



KANSAS
LIQUOR ENFORCEMENT
TAX ACT

(WITH RELATED SALES TAX STATUTES)

K.S.A. Chapter 79, Articles 41

Without Annotations - For Public Distribution

Last amended 2012

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79-4101. Imposition and rate of tax. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers, microbreweries, microdistilleries or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from: (1) The sale of alcoholic liquor by retailers, microbreweries, microdistilleries or farm wineries to consumers within this state; and (2) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments, public venues or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries, microdistilleries and farm wineries by K.S.A. 41-310 and amendments thereto.

History: L. 1949, ch. 242, § 117; L. 1958, ch. 35, § 1 (Special Session); L. 1965, ch. 536, § 1; L. 1983, ch. 332, § 1; L. 1984, ch. 363, § 1; L. 1987, ch. 182, § 109; L. 1987, ch. 182, § 110; L. 2012, ch. 144, §45; May 31.

79-4102. Tax paid by purchaser and collected by seller. The tax levied under K.S.A. 79-4101 and amendments thereto shall be paid by the consumer or user to the retailer, microbrewery, microdistillery or farm winery or by the club, drinking establishment, public venue or caterer to the distributor. It shall be the duty of each retailer, microbrewery, microdistillery, farm winery or distributor in this state to collect from the purchaser the full amount of the tax imposed by this act, or an amount equal as nearly as possible or practicable, to the average equivalent thereof.

History: L. 1949, ch. 242, § 118; L. 1983, ch. 161, § 23; L. 1987, ch. 182, § 111; L. 1987, ch. 182, § 112; L. 2012, ch. 144, §46; May 31.

79-4103. Time for returns and payment of tax; forms; extension of time. On or before the 25th day of each calendar month, every person engaged in the business of selling alcoholic liquor at retail, every microbrewery selling beer to consumers, every microdistillery selling spirits to consumers, every farm winery selling wine to consumers in this state and every distributor selling alcoholic liquor or cereal malt beverage to clubs, drinking establishments, public venues or caterers in this state during the preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: (a) The name and address of the seller; (b) the total amount of gross sales subject to the tax imposed by K.S.A. 79-4101 and amendments thereto during the preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by K.S.A. 79-4101 and amendments thereto. The director of taxation may extend the time for making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

History: L. 1949, ch. 242, § 119; L. 1965, ch. 536, § 2; L. 1967, ch. 501, § 3; L. 1983, ch. 161, § 24; L. 1987, ch. 182, § 113; L. 1987, ch. 182, § 114; L. 1992, ch. 295, § 2; L. 2012, ch. 144, §47; May 31.

79-4104. Notice to director of taxation when seller's license issued, revoked, suspended or expired. Whenever the director of alcoholic beverage control issues a retailer's, distributor's, microbrewery, microdistillery or farm winery license, the director of alcoholic beverage control shall promptly notify the director of taxation of its issuance. The notice shall include the name of the licensee and, in the case of a retailer, microbrewery, microdistillery or farm winery, the address of the licensed premises. Whenever the director of alcoholic beverage control revokes or suspends any

retailer's, distributor's, microbrewery, microdistillery or farm winery license or whenever any retailer's, distributor's, microbrewery, microdistillery or farm winery license expires, the director of alcoholic beverage control shall likewise notify the director of taxation.

History: L. 1949, ch. 242, § 120; L. 1983, ch. 161, § 25; L. 1987, ch. 182, § 115; L. 1987, ch. 182, § 116; L. 2012, ch. 144, §48; May 31.

79-4105. Enforcement, collection and administration; sections applicable; "director" defined. The provisions of K.S.A. 79-3605, 79-3609, 79-3610, 79-3611, 79-3612, 79-3613, 79-3614, 79-3615, 79-3617 and 79-3619, and acts amendatory thereof or supplemental thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of K.S.A. 79-4101 to 79-4104, inclusive, and wherever the word "director" is used in said sections it shall be construed to mean, for the purposes of this act, the director of taxation. The provisions of K.S.A. 74-2422, 74-2425, 74-2426 and 74-2427, and acts amendatory thereof or supplemental thereto, relating to the approval of rules and regulations, and the adoption of uniform rules and regulations for said hearings and for appeals from orders of the director of taxation and prescribing the duties of county attorneys with respect to such appeals, insofar as practicable, shall have full force and effect with respect to taxes imposed by, and proceedings under, the provisions of K.S.A. 79-4101 to 79-4108, inclusive.

History: L. 1949, ch. 242, § 121; March 9.

79-4106. Administration of provisions of article; rules and regulations; agents and employees; bond required of taxpayer, when. The director of taxation shall administer the provisions of article 41 of chapter 79 of the Kansas Statutes Annotated. The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions and intent of K.S.A. 79-4101 to 79-4105, inclusive. The director of taxation shall appoint such agents and employees as he or she may deem necessary for the proper enforcement and administration of said sections. When, in the judgment of said director of taxation, it is necessary in order to secure the collection of any such tax, penalties or interest due thereon, or to become due under said sections, he or she may require any person subject to such tax to file a bond with him or her in such form and amount as he or she may prescribe.

History: L. 1949, ch. 242, § 122; L. 1957, ch. 429, § 36; L. 1972, ch. 342, § 118; July 1.

79-4107. Penalties for violations of act. (a) No person shall: (1) Fail to make a return or pay any tax provided in K.S.A. 79-4101 to 79-4105, and amendments thereto; (2) make a false or fraudulent return; (3) willfully violate any rules and regulations of the secretary of revenue for the enforcement and administration of those sections; (4) aid or abet another in attempting to evade the payment of any tax imposed by those sections; or (5) violate any other provision of those sections.

(b) Violation of subsection (a) is punishable by a fine of not less than \$100 or more than \$1,000 or by imprisonment for not less than one or more than six months, or by both.

History: L. 1949, ch. 242, § 123; L. 1983, ch. 161, § 26; July 1.

79-4108. Disposition of revenue; transfer of moneys in county and city alcoholic liquor control enforcement fund to state general fund. All revenue collected or received by the director of taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The state treasurer shall transfer any moneys remaining in the county and city alcoholic liquor control enforcement fund on the effective date of this act to the state general fund.

History: L. 1949, ch. 242, § 124; L. 1957, ch. 429, § 37; L. 1958, ch. 35, § 2 (Special Session); L. 1965, ch. 536, § 3; L. 1972, ch. 93, § 27; L. 1976, ch. 428, § 1; L. 1978, ch. 401, § 7; L. 2001, ch. 5, § 462; July 1.

Applicable Sales Tax Statutes referenced in K.S.A. 79-4105

79-3605. Assumption of tax by retailer unlawful. It shall be unlawful for any retailer to advertise or hold out, or state to the public, or to any consumer, directly or indirectly, that the tax, or any part thereof, imposed by this act will be assumed or absorbed by the retailer, or that it will not be considered as an element in the price to the consumer, or if added, that it, or any part thereof, will be refunded.

History: L. 1937, ch. 374, § 5; April 9.

79-3609. Books and records; inspection; preservation; actions for collection; exemption certificates, requirements; refunds and credits; limitations; extension of period for making assessment or filing refund claim; interest on overpayments; payment of certain refunds of tax paid on manufacturing and processing equipment. (a) Every person engaged in the business of selling tangible personal property at retail or furnishing services taxable in this state, shall keep records and books of all such sales, together with invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be available for and subject to inspection by the director, or the director's duly authorized agents and employees, for a period of three years from the last day of the calendar year or of the fiscal year of the retailer, whichever comes later, to which the records pertain. Such records shall be preserved during the entire period during which they are subject to inspection by the director, unless the director in writing previously authorizes their disposal. Any person selling tangible personal property or furnishing taxable services shall be prohibited from asserting that any sales are exempt from taxation unless the retailer has in the retailer's possession a properly executed exemption certificate provided by the consumer claiming the exemption, except as follows:

(1) A retailer is relieved of liability for tax otherwise applicable if the retailer obtains a fully completed exemption certificate or captures the relevant data elements required by the director within 90 days subsequent to the date of the sale; or

(2) if the retailer has not obtained an exemption certificate or all relevant data elements, the retailer, within 120 days subsequent to a request for substantiation by the director, either may obtain a fully completed exemption certificate from the purchaser, taken in good faith which meets the requirements specified in this subsection, or obtain other information establishing that the transaction was not subject to tax. Otherwise, the sales shall be deemed to be taxable sales under this act. The seller shall obtain an exemption certificate that claims an exemption that was authorized pursuant to Kansas law on the date of the transaction in the jurisdiction where the transaction is sourced pursuant to law, could be applicable to the item being purchased and is reasonable for the purchaser's type of business. If the seller obtains an exemption certificate or other information as described in this subsection, the seller is relieved of any liability for the tax on the transaction unless it is discovered through the audit process that the seller had knowledge or had reason to know at the time such information was provided that the information relating to the exemption claimed was materially false or the seller otherwise knowingly participated in activity intended to purposefully evade the tax that is properly due on the transaction, and it must be established that the seller had knowledge or had reason to know at the time the information was provided that the information was materially false.

(b) The amount of tax imposed by this act is to be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall begin after the expiration of such period. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may begin at any time within two years from the discovery of such fraud. No assessment shall be made for any period preceding the date of registration

of the retailer by more than three years except in cases of fraud. For any refund or credit claim filed after July 1, 2011, no refund or credit shall be allowed by the director after three years from the due date of the return for the reporting period as provided by K.S.A. 79-3607, and amendments thereto, unless before the expiration of such period a claim therefor is filed by the taxpayer, and, except as otherwise provided in K.S.A. 2011 Supp. 79-3694, and amendments thereto, no suit or action to recover on any claim for refund shall be commenced, until after the expiration of six months from the date of filing such claim satisfying the requirements specified by K.S.A. 2011 Supp. 79-3693, and amendments thereto, therefor with the director. A refund claim shall not be deemed filed unless such claim is complete as required by K.S.A. 2011 Supp. 79-3693, and amendments thereto. For all mailed returns, including refund claims, each return or refund claim shall be presumed to have been filed with the department on the postmark date of such return or refund claim or if such date is illegible, the date three days prior to the date such return or refund claim is received.

(c) Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the period of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In consideration of such agreement or agreements, interest due in excess of 48 months on any additional tax shall be waived.

(d) Interest at the rate prescribed by K.S.A. 79-2968, and amendments thereto, shall be allowed on any overpayment of tax computed from the filing date of the return claiming the refund, except that no interest shall be allowed on any such refund if the same is paid within 120 days after the filing date of the return claiming the refund or the date of payment, whichever is later, provided that such return or refund claim satisfies the requirements specified by K.S.A. 2011 Supp. 79-3693, and amendments thereto, at the time the return or refund claim is received.

(e) Notwithstanding any other provision of this section or the provisions of the Kansas compensating tax act:

(1) (A) Any claim for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the provisions of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment by this act which is without dispute shall be allowed, but, with respect to any claim exceeding \$10,000, the refund associated therewith shall not be paid until after 510 days from the date such claim was filed and shall not include interest from such date. As used in this subparagraph, a claim for refund without dispute shall not include any claim the basis for which is a judicial or quasi-judicial interpretation of such subsection occurring after the effective date of this act.

(B) Any refund of tax resulting from a final determination or adjudication with regard to any claim submitted or to be submitted for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the provisions of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment by this act not described by subparagraph (A) shall, with respect to any refund exceeding \$50,000, be paid in equal annual installments over 10 years commencing with the year of such final determination or adjudication. Interest shall not accrue during the time period of such payment.

(2) No claim for refund of tax imposed by the Kansas retailers' sales tax act or the Kansas compensating tax act based upon the application of the provisions of subsection (n) of K.S.A. 79-3606, and amendments thereto, pursuant to its interpretation by the court of appeals of the state of Kansas in its opinion filed on August 13, 1999, in the case entitled In re appeal of Water District No. 1 of Johnson County shall be allowed for tax paid prior to the effective date of this act. The provisions of this subsection shall not be applicable to water district no. 1 of Johnson County.

History: L. 1937, ch. 374, § 9; L. 1947, ch. 463, § 5; L. 1969, ch. 465, § 1; L. 1977, ch. 339, § 1; L. 1988, ch. 386, § 5; L. 1992, ch. 198, § 2; L. 1997, ch. 126, § 2; L. 2000, ch. 123, § 2; L. 2007, ch. 155, § 6; L. 2009, ch. 142, § 9; L. 2010, ch. 123, § 12; L. 2011, ch. 88, § 6; July 1.

79-3610. Examination of returns; final determinations; notice; informal conferences; jeopardy assessments. The director of taxation shall examine all returns filed under the provisions of this act, and shall issue final determinations of tax liability hereunder in the manner prescribed by K.S.A. 79-3226, and amendments thereto, relating to income taxes. Any determination may be made on the basis of a generally recognized valid and reliable sampling technique, whether or not the person being audited has complete records of transactions and whether or not such person consents. In any such case, the director shall notify the taxpayer in writing of the sampling technique to be utilized, including the design and population of such sample. If the taxpayer demonstrates that any such technique used was not in accordance with generally recognized sampling techniques, the audit shall be dismissed with respect to that portion of the audit based upon such technique, and a new audit shall be performed. Within 60 days after the mailing of notice of the director's determination any taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to such taxpayer's tax liability, including the issue of whether the use of a generally recognized sampling technique achieved a result that was reflective of the taxpayer's actual tax liability, and an informal conference thereon shall be conducted and the secretary of revenue or the secretary's designee shall make a final determination and give the taxpayer notice thereof. In case any person required by the provisions of this act to make a return fails or refuses to do so, the secretary of revenue or the secretary's designee, after notice to such person, shall make a final determination of the amount of such tax according to the best judgment and information of the secretary of revenue or the secretary's designee.

Whenever the director of taxation has reason to believe that a person liable for tax under any provisions of the Kansas retailers' sales tax act is about to depart from the state or to remove such person's property therefrom, or to conceal oneself or such person's property therein, or to do any other act tending to prejudice, jeopardize or render wholly or partly ineffectual the collection of such sales tax unless proceedings be brought without delay, the director shall immediately make an assessment for all sales taxes due from such taxpayer, noting such finding on the assessment. The assessment shall be made on the basis of emergency proceedings in accordance with the provisions of K.S.A. 77-536 and amendments thereto. Thereupon a warrant shall forthwith be issued for the collection of the tax as provided in K.S.A. 79-3235, and amendments thereto. The taxpayer may within 15 days from the date of filing of such warrant request an informal conference with the secretary or the secretary's designee on the correctness of the jeopardy assessment.

History: L. 1937, ch. 374, § 10; L. 1943, ch. 290, § 9; L. 1947, ch. 463, § 6; L. 1957, ch. 429, § 30; L. 1987, ch. 391, § 1; L. 1988, ch. 356, § 343; L. 1992, ch. 65, § 2; L. 1997, ch. 126, § 12; July 1.

79-3611. Investigations and hearings. For the purpose of ascertaining the correctness of any return, or for the purpose of determining the amount of tax due from any person engaged in the business of selling tangible personal property at retail, or furnishing services taxable hereunder, the director of taxation, or any officer or employee of the director of taxation designated, in writing, may hold investigations and hearings concerning any matters covered by this act, and may examine any books, papers, records, or memoranda bearing upon such sales of any such person, and may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the director nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking

testimony, shall invalidate any order or decision made or approved by the director. The director, or any officer or employee thereof, shall have power to administer oaths to such persons.

History: L. 1937, ch. 374, § 11; L. 1957, ch. 429, § 31; July 1.

79-3612. Lien upon property upon sale of business; duties and liability of purchaser. The tax imposed by this act shall be a lien upon the property of any person who shall sell his or her business consisting of tangible personal property. The person acquiring such business or property shall withhold a sufficient amount of the purchase price thereof to cover the amount of any taxes due and unpaid by the seller, until the seller shall furnish the purchaser with a receipt from the director of taxation, as herein provided, showing that such taxes have been paid. The purchaser shall be personally liable for the payment of any unpaid taxes of the seller, to the extent of the value of the property received by the purchaser, and if a receipt is not furnished by such seller within twenty (20) days from the date of sale of such business, the purchaser shall remit the amount of such unpaid taxes to the director of taxation on or before the twentieth (20th) day of the month succeeding that in which he or she acquired such business or property.

History: L. 1937, ch. 374, § 12; April 9.

79-3613. Sufficiency of notice to taxpayer. All notices required to be mailed to the taxpayer under the provisions of this act, if mailed to him or her at his or her last known address as shown on the records of the director of taxation, shall be sufficient for the purposes of this act.

History: L. 1937, ch. 374, § 13; April 9.

79-3614. Confidentiality requirements. Any information obtained by the department of revenue in connection with administration of the Kansas retailer's sales tax act is subject to the confidentiality provisions as set forth in K.S.A. 75-5133, and amendments thereto.

History: L. 1937, ch. 374, § 14; L. 1943, ch. 307, § 4; L. 1977, ch. 186, § 8; L. 1983, ch. 289, § 14; L. 1994, ch. 188, § 4; L. 1997, ch. 126, § 47; L. 2005, ch. 110, § 6; July 1.

79-3615. Interest and penalties. (a) If any taxpayer shall fail to pay the tax required under this act at the time required by or under the provisions of this act, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968 and amendments thereto from the date the tax was due until paid.

(b) For all taxable years ending prior to January 1, 2002, if any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of this act, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

(c) For all taxable years ending prior to January 1, 2002, if any person fails to make a return, or to pay any tax, within six months from the date the return or tax was due, except in the case of an extension of time granted by the secretary of revenue or the secretary's designee, there shall be added to the tax due a penalty equal to 25% of the unpaid balance of such tax due. Notwithstanding the foregoing, in the event an assessment is issued following a field audit for any period for which a return was filed by the taxpayer and all of the tax was paid pursuant to such return, a penalty shall be imposed for the period included in the assessment in the amount of 10% of the unpaid balance of tax due shown in the notice of assessment. If after review of a return for any period included in the assessment, the secretary or secretary's designee determines that the underpayment of tax was due to the failure of the taxpayer to make a reasonable attempt to comply with the provisions of this act, such penalty shall be imposed for the period included in the assessment in the amount of 25% of the unpaid balance of tax due.

(d) For all taxable years ending after December 31, 2001, if any taxpayer fails to file a return or pay the tax if one is due, at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 1% of the unpaid balance of the tax due for each month or fraction thereof during which such failure continues, not exceeding 24% in the aggregate, plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid. Notwithstanding the foregoing, in the event an assessment is issued following a field audit for any period for which a return was filed by the taxpayer and all of the tax was paid pursuant to such return, a penalty shall be imposed for the period included in the assessment in an amount of 1% per month not exceeding 10% of the unpaid balance of tax due shown in the notice of assessment. If after review of a return for any period included in the assessment, the secretary or secretary's designee determines that the underpayment of tax was due to the failure of the taxpayer to make a reasonable attempt to comply with the provisions of this act, such penalty shall be imposed for the period included in the assessment in the amount of 25% of the unpaid balance of tax due.

(e) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of this act, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.

(f) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other.

(g) Whenever the secretary or the secretary's designee determines that the failure of the taxpayer to comply with the provisions of subsections (a), (b), (c) and (d) of this section was due to reasonable causes, the secretary or the secretary's designee may waive or reduce any of the penalties and may reduce the interest rate to the underpayment rate prescribed and determined for the applicable period under section 6621 of the federal internal revenue code as in effect on January 1, 1994, upon making a record of the reasons therefor.

(h) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under the Kansas retailers' sales tax act, or who makes a false or fraudulent return, or fails to keep any books or records prescribed by this act, or who willfully violates any regulations of the secretary of revenue, for the enforcement and administration of this act, or who aids and abets another in attempting to evade the payment of any tax imposed by this act, or who violates any other provision of this act, shall, upon conviction thereof, be fined not less than \$500, nor more than \$10,000, or be imprisoned in the county jail not less than one month, nor more than six months, or be both so fined and imprisoned, in the discretion of the court.

(i) No penalty assessed hereunder shall be collected if the taxpayer has had the tax abated on appeal, and any penalty collected upon such tax shall be refunded.

(j) A person applying to the department for a refund of any tax imposed under the Kansas retailers' sales tax act that was not previously collected by the retailer, or that the retailer has already refunded to such person, shall be subject to a penalty of 50% of the amount of any such tax sought to be refunded. No such penalty shall be imposed against such person if the retailer collected the tax but did not remit such tax to the department.

History: L. 1937, ch. 374, § 15; L. 1938, ch. 79, § 1; L. 1980, ch. 308, § 24; L. 1982, ch. 422, § 1; L. 1988, ch. 390, § 1; L. 1989, ch. 291, § 6; L. 1994, ch. 95, § 6; L. 1997, ch. 126, § 20; L. 2000, ch. 184, § 19; L. 2007, ch. 155, § 7; July 1.

79-3616. Bond requirements; amount. When, in the judgment of the director of taxation after evidence is documented relating to the probable risk in the ability of the person to collect and remit taxes as required by this act, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, the director may require any person subject to such tax to file a bond with the director of taxation in such form and amount as the director of taxation may prescribe. In any

such case, any person who is required to report and pay sales tax liability on an annual basis shall only be required to file a bond in the amount of \$25.

History: L. 1937, ch. 374, § 16; L. 1987, ch. 392, § 1; L. 1988, ch. 389, § 2; July 1.

79-3617. Collection of delinquent taxes; tax lien. Whenever any taxpayer liable to pay any sales or compensating tax, refuses or neglects to pay the tax, the amount, including any interest or penalty, shall be collected in the following manner. The secretary of revenue or the secretary's designee shall issue a warrant under the hand of the secretary or the secretary's designee and official seal directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within the sheriff's county to satisfy the tax, including penalty and interest, and the cost of executing the warrant and to return such warrant to the secretary or the secretary's designee and pay to the secretary or the secretary's designee the money collected by virtue thereof not more than 90 days from the date of the warrant. Firearms seized may be appraised and disposed of in the same manner prescribed in K.S.A. 79-5212, and amendments thereto. The sheriff shall, within five days, after the receipt of the warrant file with the clerk of the district court of the county a copy thereof, and thereupon the clerk shall either enter in the appearance docket the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for either such entry. The amount of such warrant so docketed shall thereupon become a lien upon the title to, and interest in, the real property of the taxpayer against whom it is issued. The sheriff shall proceed in the same manner and with the same effect as prescribed by law with respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for services.

The court in which the warrant is docketed shall have jurisdiction over all subsequent proceedings as fully as though a judgment had been rendered in the court. A warrant of similar terms, force and effect may be issued by the secretary or the secretary's designee and directed to any officer or employee of the secretary or the secretary's designee, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs with respect to executions issued against property upon judgments of a court of record and the subsequent proceedings thereunder shall be the same as provided where the warrant is issued directly to the sheriff. The taxpayer shall have the right to redeem the real estate within a period of 18 months from the date of such sale. If a warrant is returned, unsatisfied in full, the secretary or the secretary's designee shall have the same remedies to enforce the claim for taxes as if the state of Kansas had recovered judgment against the taxpayer for the amount of the tax. No law exempting any goods and chattels, land and tenements from forced sale under execution shall apply to a levy and sale under any of the warrants or upon any execution issued upon any judgment rendered in any action for sales or compensating taxes. Except as provided further, the secretary or the secretary's designee shall have the right after a warrant has been returned unsatisfied, or satisfied only in part, to issue alias warrants until the full amount of the tax is collected. No costs incurred by the sheriff or the clerk of the court shall be charged to the secretary or the secretary's designee.

If execution is not issued within 10 years from the date of the docketing of any such warrant, or if 10 years shall have intervened between the date of the last execution issued on such warrant, and the time of issuing another writ of execution thereon, such warrant shall become dormant, and shall cease to operate as a lien on the real estate of the delinquent taxpayer. Such dormant warrant may be revived in like manner as dormant judgments under the code of civil procedure.

History: L. 1937, ch. 374, § 17; L. 1953, ch. 448, § 1; L. 1976, ch. 145, § 245; L. 1977, ch. 109, § 42; L. 1984, ch. 147, § 23; L. 1989, ch. 291, § 9; L. 1998, ch. 130, § 35; L. 2005, ch. 141, § 6; July 1.

79-3619. Payment, collection and accounting; rules and regulations. (a) For the purposes of more efficiently securing the payment, collection and accounting for the taxes provided for under this act, agreements between competing retailers or the adoption of appropriate rules and regulations by organizations or associations of retailers to provide uniform methods for adding and collecting the full amount of the tax imposed by this act, or an amount equal as nearly as possible or practicable to the average equivalent thereof, and which do not involve price-fixing agreements otherwise unlawful, and which shall first have the approval of the director of taxation, are expressly authorized and shall be held not to be in violation of any antitrust laws of this state. It shall be the duty of the director of taxation to cooperate with such retailers, organizations, or associations in formulating such agreements, rules and regulations. The secretary of revenue shall adopt rules and regulations for adding and collecting such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax.

(b) The secretary of revenue may adopt rules and regulations to provide for the issuance of permits to certain businesses which grant direct payment authority that allows certain purchases to be made without the payment of retailers' sales or use tax to the vendor or service provider and requires the permit holder to self-accrue any state and local tax that is due and pay such tax directly to the department of revenue. The secretary shall be accorded broad discretion in establishing qualification standards for direct pay authority, in entering into agreement with permit holders that fix accounting and reporting requirements, in granting and canceling the direct pay privilege, and in establishing other requirements for administration of this section.

History: L. 1937, ch. 374, § 19; L. 1939, ch. 332, § 1; L. 1972, ch. 342, § 113; L. 1998, ch. 130, § 37; July 1.