

GENERAL INFORMATION

Who Must File a Return

KANSAS RESIDENTS

A Kansas resident for income tax purposes is anyone who lives in Kansas, regardless of where he or she is employed. An individual who is away from Kansas for a period of time and has intentions of returning to Kansas is a resident.

If you were a Kansas resident for the entire year, you must file a Kansas Individual Income Tax return if:

- You are required to file a federal income tax return, OR
- Your Kansas adjusted gross income is more than the total of your Kansas standard deduction and exemption allowance.

The minimum filing requirements for each filing status and exemption allowance situation are shown below. If you are not required to file a federal return, you may use this table to determine if you are required to file a Kansas return. For example, if your filing status is single, and you are over 65, you do not need to file a Kansas return unless your gross income is over \$6,100. A married couple filing jointly would not be required to file a Kansas return unless their gross income is over \$10,500.

A Kansas resident must file if he or she is:	And has gross income of at least:
SINGLE OR MARRIED FILING SEPARATE	
Under 65	\$5,250
65 or older or blind	\$6,100
65 or older and blind	\$6,950
MARRIED FILING JOINT	
Under 65 (both spouses)	\$10,500
65 or older or blind (one spouse)	\$11,200
65 or older or blind (both spouses)	\$11,900
65 or older and blind (one spouse)	\$11,900
65 or older or blind (one spouse) and 65 or older and blind (other spouse)	\$12,600
65 or older and blind (both spouses)	\$13,300
HEAD OF HOUSEHOLD	
Under 65	\$9,000
65 or older or blind	\$9,850
65 or older and blind	\$10,700

IMPORTANT: You must file a Kansas Individual Income Tax return to receive any refund of taxes withheld, regardless of the amount of total income, or to receive the Food Sales Tax refund.

MINOR DEPENDENTS

A minor child claimed on another person's return can claim a standard deduction of \$500 or the amount of their earned income (wages) up to \$3,000, whichever is greater. Unearned income (such as interest and dividends) over \$500 is taxable to Kansas and a Kansas return must be filed. If the taxable income (line 7, Form K-40) is zero, a return is not required. However, you must file a Kansas Individual Income Tax return to receive any refund of taxes withheld, regardless of the amount of total income.

NONRESIDENTS

If you are not a resident of Kansas, but you received income from Kansas sources, you must file a Kansas Individual Income Tax return regardless of the amount of income received from Kansas sources.

If your employer withheld Kansas taxes from your wages in error, you must also file a Kansas return in order to receive a refund, even though you had no income from Kansas sources. A letter from your employer on company letterhead and signed by an authorized company official explaining the error must accompany your return.

PART-YEAR RESIDENTS

You are a part-year resident of Kansas if you were a Kansas resident for less than 12 months during the tax year. As a part-year resident, you have the option to file your Kansas return either as a resident or as a nonresident.

MILITARY PERSONNEL

The active duty service pay of military personnel is taxable ONLY to your state of legal residency, no matter where you are stationed during the tax year. If your home of record on your military records is Kansas, you are a Kansas resident and all of your income - to include your military compensation is subject to Kansas income tax.

If you are a nonresident of Kansas but are stationed in Kansas due to military orders, you must file a Kansas return if you (or your spouse if filing jointly) received income from Kansas sources. Only income from Kansas sources is used to determine the Kansas income tax due of NONRESIDENT military service members. All nonresident service members will subtract out the amount of their military compensation on Schedule S, line A11. See **Schedule S Line-by-Line Instructions** on page 23.

NATIVE AMERICAN INDIANS

Income received by native American Indians that is exempt from Federal Income Tax is also exempt from Kansas Income Tax. Income earned on a reservation, by a native American Indian residing on his or her tribal reservation, is also exempt from Kansas Income Tax. If any such income is included in the federal adjusted gross income, it is subtracted on the Kansas return.

When to File

If your 2004 return is based on a calendar year, it must be filed and the tax paid no later than **April 15, 2005**. If your return is based on a fiscal year, your Kansas return is due the 15th day of the 4th month following the end of your fiscal year. The instructions in this booklet assume a calendar year taxpayer.

By using an electronic filing option and the direct payment method, you can file your return at any time and choose to have your bank account debited on the due date of the return. See instructions for this payment option on page 19.

AMENDED RETURNS: In general, amended returns must be filed with the Department of Revenue within three (3) years of when the original return was filed. If the amended return will result in a refund to you, the amended return may be filed within three (3) years of when the original return was filed, or within two (2) years from the date the tax was paid, whichever is later.

Where to File

Please use the pre-addressed envelope in this tax booklet to mail your tax return. This envelope is designed for use in our automated mail-opening equipment and will expedite the processing of your return. If you are expecting a refund, place an "X" in the box on the front of the envelope. If your envelope has been misplaced, mail your return to the following address:

INDIVIDUAL INCOME TAX/FOOD SALES TAX
KANSAS DEPARTMENT OF REVENUE
915 SW HARRISON ST
TOPEKA, KS 66699-1000

If You Need Forms

A tax booklet is mailed each year to the address on your previous year's Income Tax return.

Kansas Income Tax forms and instructions are available throughout the state at city and county clerk's offices, driver's license stations, banks, libraries, and other places of convenience. Specialized schedules and forms are available from our Taxpayer Assistance Office, or by calling our voice mail forms request line at (785) 296-4937 and from our web site at www.ksrevenue.org.

Important: Due to the sensitivity of the Department's imaging equipment for tax return processing, only an **original** preprinted form or an **approved** computer-generated version of the K-40, Schedule S, and K-40V should be filed.

Extension of Time to File

If you are unable to complete your Kansas return by the filing deadline, you may request an extension of time to file. If you filed Form 4868 with the Internal Revenue Service for an automatic four-month extension to file, enclose a copy of this form with your completed Form K-40 to automatically receive a four-month extension 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 to file the return after the original due date.)

Important: An extension of time to file is NOT an extension to pay. If you do not pay the tax amount due (may be estimated) by the original due date, you will owe interest and penalty on any balance due.

To pay the tax balance due for an extension, use the Kansas Payment Voucher (K-40V) located in this book. Check the box on the K-40V indicating extension payment.

Copy of Federal Return

If you file Form K-40 using a Kansas address, you do not need to include a copy of your Federal return. However, keep a copy as it may be requested by the Kansas Department of Revenue at a later date. If your Form K-40 shows an address other than Kansas, you must enclose a copy of your Federal return (1040EZ, 1040A or 1040 and applicable Schedules A-F) with your Kansas return.

Estimated Tax

If you have self-employment income or other income not subject to Kansas withholding, you may be required to file estimated income tax voucher to prepay your Kansas Income Tax. Estimated tax payments are required if:

- ~~Your~~ Kansas Income Tax balance due (after withholding and prepaid credits) is \$500 or more; AND
- ~~Your~~ withholding and prepaid credits for the current tax year are less than:

- (1) 90% of the tax on your current year's return or
- (2) 100% of the tax on your prior year's return.

To make estimated tax payments, obtain Form K-40ES, the Kansas estimated tax vouchers and instructions.

If two-thirds of your income is from farming or fishing, you are not required to make estimated tax payments if your return is filed and tax is paid on or before March 1, 2005.

Underpayment Penalty: If line 29 minus line 18 of Form K-40 is at least \$500 and is more than 10% of the tax on line 17 of Form K-40, you may be subject to a penalty for underpayment of estimated tax. Use Schedule K-210, in this booklet, to see if you will have a penalty or if you qualify for one of the exceptions to the penalty.

Amending Your Return

You must file an amended Kansas return when: 1) an error was made on your Kansas return, 2) there is a change on another state's return (error or adjustment), 3) there is a change on your federal return (error or adjustment). **Check the AMENDED box in the Filing Information section of the K-40 if you are amending your 2004 Kansas return.** For 2001 and all subsequent tax years, Form K-40 and Schedule S are used to amend your return. (Note: If you filed a Schedule S with your original return you must also file a Schedule S with your amended return, even if there are no amended changes.) For tax years prior to 2001, you must use a Form K-40X for the year you are amending. For copies of Form K-40X, refer to **If You Need Forms** above.

Pay the full amount of tax and interest due on an amended return and no late pay penalty will be assessed. Refer to the department's web site for annual interest rates.

AMENDED FEDERAL RETURN: If you are filing an amended federal income tax return, Form 1040X for the same taxable year as this amended return, you must 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, it is necessary to provide the Kansas Department of Revenue 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: If you know that a previously filed federal return was not correct, or if your original return was adjusted by the Internal Revenue Service, amended returns or copies of the Revenue Agent's Reports must be submitted within 180 days of the date the federal adjustments are paid, agreed to, or become final, whichever is earlier. Failure to properly notify the Director of Taxation within the 180 day period will cause the statute of limitations to remain open (Department of Revenue could make assessments for as many years back as necessary).

Deceased Taxpayers

If you are the survivor or representative of a deceased taxpayer, you must file a return for the taxpayer who died during the calendar year.

If you are a surviving spouse filing a joint Federal Income Tax return, a joint Kansas return must also be filed. Include the decedent's Social Security number in the space provided in the heading of the return. Be sure the appropriate box below the heading has been checked.

Decedent Refund Documentation

If you are a surviving spouse requesting a refund of less than \$100, you must enclose **ONE** of the following with your Form K-40:

- Federal Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer
- Death certificate
- Obituary statement
- Funeral home notice
- Letters of Testamentary
- Kansas Form RF-9, Decedent Refund Claim

If you are a surviving spouse requesting a refund of **OVER \$100**, or if a refund of **ANY** amount is being requested by someone other than the surviving spouse, you must submit with your Form K-40:

- Proof of death (death certificate, obituary statement or funeral home notice), **AND**
- Kansas Form RF-9, Decedent Refund Claim

Innocent Spouse Relief

In those cases where husband and wife file as married filing joint for Kansas, and one spouse is relieved of federal liability by the IRS under 26 USC 6013(e) or 6015, he or she is also relieved of Kansas tax, penalty and interest. Innocent spouse relief is also provided in Kansas cases where such relief would have been provided on the federal level had there been a federal liability.

Confidential Information

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

Food Sales Tax Refund

Form K-40 is not only a Kansas Income Tax return, but also the claim form for the Food Sales Tax Refund. This program offers a refund of the sales tax paid on food. To qualify, you must be 55 years of age or older, or be blind or disabled, or have a dependent child under 18 who lived with you all year whom you claim as a personal exemption. You must also be a Kansas resident (residing in Kansas the entire year) whose Kansas qualifying income is \$26,900 or less (see page 14). The refund is claimed on line 25 of Form K-40. The Food Sales Tax refund will either increase the amount of your Income Tax refund or decrease the amount you owe. If you filed a Kansas Income Tax return last year, you may use TeleFile or WebFile to claim your Food Sales Tax refund and get your refund quicker. See page 3 for details on these quick and easy paperless filing options.

All returns requesting a Food Sales Tax refund **MUST BE RECEIVED** by the department **NOT LATER THAN April 15th** or, within the automatic four (4) month federal extension period. Failure to file for a food sales tax refund after August 15th will result in a denial of the refund. The Director of Taxation may extend the time for filing any claim when good cause exists therefor; or accept a claim filed after the deadline for filing in the case of sickness, absence or disability of the claimant if such claim has been filed within four years of such deadline [79-3635(c)].

Homestead Refund Program

This program offers a property tax rebate of up to \$600 for homeowners and renters. To qualify, the claimant must be a Kansas resident (residing in Kansas the entire year) whose 2004 household income was less than \$26,300, and who is over 55 years old, or is blind or disabled, or has a dependent child under 18 who lived with them all year. "Household income" is generally the total of all taxable and nontaxable income received by all household members.

This rebate is claimed on Kansas Form K-40H, "Kansas Homestead Refund Claim." This form and instructions are available from our Taxpayer Assistance Center, driver's license stations, your county clerk's office, and other places of convenience throughout the state, or by calling our voice mail forms request line: (785) 296-4937.