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NOTICE 12-12

S CORPORATIONS OWNING BANKS, SAVINGS AND LOANS, OR FEDERAL SAVINGS ASSOCIATIONS

Generally

The calculation of an individual's Kansas income tax starts with federal adjusted gross income. Certain modifications, either additions or subtractions, required by K.S.A. 79-32,117 are then made to arrive at Kansas adjusted gross income.

During the 2012 Legislative Session House Bill 2117 was passed and signed into law. Provisions in Section 12 of the Bill add five new addition modifications and one new subtraction modification to K.S.A. 79-32,117. The overall effect of these new provisions is to exempt certain categories of income from Kansas income tax. For additional information about addition modifications for losses and deductions and subtraction modifications for income, please see Notice 12-11.

Subtraction Modifications Affecting Income From A Bank, Savings and Loan, or Federal Savings Association

Section 12 of the Bill amends K.S.A. 79-32,117 to add language to the subtraction modification found in paragraph (c)(xiv), and to add a new subtraction modification in paragraph (c)(xx). The italicized language below indicates the changes made and new language:

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

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. *For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.*

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

The new subtraction modification at K.S.A. 79-32,117(c)(xx), specifically (c)(xx)(2), allows taxpayers who are stockholders of S corporations to subtract income properly reported on federal Schedule E and on line 17 of the federal Form 1040 in computing their Kansas adjusted gross income. This applies to both distributed and undistributed income.

The subtraction modification at K.S.A. 79-32,117(c)(xiv) allows taxpayers who are stockholders of S corporation banks, savings and loans, or federal savings associations to subtract any undistributed S corporation bank, savings and loan, or federal savings association income in computing their Kansas adjusted gross income. The new language found in K.S.A. 79-32,117(c)(xiv) provides that the subtraction modification found in this paragraph cannot include income or loss properly reported on federal Schedule E and on line 17 of the federal Form 1040. This limiting language prevents a taxpayer from claiming two subtraction modifications for the same income. In other words, taxpayers who are stockholders of S corporation banks, savings and loans, or federal savings associations cannot subtract undistributed S corporation bank, savings and loan, or federal savings association income under the provisions of both K.S.A. 79-32,117(c)(xiv) and (c)(xx).

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, **www.ksrevenue.org**. If you have questions about income tax, please contact:

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