

KANSAS
OWNERS PROMOTING EMPLOYMENT
ACROSS KANSAS (PEAK) CREDIT

This credit available only through electronic filing.

For the taxable year beginning, _____, 20 ____; ending, _____, 20 ____

Name of taxpayer (as shown on return)	Social Security Number or Employer ID Number (EIN)
If partner, shareholder or member, enter name of partnership, S corporation, LLC or LLP	Employer ID Number (EIN)

PART A – PEAK AND MATERIAL PARTICIPATION TEST

1. Has the qualified company signed an incentive agreement with the Kansas Department of Commerce under the Promoting Employment Across Kansas (PEAK) Act? Yes ___ No ___ **If “No” you do not qualify for this credit.**

2. To claim this credit, a taxpayer must “materially participate” in a trade or business activity of the qualified company. A taxpayer materially participates in a trade or business activity if he or she works on a **regular, continuous and substantial** basis. Answer the following 7 questions to determine if you materially participate in the business.

(A trade or business activity is an activity that 1) involves the conduct of a trade or business, 2) is conducted in anticipation of starting a trade or business, or 3) involves certain research and development expenses.)

With regard to the qualified company for which the credit is claimed, did you:

- a) work in a trade or business activity for 500 hours or more during the past year? Yes ___ No ___
- b) do substantially all the work in the trade or business activity? Yes ___ No ___
- c) work more than 100 hours in the trade or business activity **and** no one else worked more hours than you? Yes ___ No ___
- d) work more than 100 hours in more than one trade or business activity, and the sum of all the hours you worked exceeds 500 hours for the year? Yes ___ No ___
- e) materially participate in a trade or business activity in any 5 of the prior 10 years? Yes ___ No ___
- f) materially participate in a personal service activity in any 3 prior years? Yes ___ No ___
- g) work at least 100 hours in a trade or business activity, no one else worked more hours than you in the activity, no one else received compensation for managing the activity and, based on all of the facts and circumstances, your participation is regular, continuous, and substantial during the course of the year? Yes ___ No ___

You must answer “Yes” to at least one of these questions to qualify for the credit. **If you answered “No” to all seven questions you do not qualify for this credit.**

PART B – GENERAL INFORMATION

3. Name of qualifying company: _____ EIN/SSN: _____

4. Location of qualified Company:

Street Address _____

City _____ State _____ Zip Code _____

5. Date qualified company began at this address (mm/dd/yyyy): ____ / ____ / ____

6. Did this business relocate a business facility, office, department, or operation to Kansas from a state outside of Kansas?

Yes ___ No ___ **If “No” then you do not qualify for this PEAK tax credit.**

PART C – COMPUTATION OF CREDIT

- 7. Total **Kansas** business income after apportionment (you may use the Kansas Corporation Apportionment Schedule form K-120AS to calculate your total business income apportioned to Kansas). 7. _____
- 8. Kansas Owners PEAK qualified business Income apportionment factor. Enter the percentage from Part D, line C of the Qualified Company Apportionment Schedule (see instructions). 8. _____ %
- 9. Business income attributable to the business activity conducted at the qualified business relocated to Kansas from outside of Kansas. Multiply line 7 by line 8. 9. _____
- 10. Your proportionate share of qualified business (see instructions). 10. _____ %
- 11. Owners share of qualified business income. Multiply line 9 by line 10. 11. _____
- 12. Tax liability from qualified business income. Calculate tax liability from the following schedule. 12. _____

TAX COMPUTATION SCHEDULE		
If line 11 is:		
Over	But Not Over	Enter on line 12:
\$ 0	\$ 15,000	3.10% of line 11
\$ 15,000	\$ 30,000	\$ 465.00 plus 5.25% of excess over \$15,000
\$ 30,000		\$1,252.50 plus 5.7% of excess over \$30,000

- 13. Your share of the credit. Multiply line 12 by 95%. 13. _____
- 14. Your Kansas tax liability after other states' tax credit(s). Enter the amount of your Kansas tax liability for this tax year after all credits other than this credit. 14. _____
- 15. Credit amount. Enter amount from line 13 or 14 of this schedule, whichever is less. Enter also on line 15 of Form K-40. 15. _____

PART D – QUALIFIED COMPANY APPORTIONMENT SCHEDULE (QBAS)

	(a) PEAK qualified business relocated to Kansas	(b) Total Kansas	(c) % of PEAK business to Kansas total. Divide column (a) by column (b)
A. Apportionment fraction			
1. Property Factor	A1		%
2. Payroll Factor	A2		%
3. Sales Factor	A3		%
B. Total percent (add lines A1, A2, and A3).	B		%
C. Average percent (divide percent on line B by 3). Enter result here and on line 8 of this schedule.	C		%

DO NOT
DISTRIBUTE

INSTRUCTIONS FOR SCHEDULE K-88

For taxable years commencing after December 31, 2010, K.S.A. 79-32,266 provides a credit against the tax liability of a resident individual taxpayer in an amount equal to 95% of their income tax liability for Kansas source income received from a qualified company that has business income attributable to business activities conducted at the business facility, office, department or other operation relocated to Kansas. The taxpayer must own the qualified company and materially participate in such business activities conducted at the relocated business facility, office, department or other operation of the qualified company which qualified for benefits under the provisions of subsection (a)(1) of K.S.A. 74-50,212, and amendments thereto.

For taxable years beginning after December 31, 2012 and ending before January 1, 2017, this credit shall not be available to any taxpayer that makes a modification to income under K.S.A. 79-32,117(b)(xix) or K.S.A. 79-32,117(c)(xx).

PART A – PEAK AND MATERIAL PARTICIPATION TEST

LINE 1: Your qualified company must have a signed PEAK incentive agreement with the Kansas Department of Commerce (KDOC) in order for you, the owner, to claim this credit.

LINE 2: Answer the seven questions in line 2 to determine if you, the owner or part owner of the qualified business, materially participated in the business. You must answer yes to at least one of the seven questions to qualify for this credit.

PART B – GENERAL INFORMATION

LINE 3: Enter the name and employer identification number of the business that meets all the PEAK qualifications and has signed an incentive agreement with KDOC.

LINE 4: Enter the address for the qualified company.

LINE 5: Enter the date the qualified company began operations at the address listed on line 4.

LINE 6: The business must have relocated a business facility, office, department or other operation from a location outside of Kansas to a location in Kansas. If the business was not located outside of Kansas you do not qualify for the Owners PEAK tax credit.

PART C – COMPUTATION OF CREDIT

LINE 7: Enter the total of all business income apportioned to Kansas. If all of your business income is from Kansas only, enter that amount on line 7 as Kansas business income and go on to line 8. If your business income is from both in Kansas and outside of Kansas you will need to complete a Kansas business income apportionment schedule to calculate the total of all your business income that is apportioned to Kansas (this may have already been completed at the business level). You may use the Kansas Corporation Apportionment Schedule, K-120AS, for the calculation. Visit our website at ksrevenue.org for more information on apportioning Kansas business income. This must be done before apportioning the PEAK qualified business income derived for the qualified business relocated to Kansas.

LINE 8: To determine your PEAK qualified business income apportionment factor you will need to complete the Qualified Company Apportionment Schedule, PART D. See instructions for PART D.

LINE 9: Multiply line 7 by line 8 and enter result. This is the business income attributable to business activities conducted at the business facility, office, department or other operation relocated to Kansas.

LINE 10: Enter the percentage that represents your proportionate share in the partnership, S corporation, LLC or LLP. All other taxpayers: Enter 100%.

LINE 11: Multiply line 9 by line 10. This will be the owner's share of income.

LINE 12: Use amount on line 11 and the tax computation schedule provided to calculate the Kansas tax liability attributed to the income of the qualified business. Enter result on line 12.

LINE 13: Multiply line 12 by 95%. This is your share of the Owners PEAK credit.

LINE 14: Your Kansas tax liability after *any other states' tax credit(s)*. Enter the amount of your Kansas tax liability for this tax year after all credits other than this credit.

LINE 15: Total credit. Enter amount from line 13 or line 14, whichever is less. Also enter this amount on line 15 of Form K-40.

PART D – QUALIFIED COMPANY APPORTIONMENT SCHEDULE (QCAS)

To determine the business income attributable to the business activity conducted at the qualified business relocated to Kansas, the business income determined in PART C, line 7 must be multiplied by a three-factor formula comprised of the PEAK location Kansas property, payroll and sales factors divided by total Kansas property, payroll and sales factors.

The **property factor** is a fraction, the numerator of which is the average value of the company's real and tangible personal property owned or rented and used during the tax period at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the average value of the company's real and tangible personal property owned or rented and used within this state during the tax period. (Rented property is equal to the sum of; total rented property at the beginning of the year plus total rented property at the end of the year divided by 2. Multiply the result of this by 8.)

The **payroll factor** is a fraction, the numerator of which is the total amount paid during the tax period by the company for compensation at such relocated facility, office, department or other relocated operation in Kansas, and the denominator of which is the total compensation paid by the company in this state during the tax period.

The **sales factor** is a fraction, the numerator of which is the total sales of the relocated facility, office, department or other relocated operation in this state during the tax period, and the denominator of which is the total sales of the company in this state during the tax period.

TAXPAYER ASSISTANCE

For assistance in completing this schedule contact the Kansas Department of Revenue:

Taxpayer Assistance Center
Scott Office Building
120 SE 10th Ave.
PO Box 750260
Topeka, KS 66699-0260
Phone: 785-368-8222
Fax: 785-291-3614

Additional copies of this credit schedule and other tax forms are available from our website at: ksrevenue.org

*****The K-88 can only be filed electronically*****