

SENATE BILL No. 313

By Committee on Assessment and Taxation

3-15

1 AN ACT concerning income taxation; relating to the salt parity act;
2 clarifying the determination of taxable income of an electing pass-
3 through entity; providing for the passing through of tax credits to
4 electing pass-through entity owners; amending K.S.A. 2022 Supp. 79-
5 32,287 and repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2022 Supp. 79-32,287 is hereby amended to read as
9 follows: 79-32,287. (a) With respect to any taxable period for which it has
10 made the election under K.S.A. 2022 Supp. 79-32,286, and amendments
11 thereto, an electing pass-through entity shall be subject to a tax in an
12 amount equal to 5.7% of the sum of: (1) Each ~~resident and nonresident~~
13 electing pass-through entity owner's *pro rata or* distributive share of the
14 electing pass-through entity's income ~~and each nonresident electing pass-~~
15 ~~through entity owner's distributive share of income attributable~~ ***allocated***
16 ***and apportioned to the this state, all as;*** and (2) *each resident electing*
17 *pass-through entity owner's pro rata or distributive share of the electing*
18 *pass-through entity's income not attributable to the state calculated either*
19 *before allocation and apportionment or after allocation and*
20 *apportionment to this state. The electing pass-through entity must use*
21 *the same method of calculation for all resident electing pass-through*
22 *entity owners. The provisions of paragraphs (1) and (2) shall be*
23 determined pursuant to K.S.A. 79-32,130, 79-32,131, 79-32,133 and 79-
24 32,139, and amendments thereto.

25 (b) An electing pass-through entity shall be treated as a corporation
26 under K.S.A. 79-32,101, and amendments thereto, with respect to the tax
27 imposed under this act, except that K.S.A. 79-32,107, and amendments
28 thereto, shall not apply during the first taxable period for which this act is
29 applicable.

30 (c) Any credit allowed pursuant to article 32 of chapter 79 of the
31 Kansas Statutes Annotated, and amendments thereto, ~~except K.S.A. 79-~~
32 ~~32,111(a), and amendments thereto,~~ that is attributable to the activities of
33 an electing pass-through entity in the taxable year shall be *passed through*
34 *to and* claimed by the entity ~~and not passed through to or claimed by the~~
35 electing pass-through entity owner ~~only for taxable periods when the~~
36 election is allowed and made by an electing pass-through entity under

1 ~~K.S.A. 2022 Supp. 79-32,286, and amendments thereto. Notwithstanding~~
2 ~~any provision to the contrary in article 32 of chapter 79 of the Kansas~~
3 ~~Statutes Annotated, and amendments thereto, any excess income tax credit,~~
4 ~~net operating loss or other modification may be carried forward on the~~
5 ~~electing pass-through entity's return but may only be utilized in a year in~~
6 ~~which the electing pass-through entity has made the election allowed in~~
7 ~~K.S.A. 2022 Supp. 79-32,286, and amendments thereto, except that any~~
8 ~~limitation specified in the specific section for an income tax credit, the net~~
9 ~~operating loss or any other modification shall apply to the electing pass-~~
10 ~~through entity. If in a taxable period subsequent to a period in which an~~
11 ~~election under K.S.A. 2022 Supp. 79-32,286, and amendments thereto,~~
12 ~~was made, an election under K.S.A. 2022 Supp. 79-32,286, and~~
13 ~~amendments thereto, is not allowed or not made by an electing pass-~~
14 ~~through entity, any excess income tax credits may be transferred to the~~
15 ~~electing pass-through entity owners. Any excess income tax credits shall~~
16 ~~be available to each electing pass-through owner in the same proportion~~
17 ~~and manner as would have applied without the election under K.S.A. 2022~~
18 ~~Supp. 79-32,286, and amendments thereto, for the taxable period in which~~
19 ~~each respective income tax credit was generated. All other rights and~~
20 ~~obligations pertaining to the excess income tax credits shall be transferred~~
21 ~~to the electing pass-through entity owners.~~

22 (d) The provisions of article 32 of chapter 79 of the Kansas Statutes
23 Annotated, and amendments thereto, regarding the collection,
24 administration and enforcement of tax shall be applicable to the tax due
25 under this section, and notwithstanding the provisions of K.S.A. 79-32,129
26 and 79-32,139, and amendments thereto, an electing pass-through entity
27 shall be a taxpayer.

28 (e) *The provisions of this section shall apply to taxable years*
29 *commencing on or after January 1, 2022.*

30 Sec. 2. K.S.A. 2022 Supp. 79-32,287 is hereby repealed.

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