

HOUSE BILL No. 2738

By Committee on Taxation

2-1

9 AN ACT concerning taxation; relating to electronic filing of returns and
10 reports; amending K.S.A. 79-3220 and K.S.A. 2007 Supp. 75-5151 and
11 repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) The secretary of revenue may require an individ-
15 ual, business or other legal entity to file any tax return prepared other
16 than by a paid preparer by electronic means whenever the department
17 of revenue permits electronic filing. Unless otherwise specifically pro-
18 vided by statute, the secretary of revenue may require a paid preparer to
19 file some or all of the tax returns by electronic means whenever the de-
20 partment of revenue permits electronic filing.

21 (b) As used in this act: (1) "Electronic means" means computer gen-
22 erated electronic or magnetic media, web based applications or similar
23 electronic, magnetic or computer based methods or applications;

24 (2) "paid preparer" means any person or business that prepares tax
25 returns for compensation or employs or authorizes one or more persons
26 to prepare such returns. The number of returns prepared per year shall
27 be determined by including all returns prepared by the person or busi-
28 ness, and by all employees or agents of the person or business, whether
29 prepared at one location or multiple locations; and

30 (3) "tax returns" means returns or reports filed for any tax adminis-
31 tered by the department of revenue including, but not limited to, income
32 tax, sales and use tax, motor fuel tax, mineral tax and other excise taxes.

33 Sec. 2. K.S.A. 2007 Supp. 75-5151 is hereby amended to read as
34 follows: 75-5151. The secretary of revenue may require, consistent with
35 sound cash management policies, that any taxpayer whose total sales tax
36 liability exceeds ~~\$100,000~~ \$32,000 in any calendar year, any taxpayer
37 whose total withholding tax liability exceeds ~~\$100,000~~ \$32,000 in any cal-
38 endar year, and any person owing any taxes or fees in connection with
39 any return, report or document other than for sales tax or withholding
40 tax liability, shall remit their tax liability by electronic funds transfer no
41 later than the date required for such remittance except that the secretary
42 may adopt rules and regulations prescribing alternative filing and payment
43 dates not later than the last day of the month in which the tax was oth-

1 erwise due. Electronic funds transfers may be made by wire transfers of
2 funds through the federal reserve system or by any other means estab-
3 lished by the secretary, with the approval of the state treasurer, which
4 insures the availability of such funds to the state on the date of payment.
5 Evidence of such payment shall be furnished to the secretary on or before
6 the due date of the tax as established by law. Failure to timely make such
7 payment in immediately available funds or failure to provide such evi-
8 dence of payment in a timely manner shall subject the taxpayer to penalty
9 and interest as provided by law for delinquent or deficient tax payments.
10 All sales and use tax remittances from model 1, 2 and 3 sellers must be
11 remitted electronically. Any data that accompanies a remittance must be
12 formatted using uniform tax type and payment type codes approved by
13 the secretary.

14 Sec. 3. K.S.A. 79-3220 is hereby amended to read as follows: 79-
15 3220. (a) (1) Each individual required to file a federal income tax return
16 and any other individual whose gross income exceeds the sum of such
17 individual's applicable Kansas standard deduction amount and Kansas
18 personal exemption amount shall each make and sign a return or state-
19 ment stating specifically such items as are required by the forms and rules
20 and regulations of the secretary of revenue. ~~Such return may be filed by~~
21 ~~electronic means in a manner approved by the secretary of revenue.~~ If
22 any individual is unable to make a return, the return shall be made by a
23 duly authorized agent or by the guardian or other person charged with
24 the care of the person or property of such taxpayer. Notwithstanding any
25 provision of the Kansas income tax act to the contrary, all individuals not
26 required to file a Kansas income tax return hereunder shall not be liable
27 for any tax imposed pursuant to such act.

28 (2) *In accordance with the provisions of section 1, and amendments*
29 *thereto, an individual who is required to file a return may file such return*
30 *by electronic means in a manner approved by the secretary of revenue.*
31 *A paid preparer who prepares 50 or more returns per year shall file by*
32 *electronic means not less than 90% of such returns eligible for electronic*
33 *filing.*

34 (b) Every corporation subject to taxation under this act, including,
35 but not limited to, all farmers, fruit growers, or like associations organized
36 and operated on a cooperative basis, except electric cooperative exclu-
37 sively engaged in the manufacture or distribution of electric power for
38 their members, shall make a return, or statement stating specifically such
39 items as may be required by the forms and regulations of the secretary
40 of revenue. The return shall be signed by the president, vice-president,
41 treasurer, assistant treasurer, chief accounting officer, or any other officer
42 so authorized to act. The fact that an individual's name is signed on a
43 return shall be prima facie evidence that such individual is authorized to

1 sign such return on behalf of such corporation. In cases where receivers,
2 trustees in bankruptcy or assignees are operating the property or business
3 of corporations, such receivers, trustees, or assignees shall make returns
4 for such corporations in the same manner and form as corporations are
5 required to make returns. Any tax due on the basis of such returns shall
6 be collected in the same manner as if collected from the corporation for
7 which the return is made.

8 (c) Every fiduciary, except a receiver appointed by authority of law
9 in possession of part only of the property of an individual shall make and
10 sign a return for each of the individuals, estates, or trusts for which the
11 fiduciary acts, when such returns are required by the provisions of this
12 act, stating specifically such items as may be required by the forms and
13 regulations of the secretary of revenue. In the case of joint fiduciaries,
14 whether residents or nonresidents, a return may be made by any one and
15 shall be sufficient compliance with the above requirements. Any fiduciary
16 required to make a return under this act shall be subject to all of the
17 provisions of law which apply to individuals.

18 (d) Every partnership shall make a return for each taxable year, stat-
19 ing specifically such items as may be required by the forms and regula-
20 tions of the secretary of revenue. The returns shall be signed by any one
21 of the partners.

22 Sec. 4. K.S.A. 79-3220 and K.S.A. 2007 Supp. 75-5151 are hereby
23 repealed.

24 Sec. 5. This act shall take effect and be in force from and after its
25 publication in the statute book.