

HOUSE BILL No. 2417

By Committee on Taxation

4-4

1 AN ACT concerning income taxation; relating to corporations; net
2 operating loss carryforward period; amending K.S.A. 2018 Supp. 79-
3 32,143 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 79-32,143 is hereby amended to read as
7 follows: 79-32,143. (a) For net operating losses incurred in taxable years
8 beginning after December 31, 1987, and prior to January 1, 2018, a net
9 operating loss deduction shall be allowed in the same manner that it is
10 allowed under the federal internal revenue code except that such net
11 operating loss may only be carried forward to each of the 10 taxable years
12 following the taxable year of the net operating loss. *For net operating*
13 *losses incurred in taxable years beginning after December 31, 2017, a net*
14 *operating loss deduction shall be allowed in the same manner that it is*
15 *allowed under the federal internal revenue code except that such net*
16 *operating loss deduction: (1) May only be carried forward to each of the*
17 *20 taxable years following the taxable year of the net operating loss; and*
18 *(2) shall be the lesser of: (A) The aggregate Kansas net operating loss*
19 *carryover to such year; or (B) 80% of Kansas taxable income computed*
20 *without regard to the Kansas net operating loss deduction allowable under*
21 *this section. For net operating farm losses, as defined by subsection (i) of*
22 *section 172 of the federal internal revenue code, incurred in taxable years*
23 *beginning after December 31, 1999, a net operating loss deduction shall be*
24 *allowed in the same manner that it is allowed under the federal internal*
25 *revenue code except that such net operating loss may be carried forward to*
26 *each of the 10 taxable years following the taxable year of the net operating*
27 *loss. The amount of the net operating loss that may be carried back or*
28 *forward for Kansas income tax purposes shall be that portion of the federal*
29 *net operating loss allocated to Kansas under this act in the taxable year that*
30 *the net operating loss is sustained.*

31 (b) The amount of the loss to be carried back or forward will be the
32 federal net operating loss after: (1) All modifications required under this
33 act applicable to the net loss in the year the loss was incurred; and (2) after
34 apportionment as to source in the case of corporations, nonresident
35 individuals for losses incurred in taxable years beginning prior to January
36 1, 1978, and nonresident estates and trusts in the same manner that income

1 for such corporations, nonresident individuals, estates and trusts is
2 required to be apportioned.

3 (c) If a net operating loss was incurred in a taxable year beginning
4 prior to January 1, 1988, the amount of the net operating loss that may be
5 carried back and carried forward and the period for which it may be
6 carried back and carried forward shall be determined under the provisions
7 of the Kansas income tax laws which were in effect during the year that
8 such net operating loss was incurred.

9 (d) If any portion of a net operating loss described in subsections (a)
10 and (b) is not utilized prior to the final year of the carryforward period
11 provided in subsection (a), a refund shall be allowable in such final year in
12 an amount equal to the refund which would have been allowable in the
13 taxable year the loss was incurred by utilizing the three year carryback
14 provided under K.S.A. 79-32,143, as in effect on December 31, 1987,
15 multiplied by a fraction, the numerator of which is the unused portion of
16 such net operating loss in the final year, and the denominator of which is
17 the amount of such net operating loss which could have been carried back
18 to the three years immediately preceding the year in which the loss was
19 incurred. In no event may such fraction exceed 1.

20 (e) Notwithstanding any other provisions of the Kansas income tax
21 act, the net operating loss as computed under subsections (a), (b) and (c) ~~of~~
22 ~~this section~~ shall be allowed in full in determining Kansas taxable income
23 or at the option of the taxpayer allowed in full in determining Kansas
24 adjusted gross income.

25 (f) No refund of income tax which results from a net operating farm
26 loss carry back shall be allowed in an amount exceeding \$1,500 in any
27 year. Any overpayment in excess of \$1,500 may be carried forward to any
28 year or years after the year of the loss and may be claimed as a credit
29 against the tax. The refundable portion of such credit shall not exceed
30 \$1,500 in any year.

31 (g) For tax year 2013, and all tax years thereafter, a net operating loss
32 allowed by this section shall only be available to taxpayers subject to the
33 income tax on corporations imposed pursuant to ~~subsection (e)~~ of K.S.A.
34 79-32,110(c), and amendments thereto, and used only to determine such
35 taxpayer's corporate income tax liability.

36 Sec. 2. K.S.A. 2018 Supp. 79-32,143 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.