

## 2023 Kansas Statutes

**79-32,109. Definitions.** As used in this act, unless the context otherwise requires:

(a) (1) Any term used in this act shall have the same meaning as when used in a comparable context in the federal internal revenue code. Any reference in this act to the "federal internal revenue code" shall mean the provisions of the federal internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(2) Any reference in this act to a federal form or schedule, or to a line number on a federal form or schedule, shall be to such form, schedule and line number as they existed for tax year 2011 and as revised thereafter by the internal revenue service. Any such reference shall include comparable federal forms, schedules, and line numbers used by non-United States residents when filing their federal income tax return with the internal revenue service.

(b) "Resident individual" means a natural person who is domiciled in this state. A natural person who spends in the aggregate more than six months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A nonresident individual means an individual other than a resident individual.

(c) "Resident estate" means the estate of a deceased person whose domicile was in this state at the time of such person's death. "Nonresident estate" means an estate other than a resident estate.

(d) "Resident trust" means a trust that:

(1) Is administered in this state;

(2) was created by or consists of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable; and

(3) has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state.

(e) (1) "Resident partner" means a partner who is a resident individual, a resident estate, or a resident trust.

(2) "Nonresident partner" means a partner other than a resident partner.

(f) (1) "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, or a resident trust.

(2) "Nonresident beneficiary" means a beneficiary other than a resident beneficiary.

(g) "Director" means the director of taxation.

(h) (1) "Modified Kansas source income" means that part of a nonresident individual's Kansas adjusted gross income as set forth in K.S.A. 79-32,117, and amendments thereto, derived from sources in Kansas. Items of income including unemployment compensation, gain, loss or deduction reflected in Kansas adjusted gross income shall be considered derived from sources in Kansas to the extent that they are attributable to:

(A) The ownership of any interest in real or tangible personal property in this state;

(B) a business, trade, profession or occupation carried on in this state;

(C) a business, trade, profession or occupation carried on partly within and partly without this state as determined by the uniform division of income for tax purposes act as set forth in K.S.A. 79-3271 through 79-3293, and amendments thereto;

(D) the distributive share of partnership income, gain, loss and deduction determined under this section as if the partnership were a nonresident individual;

(E) the share of estate or trust income, gain, loss and deduction determined under K.S.A. 79-32,137, and amendments thereto;

(F) prizes won from lottery games conducted by the Kansas lottery;

(G) any winnings from parimutuel wagering derived from the conduct of parimutuel activities within this state; or

(H) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Kansas. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of such dealer's trade or

business, shall not be deemed to carry on a business, trade, profession or occupation in Kansas solely by reason of the purchase and sale of property for such nonresident's own account.

(2) "Modified Kansas source income" does not include:

(A) Compensation paid by the United States for service in the armed forces of the United States, performed during an induction period by an individual not domiciled in this state; or

(B) such individual's share of distributed or undistributed taxable income or net operating loss of a corporation which is an electing small business corporation unless an agreement is filed as provided in K.S.A. 79-32,139, and amendments thereto, in which event, the "modified Kansas source income" of such nonresident individual shall include such individual's share of such corporation's distributed and undistributed taxable income or net operating loss as such share is determined under the internal revenue code only to the extent, however, that such income, gain or loss is at the corporate level, derived from sources within Kansas.

**History:** L. 1967, ch. 497, § 2; L. 1968, ch. 233, § 2; L. 1969, ch. 453, § 1; L. 1970, ch. 393, § 1; L. 1971, ch. 311, § 1; L. 1977, ch. 105, § 43; L. 1978, ch. 407, § 1; L. 1984, ch. 351, § 17; L. 1987, ch. 385, § 1; L. 1988, ch. 381, § 16; L. 1989, ch. 296, § 4; L. 2013, ch. 87, § 2; L. 2022, ch. 12, § 3; L. 2023, ch. 48, § 33; July 1.