

SESSION OF 2018

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2228**

As Agreed to May 3, 2018

Brief*

Senate Sub. for HB 2228 would make changes in income, sales, and motor fuel tax provisions and would clarify the application of an exemption under the current property tax law.

Individual Income Tax Provisions

The bill would remove a restriction under current law preventing Kansas individual income taxpayers from itemizing deductions for state income tax purposes unless they also itemize deductions for federal income tax purposes. Beginning with tax year 2018, the bill would provide an option to take Kansas itemized deductions regardless of whether itemized or standard deductions are being claimed for federal tax purposes.

A second change relative to Kansas itemized deductions would accelerate the restoration of certain federal itemized deductions for state income tax purposes provided by income tax reform and restructuring legislation (SB 30) enacted in 2017. Current Kansas law provides for the availability of itemized deductions for medical expenses, mortgage interest, and property taxes paid equivalent to 50.0 percent of the allowable federal amounts in tax year 2018, 75.0 percent in tax year 2019, and 100.0 percent beginning in tax year 2020.

*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>

The bill would provide these three itemized deductions would be available at 75.0 percent of the federal allowable amount beginning in tax year 2018 and 100.0 percent beginning in tax year 2019.

Effective for tax year 2018, certain individual income taxpayers would become eligible to claim the expensing deduction (available under KSA 2017 Supp. 79-32,143a) for the costs of placing certain tangible property and computer software into service in the state.

Business Income Tax Provisions

The bill would clarify for tax year 2017 and thereafter that the State would not be taxing deferred foreign income, defined to include income under section 965(a) of the federal Internal Revenue Code (certain repatriation income); but, the bill would require certain deductions used in determining federal adjusted gross income for the repatriated income to be added back for Kansas income tax purposes prior to the determination of Kansas adjusted gross income.

For tax year 2018 only, global intangible low-taxed income (GILTI) under section 250(b)(1) of the federal code would not be subject to the Kansas income tax; the bill would require certain related deductions claimed prior to the determination of federal adjusted gross income to be added back for tax years 2018 and thereafter.

The State similarly would exempt for tax year 2018 only certain disallowed business interest under section 163(j) of the federal code in effect on December 21, 2017, while deductions attributable to a carry-forward of such disallowed business income under the federal code in effect on that date would be required to be added back for tax year 2018 only.

The bill would clarify that for tax year 2018 only, certain capital contributions as determined under federal code section 118 would be excluded from the Kansas income tax.

Also for tax year 2018 only, amounts attributable to the disallowance of Federal Deposit Insurance Corporation premiums paid by certain large financial institutions would be excluded from Kansas income taxation.

Income Tax Credits and Exemptions

The bill would authorize nonrefundable income tax credits for tax years 2018 and 2019 equivalent to 50.0 percent of certain amounts contributed to the Eisenhower Foundation. Any such credits claimed could not exceed \$25,000 for any individual income taxpayer or \$50,000 for corporation income taxpayers. The maximum amount of credits that could be claimed in any fiscal year would be \$250,000. All such tax credits would sunset after tax year 2019.

Additional provisions would add a second nonrefundable income tax credit for tax years 2018-2022 equivalent to 15.0 percent of expenditures on goods and services purchased from qualified vendors or non-profit certified businesses providing a certain level of health insurance benefits and having at least 30.0 percent of their employees be resident Kansans with disabilities. The bill would cap the amount of the credit at \$500,000 for each qualified vendor each tax year, and the total amount of cumulative credits allowed for the life of the program would be capped at \$5.0 million. The bill would require the Secretary of Revenue to make an annual report to the standing taxation committees on the implementation and effectiveness of the tax credit program.

The bill would provide an income tax exemption beginning in tax year 2018 under certain circumstances for taxpayers who have established residence in Crawford, Cowley, or Seward counties when such taxpayers had been domiciled outside the state for at least five previous years and had Kansas source income of less than \$10,000 per year.

Local Sales Tax Provisions

The bill would increase the maximum local sales tax rate that could be imposed by Thomas County from 1.50 percent to 1.75 percent, provided all taxes levied in excess of 1.00 percent remain earmarked for financing a courthouse, jail, law enforcement center, or other county administrative facility. Any specially earmarked tax imposed by the bill would be required to sunset when the project costs had been fully paid.

An election would be required for an increase in the current Thomas County sales tax, which is 1.50 percent.

The bill would extend from five years to ten years the sunset on any 0.5 percent tax imposed by Russell County for economic development initiatives or public infrastructure projects.

The bill would renew existing sales tax authority for Jackson County to impose, subject to voter approval, a countywide sales tax of 0.4 percent to finance public infrastructure projects. As under current law, any such tax imposed would sunset after seven years.

The bill would allow Dickinson County to impose, subject to voter approval, a countywide sales tax of 0.5 percent to finance roadway construction and improvement. This authorization would require any such tax imposed to sunset after ten years, instead of after five years as under current law.

Sales Tax Exemptions

The bill would provide a state and local sales tax exemption for all sales of gold and silver coins and palladium, platinum, gold, and silver bullion.

An exemption also would be provided for purchases by a specifically named non-profit hospice organization

(Midland Care Connection, Inc.) for the purpose of providing healthcare services to persons in their respective communities.

Motor Fuels Tax Provision

The bill would remove the word “alcohol” from the definition of “special fuels” in KSA 2017 Supp. 79-3401(s).

Property Tax Lid Provision

The bill would clarify that exemptions in the current property tax lid law would include any tax levy increase resulting from the dissolution of one taxing entity and transfer of its responsibilities to another city or county, provided that any such increase not exceed the prior levy of the dissolved entity.

Conference Committee Action

The second Conference Committee agreed to the provisions of Senate Sub. for HB 2228 as amended by the Senate Committee of the Whole, retaining the itemized deduction option for taxpayers, as well as the tax credit for purchases from certain businesses employing Kansans with disabilities. The Conference Committee also agreed to modify various provisions relating to expensing, the acceleration of certain itemized deductions, and language regarding the tax treatment of repatriation and GILTI, the Eisenhower Foundation tax credit, and income tax exemptions established similar to those under the Rural Opportunity Zone program for persons in certain counties.

The Conference Committee also agreed to insert selected sales tax exemption and local sales tax provisions from HB 2492, the motor fuels tax provision from HB 2488, the property tax lid provision from HB 2755, and additional

language relating to the state income tax treatment of certain types of income taxable at the federal level.

Background

The subject matter of HB 2228, as introduced, involved eliminating filing requirements with the State Board of Tax Appeals for owners of certain tax-exempt property. Those provisions were enacted in HB 2212 during the 2017 Session. The Senate Committee on Assessment and Taxation on March 23, 2018, replaced the bill's original contents with income tax provisions and recommended a substitute bill be created. The tax credit provisions relative to donations to the Eisenhower Foundation and for goods and services purchased from qualified vendors were inserted by the Senate Committee of the Whole on April 7. The Senate Committee of the Whole, on April 7, also added the exemption for certain taxpayers establishing residence in Crawford and Cowley counties.

Allowing all taxpayers to itemize deductions for state income tax purposes was the subject matter of SB 453. The expensing provisions were originally in SB 303. Background information for those bills is available in supplemental notes.

The latest fiscal notes available from the Department of Revenue and available to the Conference Committee indicate the provisions of the bill with identifiable fiscal notes would be expected to impact receipts as follows:

(\$ in millions)

	FY 2019	FY 2020	FY 2021
Itemized deduction option	(30.000)	(30.500)	(31.000)
Expensing	(9.700)	(9.800)	(9.900)
Accelerate 3 itemized deductions	(26.000)	(30.000)	0.000
Disallowed business interest - 1 yr	(9.500)	0.000	0.000
Certain capital contributions - 1 yr	(0.200)	0.000	0.000
Disallowed FDIC premiums - 1 yr	(0.500)	0.000	0.000
Qualified vendor disabled credit	(1.700)	(1.700)	(1.700)
Midland Hospice	(0.300)	(0.306)	(0.312)
Gold, silver, palladium, platinum, bullion	(0.008)	(0.008)	(0.008)
Cowley, Crawford, Seward ROZ*	(0.300)	(0.300)	(0.300)
Eisenhower credit - 2 yrs	(0.250)	(0.250)	0.000
Total - All Funds	(78.458)	(72.864)	(43.220)
State General Fund	(78.408)	(72.813)	(43.168)
State Highway Fund	(0.050)	(0.051)	(0.052)
* Income tax exemption for certain residents only. No student loan component.			

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