

HOUSE BILL No. 2419

By Committee on Taxation

4-2

1 AN ACT concerning taxation; relating to the taxation of moneys, notes and
2 other evidences of indebtedness; providing for the administration,
3 collection and enforcement of the tax thereon.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in this act, unless the context provides otherwise:

7 (a) "Moneys" means gold and silver coin, United States treasury
8 notes and other forms of currency in common use;

9 (b) "notes and other evidences of debt" means certificates evidencing
10 shares of stock otherwise taxable to the owner or holder, notes, bonds,
11 debentures, claims secured by deed, liquidated claims and demands for
12 moneys, accounts receivable, and all written instruments, contracts or
13 other writings evidencing, calling for, fixing or showing a fixed obligation,
14 determined or determinable, at present or in the future, in favor of the
15 holder thereof. Notes and other evidence of debt shall not mean oil or gas
16 leases or any interests created or arising therefrom or any royalty interests
17 in oil or gas; and

18 (c) "taxable year" means the taxable year described in K.S.A. 79-
19 32,114, and amendments thereto.

20 Sec. 2. (a) Moneys, notes and other evidences of debt as defined in
21 section 1, and amendments thereto, are hereby separately classified for
22 taxation purposes as authorized by section 1 of article 11 of the
23 constitution of the state of Kansas and shall be taxed annually as
24 hereinafter provided.

25 (b) Any person owning moneys, notes and other evidence of debt at
26 any time during the taxable year ending during the last preceding calendar
27 year shall, as of January 1 of the current year, be subject to a tax equivalent
28 to 3% upon the total gross earnings received from such moneys, notes and
29 other evidences of debt during such taxable year and such moneys, notes
30 and other evidences of debt shall be exempt from all other property or ad
31 valorem taxation.

32 Sec. 3. Except for distributions made from earnings or profits of any
33 small business corporation, as defined by section 1361 of the federal
34 internal revenue code of 1986, as amended, accumulated by that
35 corporation prior to the time it has made the election under section 1362 of
36 the federal internal revenue code of 1986, as amended, all earnings or

1 profits distributed by any such small business corporation having such an
2 election in effect to a person who was a shareholder of such corporation at
3 the time of the distribution shall not be considered to be gross earnings
4 from moneys, notes or other evidence of debt for the purpose of section 2,
5 and amendments thereto.

6 Sec. 4. The tax situs of all accounts receivable and secured or
7 unsecured debts owned by persons, firms and corporations or subsidiaries
8 or parent corporations of such firms or corporations, arising out of, or
9 acquired in the conduct of, business transacted by such person, firm or
10 corporation or subsidiary or parent corporation thereof in the state of
11 Kansas, shall be at the principal office of such person, firm or corporation
12 or subsidiary or parent corporation of such firm or corporation located
13 within the state, or if there is no such office within the state, at the place or
14 places at which the business operations of such person, firm or corporation
15 or subsidiary or parent corporation of such firm or corporation is carried
16 on.

17 Sec. 5. Except as otherwise specifically exempted by law, every
18 person of full age and sound mind, accounting officer or other person
19 designated by any person, partnership, association, company or
20 corporation shall, on or before April 15 of each year, file a return in
21 duplicate with the officer hereinafter designated, upon which such person
22 shall list the gross amount in dividends, interest or other gross earnings
23 received during the taxable year or years ending during the next preceding
24 12-month period ending December 31 from moneys, notes and other
25 evidence of debt, as defined and provided in section 1, and amendments
26 thereto, which such person may have owned, held, had in such person's
27 possession on January 1 of the current year, or at any time during such
28 taxable year or years, or which were during such period or periods, subject
29 to such person's control or to payment upon order, check or draft from
30 persons, partnerships, associations, companies or corporations located
31 either within or without the taxing district or such person's residence.
32 Notwithstanding the other provisions of this section, no person,
33 partnership, association, company or corporation which did not receive
34 earnings from taxable intangibles during the last preceding calendar year
35 in excess of an amount which would incur a tax liability of \$5 or more
36 under this act shall be required to file a return hereunder.

37 The return for a person, partnership, association, company or
38 corporation whose property is assessed by the director of property
39 valuation shall be made to such director; all other returns shall be made to
40 the director of taxation. Returns made to the director of taxation listing the
41 gross amount in dividends, interest or other gross earnings from moneys,
42 notes and other evidences of debt by a person, partnership, association,
43 company or corporation filing an income tax return shall accompany such

1 income tax return. The return need show only the gross earnings received
2 by type or class except that in listing corporate dividends, the return shall
3 show the name of the corporation paying the dividends.

4 The director of taxation, or the director of property valuation, shall
5 prepare and furnish with each income tax return, forms for making the
6 return required by this section.

7 Upon receipt of such returns, the director of taxation, or the director of
8 property valuation, as the case may be, shall certify to the county clerk of
9 each county on or before June 30 of each year the tax payable under
10 section 2, and amendments thereto, by each taxpayer of such county.

11 The director of taxation or the director of property valuation may
12 extend the time for the filing of any return required to be filed with such
13 director for a reasonable period of time.

14 Sec. 6. A return listing the gross earnings from moneys, notes and
15 other evidence of debt and the property of every resident conservatee shall
16 be filed by such person's conservator; of every resident minor by such
17 minor's parent or guardian.

18 A return listing the gross earnings from any such property held by a
19 resident trustee or cotrustee of a revocable trust created by a resident
20 settlor shall be filed by the resident settlor. A return listing the gross
21 earnings from any such property held by a resident trustee or cotrustee of
22 an irrevocable or testamentary trust created by a resident settlor or a
23 resident decedent shall be filed by any beneficiary residing in this state
24 who receives earnings on taxable intangibles from such trust, to the extent
25 of such earnings, under section 2, and amendments thereto, otherwise a
26 return listing the gross earnings from such property shall be filed by the
27 resident trustee to the extent that earnings from such taxable intangibles
28 are not distributed. A nonresident beneficiary shall not be obligated to file
29 a return listing earnings on such taxable intangibles nor shall the trustee be
30 obligated to file a return listing the same to the extent they were distributed
31 to a nonresident beneficiary. Where a resident trustee is acting under a
32 revocable, irrevocable or testamentary trust of a nonresident settlor or
33 nonresident decedent, the trustee shall not be required to file a return
34 listing the earnings from any such property, but any beneficiary of such
35 trust, residing in this state, who receives or is entitled to receive, earnings
36 on taxable intangibles from such trust shall be required to file a return
37 listing such earnings under section 2, and amendments thereto. Any
38 resident of this state including the settlor of a revocable trust who receives
39 or is entitled to receive earnings on taxable intangibles from a trust, not
40 having a situs in this state, shall file a return listing such resident's share of
41 the earnings from any such property under section 2, and amendments
42 thereto.

43 For the purposes of this act, a settlor of a revocable trust shall be

1 deemed to be entitled to the gross earnings on taxable intangibles of such
2 trust whether or not the settlor actually receives the same and a beneficiary
3 shall be deemed to be entitled to a share of earnings on taxable intangibles
4 if all or a specific part or percentage of the net income of the trust must be
5 distributed to the beneficiary or if the beneficiary may withdraw all or a
6 specific part of the net income. If such beneficiary may receive earnings
7 only on the exercise of discretion by the trustee or on the occurrence of an
8 event outside the beneficiary's sole control, then such beneficiary shall not
9 be deemed to have received the earnings and shall file a return listing only
10 earnings on taxable intangibles actually received. If earnings on any
11 taxable intangibles of a trust are accumulated and subsequently distributed
12 in a different calendar year than the year in which received by the trust and
13 if the same are reported as income under the tax laws of Kansas and the
14 rules and regulations promulgated thereunder, and if a return listing such
15 earnings has not been filed by the trustees in the year in which earned, then
16 a return listing such earnings on any taxable intangibles shall be filed by
17 such beneficiary in the year in which the same are reported under the tax
18 laws of Kansas, but otherwise a return listing the same shall not be filed.
19 Where the beneficiary of any trust is required to file a return listing the
20 earnings from taxable intangibles held in trust, such beneficiary for
21 purposes of this act shall be deemed to have received or to be entitled to
22 receive the prorata share of the earnings from such taxable intangibles
23 without specific allocation, unless the trust provides otherwise, and based
24 upon the proportion which such beneficiary's share of the earnings bears to
25 the total earnings of the trust. A return listing the gross earnings from any
26 such property belonging to the estate of a resident decedent shall be filed
27 by the executor or administrator. If the decedent is a nonresident, such
28 executor or administrator shall not be required to file a return listing the
29 gross earnings from any such property.

30 A return listing the gross earnings from any such property of persons,
31 companies or corporations whose assets are in the hands of receivers shall
32 be filed by such receivers and a return listing the gross earnings from such
33 property belonging to a corporation, and subject to this act, shall be filed
34 by some person designated for that purpose by such corporation.

35 A return listing the gross earnings from such property belonging to a
36 corporation, association or a partnership shall be listed by an agent or
37 partner. Unless subject to tax under the provisions of section 4, and
38 amendments thereto, no return listing the gross earnings from moneys,
39 notes and other evidence of debt collected or received by any agent or
40 representative of any person, company or corporation, shall be filed by
41 such agent or representative, but such agent or representative shall, upon
42 request, state under oath the amount of such moneys or credits and to
43 whom the same has been or is to be transmitted.

1 The tax on property, a return listing the gross earnings of which is filed
2 pursuant to this section, shall be paid by the person or fiduciary required to
3 file such returns. No return shall be filed listing the gross earnings from
4 moneys, notes and other evidence of debt which is not subject to taxation
5 under the provisions of section 2, and amendments thereto.

6 Sec. 7. In every case where any person or corporation shall fail or
7 refuse to make the return required by this act, the director of taxation or
8 the director of property valuation, as the case may be, shall proceed to
9 ascertain the gross earnings produced from notes and other evidence of
10 debt and assess the same as prescribed in this act and determine the tax
11 due upon the intangible property and add 50% of the tax so determined, as
12 a penalty for such failure to make such return.

13 Sec. 8. The secretary of revenue shall adopt rules and regulations for
14 the administration of this act.

15 Sec. 9. The county clerk of each county shall each year levy such
16 taxes against each individual, copartnership, company, association or
17 corporation from the returns which are filed in the office of the county
18 clerk and upon receipt of the certification of the intangible taxes payable,
19 as computed by the secretary of revenue or the director of property
20 valuation, as the case may be, the county clerk shall include the amount of
21 tax computed on the personal property list with the personal property tax
22 levied against each individual, copartnership, company, association or
23 corporation. When the amount of intangibles tax computed is less than \$5,
24 such tax shall be canceled and the amount shall not be included on the
25 personal property list. The tax levied under this act shall be collected by
26 the county treasurer and the sheriff the same as other personal property
27 taxes are collected.

28 Sec. 10. The tax collected from section 2, and amendments thereto,
29 shall be apportioned as follows: 82% to the county general fund and 18%
30 to the state general fund.

31 Sec. 11. Any list or statement herein provided for shall only be open
32 to inspection by the assessor, county clerk and board of review of the
33 county wherein the same is filed, and the state director of property
34 valuation and director of taxation and their respective assistants and clerks,
35 except upon order of a court of competent jurisdiction, and it is hereby
36 made unlawful to exhibit, disclose or publish any such list or statement or
37 any part of the same or any of the items of the same.

38 Sec. 12. Any person violating section 11, and amendments thereto,
39 shall be deemed guilty of a misdemeanor and upon conviction shall be
40 fined in a sum of not less than \$100 and not more than \$500 and shall be
41 adjudged to have forfeited such person's office or appointment.

42 Sec. 13. Any person, firm, association, company or corporation who
43 shall knowingly make a false or fraudulent list, statement or report of

1 moneys, notes or other evidences of debt as a part of the return required by
2 this act, or who shall willfully fail or refuse to make such return, for the
3 purpose of evading the payment of taxes upon such property, shall be
4 guilty of a misdemeanor, and upon conviction thereof shall be fined not
5 less than \$50 nor more than \$500. Prosecutions under this section shall be
6 brought and maintained in the same manner and under the same terms and
7 conditions as provided in K.S.A. 79-1420, and amendments thereto.

8 Sec. 14. If the director of taxation or the director of property
9 valuation shall discover that any moneys, notes or other evidences of debt
10 which were subject to taxation under the provisions of this act have
11 escaped taxation in any year, the director, at any time within five years
12 from the date the tax became payable, may compute the amount of tax
13 which should have been levied and certify such amount, plus 50% thereof
14 as a penalty to the proper county clerk, designating it as "escaped
15 taxation," and indicating the year or years for which such escaped tax is
16 levied, except that if such escaped tax was due to error of the director of
17 taxation or director of property valuation, or to any cause not the fault of
18 the taxpayer, the tax shall be computed and certified without penalty.

19 At the time of certifying such tax, the director shall send the taxpayer a
20 copy of the certificate by certified mail, addressed to the taxpayer's last
21 known address, but failure to receive such certificate shall not invalidate
22 the tax or penalty. If the person is deceased who owned such property at
23 the time the same escaped taxation, the county treasurer shall file a claim
24 against the estate of such deceased person for the amount of taxes and
25 penalties for not to exceed three years preceding such person's death,
26 which claim, when allowed, shall be classified as a claim of the fourth
27 class.

28 Sec. 15. The following shall be and are hereby exempt from taxes
29 levied under the provisions of section 2, and amendments thereto, and
30 from all other property or ad valorem taxes levied under the laws of the
31 state of Kansas:

32 (a) Notes secured by mortgages on real estate, which mortgages have
33 been recorded in this state and the registration fee or tax thereon paid, as
34 otherwise provided by law;

35 (b) all moneys, notes and other evidences of indebtedness held by the
36 trustee of a qualified trust described in section 401, 408 or 501(c)(4), (5),
37 (9), (17) or (18) of the federal internal revenue code of 1986, as amended,
38 which is part of a stock bonus, pension or profit-sharing plan of an
39 employer for the exclusive benefit of employees or their beneficiaries or
40 health and welfare plan; and

41 (c) moneys, notes and other evidences of debt, to the extent of the tax
42 liability hereinafter provided, which is owned by a person who has a
43 disability or was 60 years of age or older on January 1 of the year in which

1 an exemption is claimed. The exemption allowable under this subsection
2 shall be in an amount equal to the lesser of the following: (1) The amount
3 of the tax liability on the first \$3,000 of gross earnings from the moneys,
4 notes and other evidences of debt; or (2) the amount of the tax liability on
5 the first \$3,000 of gross earnings from the moneys, notes and other
6 evidences of debt reduced by the amount that the owner's income exceeds
7 \$12,500, including in such owner's income the income of such person's
8 spouse, in the year next preceding that in which the exemption is claimed
9 under this subsection. No person shall be eligible to claim an exemption
10 hereunder in the same year in which such person's spouse has claimed an
11 exemption hereunder. As used in this subsection, the terms "income" and
12 "disability" shall have the meanings ascribed to them in K.S.A. 79-4502,
13 and amendments thereto.

14 Sec. 16. This act shall take effect and be in force from and after
15 January 1, 2016, and its publication in the statute book.