

Revenue Enhancements and Other Provisions; Senate Sub. for HB 2109, as amended by House Sub. for SB 270 and HB 2142

Senate Sub. for HB 2109, as amended by House Sub. for SB 270 and HB 2142, makes a number of changes in individual income, sales, and cigarette tax laws; amends motor vehicle registration and tax provisions; imposes certain restrictions on cities and counties with respect to future property tax increases; and enacts a special amnesty for a number of tax sources. The bills also enact a number of other minor tax-related provisions.

Individual Income Tax Provisions

Guaranteed Payments

The bill revises, effective for tax year 2015, 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.

Income Tax Rates

Individual income tax rate reductions scheduled for future years are decelerated. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket will now remain in effect through tax year 2017. The rates are set at 2.6 percent and 4.6 percent for tax year 2018. A special formula that could provide additional income tax rate relief as early as tax year 2021 is amended to relax the current trigger (2 percent growth in most State General Fund [SGF] tax receipts) to 2.5 percent plus a further adjustment to account for growth in certain Kansas Public Employee Retirement System expenditures.

Itemized Deductions

A number of changes are 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exception of charitable contributions, mortgage interest, and property taxes paid, all Kansas itemized deductions are repealed. The current changes in the percentage that may 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 is accelerated such that the final 50 percent haircut currently scheduled for tax year 2017 is effective immediately for tax year 2015. (Charitable contributions remain fully deductible for Kansas taxpayers able to itemize at the state level.)

Low-Income Exclusion

A special low-income exclusion provision will become applicable in tax year 2016 that generally eliminates all positive income tax liability for single filers with taxable income of \$5,000 or less, and for married taxpayers filing jointly with taxable income of \$12,500 or less.

Individual Development Account Tax Credit

The bill restores, 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, is extended for five additional years. The program had been scheduled to sunset in tax year 2017 but now will not sunset until tax year 2022.

Christmas Tree Net Gain

The bill creates a special 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 legislation requires 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 is provided for military spouses in the case of married taxpayers filing jointly.

Sales and Use Tax Provisions

The statewide sales tax and use tax rate is increased from 6.15 percent to 6.50 percent on July 1, 2015.

Cigarette Tax Provisions

The bill increases the cigarette tax by \$0.50 per pack (from \$0.79 to \$1.29 per pack) on July 1, 2015. An inventory tax equivalent to the rate increase is applicable for all cigarettes on hand as of July 1 and is due and payable by October 31.

“E-Cigs” Tax Implemented in 2016

The bill creates a new tax, effective July 1, 2016, 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. The Secretary of Revenue is required to adopt rules and regulations to implement the new tax.

Amnesty Provisions

The bill authorizes 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 applies to privilege, income, estate, cigarette, tobacco products, liquor enforcement, liquor drink, severance, state sales, state use, local sales, and local use taxes. The amnesty is limited to penalties and interest applied to liabilities associated with tax periods ending on or before December 31, 2013.

The amnesty does 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 voids the application and waiver of any penalties and interest.

The Department of Revenue is authorized to promulgate rules and regulations or issue guidelines necessary to administer the amnesty provisions.

Motor Vehicle Registration and Tax Provisions

The bill requires the Department of Revenue to mail a copy of motor vehicle registration applications to owners, including all information required to register and pay by return mail. Counties are authorized to conduct mailings these requirements on their own as an alternative to the state procedure.

Property Tax Lid Provisions

Beginning in 2018, cities and counties are prohibited from adopting, absent mandatory elections, portions of their budgets funded with revenues from certain property tax increases. Generally, cities and counties in 2018 will be authorized to increase property taxes at the rate of inflation plus for a number of other exempt purposes (including costs associated with new infrastructure, certain property taxes levied for bonds and interest, certain road construction costs, special assessments, costs associated with federal or state mandates, and payment of judgments) prior to the triggering of the election mandate.

Other Provisions

Fire Districts

The bill further clarifies the property tax authority of fire districts with respect to their ability to levy more than certain specific limits that had been previously established.

Tax Credit For Low Income Students Scholarship Program Revisions

The Tax Credit for Low Income Students Scholarship Program Act is amended to allow scholarships to be distributed directly to the participating schools, limit the amount of money that may be distributed to \$8,000 per school year per child, remove a requirement that participating

students waive special education services, and allow schools providing education to either elementary or secondary students to participate.

Land Bank Special Assessment Reamortization

The bill allows the governing body of any municipality that levies 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.

Relative to prior law, the bill is expected to have the following impact on SGF receipts:

(\$ in millions)

	FY 2016	FY 2017	FY 2018
Tax on Guaranteed Payments	\$ 23.700	\$ 19.200	\$ 20.100
Sales and Use Tax Changes	164.200	186.700	193.700
Itemized Deduction Changes	97.000	78.600	78.700
Tax Amnesty	30.000	0.000	0.000
Social Security Number Requirement	3.000	3.000	3.000
50-cent cigarette tax increase with e-cigarette tax	40.390	38.400	38.000
IDA Credit Reinstatement	(0.300)	(0.300)	(0.300)
Low-Income Exclusion	0.000	(19.400)	(19.900)
ROZ Sunset Extension	0.000	0.000	(0.560)
Individual Income Tax Rate Changes	26.400	98.600	232.500
TOTAL	\$ 384.390	\$ 404.800	\$ 545.240