

**Questions and Answers
Regarding
Rural Opportunity Zones**

(Updated 2021)

During the 2011 Legislative Session Senate Bill 198 was passed and signed into law. This bill designated 50 counties in Kansas as Rural Opportunity Zones (ROZ). As part of the bill, certain out-of-state taxpayers who relocate to these counties and meet certain criteria are provided an income tax credit which is available for tax years 2012 through 2016. (See K.S.A. 79-32,267, which effectively grants an income tax exemption for certain qualifying years.) For additional information, see Notice 11-03.

During the 2013 Legislative Session House Bill 2059 was passed and signed into law. Section 9 of the Bill amended K.S.A. 2012 Supp. 74-50,222 to add 23 additional counties which have received the ROZ designation. Taxpayers who relocate to these counties and meet certain criteria are provided an income tax credit which is available for tax years 2013 through 2016. For additional information, see Notice 13-13.

During the 2014 Legislative Session House Bill 2643 was passed and signed into law. Section 19 of the Bill amends K.S.A. 2013 Supp. 74-50,222 to add 4 additional counties which have received the ROZ designation. Taxpayers who relocate to these counties and meet certain criteria are provided an income tax credit which is available for tax years 2014 through 2016. For additional information, see Notice 14-07.

As of tax year 2014, a total of 77 counties have received the ROZ designation. These counties are:

Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson counties;

During the 2015 Legislative Session House Bill 2109 was passed and signed into law. Section 27 of the Bill amends K.S.A. 2014 79-32,267 to extend the income tax credit through tax year 2021. For additional information, see Notice 15-09.

During the 2021 Legislative Session, Senate Bill 47 was passed and signed into law. Section 11 of the Bill amends K.S.A. 74-50,222 to expand eligible counties to those with a population of 40,000 or less. Section 15 of the Bill amends K.S.A. 79-32,267 to extend the income tax credit through tax year 2023. For additional information see notice 21-05.

The following counties are eligible for tax year 2021 and 2022:

Allen, Anderson, Atchison, Barber, Bourbon, Brown, Barton, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Decatur, Dickinson, Doniphan, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Lyon, Marion, Marshall, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson counties;

Counties that will qualify for the ROZ credit for tax year 2023 will be published when available.

Questions Regarding Establishing Domicile

- Q1. I am a Kansas resident and will be marrying a non-Kansas resident. After we are married my spouse will be moving into Kansas. If my spouse meets the ROZ requirements can my spouse claim the exemption? If so, how do we claim it on our income tax return?
- A1. Yes, your spouse can claim the exemption if your spouse meets the other requirements. If a Kansas resident marries a non-Kansas resident and, after marriage, the non-resident spouse moves to Kansas and establishes residency, the non-resident spouse can claim the ROZ exemption if they meet the ROZ requirements. In order to claim the exemption, you will each have to file a Kansas income tax return with a filing status of married filing separately. Since your Kansas filing status must be the same as your federal filing status you will also have to file your federal returns as married filing separately. Please note the filing status selected on your federal return will likely affect your federal tax liability, so you may want to discuss your options with your personal tax advisor.
- Q2. I am living and working in Kansas but my domicile, my “home”, is in another state. If I decide to make Kansas my permanent home can I claim the ROZ credit?
- A2. Yes, if you meet the other requirements. Qualification for the ROZ program is based on a person changing their domicile and establishing a new domicile in Kansas. Where a person resides is a factor in determining their domicile, but not the deciding factor.
- Q3. I have been attending college in Kansas, and am currently completing an internship, but my domicile, my “home”, is in another state. If I decide to make Kansas my permanent home can I claim the ROZ credit?

- A3. Yes, if you meet the other requirements. Qualification for the ROZ program is based on a person changing their domicile and establishing a new domicile in Kansas. Where a person resides is a factor in determining their domicile, but not the deciding factor.
- Q4. I am on active military status. My home of record is Kansas, but I have been stationed outside of Kansas for the last 5 years. If I retire from the military and begin residing in Kansas can I claim the ROZ credit?
- A4. No. If your military home of record is Kansas you are domiciled in Kansas, even though you don't currently reside in Kansas due to military orders. Individuals domiciled in Kansas do not qualify for the ROZ program.
- Q5. I am on active military status. My home of record is outside of Kansas, but I have been stationed inside Kansas for the last 5 years. If I retire from the military and decide to remain in Kansas can I claim the ROZ credit?
- A5. Yes, if you meet the other requirements. If your military home of record is outside Kansas you are not domiciled in Kansas, even though you reside in Kansas due to military orders. Individuals not domiciled in Kansas can qualify for the ROZ program.

Questions Regarding Income

- Q1. The ROZ requirements say my Kansas source income must be less than \$10,000 in any one year for five or more years immediately prior to establishing my domicile in a ROZ in Kansas. I receive income from a farm in Kansas. Is the \$10,000 limit based on gross income from the farm, or is it based on net income determined after expenses?
- A1. The \$10,000 income limit is based on your farm income after deductible farm business expenses (usually federal Schedule F, line 36).
- Q2. I receive income from Kansas sources because I am a partner in a partnership. Is the \$10,000 income limit for ROZ qualification based on my share of the gross Kansas source income of the partnership or on my share of the net Kansas source income from the partnership?
- A2. The \$10,000 income limit is based on your share of the net Kansas source income from the partnership.
- Q3. I received an inheritance of more than \$10,000 from the estate of my father, who lived in Kansas. Is an inheritance considered to be Kansas source income for purposes of the ROZ credit?
- A3. No. An inheritance is not considered Kansas source income for purposes of the ROZ credit.

Questions Regarding Maintaining Domicile

- Q1. The ROZ requirements say I must be domiciled in a rural opportunity zone during the entire taxable year for which I claim a credit. What happens if I establish my domicile on December 31st and remain in Kansas until the following December 30th? Does that count as an entire year?

- A1. No. Establishing your domicile in Kansas on December 31st ensures you are domiciled in Kansas on January 1st of the next calendar year. In order to qualify for the credit you must maintain your domicile for the entire tax year (which is the calendar year for most individuals). If you change your domicile to a place outside of Kansas prior to the end of the tax year, even one day early, you will not be domiciled in Kansas for the entire tax year and so will not be eligible to claim the credit.
- Q2. What if I am domiciled in a ROZ county at the start of the year, but then move to another ROZ county during the year? Will I still qualify for the ROZ credit?
- A2. Yes. As long as you were domiciled in a ROZ county for the entire year you will qualify for the credit. The fact that you move from one ROZ county to a different ROZ county will not disqualify you from claiming the credit.

Questions Regarding Claiming the Credit

- Q1. I established my domicile in a ROZ county before January 1, 2013. I didn't realize the ROZ credit existed until April of 2015, when I filed my 2014 income tax return. Can I file an amended return to claim the ROZ credit for tax year 2013?
- A1. No. The controlling statute, K.S.A. 79-32,267 provides, in subsection (d), that no credit shall be allowed if, "(1) The resident individual's income tax return on which the credit is claimed is not timely filed, including any extension." In order to claim the credit, the latest you could have filed an amended return for 2013 would have been October 15th of 2014.
- Q2. The first year I was eligible to claim a ROZ credit, I didn't. The time has now passed for me to file an amended return to claim the credit for that year. If I continue to meet all the qualifications, can I claim the credit for later years?
- A2. Yes. Assuming you meet all the qualifications, failing to claim a ROZ credit during one year does not disqualify you from claiming the credit during a subsequent year.

Miscellaneous Questions

- Q1. I have met the ROZ qualifications and plan to maintain my domicile in Kansas for the entire year. Since I will qualify to claim the credit should I continue to have Kansas income tax withheld, or should I change my Kansas withholding to \$0 so I don't have any tax withheld?
- A1. Although you have met the ROZ qualification and plan to maintain your domicile in Kansas for the entire year, something could arise that would cause you to change your domicile during the year. If that happens you would not be eligible for the ROZ credit and would be responsible for any Kansas income tax due. As a result, while you may want to lower your Kansas income tax withholding to \$0 this is not recommended. Your personal tax advisor can give you specific suggestions based on your personal situation.

FOR MORE INFORMATION

If you have a question about the Department's policies regarding the Rural Opportunity Zone program you may contact the Office of Policy and Research for more information. Submit your question to:

Office of Policy and Research
Kansas Department of Revenue
5th Floor
Mills Building
109 SW 9th
Topeka, KS 66601
785-296-8042