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NOTICE 13-03

CHANGES TO KANSAS TAXES DUE TO CHANGES RELATED TO ABORTION LAWS

During the 2013 Legislative Session HB 2253 was passed and signed into law. The Bill makes several changes to abortion laws in Kansas, including changes to various tax provisions. This Notice addresses the changes to the various tax provisions, all of which are effective for tax years commencing after December 31, 2013.

New Section 2 of the Bill declares that life begins at fertilization and, effective July 1, 2013, gives the unborn child certain rights, privileges and immunities. This declaration does not mean that an unborn child can be claimed as a "dependent" on the Kansas income tax return.

In order for a Kansas income taxpayer to claim a dependent on the Kansas income tax return, the taxpayer must also claim that person as a dependent on the taxpayer's federal income tax return. Kansas looks to federal income tax law for the determination of who is or is not considered to be a dependent. In order to make the claim of an exemption for a dependent on the Kansas income tax return, a claim of exemption for a dependent must first be properly made on the taxpayer's federal income tax return. The same rational would apply in claiming any other Kansas tax benefit related to the federal determination of dependency status, such as the Kansas earned income tax credit.

Under federal income tax law an unborn child is not considered to be a dependent. Only upon live birth can the child be considered as a dependent.

In addition, Kansas law requires that the social security numbers for all dependents be entered on the taxpayer's Kansas income tax return. Without a social security number, an exemption claimed for a dependent will not be allowed.

Section 11 of the Bill amends K.S.A. 2012 Supp. 40-2246. This statute provides a credit against Kansas income tax to an employer for amounts paid during the taxable year on behalf of an eligible employee to provide health insurance or care and amounts contributed to health savings accounts of eligible covered employees. The amendment provides that no credit shall be allowed for that portion of any amounts paid by an employer for healthcare expenditures, a health benefit plan, or amounts contributed to health savings accounts for the purchase of an option rider for coverage of abortion.

Section 17 of the Bill amends K.S.A. 2012 Supp. 79-32,117. This statute provides certain addition and subtraction modifications in computing a taxpayer's Kansas adjusted gross income. The amendments include two new addition modifications.

One addition modification is for that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan for the purchase of an optional rider for coverage of an abortion, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

The other addition modification is for that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan when such expenses were paid or incurred for abortion coverage, or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of an abortion, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

Section 18 of the Bill amends K.S.A. 2012 Supp. 79-32,138. This statute provides for the imposition of the corporate income tax. The amendment provides that there shall be added to federal adjusted gross income that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan when such expenses were paid or incurred for abortion coverage, or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion.

Section 19 of the Bill amends K.S.A. 2012 Supp. 79-32,182b. This statute provides a credit for certain research and development expenses. The amendment provides that expenditures in research and development activities shall not include any expenditures for the performance of any abortion.

Section 20 of the Bill amends K.S.A. 2012 Supp. 79-32,195. This statute contains definitions related to an income and privilege tax credit for community services contributions. The amendment changes the definition of "health care services" to provide that health care services shall not include any service involving the performance of any abortion.

Section 21 of the Bill amends K.S.A. 2012 Supp. 79-32,261. This statute provides an income tax, premium tax, or privilege tax credit for certain contributions to a community college located in Kansas for capital improvements, to a technical college for deferred maintenance or the purchase of technology or equipment, or to a postsecondary educational institution located in Kansas for deferred maintenance. This credit does not apply to tax year 2013 or later years. The amendment changes the definition of "deferred maintenance" to provide that deferred maintenance shall not include any maintenance, repair, reconstruction or rehabilitation of any building in which any abortion is performed.

Section 22 of the Bill amends K.S.A. 79-3606. This statute provides for exemptions from the Kansas retailers' sales tax. Four subsections are amended.

The first amendment changes the exemption at K.S.A. 79-3606(p) for prescription drugs to provide that the exemption shall not apply to any sales of drugs used in the performance or induction of an abortion.

The second amendment changes the exemption at K.S.A. 79-3606(ll) for sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health to provide that the exemption shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion.

The third amendment changes the exemption at K.S.A. 79-3606(rr) for sales of tangible personal property which will admit the purchaser to any annual event sponsored by a nonprofit organization which is exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code to provide that the exemption shall not apply to any sales of tangible personal property purchased by a nonprofit organization which performs any abortion.

The fourth amendment changes the exemption at K.S.A. 79-3606(ccc) for sales of tangible personal property and services purchased by a primary care clinic or health center which is exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code whose primary purpose is to provide services to medically underserved individuals and families, and sales of tangible personal property and services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation if purchased directly by the clinic or center, to provide that the exemption shall not apply to any sales of tangible personal property and services purchased by a primary health care clinic or health center which performs any abortion.

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 or sales tax, please contact:

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