

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2239**

As Amended by Senate Committee on
Assessment and Taxation

Brief*

Senate Sub. for HB 2239, as amended, would create the Golden Years Homestead Property Tax Freeze Program (refund program), increase the individual income tax standard deduction, enact the SALT Parity Act (Act), and amend law related to carrying forward net operating losses.

Golden Years

The bill would establish a new property tax circuit breaker refund program beginning in tax year 2022 that would provide refunds of a portion of property taxes paid on qualifying residential homestead property equivalent to the total property tax increase over the base year. For taxpayers qualifying at the time of enactment, tax year 2021 liability would be deemed as the base year. For all other taxpayers, the base year would be the first year in which they are eligible to claim the refund provided by the refund program. Taxpayers who become ineligible would not lose their original base year should they again become eligible for the refund. The refund would be the amount of property tax in excess of the base year amount. The maximum amount of any refund under the program would be \$2,500.

In order to qualify for the refund program, the bill would require a taxpayer to have a household income of less than \$75,000 and be 65 years of age or older or a disabled

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

veteran. The household income threshold would be annually adjusted according to the federal cost-of-living adjustment provided for in Section 1(f)(3) of the Internal Revenue Code.

The value of the qualifying residential homestead property would be required to be less than \$485,000. Qualifying taxpayers would be ineligible to claim a refund if they would seek to claim the existing Homestead Property Tax Refund or Selective Assistance for Effective Senior Relief Refund. The bill would allow surviving spouses of qualified individuals to continue in the refund program unless they subsequently remarry. The bill would require refund program claims to be filed by April 15 for refund amounts determined by the previous property tax year's liability.

Under the bill, "disabled veterans" would include Kansas residents honorably discharged from active service in any branch of the armed forces of the United States or the Kansas National Guard who have been determined to have a 50.0 percent permanent disability sustained while on active duty.

Beginning with the second year of the program, the Director of Taxation would be required to send county clerks electronic records by October 1 of each year containing names of eligible claimants who have received refunds under the refund program for the prior year.

The bill would authorize the Director of Taxation to apply refunds to any state tax liability of the qualified individual or other member of the household. Remaining refunds would first be applied to any delinquent property taxes on the homestead and then to any current property tax liability.

The bill would grant the Secretary of Revenue authority to adopt rules and regulations necessary for administration of the refund program.

The bill also would incorporate the existing Homestead Property Tax Refund into the refund program and name the

resulting program the Golden Years Homestead Property Tax Freeze Program.

Standard Deduction

The bill would increase the individual income tax standard deduction amounts for tax year 2023 and all years thereafter. The new amounts would be \$4,375 for single filers, \$10,000 for married filers, and \$7,500 for head of household filers.

SALT Parity Act

The bill would enact the SALT Parity Act (Act) providing certain pass-through entities (entities) with the option of paying state income taxes at the entity level rather than being paid by the individual owners of the pass-through entities.

The Act, which would apply for tax year 2022 and thereafter, would require entities to make the election to be subject to tax on a return filed by the entity, which would be binding on all owners of the entity.

Entities electing to be subject to the tax would pay a tax of 5.7 percent on the sum of each resident owner's distributive share of the entity's income and each nonresident owner's distributive share of the entity's income attributable to the State.

Entities electing to be subject to the tax would be treated as corporations for purposes of estimated tax payments, but would be subject to penalties for underpayment of estimated tax during the first year of election. Any credits allowed for the entities, other than credits for taxes paid to other states, would be required to be claimed by the electing entity.

Excess tax credits and carried forward net operating losses would be required to be carried by electing entities and

could not be claimed by entity owners except in the case when an election by an entity to be subject to tax at the entity is not made or not allowed.

Individual owners of electing entities would not be separately or individually liable for entity tax and would be entitled to a credit against their individual income for their direct share of the tax imposed on the entity. Corporation owners of electing entities would be required to add back their distributive share of the entities losses and subtract their distributive share of the entities gains in determining their Kansas taxable income.

Taxes paid by an electing entity to another state on income that is included in the Kansas adjusted gross income of a resident individual taxpayer would be considered taxes paid to the other state by the resident individual taxpayer for purposes of the credit for taxes paid to other states.

The bill would authorize the Secretary of Revenue to adopt rules and regulations necessary for the implementation of the Act and to require electing entities to furnish information necessary for the implementation of the Act.

Historic Hotels Net Operating Loss

The bill would permit, for individual income tax year 2006, a taxpayer to carry back a net operating loss incurred from the sale at a loss of a historic hotel located in a community with less than 2,500 citizens and improved by funds borrowed against the hotel and farmland owned by the taxpayer that is located within 20 miles of the hotel, for up to 3 years to offset the gain on the sale of such farmland if the majority of the proceeds from the sale of the farmland were used to pay off the mortgage on the historic hotel.

The bill would permit the taxpayer to file an amended return for the three prior years.

Carried Back Net Operating Loss Carry Forwards

The bill would create a subtraction modification allowing taxpayers who carried back federal net operating losses in tax years 2018 through 2020 to subtract such amounts from their income for purposes of determining Kansas adjusted gross income. Taxpayers would be permitted to carry forward such net operating losses for up to 20 years if the amount exceeds the Kansas adjusted gross income of the taxpayer.

Background

The bill contains the provisions of SB 76, SB 430, SB 495, and SB 543. The original provisions of HB 2239 were enacted in 2021 SB 50.

HB 2239

The bill was introduced by the House Committee on Taxation at the request of a representative of T-Mobile.

House Committee on Taxation

In the House Committee hearing on February 17, 2021, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce, T-Mobile, and the Wichita Regional Chamber of Commerce. The proponents stated a longer carry forward period would more effectively allow taxpayers to account for business expenses and remove a competitive disadvantage for job creation and capital investments in Kansas as compared with other states.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association and a representative of the National Federation of Independent Business.

No other testimony was provided.

The House Committee adopted an amendment to allow losses to be carried forward indefinitely, as opposed to 20 years as in the bill as introduced.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on March 22, 2021, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce and T-Mobile.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, the Kansas Grain and Feed Association, and Renew Kansas Biofuels Association, and a representative of the National Federation of Independent Business.

No other testimony was provided.

The Senate Committee amended the bill to insert provisions to establish the Golden Years Homestead Property Tax Freeze Program, which had been introduced as SB 76. The Senate Committee recommended the bill be passed as a substitute bill.

On March 16, 2022, the bill was withdrawn from the Senate Calendar and rereferred to the Senate Committee.

Upon rereferral, the Senate Committee removed the contents of the bill providing for indefinite carryforward of net operating losses (HB 2239), modified the Golden Years provisions (SB 76), and inserted the standard deduction provisions, historic hotel net operating loss provision (SB 430), SALT Parity Act (SB 495), and net operating loss carry back carry forward provision (SB 543).

SB 76

The bill was introduced by Senators Holland, Corson, Faust Goudeau, Haley, Peck, Petersen, Pettey, Pittman, and Ware.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on March 11, 2021, **proponent** testimony was offered by Senators Holland, Peck, and Pittman, a representative of the Kansas Association of Counties and a private citizen. The proponents stated the bill would make property tax bills more affordable for senior citizens.

Written-only proponent testimony was offered by Senator Petersen, a representative of the Kansas Association of Realtors, and two private citizens.

Opponent testimony was provided by a representative of the Kansas Chamber of Commerce, stating the bill would mask the true cost of property taxes and result in property tax shifts.

Written-only neutral testimony was offered by a representative of the Kansas Policy Institute.

SB 430

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson on behalf of a private citizen.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, a private citizen testified as a **proponent**, stating the bill would allow him to offset a loss he incurred from the sale of a historic hotel in

2006 against gains he incurred from a 2005 sale of farmland. No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

SB 495

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of a representative of the Kansas Society of Certified Public Accountants.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on March 10, 2022, **proponent** testimony was provided by representatives of the Kansas Society of Certified Public Accountants, BKD, Kansas Chamber of Commerce, and the S Corporation Association, stating the bill would allow Kansas taxpayers to increase the amount of state taxes deducted at the federal level without reducing Kansas state revenues. Written-only proponent testimony was provided by representatives of the National Federation of Independent Businesses and Wichita Regional Chamber of Commerce.

No other testimony was provided.

The Senate Committee amended the bill to replace a subtraction modification approach with a credit for taxes paid approach.

SB 543

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on March 10, 2022, **proponent** testimony was provided by a representative of BridgeBuilder Tax & Legal Services, stating the bill would allow certain Kansas taxpayers to take advantage of a federal tax reduction without having to increase their Kansas tax liability.

No other testimony was provided.

Fiscal Information

A fiscal note on the amended bill was not immediately available. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Taxation; income tax; standard deduction; Salt Parity Act; golden years; net operating losses