

MEMORANDUM

TO: Governor's Council on Tax Reform

FROM: Kathleen Smith
Director of Research and Analysis

RE: History of Food Sales Tax Refund/Credit Program

DATE: October 15, 2019

1978

The food sales tax refund program was enacted in 1978 to refund \$20 per person to resident individuals who were disabled or age 59 or above (decreasing to age 55 or above in 1982 and thereafter) and who were members of a household having an income of not over \$10,000 in the calendar year for which the claim was filed, for the purpose of refunding the sales tax upon food to those persons. (1978 House Bill 3039)

1986

The program was expanded by raising the eligible income limitation from \$10,000 to \$13,000, extending participation to persons with a dependent under age 18 and to other persons who were members of a household of an eligible claimant, and changing the amount of the refund from \$20 for each eligible participant to an amount that ranged between \$15 and \$40 depending on income. (1986 Senate Bill 536)

1997

The filing deadline date for the food sales tax refund program was moved from October 15 to April 15, beginning in 1998, to conform with a similar change made in the filing date for the homestead program. (1997 House Bill 2105)

1998

The limitation of "total household income" of \$13,000 was replaced for 1998 with a new limitation of "Kansas adjusted gross income" (KAGI) of \$25,000. Taxpayers were permitted to claim the rebates on individual income tax forms as refundable credits or to continue to claim the rebates by filing separately as provided under prior law. The amount of the rebate was changed

to \$60 for every member of a qualifying household with KAGI of \$12,500 or less, and \$30 for members of a qualifying household with KAGI from \$12,501 to \$25,000. (1998 Senate Bill 493)

2000

Legislation enacted in 2000 required persons to add income from obligations or securities of the United States and public sector pensions to KAGI in determining income for purposes of the food sales tax refund program. (2000 Senate Bill 59)

2001

The appeals process for denials of food sales tax refund claims will begin with the Department of Revenue's informal appeals process before proceeding to the State Board of Tax Appeals (BOTA). Final determinations by the Director of Taxation may subsequently be appealed to BOTA. (2001 Senate Bill 43)

2002

The food sales tax rebate program was expanded beginning in tax year 2002 by indexing the qualifying income thresholds for inflation and by increasing the dollar amounts of the rebates to \$36 and \$72. The program was expanded for tax year 2002, such that refunds of \$72 per person were available for those with qualifying income of \$0 to \$12,900; and refunds of \$36 per person were available for those with income of \$12,901 to \$25,800. (2002 Senate Bill 39)

2006

The rebate amounts of \$36 and \$72 were indexed for inflation beginning in tax year 2006. (2006 Senate Bill 404)

2010

For tax years commencing after December 31, 2009, taxpayers with Kansas Adjusted Gross Income (KAGI) – plus income from certain governmental bonds and public sector pensions – of \$35,000 or less may qualify for refunds of up to \$90 per person, provided the taxpayer is: age 55 or above; has a dependent child under age 18 living in the household; or is blind or disabled. Refunds of \$90 per person were available for those with qualifying income of \$0 to \$17,500; and refunds of \$45 per person were available for those with income of \$17,501 to \$35,000. (2010 Senate Substitute for House Bill 2360)

2012

The food sales tax refund program was repealed effective with tax year 2013. (2012 Senate Substitute for House Bill 2117)

2013

Legislation was passed to provide an income tax credit for certain individuals who purchased food in Kansas. The credit of \$125 for every exemption claimed on the taxpayer's federal income tax return, would be available for tax years commencing on or after January 1, 2013, and would 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 income tax credit is not refundable and may not be carried forward. (2013 House Bill 2059)

2015

The current food sales tax rebate program was repealed through 2015 Senate Substitute for House Bill 2109 and then reinstated through 2015 House Substitute for Senate Bill 270. The current food sales tax credit program (2015 and forward) allows an income tax credit for certain individuals who purchased food in Kansas. The credit of \$125 for every exemption claimed on the taxpayer's federal income tax return, is available for tax years commencing on or after December 31, 2014, and is 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 income tax credit is not refundable and may not be carried forward. (2015 House Substitute for Senate Bill 270)

Statistics on Food Sales Tax Refund/Credit Program

Table 1. Food Sales Tax Refund and Credit Statistics by Year

Process Year	Tax Year	Number of Refunds or Credits Allowed	Total Refunds or Credits Allowed
2013	2012	349,186	\$54,988,682
2014	2013	81,564	\$10,929,788
2015	2014	77,929	\$10,128,036
2016	2015	82,041	\$10,825,858
2017	2016	52,753	\$7,855,498
2018	2017	52,866	\$7,252,993
2019 to date	2018	66,469	\$9,666,583

Table 2. Count of Claims by Qualification

Tax Year	Over Age 55	Disabled/Blind	Having Dependent Under Age 18
2018	57,895	3,254	7,632

Table 3. Tax Year 2018 Food Sales Tax Credit Stats by Level of FAGI

FAGI	Count of Credits Allowed	Credit Allowed
Less than \$5,000	31 0.0%	\$3,932 0.0%
\$5,000.01 - \$10,000	4,117 6.2%	\$348,632 3.6%
\$10,000.01 - \$15,000	12,742 19.2%	\$1,569,109 16.2%
\$15,000.01-\$20,000	11,875 17.9%	\$1,569,615 16.2%
\$20,000.01-\$25,000	14,827 22.3%	\$2,356,150 24.4%
\$25,000.01-\$30,615	22,877 34.4%	\$3,819,145 39.5%
Total	66,469	\$9,666,583
Total (%Share)	100.0%	100.0%

Program Description

Tax Year 2012 Food Sales Tax Refund \$94 Per person Refund for Household Having "Income" of \$18,350 or less
\$47 Per person Refund for Household Having "Income" of \$18,351 - \$36,700

Tax Year 2013 - Present Food Sales Tax Credit \$125 Per person "Non-refundable credit" for FAGI of \$30,615 or less

Statutory Note

TY 2016: \$5K Minimum Taxable Income for Single; \$12.5K for Married Filing Joint

TY 2017: \$5K Minimum Taxable Income for Single; \$12.5K for Married Filing Joint + Tax Rate Increases

TY 2018: \$2.5K Minimum Taxable Income for Single; \$5K for Married Filing Joint + Tax Rate Increases

Data Source: Tax Year 2012-2018 K40 tax Returns

Kansas Department of Revenue

Data Updated on August 7, 2019