AN ACT concerning taxation; relating to food sales tax refunds and homestead property tax refunds; certain confined persons; amending K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 and repealing the existing sections.

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

New Section 1. No claim for the refund of certain retailers' sales taxes paid upon food filed on or after June 30, 2011, shall be paid or allowed for any person confined in any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

Sec. 2. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not
include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, owned and occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common. For purposes of this subsection, "homestead" shall not include any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

For purposes of this subsection, "claimant" shall not include any person confined in any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional
facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work
which exists in the national economy" means work which exists in
significant numbers either in the region where the individual lives or in
several regions of the country; for purposes of this subsection, a "physical
or mental impairment" is an impairment that results from anatomical,
physiological or psychological abnormalities which are demonstrable by
medically acceptable clinical and laboratory diagnostic techniques; or
(2) blindness and inability by reason of blindness to engage in
substantial gainful activity requiring skills or abilities comparable to those
of any gainful activity in which the individual has previously engaged with
some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of $\frac{20}{200}$ or less in the
better eye with the use of a correcting lens. An eye which is accompanied
by a limitation in the fields of vision such that the widest diameter of the
visual field subtends an angle no greater than 20 degrees shall be
considered for the purpose of this paragraph as having a central visual
acuity of $\frac{20}{200}$ or less.

(i) "Disabled veteran" means a person who is a resident of Kansas
and has been honorably discharged from active service in any branch of
the armed forces of the United States or Kansas national guard and who
has been certified by the United States department of veterans affairs or its
successor to have a 50% permanent disability sustained through military
action or accident or resulting from disease contracted while in such active
service.

Sec. 3. K.S.A. 79-4505 is hereby amended to read as follows: 79-
4505. Except as provided in K.S.A. 79-4517, and amendments thereto, no
claim in respect of property taxes levied in any year shall be paid or
allowed unless such claim is actually filed with and in the possession of
the department of revenue on or before April 15 of the year next
succeeding the year in which said such taxes were levied. No claim filed
on or after June 30, 2011, in respect of property taxes levied in any year
shall be paid or allowed for any person confined in any correctional
facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments
thereto, any juvenile correctional facility, or portion thereof, as defined in
K.S.A. 38-2302, and amendments thereto, any correctional facility of the
federal bureau of prisons located in the state of Kansas, or any city or
county jail facility in the state of Kansas.

Sec. 4. K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 are hereby
repealed.

Sec. 5. This act shall take effect and be in force from and after its
publication in the Kansas register.