



**Senate Select Committee on Federal Tax Code Legislation  
Testimony in Support of Senate Bill 22  
Presented by Eric Stafford, Vice President of Government Affairs**

**Tuesday, January 22, 2019**

Madam Chair and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber appreciates the opportunity to testify in support of Senate Bill 22.

SB 22 was introduced in response to the “federal windfall” Kansas is expected to receive as a result of Congress passing the tax cuts and jobs act (TCJA) in December of 2017. SB 22 addresses both individual and corporate income tax provisions.

TCJA nearly doubled the standard deduction for individual tax filers. The standard deduction for married filing jointly increased from \$13,000 to \$24,000. According to a Tax Foundation article, “The Joint Committee on Taxation estimates that the number of filers who itemize will fall from 46.5 million in 2017 to just over 18 million in 2018, meaning that about 88 percent of the 150 million households that file taxes will take the increased standard deduction.”

While this change is a great benefit at the federal level for individual taxpayers, it creates an unintended consequence in Kansas due to the greater discrepancy between the new federal standard deduction and Kansas’ \$7,500 deduction for married filing jointly. That causes an increase in Kansas taxpayers state income tax liability because current law prohibits taxpayers from itemization if they do not itemize at the federal level. SB 22 addresses this by allowing individuals the chance to itemize on their state return if they use the federal standard deduction.

Regarding corporate income tax reform under TCJA, business tax reform efforts were created to eliminate disincentives to invest and create jobs in the United States and lowered rates through base-broadening provisions. Much like the individual income tax components, lack of action by states will result in an unintended tax increase on businesses at the state level.

We are asking this committee and the legislature to adopt these key provisions which decouple Kansas tax code from federal changes.

Those corporate income tax provisions included in SB 22 are:

- IRC 965(a) and 965(c) (repatriated income)
- IRC 951A, 250(a)(1)(B)(i) or GILTI as it is known
- IRC section 163(j) on interest limitation deductions
- IRC 118- capital contributions
- IRC 162(r)- FDIC premiums.

Ultimately, TCJA moves business taxes from a worldwide taxation system to a territorial system reflective of the global environment. As previously mentioned, these provisions were created and implemented to help pay for the reduction of the federal corporate income tax rate passed by Congress to improve the tax climate of the United States. This income has never been subject to Kansas corporate income tax before and failure to address these provisions would place Kansas as an outlier and diminish the competitiveness of our already mediocre tax policy.

We urge this committee to support Senate Bill 22 as introduced. Thank you for the opportunity to testify in support of Senate Bill 22 and we are happy to answer questions at the appropriate time.

## Conformity is a **tax increase** on Kansas businesses.

### Blindly Conforming to the Internal Revenue Code is NOT the Right Answer.

- Generally speaking, conformity with the Internal Revenue Code (IRC) eases administrative burdens for both business and States and promotes compliance with State taxes.
- **But the federal Tax Cuts and Job Act (TCJA) is radically different.** The TCJA represents the biggest change in business taxes since the corporate income tax was initially created. It is fundamentally different than any corporate income tax system that has ever been imposed in the United States. Indeed, it is unique from a global perspective: no other country imposes a corporate income tax like the TCJA.

### For Businesses, Conformity Without Modification is a SIGNIFICANT TAX INCREASE.

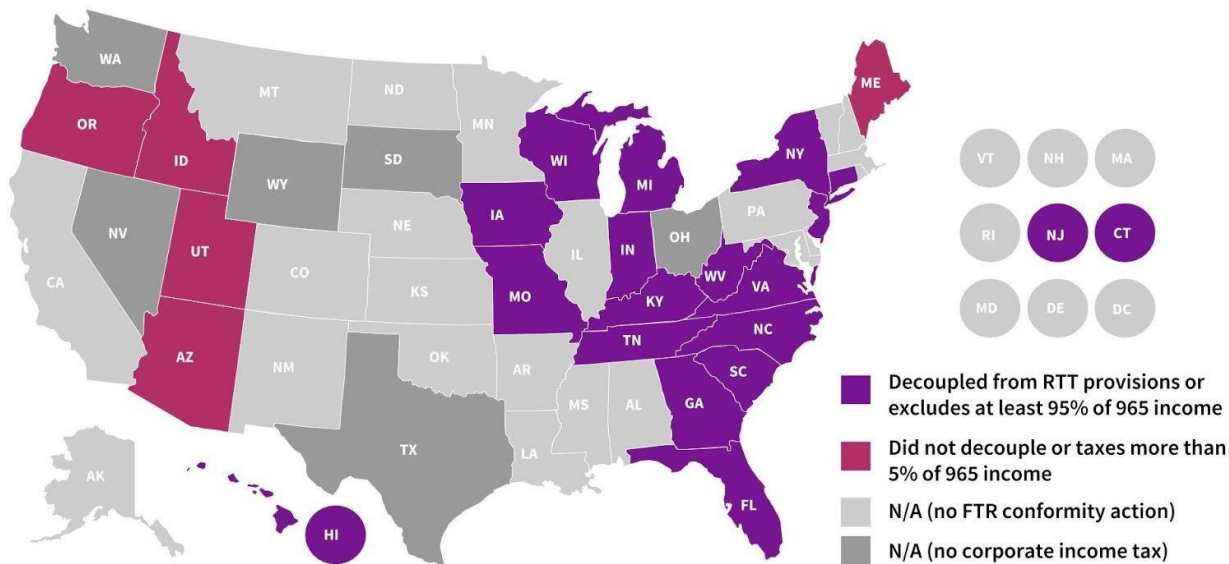
- The single most important fact to understand is that blind conformity to the corporate income tax changes imposed under the TCJA will always result in a state tax increase absent a proactive response. The reason is simple. The federal government significantly reduced the corporate income tax rate, from 35% to 21% (a 40% reduction in the top rate), but at the same time broadened the taxbase.
- **States which “conform” to the new, broader federal corporate income tax base, but which do not reduce rates, will automatically and significantly increase business taxes – by 12% on average.**

### The RIGHT Answer is to Decouple from Federal Base Broadening Provisions.

- The overarching goal of the business tax reforms was to remove disincentives to invest and create jobs in the United States for all businesses. States which choose to conform to the broader corporate income tax base are instead imposing new barriers to investment and job creation. And although lowering state corporate income tax rates might sound like the right answer, it is not: the federal base broadening provisions mainly relate to *foreign* income, which is generally not subject to state taxation.
- Thus, for policymakers who support improving the economic climate and encourage investment and job creation, **the path forward is simple: decouple from the federal corporate income provisions which broaden the tax base.**

# Responding to Federal Business Tax Reform: Guidelines for Kansas

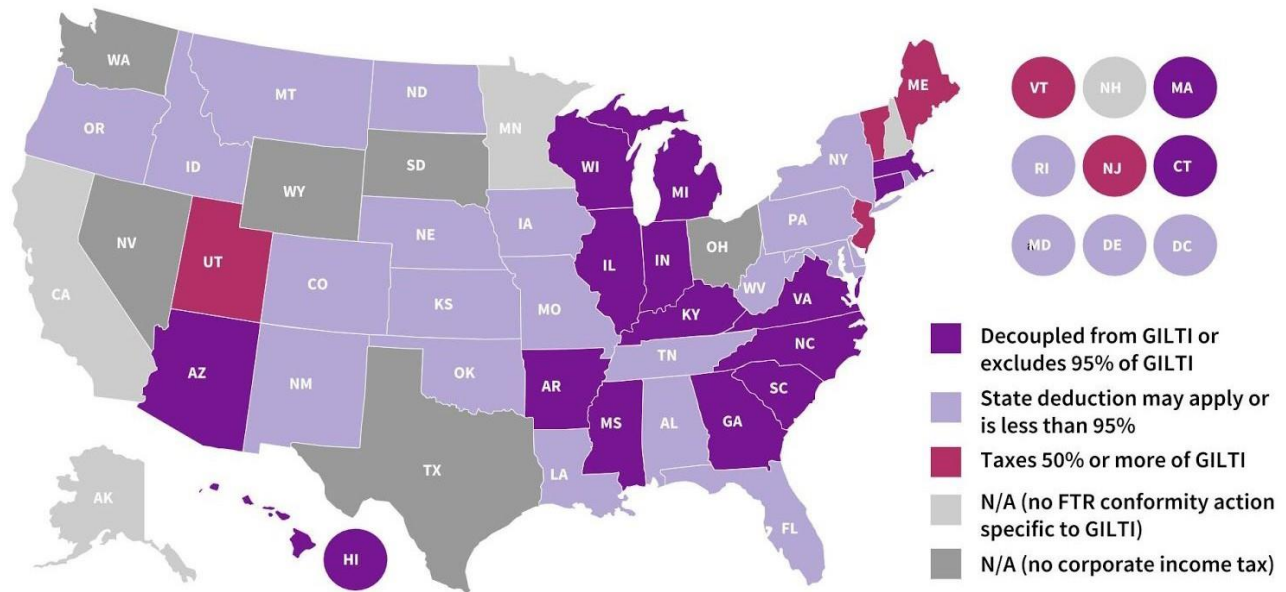
## Repatriation Transition Tax (IRC § 965)



- Kansas should follow the example of 17 other states, including Iowa and Missouri, which have already acted this year to exclude deemed repatriated foreign earnings from the state's tax base. (Current Kansas law includes at least 20% of foreign earnings deemed repatriated under IRC § 965 in the state tax base.)
- At the federal level, the repatriation transition tax was designed to effectuate the change from the nation's historical world-wide system of taxation to the territorial system in the Tax Cuts and Jobs Act. Kansas never had a world-wide system of taxation and, thus, the deemed repatriation of foreign earnings has no purpose in Kansas.
- Excluding the deemed repatriated foreign earnings from the tax base is generally consistent with Kansas' historic policy of not taxing a taxpayer's world-wide income.

## Responding to Federal Business Tax Reform: Guidelines for Kansas

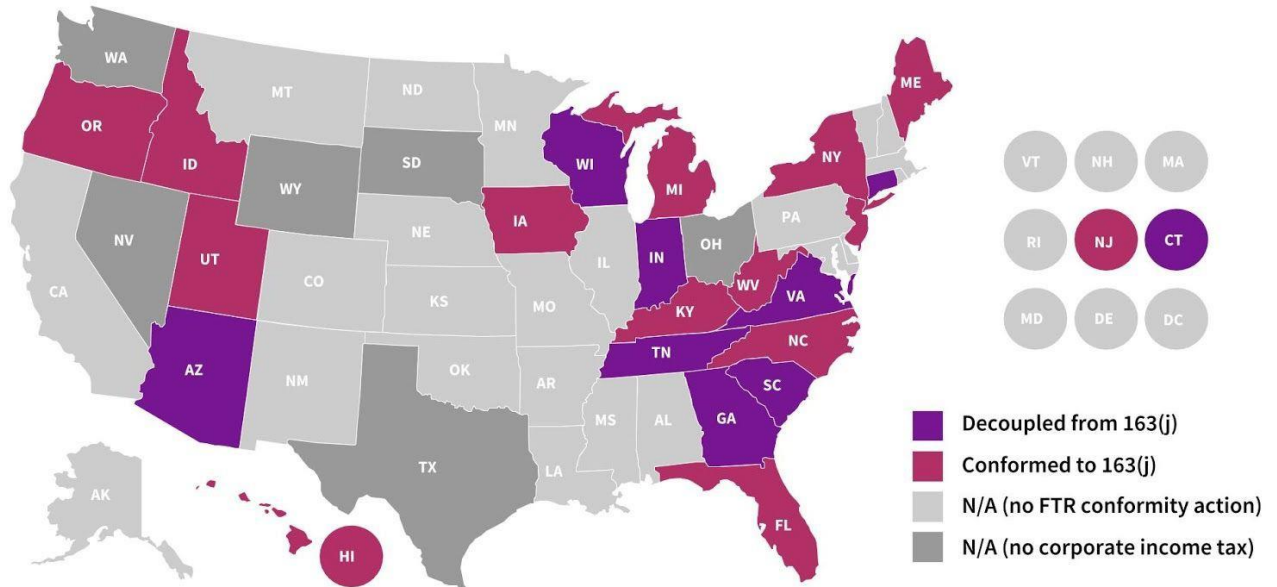
### Global Intangible Low-Taxed Income (IRC § 951A)



- Thus far in 2018, 15 states have completely or nearly completely excluded so-called “Global Intangible Low-Taxed Income” (GILTI) from their tax base; based on Missouri’s recent guidance regarding the repatriation transition tax, Missouri is also expected to exclude GILTI.
- Existing Kansas law includes at least 20% of GILTI in the state tax base. Kansas should follow the example set by other states this year and completely exclude GILTI from its tax base. Oppose Kansas’ taxation of any portion of GILTI.
- Excluding GILTI from the state tax base (or providing a 100% deduction for GILTI) is consistent with Kansas’ historic policy of not taxing income earned by a foreign corporation. Furthermore, Kansas does not provide a foreign tax credit, so inclusion of GILTI would tax much more than income earned in “low-tax” jurisdictions.

## Responding to Federal Business Tax Reform: Guidelines for Kansas

### Interest Expense Limitation (IRC § 163(j))



- Eight states, including Indiana, Tennessee, and Wisconsin, have already decoupled from the new federal interest expense limitation. Kansas should follow their lead.
- Adopting the federal limitation increases the cost of capital and of doing business in Kansas and could encourage businesses to move to states with more favorable tax laws.
- The new federal limitation was coupled with a 40% tax rate reduction; because taxpayers are not benefitting from a tax rate reduction in Kansas, there is no rationale for adopting the new federal limitation.
- Conforming to the new federal limitation would be an administrative nightmare for both taxpayers and the state; the federal computation would not translate to Kansas' tax structure and thus would require significant and inherently controversial rulemaking as we as complicated Kansas-only computations.

## Responding to Federal Business Tax Reform: Guidelines for Kansas

### ***Capital Contributions (IRC § 118)***

- It is nonsensical for Kansas to adopt this federal provision as it would mean that the state would be imposing tax on state and local incentives designed to grow investment and jobs in Kansas.
- Although this provision has received relatively little attention to date, several states, including Georgia, South Carolina, and Tennessee, have already decoupled from this federal code section.

### ***FDIC Premiums (IRC § 162(r))***

- This federal provision disallowing the deduction for FDIC fees was included purely as a means of raising revenue to offset the 40% cut in federal corporate rates. Because taxpayers are not benefitting from such a reduction in Kansas, there is no rationale for limiting the deductibility of FDIC fees.
- Understanding the negative impact of this provision on financial institutions with a significant presence in their states, South Carolina and Wisconsin have already decoupled from tax on FDIC fees.

**SENATE BILL No. 22**

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1 AN ACT concerning taxation; relating to income tax; addition and  
2 subtraction modifications, treatment of deferred foreign income, global  
3 intangible low-taxed income, business interest, capital contributions  
4 and FDIC premiums; Kansas itemized deduction, election; amending  
5 K.S.A. 2018 Supp. 79-32,117, 79-32,120 and 79-32,138 and repealing  
6 the existing sections. 7

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

9 Section 1. K.S.A. 2018 Supp. 79-32,117 is hereby amended to read as  
10 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
11 means such individual's federal adjusted gross income for the taxable year,  
12 with the modifications specified in this section.

13 (b) There shall be added to federal adjusted gross income:

14 (i) Interest income less any related expenses directly incurred in the  
15 purchase of state or political subdivision obligations, to the extent that the  
16 same is not included in federal adjusted gross income, on obligations of  
17 any state or political subdivision thereof, but to the extent that interest  
18 income on obligations of this state or a political subdivision thereof issued  
19 prior to January 1, 1988, is specifically exempt from income tax under the  
20 laws of this state authorizing the issuance of such obligations, it shall be  
21 excluded from computation of Kansas adjusted gross income whether or  
22 not included in federal adjusted gross income. Interest income on  
23 obligations of this state or a political subdivision thereof issued after  
24 December 31, 1987, shall be excluded from computation of Kansas  
25 adjusted gross income whether or not included in federal adjusted gross  
26 income.

27 (ii) Taxes on or measured by income or fees or payments in lieu of  
28 income taxes imposed by this state or any other taxing jurisdiction to the  
29 extent deductible in determining federal adjusted gross income and not  
30 credited against federal income tax. This paragraph shall not apply to taxes  
31 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and  
32 amendments thereto, for privilege tax year 1995, and all such years  
33 thereafter.

34 (iii) The federal net operating loss deduction, except that the federal  
35 net operating loss deduction shall not be added to an individual's federal  
36 adjusted gross income for tax years beginning after December 31, 2016.



- 1 (iv) Federal income tax refunds received by the taxpayer if the  
2 deduction of the taxes being refunded resulted in a tax benefit for Kansas  
3 income tax purposes during a prior taxable year. Such refunds shall be  
4 included in income in the year actually received regardless of the method  
5 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall  
6 be deemed to have resulted if the amount of the tax had been deducted in  
7 determining income subject to a Kansas income tax for a prior year  
8 regardless of the rate of taxation applied in such prior year to the Kansas  
9 taxable income, but only that portion of the refund shall be included as  
10 bears the same proportion to the total refund received as the federal taxes  
11 deducted in the year to which such refund is attributable bears to the total  
12 federal income taxes paid for such year. For purposes of the foregoing  
13 sentence, federal taxes shall be considered to have been deducted only to  
14 the extent such deduction does not reduce Kansas taxable income below  
15 zero.
- 16 (v) The amount of any depreciation deduction or business expense  
17 deduction claimed on the taxpayer's federal income tax return for any  
18 capital expenditure in making any building or facility accessible to the  
19 handicapped, for which expenditure the taxpayer claimed the credit  
20 allowed by K.S.A. 79-32,177, and amendments thereto.
- 21 (vi) Any amount of designated employee contributions picked up by  
22 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
23 and amendments thereto.
- 24 (vii) The amount of any charitable contribution made to the extent the  
25 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-  
26 32,196, and amendments thereto.
- 27 (viii) The amount of any costs incurred for improvements to a swine  
28 facility, claimed for deduction in determining federal adjusted gross  
29 income, to the extent the same is claimed as the basis for any credit  
30 allowed pursuant to K.S.A. 2018 Supp. 79-32,204, and amendments  
31 thereto.
- 32 (ix) The amount of any ad valorem taxes and assessments paid and  
33 the amount of any costs incurred for habitat management or construction  
34 and maintenance of improvements on real property, claimed for deduction  
35 in determining federal adjusted gross income, to the extent the same is  
36 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,  
37 and amendments thereto.
- 38 (x) Amounts received as nonqualified withdrawals, as defined by  
39 K.S.A. 2018 Supp. 75-643, and amendments thereto, if, at the time of  
40 contribution to a family postsecondary education savings account, such  
41 amounts were subtracted from the federal adjusted gross income pursuant  
42 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts  
43 are not already included in the federal adjusted gross income.

- 1 (xi) The amount of any contribution made to the same extent the  
2 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-  
3 50,154, and amendments thereto.
- 4 (xii) For taxable years commencing after December 31, 2004,  
5 amounts received as withdrawals not in accordance with the provisions of  
6 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution  
7 to an individual development account, such amounts were subtracted from  
8 the federal adjusted gross income pursuant to subsection (c)(xiii), or if  
9 such amounts are not already included in the federal adjusted gross  
10 income.
- 11 (xiii) The amount of any expenditures claimed for deduction in  
12 determining federal adjusted gross income, to the extent the same is  
13 claimed as the basis for any credit allowed pursuant to K.S.A. 2018 Supp.  
14 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.
- 15 (xiv) The amount of any amortization deduction claimed in  
16 determining federal adjusted gross income to the extent the same is  
17 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,221, and  
18 amendments thereto.
- 19 (xv) The amount of any expenditures claimed for deduction in  
20 determining federal adjusted gross income, to the extent the same is  
21 claimed as the basis for any credit allowed pursuant to K.S.A. 2018 Supp.  
22 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
23 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
24 32,248 or 79-32,251 through 79-32,254, and amendments thereto.
- 25 (xvi) The amount of any amortization deduction claimed in  
26 determining federal adjusted gross income to the extent the same is  
27 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,227, 79-  
28 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments  
29 thereto.
- 30 (xvii) The amount of any amortization deduction claimed in  
31 determining federal adjusted gross income to the extent the same is  
32 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,256, and  
33 amendments thereto.
- 34 (xviii) For taxable years commencing after December 31, 2006, the  
35 amount of any ad valorem or property taxes and assessments paid to a state  
36 other than Kansas or local government located in a state other than Kansas  
37 by a taxpayer who resides in a state other than Kansas, when the law of  
38 such state does not allow a resident of Kansas who earns income in such  
39 other state to claim a deduction for ad valorem or property taxes or  
40 assessments paid to a political subdivision of the state of Kansas in  
41 determining taxable income for income tax purposes in such other state, to  
42 the extent that such taxes and assessments are claimed as an itemized  
43 deduction for federal income tax purposes.

1 (xix) For taxable years beginning after December 31, 2012, and  
2 ending before January 1, 2017, the amount of any: (1) Loss from business  
3 as determined under the federal internal revenue code and reported from  
4 schedule C and on line 12 of the taxpayer's form 1040 federal individual  
5 income tax return; (2) loss from rental real estate, royalties, partnerships, S  
6 corporations, except those with wholly owned subsidiaries subject to the  
7 Kansas privilege tax, estates, trusts, residual interest in real estate  
8 mortgage investment conduits and net farm rental as determined under the  
9 federal internal revenue code and reported from schedule E and on line 17  
10 of the taxpayer's form 1040 federal individual income tax return; and (3)  
11 farm loss as determined under the federal internal revenue code and  
12 reported from schedule F and on line 18 of the taxpayer's form 1040  
13 federal income tax return; all to the extent deducted or subtracted in  
14 determining the taxpayer's federal adjusted gross income. For purposes of  
15 this subsection, references to the federal form 1040 and federal schedule  
16 C, schedule E, and schedule F, shall be to such form and schedules as they  
17 existed for tax year 2011, and as revised thereafter by the internal revenue  
18 service.

19 (xx) For taxable years beginning after December 31, 2012, and  
20 ending before January 1, 2017, the amount of any deduction for self-  
21 employment taxes under section 164(f) of the federal internal revenue  
22 code as in effect on January 1, 2012, and amendments thereto, in  
23 determining the federal adjusted gross income of an individual taxpayer, to  
24 the extent the deduction is attributable to income reported on schedule C,  
25 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income  
26 tax return.

27 (xxi) For taxable years beginning after December 31, 2012, and  
28 ending before January 1, 2017, the amount of any deduction for pension,  
29 profit sharing, and annuity plans of self-employed individuals under  
30 section 62(a)(6) of the federal internal revenue code as in effect on January  
31 1, 2012, and amendments thereto, in determining the federal adjusted gross  
32 income of an individual taxpayer.

33 (xxii) For taxable years beginning after December 31, 2012, and  
34 ending before January 1, 2017, the amount of any deduction for health  
35 insurance under section 162(l) of the federal internal revenue code as in  
36 effect on January 1, 2012, and amendments thereto, in determining the  
37 federal adjusted gross income of an individual taxpayer.

38 (xxiii) For taxable years beginning after December 31, 2012, and  
39 ending before January 1, 2017, the amount of any deduction for domestic  
40 production activities under section 199 of the federal internal revenue code  
41 as in effect on January 1, 2012, and amendments thereto, in determining  
42 the federal adjusted gross income of an individual taxpayer.

43 (xxiv) For taxable years commencing after December 31, 2013, that

1 portion of the amount of any expenditure deduction claimed in  
2 determining federal adjusted gross income for expenses paid for medical  
3 care of the taxpayer or the taxpayer's spouse or dependents when such  
4 expenses were paid or incurred for an abortion, or for a health benefit plan,  
5 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of  
6 an optional rider for coverage of abortion in accordance with K.S.A. 2018  
7 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and  
8 assessments are claimed as an itemized deduction for federal income tax  
9 purposes.

10 (xxv) For taxable years commencing after December 31, 2013, that  
11 portion of the amount of any expenditure deduction claimed in  
12 determining federal adjusted gross income for expenses paid by a taxpayer  
13 for health care when such expenses were paid or incurred for abortion  
14 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and  
15 amendments thereto, when such expenses were paid or incurred for  
16 abortion coverage or amounts contributed to health savings accounts for  
17 such taxpayer's employees for the purchase of an optional rider for  
18 coverage of abortion in accordance with K.S.A. 2018 Supp. 40-2,190, and  
19 amendments thereto, to the extent that such taxes and assessments are  
20 claimed as a deduction for federal income tax purposes.

21 (xxvi) For all taxable years beginning after December 31, 2016, the  
22 amount of any charitable contribution made to the extent the same is  
23 claimed as the basis for the credit allowed pursuant to K.S.A. 72-99a07,  
24 and amendments thereto, and is also claimed as an itemized deduction for  
25 federal income tax purposes.

26 (xxvii) *For all taxable years commencing after December 31, 2016,*  
27 *the amount of any deduction claimed under section 965(c) of the federal*  
28 *internal revenue code of 1986, in determining federal adjusted gross*  
29 *income.*

30 (xxviii) *For all taxable years commencing after December 31, 2017,*  
31 *the amount of any deduction claimed under section 250(a)(1)(B) of the*  
32 *federal internal revenue code of 1986, in determining federal adjusted*  
33 *gross income.*

34 (xxiv) *For all taxable years commencing after December 31, 2017,*  
35 *the amount deducted by reason of a carry forward of disallowed business*  
36 *interest pursuant to section 163(j) of the federal internal revenue code of*  
37 *1986, as in effect on January 1, 2018.*

38 (c) There shall be subtracted from federal adjusted gross income:

39 (i) Interest or dividend income on obligations or securities of any  
40 authority, commission or instrumentality of the United States and its  
41 possessions less any related expenses directly incurred in the purchase of  
42 such obligations or securities, to the extent included in federal adjusted  
43 gross income but exempt from state income taxes under the laws of the

- 1 United States.
- 2 (ii) Any amounts received which are included in federal adjusted  
3 gross income but which are specifically exempt from Kansas income  
4 taxation under the laws of the state of Kansas.
- 5 (iii) The portion of any gain or loss from the sale or other disposition  
6 of property having a higher adjusted basis for Kansas income tax purposes  
7 than for federal income tax purposes on the date such property was sold or  
8 disposed of in a transaction in which gain or loss was recognized for  
9 purposes of federal income tax that does not exceed such difference in  
10 basis, but if a gain is considered a long-term capital gain for federal  
11 income tax purposes, the modification shall be limited to that portion of  
12 such gain which is included in federal adjusted gross income.
- 13 (iv) The amount necessary to prevent the taxation under this act of  
14 any annuity or other amount of income or gain which was properly  
15 included in income or gain and was taxed under the laws of this state for a  
16 taxable year prior to the effective date of this act, as amended, to the  
17 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
18 the right to receive the income or gain, or to a trust or estate from which  
19 the taxpayer received the income or gain.
- 20 (v) The amount of any refund or credit for overpayment of taxes on  
21 or measured by income or fees or payments in lieu of income taxes  
22 imposed by this state, or any taxing jurisdiction, to the extent included in  
23 gross income for federal income tax purposes.
- 24 (vi) Accumulation distributions received by a taxpayer as a  
25 beneficiary of a trust to the extent that the same are included in federal  
26 adjusted gross income.
- 27 (vii) Amounts received as annuities under the federal civil service  
28 retirement system from the civil service retirement and disability fund and  
29 other amounts received as retirement benefits in whatever form which  
30 were earned for being employed by the federal government or for service  
31 in the armed forces of the United States.
- 32 (viii) Amounts received by retired railroad employees as a  
33 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
34 228c (a)(1) et seq.
- 35 (ix) Amounts received by retired employees of a city and by retired  
36 employees of any board of such city as retirement allowances pursuant to  
37 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
38 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
39 amendments thereto.
- 40 (x) For taxable years beginning after December 31, 1976, the amount  
41 of the federal tentative jobs tax credit disallowance under the provisions of  
42 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the  
43 amount of the targeted jobs tax credit and work incentive credit

- 1 disallowances under 26 U.S.C. § 280 C.
- 2 (xi) For taxable years beginning after December 31, 1986, dividend  
3 income on stock issued by Kansas venture capital, inc.
- 4 (xii) For taxable years beginning after December 31, 1989, amounts  
5 received by retired employees of a board of public utilities as pension and  
6 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,  
7 and amendments thereto.
- 8 (xiii) For taxable years beginning after December 31, 2004, amounts  
9 contributed to and the amount of income earned on contributions deposited  
10 to an individual development account under K.S.A. 74-50,201 et seq., and  
11 amendments thereto.
- 12 (xiv) For all taxable years commencing after December 31, 1996, that  
13 portion of any income of a bank organized under the laws of this state or  
14 any other state, a national banking association organized under the laws of  
15 the United States, an association organized under the savings and loan  
16 code of this state or any other state, or a federal savings association  
17 organized under the laws of the United States, for which an election as an  
18 S corporation under subchapter S of the federal internal revenue code is in  
19 effect, which accrues to the taxpayer who is a stockholder of such  
20 corporation and which is not distributed to the stockholders as dividends of  
21 the corporation. For taxable years beginning after December 31, 2012, and  
22 ending before January 1, 2017, the amount of modification under this  
23 subsection shall exclude the portion of income or loss reported on schedule  
24 E and included on line 17 of the taxpayer's form 1040 federal individual  
25 income tax return.
- 26 (xv) For all taxable years beginning after December 31, 2006,  
27 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a  
28 joint return, for each designated beneficiary which are contributed to a  
29 family postsecondary education savings account established under the  
30 Kansas postsecondary education savings program or a qualified tuition  
31 program established and maintained by another state or agency or  
32 instrumentality thereof pursuant to section 529 of the internal revenue  
33 code of 1986, as amended, for the purpose of paying the qualified higher  
34 education expenses of a designated beneficiary at an institution of  
35 postsecondary education. The terms and phrases used in this paragraph  
36 shall have the meaning respectively ascribed thereto by the provisions of  
37 K.S.A. 2018 Supp. 75-643, and amendments thereto, and the provisions of  
38 such section are hereby incorporated by reference for all purposes thereof.
- 39 (xvi) For all taxable years beginning after December 31, 2004,  
40 amounts received by taxpayers who are or were members of the armed  
41 forces of the United States, including service in the Kansas army and air  
42 national guard, as a recruitment, sign up or retention bonus received by  
43 such taxpayer as an incentive to join, enlist or remain in the armed services

1 of the United States, including service in the Kansas army and air national  
2 guard, and amounts received for repayment of educational or student loans  
3 incurred by or obligated to such taxpayer and received by such taxpayer as  
4 a result of such taxpayer's service in the armed forces of the United States,  
5 including service in the Kansas army and air national guard.

6 (xvii) For all taxable years beginning after December 31, 2004,  
7 amounts received by taxpayers who are eligible members of the Kansas  
8 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
9 281, and amendments thereto, and amounts received for death benefits  
10 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section  
11 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and  
12 amendments thereto, to the extent that such death benefits are included in  
13 federal adjusted gross income of the taxpayer.

14 (xviii) For the taxable year beginning after December 31, 2006,  
15 amounts received as benefits under the federal social security act which  
16 are included in federal adjusted gross income of a taxpayer with federal  
17 adjusted gross income of \$50,000 or less, whether such taxpayer's filing  
18 status is single, head of household, married filing separate or married filing  
19 jointly; and for all taxable years beginning after December 31, 2007,  
20 amounts received as benefits under the federal social security act which  
21 are included in federal adjusted gross income of a taxpayer with federal  
22 adjusted gross income of \$75,000 or less, whether such taxpayer's filing  
23 status is single, head of household, married filing separate or married filing  
24 jointly.

25 (xix) Amounts received by retired employees of Washburn university  
26 as retirement and pension benefits under the university's retirement plan.

27 (xx) For taxable years beginning after December 31, 2012, and  
28 ending before January 1, 2017, the amount of any: (1) Net profit from  
29 business as determined under the federal internal revenue code and  
30 reported from schedule C and on line 12 of the taxpayer's form 1040  
31 federal individual income tax return; (2) net income, not including  
32 guaranteed payments as defined in section 707(c) of the federal internal  
33 revenue code and as reported to the taxpayer from federal schedule K-1,  
34 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal  
35 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,  
36 partnerships, S corporations, estates, trusts, residual interest in real estate  
37 mortgage investment conduits and net farm rental as determined under the  
38 federal internal revenue code and reported from schedule E and on line 17  
39 of the taxpayer's form 1040 federal individual income tax return; and (3)  
40 net farm profit as determined under the federal internal revenue code and  
41 reported from schedule F and on line 18 of the taxpayer's form 1040  
42 federal income tax return; all to the extent included in the taxpayer's  
43 federal adjusted gross income. For purposes of this subsection, references

1 to the federal form 1040 and federal schedule C, schedule E, and schedule  
2 F, shall be to such form and schedules as they existed for tax year 2011  
3 and as revised thereafter by the internal revenue service.

4 (xxi) For all taxable years beginning after December 31, 2013,  
5 amounts equal to the unreimbursed travel, lodging and medical  
6 expenditures directly incurred by a taxpayer while living, or a dependent  
7 of the taxpayer while living, for the donation of one or more human organs  
8 of the taxpayer, or a dependent of the taxpayer, to another person for  
9 human organ transplantation. The expenses may be claimed as a  
10 subtraction modification provided for in this section to the extent the  
11 expenses are not already subtracted from the taxpayer's federal adjusted  
12 gross income. In no circumstances shall the subtraction modification  
13 provided for in this section for any individual, or a dependent, exceed  
14 \$5,000. As used in this section, "human organ" means all or part of a liver,  
15 pancreas, kidney, intestine, lung or bone marrow. The provisions of this  
16 paragraph shall take effect on the day the secretary of revenue certifies to  
17 the director of the budget that the cost for the department of revenue of  
18 modifications to the automated tax system for the purpose of  
19 implementing this paragraph will not exceed \$20,000.

20 (xxii) For taxable years beginning after December 31, 2012, and  
21 ending before January 1, 2017, the amount of net gain from the sale of: (1)  
22 Cattle and horses, regardless of age, held by the taxpayer for draft,  
23 breeding, dairy or sporting purposes, and held by such taxpayer for 24  
24 months or more from the date of acquisition; and (2) other livestock,  
25 regardless of age, held by the taxpayer for draft, breeding, dairy or  
26 sporting purposes, and held by such taxpayer for 12 months or more from  
27 the date of acquisition. The subtraction from federal adjusted gross income  
28 shall be limited to the amount of the additions recognized under the  
29 provisions of subsection (b)(xix) attributable to the business in which the  
30 livestock sold had been used. As used in this paragraph, the term  
31 "livestock" shall not include poultry.

32 (xxiii) For all taxable years beginning after December 31, 2012,  
33 amounts received under either the Overland Park, Kansas police  
34 department retirement plan or the Overland Park, Kansas fire department  
35 retirement plan, both as established by the city of Overland Park, pursuant  
36 to the city's home rule authority.

37 (xxiv) For taxable years beginning after December 31, 2013, and  
38 ending before January 1, 2017, the net gain from the sale from Christmas  
39 trees grown in Kansas and held by the taxpayer for six years or more.

40 (xxv) *For all taxable years commencing after December 31, 2016,*  
41 *100% of deferred foreign income as used in determining federal adjusted*  
42 *gross income. Deferred foreign income shall include income under section*  
43 *965(a) of the federal internal revenue code of 1986, before any deductions*

**Commented [ES1]:** (xxv) For all taxable years commencing after December 31, 2016, 100% of deferred foreign income under section 965(a) of the federal internal revenue code of 1986, ~~as used in determining federal adjusted gross income~~, before any deductions allowed under section 965(c) of the code.



1 allowed under section 965(c) of the code.

2 (xxvi) ~~For~~ all taxable years commencing after December 31, 2017,  
3 100% of global intangible low-taxed income. Global intangible low-taxed  
4 income shall include income under section 951A of the federal internal  
5 revenue code of 1986, before any deductions allowed under section 250(a)  
6 (1)(B) of the code.

7 (xxvii) For all taxable years commencing after December 31, 2017,  
8 the amount disallowed as a deduction pursuant to section 163(j) of the  
9 federal internal revenue code of 1986, as in effect on January 1, 2018.

10 (d) There shall be added to or subtracted from federal adjusted gross  
11 income the taxpayer's share, as beneficiary of an estate or trust, of the  
12 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and  
13 amendments thereto.

14 (e) The amount of modifications required to be made under this  
15 section by a partner which relates to items of income, gain, loss, deduction  
16 or credit of a partnership shall be determined under K.S.A. 79-32,131, and  
17 amendments thereto, to the extent that such items affect federal adjusted  
18 gross income of the partner.

19 (f) No taxpayer shall be assessed penalties and interest from the  
20 underpayment of taxes due to changes to this section that became law on  
21 July 1, 2017, so long as such underpayment is rectified on or before April  
22 17, 2018.

23 (g) ~~A~~ taxpayer may file an amended return, as provided by law, for a  
24 prior tax year due to any changes to this section that became law on July  
25 1, 2019.

26 Sec. 2. K.S.A. 2018 Supp. 79-32,120 is hereby amended to read as  
27 follows: 79-32,120. (a) (1) For all tax years prior to tax year 2018, if  
28 federal taxable income of an individual is determined by itemizing  
29 deductions from such individual's federal adjusted gross income, such  
30 individual may elect to deduct the Kansas itemized deduction in lieu of the  
31 Kansas standard deduction. For tax year 2018, and all tax years thereafter,  
32 an individual may elect to deduct the Kansas itemized deduction in lieu of  
33 the Kansas standard deduction regardless of whether or not such  
34 individual's federal taxable income is determined by itemizing deductions  
35 from such individual's federal adjusted gross income.

36 (2) ~~For the tax year commencing on January 1, 2013, the Kansas~~  
37 ~~itemized deduction of an individual means 70% of the total amount of~~  
38 ~~deductions from federal adjusted gross income, other than federal~~  
39 ~~deductions for personal exemptions, as provided in the federal internal~~  
40 ~~revenue code with the modifications specified in this section.~~

41 (3) ~~For the tax year commencing on January 1, 2014, the Kansas~~  
42 ~~itemized deduction of an individual means 65% of the total amount of~~  
43 ~~deductions from federal adjusted gross income, other than federal~~

**Commented [ES2]:** (xxvi) For all taxable years commencing after December 31, 2017, 100% of global intangible low-taxed income under section 951A of the federal internal revenue code of 1986, before any deductions allowed under section 250(a)(1)(B) of the code.

**Commented [ES3]:** "The amendments in Section 1, Section 2, and Section 3 of this bill shall be applied retroactively to the dates indicated in those sections."

1 ~~deductions for personal exemptions, as provided in the federal internal~~  
2 ~~revenue code with the modifications specified in this section.~~

3 ~~(4)~~—For the tax years commencing on and after January 1, 2015, and  
4 ending before January 1, 2018, the Kansas itemized deduction of an  
5 individual means the following deductions from federal adjusted gross  
6 income, other than federal deductions for personal exemptions, as  
7 provided in the federal internal revenue code with the modifications  
8 specified in this section: (A) 100% of charitable contributions that qualify  
9 as charitable contributions allowable as deductions in section 170 of the  
10 federal internal revenue code; (B) 50% of the amount of qualified  
11 residence interest as provided in section 163(h) of the federal internal  
12 revenue code; and (C) 50% of the amount of taxes on real and personal  
13 property as provided in section 164(a) of the federal internal revenue code.

14 ~~(5)~~(3) For the tax year commencing on and after January 1, 2018, and  
15 ending before January 1, 2019, the Kansas itemized deduction of an  
16 individual means the following deductions from federal adjusted gross  
17 income, other than federal deductions for personal exemptions, as  
18 provided in the federal internal revenue code with the modifications  
19 specified in this section: (A) 100% of charitable contributions that qualify  
20 as charitable contributions allowable as deductions in section 170 of the  
21 federal internal revenue code; (B) 50% of expenses for medical care  
22 allowable as deductions in section 213 of the federal internal revenue  
23 code; (C) 50% of the amount of qualified residence interest as provided in  
24 section 163(h) of the federal internal revenue code; and (D) 50% of the  
25 amount of taxes on real and personal property as provided in section  
26 164(a) of the federal internal revenue code.

27 ~~(6)~~(4) For the tax year commencing on and after January 1, 2019, and  
28 ending before January 1, 2020, the Kansas itemized deduction of an  
29 individual means the following deductions from federal adjusted gross  
30 income, other than federal deductions for personal exemptions, as  
31 provided in the federal internal revenue code with the modifications  
32 specified in this section: (A) 100% of charitable contributions that qualify  
33 as charitable contributions allowable as deductions in section 170 of the  
34 federal internal revenue code; (B) 75% of expenses for medical care  
35 allowable as deductions in section 213 of the federal internal revenue  
36 code; (C) 75% of the amount of qualified residence interest as provided in  
37 section 163(h) of the federal internal revenue code; and (D) 75% of the  
38 amount of taxes on real and personal property as provided in section  
39 164(a) of the federal internal revenue code.

40 ~~(7)~~(5) For the tax years commencing on and after January 1, 2020, the  
41 Kansas itemized deduction of an individual means the following  
42 deductions from federal adjusted gross income, other than federal  
43 deductions for personal exemptions, as provided in the federal internal

1 revenue code with the modifications specified in this section: (A) 100% of  
2 charitable contributions that qualify as charitable contributions allowable  
3 as deductions in section 170 of the federal internal revenue code; (B)  
4 100% of expenses for medical care allowable as deductions in section 213  
5 of the federal internal revenue code; (C) 100% of the amount of qualified  
6 residence interest as provided in section 163(h) of the federal internal  
7 revenue code; and (D) 100% of the amount of taxes on real and personal  
8 property as provided in section 164(a) of the federal internal revenue code.

9 (b) The total amount of deductions from federal adjusted gross  
10 income shall be reduced by the total amount of income taxes imposed by  
11 or paid to this state or any other taxing jurisdiction to the extent that the  
12 same are deducted in determining the federal itemized deductions and by  
13 the amount of all depreciation deductions claimed for any real or tangible  
14 personal property upon which the deduction allowed by K.S.A. 2018  
15 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250,  
16 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

17 (c) *A taxpayer may file an amended return on or before December*  
18 *31, 2019, in order to elect to deduct the Kansas itemized deduction in lieu*  
19 *of the Kansas standard deduction pursuant to subsection (a)(1) for tax*  
20 *year 2018.*

21 Sec. 3. K.S.A. 2018 Supp. 79-32,138 is hereby amended to read as  
22 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable  
23 under this act shall be the corporation's federal taxable income for the  
24 taxable year with the modifications specified in this section, *except that in*  
25 *determination of such federal taxable income for all taxable years*  
26 *commencing after December 31, 2017, section 118 of the federal internal*  
27 *revenue code of 1986 will be applied as in effect on December 21, 2017.*

28 (b) There shall be added to federal taxable income: (i) The same  
29 modifications as are set forth in K.S.A. 79-32,117(b), and amendments  
30 thereto, with respect to resident individuals, except subsections (b)(xix),  
31 (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

32 (ii) the amount of all depreciation deductions claimed for any  
33 property upon which the deduction allowed by K.S.A. 2018 Supp. 79-  
34 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-  
35 32,255 or 79-32,256, and amendments thereto, is claimed;

36 (iii) the amount of any charitable contribution deduction claimed for  
37 any contribution or gift to or for the use of any racially segregated  
38 educational institution;

39 (iv) for taxable years commencing December 31, 2013, that portion  
40 of the amount of any expenditure deduction claimed in determining federal  
41 adjusted gross income for expenses paid by a taxpayer for health care  
42 when such expenses were paid or incurred for abortion coverage, a health  
43 benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when

1 such expenses were paid or incurred for abortion coverage or amounts  
 2 contributed to health savings accounts for such taxpayer's employees for  
 3 the purchase of an optional rider for coverage of abortion in accordance  
 4 with K.S.A. 2018 Supp. 40-2,190, and amendments thereto;

5 (v) the amount of any charitable contribution deduction claimed for  
 6 any contribution or gift made to a scholarship granting organization to the  
 7 extent the same is claimed as the basis for the credit allowed pursuant to  
 8 K.S.A. 72-4357, and amendments thereto; and

9 (vi) the federal net operating loss deduction.

10 (c) There shall be subtracted from federal taxable income: (i) The  
 11 same modifications as are set forth in K.S.A. 79-32,117(c), and  
 12 amendments thereto, with respect to resident individuals, except  
 13 subsection (c)(xx);

14 (ii) the federal income tax liability for any taxable year commencing  
 15 prior to December 31, 1971, for which a Kansas return was filed after  
 16 reduction for all credits thereon, except credits for payments on estimates  
 17 of federal income tax, credits for gasoline and lubricating oil tax, and for  
 18 foreign tax credits if, on the Kansas income tax return for such prior year,  
 19 the federal income tax deduction was computed on the basis of the federal  
 20 income tax paid in such prior year, rather than as accrued. Notwithstanding  
 21 the foregoing, the deduction for federal income tax liability for any year  
 22 shall not exceed that portion of the total federal income tax liability for  
 23 such year which bears the same ratio to the total federal income tax  
 24 liability for such year as the Kansas taxable income, as computed before  
 25 any deductions for federal income taxes and after application of  
 26 subsections (d) and (e) of this section as existing for such year, bears to the  
 27 federal taxable income for the same year;

28 (iii) an amount for the amortization deduction allowed pursuant to  
 29 29 K.S.A. 2018 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237,  
 30 79-30 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto;

31 (iv) for all taxable years commencing after December 31, 1987, the  
 32 amount included in federal taxable income pursuant to the provisions of  
 33 section 78 of the internal revenue code; ~~and~~

34 (v) ~~for all taxable years commencing after December 31, 1987, 80%~~  
 35 ~~of dividends from corporations incorporated outside of the United States~~  
 36 ~~or the District of Columbia which are included in federal taxable income.~~  
 37 *This paragraph does not apply to the amounts excluded from income*  
 38 *pursuant to K.S.A. 79-32,117(c)(xxv) and (c)(xxvi), and amendments*  
 39 *thereto; and*

40 (vi) *for all taxable years commencing after December 31, 2017, the*  
 41 *amount disallowed as a deduction pursuant to section 162(r) of the federal*  
 42 *internal revenue code of 1986, as in effect on January 1, 2018.*

43 (d) If any corporation derives all of its income from sources within

**Commented [ES4]:** (v) for all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income. This paragraph does not apply to the amounts excluded from income pursuant to K.S.A. 79-32,117(c)(xxv) and (c)(xxvi), and amendments thereto or added back pursuant to K.S.A. 79-32,117(b)(xxvii) and (b)(xxviii), and amendments thereto; and

1 Kansas in any taxable year commencing after December 31, 1979, its  
2 Kansas taxable income shall be the sum resulting after application of  
3 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas  
4 taxable income in any such taxable year, after excluding any refunds of  
5 federal income tax and before the deduction of federal income taxes  
6 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-  
7 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any  
8 refund of federal income tax as determined under K.S.A. 79-32,117(b)(iv),  
9 and amendments thereto, and minus the deduction for federal income taxes  
10 as provided by subsection (c)(ii) shall be such corporation's Kansas taxable  
11 income.

12 (e) A corporation may make an election with respect to its first  
13 taxable year commencing after December 31, 1982, whereby no addition  
14 modifications as provided for in subsection (b)(ii) and subtraction  
15 modifications as provided for in subsection (c)(iii) as those subsections  
16 existed prior to their amendment by this act, shall be required to be made  
17 for such taxable year.

18 (f) ~~A~~ taxpayer may file an amended return, as provided by law, for a  
19 prior tax year due to any changes to this section that became law on July  
20 1, 2019.

21 Sec. 4. K.S.A. 2018 Supp. 79-32,117, 79-32,120 and 79-32,138 are  
22 hereby repealed.

23 Sec. 5. This act shall take effect and be in force from and after its  
24 publication in the statute book.

**Commented [ES5]:** "The amendments in Section 1, Section 2, and Section 3 of this bill shall be applied retroactively to the dates indicated in those sections."