

Revised
SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2109**

As Agreed to June 6, 2015

Brief*

Senate Sub. for HB 2109 would make a number of changes in law regarding individual income tax, sales and compensating use tax provisions, motor vehicle registration and taxes, fire district taxation, and taxes on cigarettes; and would enact a tax amnesty for a number of tax sources; and would enact additional tax-related provisions.

Amnesty Provisions

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

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

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

Individual Income Tax Provisions

Guaranteed Payments

The bill would revise an income tax subtraction modification for certain pass-through non-wage business income to require that guaranteed payments from businesses are counted as income in determining Kansas adjusted gross income.

Rate Freeze

Individual income tax rate reductions scheduled for future years would be eliminated. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket would become the tax rates for all future years.

A provision that could provide future formulaic income tax rate relief under certain circumstances, based on the extent to which revenue from a specified group of State General Fund (SGF) tax sources has increased over the previous fiscal year, would be accelerated to begin taking effect in tax year 2017.

Itemized Deductions Modification Acceleration

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

would remain fully deductible for Kansas taxpayers able to itemize at the state level, as under current law.

Individual Development Account Tax Credit

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

ROZ Program

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

Christmas Tree Net Gain

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

Social Security Number Requirement

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

Elimination of the Food Sales Tax Rebate

The bill would repeal a tax credit previously allowed for certain individuals for food sales tax.

Sales and Use Tax Provisions

Sales and Use Tax Rates

The statewide sales tax and use tax rate would be increased from 6.15 percent to 6.55 percent on July 1, 2015. The tax rate for purchases of food and food ingredients of 5.95 percent would become effective January 1, 2016.

Statutory disposition-of-revenue percentages would be adjusted for both taxes to provide the entire estimated amount of new revenue associated with the changes would flow to the State General Fund (SGF) while maintaining the current estimated level of receipts flowing to the State Highway Fund (SHF).

Local Sales Tax Provisions

Additional provisions would authorize additional local sales tax authority for three counties—Thomas, Douglas, and Bourbon—for purposes of financing construction or remodeling of a courthouse, jail, law enforcement facility, or other county administrative facility. Thomas County would be granted an additional 0.5 percent authority, Douglas County would be granted an additional 0.5 percent authority, and Bourbon County would be granted additional authority of up to 1.0 percent. Relative to this new authority, all counties also would have an exception to the normal countywide sales tax distribution formula, which otherwise requires that funds be shared with cities. Voter approval would be required prior to the implementation of the new tax authority for Thomas County and Douglas County. For Bourbon County, the result

of a previously held election would be declared valid for the implementation of the new tax authority.

Cigarette Tax Provisions

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

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

Electronic Cigarette Taxation

The bill would create a new tax on the privilege of selling or dealing electronic cigarettes at a rate of \$0.20 per milliliter of consumable material and a proportionate tax on all fractional parts thereof.

This new tax would be effective beginning July 1, 2016.

Motor Vehicle Registration and Tax Provisions

The bill would require the Department of Revenue to mail a copy of the motor vehicle registration application to the owner of a motor vehicle, including all information required to enable the owner to register the vehicle and pay the tax by return mail. An additional provision would allow for counties to opt out of the Department of Revenue mailing this information to the owners of vehicles registered in that county.

Property Tax Provisions

The bill would prohibit cities and counties from adopting appropriations or budgets with revenues from certain

increases in property taxes that exceed the rate of inflation until such resolution proposing the increases has been approved at a regularly scheduled election. This requirement would be in effect beginning January 1, 2018.

Other Provisions

Fire Districts

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

Tax Credit For Low Income Student Scholarship Program Revisions

The bill would revise the Tax Credit for Low Income Students Scholarship Program Act. Revisions would include:

- Allowing the scholarship amount to be distributed directly to the school participating in the Program;
- Limiting the amount of money that may be distributed in educational scholarships each school year to \$8,000 per child;
- Increasing the age at which a child who is not enrolled at a public school would be eligible to receive a scholarship and allowing a student to remain eligible for the Program if the student would have been made ineligible by a change in a school's designation as a Title I focus or priority school;
- Removing a provision that required a student participating in the Program to waive special education services; and

- Allowing schools that provide education to either elementary or secondary students to participate in the Program.

Land Bank Special Assessment Reamortization

The bill would allow the governing body of any municipality that levied special assessments on property acquired by a land bank to enter into an agreement with the land bank to defer or reamortize all or part of the special assessments.

Tax Study Commission

The bill would establish the Tax Study Commission, charged with reviewing and making recommendations to the Legislature regarding property tax exemptions, sales tax exemptions, and income tax credits.

The bill would set forth the composition of the Commission and provide for procedure and staffing of the Commission.

Conference Committee Action

The second Conference Committee on June 5 agreed to amend the contents of Senate Substitute for HB 2109, as further amended by the Senate Committee of the Whole, by retaining the amnesty provisions, the Christmas tree net gain provisions, and the Social Security number requirement provisions (with a change for military spouses); retaining and amending the motor vehicle registration and tax provisions to allow for the county opt out; prohibiting cities and counties from adopting certain appropriations or budgets (but delaying implementation until January 1, 2018); and altering the sales and use tax rates (with changes to the rates).

The Conference Committee also agreed to remove provisions of the substitute bill as further amended by the Senate Committee of the Whole related to eliminating a property tax exemption for college or university alumni associations and disallowing sales tax exemptions for purchases made on behalf of any exempt entity. Finally, the Conference Committee also agreed to insert the other provisions described above.

The second Conference Committee on June 6 agreed to revise the June 5 agreement by amending the provisions related to the Tax Credit for Low Income Student Scholarship Program, adding the provisions related to the tax on electronic cigarettes, removing the provisions related to the budget stabilization fund and the tax reduction fund, and adding the provisions which accelerate the implementation of the formula providing for future individual income tax relief.

Background

On May 31, the Senate Committee of the Whole further amended the bill to add the following: the requirement that a taxpayer have a valid Social Security number for the entire tax year in which an individual income tax is claimed; a provision related to sales tax treatment for purchases made on behalf of an entity that would otherwise benefit from a sales tax exemption; the subtraction modification for the net gain from the sale of Christmas trees; the provision requiring the Department of Revenue to mail motor vehicle registration and tax documents; and the reduction of the sales and compensating use tax rate. On June 1, the Senate Committee of the Whole further amended the bill to add a provision excluding certain low amounts of income from income tax. On June 2, the Senate Committee of the Whole further amended the bill to add the provision requiring a vote at a regularly scheduled election for cities and counties to adopt budgets including certain property tax increases. Additional amendments removed a provision which would have provided an income tax exclusion to certain taxpayers

and lowered the statewide sales and use tax for food to 5.7 percent beginning January 1, 2015. On June 3, the Senate Committee of the Whole adopted a technical amendment to reconcile provisions contained in the bill.

The tax credit for low income student scholarship provisions included in the Conference Committee Report are those of SB 270. The land bank special assessment reamortization provisions are those of SB 63, as amended by the Senate Committee on Taxation.

The fiscal impact of the latest agreement was not immediately available because of the acceleration of current law's formulaic income tax rate provisions. Significant individual income tax rate reductions (beyond those already visible in the bill) would likely be implemented under that formula, reducing projected SGF receipts beginning in FY 2017 well below the amounts associated with previous conference committee reports.

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