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.gov
Laura Kelly, Governor

NOTICE 24-03

CONTRIBUTIONS TO CERTAIN EDUCATION SAVINGS ACCOUNTS OR ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS

(JUNE 5, 2024)

During the 2024 Legislative Session Senate Bill 360 was passed and signed into law. Section 2 of the Bill amended K.S.A. 79-32,117, to make changes to the income tax modification for contributions to certain education savings accounts and for contributions to an achieving a better life experience (ABLE) account.

In accordance with K.S.A. 79-32,117, certain addition and subtraction modifications are made to a taxpayer's federal adjusted gross income to determine the taxpayer's Kansas adjusted gross income. Subsection (c)(xv) permits a subtraction modification for contributions to certain education savings accounts, or to an achieving a better life experience (ABLE) account. The annual contribution amount for each designated beneficiary is capped at $3,000 for an individual, and at $6,000 for a married couple filing jointly.

Prior to amendment, the amount of the contribution could be claimed as a subtraction modification only for the tax year in which the contribution was made. The amended language expands this period for all tax years beginning after December 31, 2022. The subsection, with the *new language*, provides:

> (c)(xv) The cumulative amounts not exceeding $3,000, or $6,000 for a married couple filing a joint return, for each designated beneficiary that are contributed to: (1) A family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary; or (2) an achieving a better life experience (ABLE) account established under the Kansas ABLE savings program or a qualified ABLE program established and maintained by another state or agency or instrumentality thereof pursuant to section 529A of the internal revenue code of 1986, as amended, for the purpose of saving private funds to support an individual with a disability. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and amendments thereto, and the provisions of such sections are hereby incorporated by reference for all purposes thereof. *For all taxable years beginning after December 31, 2022, contributions made to a qualified tuition program account or a qualified ABLE program account pursuant to this paragraph on and after January 1 but prior to the date required for filing a return pursuant to K.S.A. 79-3221, and amendments thereto, of the successive taxable year may be elected by the taxpayer to apply to the prior*

taxable year if such election is made at the time of filing the return. No contribution shall be used as a modification pursuant to this paragraph in more than one taxable year.

In accordance with prior law, taxpayers who contributed to a qualified tuition program account, as defined in subsection (xv), or to a qualified ABLE program account, as defined in subsection (xv) during tax year 2023 may claim a subtraction modification for the contribution on their 2023 Kansas income tax return. In accordance with the new language, a taxpayer who contributed to a qualified tuition program account or a qualified ABLE program account during tax year 2024, but prior to the date required for filing their tax year 2023 return, may claim a subtraction modification for the contribution on either their tax year 2023 return or their tax year 2024 return. In subsequent years, taxpayers making contributions to a qualified tuition program account, or a qualified ABLE program account, have the option of claiming a subtraction modification for the contribution in either: (1) the tax year of the contribution, or (2) the prior tax year if the contribution is made prior to the date required for filing their tax return for the prior tax year. For purposes of these provisions, the date required for filing a tax return is April 15th, and extensions of time to file are not recognized.

It should be noted K.S.A 79-32,117(b)(x) requires an addition modification for nonqualified withdrawals from a post-secondary education savings account if such amounts were subtracted from federal adjusted gross income pursuant to K.S.A. 79-32,117(x)(v) or if such amounts are not already included in the federal adjusted gross income. The law does not include an addition modification for withdrawals from an ABLE program account.

TAXPAYER ASSISTANCE

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.gov. 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