

## HOUSE BILL No. 2836

By Committee on Taxation

Requested by Representative Helgerson

3-13

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. 2023 Supp. 79-  
5 32,284 and 79-32,287 and repealing the existing sections.  
6

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

8 Section 1. K.S.A. 2023 Supp. 79-32,284 is hereby amended to read as  
9 follows: 79-32,284. (a) K.S.A. 2023 Supp. 79-32,284 through 79-32,289,  
10 and amendments thereto, shall be known and may be cited as the salt  
11 parity act.

12 (b) The legislature finds and declares that:

13 (1) The deductibility of state income taxes should be the same for C  
14 corporations, S corporations and partnerships; *and*

15 (2) *the purpose of the tax credit in K.S.A. 2023 Supp. 79-32,288, and*  
16 *amendments thereto, is to avoid double taxation of income on electing*  
17 *pass-through entity owners.*

18 (c) The provisions of this act shall be a part of and supplemental to  
19 the Kansas income tax act.

20 Sec. 2. K.S.A. 2023 Supp. 79-32,287 is hereby amended to read as  
21 follows: 79-32,287. (a) With respect to any taxable period for which it has  
22 made the election under K.S.A. 2023 Supp. 79-32,286, and amendments  
23 thereto, an electing pass-through entity shall be subject to a tax in an  
24 amount equal to ~~5.7%~~ *of the highest rate of tax for the applicable income*  
25 *tax year under K.S.A. 79-32,110(a), and amendments thereto, multiplied*  
26 *by the sum of:*

27 (1) ~~Each resident nonresident electing pass-through entity owner's~~  
28 ~~pro rata or distributive share of the electing pass-through entity's income~~  
29 ~~and each nonresident electing pass-through entity owner's distributive~~  
30 ~~share of income attributable to the state, all as; and~~

31 (2) *each resident electing pass-through entity owner's pro rata or*  
32 *distributive share of the electing pass-through entity's income calculated*  
33 *as either: (A) The sum of income attributable to the state and income not*  
34 *attributable to the state; or (B) income attributable to the state. The*  
35 *electing pass-through entity must use the same method of calculation for*

1 *all resident electing pass-through entity owners. The provisions of*  
2 *paragraphs (1) and (2) shall be determined pursuant to K.S.A. 79-32,130,*  
3 *79-32,131, 79-32,133 and 79-32,139, and amendments thereto.*

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

9 (c) Any credit allowed pursuant to article 32 of chapter 79 of the  
10 Kansas Statutes Annotated, and amendments thereto, ~~except K.S.A. 79-~~  
11 ~~32,111(a), and amendments thereto,~~ that is attributable to the activities of  
12 an electing pass-through entity in the taxable year shall be *passed through*  
13 *to and* claimed by the entity and ~~not passed through to or claimed by the~~  
14 ~~electing pass-through entity owner only for taxable periods when the~~  
15 ~~election is allowed and made by an electing pass-through entity under~~  
16 ~~K.S.A. 2023 Supp. 79-32,286, and amendments thereto. Notwithstanding~~  
17 ~~any provision to the contrary in article 32 of chapter 79 of the Kansas~~  
18 ~~Statutes Annotated, and amendments thereto, any excess income tax credit,~~  
19 ~~net operating loss or other modification may be carried forward on the~~  
20 ~~electing pass-through entity's return but may only be utilized in a year in~~  
21 ~~which the electing pass-through entity has made the election allowed in~~  
22 ~~K.S.A. 2023 Supp. 79-32,286, and amendments thereto, except that any~~  
23 ~~limitation specified in the specific section for an income tax credit, the net~~  
24 ~~operating loss or any other modification shall apply to the electing pass-~~  
25 ~~through entity. If in a taxable period subsequent to a period in which an~~  
26 ~~election under K.S.A. 2023 Supp. 79-32,286, and amendments thereto,~~  
27 ~~was made, an election under K.S.A. 2023 Supp. 79-32,286, and~~  
28 ~~amendments thereto, is not allowed or not made by an electing pass-~~  
29 ~~through entity, any excess income tax credits may be transferred to the~~  
30 ~~electing pass-through entity owners. Any excess income tax credits shall~~  
31 ~~be available to each electing pass-through owner in the same proportion~~  
32 ~~and manner as would have applied without the election under K.S.A. 2023~~  
33 ~~Supp. 79-32,286, and amendments thereto, for the taxable period in which~~  
34 ~~each respective income tax credit was generated. All other rights and~~  
35 ~~obligations pertaining to the excess income tax credits shall be transferred~~  
36 ~~to the electing pass-through entity owners.~~

37 (d) *Any modification to federal taxable income pursuant to K.S.A. 79-*  
38 *32,117 or 79-32,138, and amendments thereto, and any expensing*  
39 *deduction allowed pursuant to K.S.A. 79-32,143a, and amendments*  
40 *thereto, that is attributable to the activities of an electing pass-through*  
41 *entity in the taxable year shall be claimed on:*

42 (1) *The electing pass-through entity's return; and*

43 (2) *each electing pass-through entity owner's individual return, in the*

1 *same proportion and manner as would have applied without the election*  
2 *under K.S.A. 2023 Supp. 79-32,286, and amendments thereto.*

3 (e) The provisions of article 32 of chapter 79 of the Kansas Statutes  
4 Annotated, and amendments thereto, regarding the collection,  
5 administration and enforcement of tax shall be applicable to the tax due  
6 under this section, and notwithstanding the provisions of K.S.A. 79-32,129  
7 and 79-32,139, and amendments thereto, an electing pass-through entity  
8 shall be a taxpayer.

9 (f) *The provisions of this section shall apply to taxable years*  
10 *commencing on or after January 1, 2022.*

11 Sec. 3. K.S.A. 2023 Supp. 79-32,284 and 79-32,287 are hereby  
12 repealed.

13 Sec. 4. This act shall take effect and be in force from and after its  
14 publication in the statute book.