketplace facilitator shall be relieved of liability under this  
5 section for failure to collect and remit the correct amount of tax to the  
6 extent that the error was due to incorrect or insufficient information on the  
7 nature of the product or service given to the marketplace facilitator by the  
8 marketplace seller, if the marketplace facilitator can demonstrate a  
9 reasonable effort to obtain correct and sufficient information from the  
10 marketplace seller. This subsection shall not apply if the marketplace  
11 facilitator and the marketplace seller are under common ownership and  
12 control.

13 (g) The department may waive penalties and interest if a marketplace  
14 facilitator seeks liability relief and the department determines that  
15 reasonable cause exists.

16 (h) A marketplace facilitator shall be relieved of liability under this  
17 section if it can prove, to the satisfaction of the department, that the tax  
18 levied on a sale facilitated by the marketplace facilitator was paid to the  
19 department by the marketplace seller.

20 New Sec. 4. A marketplace facilitator shall not be required to collect  
21 and remit any taxes from sales occurring prior to July 1, 2021.

22 **New Sec. 5. Notwithstanding any other provision of law, for any**  
23 **individual whose identity was fraudulently used to secure**  
24 **unemployment compensation, if such individual never received such**  
25 **compensation, such compensation shall not be considered gross**  
26 **income and shall not be taxable for Kansas income tax purposes after**  
27 **determination by the department of labor that the benefits were**  
28 **obtained fraudulently by another individual.**

29 **Sec. 6. K.S.A. 79-3221 is hereby amended to read as follows: 79-**  
30 **3221. (a) All returns required by this act shall be made as nearly as**  
31 **practical in the same form as the corresponding form of income tax**  
32 **return by the United States. Unless another identifying number has**  
33 **been assigned to an individual by the internal revenue service for**  
34 **purposes of filing such individual's federal income tax return, the**  
35 **social security number issued to an individual, the individual's spouse,**  
36 **and all dependents of such individual for purposes of section 205(c)(2)**  
37 **(A) of the social security act shall be used as the identifying number**  
38 **and included on the return when filing such return.**

39 **(b) All returns shall be filed in the office of the director of**  
40 **taxation on or before the 15<sup>th</sup> day of the fourth month following the**  
41 **close of the taxable year, except as provided in subsection (c) ~~hereof~~.**  
42 **Tentative returns may be filed before the close of the taxable year and**  
43 **the estimated tax computed on such return, paid, but no interest will**

1 be paid on any overpayment of tax liability, computed on such  
2 tentative return.

3 (c) (1) The director of taxation may grant a reasonable extension  
4 of time for filing returns in accordance with rules and regulations of  
5 the secretary of revenue. Whenever any such extension of time to file  
6 is requested by a taxpayer and granted by the director with respect to  
7 any tax year commencing after December 31, 1992, no penalty  
8 authorized by K.S.A. 79-3228, and amendments thereto, shall be  
9 imposed if 90% of the liability is paid on or before the original due  
10 date.

11 (2) For any tax year commencing after December 31, 2019, any  
12 taxpayer filing a corporate tax return shall file the return in the office of  
13 the director of taxation:

14 (A) Not later than one month after the due date established under the  
15 federal internal revenue code, including any applicable extensions granted  
16 by the internal revenue service; and

17 (B) no penalty authorized by K.S.A. 79-3228, and amendments  
18 thereto, shall be imposed if the return is filed within one month after  
19 receiving an extension to file a tax return with the internal revenue  
20 service. The taxpayer shall not be required to file an extension request  
21 with the director pursuant to this subparagraph.

22 (d) In the case of an individual serving in the armed forces of the  
23 United States, or serving in support of such armed forces, in an area  
24 designated by the president of the United States by executive order as  
25 a "combat zone" as defined under 26 U.S.C. § 112 at any time during  
26 the period designated by the president by executive order as the  
27 period of combatant activities in such zone for the purposes of such  
28 section, or hospitalized as a result of injury received or sickness  
29 incurred while serving in such an area during such time, the period of  
30 service in such area, plus the period of continuous qualified  
31 hospitalization attributable to such injury or sickness, and the next  
32 180 days thereafter, shall be disregarded in determining, under article  
33 32 of chapter 79 of the Kansas Statutes Annotated, and amendments  
34 thereto, in respect to any tax liability, including any interest, penalty,  
35 additional amount, or addition to the tax, of such individual:

36 (1) Whether any of the following acts was performed within the  
37 time prescribed therefor: (A) Filing any return of income tax; (B)  
38 payment of any income tax or installment thereof; (C) filing a notice of  
39 appeal with the director of taxation or the state board of tax appeals  
40 for redetermination of a deficiency or for a review of a decision  
41 rendered by either the director or the state board of tax appeals; (D)  
42 allowance of a credit or refund of any income tax; (E) filing a claim for  
43 credit or refund of any income tax; (F) bringing suit upon any such

1 claim for credit or refund; (G) assessment of any income tax; (H)  
2 giving or making any notice or demand for the payment of any income  
3 tax, or with respect to any liability to the state of Kansas in respect of  
4 any income tax; (I) collection, by the director of taxation or the  
5 director's agent, by warrant, levy or otherwise, of the amount of any  
6 liability in respect to any income tax; (J) bringing suit by the state of  
7 Kansas, or any officer on its behalf, in respect to any liability in  
8 respect of any income tax; and (K) any other act required or  
9 permitted under the Kansas income tax act specified in rules and  
10 regulations adopted by the secretary of revenue under this section;

11 (2) the amount of any credit or refund.

12 (e) (1) Subsection (d) shall not apply for purposes of determining  
13 the amount of interest on any overpayment of tax.

14 (2) If an individual is entitled to the benefits of subsection (d)  
15 with respect to any return and such return is timely filed, determined  
16 after the application of ~~subsection (d), subsections (e)(5) and (e)(7) of~~  
17 ~~K.S.A. 79-32,105(d), (e)(5) and (e)(7),~~ and amendments thereto, shall  
18 not apply.

19 (f) The provisions of subsections (d) through (j) shall apply to the  
20 spouse of any individual entitled to the benefits of subsection (d).  
21 Except in the case of the combat zone designated for purposes of the  
22 Vietnam conflict, this subsection shall not cause subsections (d)  
23 through (j) to apply for any spouse for any taxable year beginning  
24 more than two years after the date designated under 26 U.S.C. § 112,  
25 and amendments thereto, as the date of termination of combatant  
26 activities in a combat zone.

27 (g) The period of service in the area referred to in subsection (d)  
28 shall include the period during which an individual entitled to benefits  
29 under subsection (d) is in a missing status, within the meaning of 26  
30 U.S.C. § 6013(f)(3).

31 (h) (1) Notwithstanding the provisions of subsection (d), any  
32 action or proceeding authorized by K.S.A. 79-3229, and amendments  
33 thereto, as well as any other action or proceeding authorized by law in  
34 connection therewith, may be taken, begun or prosecuted. In any  
35 other case in which the secretary determines that collection of the  
36 amount of any assessment would be jeopardized by delay, the  
37 provisions of subsection (d) shall not operate to stay collection of such  
38 amount by levy or otherwise as authorized by law. There shall be  
39 excluded from any amount assessed or collected pursuant to this  
40 subsection the amount of interest, penalty, additional amount, and  
41 addition to the tax, if any, in respect of the period disregarded under  
42 subsection (d). In any case to which this ~~subsections~~ *subsection* relates,  
43 if the secretary is required to give any notice to or make any demand

1 upon any person, such requirement shall be deemed to be satisfied if  
2 the notice or demand is prepared and signed, in any case in which the  
3 address of such person last known to the secretary is in an area for  
4 which United States post offices under instructions of the postmaster  
5 general are not, by reason of the combatant activities, accepting mail  
6 for delivery at the time the notice or demand is signed. In such case  
7 the notice or demand shall be deemed to have been given or made  
8 upon the date it is signed.

9 (2) The assessment or collection of any tax under the provisions of  
10 article 32 of chapter 79 of the Kansas Statutes Annotated, and  
11 amendments thereto, or any action or proceeding by or on behalf of  
12 the state in connection therewith, may be made, taken, begun or  
13 prosecuted in accordance with law, without regard to the provisions of  
14 subsection (d), unless prior to such assessment, collection, action or  
15 proceeding it is ascertained that the person concerned is entitled to the  
16 benefits of subsection (d).

17 (i) (1) Any individual who performed Desert Shield services, and  
18 the spouse of such individual, shall be entitled to the benefits of  
19 subsections (d) through (j) in the same manner as if such services were  
20 services referred to in subsection (d).

21 (2) For purposes of this subsection, the term "Desert Shield  
22 services" means any services in the armed forces of the United States  
23 or in support of such armed forces if:

24 (A) Such services are performed in the area designated by the  
25 president as the "Persian Gulf Desert Shield area"; and

26 (B) such services are performed during the period beginning on  
27 August 2, 1990, and ending on the date on which any portion of the  
28 area referred to in subsection (i)(2)(A) is designated by the president  
29 as a combat zone pursuant to 26 U.S.C. § 112.

30 (j) For purposes of subsection (d), the term "qualified  
31 hospitalization" means:

32 (1) Any hospitalization outside the United States; and

33 (2) any hospitalization inside the United States, except that not  
34 more than five years of hospitalization may be taken into account  
35 under this subsection. This subsection shall not apply for purposes of  
36 applying subsections (d) through (j) with respect to the spouse of an  
37 individual entitled to the benefits of subsection (d).

38 Sec. 7. K.S.A. 79-3221o is hereby amended to read as follows: 79-  
39 3221o. ~~(a) In order to raise awareness of liabilities of use taxes levied in~~  
40 ~~article 37 of chapter 79 of the Kansas Statutes Annotated, and amendments~~  
41 ~~thereto, for purchases of tangible personal property made outside this state~~  
42 ~~to be consumed within this state, and to increase compliance with such~~  
43 ~~provisions of law, The director of taxation is hereby directed to not~~



1 **include a line for the remittance of sales tax on out-of-state and**  
2 **internet purchases where the tax was not paid on individual tax returns**  
3 **for tax years beginning on or after July January 1, 2016 2022.**

4 ~~(b) The director shall include the following information in the income~~  
5 ~~tax form instructions:~~

6 ~~(1) An explanation of an individual's obligation to pay use tax on~~  
7 ~~items purchased from mail order, internet or other sellers that do not~~  
8 ~~collect state and local sales and use taxes on the items; and~~

9 ~~(2) a method to help an individual determine the amount of use tax~~  
10 ~~the individual owes. The method may include a table that gives the~~  
11 ~~average amounts of use tax payable by taxpayers in various income~~  
12 ~~ranges.~~

13 ~~(c) No penalties or interest shall be applied with respect to any taxes~~  
14 ~~remitted pursuant to the provisions of this section.~~

15 **Sec. 8. K.S.A. 79-32,117 is hereby amended to read as follows: 79-**  
16 **32,117. (a) The Kansas adjusted gross income of an individual means**  
17 **such individual's federal adjusted gross income for the taxable year,**  
18 **with the modifications specified in this section.**

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

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

33 **(ii) Taxes on or measured by income or fees or payments in lieu of**  
34 **income taxes imposed by this state or any other taxing jurisdiction to**  
35 **the extent deductible in determining federal adjusted gross income**  
36 **and not credited against federal income tax. This paragraph shall not**  
37 **apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-**  
38 **1108, and amendments thereto, for privilege tax year 1995, and all**  
39 **such years thereafter.**

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

1 (iv) Federal income tax refunds received by the taxpayer if the  
2 deduction of the taxes being refunded resulted in a tax benefit for  
3 Kansas income tax purposes during a prior taxable year. Such refunds  
4 shall be included in income in the year actually received regardless of  
5 the method of accounting used by the taxpayer. For purposes hereof, a  
6 tax benefit shall be deemed to have resulted if the amount of the tax  
7 had been deducted in determining income subject to a Kansas income  
8 tax for a prior year regardless of the rate of taxation applied in such  
9 prior year to the Kansas taxable income, but only that portion of the  
10 refund shall be included as bears the same proportion to the total  
11 refund received as the federal taxes deducted in the year to which such  
12 refund is attributable bears to the total federal income taxes paid for  
13 such year. For purposes of the foregoing sentence, federal taxes shall  
14 be considered to have been deducted only to the extent such deduction  
15 does not reduce Kansas taxable income below zero.

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

22 (vi) Any amount of designated employee contributions picked up  
23 by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-  
24 4965, and amendments thereto.

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

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

32 (ix) The amount of any ad valorem taxes and assessments paid  
33 and the amount of any costs incurred for habitat management or  
34 construction and maintenance of improvements on real property,  
35 claimed for deduction in determining federal adjusted gross income,  
36 to the extent the same is claimed as the basis for any credit allowed  
37 pursuant to K.S.A. 79-32,203, and amendments thereto.

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

1 (xi) The amount of any contribution made to the same extent the  
2 same is claimed as the basis for the credit allowed pursuant to K.S.A.  
3 74-50,154, and amendments thereto.

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

11 (xiii) The amount of any expenditures claimed for deduction in  
12 determining federal adjusted gross income, to the extent the same is  
13 claimed as the basis for any credit allowed pursuant to K.S.A. 79-  
14 32,217 through 79-32,220 or 79-32,222, and amendments thereto.

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

19 (xv) The amount of any expenditures claimed for deduction in  
20 determining federal adjusted gross income, to the extent the same is  
21 claimed as the basis for any credit allowed pursuant to K.S.A. 79-  
22 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
23 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through  
24 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

25 (xvi) 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. 79-32,227, 79-32,232, 79-  
28 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

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

33 (xviii) For taxable years commencing after December 31, 2006,  
34 the amount of any ad valorem or property taxes and assessments paid  
35 to a state other than Kansas or local government located in a state  
36 other than Kansas by a taxpayer who resides in a state other than  
37 Kansas, when the law of such state does not allow a resident of Kansas  
38 who earns income in such other state to claim a deduction for ad  
39 valorem or property taxes or assessments paid to a political  
40 subdivision of the state of Kansas in determining taxable income for  
41 income tax purposes in such other state, to the extent that such taxes  
42 and assessments are claimed as an itemized deduction for federal  
43 income tax purposes.

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

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

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

34       **(xxii) For taxable years beginning after December 31, 2012, and**  
35 **ending before January 1, 2017, the amount of any deduction for health**  
36 **insurance under section 162(l) of the federal internal revenue code as**  
37 **in effect on January 1, 2012, and amendments thereto, in determining**  
38 **the federal adjusted gross income of an individual taxpayer.**

39       **(xxiii) For taxable years beginning after December 31, 2012, and**  
40 **ending before January 1, 2017, the amount of any deduction for**  
41 **domestic production activities under section 199 of the federal internal**  
42 **revenue code as in effect on January 1, 2012, and amendments thereto,**  
43 **in determining the federal adjusted gross income of an individual**

1 taxpayer.

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

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

24 (xxvi) For all taxable years beginning after December 31, 2016,  
25 the amount of any charitable contribution made to the extent the same  
26 is claimed as the basis for the credit allowed pursuant to K.S.A. 72-  
27 99a07, and amendments thereto, and is also claimed as an itemized  
28 deduction for federal income tax purposes.

29 *(xxvii) For all taxable years commencing after December 31, 2020,*  
30 *the amount deducted by reason of a carryforward of disallowed business*  
31 *interest pursuant to section 163(j) of the federal internal revenue code of*  
32 *1986, as in effect on January 1, 2018.*

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

34 (i) Interest or dividend income on obligations or securities of any  
35 authority, commission or instrumentality of the United States and its  
36 possessions less any related expenses directly incurred in the purchase  
37 of such obligations or securities, to the extent included in federal  
38 adjusted gross income but exempt from state income taxes under the  
39 laws of the United States.

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

43 (iii) The portion of any gain or loss from the sale or other

1 disposition of property having a higher adjusted basis for Kansas  
2 income tax purposes than for federal income tax purposes on the date  
3 such property was sold or disposed of in a transaction in which gain or  
4 loss was recognized for purposes of federal income tax that does not  
5 exceed such difference in basis, but if a gain is considered a long-term  
6 capital gain for federal income tax purposes, the modification shall be  
7 limited to that portion of such gain which is included in federal  
8 adjusted gross income.

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

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

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

23 (vii) Amounts received as annuities under the federal civil service  
24 retirement system from the civil service retirement and disability fund  
25 and other amounts received as retirement benefits in whatever form  
26 which were earned for being employed by the federal government or  
27 for service in the armed forces of the United States.

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

31 (ix) Amounts received by retired employees of a city and by  
32 retired employees of any board of such city as retirement allowances  
33 pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant  
34 to any charter ordinance exempting a city from the provisions of  
35 K.S.A. 13-14,106, and amendments thereto.

36 (x) For taxable years beginning after December 31, 1976, the  
37 amount of the federal tentative jobs tax credit disallowance under the  
38 provisions of 26 U.S.C. § 280C. For taxable years ending after  
39 December 31, 1978, the amount of the targeted jobs tax credit and  
40 work incentive credit disallowances under 26 U.S.C. § 280C.

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

43 (xii) For taxable years beginning after December 31, 1989,

1 amounts received by retired employees of a board of public utilities as  
2 pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a  
3 and 13-1249, and amendments thereto.

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

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

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

42 (xvi) For all taxable years beginning after December 31, 2004,  
43 amounts received by taxpayers who are or were members of the

1 armed forces of the United States, including service in the Kansas  
2 army and air national guard, as a recruitment, sign up or retention  
3 bonus received by such taxpayer as an incentive to join, enlist or  
4 remain in the armed services of the United States, including service in  
5 the Kansas army and air national guard, and amounts received for  
6 repayment of educational or student loans incurred by or obligated to  
7 such taxpayer and received by such taxpayer as a result of such  
8 taxpayer's service in the armed forces of the United States, including  
9 service in the Kansas army and air national guard.

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

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

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

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



1 and reported from schedule E and on line 17 of the taxpayer's form  
2 1040 federal individual income tax return; and (3) net farm profit as  
3 determined under the federal internal revenue code and reported  
4 from schedule F and on line 18 of the taxpayer's form 1040 federal  
5 income tax return; all to the extent included in the taxpayer's federal  
6 adjusted gross income. For purposes of this subsection, references to  
7 the federal form 1040 and federal schedule C, schedule E, and  
8 schedule F, shall be to such form and schedules as they existed for tax  
9 year 2011 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  
13 dependent of the taxpayer while living, for the donation of one or  
14 more human organs of the taxpayer, or a dependent of the taxpayer, to  
15 another person for human organ transplantation. The expenses may  
16 be claimed as a subtraction modification provided for in this section to  
17 the extent the expenses are not already subtracted from the taxpayer's  
18 federal adjusted gross income. In no circumstances shall the  
19 subtraction modification provided for in this section for any  
20 individual, or a dependent, exceed \$5,000. As used in this section,  
21 "human organ" means all or part of a liver, pancreas, kidney,  
22 intestine, lung or bone marrow. The provisions of this paragraph shall  
23 take effect on the day the secretary of revenue certifies to the director  
24 of the budget that the cost for the department of revenue of  
25 modifications to the automated tax system for the purpose of  
26 implementing this paragraph will not exceed \$20,000.

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

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

1       **(xxiv) For taxable years beginning after December 31, 2013, and**  
2 **ending before January 1, 2017, the net gain from the sale from**  
3 **Christmas trees grown in Kansas and held by the taxpayer for six**  
4 **years or more.**

5       *(xxv) For all taxable years commencing after December 31, 2020,*  
6 *100% of global intangible low-taxed income under section 951A of the*  
7 *federal internal revenue code of 1986, before any deductions allowed*  
8 *under section 250(a)(1)(B) of such code.*

9       *(xxvi) For all taxable years commencing after December 31, 2020,*  
10 *the amount disallowed as a deduction pursuant to section 163(j) of the*  
11 *federal internal revenue code of 1986, as in effect on January 1, 2018.*

12       *(xxvii) For taxable years commencing after December 31, 2020, the*  
13 *amount disallowed as a deduction pursuant to section 274 of the federal*  
14 *internal revenue code of 1986 for meal expenditures shall be allowed to*  
15 *the extent such expense was deductible for determining federal income tax*  
16 *and was allowed and in effect on December 31, 2017.*

17       **(d) There shall be added to or subtracted from federal adjusted**  
18 **gross income the taxpayer's share, as beneficiary of an estate or trust,**  
19 **of the Kansas fiduciary adjustment determined under K.S.A. 79-**  
20 **32,135, and amendments thereto.**

21       **(e) The amount of modifications required to be made under this**  
22 **section by a partner which relates to items of income, gain, loss,**  
23 **deduction or credit of a partnership shall be determined under K.S.A.**  
24 **79-32,131, and amendments thereto, to the extent that such items**  
25 **affect federal adjusted gross income of the partner.**

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

30       **Sec. 9. K.S.A. 79-32,119 is hereby amended to read as follows: 79-**  
31 **32,119. (a) The Kansas standard deduction of an individual, including**  
32 **a husband and wife who are either both residents or who file a joint**  
33 **return as if both were residents, shall be equal to the sum of the**  
34 **standard deduction amount allowed pursuant to this section, and the**  
35 **additional standard deduction amount allowed pursuant to this**  
36 **section for each such deduction allowable to such individual or to such**  
37 **husband and wife under the federal internal revenue code. For tax year**  
38 ~~1998 through tax year 2012, the standard deduction amount shall be as~~  
39 ~~follows: Single individual filing status, \$3,000; married filing status,~~  
40 ~~\$6,000; and head of household filing status, \$4,500.~~

41       **(b) For tax year 1998, and all tax years thereafter, the additional**  
42 **standard deduction amount shall be as follows: Single individual and**  
43 **head of household filing status, \$850; and married filing status, \$700.**

1       (c) (1) ~~For tax year 2013, and all tax years thereafter through tax~~  
2 ~~year 2020, the standard deduction amount of an individual, including~~  
3 ~~husband and wife who are either both residents or who file a joint~~  
4 ~~return as if both were residents, shall be as follows: Single individual~~  
5 ~~filing status, \$3,000; married filing status, \$7,500; and head of~~  
6 ~~household filing status, \$5,500.~~

7       (2) *For tax year 2021, and all tax years thereafter, the standard*  
8 *deduction amount of an individual, including husband and wife who are*  
9 *either both residents or who file a joint return as if both were residents,*  
10 *shall be as follows: Single individual filing status, \$3,500; married filing*  
11 *status, \$8,000; and head of household filing status, \$6,000.*

12       (d) ~~For purposes of the foregoing this section, the federal standard~~  
13 ~~deduction allowable to a husband and wife filing separate Kansas~~  
14 ~~income tax returns shall be determined on the basis that separate~~  
15 ~~federal returns were filed, and the federal standard deduction of a~~  
16 ~~husband and wife filing a joint Kansas income tax return shall be~~  
17 ~~determined on the basis that a joint federal income tax return was~~  
18 ~~filed.~~

19       **Sec. 10. K.S.A. 79-32,120 is hereby amended to read as follows:**  
20 **79-32,120. (a) (1) (A) For all tax years prior to tax year 2021, if federal**  
21 **taxable income of an individual is determined by itemizing deductions**  
22 **from such individual's federal adjusted gross income, such individual**  
23 **may elect to deduct the Kansas itemized deduction in lieu of the**  
24 **Kansas standard deduction.**

25       (B) *For tax year 2021, and all tax years thereafter, an individual may*  
26 *elect to deduct the Kansas itemized deduction in lieu of the Kansas*  
27 *standard deduction, regardless of whether or not such individual's federal*  
28 *taxable income is determined by itemizing deductions from such*  
29 *individual's federal adjusted gross income.*

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

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

40       ~~(4) For the tax years commencing on and after January 1, 2015,~~  
41 ~~and ending before January 1, 2018, the Kansas itemized deduction of~~  
42 ~~an individual means the following deductions from federal adjusted~~  
43 ~~gross income, other than federal deductions for personal exemptions,~~

1 as provided in the federal internal revenue code with the modifications  
2 specified in this section: (A) 100% of charitable contributions that  
3 qualify as charitable contributions allowable as deductions in section  
4 170 of the federal internal revenue code; (B) 50% of the amount of  
5 qualified residence interest as provided in section 163(h) of the federal  
6 internal revenue code; and (C) 50% of the amount of taxes on real and  
7 personal property as provided in section 164(a) of the federal internal  
8 revenue code.

9 ~~(5)~~(3) For the tax year commencing on and after January 1, 2018,  
10 and ending before January 1, 2019, the Kansas itemized deduction of  
11 an individual means the following deductions from federal adjusted  
12 gross income, other than federal deductions for personal exemptions,  
13 as provided in the federal internal revenue code with the modifications  
14 specified in this section: (A) 100% of charitable contributions that  
15 qualify as charitable contributions allowable as deductions in section  
16 170 of the federal internal revenue code; (B) 50% of expenses for  
17 medical care allowable as deductions in section 213 of the federal  
18 internal revenue code; (C) 50% of the amount of qualified residence  
19 interest as provided in section 163(h) of the federal internal revenue  
20 code; and (D) 50% of the amount of taxes on real and personal  
21 property as provided in section 164(a) of the federal internal revenue  
22 code.

23 ~~(6)~~(4) For the tax year commencing on and after January 1, 2019,  
24 and ending before January 1, 2020, the Kansas itemized deduction of  
25 an individual means the following deductions from federal adjusted  
26 gross income, other than federal deductions for personal exemptions,  
27 as provided in the federal internal revenue code with the modifications  
28 specified in this section: (A) 100% of charitable contributions that  
29 qualify as charitable contributions allowable as deductions in section  
30 170 of the federal internal revenue code; (B) 75% of expenses for  
31 medical care allowable as deductions in section 213 of the federal  
32 internal revenue code; (C) 75% of the amount of qualified residence  
33 interest as provided in section 163(h) of the federal internal revenue  
34 code; and (D) 75% of the amount of taxes on real and personal  
35 property as provided in section 164(a) of the federal internal revenue  
36 code.

37 ~~(7)~~(5) For the tax years commencing on and after January 1,  
38 2020, the Kansas itemized deduction of an individual means the  
39 following deductions from federal adjusted gross income, other than  
40 federal deductions for personal exemptions, as provided in the federal  
41 internal revenue code with the modifications specified in this section:  
42 (A) 100% of charitable contributions that qualify as charitable  
43 contributions allowable as deductions in section 170 of the federal

1 internal revenue code; (B) 100% of expenses for medical care  
2 allowable as deductions in section 213 of the federal internal revenue  
3 code; (C) 100% of the amount of qualified residence interest as  
4 provided in section 163(h) of the federal internal revenue code; and  
5 (D) 100% of the amount of taxes on real and personal property as  
6 provided in section 164(a) of the federal internal revenue code.

7 (b) The total amount of deductions from federal adjusted gross  
8 income shall be reduced by the total amount of income taxes imposed  
9 by or paid to this state or any other taxing jurisdiction to the extent  
10 that the same are deducted in determining the federal itemized  
11 deductions and by the amount of all depreciation deductions claimed  
12 for any real or tangible personal property upon which the deduction  
13 allowed by K.S.A. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-  
14 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is  
15 or has been claimed.

16 Sec. 11. K.S.A. 79-32,138 is hereby amended to read as follows:  
17 79-32,138. (a) Kansas taxable income of a corporation taxable under  
18 this act shall be the corporation's federal taxable income for the  
19 taxable year with the modifications specified in this section, *except that*  
20 *in determination of such federal taxable income for all taxable years*  
21 *commencing after December 31, 2020, section 118 of the federal internal*  
22 *revenue code of 1986 shall be applied as in effect on December 21, 2017.*

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

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

27 (ii) the amount of all depreciation deductions claimed for any  
28 property upon which the deduction allowed by K.S.A. 79-32,221, 79-  
29 32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-  
30 32,256, and amendments thereto, is claimed;

31 (iii) the amount of any charitable contribution deduction claimed  
32 for any contribution or gift to or for the use of any racially segregated  
33 educational institution;

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

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

6 (vi) the federal net operating loss deduction; and

7 (vii) for all taxable years commencing after December 31, 2020, the  
8 amount of any deduction claimed under section 250(a)(1)(B) of the federal  
9 internal revenue code of 1986.

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

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

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

29 (iii) an amount for the amortization deduction allowed pursuant  
30 to K.S.A. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-  
31 32,250, 79-32,255 or 79-32,256, and amendments thereto;

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

35 (v) for all taxable years commencing after December 31, 1987, 80%  
36 of dividends from corporations incorporated outside of the United  
37 States or the District of Columbia which are included in federal  
38 taxable income. As used in this paragraph, "dividends" includes amounts  
39 included in income under section 965 of the federal internal revenue code  
40 of 1986, net of the deduction permitted by section 965(c) of the federal  
41 internal revenue code of 1986. For all taxable years commencing after  
42 December 31, 2020, this paragraph does not apply to amounts excluded  
43 from income pursuant to K.S.A. 79-32,117(c)(xxv), and amendments

1 *thereto, or amounts added back pursuant to K.S.A. 79-32,138(b)(vii), and*  
2 *amendments thereto; and*

3 *(vi) for all taxable years commencing after December 31, 2020, the*  
4 *amount disallowed as a deduction pursuant to section 162(r) of the federal*  
5 *internal revenue code of 1986, as in effect on January 1, 2018.*

6 **(d) If any corporation derives all of its income from sources**  
7 **within Kansas in any taxable year commencing after December 31,**  
8 **1979, its Kansas taxable income shall be the sum resulting after**  
9 **application of subsections (a) through (c)—hereof. Otherwise, such**  
10 **corporation's Kansas taxable income in any such taxable year, after**  
11 **excluding any refunds of federal income tax and before the deduction**  
12 **of federal income taxes provided by subsection (c)(ii) shall be allocated**  
13 **as provided in K.S.A. 79-3271 to K.S.A. through 79-3293, inclusive, and**  
14 **amendments thereto, plus any refund of federal income tax as**  
15 **determined under K.S.A. 79-32,117(b)(iv), and amendments thereto,**  
16 **and minus the deduction for federal income taxes as provided by**  
17 **subsection (c)(ii) shall be such corporation's Kansas taxable income.**

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

24 **Sec. 12. K.S.A. 79-32,143 is hereby amended to read as follows:**  
25 **79-32,143. (a) (1) (A) For net operating losses incurred in taxable years**  
26 **beginning after December 31, 1987, prior to January 1, 2018, a net**  
27 **operating loss deduction shall be allowed in the same manner that it is**  
28 **allowed under the federal internal revenue code, except that such net**  
29 **operating loss may only be carried forward to each of the 10 taxable**  
30 **years following the taxable year of the net operating loss.**

31 **(B) For net operating losses incurred in taxable years beginning**  
32 **after December 31, 2017, a net operating loss deduction shall be allowed**  
33 **in the same manner that it is allowed under the federal internal revenue**  
34 **code, except that such net operating loss deduction may only be carried**  
35 **forward.**

36 **(2) For net operating farm losses, as defined by subsection (i) of**  
37 **section 172 of the federal internal revenue code, incurred in taxable**  
38 **years beginning after December 31, 1999, a net operating loss**  
39 **deduction shall be allowed in the same manner that it is allowed under**  
40 **the federal internal revenue code except that such net operating loss**  
41 **may be carried forward to each of the 10 taxable years following the**  
42 **taxable year of the net operating loss.**

43 **(3) The amount of the net operating loss that may be carried back**

1 or forward for Kansas income tax purposes shall be that portion of the  
2 federal net operating loss allocated to Kansas under this act in the  
3 taxable year that the net operating loss is sustained.

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

13 (c) If a net operating loss was incurred in a taxable year  
14 beginning prior to January 1, 1988, the amount of the net operating  
15 loss that may be carried back and carried forward and the period for  
16 which it may be carried back and carried forward shall be determined  
17 under the provisions of the Kansas income tax laws ~~which~~ *that* were in  
18 effect during the year that such net operating loss was incurred.

19 (d) If any portion of a net operating loss described in subsections  
20 (a) and (b) is not utilized prior to the final year of the carryforward  
21 period provided in subsection (a), a refund shall be allowable in such  
22 final year in an amount equal to the refund which would have been  
23 allowable in the taxable year the loss was incurred by utilizing the  
24 three year carryback provided under K.S.A. 79-32,143, as in effect on  
25 December 31, 1987, multiplied by a fraction, the numerator of which  
26 is the unused portion of such net operating loss in the final year, and  
27 the denominator of which is the amount of such net operating loss  
28 ~~which~~ *that* could have been carried back to the three years  
29 immediately preceding the year in which the loss was incurred. In no  
30 event may such fraction exceed  $\frac{1}{3}$ .

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

36 (f) No refund of income tax ~~which~~ *that* results from a net  
37 operating farm loss carry back shall be allowed in an amount  
38 exceeding \$1,500 in any year. Any overpayment in excess of \$1,500  
39 may be carried forward to any year or years after the year of the loss  
40 and may be claimed as a credit against the tax. The refundable portion  
41 of such credit shall not exceed \$1,500 in any year.

42 (g) For tax year 2013, and all tax years thereafter, a net operating  
43 loss allowed by this section shall only be available to taxpayers subject



1 to the income tax on corporations imposed pursuant to ~~subsection (e)~~  
2 of K.S.A. 79-32,110(c), and amendments thereto, and used only to  
3 determine such taxpayer's corporate income tax liability.

4 Sec. 13. K.S.A. 79-32,143a is hereby amended to read as follows:

5 79-32,143a. (a) For taxable years beginning after December 31, ~~2011~~  
6 2020, a taxpayer may elect to take an expense deduction from Kansas  
7 net income before expensing or recapture allocated or apportioned to  
8 this state for the cost of the following property placed in service in this  
9 state during the taxable year: (1) Tangible property eligible for  
10 depreciation under the modified accelerated cost recovery system in  
11 section 168 of the internal revenue code, as amended, but not  
12 including residential rental property, nonresidential real property, any  
13 railroad grading or tunnel bore or any other property with an  
14 applicable recovery period in excess of 25 years as defined under  
15 section 168(c) or (g) of the internal revenue code, as amended; and (2)  
16 computer software as defined in section 197(e)(3)(B) of the internal  
17 revenue code, as amended, and as described in section 197(e)(3)(A)(i)  
18 of the internal revenue code, as amended, to which section 167 of the  
19 internal revenue code, as amended, applies. If such election is made,  
20 the amount of expense deduction for such cost shall equal the  
21 difference between the depreciable cost of such property for federal  
22 income tax purposes and the *sum of the amount of bonus depreciation*  
23 *being claimed for such property pursuant to section 168(k) and the*  
24 *amount of expensing deduction being claimed for such property pursuant*  
25 *to section 179 of the internal revenue code, as amended, for federal*  
26 *income tax purposes in such tax year, but without regard to any expense*  
27 *deduction being claimed for such property under section 179 of the*  
28 *internal revenue code, as amended, multiplied by the applicable factor,*  
29 *determined by using, the table provided in subsection (f), based on the*  
30 *method of depreciation selected pursuant to section 168(b)(1), (2), or*  
31 *(3) or (g) of the internal revenue code, as amended, and the applicable*  
32 *recovery period for such property as defined under section 168(c) or*  
33 *(g) of the internal revenue code, as amended. This election shall be*  
34 *made by the due date of the original return, including any extensions,*  
35 *and may be made only for the taxable year in which the property is*  
36 *placed in service, and once made, shall be irrevocable. ~~If the section~~*  
37 *179 expense deduction election has been made for federal income tax*  
38 *purposes for any asset, the applicable factor to be utilized is in the IRC §*  
39 *168 (b)(1) column of the table provided in subsection (f) for the applicable*  
40 *recovery period of the respective assets.*

41 (b) If the amount of expense deduction calculated pursuant to  
42 subsection (a) exceeds the taxpayer's Kansas net income before  
43 expensing or recapture allocated or apportioned to this state, such

1 excess amount shall be treated as a Kansas net operating loss as  
2 provided in K.S.A. 79-32,143, and amendments thereto.

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

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

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

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

42 Factors

43 IRC§168      IRC§168(b)(1)      IRC§168(b)(2) IRC§168(b)(3) or (g)

|    | <b>Recover Period</b> | <b>Depreciation</b> | <b>Depreciation</b> | <b>Depreciation</b> |
|----|-----------------------|---------------------|---------------------|---------------------|
|    | <b>(year)</b>         | <b>Method</b>       | <b>Method</b>       | <b>Method</b>       |
| 1  |                       |                     |                     |                     |
| 2  |                       |                     |                     |                     |
| 3  | <b>2.5</b>            | <b>*</b>            | <b>.077</b>         | <b>.092</b>         |
| 4  | <b>3</b>              | <b>.075</b>         | <b>.091</b>         | <b>.106</b>         |
| 5  | <b>3.5</b>            | <b>*</b>            | <b>.102</b>         | <b>.116</b>         |
| 6  | <b>4</b>              | <b>*</b>            | <b>.114</b>         | <b>.129</b>         |
| 7  | <b>5</b>              | <b>.116</b>         | <b>.135</b>         | <b>.150</b>         |
| 8  | <b>6</b>              | <b>*</b>            | <b>.154</b>         | <b>.170</b>         |
| 9  | <b>6.5</b>            | <b>*</b>            | <b>.163</b>         | <b>.179</b>         |
| 10 | <b>7</b>              | <b>.151</b>         | <b>.173</b>         | <b>.190</b>         |
| 11 | <b>7.5</b>            | <b>*</b>            | <b>.181</b>         | <b>.199</b>         |
| 12 | <b>8</b>              | <b>*</b>            | <b>.191</b>         | <b>.208</b>         |
| 13 | <b>8.5</b>            | <b>*</b>            | <b>.199</b>         | <b>.217</b>         |
| 14 | <b>9</b>              | <b>*</b>            | <b>.208</b>         | <b>.226</b>         |
| 15 | <b>9.5</b>            | <b>*</b>            | <b>.216</b>         | <b>.235</b>         |
| 16 | <b>10</b>             | <b>.198</b>         | <b>.224</b>         | <b>.244</b>         |
| 17 | <b>10.5</b>           | <b>*</b>            | <b>.232</b>         | <b>.252</b>         |
| 18 | <b>11</b>             | <b>*</b>            | <b>.240</b>         | <b>.261</b>         |
| 19 | <b>11.5</b>           | <b>*</b>            | <b>.248</b>         | <b>.269</b>         |
| 20 | <b>12</b>             | <b>*</b>            | <b>.256</b>         | <b>.277</b>         |
| 21 | <b>12.5</b>           | <b>*</b>            | <b>.263</b>         | <b>.285</b>         |
| 22 | <b>13</b>             | <b>*</b>            | <b>.271</b>         | <b>.293</b>         |
| 23 | <b>13.5</b>           | <b>*</b>            | <b>.278</b>         | <b>.300</b>         |
| 24 | <b>14</b>             | <b>*</b>            | <b>.285</b>         | <b>.308</b>         |
| 25 | <b>15</b>             | <b>*</b>            | <b>.299</b>         | <b>.323</b>         |
| 26 | <b>16</b>             | <b>*</b>            | <b>.313</b>         | <b>.337</b>         |
| 27 | <b>16.5</b>           | <b>*</b>            | <b>.319</b>         | <b>.344</b>         |
| 28 | <b>17</b>             | <b>*</b>            | <b>.326</b>         | <b>.351</b>         |
| 29 | <b>18</b>             | <b>*</b>            | <b>.339</b>         | <b>.365</b>         |
| 30 | <b>19</b>             | <b>*</b>            | <b>.351</b>         | <b>.378</b>         |
| 31 | <b>20</b>             | <b>*</b>            | <b>.363</b>         | <b>.391</b>         |
| 32 | <b>22</b>             | <b>*</b>            | <b>.386</b>         | <b>.415</b>         |
| 33 | <b>24</b>             | <b>*</b>            | <b>.408</b>         | <b>.438</b>         |
| 34 | <b>25</b>             | <b>*</b>            | <b>.419</b>         | <b>.449</b>         |

35 **\*Not Applicable**

36 **(g) If a taxpayer elects to expense any investment pursuant to**  
37 **subsection (a), such taxpayer shall not be eligible for any tax credit,**  
38 **accelerated depreciation, or deduction for such investment allowed**  
39 **pursuant to K.S.A. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204,**  
40 **79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-**  
41 **32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-**  
42 **32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and**  
43 **amendments thereto.**

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

6       **(2) For tax-year years 2014, and all tax years thereafter through**  
7 **2020, the deduction allowed by this section shall only be available to**  
8 **taxpayers subject to the income tax on corporations imposed pursuant**  
9 **to subsection (c) of K.S.A. 79-32,110(c), and amendments thereto, or**  
10 **the privilege tax imposed upon any national banking association, state**  
11 **bank, savings bank, trust company or savings and loan association**  
12 **pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated,**  
13 **and amendments thereto, and used only to determine such taxpayer's**  
14 **corporate income or privilege tax liability.**

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

23       ~~Sec. 5.~~ **14.** K.S.A. 79-3702 is hereby amended to read as follows: 79-  
24 3702. For the purposes of this act: (a) "Purchase price" means the  
25 consideration paid or given or contracted to be paid or given by any person  
26 to the seller of an article of tangible personal property for the article  
27 purchased. ~~The term shall include~~ "Purchase price" includes, in addition to  
28 the consideration paid or given or contracted to be paid or given, the actual  
29 cost of transportation from the place where the article was purchased to the  
30 person using the same in this state. If a cash discount is allowed and taken  
31 on the sale—~~it~~, *such cash discount* shall be deducted in arriving at the  
32 purchase price.

33       (b) The meaning ascribed to words and phrases in K.S.A. 79-3602,  
34 and amendments thereto, insofar as is practicable, shall be applicable  
35 herein unless otherwise provided. The provisions of K.S.A. 79-3601 ~~to~~  
36 ~~through~~ 79-3625, ~~inclusive,~~ 79-3650, ~~K.S.A.~~ 79-3693 and 79-3694, and  
37 amendments thereto, relating to enforcement, collection and  
38 administration, insofar as practicable, shall have full force and effect with  
39 respect to taxes imposed under the provisions of this act.

40       (c) "Use" means the exercise within this state by any person of any  
41 right or power over tangible personal property incident to the ownership of  
42 that property, except that it shall not include processing, or the sale of the  
43 property in the regular course of business, and except storage as

1 hereinafter defined.

2 (d) "Storage" means any keeping or retaining in this state for any  
3 purpose except sale in the regular course of business or subsequent use  
4 solely outside this state of tangible personal property purchased from a  
5 retailer.

6 (e) "Storage" and "use" do not include the keeping, retaining or  
7 exercising of any right or power over tangible personal property shipped or  
8 brought into this state for the purpose of subsequently transporting it  
9 outside the state for use thereafter solely outside the state, or for the  
10 purpose of being processed, fabricated, or manufactured into, attached to  
11 or incorporated into, other tangible personal property to be transported  
12 outside the state and thereafter used solely outside the state.

13 (f) "Property used in processing" means: (1) Any tangible personal  
14 property ~~which~~ *that*, when used in fabrication, compounding,  
15 manufacturing or germination, becomes an integral part of the new article  
16 resulting from such fabrication, compounding, manufacturing; or  
17 germination, and intended to be sold ultimately at retail; and (2) fuel ~~which~~  
18 *that* is consumed in creating power, heat; or steam for processing or for  
19 generating electric current.

20 (g) "Retailer" means every person engaged in the business of selling  
21 tangible personal property for use within the meaning of this act, except  
22 that, when in the opinion of the director it is necessary for the efficient  
23 administration of this act to regard any salesperson, representatives,  
24 truckers, peddlers or canvassers as the agents of the dealers, distributors,  
25 supervisors, employers or persons under whom they operate or from whom  
26 they obtain the tangible personal property sold by them, irrespective of  
27 whether they are making sales on their own behalf or on behalf of such  
28 dealers, distributors, supervisors, employers, or persons, the director may  
29 so regard them and may regard the dealers, distributors, supervisors,  
30 employers, or persons as retailers for the purposes of this act.

31 (h) (1) "Retailer doing business in this state" or any like term, means:  
32 (A) Any retailer maintaining in this state, permanently, temporarily,  
33 directly or indirectly through a subsidiary, agent or representative, an  
34 office, distribution house, sales house, warehouse or other place of  
35 business;

36 (B) any retailer utilizing an employee, independent contractor, agent,  
37 representative, salesperson, canvasser, solicitor or other person operating  
38 in this state either permanently or temporarily, for the purpose of selling,  
39 delivering, installing, assembling, servicing, repairing, soliciting sales or  
40 the taking of orders for tangible personal property;

41 (C) any retailer, including a contractor, repair person or other service  
42 provider, who enters this state to perform services that are enumerated in  
43 K.S.A. 79-3603, and amendments thereto, and who is required to secure a

1 retailer's sales tax registration certificate before performing those services;

2 (D) any retailer deriving rental receipts from a lease of tangible  
3 personal property situated in this state;

4 (E) any person regularly maintaining a stock of tangible personal  
5 property in this state for sale in the normal course of business; ~~and~~

6 (F) any retailer who has any other contact with this state that would  
7 allow this state to require the retailer to collect and remit tax under the  
8 provisions of the constitution and laws of the United States; *and*

9 (G) (i) *for any retailer that does not satisfy any of the requirements*  
10 *contained in subparagraphs (A) through (F), such retailer shall be a*  
11 *retailer doing business in this state, if:*

12 (a) *For the period beginning on January 1, 2021, through June 30,*  
13 *2021, the retailer had in excess of \$100,000 of cumulative gross receipts*  
14 *from sales by the retailer to customers in this state; or*

15 (b) *during the current or immediately preceding calendar year, the*  
16 *retailer had in excess of \$100,000 of cumulative gross receipts from sales*  
17 *by the retailer to customers in this state.*

18 (ii) (a) *For any retailer who satisfies the provisions of subparagraph*  
19 *(G)(i), such retailer shall not be required to collect and remit any taxes*  
20 *from sales occurring prior to July 1, 2021.*

21 (b) *For any retailer who satisfies the provisions of subparagraph (G)*  
22 *(i)(b) for sales in the current calendar year for the first time, such retailer*  
23 *shall be required to collect and remit the tax on any sales in excess of*  
24 *\$100,000 of cumulative gross receipts from sales in the current calendar*  
25 *year by the retailer to customers in this state.*

26 (2) A retailer shall be presumed to be doing business in this state if  
27 ~~any of the following occur:~~

28 ~~(A) Any person, other than a common carrier acting in its capacity as~~  
29 ~~such, that has nexus with the state sufficient to require such person to~~  
30 ~~collect and remit taxes under the provisions of the constitution and laws of~~  
31 ~~the United States if such person were making taxable retail sales of~~  
32 ~~tangible personal property or services in this state *and such person:*~~

33 ~~(i)(A) Sells the same or a substantially similar line of products as the~~  
34 ~~retailer and does so under the same or a substantially similar business~~  
35 ~~name;~~

36 ~~(ii)(B) maintains a distribution house, sales house, warehouse or~~  
37 ~~similar place of business in Kansas that delivers or facilitates the sale or~~  
38 ~~delivery of property sold by the retailer to consumers;~~

39 ~~(iii)(C) uses trademarks, service marks, or trade names in the state~~  
40 ~~that are the same or substantially similar to those used by the retailer;~~

41 ~~(iv)(D) delivers, installs, assembles or performs maintenance services~~  
42 ~~for the retailer's customers within the state;~~

43 ~~(v)(E) facilitates the retailer's delivery of property to customers in the~~

1 state by allowing the retailer's customers to pick up property sold by the  
2 retailer at an office, distribution facility, warehouse, storage place or  
3 similar place of business maintained by the person in the state;

4 ~~(vi)(F)~~ has a franchisee or licensee operating under its trade name if  
5 the franchisee or the licensee is required to collect the tax under the  
6 Kansas retailers' sales tax act; or

7 ~~(vii)(G)~~ conducts any other activities in the state that are significantly  
8 associated with the retailer's ability to establish and maintain a market in  
9 the state for the retailer's sales.

10 ~~(B)~~—Any affiliated person conducting activities in this state described  
11 in subparagraph (A) or (C) has nexus with this state sufficient to require  
12 such person to collect and remit taxes under the provisions of the  
13 constitution and laws of the United States if such person were making  
14 taxable retail sales of tangible personal property or services in this state.

15 ~~(C)~~—The retailer enters into an agreement with one or more residents  
16 of this state under which the resident, for a commission or other  
17 consideration, directly or indirectly refers potential customers, whether by  
18 a link or an internet website, by telemarketing, by an in-person oral  
19 presentation, or otherwise, to the retailer, if the cumulative gross receipts  
20 from sales by the retailer to customers in the state who are referred to the  
21 retailer by all residents with this type of an agreement with the retailer is in  
22 excess of \$10,000 during the preceding 12 months. This presumption may  
23 be rebutted by submitting proof that the residents with whom the retailer  
24 has an agreement did not engage in any activity within the state that was  
25 significantly associated with the retailer's ability to establish or maintain  
26 the retailer's market in the state during the preceding 12 months. Such  
27 proof may consist of sworn written statements from all of the residents  
28 with whom the retailer has an agreement stating that they did not engage in  
29 any solicitation in the state on behalf of the retailer during the preceding  
30 year, provided that such statements were provided and obtained in good  
31 faith. This subparagraph shall take effect 90 days after the enactment of  
32 this statute and shall apply to sales made and uses occurring on or after the  
33 effective date of this subparagraph and without regard to the date the  
34 retailer and the resident entered into the agreement described in this  
35 subparagraph. The term "preceding 12 months" as used in this  
36 subparagraph includes the 12 months commencing prior to the effective  
37 date of this subparagraph.

38 ~~(D)~~—The presumptions in subparagraphs (A) and (B) may be rebutted  
39 by demonstrating that the activities of the person or affiliated person in the  
40 state are not significantly associated with the retailer's ability to establish  
41 or maintain a market in this state for the retailer's sales.

42 (3) The processing of orders electronically, by fax, telephone, the  
43 internet or other electronic ordering process; does not relieve a retailer of

1 responsibility for collection of the tax from the purchaser if the retailer is  
2 doing business in this state pursuant to this section.

3 (i) "Director" means the director of taxation.

4 ~~(j) As used in this section, "affiliated person" means any person that~~  
5 ~~is a member of the same "controlled group of corporations" as defined in~~  
6 ~~section 1563(a) of the federal internal revenue code as the retailer or any~~  
7 ~~other entity that, notwithstanding its form of organization, bears the same~~  
8 ~~ownership relationship to the retailer as a corporation that is a member of~~  
9 ~~the same "controlled group of corporations" as defined in section 1563(a)~~  
10 ~~of the federal internal revenue code.~~

11 ~~Sec. 6 15. K.S.A. 79-3221, 79-3221o, 79-32,117, 79-32,119, 79-~~  
12 ~~32,120, 79-32,138, 79-32,143, 79-32,143a and 79-3702-is are hereby~~  
13 ~~repealed.~~

14 ~~Sec. 7 16. This act shall take effect and be in force from and after its~~  
15 ~~publication in the statute book.~~