

2013

KANSAS ALLOCATION OF INCOME WORKSHEET

If you are a same-sex couple married under the laws of another state and filed a joint federal income tax return, use this worksheet to determine your federal adjusted gross income as required to file your Kansas income tax returns (see instructions on back). **DO NOT send this worksheet to KDOR (Kansas Department of Revenue);** instead, keep a copy for your records as KDOR reserves the right to request it at a later date.

Name (Taxpayer 1)	Social Security Number
Name (Taxpayer 2)	Social Security Number

	(A) Amount reported on joint federal return	(B) Taxpayer 1 Amount to report on Kansas return	(C) Taxpayer 2 Amount to report on Kansas return
1. Wages, salaries, tips, etc.	_____	_____	_____
2. Taxable interest	_____	_____	_____
3. Ordinary dividends	_____	_____	_____
4. Taxable refunds, credits, or offsets of state and local income taxes	_____	_____	_____
5. Alimony received	_____	_____	_____
6. Business income or loss	_____	_____	_____
7. Capital gain or loss	_____	_____	_____
8. Other gains or losses	_____	_____	_____
9. IRA distributions	_____	_____	_____
10. Pensions and annuities	_____	_____	_____
11. Rental real estate, royalties, partnerships, S corporations, trusts, etc.	_____	_____	_____
12. Farm income or loss	_____	_____	_____
13. Unemployment compensation	_____	_____	_____
14. Social Security benefits	_____	_____	_____
15. Other income	_____	_____	_____
16. Total each column of lines 1 through 15	_____	_____	_____
17. Educator expenses	_____	_____	_____
18. Certain business expenses of reservists, performing artists, and fee-based government officials	_____	_____	_____
19. Health savings account deduction	_____	_____	_____
20. Moving expenses	_____	_____	_____
21. Deductible part of self-employment tax	_____	_____	_____
22. Self-employed SEP, SIMPLE, and qualified plans	_____	_____	_____
23. Self-employed health insurance deduction	_____	_____	_____
24. Penalty on early withdrawal of savings	_____	_____	_____
25. Alimony paid	_____	_____	_____
26. IRA deduction	_____	_____	_____
27. Student loan interest deduction	_____	_____	_____
28. Tuition and fees	_____	_____	_____
29. Domestic production activities deduction	_____	_____	_____
30. Total each column of lines 17 through 29	_____	_____	_____
31. FEDERAL ADJUSTED GROSS INCOME (Subtract line 16 from line 30)	_____	_____	_____

KEEP FOR YOUR RECORDS
DO NOT MAIL

INSTRUCTIONS FOR KANSAS ALLOCATION OF INCOME WORKSHEET

Kansas recognizes marriages that are only between one woman and one man (see Article 15, Section 16, of the Kansas Constitution). Kansas Statutes Annotated (K.S.A. 79-32,115) provide that a husband and wife shall file a joint or married filing separate return for income tax purposes. Individuals of the same sex cannot file a Kansas income tax return using a tax status of married filing jointly or married filing separately; instead, they must file separate Kansas returns using the filing status of *single* or, if qualified, *head of household*.

To determine the federal adjusted gross income amounts for filing separate Kansas income tax returns (Form K-40), complete lines 1 through 31 of this worksheet. **Taxpayer 1** will enter the amount from line 31, column B, on line 1 of their Form K-40. **Taxpayer 2** will enter the amount from line 31, column C on line 1 of their Form K-40.

After completing the allocation of income worksheet, each taxpayer will use the following information to complete their Kansas Form K-40.

Filing Status. Select the appropriate filing status for your situation – either *Single* or, if qualified *Head of Household*.

Exemptions and Dependents. Determine the exemptions and dependents you can claim on your Kansas return as if you had filed your federal income tax return using a *single* or *head of household* filing status.

Standard Deduction or Itemized Deductions. As a single or head of household filer, you may either itemize or take the Kansas standard deduction on your Form K-40. If either taxpayer in the same-sex relationship chooses to

itemize deductions on the Kansas return, that taxpayer should complete a federal Schedule A, as if that taxpayer had filed a federal income tax return with the same filing status used on the taxpayer's Kansas return.

Use the modified federal Schedule A to determine the authorized Kansas itemized deductions you may claim pursuant to the instructions for Form K-40. Be sure to keep a copy of this federal Schedule A with your tax records.

Earned Income Tax Credit (EITC). If you are both Kansas residents and filed a joint federal income tax return qualifying for the federal earned income tax credit (EITC), the amount of qualified federal EITC must be allocated equally between each taxpayer in calculating the Kansas EITC. After allocating the federal EITC equally between Taxpayer 1 and Taxpayer 2, use the instructions for line 16 of Form K-40 and complete the EITC worksheet to determine the EITC allowed for Kansas by each taxpayer.

Food Sales Tax Credit. Line E under the “Food Sales Tax Credit” section of Form K-40 requires the taxpayer claiming this credit to enter the “number of exemptions claimed on your federal income tax return.” This instruction does not apply to Kansas resident taxpayers in a same-sex relationship who have filed a joint federal income tax return.

Instead, each individual will file a separate Kansas return and determine the exemptions and dependents as instructed in that section of these instructions, then enter on Line E the number of exemptions you would have claimed on your federal income tax return had you filed it using a *single* or *head of household* filing status.

— KEEP THIS WORKSHEET FOR YOUR RECORDS —

DO NOT SEND IT TO THE DEPARTMENT OF REVENUE OR INCLUDE IT WITH YOUR FORM K-40.

NOTICE 13-18

GUIDANCE FOR SAME-SEX COUPLES (October 4, 2013)

Federal Tax Treatment

For federal tax purposes, Rev. Rul. 2013-17 provides that the Internal Revenue Service (IRS) will recognize a marriage of same-sex individuals that was validly entered into in a state whose laws authorize such a union. This applies even if the couple is domiciled in a state that does not recognize the validity of same-sex marriages.

As a result, for tax year 2013 and going forward, same-sex spouses generally must file their federal income tax returns using a filing status of married filing jointly or married filing separately.

Kansas Income Tax Treatment

Kansas only recognizes marriages between one woman and one man. (See Article 15, Section 16, of the Kansas Constitution.) Kansas Statutes Annotated (K.S.A. 79-32,115) provide that a husband and wife shall file a joint or married filing separate return for income tax purposes. Individuals of the same sex cannot file a Kansas income tax return using a tax status of married filing jointly or married filing separately.

In the case of same-sex individuals who are considered married for federal income tax purposes:

- As has been the practice since the initiation of the Kansas income tax, each individual must file a separate Kansas income tax return on Form K-40, using the filing status of single or, if qualified, head of household.
- Same-sex individuals who file a joint federal income tax return must complete a worksheet that will be available at www.ksrevenue.org to show the amount of income as reported on the joint federal return that is allocable to each individual, and determines the federal adjusted gross income to be used by each individual for Kansas tax purposes.

The above guidance applies to returns filed for tax year 2013 and going forward.

Although Rev. Rul. 2013-17 provides that under certain circumstances amended returns for prior tax years may be filed for federal tax purposes to change the filing status to married filing jointly or married filing separately, no such amended returns may be filed for Kansas to change the filing status.

Returns can be filed electronically through www.webtax.org, or, if it is available, through commercial tax preparation software. Returns can be filed on paper, although the Department of Revenue prefers that returns be filed electronically.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.org. If you have questions about income tax, please contact:

Taxpayer Assistance Center
Kansas Department of Revenue
915 SW Harrison St., 1st Floor
Topeka, KS 66612-1588
Phone: 785-368-8222
Hearing Impaired TTY: 785-296-6461
Fax: 785-291-3614