

Kansas Inheritance and Estate Tax

For many years, Kansas had an inheritance tax. However, the inheritance tax was repealed in 1981 and replaced with a “pick-up” tax equal to the state death tax credit allowed under the Internal Revenue Code.¹

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) reduced the amount of the state death tax credit taken against the federal estate tax to 75% for deaths occurring in 2002, 50% for deaths in 2003, 25% for deaths in 2004, and 0% for deaths occurring in 2005 and thereafter. Thus, the Kansas estate tax was effectively repealed by EGTRRA.

In 2006, Kansas enacted a stand-alone estate tax that applied to decedents dying after January 1, 2007 and before January 1, 2010.² However, K.S.A. 79-15,251 specifically provided for the continuation of the “pick-up” tax for decedents dying before January 1, 2007.

In 2010, Kansas enacted legislation that ended (1) the “pick-up” tax for any estate that did not file a return by January 1, 2017, and (2) the “stand-alone” tax for any estate that does not file a return by January 1, 2020.³

Kansas Interest and Penalty

Interest and penalties for the underpayment of Kansas income tax by an individual, estate or trust are set forth in K.S.A. 79-3228:

The interest rate for taxes that are not paid by the date due varies each year. For 2019, the interest rate is 65 (or .5% per month or part thereof).

A 15% penalty is imposed on a tax underpayment if the return is filed and tax paid after the due date and prior to March 1 of the following year. If the return is not filed on or after March 1 following the tax year, an additional penalty is due at the rate of one percent per month up to a maximum of 24 months. This penalty is in addition to the initial 15 percent penalty for a maximum penalty of 39 percent.

If any taxpayer who has failed to file a return, and after notice from the director refuses or neglects within 20 days to file a proper return, the director shall determine the income of such taxpayer according to the best available information and assess the tax together with a **penalty of 50%** of the unpaid balance of tax due plus interest, from the date the tax was originally due to the date of payment.

¹ K.S.A. 79-15,100 through 79-15,125 and K.S.A. 79-15127 through 79-15,145.

² K.S.A. 79-15,201 through 79-15,253.

³ K.S.A. 79-15,146 and 79-15,254.

Kansas Income Tax Rates

The Kansas income tax rates for “married filing joint” taxpayers are as follows:

If the Kansas taxable income is:	The tax rate is:
Not over \$30,000	3.1%
Over \$30,000 but not over \$60,000	\$930 plus 5.25% of excess over \$30,000
Over \$60,000	\$2,505 plus 5.7% of excess over \$60,000

The Kansas income tax rates for “single” and other taxpayers, including estates and trusts, are as follows:

If the Kansas taxable income is:	The tax rate is:
Not over \$15,000	3.1%
Over \$15,000 but not over \$30,000	\$465 plus 5.25 % of excess over \$15,000
Over \$30,000	\$1252.50 plus 5.7 % of excess over \$30,000

Kansas Fiduciary Income Tax

The fiduciary of a resident estate or trust must file a Kansas Fiduciary Income Tax return if the estate or trust had any taxable income and/or there is withholding tax due for the nonresident beneficiaries. A resident estate is the estate of a person who was a Kansas resident at the time of death. All other estates are nonresident estates.

A resident trust is any trust which is administered by the trustee in Kansas. A trust being administered outside of Kansas shall not be considered a resident trust merely because the governing instrument or a law required that the laws of Kansas be followed with respect to interpretation or administration of the trust. All other trusts are nonresident trusts. The fiduciary of a nonresident estate or trust must file a Kansas Fiduciary Income Tax return if the estate or trust had taxable income or gain derived from Kansas sources.

Tax Withholding for Nonresident Beneficiaries

Under Kansas law the executor, administrator, trustee or other fiduciary of an estate or trust is required to withhold 2.5% (.025) of the amount distributable to each nonresident beneficiary.⁴

The executor, administrator, trustee or other fiduciary of an estate or trust is required to distribute copies of Form K-18 as follows:

- to the beneficiary from whom the tax is withheld to enclose with their Kansas Income Tax return.
- to the beneficiary for their records.
- to be retained by fiduciary.

⁴ 79-32,136