

NOTICE 13-12

FOOD SALES TAX CREDIT (July 1, 2013)

During the 2012 Legislative Session Senate Substitute for House Bill 2117 was passed and signed into law. Section 40 of the Bill provides that as of January 1, 2013, the food sales tax refund statutes found in K.S.A. 79-3633 through 79-3639 are repealed. As a result, effective for tax year 2013, food sales tax refunds are no longer allowed under these provisions. See Notice 12-13 for further information in this regard.

During the 2013 Legislative Session House Bill 2059 was passed and signed into law. New Section 7 of this Bill provides an income tax credit for certain individuals who purchased food in Kansas. The credit, which will be available for tax years commencing on or after January 1, 2013, will be claimed on the individual's Kansas income tax return. In order to qualify for the credit:

- (1) The taxpayer must have purchased food in Kansas.
- (2) The taxpayer must have had federal adjusted gross income for the year that did not exceed \$30,615.
- (3) During the entire tax year a taxpayer filing single, head of household, or married filing separate, or the taxpayer and the taxpayer's spouse if married filing jointly, must be domiciled in Kansas. Domicile does not include a correctional facility, jail or prison.
- (4) During the entire tax year a taxpayer filing single, head of household, or married filing separate, or the taxpayer or the taxpayer's spouse if married filing jointly, must be either:
 - (a) A person having a disability, regardless of age;
 - (b) A person without a disability who is 55 years of age or older; or
 - (c) A person without a disability who is younger than 55 years of age who claims an exemption for one or more dependent children under 18 years of age.

The term "disability" is defined in Section 7(g) of HB 2059.

The amount of the credit is \$125 for every exemption claimed on the taxpayer's federal income tax return, except that no deduction shall be counted for a dependent unless the dependent is under 18 years of age. Those filing as head of household will not be allowed an extra exemption.

The credit is to be applied against the taxpayer's Kansas income tax liability after all other credits allowed under the Kansas income tax act. The credit is not refundable, and cannot be carried forward.

The language of the new statute provides as follows:

New Sec. 7. (a) For any taxable year commencing after December 31, 2012, a credit shall be allowed against the tax imposed by the Kansas income tax act on the Kansas taxable income of an individual income taxpayer who purchased food in this state, had federal adjusted gross income for the tax year that did not exceed \$30,615, and meets the qualifications in subsections (b) and (c).

(b) During the entire tax year a taxpayer filing single, head of household, or married filing separate, or the taxpayer and the taxpayer's spouse if married filing jointly, must be domiciled in this state. For purposes of this credit, "domicile" shall not include any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

(c) During the entire tax year a taxpayer filing single, head of household, or married filing separate, or the taxpayer or the taxpayer's spouse if married filing jointly, must be either: (1) A person having a disability, regardless of age; (2) a person without a disability who is 55 years of age or older; or (3) a person without a disability who is younger than 55 years of age who claims an exemption for one or more dependent children under 18 years of age.

(d) The amount of the credit shall be \$125 for every exemption claimed on the taxpayer's federal income tax return, except that no exemption shall be counted for a dependent unless the dependent is a child under 18 years of age.

(e) The credit allowed under this provision shall be applied against the taxpayer's income tax liability after all other credits allowed under the income tax act. It shall not be refundable and may not be carried forward.

(f) (1) Every taxpayer claiming the credit shall supply the division in support of a claim, reasonable proof of domicile, age and disability.

(2) A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability as defined in subsection (g).

(g) "Disability" means: (1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of this paragraph, with respect to any individual, "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; and "physical

or mental impairment” means an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time. For purposes of this paragraph “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(h) The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary for the administration of the provisions of this section.

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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