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Notice 14-11

Amended Definition of Income for
Homestead Property Or Property Tax Relief Refund Claims
Retroactive to 2013

(July 1, 2014)

During the 2014 Legislative Session Senate Bill 265 was passed and signed into law. Section 2 of the Bill amends K.S.A. 79-4502, which defines terms used for homestead property tax relief claims, to change the definition of "income".

In 2012 the Kansas Legislature enacted major changes to the Kansas income tax act which were effective for tax year 2013. The calculation of Kansas adjusted gross income was changed by the enactment of a new subtraction modification which exempted certain business income from Kansas income tax, and new addition modifications which made certain business losses and deductions subject to the tax. [See Notice 12-11] The new addition modifications were included in K.S.A. 79-32,117, as subsection (b)(xx) through (xxiii) and the new subtraction modification was included as subsection (c)(xx).

The amount of adjusted gross income determined under the Kansas income tax act is used as the starting point in the calculation of income for homestead property tax refund claims. Section 2 of Senate Bill 265 changes the manner in which income is computed for homestead property tax refund purposes by disregarding some of those modifications which were enacted in 2012. The amended language, found in subsection (a) of K.S.A. 79-4502, now provides:

> (a) "Income" means the sum of adjusted gross income under the Kansas income tax act *effective for tax year 2013 and thereafter without regard to any modifications pursuant to K.S.A. 79-32,117(b)(xx) through (xxiii) and (c)(xx), and amendments thereto,* maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental

> sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

The revised definition of income for homestead property tax refund claims is also used for property tax relief refund claims made under the selective assistance for effective senior relief (SAFESR) program. The controlling statute, K.S.A. 79-32,263 has been amended to provide, in part, that:

> For purposes of this section, "household income" means all income *as defined in K.S.A. 79-4502(a), and amendments thereto*, including *any* payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

Although enacted during the 2014 Legislative Session, the amendments to K.S.A. 79-4502(a) are effective for tax year 2013. As a result, anyone who filed a homestead property or property tax relief refund claim for tax year 2013 should review their claim to see whether they still meet the income qualifications. Anyone who does not qualify will be required to repay the amount they received. In that event, please contact the Department of Revenue for instructions on how to file an amended claim and repay the amount received.

Taxpayer Assistance

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

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