

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 22**

As Amended by Senate Committee on  
Assessment and Taxation

**Brief\***

SB 22, as amended, would enact the Rebuilding Employers and Livelihoods while Investing in Everyone's Future (RELIEF) Act, amending income tax law relative to fraudulent unemployment benefits, itemized deductions, business income related to 2017 and 2020 federal legislation, and the business expensing deduction.

***Fraudulent Unemployment Benefits***

The bill would clarify that victims of identify theft would not owe Kansas individual income tax on unemployment compensation that was fraudulently obtained by another individual.

***Itemized Deductions***

Beginning in tax year 2020, the bill would provide individual income taxpayers the option to take Kansas itemized deductions regardless of whether deductions are itemized or the standard deduction is claimed for federal income tax purposes.

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\*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>

## ***Business Income***

### *Global Intangible Low Tax Income (GILTI)*

The bill would provide, beginning in tax year 2021, a subtraction modification exempting GILTI, as defined in section 951A of the federal Internal Revenue Code (IRC), before any deductions allowed under section 250(a)(1)(B) of the IRC.

### *Business Interest*

The bill would provide, beginning in tax year 2021, a subtraction modification exempting certain business interest, to the extent such business interest is currently disallowed as a deduction pursuant to the IRC but was deductible under the IRC as in effect on December 31, 2017.

### *Capital Contributions*

The bill would, beginning in tax year 2021, specify for Kansas corporation income tax purposes that the exemption from federal taxable income for capital contributions shall be the exemption as it existed in section 118 of the IRC as in effect on December 31, 2017.

### *FDIC Premiums*

The bill would provide, beginning in tax year 2021, a subtraction modification for the amount disallowed as a deduction by section 162(r) of the IRC, as in effect on January 1, 2018, for Federal Deposit Insurance Corporation (FDIC) premiums paid by the taxpayer.

### *Business Meal Expenses*

The bill would provide, beginning in tax year 2021, a subtraction modification exempting certain meal

expenditures, to the extent such expenditures are currently disallowed as a deduction pursuant to the IRC but were deductible under the IRC as in effect on December 31, 2017.

#### *Paycheck Protection Program Loans and Expenses*

The bill would provide, beginning in tax year 2020, a subtraction modification exempting amounts received from the Paycheck Protection Program and any expenses paid with proceeds of Paycheck Protection Program loans, to the extent such amounts and expenses are included in the federal adjusted gross income of the taxpayer.

#### ***Expensing Deduction***

The bill would allow individual income taxpayers to begin claiming the expensing deduction (provided by KSA 79-32,143(a)) for the costs of placing certain tangible property and computer software into service in the state beginning in tax year 2021. A second change, also effective with tax year 2021, would require all taxpayers claiming the Kansas expensing deduction to offset the amount of federal expensing deduction claimed pursuant to Section 179 of the IRC.

#### **Background**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of the Kansas Chamber of Commerce.

#### ***Senate Committee on Assessment and Taxation***

In the Senate Committee hearing on January 13 and 21, 2021, representatives of the Kansas Chamber of Commerce, Americans for Prosperity-Kansas, the Kansas Association of Realtors, the Kansas Policy Institute, and the National

Federation of Independent Business spoke as **proponents** of the bill. Proponents stated the bill would resolve unintended tax increases that had occurred as a result of 2017 federal tax legislation and would allow Kansans to benefit from itemizing deductions.

Written-only **proponent** testimony was provided by the Kansas Bankers Association.

Representatives of the Center on Budget and Policy Priorities and Kansas Action for Children, and a private citizen, spoke as **opponents** to the bill, generally stating more effective tax relief options were available to Kansas.

There was no other testimony.

The Senate Committee amended the bill to provide for retroactive application of the provision allowing taxpayers the option to itemize deductions to tax year 2020, to eliminate retroactive application of business tax items, to eliminate a provision that would have provided conformity to federal law for net operating loss carryforward and carryback provisions, and to eliminate a provision that would have provided that GILTI be taxed as foreign divided income for tax years 2018 and 2019.

### **Fiscal Information**

The Department of Revenue provided the following fiscal information for the bill, as amended by the Senate Committee.

**(\$ in millions)**

	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Expensing Deduction	\$2.30	\$2.40	\$2.50
Limitation on Deduction for Interest	-\$30.60	-\$37.50	-\$38.60
Limitation on Deduction for FDIC Premiums	-\$1.30	-\$1.30	-\$1.30
GILTI	-\$24.20	-\$23.50	-\$23.70
Deduction for Meal Expenditures	\$0.00	\$0.00	-\$3.10
Allowing Itemized Deductions*	-\$121.20	-\$61.50	-\$62.10
Capital Contributions	Negligible	Negligible	Negligible
<b>Total State General Fund Impact</b>	<b>-\$175.00</b>	<b>-\$121.40</b>	<b>-\$126.40</b>

\* Allowing itemized deductions is effective for tax year (TY) 2020. FY 2022 includes estimate for TY 2020 (-\$60.3) and TY 2021 (-\$60.9).

The Department of Revenue also noted that it is unable to determine the fiscal impact of provisions relating to the Paycheck Protection Program and of exempting GILTI before any deductions allowed under section 250(a)(1)(B) of the IRC.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Taxation; income tax; unemployment fraud