

Notice

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Office of Policy & Research

NOTICE 02-06

2002 Changes To Kansas Withholding Tax

Senate Bill 39 of the 2002 Legislative Session made four changes to the Kansas Withholding Tax Act. First, it extends withholding to certain distributions from Subchapter S corporations, limited liability companies, and partnerships. Second, it extends withholding to prizes or awards paid to professional athletes. Third, it makes withholding on certain non-wage payments permissive, rather than mandatory. Fourth, it defines professional employer organizations and provides that they shall be considered an employer for purposes of the Kansas withholding tax. These changes became effective June 6, 2002.

Sections 29 and 30 of the bill extend Kansas withholding to distributions that are distributed or distributable to shareholders or partners who are nonresidents of Kansas. Section 29 amends K.S.A. 2001 Supp. 79-3295 to include the terms “distributee”, that is defined to mean “. . . any person or organization who receives a distribution . . .”, and the term “distribution” that is defined to mean “. . . a distribution from a corporation for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, from a limited liability company formed under the laws of the state of Kansas, or from a partnership.” Section 30 amends K.S.A. 2001 Supp. 79-32,100a to provide that “Every payor who makes a distribution . . . shall withhold . . . from amounts distributed or distributable to each nonresident shareholder or partner.”

Section 29 of the bill also extends withholding to prizes or awards paid to professional athletes. Section 29 amends the definition of wages found in K.S.A. 2001 Supp. 79-3295 to provide that the term wages “. . . shall include any prize or award paid to a professional athlete at a sporting event held in this state.”

Section 30 of the bill also makes withholding on certain non-wage payments permissive, rather than mandatory. Section 30 amends K.S.A. 2001 Supp. 79-32,100a to provide that, “Every payor who is required under federal law to withhold upon payments other than wages . . . shall withhold . . . whenever the payee is a person whose primary residence is in Kansas.” Prior to this amendment, withholding on non-wage payments was required whenever federal income tax was withheld, whether federal withholding was required or permissive. Now, withholding of tax on non-wage payments is required only when federal withholding is required; if federal withholding is permissive, state withholding is permissive.

New Section 32 of the bill concerns professional employer organizations. A professional employer organization is defined to mean “any person engaged in providing the services of employees pursuant to one or more professional employer arrangements or any person that represents itself to the public as providing services pursuant to a professional employer arrangement.” New Section 32 also provides that “A professional employer organization shall be considered an employer for the purposes of withholding state income tax of the assigned workers pursuant to the Kansas income tax act.”

If you make payments or distributions that are subject to withholding you must register for Kansas withholding. The registration process is explained in Kansas Department of Revenue publication KW-100 (Rev. 4/01). Copies of this publication are available through our forms request line or our web site.

To obtain additional copies of this or any other notice call the Kansas Department of Revenue's voice mail forms request line at (785) 296-4937 or download them from our web site: **www.ksrevenue.org**. If you have any questions about this notice or Kansas withholding tax, please contact our Taxpayer Assistance Center.

Taxpayer Assistance Center

Docking State Office Building

915 SW Harrison St., 1st Floor

Topeka, KS 66625-0001

In Topeka call: 368-8222

Outside Topeka call toll free: 1-877-526-7738

Hearing Impaired TTY: 1-785-296-6461

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