

SESSION OF 2015

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 29**

As Passed Without Recommendation by House
Committee on Taxation

Brief*

House Sub. for SB 29, as advanced without recommendation, would make a number of changes in individual income tax laws, sales and compensating use tax provisions, and cigarette taxes, and would enact a tax amnesty for a number of tax sources. Additional parts of the substitute bill would expand local sales tax authority in selected counties, extend and further expand the rural opportunity zone (ROZ) program, restore an income tax credit for contributions to individual development accounts, and clarify the property tax levying authority for fire districts.

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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

initiated. Any fraud or intentional misrepresentation in connection with an amnesty application would void the application and waiver of any penalties and interest.

Sales and Use Tax Provisions

The statewide sales tax and use rate for most purchases would be increased from 6.15 percent to 6.45 percent on July 1, 2015. A second rate of 5.90 percent would apply to certain purchases of food or food ingredients sold for ingestion or chewing by humans and consumed for their taste or nutritional value. Sales of certain items would be excluded from the lower rate, including candy, dietary supplements, food sold through vending machines, prepared food, and soft drinks.

The rate increase on non-food purchases would sunset on July 1, 2018, and the rate would return to 6.15 percent (but the 5.90 percent rate on food would remain in effect).

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).

Individual Income Tax Provisions

Rate Reduction Suspension

Individual income tax rate reductions scheduled for tax year 2016 and future years would be temporarily suspended and decelerated for several years, effectively freezing the current tax year 2015 rates of 2.7 and 4.6 percent in place through tax year 2017. The current rates scheduled for tax year 2016 of 2.4 and 4.6 percent would become effective in tax year 2018; current tax year 2017 rates of 2.3 and 4.6

percent would be effective in tax year 2019; current tax year 2018 rates of 2.3 and 2.9 would become effective in tax year 2020; and a special provision that could provide future formulaic rate relief beginning in tax year 2019 would become effective in tax year 2021.

Itemized Deduction Repeal and Modification Acceleration

A number of changes would be enacted for Kansas itemized deductions effective with 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 claimed on federal returns allowed to be deducted (“haircuts”) being phased in for mortgage interest and property taxes paid would be accelerated such that the final 50 percent haircut currently scheduled for tax year 2017 would be effective immediately in tax year 2015. (Charitable contributions would remain fully deductible for Kansas taxpayers able to itemize at the state level, as under current law.)

Business Income Exemption Temporary Repeal

The bill would repeal for tax years 2015 through 2017 a provision enacted during the 2012 legislative session that totally exempts certain non-wage business income from the individual income tax. But all such income would become taxable only at the lowest marginal rate (2.7 percent). The exemption would be reinstated beginning with tax year 2018. A loss add-back requirement implemented by the 2012 legislation relative to certain losses reported on lines 12, 17, and 18 of federal form 1040 would be repealed for tax years 2015-2017 but would be restored in tax year 2018 when the exemption also would be fully restored.

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 contributions. That credit had been repealed beginning in tax year 2013 pursuant to 2012 legislation.

ROZ Program

The ROZ program, which provides an income tax exemption for certain individuals who establish residency in selected counties, would be expanded in two ways. The program, which is currently scheduled to sunset in tax year 2017, would be made permanent. Also, Miami County would be added to the list of qualifying counties, bringing the total number to 78. (The ROZ program also authorizes the repayment of student loans by participating counties and the state under specific circumstances.)

Cigarette Tax

The bill would increase the state's cigarette tax by \$0.46 per pack (from the current \$0.79 to \$1.25 per pack) on July 1.

The bill also would establish an inventory tax for all cigarettes on hand as of July 1, 2015, which would be due and payable by October 31. Special language would authorize wholesalers to retain 10 percent of total inventory tax collections. Moreover, the amount of "discount" for stamps sold to wholesalers (0.80 percent) would not be decreased at the time of the rate increase, effectively allowing wholesalers to retain more dollars of state cigarette tax receipts collected than under current law.

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.

Fire Districts

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

Background

The original SB 29 would have removed the aggregate cap on the Community Improvement District Sales Tax Administration Fund. The House Taxation Committee on May 26 struck the bill's original provisions, recommended that a substitute bill be created, inserted all the other provisions hereinbefore described, and asked that the substitute bill be advanced without recommendation for consideration by the full Kansas House.

The following table provides the latest fiscal information available from the Kansas Department of Revenue:

**Fiscal Notes for Various Revenue Enhancement Provisions
(Dollars in Millions)**

Provision	Brief Description	FY 2016	FY 2017	FY 2018	3-Yr. Total
1	Itemized Deduction Provisions	\$ 97.000	\$ 78.600	\$ 78.700	\$ 254.300
2	Tax all non-wage business income at lowest rate of 2.7%	101.100	82.000	86.100	269.200
3	Retain tax year 2015 rates of 2.7% and 4.6% for three additional years	26.400	98.600	242.200	367.200
4	Restored individual development account tax credit	(0.300)	(0.300)	(0.300)	(0.900)
5	ROZ Program Changes	(0.057)	(0.114)	(0.730)	(0.901)
	<i>Subtotal: Individual Income Tax</i>	<u>\$ 224.143</u>	<u>\$ 258.786</u>	<u>\$ 405.970</u>	<u>\$ 888.899</u>
6	Sales/use rate for most purchases to 6.45% (three years) while dropping rate on food permanently to 5.90%	107.500	122.300	126.900	356.700
	<i>Subtotal: Sales Tax</i>	<u>\$ 107.500</u>	<u>\$ 122.300</u>	<u>\$ 126.900</u>	<u>\$ 356.700</u>
7	Increase cigarette tax by \$0.46, allow wholesalers to retain part of special inventory tax and additional dollars in discounts	37.000	33.720	33.350	104.070
8	Amnesty	30.000	0.000	0.000	30.000
	<i>Subtotal: Other Provisions</i>	<u>\$ 67.000</u>	<u>\$ 33.720</u>	<u>\$ 33.350</u>	<u>\$ 134.070</u>
	Total Additional Revenue Generated:	\$ 398.643	\$ 414.806	\$ 566.220	\$ 1,379.669