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NOTICE 13-11

ITEMIZED DEDUCTIONS FOR INDIVIDUAL INCOME TAX
(July 1, 2013)

[Note: This Notice replaces Notice 12-07 which has been revoked.]

During the 2013 Legislative Session House Substitute for Senate Bill 83 and House Bill 2059 were passed and signed into law. Each of these enactments addressed deductions for individuals for Kansas income tax purposes.

K.S.A. 79-32,118 deals with the type of deduction that can be claimed by an individual on their Kansas income tax return. Prior to amendment by House Sub for SB 83 the statute provided:

> Commencing in tax year 2013, the Kansas deduction of an individual shall be such individual's Kansas standard deduction.

Section 4 of House Sub for SB 83 amends K.S.A. 79-32,118 to specifically recognize that an individual can elect to itemize their deductions on their Kansas return. The new language provides:

> ~~Commencing in tax year 2013~~, The Kansas deduction of an individual shall be such individual's Kansas standard deduction *unless such individual elects to deduct such individual's Kansas itemized deductions under the conditions set forth in K.S.A. 79-32,120, and amendments thereto.*

K.S.A. 79-32,120, which expressly allows itemized deductions, was amended in Section 2 of HB 2059. The new language provides for an overall phase-down of the amount of the itemized deduction to be allowed. The phase-down begins with tax year 2013, when itemized deductions are limited to 70% of the amount used on the federal return, (but excluding state and local income tax imposed or paid, as indicated in K.S.A. 79-32,120(b)) and continues through tax year 2017 when only 50% of the amount used on the federal return (excluding state and local income tax imposed or paid, as indicated in K.S.A. 79-32,120(b)) may be used for Kansas purposes.

There are two exceptions to the phase-down provisions. First, charitable contributions are not subject to the phase-down. Second, beginning in tax year 2014 wagering losses can no longer be claimed as an itemized deduction.

The new language of the statute provides as follows:

(a) *(1)* If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

(2) For the tax year commencing on January 1, 2013, the Kansas itemized deduction of an individual means *70% of* the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(3) For the tax year commencing on January 1, 2014, the Kansas itemized deduction of an individual means 65% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(4) For the tax year commencing on January 1, 2015, the Kansas itemized deduction of an individual means 60% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(5) For the tax year commencing on January 1, 2016, the Kansas itemized deduction of an individual means 55% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(6) For tax years commencing on and after January 1, 2017, the Kansas itemized deduction of an individual means 50% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2012 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

(c) The provisions of this section that provide for a reduction in the total amount of deductions from federal adjusted gross income shall not apply to contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code, and amendments thereto.

(d) Notwithstanding any provision of this section to the contrary, for taxable years commencing after January 1, 2013, the total amount of deductions from federal adjusted gross income shall be reduced by the total amount of wagering losses

claimed as an itemized deduction in section 165(d) of the federal internal revenue code, and amendments thereto.

Taxpayer Assistance

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