

## CORPORATE INCOME TAX

**Year Enacted:** 1933  
**Statutory Citation:** K.S.A. Chapter 79, Article 32

All corporations doing business within or deriving income from sources within Kansas that are required to file a federal income tax return, shall also be required to file a Kansas corporate income tax return

Kansas begins its corporate income tax calculation with federal taxable income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce taxable income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal taxable income. Kansas law allows certain deductions in arriving at Kansas taxable income.

Corporations not based in Kansas in many cases have a small percentage of income from Kansas sources and use a three factor formula of payroll, sales and property to determine the amount of income apportioned to Kansas. The tax expenditures presented for corporations not based in Kansas have had the apportionment percentage applied in order to provide the reader with truer cost of expenditures associated with these filers.

For process year 2010, tax year 2009, the normal tax for Kansas corporate income tax is imposed at the rate of 4% and a surtax at the rate of 3.05% is imposed on those corporations where the Kansas taxable income is in excess of \$50,000. The surtax rate remains at 3.05% in tax year 2010. In tax year 2011, and all tax years thereafter, the surtax decreases to 3.0%.

## Comparison of Kansas and Selected States, Corporate Tax Comparison

Comparison of corporate tax bases, minimum tax, and computation of taxable net income, tax laws effective July 1, 2010.

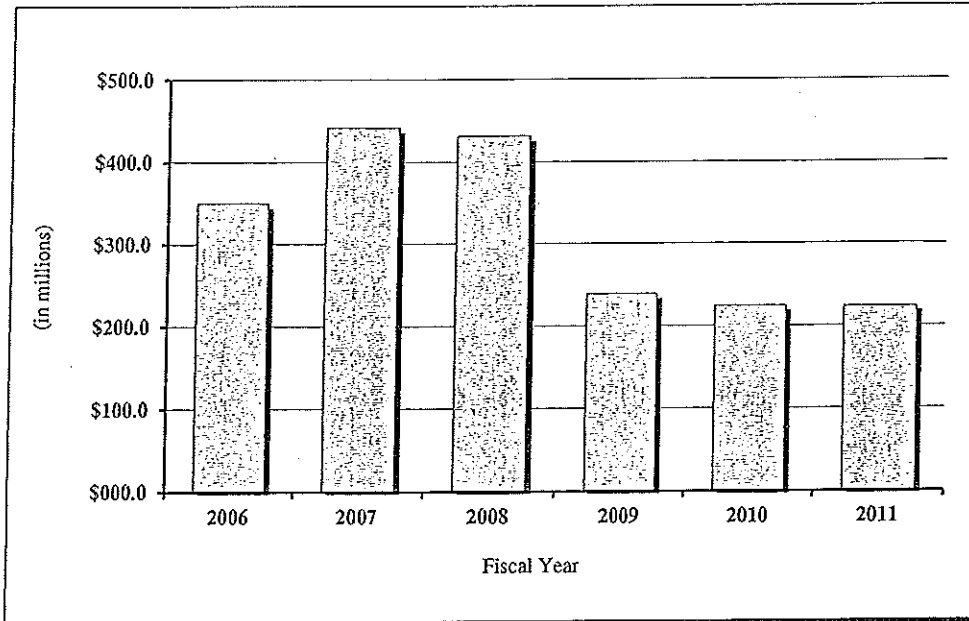
Item	Colorado	Iowa	Kansas	Missouri	Nebraska	Oklahoma
Tax Base business income	UDITPA definitions	Income earned as part of a unitary business	Income from transactions and activities in the regular course of trade or business	Abides by MTC and MO regulations	All income is presumed to be business income.	NA
Tax Base nonbusiness income	UDITPA definitions	Income not earned as part of a unitary business.	Any income other than business income.	Abides by MTC regulations	None	NA
Is there a minimum tax?	No	Yes	No	No	No	No
State computation of taxable net income	Starts with taxable income after special deductions.	The federal net operating loss deduction on line 29(a) is not deductible on the Iowa return.	Starts with taxable income after special deductions.	Starts with taxable income after special deductions.	Starts with taxable income after deductions.	Starts with taxable income before special deductions.
Tax Rate	4.63%	\$0-25,000: 6% \$25,001-100,000: 8% \$100,001-250,000: 10% \$250,001 or more: 12%	4% ≤\$50,000 3.05% > \$50,000	6.25%	\$0-\$100,000 5.58% \$100,001 or more: 7.81%	6%

NA - Not Applicable

Source: 2011 Multistate Corporate Tax Guide, Volume I and various state revenue department websites.

## Corporate Income Tax Amount to the State General Fund after Refunds

The tax is levied on the portion of a corporation's adjusted federal taxable income allocated to Kansas.



<u>Fiscal Year</u>	<u>Amount Collected</u>	<u>Percent Change</u>
2006	\$350,200,873	54.9%
2007	\$442,448,739	26.3%
2008	\$432,077,732	-2.3%
2009	\$240,258,082	-44.4%
2010	\$224,940,015	-6.4%
2011	\$224,865,499	0.0%

**Corporate Income and Financial Institution Tax Liabilities by Bracket**  
 Tax Year 2009 Returns Filed In Calendar Year 2010

Corporate Income Tax Liability By Taxable Income Bracket

<u>Taxable Income Brackets</u>	<u>Number Returns</u>	<u>Percent of Total Returns</u>	<u>Tax Liability</u>	<u>Percent of Total Liability</u>
No Taxable Income	16,196	59.3%	(\$9,176,647)	-4.4%
\$0 - \$75,000	8,602	31.5%	\$5,676,973	2.7%
\$75,000.01 - \$100,000	506	1.9%	\$2,055,240	1.0%
\$100,000.01 - \$500,000	1,256	4.6%	\$16,050,420	7.6%
\$500,000.01 - \$1,000,000	262	1.0%	\$11,140,108	5.3%
\$1,000,000.01 - Over	<u>496</u>	<u>1.8%</u>	<u>\$184,401,057</u>	<u>87.7%</u>
		0		
Total	27,318	100.0%	\$210,147,152	100.0%

Bank Tax Liability By Taxable Income Bracket

<u>Taxable Income Brackets</u>	<u>Number Returns</u>	<u>Percent of Total Returns</u>	<u>Tax Liability</u>	<u>Percent of Total Liability</u>
No Taxable Income	116	28.9%	\$0	0.0%
\$0 - \$500,000	119	29.6%	\$806,897	3.7%
\$500,000.01 - \$1,000,000	62	15.4%	\$1,758,189	8.2%
\$1,000,000.01 - Over	<u>105</u>	<u>26.1%</u>	<u>\$18,962,438</u>	<u>88.1%</u>
Total	402	100.0%	\$21,527,525	100.0%

Savings and Loan Tax Liability By Taxable Income Bracket

<u>Taxable Income Brackets</u>	<u>Number Returns</u>	<u>Percent of Total Returns</u>	<u>Tax Liability</u>	<u>Percent of Total Liability</u>
No Taxable Income	9	31.0%	(\$5,241)	-0.1%
\$0 - \$500,000	6	20.7%	\$37,706	0.6%
\$500,000.01 - \$1,000,000	2	6.9%	\$64,856	1.1%
\$1,000,000.01 - Over	<u>12</u>	<u>41.4%</u>	<u>\$6,002,402</u>	<u>98.4%</u>
Total	29	100.0%	\$6,099,723	100.0%

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House Taxation Committee

Briefing on Unitary Business Concept

Presented by Richard Cram

Chairman Richard Carlson and Members of the Committee:

The unitary business concept provides an equitable way to apportion to Kansas for income tax purposes the business income of a multi-state business enterprise consisting of several entities, using the combined reporting method.

**UNITARY BUSINESS DEFINED**

The Kansas Supreme Court in *Pioneer Container Corp. v. Beshears*, 235 Kan. 745, 684 P.2d 396 (1984), has described a unitary business as follows:

- The concept of a unitary business arises when a corporation has one or more subsidiaries or divisions which are dependent upon, or contribute to the parent corporation or other subsidiaries or divisions so, in essence, constitute a homogenous enterprise. When such an entity exists it may be described as a unitary business and in determining the tax liability of the given subsidiary or division the taxing authority may consider the entire income of the unitary business and apportion taxes on the basis of the income attributable within the jurisdiction.
- A multi-state business is a unitary business for income tax purposes when the operations conducted in one state benefit and are benefited by the operations conducted in another state or states.
- The essential test to be applied is whether or not the operation of the portion of the business within the state is dependent upon or contributory to the operation of the business outside the state. If there is such a relationship, the business is unitary.

Any of the following circumstances would satisfy the “contribution/dependency” test and establish a unitary business:

1. Horizontal integration—all business activities are in the same general line (such as a chain of retail stores), along with centralized management, achieving economies of scale;

2. Vertical integration—entities engage in different interdependent steps of a process (such as a petroleum business involved in oil exploration, refining, and motor fuel marketing/retailing);
3. Centralized management and functional integration—interlocking directors and upper management, parental approval of subsidiary decisions, centralized purchasing, advertising, accounting, financing, etc.

### **COMBINED INCOME METHOD OF REPORTING**

When two or more corporations are engaged in a multi-state unitary business, K.S.A. 79-32,141 authorizes utilization of the combined report method for determining the Kansas income tax due. In describing this reporting method, our corporate income tax instructions provide:

When a group of corporations conduct a unitary business both within and outside of Kansas, the source of income shall be determined by the combined income approach. The combined income approach is the computation by formula apportionment of the business income of a unitary trade or business properly reportable to Kansas by members of a unitary group. The property, payroll, or sales factor for each member of a unitary business shall be determined by dividing the property, payroll, or sales figure for Kansas by the total property, payroll, or sales figure of the entire group. The average is multiplied by the income of the unitary group to determine the income of the company derived from sources in Kansas.

### **CLAIMING THE HPIP CREDIT EARNED BY MEMBER OF UNITARY GROUP**

Under current law, the High Performance Incentive Program (“HPIP”) credit is computed and claimed on a separate entity basis. The credit is available to “any taxpayer” that satisfies the statutory criteria and allowed against the tax imposed on “the taxpayer’s” Kansas taxable income. K.S.A. 2010 Supp. 79-32,160a(e). It is not transferable to another entity, even within a unitary group. The spreadsheet provided shows a hypothetical example.

I wish to acknowledge James Bartle, Legal Services Attorney and former General Counsel, a recognized expert in the corporate income tax area, Michael Boekhaus, Director of the Audit Bureau, and Charla Wagner, Auditor, for their able assistance in providing the above information concerning the unitary business concept. Charla prepared the spreadsheet showing the example that illustrates how a unitary business would use an HPIP credit.

Three companies are members of a unitary group that file in Kansas. Co A is the parent company with some research activities located at its manufacturing facilities. Co B manufacturers widgets and has one of its plants in Chapman, KS. Co B has earned a \$1,000,000 HPIP credit. Co C sells the widgets around the world and has a sales office in Wichita, KS.

	Income & KS Modifications	Kansas Property	Total Property	Kansas Payroll	Total Payroll	Kansas Sales	Total Sales
Co A	2,500,000	750,000	4,000,000	500,000	15,000,000	0	6,000,000
Co B	(100,000)	25,000,000	75,000,000	8,750,000	40,000,000	600,000	3,000,000
Co C	45,000,000	250,000	600,000	200,000	1,500,000	5,000,000	80,000,000
<b>Total Combined</b>	<b>47,400,000</b>	<b>26,000,000</b>	<b>79,600,000</b>	<b>9,450,000</b>	<b>56,500,000</b>	<b>5,600,000</b>	<b>89,000,000</b>

Apportionment Percentages:	Property App't %	Payroll App't %	Sales App't %	Total	Average
Co A	0.9422%	0.8850%	0.0000%	1.8272%	0.6091%
Co B	31.4070%	15.4867%	0.6742%	47.5679%	15.8560%
Co C	0.3141%	0.3540%	5.6180%	6.2860%	2.0953%

(Kansas amount for each company divided by total combined)

### HPIP Credit Usage

Credit is used only against the company that earned it (current law):

	Co A	Co B	Co C	Total	
Combined Income	47,400,000	47,400,000	47,400,000	47,400,000	
Average App't %	0.6091%	15.8560%	2.0953%	18.5604%	
Kansas Taxable Income	288,692	7,515,731	993,193	8,797,616	
Tax @ 4%	11,548	300,629	39,728	351,905	
Surtax @ 3.05% (>\$50,000)	7,280	227,705	28,767	263,752	CoB HPIP
Total	18,828	528,334	68,495	615,657	1,000,000
HPIP Credit		(528,334)		(528,334)	(528,334)
Tax After Credit	18,828	0	68,495	87,323	471,666 Available for carry forward.