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MEMORANDUM

TO: Governor's Council on Tax Reform

FROM: Kathleen Smith
Director of Research and Analysis

RE: Overview of State Tax Policy Changes Since 2012

DATE: September 24, 2019

Thank you for the opportunity to appear before the Council. Set forth on the following pages, you will find a brief description of the legislation implementing policy changes in the Kansas sales and income tax systems over the last eight years.

INCOME TAX LEGISLATION

2012 Legislative Session

Senate Substitute for House Bill 2117 lowered income tax rates by collapsing the then current three-bracket structure for individual income taxes (3.5, 6.25, and 6.45 percent) into a two-bracket system using rates of 3.0 and 4.9 percent beginning for tax year 2013. Additional provisions totally exempted certain non-wage business income that had been subject to individual income tax (income reported by LLC's, subchapter-S Corporations and sole proprietorships). Other provisions increased the standard deduction amount for head-of-household filers from $4,500 to $9,000 and for married taxpayers filing joint from $6,000 to $9,000. An additional provision of the bill eliminated a subtraction modification for certain long-term care expenditures.

Other sections repealed tax credits previously allowed for individuals (but not for corporations) for food sales tax rebates, abandoned well plugging, adoption expenses, agritourism, alternative fuel equipment expenditures, assistive technology, child and dependent care expenses, child day credit expenses, disabled access expenditures, environmental compliance expenditures, individual development account contributions, law enforcement training center contributions, small employer health benefit plan contributions, swine facility improvement expenditures, port authority contributions, telecommunications property tax payments, venture capital contributions, and certain temporary assistance to family contributors.

Senate Substitute for House Bill 2454 created a new individual income tax checkoff program to provide an additional funding source for the Kansas Creative Arts Industries Commission beginning in Tax Year 2013.

2013 Legislative Session

House Substitute for Senate Bill 83 increased the service fee assessed to set up an installment payment plan for delinquent tax liability in excess of 90 days from $10 to $25. The Department of Revenue was further authorized to assess a service fee of $50 for partial or full abatement requests and to withhold $22 for any funds remitted to the U.S. Internal Revenue Service.

House Bill 2059 made a number of adjustments to income tax law. A number of changes were enacted to Kansas itemized deductions. The deduction for certain gambling losses was repealed altogether. Most other itemized deductions (except the deduction for charitable contributions, which was fully retained) were reduced by 30 percent in tax year 2013; 35 percent in tax year 2014; 40 percent in tax year 2015; 45 percent in tax year 2016; and 50 percent in tax year 2017 and thereafter.

Kansas standard deduction levels for married taxpayers filing joint and for heads-of-household were reduced to $7,500 and $5,500 respectively, beginning in tax year 2013.

A new series of individual income tax rate cuts were provided beginning in tax year 2014, when the then current bottom bracket of 3.0 percent was reduced to 2.7 percent, and the then current top bracket of 4.9 percent was reduced to 4.8 percent. In tax year 2015, the top bracket was further reduced to 4.6 percent. The two rate brackets were set at 2.4 and 4.6 percent, respectively, in tax year 2016; 2.3 and 4.6 percent in tax year 2017; and 2.3 and 3.9 percent in tax year 2018.

Additional language partially restored the food sales tax rebate program beginning in tax year 2013, which had been repealed altogether by 2012 law. The income tax credits that may be claimed by eligible households would be nonrefundable, whereas under prior law (before the repeal) the credits had been refundable.

The bill placed 23 additional counties (generally those with populations of 15,000 or less) into the ROZ Program. The program offers individuals who relocate from outside of the state to qualifying counties a full state income tax exemption through tax year 2016 and the opportunity to receive student loan repayments from those qualifying counties that also have chosen to participate in a special repayment-matching program with the state.

House Bill 2253 disallowed the Small Employer Healthcare Credit for that portion of any amount paid by an employer for healthcare expenditures, a health benefit plan, or amounts contributed to health savings accounts for the purchase of an option rider for coverage of abortion; disallowed the Research and Development Credit for any expenditures in research and development activities that include performance of any abortion; disallowed the Community Service Contribution Credit for any contributions in health care services that involve performance of any abortion.

2014 Legislative Session

Senate Bill 265 changed the definition of income within the Homestead Refund Program; removed the income tax withholding requirement for nonresident pass-through entities; clarified amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; reinstated two adoption tax credits; provided an income tax subtraction modification associated with organ donation; created a tax deduction for the net gain from the sale of certain livestock; reinstated two tax credits for expenditures used to make a dwelling or facility accessible for persons with disabilities; and repealed the sunset date for the Kansas Taxpayer Transparency Act.

House Bill 2057 revised the definition of "community service" as the term is used in the Community Service Tax Credit Program; adds a subtraction modification to the income tax of retired employees of the City of Overland Park Police and Fire Departments.

Substitute for House Bill 2430 changed the Promoting Employment Across Kansas (PEAK) Program by allowing businesses to use either median or average wage to qualify for PEAK withholding. The bill allows PEAK benefits to be extended for an additional 2 years if the qualified company was receiving the PEAK benefits prior to January 1, 2013. The bill applied caps on the aggregate amount of PEAK benefits received by qualified companies that expand or relocate operations in Kansas.

Senate Substitute for House Bill 2506 created the Tax Credit for Low Income Students Scholarship Program Act, to provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas. The scholarship would be financed via a tax credit against corporate income, premium (insurance companies) and privilege (financial institutions) tax liability beginning with Tax Year 2014 in an amount equal to 70% of the amount contributed for scholarships.

House Bill 2643 added four Kansas counties to the Rural Opportunity Zone (ROZ) program, bringing the total number of designated counties to 77. The additional counties are Cherokee, Labette, Montgomery, and Sumner.

2015 Legislative Session

Senate Substitute for House Bill 2109 decelerated individual income tax rate reductions scheduled for future years. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket remained in effect through tax year 2017. The rates were set at 2.6 percent and 4.6 percent for tax year 2018.

This bill also changed the Kansas itemized deductions retroactive to January 1, 2015. With the exception of charitable contributions, mortgage interest, and property taxes paid, all Kansas itemized deductions were repealed. The then current changes in the percentage that may be deducted being phased in for mortgage interest and property taxes paid relative to the amount that otherwise was allowed for federal income tax purposes was accelerated such that the final 50 percent haircut scheduled for tax year 2017 was effective immediately for tax year 2015. (Charitable contributions remained fully deductible for Kansas taxpayers able to itemize at the state level, as under then current law.)

The bill restored, effective for tax year 2015, a tax credit that previously had been available for certain individual development account (IDA) contributions. That credit had been discontinued beginning in tax year 2013, pursuant to repeal in 2012 legislation.

The Rural Opportunity Zone (ROZ) program, which provided an income tax exemption and the repayment of certain student loans for certain individuals who establish residency in selected counties, was extended for five additional years. The program had been scheduled to sunset in tax year 2017, but now will not sunset until tax year 2022.

The bill created a special subtraction modification from federal adjusted gross income in calculating Kansas adjusted gross income for the net gain from the sale of Christmas trees.

The legislation required an individual claiming a tax credit to have a valid Social Security number for the entire taxable year for which the tax credit is claimed. An exception to this requirement is provided for military spouses in the case of married taxpayers filing jointly.

The bill revised, effective for tax year 2015, an income tax subtraction modification for certain pass-through non-wage business income to require that guaranteed payments from businesses are counted as income in determining Kansas adjusted gross income.

House Substitute for Senate Bill 270 amended Senate Substitute for HB 2109 and provided for a special formula that could provide additional income tax rate relief as early as tax year 2021 is amended to relax the current trigger (2 percent growth in most State General Fund [SGF] tax receipts) to 2.5 percent plus a further adjustment to account for growth in certain Kansas Public Employee Retirement System expenditures.

A special low-income exclusion provision would become applicable in tax year 2016 that generally eliminates all positive income tax liability for single filers with taxable income of $5,000 or less, and for married taxpayers filing joint with taxable income of $12,500 or less.

2016 Legislative Session

House Substitute for Senate Bill 149 created a new individual income tax checkoff program authorizing taxpayers to donate to local school districts of their choice. Moneys donated would be required to be treated as donations to school districts in accordance with K.S.A. 72-8210 and be reported as gifts for purposes of the Kansas Uniform Financial and Reporting Act.

The bill also changed the sunset for the Angel Investor Tax Credit program, which offers qualified investors transferable state income tax credits of 50 percent. The program was extended from tax year 2017 up to and including tax year 2021.

2017 Legislative Session

Senate Bill 30 made a number of changes in the Kansas individual income tax structure. The bill repealed, effective tax year 2017, the exemption for non-wage business income that had been in effect since tax year 2013.

It allowed as an itemized deduction for individual income tax purposes, 50% of medical expenses then allowed under federal law for tax year 2018; 75% in tax year 2019; and 100% in tax year 2020 and thereafter. Itemized deductions for mortgage interest and property taxes paid, then set at 50% of the federal allowable amounts, were increased to 75% for tax year 2019 and to 100% in tax year 2020.

A child and dependent care tax credit that had been repealed in 2012 was restored in stages. The credit is 12.5% of the allowable federal credit for tax year 2018, 18.75% for tax year 2019, and 25% for tax year 2020 and thereafter.

Starting in tax year 2018, the low-income exclusion threshold that generally eliminated all positive income tax liability was reduced from $12,500 to $5,000 for married filers and from $5,000 to $2,500 for single filers.

Individual income tax rates were increased beginning in tax year 2017 utilizing a three-bracket system with rates of 2.9%, 4.9%, and 5.2%. For tax year 2018 and all years thereafter, a three-bracket system with rates of 3.1%, 5.25%, and 5.7% was used. Additional formulaic provisions that could have provided for rate reductions in certain future years based on growth in selected State General Fund (SGF) tax receipts were repealed.

Senate Bill 19 amended the Tax Credit for Low Income Students Scholarship Program Act by amending the definition of "public school" within the Act to mean a school identified by Kansas State Board of Education (KSBE) as one of the lowest 100 performing schools with respect to student achievement. Additionally, the bill expanded eligibility for the tax credit to individuals and places an annual cap of $500,000 in contributions for any taxpayer for any tax year.

House Bill 2212 changed the due date for filing certain annual withholding tax forms from the last day of February to January 31.

2018 Legislative Session

House Bill 2067 amended Kansas law relating to savings accounts established for designated beneficiaries to pay for qualified disability expenses pursuant to sections 529 and 529A of the Internal Revenue Code of 1986. The bill allowed the proceeds from such an account established pursuant to section 529A to be transferred upon the death of a designated beneficiary to such beneficiary's estate or an account for another eligible individual specified by the designated beneficiary. The bill also disallowed the State, or any agency or instrumentality thereof, from seeking the proceeds from such an account, except when such action is otherwise required by the federal Social Security Act. The bill also extended a subtraction modification for purposes of Kansas individual income taxes to contributions made to a qualified savings account established pursuant to section 529A. Finally, the bill eliminated a requirement that expenditures made from a savings account established pursuant to section 529 must be used at an institution of postsecondary education in order for a taxpayer making contributions to such an account to be able to claim the subtraction modification.

Substitute for House Bill 2147 created a process by which certain Native American military veterans may apply for a refund of state individual income taxes improperly withheld.

2019 Legislative Session

House Bill 2039 created and amended law related to limited liability companies (LLCs) in the Kansas Revised Limited Liability Company Act (RLLCA), Business Entity Standard Treatment Act (BEST Act), and other statutes.

House Bill 2044 authorized a new income tax credit for tax years 2019 through 2023 equivalent to 15.0 percent of expenditures on goods and services purchased from "qualified vendors" or nonprofit "certified businesses," as those terms are defined by the bill, that provide a certain level of health insurance benefits and have at least 30.0 percent of their employees be resident Kansans with disabilities. The amount of the credit is capped at $500,000 per each qualified vendor each tax year. The cumulative amount of credits allowed is capped at $5.0 million. The tax credits are nonrefundable, and unused credits may carry forward for up to four years and apply against the liability of future tax years. The Secretary of Commerce must annually certify the qualified expenditures eligible for the tax credit and provide the amount to the Secretary of Revenue. The Secretary of Revenue must make an annual report to the standing taxation committees on the implementation and effectiveness of the tax credit program.

INDIVIDUAL INCOME TAX BRACKETS

Married Filing Joint								
	1992-2012			2013	2014	2015-2016	2017	2018 and forward
$0-$30,000	3.50%			3.00%	2.70%	2.70%	2.90%	3.10%
$30,001-$60,000	6.25%			4.90%	4.80%	4.60%	4.90%	5.25%
Over $60,000	6.45%			4.90%	4.80%	4.60%	5.20%	5.70%

Single, Head of Household, Married Filing Separate								
	1992-1996	1997	1998-2012	2013	2014	2015-2016	2017	2018 and forward
$0-$15,000*	4.40%	4.10%	3.50%	3.00%	2.70%	2.70%	2.90%	3.10%
$15,001-$30,000*	7.50%	7.50%	6.25%	4.90%	4.80%	4.60%	4.90%	5.25%
Over $30,000	7.75%	7.75%	6.45%	4.90%	4.80%	4.60%	5.20%	5.70%

*Brackets for Single, Head of Household and Married Filing Separate were $0-$20,000, $20,001-$30,000, and over $30,000 for Tax Years 1992 through 1997

SALES TAX LEGISLATION

2013 Legislative Session

House Bill 2059 set the state sales and use tax rate at 6.15 percent on July 1, 2013. The rate since July 1, 2010, had been 6.3 percent but had been scheduled to be reduced to 5.7 percent on July 1, 2013. Sales and use tax disposition of revenue provisions were adjusted to provide that the net of additional revenues in excess of 5.7 percent is to be deposited exclusively into the State General Fund (SGF).

House Bill 2253 disallowed a sales tax exemption for any sales of drugs used in the performance or induction of an abortion; disallowed a sales tax exemption for any sales of educational material to a nonprofit corporation which performs any abortion; disallowed a sales tax exemption for any sales of tangible personal property by nonprofit organization which performs abortions; and disallowed a sales tax exemption for any sales of tangible personal property and services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnish or remodeling a primary health care clinic or health center which performs any abortions.

2014 Legislative Session

Senate Bill 265 created a sales tax exemption for certain materials, machinery and equipment installed as a part of certain animal production and aquaculture projects.

Senate Substitute for House Bill 2378 clarified the "integrated plant" sales tax exemption to provide that it includes all equipment used in certain surface mining activities beginning from the time reclamation plans are filed to the acceptance of complete final site reclamations.

2015 Legislative Session

House Substitute for Senate Bill 270 increased the statewide sales tax and use tax rate from 6.15 percent to 6.50 percent on July 1, 2015.

2016 Legislative Session

House Substitute for Senate Bill 149 provided a temporary sales tax exemption for the Gove County Healthcare Endowment Foundation, Inc. for the purpose of constructing and equipping an airport in Quinter, Kansas. The exemption sunsets on July 1, 2019.

An additional temporary sales tax exemption exempted all sales of tangible personal property and services purchased during calendar year 2016 necessary to construct, reconstruct, repair, or replace any fence damaged or destroyed by fire occurring during calendar year 2016.

The bill increased the cap on the amount of community improvement district sales taxes that the Department of Revenue may retain to help defray administrative costs. It was increased from $60,000 to $200,000.

Another provision required placement on the individual income tax form, a line for payment of use tax on out-of-state and internet purchases where the tax was not previously paid (something the Department of Revenue already had been doing administratively for over a decade).

2017 Legislative Session

Senate Bill 30 made several adjustments to statutory provisions in relation to Sales Tax Revenue (STAR) Bonds. The bill extended the sunset date for the STAR Bond Financing Act from July 1, 2017 to July 1, 2020. For the first year of that extension, there was a moratorium on the approval of new STAR Bond districts, but cities or counties with existing districts could continue to develop projects.

House Bill 2212 increased the threshold amounts for retailers to submit sales taxes to the Department of Revenue from $80 to $400 for annual filing, from $3,200 to $4,000 for quarterly filings, and from $32,000 to $40,000 for monthly filings. Amounts greater than $40,000 would be filed on a prepaid monthly basis.

House Bill 2387 provided a sales tax exemption for all property and services purchased during 2017 or 2018 necessary to reconstruct, repair, or replace any fence used to enclose agricultural land that was damaged or destroyed by wildfires occurring in 2016 or 2017.

2018 Legislative Session

Senate Bill 415 diverted a portion of state sales tax collections by the Kansas State Fair (Fair) and retailers on the fairgrounds from the State General Fund (SGF) to the State Fair Capital Improvements Fund (SFCIF), effective July 1, 2018. Previously, 83.846 percent of such collections was allocated to the SGF and 16.154 percent to the State Highway Fund (SHF). The SFCIF will not receive the SHF's relative portion of the Fair-related collections. The diversion provisions expire if the Fair is to be located outside the city limits of Hutchinson. The bill also repealed a statutory transfer from the SGF to the SFCIF. That transfer had been set at not more than $100,000 per year for FY 2018 and FY 2019 and not more than $300,000 per year in subsequent years.

House Bill 2111 excluded the amount of any cash rebate granted by a manufacturer to a purchaser or lessee of a new motor vehicle from the sales price of the motor vehicle for purposes of calculating the sales tax liability on the purchase of the motor vehicle. The bill required the rebate to be paid directly to the retailer as a result of the original sale. This exclusion takes effect July 1, 2018, and sunsets June 30, 2021.

House Bill 2488 created the crime of knowingly selling, purchasing, installing, transferring, manufacturing, creating, designing, updating, repairing, using, or possessing automated sales suppression devices or phantom-ware. The bill defined an "automated sales suppression device" to include a computer software program carried on a memory stick or removable compact disc that is accessed through an Internet link or any other means that falsifies electronic records of electronic cash registers and other point-of-sale systems. "Phantom-ware" is generally defined as a hidden programming option embedded in the operating system or hardwired into an electronic cash register that is used to create a virtual second till or eliminate or manipulate selected transaction records.

2019 Legislative Session

House Bill 2140 makes multiple changes in local sales tax authorization statutes for several counties and creates a sales tax exemption for certain coins and bullion.

I would be happy to respond to any questions you may have.