

SESSION OF 2003

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 170**

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

Sub. for SB 170 would amend income tax withholding law to:

- Require withholding on management and consulting fees that are paid in the ordinary course of trade, business, or other for-profit venture to a nonresident of the State of Kansas.
- Clarify in a number of places that withholding is required by employers, payers, persons, or organizations deducting and withholding tax. Current law refers to the employer or payor only.
- Make a number of adjustments to the definition section of current withholding law.
- Clarify that S corporations, partnerships, and limited liability companies (LLCs) are required to withhold tax on distributions to nonresident shareholders, partners, and members.
- Require that S corporations, partnerships, and LLCs file a return on withholding and furnish nonresident shareholders, partners, and members with a written statement as proof of the amount of his or her share of distributed or undistributed income that has been withheld.
- Waive the withholding requirement if the nonresident shareholder, partner, or member is income tax exempt and provides a statement to that effect including pertinent information.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/kldr>

- Waive the withholding requirement if the nonresident shareholder, partner, or member files an affidavit agreeing to be subject to personal jurisdiction of the Department of Revenue and the Kansas courts for tax purposes.

Background

The Senate Committee held a hearing on SB 170, at which time a representative of the Department of Revenue and a certified public accountant from Overland Park testified on behalf of the bill.

The Senate Committee recommended a substitute bill at the request of the Department of Revenue. The bill, as introduced, contained only the provisions requiring withholding on management and consulting fees that are paid in the ordinary course of trade, business, or other for-profit venture to a non-resident of the State of Kansas. The additional provisions of the substitute bill were requested by the Department of Revenue.

The fiscal note on the bill as introduced, indicates that passage of SB 170 would result in a minimal increase in State General Fund receipts in FY 2004. Information regarding the fiscal impact of the substitute bill was not available upon publication of this Supplemental Note.