

Income Tax Modifications; Taxpayer Protection Act; Income Tax Credits; Rural Opportunity Zones; SB 47

SB 47 creates and modifies law related to income tax.

Kansas Taxpayer Protection Act

The bill enacts the Kansas Taxpayer Protection Act (Act), requiring on and after January 1, 2022, paid tax return preparers to sign any income tax return prepared by or substantially prepared by the preparer and to include the preparer's federal preparer tax identification number on any such return. Any failure to do so subjects the preparer to a civil penalty of \$50 per return with a maximum of \$25,000 in civil penalties per preparer per year. Any civil penalties assessed could be appealed pursuant to the Kansas Administrative Procedure Act. Any penalties collected are to be deposited in the State General Fund.

The bill authorizes the Secretary of Revenue (Secretary) to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of competent jurisdiction enjoining such conduct. Under the bill, an injunction could be issued by a court if the preparer has:

- Prepared a return that understates the taxpayer's liability due to an "unreasonable position," as that term is defined in the Internal Revenue Code;
- Prepared a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code;
- Failed to, when required, furnish a signed copy of the return including the preparer's federal preparer tax identification number, retain a copy of the return, or be diligent in determining eligibility for tax benefits;
- Negotiated a check issued to the taxpayer by the Kansas Department of Revenue without the permission of the taxpayer;
- Engaged in any conduct subject to any criminal penalty provided for in Chapter 79 of the *Kansas Statutes Annotated* [Taxation] or amendments thereto;
- Misrepresented the preparer's education, experience, or eligibility to practice tax preparation;
- Guaranteed the payment of any tax refund or the allowance of any tax credit; or
- Engaged in any other fraudulent or deceptive conduct that substantially interferes with proper administration of Kansas tax laws.

The bill allows the Secretary to seek the assistance of the Attorney General or the Attorney General's designee in pursuing the injunctions, and the Secretary is required to publish an annual report concerning such injunctions on the website of the Kansas Department of Revenue.

Further, the bill provides that any person, whether or not a resident of Kansas, who engages in any conduct that could give rise to a cause of action under the Act, submits to the jurisdiction of the courts of the State of Kansas for purposes of the injunctions.

The bill requires legal actions under the Act to be brought in the district court of Shawnee County. The Secretary is permitted to enter into consent judgments with respect to violations of the Act in lieu of actions seeking injunctions.

The bill authorizes the Secretary to promulgate rules and regulations necessary to carry out the provisions of the Act.

The Taxpayer Protection Act takes effect January 1, 2022.

Tax Credits for Contributions to the Eisenhower Foundation and the Friends of Cedar Crest Association

The bill authorizes, for tax years 2021 to 2025, nonrefundable income or financial institutions privilege tax credits equivalent to 50.0 percent of certain contributions to the Eisenhower Foundation. Credits are capped at \$25,000 for any individual income taxpayer and at \$50,000 for any corporation income or privilege taxpayer. The total amount of credits claimed in any fiscal year is limited to \$350,000.

The bill authorizes an identical credit for contributions to the Friends of Cedar Crest Association, with identical conditions, limits, and total annual credit amounts.

Single City Port Authority Tax Credit

The bill extends the sunset on the single city port authority tax credit from the end of tax year 2021 to the end of tax year 2024 and expands the credit to be available to all income taxpayers. Former law limited the credit to corporation income taxpayers.

Fraudulent Compensation

The bill clarifies that victims of identify theft do not owe Kansas individual income tax on any compensation that was fraudulently obtained by another individual. It requires the Kansas Department of Revenue to provide a method for any taxpayer to report whether the taxpayer was a victim of fraud and the amount of fraudulent income for the taxpayer reported to the Internal Revenue Service.

Income Tax Returns

The bill extends the deadline for the filing of Kansas corporation income tax returns to one month after the due date established under federal law. The bill also provides that no late-filing penalty will be assessed on taxpayers filing state corporation income tax returns when the return is filed within 30 days after having received extensions to file federal returns by the Internal Revenue Service.

For all taxpayer returns other than corporate returns, the bill provides for filing deadlines to be the due date established by the federal Internal Revenue Code, including any applicable extensions granted by the Internal Revenue Service.

The provisions of the bill are applicable to returns for tax year 2020 and all future years.

Income Tax Withholding

The bill provides that, for calendar years 2021 and 2022, for wages paid to employees temporarily teleworking in a state other than their primary work location, employers have the option to withhold income taxes based on the state of each employee's primary work location instead of the state in which the employee is teleworking.

Rural Opportunity Zones Modifications

The bill extends the sunset on the Rural Opportunity Zone (ROZ) Student Loan Repayment Program from July 1, 2021, to July 1, 2023. The bill also extends the sunset on the income tax credit two years through tax year 2023 and also extends reporting requirements for the Secretary of Commerce from January 1, 2022, to January 1, 2024.

The bill changes the definition of "rural opportunity zone" from any of 77 listed counties to any county with a population less than or equal to 40,000.