

GENERAL INFORMATION

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

Who Must File a Return

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.

KANSAS RESIDENTS

A Kansas resident for income tax purposes is anyone who lives in Kansas, regardless of where they are 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: 1) you are required to file a federal income tax return; **or**, 2) your Kansas adjusted gross income is more than the total of your Kansas standard deduction and exemption allowance.

The minimum filing requirements are shown in the following table. 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 need not 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 gross income is at least:
SINGLE <u>OR</u> 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

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 return regardless of the amount of income received from Kansas sources (see definition of Kansas source income on page 24).

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. The letter must state the amount of wages and withholding applicable to Kansas.

PART-YEAR RESIDENTS

You are considered 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 and reserve 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, and you have not established residency in another state, you are still a Kansas resident and all of your income, including 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 for **nonresident** military service members. Nonresident service members will subtract out the amount of their military compensation on Schedule S, line A13 (see 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/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 Schedule S, line A17. (See instructions on page 23.)

Kansas law provides that if a husband or wife is a resident of Kansas while the other is a nonresident of Kansas, and file a Married Filing Joint federal return, they must file a Married Filing Joint Kansas return and file as "nonresidents" of the state of Kansas.

When to File

You can "file now" and "pay later" using our Direct Payment option. See page 19.

If your 2008 return is based on a calendar year, it must be filed and the tax paid no later than **April 15, 2009**. 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. NOTE: Your refund may be disallowed if your return is not filed within two (2) years of the "original" due date and penalty and interest will accrue on balance due returns filed after the original due date.

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

Due to the sensitivity of KDOR'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.

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

Extension of Time to File

An extension of time to file is NOT an extension of time to pay the tax.

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 extension to file, enclose a copy of this form with your completed Form K-40 to automatically receive an 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 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. If you do not pay the tax due (may be estimated) by the original due date, you will owe interest and penalty on any balance due.

Your 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 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.

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.

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.

Estimated Tax

If two-thirds of your income is from farming or fishing, you are not required to make estimated tax payments – but your return must be filed and your tax paid on or before March 1, 2009.

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

- Kansas income tax balance due (after withholding and prepaid credits) is \$500 or more; AND
- 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.

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

If you filed a Schedule S with your original return, then you must file a Schedule S with your amended return, even if there are no amended changes to the Schedule.

You must file an amended Kansas return when: 1) an error was made on your Kansas return, 2) there is a change (error or adjustment) on another state's return, or 3) there is a change (error or adjustment) on your federal return. **Check the AMENDED box in the Filing Information section of the K-40 if you are amending your 2008 Kansas return.**

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 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 a previously filed federal return was not correct, or if your original return was adjusted by the IRS, 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 \$100 or less, 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 Testamentary
- Kansas Form RF-9, Decedent Refund Claim (a copy of this form can be found in this tax booklet)

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 (a copy of this form can be found in this tax booklet)

Food Sales Tax Refund

*If you filed a Kansas income tax return last year, you can use "WebFile" to claim your food sales tax refund and get it **fast!** See page 3.*

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 \$30,300 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.

All returns requesting a food sales tax refund **MUST BE RECEIVED** by the department **NOT LATER THAN** April 15th or within the federal extension period. Failure to file for a food sales tax refund before October 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, 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.

Homestead & Property Tax Relief Refunds

These refund claims can be filed electronically. For details, obtain a copy of the Homestead Claim and Property Tax Relief Claim Booklet.

The Homestead Refund program offers a property tax rebate of up to \$700 for homeowners and renters. To qualify, the claimant must be a Kansas resident (residing in Kansas the entire year) whose 2008 household income was \$29,700 or less, 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 refund is claimed on Kansas Form K-40H, Kansas Homestead Claim.

 A new property tax refund for homeowners, 65 years of age or older with household income of \$16,800 or less, is available on Form K-40PT. The refund is 45% of the property taxes paid. Claimants who receive this property tax refund **cannot** claim a Homestead refund.

These forms and instructions are available from our Taxpayer Assistance Center or by calling our voice mail forms request line at (785) 296-4937.