Kansas Administrative Regulations

Kansas Department of Revenue

Article 12.—Income Tax

92-12-105. Contribution to income; debtor setoff.

(a) As used in K.S.A. 75-6202, and amendments thereto, "contribution to income" shall mean that portion of the income of a spouse filing a joint return that is subject to withholding, or that can be otherwise determined, from information filed with the return, to have been received by that spouse individually. Income that cannot be determined, from information filed with the Kansas income tax return, to have been received by either spouse individually shall be considered attributable to each spouse at the ratio of the income that has been determined to have been received individually by each spouse to the total income of both spouses. If the amount reported as Kansas adjusted gross income does not include income subject to Kansas tax received by either spouse individually, this amount shall be considered to have been contributed equally by each spouse.

(b)The amount of the refund shall be adjusted to properly reflect the debtor's contribution to income if the debtor proves either of the following:

(1) Any of the income attributed to the debtor was received by the debtor's spouse individually and should not have been attributed to the debtor for the purpose of determining contribution to income.

(2) Any of the income attributed wholly or partly to the debtor's spouse should have been attributed to the debtor.

(c) Income shall not be attributed to either spouse individually unless the debtor proves either of the following:

(1) Only one spouse had an ownership interest in the source of the income at the time it was received.

(2) In the case of earned income not subject to Kansas withholding tax, the income was earned solely by one spouse.

If the debtor proves that the proportionate ownership interest in an income source is not the same as the ratio determined under subsection (a), the amount of refund shall be adjusted accordingly.

(d) Questions regarding the proper computation of contribution to income as specified in this regulation may be raised at the hearing provided for in K.S.A. 75-6207, and amendments thereto.

(Authorized by K.S.A. 75-6203; implementing K.S.A. 2000 Supp. 75-6202; effective, E-82-26, Dec. 16, 1981; effective May 1, 1982; amended May 10, 2002.)