

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2239

By Committee on Taxation

2-4

1 AN ACT concerning income taxation; relating to corporations; providing
2 for an extension of the net operating loss carryforward period;
3 amending K.S.A. 79-32,143 and repealing the existing section.
4

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

6 Section 1. K.S.A. 79-32,143 is hereby amended to read as follows:
7 79-32,143. (a) **(1) (A)** For net operating losses incurred in taxable years
8 ~~beginning after December 31, 1987, and prior to January 1, 2018,~~ a net
9 operating loss deduction shall be allowed in the same manner that it is
10 allowed under the federal internal revenue code, except that such net
11 operating loss may only be carried forward to each of the 10 taxable years
12 following the taxable year of the net operating loss.

13 **(B)** *For net operating losses incurred in taxable years beginning*
14 *after December 31, 2017, a net operating loss deduction shall be allowed*
15 *in the same manner that it is allowed under the federal internal revenue*
16 *code, except that such net operating loss deduction may only be carried*
17 *forward to each of the 20 taxable years following the taxable year of the*
18 *net operating loss.*

19 **(2)** For net operating farm losses, as defined by ~~subsection (i) of~~
20 section 172 of the federal internal revenue code, incurred in taxable years
21 beginning after December 31, 1999, a net operating loss deduction shall be
22 allowed in the same manner that it is allowed under the federal internal
23 revenue code except that such net operating loss may be carried forward to
24 each of the 10 taxable years following the taxable year of the net operating
25 loss.

26 **(3)** The amount of the net operating loss that may be carried back or
27 forward for Kansas income tax purposes shall be that portion of the federal
28 net operating loss allocated to Kansas under this act in the taxable year that
29 the net operating loss is sustained.

30 (b) The amount of the loss to be carried back or forward will be the
31 federal net operating loss after: (1) All modifications required under this
32 act applicable to the net loss in the year the loss was incurred; and (2) after
33 apportionment as to source in the case of corporations, nonresident
34 individuals for losses incurred in taxable years beginning prior to January
35 1, 1978, and nonresident estates and trusts in the same manner that income
36 for such corporations, nonresident individuals, estates and trusts is

1 required to be apportioned.

2 (c) If a net operating loss was incurred in a taxable year beginning
3 prior to January 1, 1988, the amount of the net operating loss that may be
4 carried back and carried forward and the period for which it may be
5 carried back and carried forward shall be determined under the provisions
6 of the Kansas income tax laws ~~which~~ *that* were in effect during the year
7 that such net operating loss was incurred.

8 (d) If any portion of a net operating loss described in subsections (a)
9 and (b) is not utilized prior to the final year of the carryforward period
10 provided in subsection (a), a refund shall be allowable in such final year in
11 an amount equal to the refund which would have been allowable in the
12 taxable year the loss was incurred by utilizing the three year carryback
13 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
14 multiplied by a fraction, the numerator of which is the unused portion of
15 such net operating loss in the final year, and the denominator of which is
16 the amount of such net operating loss ~~which~~ *that* could have been carried
17 back to the three years immediately preceding the year in which the loss
18 was incurred. In no event may such fraction exceed ~~+~~ *one*.

19 (e) Notwithstanding any other provisions of the Kansas income tax
20 act, the net operating loss as computed under subsections (a), (b) and (c) ~~of~~
21 ~~this section~~ shall be allowed in full in determining Kansas taxable income
22 or at the option of the taxpayer allowed in full in determining Kansas
23 adjusted gross income.

24 (f) No refund of income tax ~~which~~ *that* results from a net operating
25 farm loss carry back shall be allowed in an amount exceeding \$1,500 in
26 any year. Any overpayment in excess of \$1,500 may be carried forward to
27 any year or years after the year of the loss and may be claimed as a credit
28 against the tax. The refundable portion of such credit shall not exceed
29 \$1,500 in any year.

30 (g) For tax year 2013, and all tax years thereafter, a net operating loss
31 allowed by this section shall only be available to taxpayers subject to the
32 income tax on corporations imposed pursuant to ~~subsection (e) of~~ K.S.A.
33 79-32,110(c), and amendments thereto, and used only to determine such
34 taxpayer's corporate income tax liability.

35 Sec. 2. K.S.A. 79-32,143 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
37 publication in the statute book.