

SENATE BILL No. 196

By Committee on Assessment and Taxation

2-15

1 AN ACT concerning income taxation; relating to deductions; expanding
2 the expense deduction to all taxpayers; amending K.S.A. 2018 Supp.
3 79-32,143a and repealing the existing section.
4

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

6 Section 1. K.S.A. 2018 Supp. 79-32,143a is hereby amended to read
7 as follows: 79-32,143a. (a) For taxable years beginning after December 31,
8 ~~2011~~ 2018, a taxpayer may elect to take an expense deduction from
9 Kansas net income before expensing or recapture allocated or apportioned
10 to this state for the cost of the following property placed in service in this
11 state during the taxable year: (1) Tangible property eligible for
12 depreciation under the modified accelerated cost recovery system in
13 section 168 of the internal revenue code, as amended, but not including
14 residential rental property, nonresidential real property, any railroad
15 grading or tunnel bore or any other property with an applicable recovery
16 period in excess of 25 years as defined under section 168(c) or (g) of the
17 internal revenue code, as amended; and (2) computer software as defined
18 in section 197(e)(3)(B) of the internal revenue code, as amended, and as
19 described in section 197(e)(3)(A)(i) of the internal revenue code, as
20 amended, to which section 167 of the internal revenue code, as amended,
21 applies. If such election is made, the amount of expense deduction for such
22 cost shall equal the difference between the depreciable cost of such
23 property for federal income tax purposes and the *sum of the* amount of
24 bonus depreciation being claimed for such property pursuant to section
25 168(k) *and the amount of expensing deduction being claimed for such*
26 *property pursuant to section 179* of the internal revenue code, as amended,
27 for federal income tax purposes in such tax year, ~~but without regard to any~~
28 ~~expense deduction being claimed for such property under section 179 of~~
29 ~~the internal revenue code, as amended,~~ multiplied by the applicable factor,
30 determined by using, the table provided in subsection (f), based on the
31 method of depreciation selected pursuant to section 168(b)(1), (2), or (3)
32 or (g) of the internal revenue code, as amended, and the applicable
33 recovery period for such property as defined under section 168(c) or (g) of
34 the internal revenue code, as amended. This election shall be made by the
35 due date of the original return, including any extensions, and may be made
36 only for the taxable year in which the property is placed in service, and

1 once made, shall be irrevocable. ~~If the section 179 expense deduction~~
2 ~~election has been made for federal income tax purposes for any asset, the~~
3 ~~applicable factor to be utilized is in the IRC § 168 (b)(1) column of the~~
4 ~~table provided in subsection (f) for the applicable recovery period of the~~
5 ~~respective assets.~~

6 (b) If the amount of expense deduction calculated pursuant to
7 subsection (a) exceeds the taxpayer's Kansas net income before expensing
8 or recapture allocated or apportioned to this state, such excess amount
9 shall be treated as a Kansas net operating loss as provided in K.S.A. 79-
10 32,143, and amendments thereto.

11 (c) If the property for which an expense deduction is taken pursuant
12 to subsection (a) is subsequently sold during the applicable recovery
13 period for such property as defined under section 168(c) of the internal
14 revenue code, as amended, and in a manner that would cause recapture of
15 any previously taken expense or depreciation deductions for federal
16 income tax purposes, or if the situs of such property is otherwise changed
17 such that the property is relocated outside the state of Kansas during such
18 applicable recovery period, then the expense deduction determined
19 pursuant to subsection (a) shall be subject to recapture and treated as
20 Kansas taxable income allocated to this state. The amount of recapture
21 shall be the Kansas expense deduction determined pursuant to subsection
22 (a) multiplied by a fraction, the numerator of which is the number of years
23 remaining in the applicable recovery period for such property as defined
24 under section 168(c) or (g) of the internal revenue code, as amended, after
25 such property is sold or removed from the state including the year of such
26 disposition, and the denominator of which is the total number of years in
27 such applicable recovery period.

28 (d) The situs of tangible property for purposes of claiming and
29 recapture of the expense deduction shall be the physical location of such
30 property. If such property is mobile, the situs shall be the physical location
31 of the business operations from where such property is used or based. The
32 situs of computer software shall be apportioned to Kansas based on the
33 fraction, the numerator of which is the number of the taxpayer's users
34 located in Kansas of licenses for such computer software used in the active
35 conduct of the taxpayer's business operations, and the denominator of
36 which is the total number of the taxpayer's users of the licenses for such
37 computer software used in the active conduct of the taxpayer's business
38 operations everywhere.

39 (e) Any member of a unitary group filing a combined report may
40 elect to take an expense deduction pursuant to subsection (a) for an
41 investment in property made by any member of the combined group,
42 provided that the amount calculated pursuant to subsection (a) may only be
43 deducted from the Kansas net income before expensing or recapture

1 allocated to or apportioned to this state by such member making the
 2 election.

3 (f) The following table shall be used in determining the expense
 4 deduction calculated pursuant to subsection (a):

Factors				
IRC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)	
Recover Period	Depreciation	Depreciation	Depreciation	
(year)	Method	Method	Method	
5				
6				
7				
8				
9	2.5	*	.077	.092
10	3	.075	.091	.106
11	3.5	*	.102	.116
12	4	*	.114	.129
13	5	.116	.135	.150
14	6	*	.154	.170
15	6.5	*	.163	.179
16	7	.151	.173	.190
17	7.5	*	.181	.199
18	8	*	.191	.208
19	8.5	*	.199	.217
20	9	*	.208	.226
21	9.5	*	.216	.235
22	10	.198	.224	.244
23	10.5	*	.232	.252
24	11	*	.240	.261
25	11.5	*	.248	.269
26	12	*	.256	.277
27	12.5	*	.263	.285
28	13	*	.271	.293
29	13.5	*	.278	.300
30	14	*	.285	.308
31	15	*	.299	.323
32	16	*	.313	.337
33	16.5	*	.319	.344
34	17	*	.326	.351
35	18	*	.339	.365
36	19	*	.351	.378
37	20	*	.363	.391
38	22	*	.386	.415
39	24	*	.408	.438
40	25	*	.419	.449

41 *Not Applicable

42 (g) If a taxpayer elects to expense any investment pursuant to
 43 subsection (a), such taxpayer shall not be eligible for any tax credit,
 44 accelerated depreciation, or deduction for such investment allowed

1 pursuant to K.S.A. 2018 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-
2 32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-
3 32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-
4 32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and
5 amendments thereto.

6 (h) (1) For tax year 2013, the deduction allowed by this section shall
7 only be available to taxpayers subject to the income tax on corporations
8 imposed pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and
9 amendments thereto, and used only to determine such taxpayer's corporate
10 income tax liability.

11 (2) For tax ~~year~~ years 2014, ~~and all tax years thereafter~~ 2015, 2016,
12 2017 and 2018, the deduction allowed by this section shall only be
13 available to taxpayers subject to the income tax on corporations imposed
14 pursuant to ~~subsection (e)~~ of K.S.A. 79-32,110(c), and amendments
15 thereto, or the privilege tax imposed upon any national banking
16 association, state bank, savings bank, trust company or savings and loan
17 association pursuant to article 11 of chapter 79 of the Kansas Statutes
18 Annotated, and amendments thereto, and used only to determine such
19 taxpayer's corporate income or privilege tax liability.

20 (i) *For tax year 2019, and all tax years thereafter, the deduction*
21 *allowed by this section shall be available to all taxpayers subject to the*
22 *income tax imposed pursuant to K.S.A. 79-32,110, and amendments*
23 *thereto, or the privilege tax imposed upon any national banking*
24 *association, state bank, savings bank, trust company or savings and loan*
25 *association pursuant to article 11 of chapter 79 of the Kansas Statutes*
26 *Annotated, and amendments thereto, and used only to determine such*
27 *taxpayer's income or privilege tax liability.*

28 Sec. 2. K.S.A. 2018 Supp. 79-32,143a is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.