

As Amended by House Committee

Session of 2014

SENATE BILL No. 266

By Committee on Assessment and Taxation

1-16

1 AN ACT concerning severance tax; relating to tax payment and return  
2 filing date; amending K.S.A. 79-4220 and 79-4221 and repealing the  
3 existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 79-4220 is hereby amended to read as follows: 79-  
7 4220. (a) ~~The amount of the tax payable each month tax imposed~~ under the  
8 provisions of K.S.A. ~~79-4221~~ 79-4217, and amendments thereto, shall be  
9 due and payable on or before the ~~20<sup>th</sup>~~ 25<sup>th</sup> day of the second month  
10 following the end of the month in which ~~the coal, oil or gas or coal~~ is  
11 removed from the lease or production unit or mine. ~~The tax is upon the~~  
12 ~~producers, as defined in K.S.A. 79-4216, of such coal, oil or gas in the~~  
13 ~~proportion to their respective beneficial interests at the time of severance,~~  
14 ~~but unless the operator of the lease or production unit, upon written notice~~  
15 ~~to the first purchaser and the director, elects to remit the tax,~~

16 (1) The first purchaser of any oil or gas sold shall collect the amount  
17 of the tax due from the producers, as defined by K.S.A. 79-4216, *and*  
18 *amendments thereto*, by deducting and withholding such amount from any  
19 payments made by such purchaser to the operator, or such producers where  
20 payment is made to same directly, and shall remit the same as provided in  
21 this act. ~~An operator of an oil or gas lease or production unit, upon having~~  
22 ~~given written notice to the first purchaser and the director, may elect to~~  
23 ~~collect and remit the tax due under this act. If an operator of an oil or gas~~  
24 ~~lease or production unit makes this election, such operator shall collect the~~  
25 ~~total amount of tax due and shall remit the same to the director. The~~  
26 ~~operator of a coal mine shall collect the total amount of tax due and shall~~  
27 ~~remit the same to the director, unless the operator of the lease or~~  
28 ~~production unit, upon written notice to the first purchaser and the director,~~  
29 ~~elects to remit the tax. In no event shall a producer be relieved of~~  
30 ~~responsibility for the tax until the same has been paid.~~

31 ~~In no event shall a producer be relieved of responsibility for the tax~~  
32 ~~until the same has been paid. In the event the tax shall be withheld by a~~  
33 ~~purchaser from payments due an operator or producer and such purchaser~~  
34 ~~fails to make payment of the tax to the state director as required herein, the~~  
35 ~~operator or producer shall be entitled to bring an action against such~~  
36 ~~purchaser to recover the amount of tax so withheld together with penalties~~

1 and interest which may have accrued by failure to make such payment.  
2 The operator or producer shall be entitled to reasonable attorney fees and  
3 court costs incurred in such action.

4 (2) *An operator of an oil or gas lease or production unit, upon*  
5 *having given written notice to the first purchaser and the director, may*  
6 *elect to collect and remit the tax due under this act. If an operator of an oil*  
7 *or gas lease or production unit makes this election, such operator shall*  
8 *collect the total amount of tax due and shall remit the same to the director.*

9 (3) *The operator of a coal mine shall collect the total amount of tax*  
10 *due and shall remit the same to the director.*

11 (4) *If the oil, gas or coal has not been sold by the time the tax is due,*  
12 *the operator shall remit the full amount of the tax due upon certification of*  
13 *the amount thereof by the director. The amount of tax to be remitted shall*  
14 *be determined in the same manner prescribed for remittances by*  
15 *purchasers or operators.*

16 (b) The state shall have a lien on all the ~~coal, oil or~~ gas or coal  
17 severed in this state in the hands of the operator, any producer or the first  
18 or any subsequent purchaser thereof to secure the payment of the tax. In  
19 the event any person required herein to pay the tax fails to do so, the  
20 director shall proceed against such person to collect the tax in the manner  
21 provided by K.S.A. 79-3235, and amendments thereto.

22 (c) *Penalty and interest for late payment of tax shall be imposed in*  
23 *accordance with K.S.A. 79-4225, and amendments thereto.*

24 Sec. 2. K.S.A. 79-4221 is hereby amended to read as follows: 79-  
25 4221. (a) ~~Every purchaser or operator responsible for remitting the tax~~  
26 ~~imposed under the provisions of K.S.A. 79-4217, and amendments thereto,~~  
27 ~~on or before the last day of the first month following the end of every~~  
28 ~~calendar month in which oil or gas is removed from the lease or~~  
29 ~~production unit, shall make~~ A return shall be made to the director upon  
30 forms prescribed and furnished by the director, *on or before the ~~20<sup>th</sup>~~ 25<sup>th</sup>*  
31 *day of the second month following the end of every calendar month in*  
32 *which oil, gas or coal is removed from a lease or production unit or mine.*

33 (1) *If the oil, gas or coal is sold to a purchaser, every purchaser or*  
34 *operator responsible for remitting the tax imposed under the provisions of*  
35 *K.S.A. 79-4217, and amendments thereto, shall make the return showing*  
36 *the gross quantity of oil or gas or coal purchased during the month for*  
37 *which the return is filed, the price paid therefor, the correct name and*  
38 *address of the operator or other person from whom the same was*  
39 *purchased, a full description of the property in the manner prescribed by*  
40 *the director from which such oil or gas or coal was severed and the*  
41 *amount of tax due on or before the 20th day of the following month. In the*  
42 *case of coal the return shall be made on or before the 20th day of the*  
43 *second month following the end of the calendar month in which the coal is*

1 removed from the mine, and such return shall be accompanied by a  
2 remittance of the full amount of the tax due. For the purposes of  
3 determining the amount of tax to be remitted, such purchaser or operator  
4 shall compute the full amount of the tax due under K.S.A. 79-4217, and  
5 amendments thereto, upon all coal, oil or gas severed and removed from  
6 the lease or production unit or mine during such month and shall deduct an  
7 amount equal to the full amount of the tax credit allowed pursuant to  
8 K.S.A. 79-4219, and amendments thereto.

9 (b)(2) If oil or gas or coal is removed from the lease or production  
10 unit but not sold to a purchaser, or if the operator elects to remit the tax as  
11 authorized under K.S.A. 79-4220, and amendments thereto, or if the  
12 operator is required to remit the tax pursuant to K.S.A. 79-4220, and  
13 amendments thereto, the operator shall on or before the last day of the first  
14 month following the end of every calendar month in which oil or gas is  
15 removed from the lease or production unit make a *the* return to the director  
16 upon forms prescribed and furnished by the director showing the gross  
17 quantity of oil or gas or coal removed during such month for which the  
18 return is filed and a full description of the property in the manner  
19 prescribed by the director from which the same was severed. In the case of  
20 coal the return shall be made on or before the 20th day of the second  
21 month following the end of the calendar month in which the coal is  
22 removed from the mine. If the coal, oil or gas has not been sold by the  
23 time prescribed by K.S.A. 79-4220, and amendments thereto, for the  
24 payment of the tax, the operator shall remit the full amount of the tax due  
25 upon certification of the amount thereof by the director. The amount of  
26 taxes to be remitted shall be determined in the same manner prescribed for  
27 remittances by purchasers or operators under subsection (a) of this section.

28 (e)(b) Each monthly return required hereunder shall be filed on  
29 separate forms as to product and county and lease, production unit or  
30 mine. All such monthly returns shall be signed by the purchaser or  
31 operator, as the case may be, or a duly authorized agent thereof.

32 (d) The director may grant a reasonable extension of time for filing  
33 any return and remittance of taxes due under this act upon good cause  
34 shown therefor. Interest shall be charged at the rate prescribed by  
35 subsection (a) of K.S.A. 79-2968, and amendments thereto, for the period  
36 of such extension for the remittance of taxes.

37 (e)(c) The reporting requirements of this section shall be applicable to  
38 the severance and production in this state of all gas which is metered and  
39 all coal and oil regardless of whether the severance and production thereof  
40 is subject to or exempt from the tax imposed by K.S.A. 79-4217, and  
41 amendments thereto.

42 (d) A penalty for late filing a return shall be imposed in accordance  
43 with K.S.A. 79-4225, and amendments thereto.

1       Sec. 3. K.S.A. 79-4220 and 79-4221 are hereby repealed.

2       Sec. 4. This act shall take effect and be in force from and after its  
3 publication in the statute book.