

# 2010

## KANSAS Partnership or S Corporation Tax

***WAIT! Before you file a paper return, consider this ...***

- ◆ Completing a paper return can take hours compared to completing one **electronically** – which you can get through in half the time. Plus, there is less chance for error if you file electronically because the system does the math for you.
- ◆ It *costs 5 times more* of your taxpayer dollars to *process a paper* return than to process a return filed **electronically**.
- ◆ If you are expecting a refund, you will can it much faster with **electronic filing**.
- ◆ When you **file electronically** there is peace of mind knowing that the department received your return because you get immediate confirmation when it's filed.

Join the **86%** of taxpayers that filed their Kansas income taxes **electronically last year** – it improves processing, saves time, and reduces costs.

See back cover  
for your electronic  
filing options.

Visit us at  
**webtax.org** for  
the most up-to-date  
electronic filing  
information.



# In This Tax Booklet

|                                     |    |                            |            |
|-------------------------------------|----|----------------------------|------------|
| General Information .....           | 2  | Form K-120S AS .....       | 14         |
| Line Instructions (K-120S) .....    | 6  | Form K-121S .....          | 16         |
| Line Instructions (K-120S AS) ..... | 9  | File Electronically! ..... | back cover |
| Form K-120S .....                   | 12 | Taxpayer Assistance .....  | back cover |

## GENERAL INFORMATION

*If any due date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.*

### Who Must File a Return

A Kansas corporation return must be filed by all corporations doing business within or deriving income from sources within Kansas who are required to file a federal income tax return, whether or not a tax is due. Corporations which elect under subchapter S of the Internal Revenue Code not to be taxed as a corporation must file a Kansas Partnership or S Corporation Return (Form K-120S). All other corporations must file a Form K-120.

Banks and savings and loan associations allowed to file as small business corporations at the federal level are **not** allowed to file as small business corporations at the Kansas level. Those entities are required to file a Privilege Tax return (K-130) to report any income or loss. The federal level shareholders income or loss which is included in their individual federal income tax return is to be subtracted from federal adjusted gross income so as to not allow that income.

A partnership return (Form K-120S) must be completed by any business partnership, syndicate, pool, joint venture or other such joint enterprise to report income from operations. The Kansas partnership return must be completed by every enterprise that has income or loss derived from Kansas sources regardless of the amount of income or loss. Income or loss derived from Kansas sources includes income or loss attributed to:

- Any ownership interest in real property or tangible personal property located in Kansas and intangible property to the extent it is used in a trade, business, profession or occupation carried on in Kansas; and,
- A trade, business, profession or occupation carried on in Kansas.

Any partnership, joint venture, syndicate, etc., required to file a partnership return of income for federal purposes is required to file a Kansas partnership return if such enterprise receives income or loss from Kansas sources.


### When to File

**Calendar Year:** If your return is based on a calendar year, it must be filed no later than April 18, 2011.

**Fiscal Year:** If your return is based on a tax year other than a calendar year, it must be filed no later than the 15th day of the fourth month following the end of your tax year.

**Conformity to Federal Due Dates:** Kansas small business returns are due on or before the 15th day of the fourth month following the close of the taxable year. The close of the taxable year is the same as the close of the taxable year for federal income tax purposes. If the federal original due date is not the 15th day of the third month after the close of a taxable year for corporations or the 15th day of the fourth month after the close of a taxable year for partnerships, complete item "J" on the front of Form K-120S, and enclose a letter indicating the authorizing federal statute. Do not enter your extended due date.

**Amended Returns:** If the amended return will result in a refund, then it must be filed within three (3) years from the date the original return was due including any extension allowed pursuant to law, or two (2) years from the date the tax claimed to be refunded or against which the credit claimed was paid, whichever of such periods expires later.

 The due date for filing 2010 calendar year returns is April 18, 2011. Kansas follows the IRS for income tax deadlines.

### Where to File

Mail your return to: **KANSAS S CORPORATION TAX, KANSAS DEPARTMENT OF REVENUE, 915 SW HARRISON STREET, TOPEKA, KS 66699-4000.**

---

## Confidential Information

Income tax information disclosed to KDOR, either on returns or through department investigation, is held in strict confidence by law. KDOR, the Internal Revenue Service, the Multi-state Tax Commission, and several other states have an agreement under which some tax information is exchanged. This is to verify accuracy and consistency of information reported on federal and Kansas tax returns.

---

## Accounting Period

A taxpayer's taxable year is the same as the taxable year for federal tax purposes. If a taxpayer's taxable year is changed, or the method of accounting is changed for federal tax purposes, then the taxable year and method of accounting shall be similarly changed for Kansas tax purposes.

---

## Federal Return and Other Enclosures

Enclose with Form K-120S:

- Pages 1 through 4 of the Federal Form 1120S or pages 1 through 5 of the Federal Form 1065, as filed with the Internal Revenue Service.
- Federal schedules to support any Kansas modifications claimed on page 1.
- Credit schedules and the required attachments to support pass-through activities.
- An organizational chart showing all partnerships/S Corps and taxable entities that have income that flows into this entity or flows from this entity.

Be sure to keep copies of all tax documents associated with your return as KDOR reserves the right to request additional information as necessary.

---

## Extension of Time to File

If you are unable to complete your return by the filing deadline, you may request an extension of time to file. If you filed federal form 7004 with the Internal Revenue Service for an extension of time, enclose a copy of that form with your completed K-120S to *automatically* receive a five-month extension (for Partnerships) or a six-month extension (for S-Corporations) to file your Kansas return. Kansas does not have a separate extension request form. If you are entitled to a refund, an extension is not required in order to file the return after the original due date.

**Important:** An extension of time to file Form K-120S does not extend the time for filing a partner's or shareholder's Kansas Individual Income Tax return (Form K-40).

---

## Business Income Election

Taxpayers may elect to have all income derived from the acquisition, management, use, or disposition of tangible and intangible property treated as business income. The election is effective and irrevocable for the taxable year of the election and the following nine taxable years. The election is binding on all members of a unitary group of corporations. To make this election, an entity must file Form K-120EL with KDOR within the time limits established by law for its filing situation.

- An entity not previously doing business in Kansas that intends to make this election for its initial year of business must file Form K-120EL within 60 days after filing the articles of incorporation or application for authority to engage in business with the Kansas Secretary of State.
- For an entity currently doing business in Kansas, the election must be filed on or before the last day of the tax year immediately preceding the tax year for which the election is made.

Form K-120EL must be sent separately from the K-120S return.

---

## Partnership Adjustments and Other Information to Partners

Kansas income tax law provides that partners receiving income from a partnership or corporation may be required to make certain adjustments to their share of the entity's income included in their individual federal income tax return in order to properly determine their individual Kansas adjusted gross income. This modification can only be made from information available to the partnership, thus it is necessary that each partnership notify each partner of his share of the adjustments. In addition to the adjustments, information regarding income not included in ordinary partnership income must be given to each partner.

NOTE: Each partner or shareholder should be notified of the gross of such income received by the partnership or corporation, each partner's or shareholder's share of such income, the total adjustments applicable and each partner's or shareholder's share of such adjustment.

Information given to the partners receiving income should also include the partner's share of the Kansas and everywhere property, payroll and sales factors of the partnership making the distribution. This information is necessary so the partner receiving the distribution can include those factors with their Kansas and everywhere property, payroll and sales factors in order to properly apportion income to Kansas in their returns when filed.

---

## Amended Returns

You must file an amended Kansas return when an error was made on your Kansas return or there is a change (error or adjustment) on another state's return or on your federal return.

To amend your Kansas Partnership or S Corporation return, mark the "Amended Return" checkbox on the front of the K-120S and insert the changes on the return. Include a copy of the other state's amended return or a copy of the IRS amended return or Revenue Agent's Report or adjustment letter showing the adjustments.

**AMENDED FEDERAL RETURN:** If you are filing an amended federal income tax return for the same taxable

---

## Amended Returns (continued)

year as your Kansas amended return, **enclose a complete copy of the amended federal return and full explanations of all changes** made on your amended Kansas return. If your amended federal return is adjusted or disallowed, you must provide the department with a copy of the adjustment or denial letter.

If you did not file a Kansas return when you filed your original federal return, and the federal return has since been amended or adjusted, use the information on the amended or adjusted federal return to complete your original Kansas return. A copy of both the original and amended federal returns should be enclosed with the Kansas return along with an explanation of the changes.

**FEDERAL AUDIT:** Any taxpayer whose income has been adjusted by the Internal Revenue Service must file an amended return with Kansas and include a copy of the Revenue Agent's Report or adjustment letter showing and explaining the adjustments. These adjustments must be submitted within 180 days of the date the federal adjustments are paid, agreed to, or become final, whichever is earlier. Failure by the taxpayer to notify KDOR within the 180 day period shall not bar KDOR from assessing additional taxes or proceeding in court to collect such taxes. Failure by the taxpayer to comply with the requirements for filing returns shall toll the periods of limitation for KDOR to assess or collect taxes.

---

## Capital Gains

Any adjustment, provided by Kansas law, which applies to a capital gain received by the partnership or corporation and reported by the individual partners or shareholders on their individual federal income tax return, is to be made by each partner or shareholder on his Kansas individual income tax return.

If, during the taxable year, the partnership or corporation received a gain from the sale of property or other capital assets for which the tax basis for Kansas is higher than the tax basis for federal, each partner or shareholder must be notified of his share of the difference in basis and whether the gain qualified as a long or short term capital gain.

Any partnership or corporation which has a partner or shareholder who is a nonresident of Kansas must advise such partner of those capital gains and losses incurred from assets located in Kansas because the nonresident partner or shareholder is subject to tax on gains realized from the sale or exchange of property located in Kansas.

If such computations result in a net capital loss to Kansas, the loss is limited to \$3,000 (\$1,500 for married individuals filing separate returns) on the partner's or shareholder's Kansas individual income tax return.

Capital transactions from Kansas sources to which the above instructions apply include: **a)** Capital gains or losses derived from real or personal property having an actual situs within Kansas whether or not connected with the trade or business; **b)** capital gains or losses from stocks, bonds and other intangible property used in or connected with a business, trade or occupation that is carried on within Kansas; and, **c)** respective portion of the partnership or corporate capital gain or loss from a partnership or corporation of which the partnership or shareholder is a member, partner or shareholder, or an estate or trust of which the partnership or corporation is a beneficiary. See instructions for *Part III - Apportionment Formula*.

---

## Nonresident Owner Withholding

Partnerships, S corporations and limited liability companies with nonresident owners are required to withhold Kansas income tax at the rate of 6.45% on the Kansas taxable income (whether distributed or undistributed) of their nonresident partners, members or shareholders. Pass-through entities with nonresident owners must complete Form KW-7/KW-7S and pay the withheld funds on or before the due date of the income tax return for the pass-through entity, including extensions. These forms and additional information about this requirement are available from our web site at [ksrevenue.org](http://ksrevenue.org).

---

## Definitions

**Business Income.** For tax years commencing after December 31, 2007, "business income" means: 1) Income arising from transactions and activity in the regular course of the taxpayer's trade or business; 2) income arising from transactions and activity involving tangible and intangible property or assets used in the operation of the taxpayer's trade or business; or 3) income of the taxpayer that may be apportioned to this state under the provisions of the Constitution of the United States and laws thereof, except that a taxpayer may elect that all income constitutes business income. Business income is apportioned to Kansas generally using the average of the three factors of property, payroll, and sales. For instance, business income received from another partnership is included in your apportionable income and your share of that partnership is multiplied times the property, payroll and sales both in Kansas and everywhere of that partnership to add to your entity's property, payroll and sales both in Kansas and everywhere. The apportionable income is then multiplied by the resulting factor. Any deviation from using the three factor method requires alternative qualifications. All the apportionment methods are listed in this section.

K.S.A. 79-3279 provides that the use of the three-factor method formula of property, payroll, and sales be used to apportion income to Kansas. Direct or segregated accounting methods will not be allowed unless the taxpayer has petitioned the Secretary of Revenue for use of direct or segregated accounting, and the petition is approved. Direct or segregated accounting will not be allowed only because that is the method used in another state or because partnership income is received from other entity.

**Unitary Business.** A multistate business is unitary when the operations conducted in one state benefit or are benefited by the operations conducted in another state or states. The essential test to be applied is whether or not the operation of the portion of the business within the state is dependent upon or contributory to the operation of the business outside the state. If there is such a relationship, the business is unitary. Stated another way, the test

## Definitions (continued)

*All small business corporations filing a combined return (single or multiple) must complete lines 1 through 18 of Form K-120S using the total combined income column from Schedule K-121S.*

is whether various parts of a business are interdependent and of mutual benefit so as to form one business rather than several business entities and not whether the operating experience of the parts are the same at all places.

**Activity Wholly Within Kansas.** If a particular trade or business is carried on exclusively within Kansas or if the activities outside of Kansas are such that federal Public Law 86-272 prohibits another state from imposing a tax, then the entire net income is subject to the Kansas Income Tax. If two or more corporations file Federal Income Tax returns on a consolidated basis, and if each of such corporations derive all of their income and expenses from sources within Kansas, they must file a consolidated return for Kansas Income Tax purposes.

**Single Entity Apportionment Method.** Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or the rendering of purely personal services by an individual, shall allocate and apportion net income as provided in the Uniform Division of Income for Tax Purposes Act.

**Combined Income Method—Single Corporate Filing.** When a group of corporations conduct a unitary business both within and outside of Kansas, the source of income shall be determined by the “combined income approach.” This approach is the computation by formula apportionment of the business income of a unitary trade or business properly reportable to Kansas by members of a unitary group. The property, payroll, or sales factor for each member of a unitary business shall be determined by dividing the property, payroll, or sales figure for Kansas by the total property, payroll, or sales figure of the entire group. The average is multiplied by the income of the unitary group to determine the income of the company derived from sources in Kansas.

The Kansas S Corporation return filed on the combined income approach must include Schedule K-121S, which can be found in this booklet.

Any small business corporation which files a consolidated return for federal purposes and a combined report for Kansas purposes must submit a copy of the consolidated federal Form 1120S and all other schedules and statements necessary to support the federal ordinary income reported on the Kansas return. Schedule K-121S must be used to determine income of the small business corporation. Schedule K-121S single entity Kansas income is then shown on line 18, Form K-120S.

**Combined Income Method—Multiple Corporation Filing.** This method is the same as ‘Combined Income Method—Single Corporation Filing’ except that any corporation filing using the combined income method with more than one entity doing business in Kansas may file the Kansas return reporting the total combined income on that return. Schedule K-121S must be used to determine the Kansas taxable income of each separate corporation. Schedule K-121S combined Kansas income is then entered on line 18 of Form K-120S.

**Qualified Elective Two-Factor Method.** This method may be used by any taxpayer who qualifies and elects to utilize the two-factor formula of property and sales. A qualified taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. An election must be made by including a statement with the original tax return indicating the taxpayer elects to utilize this apportionment method. It will be effective and irrevocable for the taxable year of the election and the following nine taxable years.

**Common Carrier Method.** All business income of railroads and interstate motor carriers of persons or property for-hire shall be apportioned to this state on the basis of mileage. For railroads, multiply the business income by a fraction, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere. For interstate motor carriers, multiply the business income by a fraction, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.

**Alternative Accounting Method.** If the uniform allocation and apportionment provisions do not represent fairly the extent of the taxpayer’s business activity in this state, the taxpayer may petition for, or the Secretary of Revenue may require, in respect to all or any part of the taxpayer’s business activity, if reasonable: (a) Separate accounting; (b) the exclusion of one or more of the factors; (c) the inclusion of one or more additional factors; or (d) the employment of any other method to effect an equitable allocation and apportionment of the taxpayer’s income. A copy of the letter from KDOR granting the use of an alternative method must be enclosed with the return when filed. Enter the amount determined on your separate schedule on line 18, Form K-120S.

**Separate Accounting Method.** The separate accounting method of reporting income to Kansas is allowable only in unusual circumstances and with the permission of KDOR where the use of the three-factor formula does not fairly represent the taxpayer’s business activity. Before a taxpayer engaged in a multistate business may use the separate accounting method, the following requirements shall be satisfied:

- The books and records are kept by recognized accounting standards to reflect accurately the amount of income of the multistate business which was realized in Kansas during the taxable period;
- The management functions of the business operations within Kansas are separate and distinct so that in conducting the Kansas business operations the management within Kansas did not utilize or incur centralized management services consisting of operational supervision, advertising, accounting, insurance, financing, personnel, physical facilities, technical and research, sales and servicing or purchasing during the taxable period;
- The business operations within Kansas are separate and distinct and do not contribute to or depend upon the overall operations of the company, and there are no interstate, intercompany, or interdivisional purchases, sales or transfers during the taxable period.

If all three requirements are not satisfied, the taxpayer shall determine Kansas taxable income by use of the apportionment formula. Enter the amount determined on your separate schedule on line 18, Form K-120S.

# LINE INSTRUCTIONS FOR FORM K-120S, PAGE 1

## TAXPAYER INFORMATION

**Beginning and Ending Dates:** Enter beginning and ending dates of the tax year, even if it is a calendar year.

**Name and Address:** PRINT or TYPE the name and address of the entity.

**EIN:** Enter the Employer's Identification Number.

**Information for Items A through M:** Complete all requested information.

- **A** - Indicate whether the return is for a partnership or S corporation. If federal form 1065 was filed, indicate a partnership, if a federal form 1120S or other federal form was filed, indicate an S corporation.
- **B** - Select a method to report income to Kansas. The methods are described in the Definitions section on page 4.
- **C** - Enter the NAICS code from Publication KS-1500, available from our web site: [ksrevenue.org](http://ksrevenue.org)
- **D** - Enter the date the business began in Kansas.
- **E** - Enter the date the business was discontinued in Kansas, if applicable. If a final return is being filed due to liquidation, enter the date and also enclose a copy of the federal form that states the applicable federal code section.
- **F** - Enter the two-letter abbreviation for the state of incorporation and the date of that incorporation.
- **G** - Enter the two-letter abbreviation for the state of commercial domicile.
- **H** - Enter the number of partners/shareholders that are listed on Part II.
- **I** - Mark this box if there are any tax credit schedules or supporting documentation enclosed with this return. If the credit is initiated by this entity, enclose one credit schedule showing the total amount of credit claimed for all partners/shareholders. If the credit is passed to this entity from another entity, enclose one credit schedule showing the proportionment share of credit passed to this entity.
- **J** - Enter the original federal due date if other than the 15<sup>th</sup> day of the 3<sup>rd</sup> month after the end of the tax year.
- **K** - Mark this box if any taxpayer information has changed since the last return was filed in any boxes in this section except for boxes H, I, L, or M.
- **L** - Mark this box if a K-40C (composite schedule) is filed for this entity.
- **M** - Mark this box if a K-120EL is filed.

## INCOME

**LINE 1—FEDERAL ORDINARY INCOME:** Enter the federal ordinary income from federal Schedule K. A copy of certain pages of the federal return must be enclosed in all cases. See instructions on page 3. For partners using Federal Form 1065-B, enter Line 1a from Form 1065-B, Schedule K.

**LINE 2a—TOTAL OTHER INCOME FROM FEDERAL SCHEDULE K:** Enter the total of all other income listed on federal Schedule K. For partners, this is the total of the amounts entered on lines 2, 3c, 4, 5, 6a, 7, 8, 9a, 10, and 11 of federal Schedule K. For partners using federal Form 1065-B, this is the total of the amounts entered on lines 1a, 2, 7 and 8 from Form 1065-B, Schedule K. For S corporations it is the total of amounts entered on lines 2, 3c, 4,

5a, 6, 7, 8a, 9, and 10 of federal Schedule K. Also include any gain from the sale of assets subject to section 179 that is not reported on Schedule K.

**LINE 2b—TOTAL DEDUCTIONS FROM SCHEDULE K:** Enter the allowable deductions listed on federal Schedule K. For partnerships, this is the total of lines 12, 13b, 13c(2), and 13d of federal Schedule K. For partners using Federal Form 1065-B, the deductions are included in Line 2a above. For S corporations, this is the total of lines 11, 12b, 12c(2), and 12d of federal Schedule K.

Contributions from Schedule K (Partnership, line 13a; or S Corporation, line 12a) may be deducted on line 2b unless the partner or shareholder is an individual. If the partner or shareholder is an individual, and if they are itemizing deductions at the federal level, the contribution deductions should already be in their federal itemized deductions and no adjustment is necessary on the Kansas individual return. If the partner or shareholder is included in a composite return for Kansas (Schedule K-40C), they are required to use a standard deduction and not entitled to their share of the partnership or S corporation contribution deduction or their credits.

**LINE 3—TOTAL:** Add line 1 to line 2a and subtract line 2b. Enter the result on line 3.

**LINE 4—TOTAL STATE AND MUNICIPAL INTEREST:** Enter interest income received, credited, or earned by you during the taxable year from any state or municipal obligations such as bonds and mutual funds. Reduce the income amount by any related expenses (such as management or trustee fees) directly incurred in purchasing these state or political subdivision obligations.

DO NOT include interest income on obligations of the state of Kansas or any Kansas political subdivision issued after December 31, 1987, or the following bonds exempted by Kansas law: Board of Regents Bonds for Kansas Colleges and Universities, Electrical Generation Revenue Bonds, Industrial Revenue Bonds, Kansas Highway Bonds, Kansas Turnpike Authority Bonds and Urban Renewal Bonds.

If you are a partner or shareholder in a fund that invests in both Kansas and other states' bonds, only the Kansas bonds are exempt. Use the information provided by your fund administrator to determine the amount of taxable (non-Kansas) bond interest to enter here.

**LINE 5—TAXES ON OR MEASURED BY INCOME OR FEES OR PAYMENTS IN LIEU OF INCOME TAXES:** Enter the taxes on or measured by income or fees or payments in lieu of income taxes which you deducted on your federal return in arriving at your federal ordinary income.

**LINE 6—OTHER ADDITIONS TO FEDERAL INCOME:** Enter on line 6 the following additions to your federal ordinary income:

- **Learning Quest Education Savings Program.** Enter the amount of any "nonqualified withdrawal" from the Learning Quest Savings Program.

A tax credit for the additions below may be claimed on your tax return (schedule required):

- **Community Service Contribution Credit.** Enter the amount of any charitable contribution claimed on your federal return used to compute this credit on Schedule K-60.
- **Disabled Access Credit.** Enter the amount of any depreciation deduction or business expense deduction claimed on your federal return that was used to determine this credit on Schedule K-37.

- **Regional Foundation Contribution Credit.** Enter the amount of any contribution claimed on your federal return used to compute this credit on Schedule K-32.
- **Small Employer Healthcare Credit.** Reduce the amount of expense deduction that is included in federal ordinary income by the dollar amount of the credit claimed on Schedule K-57.
- **Swine Facility Improvement Credit.** Enter the amount of any costs claimed on your federal return and used as the basis for this credit on Schedule K-38.
- **Expenditures - Energy Credits.** Enter amount of any expenditures claimed to the extent the same is claimed as the basis for any credit allowed on Credit Schedule K-73, K-77, K-78, K-79, K-80, K-81, K-82, or K-83.
- **Amortization - Energy Credits.** Enter the amount of any amortization deduction claimed, to the extent the same is claimed on the federal income tax form for deduction, with regard to Credit Schedule K-73, K-77, K-78, K-79, K-82 or K-83 and any amount claimed in determining federal adjusted gross income on carbon dioxide recapture, sequestration or utilization machinery and equipment, or waste heat utilization system property.

**LINE 7—TOTAL ADDITIONS TO FEDERAL INCOME:** Add lines 4 through 6 and enter the result on line 7.

**LINE 8—INTEREST ON U.S. GOVERNMENT OBLIGATIONS:** Enter any interest or dividend income received from obligations or securities of any authority, commission or instrumentality of the United States and/or its possessions that was included in your federal ordinary income. This includes U.S. Savings Bonds, U.S. Treasury Bills, and the Federal Land Bank. You must reduce the interest amount by any related expenses (such as management or trustee fees) directly incurred in the purchase of these securities.

If you are a shareholder in a mutual fund that invests in both exempt and taxable federal obligations, only that portion of the distribution attributable to the exempt federal obligations may be subtracted here. Enclose a schedule showing the name of each U.S. Government obligation interest deduction claimed.

Interest from the following are taxable to Kansas and may NOT be entered on this line:

- Federal National Mortgage Association (FNMA)
- Government National Mortgage Association (GNMA)
- Federal Home Loan Mortgage Corporation (FHLMC)

**LINE 9—IRC SECTION 78 AND 80% OF FOREIGN DIVIDENDS:** Enter the amount included in federal ordinary income pursuant to the provisions of Section 78 of the Internal Revenue Code and 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal ordinary income.

**LINE 10—OTHER SUBTRACTIONS FROM FEDERAL INCOME:** Enter a total of the following subtractions from your federal ordinary income (schedule required):

- **Refunds or Credits.** Any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in federal ordinary income.
- **Jobs and WIN Tax Credit.** The amount of federal targeted jobs and WIN credit.
- **Kansas Venture Capital, Inc. Dividends.** Dividend income received as a result of investing in stock issued by Kansas Venture Capital, Inc.

- **Electrical Generation Revenue Bonds.** Enter the gain from the sale of Electrical Generation Revenue Bonds that was included in your federal ordinary income.
- **Learning Quest Education Savings Program.** Enter the amount of contributions deposited in the Learning Quest Education Savings Program, or a qualified 529 tuition program established by another state, up to a maximum of \$3,000 per student (beneficiary).
- **Sale of Kansas Turnpike Bonds.** Enter the gain from the sale of Kansas Turnpike Bonds that was included in your federal ordinary income.
- **Amortization – Energy Credits.** The amount of amortization deduction allowed relating to Credit Schedule K-73, K-77, K-78, K-79, K-82 or K-83, and the amount of amortization deduction allowed for carbon dioxide capture, sequestration or utilization machinery and equipment, or waste heat utilization system property.

**LINE 11—TOTAL SUBTRACTIONS FROM FEDERAL INCOME:** Add lines 8 through 10, and enter the result on line 11.

**LINE 12—NET INCOME BEFORE APPORTIONMENT:** Add lines 3 and 7, then subtract line 11. Enter result on line 12.

#### APPORTIONMENT AND ALLOCATION

**LINE 13—NONBUSINESS INCOME - TOTAL COMPANY:** Enter on line 13 the total amount of nonbusiness net income everywhere that is to be directly allocated.

**Nonbusiness Income Claimed:** Any taxpayer that claims nonbusiness income on the Kansas return is required to clearly demonstrate that the transaction or activity which gave rise to the income was unusual in nature and infrequent in occurrence or that the income was earned in the course of activities unrelated to the taxpayer's regular business operations; or that the income did not arise from transactions and activities involving tangible and intangible property or assets used in the operation of the taxpayer's trade or business.

The taxpayer must also submit a schedule as required below. If the taxpayer does not demonstrate that the income is nonbusiness and does not submit the required schedule(s), the income will be considered to be business income by the Department of Revenue and the department will apportion that income as business income.

From the items of income directly allocated, there shall be deducted the expenses related thereto. As used in this paragraph, "expenses related thereto," means any allowable deduction or portion thereof attributable to such income and a ratable part of any other allowable deductions which cannot definitely be allocated to some item or class of income.

A schedule must be submitted with the return showing: 1) the gross income from each class of income being specifically allocated, 2) the amount of each class of related expenses together with an explanation or computations showing how amounts were arrived at, 3) the total amount of the related expense for each income class, and 4) the net income for each income class. The schedules should provide appropriate columns as set forth above for items specifically assigned to Kansas and for nonbusiness items specifically assigned outside Kansas. An explanation must also be enclosed to explain specifically why the income should be classified as nonbusiness income.



**LINE 14—APPORTIONABLE BUSINESS INCOME:** Subtract line 13 from line 12 and enter the result on line 14.

**LINE 15—AVERAGE PERCENT TO KANSAS:** Enter the applicable percentages in spaces A, B, and C. If you are qualified and utilizing the elective two-factor formula, do not enter a percentage figure in space B. Enter on line 15 the average percent from Form K-120S AS, Part III, line E. **Note:** Round the percentage to the fourth decimal point only. If your business is wholly within Kansas enter 100.0000.

**LINE 16—AMOUNT TO KANSAS:** Multiply line 14 by line 15 and enter the result on line 16.

**LINE 17—NONBUSINESS INCOME-KANSAS:** Enter the total amount of nonbusiness net income directly allocated to Kansas. Submit a schedule to support the amount shown.

**LINE 18—TOTAL KANSAS INCOME:** If you are filing a combined report (Schedule K-121S) or you are authorized to file using the alternative or separate accounting method, enter on line 18 the: 1) Kansas income from line 18 of Schedule K-121S; or, 2) Kansas income from a separate schedule prepared by you (Separate/Alternative Method of Reporting).

**LINE 19—ESTIMATED TAX PAID AND AMOUNT CREDITED FORWARD:** If you filed a Form K-120 last year, enter the total of your 2010 estimated tax payments plus any 2009 overpayment you had credited forward to 2010.

**LINE 20—OTHER TAX PAYMENTS:** Enter on line 20 any amount of prepaid tax not entered above. Do **NOT** enter KW-7 or KW-7S withholding on this line.

**LINE 21—REFUND:** Add lines 19 and 20 and enter the result on line 21. Amounts less than \$5.00 will not be refunded. Before mailing, mark an "X" in the refund box on the front of the envelope.

**SIGNATURE AND VERIFICATION:** The return must be signed and sworn to by a member, partner, president, vice-president, or other principal officer. If the return is prepared by a firm or corporation, the return should be signed in the name of the firm or corporation. Any person or persons who prepare the return for compensation must also sign the return and provide their EIN (Employer Identification Number) or SSN (Social Security Number).

## LINE INSTRUCTIONS FOR FORM K-120S, PAGE 2

### PART I—ADDITIONAL INFORMATION

All entities must answer all questions in Part I.

### PART II – PARTNER'S OR SHAREHOLDER'S DISTRIBUTION OF INCOME

Part II must be completed for all partners or shareholders.

**COLUMN 1—Name and address of partner or shareholder.** List the name and permanent address of each person who was a partner of the partnership or shareholder of the corporation during the taxable year. Check the box on the right side of column 1 if the respective partner or shareholder was a nonresident of Kansas during the year.

**COLUMN 2—Social Security Number (SSN) or Employer Identification Number (EIN).** Enter in column 2 the Social Security or Employer Identification Number of each partner or shareholder listed.

**COLUMN 3—Partner's or Shareholder's Percent of Ownership.** Enter in column 3 the partner's or shareholder's percent of ownership in the partnership or corporation.

**COLUMN 4—Partner's Profit Percent or Shareholder's Applicable Percentage.** Enter in column 4 the partner's profit percentage or shareholder's applicable percentage.

**COLUMN 5—Income from Kansas sources.** *Kansas Resident Individuals:* Multiply column 4 by line 12, page 1. *Nonresidents Individuals:* If income is earned only from Kansas sources multiply column 4 by line 12, page 1. If income is earned from inside and outside of Kansas, multiply column 4 by line 18, page 1. *All Other Partners or Shareholders:* Multiply column 4 by line 18, page 1.

Enclose a schedule showing adjustments due to any guaranteed payments.

**COLUMN 6—Partner's or Shareholder's portion of federal ordinary and other income (losses) and deductions.** Multiply the partner's profit percent or applicable shareholder's percentage in column 4 by line 3, page 1.

**COLUMN 7—Partner's or Shareholder's portion of total Kansas income.** Multiply the partner's or shareholder's percentage in column 4 by line 12, page 1.

**COLUMN 8—Partners or Shareholder's modification.** Subtract column 7 from column 6 and enter the result in column 8. This is the Kansas adjustment to be entered on Schedule S of the Kansas Individual Income Tax return, Form K-40, as a partnership or S corporation adjustment. If the amount in column 7 is greater than column 6, the amount in column 8 should be shown as an addition modification and entered on line A5 of Schedule S. If the amount in column 7 is less than column 6, the amount in column 8 should be shown as a subtraction modification and entered on line A17 of Schedule S.

### Nonresident Partner's or Shareholders' Computation

Nonresident partners or shareholders must use the following method to determine the amounts that will be entered in Part B of Supplemental Schedule S, Form K-40.

The taxpayer's share of income to be entered on line B10 (Amount from Kansas Sources) is determined by multiplying column 4, Part II, page 2, Form K-120S by line 12, page 1, Form K-120S, if income is derived totally within Kansas; or line 18, if income is derived within and outside of Kansas.

Since modifications for nonresident income are included in line 18, Form K-120S, a modification relative to the S corporation or partnership income is **not** to be entered on line B20, Part B of Schedule S, Form K-40.

**NOTE—**Any difference in the basis of property sold which has a higher basis for Kansas income tax purposes than for federal income tax purposes and which is reported as a long-term capital gain for Kansas purposes, should be computed and reported to the respective shareholder or partner for adjustment of this item on the individual income tax return. If the basis of property sold has a lower basis for Kansas income tax purposes than for federal income tax purposes, no adjustment is necessary.



# INSTRUCTIONS FOR FORM K-120S AS

You must complete and enclose Part III, of Form 120S AS with your Kansas return if the taxpayer is doing business within and outside of Kansas and utilizing the apportionment formula to determine Kansas income.

## PART III—APPORTIONMENT FORMULA

Part III is to be used by corporations which derive income from sources both within and without Kansas for the purpose of allocating and apportioning income. All business income is apportionable to Kansas by one of the following methods:

- The majority of taxpayers will multiply business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
- Railroads will multiply business income by a fraction, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere.
- Interstate motor carriers will multiply business income by a fraction, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.
- A qualifying taxpayer may elect to multiply business income by a fraction, the numerator of which is the property factor plus the sales factor, and the denominator of which is two. A qualifying taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. For additional information relating to this method and to determine if you are qualified, you may review K.S.A. 79-3279. If you qualify to use this method you are required to complete, for the first year, the payroll information on Form 120S AS, Part III, line B or Form K-121S, Part II, Section 2.
- Single Factor Apportionment – all years beginning after 12/31/01, and at the election of the taxpayer made at the time of filing of the original return, the qualifying business income of any investment funds service corporation organized as a corporation or S corporation which maintains its primary headquarters and operations or is a branch facility that employs at least 100 individuals on a full-time equivalent basis in this state and has any investment company fund shareholders resided in this state shall be apportioned to this state as provided in this subsection, as follows:

By multiplying the investment funds service corporation's qualifying business income from administration, distribution and management services provided to each investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the investment company's fund shareholders resided in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year.

Descriptions of each of the factors in the three-factor formula follow. The laws applicable to these factors are contained in K.S.A. 79-3280 through K.S.A. 79-3287. The applicable regulations are contained in K.A.R. 92-12-84 through K.A.R. 92-12-103. These laws and regulations are the Policy Information Library at: [ksrevenue.org](http://ksrevenue.org)

**LINE A—Property Factor.** The property factor shall include all real and tangible personal property owned or rented and used during the income year to produce business income. Property used in connection with the production of nonbusiness income shall be excluded from the factor. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the income year for the production of business income. Property used in the production of business income shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its sale or conversion to the production of nonbusiness income.

The numerator of the property factor shall include the average value of the taxpayer's real and tangible personal property owned and used in Kansas during the income year for the production of income, plus the value of rented real and tangible personal property so used. Property owned by the taxpayer in transit between locations of the taxpayer shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property, such as construction equipment, trucks and/or leased electronic equipment which are located within and without Kansas during the income year, shall be determined for purposes of the numerator of the factor on the basis of total time within Kansas during the income year. Property owned by the taxpayer shall be valued at its original cost. As a general rule, "original cost" is deemed to be the basis of the property for federal income tax purposes at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange, abandonment, etc. Property rented by the taxpayer is valued at eight times the net annual rental rate. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the income year. However, the Director of Taxation may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the taxpayer's property for the income year.

**LINE B—Payroll Factor.** The payroll factor shall include the total amount paid by the taxpayer for compensation during the tax period. The total amount "paid" to the employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report such compensation under such method for unemployment compensation purposes. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. The compensation of any employee on account of activities which are connected with the production of nonbusiness income shall be excluded from the factor. The denominator of the payroll factor is the total compensation paid everywhere during the income year.

The numerator of the payroll factor is the total amount paid in Kansas during the income year by the taxpayer for compensation.

Compensation is paid in Kansas if any one of the following tests, applied consecutively, are met: (a) The employee's service is performed entirely within Kansas; (b) The employee's service is performed both inside and outside of Kansas, but the service performed without this State is "incidental" to the employee's service in Kansas (the word "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction); (c) If the employee's services are performed both inside and outside of Kansas, the employee's compensation will be attributed to Kansas if: (1) the employee's base of operations is in Kansas; or (2) there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in Kansas; or (3) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in Kansas. The term "base of operation" is the place from where employees begin work and to which they customarily return in order to receive instructions from the taxpayer or communications from his customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points.

**LINE C—Sales Factor.** For purposes of the sales factor of the apportionment formula, the term "sales" means all gross receipts derived by the taxpayer from transactions and activity in the regular course of such trade or business. The following are rules for determining "sales" in various situations:

- In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the income year) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. "Gross receipts" for this purpose means gross sales, less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.
- In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, "sale" includes the entire reimbursed cost, plus the fee.
- In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, "sales" includes the gross receipts from the performance of such services, including fees, commissions, and similar items.
- In the case of a taxpayer engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing the use of the property.
- In the case of a taxpayer engaged in the disposition of non-inventory assets and property used or purchased in the regular course of business, "sales" includes the capital gain or ordinary gain realized from such disposition. The term "sales" does not include the return of capital or recovery of basis with respect to non-inventory capital assets.
- For all taxable years beginning after December 31, 2007, in the case of sales of intangible business assets, only the net gains from the sale shall be included in the sales factor.

The numerator of the sales factor shall include gross receipts attributable to Kansas and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-priced differential charges incidental to such gross receipts shall be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

#### **Sale of Tangible Personal Property in this State**

- Gross receipts from sales of tangible personal property (except sales to the United States Government) are in this state if:
  - the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale;
  - the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.
- Property shall be deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.
- Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.
- The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.
- When property being shipped by a seller from the state of origin to a consignee in another state is diverted while enroute to a purchaser in this state, the sales are in this state.
- If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:
  - if the taxpayer is taxable in the state from which the third party ships the property, then the sale is in such state;
  - if the taxpayer is not taxable in the state from which the property is shipped, then the sale is in this state.

**Sales to the United States Government:** Gross receipts from the sales of tangible personal property to the United States Government are to be included in Kansas if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. Only sales for which the United States Government makes direct payment to the seller pursuant to the terms of its contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, does not constitute sales to the United States Government.

**Sales Other Than Sales of Tangible Personal Property:** K.S.A. 79-3287 provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government). Under this section gross receipts are attributed to Kansas if the income-producing activity which gave rise to the receipts is performed within Kansas or if property producing the receipts is located within Kansas.

Gross receipts are attributed to Kansas if, with respect to a single item of income, the income-producing activity is performed within and without Kansas but the greater proportion of the income-producing activity is performed in Kansas, based on costs of performance. In cases where services are performed partly within and partly without Kansas, the services performed in each state will usually constitute a separate income-producing activity; in such case, the gross receipts for the performance of services attributable to Kansas shall be measured by the ratio which the time spent in performing such services in this state bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, such as time expended in negotiating the contract, is excluded from the computation.

**LINE D(1)—TOTAL PERCENT.** If you are utilizing the three-factor formula to apportion income to Kansas, add lines A, B and C.

**LINE D(2)—TOTAL PERCENT.** If you are qualified and are utilizing the elective two-factor formula to apportion income to Kansas, add lines A and C.

**LINE E—AVERAGE PERCENT.** Divide line D(1) or D(2), whichever is applicable, by the number of factors used in the formula. For instance, if you are using the three-factor formula and the corporation does not have payroll anywhere, divide by 2.

#### **Consistency in Reporting**

In completing Form K-120S, K-120S AS and K-121S, if, with respect to prior tax years and to filing other states' tax returns, the taxpayer departs from or modifies the manner in which income has been classified as business income from nonbusiness

income, in valuing property or of excluding or including property in the property factor, in the treatment of compensation paid in the payroll factor, or in excluding or including gross receipts in the sales factor, the taxpayer shall disclose by separate enclosed schedule the nature and extent of the variance or modification. Only inconsistencies in the denominators of the property, payroll, and sales factors which materially affect the amount of business income apportioned to Kansas need to be disclosed. Inconsistencies in the determination of nonbusiness income and in the denominators of the factors due to a difference in state laws or regulations must be identified by that state's statute or regulation section number and shown on the separate schedule. The amount of each inconsistency by state is to be shown.

When a taxpayer makes sales of tangible personal property which are shipped from Kansas and assigned to a state in which the taxpayer does not file a return or report, the taxpayer shall identify the state to which the property is shipped, report the total amount of sales assigned to such state, and furnish the facts upon which the taxpayer relies as establishing jurisdiction to tax by such state.

#### **PART IV—KANSAS PASS-THROUGH SCHEDULE**

Complete this schedule if this entity receives passed through distributions from another entity. For instance, if you own a 50% interest in Partnership A and are required to report income and/or expenses on your tax return, disclose the name, address, EIN, principal product or service and whether or not Partnership A has Kansas activity.

#### **PART V—KANSAS QSUB/DISREGARDED ENTITY SCHEDULE**

Complete this schedule if Qsub or disregarded entities are included in this return.

State of Kansas  
Department of Revenue  
Docking State Office Building, 915 SW Harrison St.  
Topeka, KS 66612-1588

PRSR STD  
U.S. POSTAGE  
**PAID**  
KANSAS DEPT.  
OF REVENUE

## File Electronically!

Form K-120S for partnerships and small business corporations can be filed electronically through **IRS e-File**. With IRS e-File, your return is electronically submitted to the IRS and KDOR (Kansas Department of Revenue) using an authorized provider.

Your Form K-120S can also be electronically filed by using KDOR approved commercial tax filing web sites or software products.

Visit our web site at **webtax.org** for a list of authorized IRS e-File providers and software products. Electronic filing is quick and easy and within 48 hours of transmission you will receive confirmation that KDOR has accepted your return.

  
**webtax.org**

### – TAX ASSISTANCE –

**FILING ASSISTANCE.** For assistance in completing your Kansas Partnership or S Corporation Tax return, contact our Taxpayer Assistance Center. Office hours are 8:00 a.m. to 4:45 p.m., Monday through Friday.

Taxpayer Assistance Center  
Docking State Office Building - 1st floor  
915 SW Harrison Street  
Topeka, KS 66625-2007

**Phone:** (785) 368-8222

**Fax:** (785) 291-3614

**REQUEST FOR FORMS.** If you choose to use paper to file your return, be sure to use an original form printed by the Kansas Department of Revenue (KDOR) or a form from an *approved* software package (see our web site at **ksrevenue.org**). To obtain a KDOR printed form, call the Taxpayer Assistance Center.