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NOTICE 13-04

KANSAS PRIVILEGE TAX - LOSSES

During the 2012 Legislative Session HB 2117 was passed and signed into law. Section 12 of the Bill amended K.S.A. 79-32,117, which deals with addition and subtraction modifications, to add a new addition modification. The new modification, which was codified as K.S.A. 2012 Supp. 79-32,117(b)(xix), provided for the addition of:

> (xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss 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) loss 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) farm loss 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 deducted or subtracted in determining 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.

During the 2013 Legislative Session in House Substitute for Senate Bill 83. Section 3 of the Bill amended K.S.A. 2012 Supp. 79-32,117(b)(xix) to provide:

> (xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss 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) loss from rental real estate, royalties, partnerships, S corporations, *except those with wholly owned subsidiaries subject to the Kansas privilege tax,* 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) farm loss 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 deducted or subtracted in determining 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.

As a result of this amendment S corporations with wholly owned subsidiaries subject to Kansas privilege tax will not be subject to the K.S.A. 2012 Supp. 79-32,117(b)(xix) requirement to add back losses reported from Schedule E and on Line 17 of the taxpayer's federal Form 1040 income tax return.

House Sub for SB 83 indicates it is effective upon publication in the Kansas Register. The Department of Revenue is interpreting the amended provisions of K.S.A. 79-32,117(b)(xix) to be effective for tax years 2013 and after.

Taxpayer Assistance

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

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