Policy and Research
109 SW 9th Street
PO Box 3506
Topeka KS 66601-3506
Mark A. Burghart, Secretary

Kansas
Department of Revenue

Phone: 785-368-8222
Fax: 785-296-1279
www.ksrevenue.org
Laura Kelly, Governor

NOTICE 21-20

EXCLUSION OF COMPENSATION FRAUDULENTLY OBTAINED BY ANOTHER PERSON
(AUGUST 9, 2021)

During the 2021 Legislative Session Senate Bills 47 and 50 were passed and signed into law. These Bills include new sections that provide an individual whose identity was fraudulently used to obtain unemployment compensation, or other compensation, which was never received by the individual, need not include the compensation in their income for tax purposes. Such compensation / benefits are specifically deemed not taxable for Kansas income tax purposes. New Section 10 of Senate Bill 47 provides:

> New Sec. 10. (a) Notwithstanding any other provision of law, for any individual whose identity was fraudulently used to secure any type of compensation, if such individual never received such compensation, such compensation shall not be considered gross income and shall not be taxable for Kansas income tax purposes after determination by the department of revenue that the compensation was obtained fraudulently by another individual.
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> (b) The department of revenue shall provide a method for any taxpayer subject to the Kansas income tax act to report to the department of revenue whether such taxpayer was a victim of fraud due to identity theft and whether such fraud resulted in the reporting of any income to the federal internal revenue service. The report shall include, but not be limited to, the amount of the income reported to the federal internal revenue service due to fraud, if known.

Similarly, New Section 5 of Senate Bill 50 provides:

> New Sec. 5. Notwithstanding any other provision of law, for any individual whose identity was fraudulently used to secure unemployment compensation, if such individual never received such compensation, such compensation shall not be considered gross income and shall not be taxable for Kansas income tax purposes after determination by the department of labor that the benefits were obtained fraudulently by another individual.

An individual whose identity was fraudulently used to obtain unemployment compensation, or other compensation, which was paid to someone other than themselves, may receive a Form 1099 from the Kansas Department of Labor, or from another payer. If so, the income shown on the Form 1099 should not be reported on the individual's Kansas income tax return. If the income shown on the Form 1099 is reported on the individual's federal 1040 and is included in federal

adjusted gross income, the amount of income shown on the Form 1099 should be shown as a subtraction modification on Kansas Schedule S, Part A.

Additional information regarding the reporting of fraud to the Department of Revenue will soon be posted on the Department's website.

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:

Taxpayer Assistance Center
Kansas Department of Revenue
Scott Office Building, 1st Floor
120 SE 10th Ave
P. O. Box 3506
Topeka, KS 66601-3506
Phone: 785-368-8222
Fax: 785-291-3614