

HOUSE BILL No. 2128

By Committee on Taxation

1-27

1 AN ACT concerning taxation; relating to permitted use of tax information;
2 tax liens upon personal property; warrants; time for returns and
3 payment of tax; liability for persons responsible for collection of sales
4 or compensating tax; amending K.S.A. 2014 Supp. 75-5133, 79-3234,
5 79-3235, 79-3235a, 79-3607, 79-3617, 79-3643 and 79-41a03 and
6 repealing the existing sections; also repealing K.S.A. 2014 Supp. 79-
7 3235b.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2014 Supp. 75-5133 is hereby amended to read as
11 follows: 75-5133.(a) Except as otherwise more specifically provided by
12 law, all information received by the secretary of revenue, the director of
13 taxation or the director of alcoholic beverage control from returns, reports,
14 license applications or registration documents made or filed under the
15 provisions of any law imposing any sales, use or other excise tax
16 administered by the secretary of revenue, the director of taxation, or the
17 director of alcoholic beverage control, or from any investigation conducted
18 under such provisions, shall be confidential, and it shall be unlawful for
19 any officer or employee of the department of revenue to divulge any such
20 information except in accordance with other provisions of law respecting
21 the enforcement and collection of such tax, in accordance with proper
22 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

23 (b) The secretary of revenue or the secretary's designee may:

24 (1) Publish statistics, so classified as to prevent identification of
25 particular reports or returns and the items thereof;

26 (2) allow the inspection of returns by the attorney general or the
27 attorney general's designee;

28 (3) provide the post auditor access to all such excise tax reports or
29 returns in accordance with and subject to the provisions of ~~subsection (g)~~
30 of K.S.A. 46-1106(g), and amendments thereto;

31 (4) disclose taxpayer information from excise tax returns to persons
32 or entities contracting with the secretary of revenue where the secretary
33 has determined disclosure of such information is essential for completion
34 of the contract and has taken appropriate steps to preserve confidentiality;

35 (5) provide information from returns and reports filed under article 42
36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,

1 to county appraisers as is necessary to insure proper valuations of property.
2 Information from such returns and reports may also be exchanged with any
3 other state agency administering and collecting conservation or other taxes
4 and fees imposed on or measured by mineral production;

5 (6) provide, upon request by a city or county clerk or treasurer or
6 finance officer of any city or county receiving distributions from a local
7 excise tax, monthly reports identifying each retailer doing business in such
8 city or county or making taxable sales sourced to such city or county,
9 setting forth the tax liability and the amount of such tax remitted by each
10 retailer during the preceding month, and identifying each business location
11 maintained by the retailer and such retailer's sales or use tax registration or
12 account number;

13 (7) provide information from returns and applications for registration
14 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
15 3601, and amendments thereto, to a city or county treasurer or clerk or
16 finance officer to explain the basis of statistics contained in reports
17 provided by subsection (b)(6);

18 (8) disclose the following oil and gas production statistics received by
19 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
20 amendments thereto: Volumes of production by well name, well number,
21 operator's name and identification number assigned by the state
22 corporation commission, lease name, leasehold property description,
23 county of production or zone of production, name of purchaser and
24 purchaser's tax identification number assigned by the department of
25 revenue, name of transporter, field code number or lease code, tax period,
26 exempt production volumes by well name or lease, or any combination of
27 this information;

28 (9) release or publish liquor brand registration information provided
29 by suppliers, farm wineries, microdistilleries and microbreweries in
30 accordance with the liquor control act. The information to be released is
31 limited to: Item number, universal numeric code, type status, product
32 description, alcohol percentage, selling units, unit size, unit of
33 measurement, supplier number, supplier name, distributor number and
34 distributor name;

35 (10) release or publish liquor license information provided by liquor
36 licensees, distributors, suppliers, farm wineries, microdistilleries and
37 microbreweries in accordance with the liquor control act. The information
38 to be released is limited to: County name, owner, business name, address,
39 license type, license number, license expiration date and the process agent
40 contact information;

41 (11) release or publish cigarette and tobacco license information
42 obtained from cigarette and tobacco licensees in accordance with the
43 Kansas cigarette and tobacco products act. The information to be released

1 is limited to: County name, owner, business name, address, license type
2 and license number;

3 (12) provide environmental surcharge or solvent fee, or both,
4 information from returns and applications for registration filed pursuant to
5 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
6 of health and environment or the secretary's designee for the sole purpose
7 of ensuring that retailers collect the environmental surcharge tax or solvent
8 fee, or both;

9 (13) provide water protection fee information from returns and
10 applications for registration filed pursuant to K.S.A. 82a-954, and
11 amendments thereto, to the secretary of the state board of agriculture or the
12 secretary's designee and the secretary of the Kansas water office or the
13 secretary's designee for the sole purpose of verifying revenues deposited to
14 the state water plan fund;

15 (14) provide to the secretary of commerce copies of applications for
16 project exemption certificates sought by any taxpayer under the enterprise
17 zone sales tax exemption pursuant to ~~subsection (cc)~~ of K.S.A. 79-
18 3606(cc), and amendments thereto;

19 (15) disclose information received pursuant to the Kansas cigarette
20 and tobacco act and subject to the confidentiality provisions of this act to
21 any criminal justice agency, as defined in ~~subsection (e)~~ of K.S.A. 22-
22 4701(c), and amendments thereto, or to any law enforcement officer, as
23 defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, on behalf
24 of a criminal justice agency, when requested in writing in conjunction with
25 a pending investigation;

26 (16) provide to retailers tax exemption information for the sole
27 purpose of verifying the authenticity of tax exemption numbers issued by
28 the department;

29 (17) provide information concerning remittance by sellers, as defined
30 in K.S.A. 2014 Supp. 12-5363, and amendments thereto, of prepaid
31 wireless 911 fees from returns to the local collection point administrator,
32 as defined in K.S.A. 2014 Supp. 12-5363, and amendments thereto, for
33 purposes of verifying seller compliance with collection and remittance of
34 such fees; ~~and~~

35 (18) release or publish charitable gaming information obtained in
36 bingo licensee and registration applications and renewals in accordance
37 with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The
38 information to be released is limited to: The name, address, phone number,
39 license registration number and email address of the organization,
40 distributor or of premises; *and*

41 *(19) disclose taxpayer information in any administrative proceeding*
42 *or any civil or criminal action or proceeding brought to enforce the tax or*
43 *revenue laws of this state with respect to such taxpayer.*

1 (c) Any person receiving any information under the provisions of
2 subsection (b) shall be subject to the confidentiality provisions of
3 subsection (a) and to the penalty provisions of subsection (d).

4 (d) Any violation of this section shall be a class A, nonperson
5 misdemeanor, and if the offender is an officer or employee of this state,
6 such officer or employee shall be dismissed from office. Reports of
7 violations of this paragraph shall be investigated by the attorney general.
8 The district attorney or county attorney and the attorney general shall have
9 authority to prosecute any violation of this section if the offender is a city
10 or county clerk or treasurer or finance officer of a city or county.

11 Sec. 2. K.S.A. 2014 Supp. 79-3234 is hereby amended to read as
12 follows: 79-3234. (a) All reports and returns required by this act shall be
13 preserved for three years and thereafter until the director orders them to be
14 destroyed.

15 (b) Except in accordance with proper judicial order, or as provided in
16 subsection (c) or in K.S.A. 17-7511, ~~subsection (g) of~~ K.S.A. 46-1106(g),
17 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be
18 unlawful for the secretary, the director, any deputy, agent, clerk or other
19 officer, employee or former employee of the department of revenue or any
20 other state officer or employee or former state officer or employee to
21 divulge, or to make known in any way, the amount of income or any
22 particulars set forth or disclosed in any report, return, federal return or
23 federal return information required under this act; and it shall be unlawful
24 for the secretary, the director, any deputy, agent, clerk or other officer or
25 employee engaged in the administration of this act to engage in the
26 business or profession of tax accounting or to accept employment, with or
27 without consideration, from any person, firm or corporation for the
28 purpose, directly or indirectly, of preparing tax returns or reports required
29 by the laws of the state of Kansas, by any other state or by the United
30 States government, or to accept any employment for the purpose of
31 advising, preparing material or data, or the auditing of books or records to
32 be used in an effort to defeat or cancel any tax or part thereof that has been
33 assessed by the state of Kansas, any other state or by the United States
34 government.

35 (c) The secretary or the secretary's designee may: (1) Publish
36 statistics, so classified as to prevent the identification of particular reports
37 or returns and the items thereof;

38 (2) allow the inspection of returns by the attorney general or other
39 legal representatives of the state;

40 (3) provide the post auditor access to all income tax reports or returns
41 in accordance with and subject to the provisions ~~of subsection (g) of~~
42 K.S.A. 46-1106(g) or K.S.A. 46-1114, and amendments thereto;

43 (4) disclose taxpayer information from income tax returns to persons

1 or entities contracting with the secretary of revenue where the secretary
2 has determined disclosure of such information is essential for completion
3 of the contract and has taken appropriate steps to preserve confidentiality;

4 (5) disclose to the secretary of commerce the following: (A) Specific
5 taxpayer information related to financial information previously submitted
6 by the taxpayer to the secretary of commerce concerning or relevant to any
7 income tax credits, for purposes of verification of such information or
8 evaluating the effectiveness of any tax credit or economic incentive
9 program administered by the secretary of commerce; (B) the amount of
10 payroll withholding taxes an employer is retaining pursuant to K.S.A.
11 2014 Supp. 74-50,212, and amendments thereto; (C) information received
12 from businesses completing the form required by K.S.A. 2014 Supp. 74-
13 50,217, and amendments thereto; and (D) findings related to a compliance
14 audit conducted by the department of revenue upon the request of the
15 secretary of commerce pursuant to K.S.A. 2014 Supp. 74-50,215, and
16 amendments thereto;

17 (6) disclose income tax returns to the state gaming agency to be used
18 solely for the purpose of determining qualifications of licensees of and
19 applicants for licensure in tribal gaming. Any information received by the
20 state gaming agency shall be confidential and shall not be disclosed except
21 to the executive director, employees of the state gaming agency and
22 members and employees of the tribal gaming commission;

23 (7) disclose the taxpayer's name, last known address and residency
24 status to the Kansas department of wildlife, parks and tourism to be used
25 solely in its license fraud investigations;

26 (8) disclose the name, residence address, employer or Kansas
27 adjusted gross income of a taxpayer who may have a duty of support in a
28 title IV-D case to the secretary of the Kansas department for children and
29 families for use solely in administrative or judicial proceedings to
30 establish, modify or enforce such support obligation in a title IV-D case. In
31 addition to any other limits on use, such use shall be allowed only where
32 subject to a protective order which prohibits disclosure outside of the title
33 IV-D proceeding. As used in this section, "title IV-D case" means a case
34 being administered pursuant to part D of title IV of the federal social
35 security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person
36 receiving any information under the provisions of this subsection shall be
37 subject to the confidentiality provisions of subsection (b) and to the
38 penalty provisions of subsection (e);

39 (9) permit the commissioner of internal revenue of the United States,
40 or the proper official of any state imposing an income tax, or the
41 authorized representative of either, to inspect the income tax returns made
42 under this act and the secretary of revenue may make available or furnish
43 to the taxing officials of any other state or the commissioner of internal

1 revenue of the United States or other taxing officials of the federal
2 government, or their authorized representatives, information contained in
3 income tax reports or returns or any audit thereof or the report of any
4 investigation made with respect thereto, filed pursuant to the income tax
5 laws, as the secretary may consider proper, but such information shall not
6 be used for any other purpose than that of the administration of tax laws of
7 such state, the state of Kansas or of the United States;

8 (10) communicate to the executive director of the Kansas lottery
9 information as to whether a person, partnership or corporation is current in
10 the filing of all applicable tax returns and in the payment of all taxes,
11 interest and penalties to the state of Kansas, excluding items under formal
12 appeal, for the purpose of determining whether such person, partnership or
13 corporation is eligible to be selected as a lottery retailer;

14 (11) communicate to the executive director of the Kansas racing
15 commission as to whether a person, partnership or corporation has failed
16 to meet any tax obligation to the state of Kansas for the purpose of
17 determining whether such person, partnership or corporation is eligible for
18 a facility owner license or facility manager license pursuant to the Kansas
19 parimutuel racing act;

20 (12) provide such information to the executive director of the Kansas
21 public employees retirement system for the purpose of determining that
22 certain individuals' reported compensation is in compliance with the
23 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and
24 amendments thereto;

25 (13) (i) provide taxpayer information of persons suspected of
26 violating K.S.A. 2014 Supp. 44-766, and amendments thereto, to the
27 secretary of labor or such secretary's designee for the purpose of
28 determining compliance by any person with the provisions of subsection
29 ~~(i)(3)(D)~~ of K.S.A. 44-703(i)(3)(D) and K.S.A. 2014 Supp. 44-766, and
30 amendments thereto. The information to be provided shall include all
31 relevant information in the possession of the department of revenue
32 necessary for the secretary of labor to make a proper determination of
33 compliance with the provisions of subsection ~~(i)(3)(D)~~ of K.S.A. 44-703(i)
34 (3)(D) and K.S.A. 2014 Supp. 44-766, and amendments thereto, and to
35 calculate any unemployment contribution taxes due. Such information to
36 be provided by the department of revenue shall include, but not be limited
37 to, withholding tax and payroll information, the identity of any person that
38 has been or is currently being audited or investigated in connection with
39 the administration and enforcement of the withholding and declaration of
40 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the
41 results or status of such audit or investigation;

42 (ii) any person receiving tax information under the provisions of this
43 paragraph shall be subject to the same duty of confidentiality imposed by

1 law upon the personnel of the department of revenue and shall be subject
2 to any civil or criminal penalties imposed by law for violations of such
3 duty of confidentiality; and

4 (iii) each of the secretary of labor and the secretary of revenue may
5 adopt rules and regulations necessary to effect the provisions of this
6 paragraph;

7 (14) provide such information to the state treasurer for the sole
8 purpose of carrying out the provisions of K.S.A. 58-3934, and
9 amendments thereto. Such information shall be limited to current and prior
10 addresses of taxpayers or associated persons who may have knowledge as
11 to the location of an owner of unclaimed property. For the purposes of this
12 paragraph, "associated persons" includes spouses or dependents listed on
13 income tax returns; ~~and~~

14 (15) after receipt of information pursuant to subsection (f), forward
15 such information and provide the following reported Kansas individual
16 income tax information for each listed defendant, if available, to the state
17 board of indigents' defense services in an electronic format and in the
18 manner determined by the secretary: (A) The defendant's name; (B) social
19 security number; (C) Kansas adjusted gross income; (D) number of
20 exemptions claimed; and (E) the relevant tax year of such records. Any
21 social security number provided to the secretary and the state board of
22 indigents' defense services pursuant to this section shall remain
23 confidential; *and*

24 (16) *disclose taxpayer information in any administrative proceeding*
25 *or any civil or criminal action or proceeding brought to enforce the tax or*
26 *revenue laws of this state with respect to such taxpayer.*

27 (d) Any person receiving information under the provisions of
28 subsection (c) shall be subject to the confidentiality provisions of
29 subsection (b) and to the penalty provisions of subsection (e).

30 (e) Any violation of subsection (b) or (c) is a class A nonperson
31 misdemeanor and, if the offender is an officer or employee of the state,
32 such officer or employee shall be dismissed from office.

33 (f) For the purpose of determining whether a defendant is financially
34 able to employ legal counsel under the provisions of K.S.A. 22-4504, and
35 amendments thereto, in all felony cases with appointed counsel where the
36 defendant's social security number is accessible from the records of the
37 district court, the court shall electronically provide the defendant's name,
38 social security number, district court case number and county to the
39 secretary of revenue in the manner and format agreed to by the office of
40 judicial administration and the secretary.

41 (g) Nothing in this section shall be construed to allow disclosure of
42 the amount of income or any particulars set forth or disclosed in any
43 report, return, federal return or federal return information, where such

1 disclosure is prohibited by the federal internal revenue code as in effect on
2 September 1, 1996, and amendments thereto, related federal internal
3 revenue rules or regulations, or other federal law.

4 Sec. 3. K.S.A. 2014 Supp. 79-3235 is hereby amended to read as
5 follows: 79-3235. (a) If any tax imposed by this act or any portion of such
6 tax is not paid within 60 days after it becomes due, the secretary or the
7 secretary's designee shall issue a warrant under the secretary's or the
8 secretary's designee's hand and official seal, directed to the sheriff of any
9 county of the state, commanding the sheriff to levy upon and sell the real
10 and personal property of the taxpayer found within the sheriff's county for
11 the payment of the amount thereof, with the added penalties, interest and
12 the cost of executing the warrant and to return the warrant to the secretary
13 or the secretary's designee and pay to the secretary or the secretary's
14 designee the money collected by virtue of it not more than 60 days from
15 the date of the warrant. Firearms seized may be appraised and disposed of
16 in the same manner prescribed in K.S.A. 79-5212, and amendments
17 thereto. The sheriff, within five days after the receipt of the warrant, shall
18 file with the clerk of the district court of the county a copy thereof, and
19 thereupon the clerk shall either enter in the appearance docket the name of
20 the taxpayer mentioned in the warrant, the amount of the tax or portion of
21 it, interest and penalties for which the warrant is issued and the date such
22 copy is filed and note the taxpayer's name in the general index. No fee
23 shall be charged for either entry. The amount of such warrant so docketed
24 shall thereupon become a lien upon the title to and interest in the real
25 property of the taxpayer against whom it is issued. The sheriff shall
26 proceed in the same manner and with the same effect as prescribed by law
27 with respect to executions issued against property upon judgments of a
28 court of record and shall be entitled to the same fees for services to be
29 collected in the same manner.

30 (b) *Once the warrant has been docketed with the clerk of the district*
31 *court, the secretary or the secretary's designee shall file with the office of*
32 *the secretary of state a notice of lien. The notice of lien shall be filed in the*
33 *uniform commercial code filing system with the secretary of state in*
34 *accordance with part 5 of article 9 of the uniform commercial code, and*
35 *amendments thereto, in an electronic format as prescribed by the secretary*
36 *of state. No fee shall be charged by the secretary of state for the initial*
37 *filing. The fee to terminate the filing shall be set in accordance with the*
38 *rules and regulations filing act. The notice of lien shall thereupon become*
39 *a lien upon the title to and interest in the tangible personal property,*
40 *wherever located in the state of Kansas, of the taxpayer against whom the*
41 *notice of lien was filed. Once filed, the notice of lien shall be deemed a*
42 *lien upon the right and interest in tangible personal property, wherever*
43 *located in the state of Kansas, of the taxpayer against whom the notice of*

1 *lien was filed. This section shall not apply to tangible personal property*
2 *which is required to be registered and for which a certificate of title has*
3 *been issued by the state of Kansas.*

4 (c) The court in which the warrant is docketed shall have jurisdiction
5 over all subsequent proceedings as fully as though a judgment had been
6 rendered in the court. In the discretion of the secretary or the secretary's
7 designee a warrant of like terms, force and effect may be issued and
8 directed to any officer or employee of the secretary, and in the execution
9 thereof such officer or employee shall have all the powers conferred by
10 law upon sheriffs, and the subsequent proceedings thereunder shall be the
11 same as provided where the warrant is issued directly to the sheriff. The
12 taxpayer shall have the right to redeem the real estate within a period of 18
13 months from the date of such sale. If a warrant is returned, unsatisfied in
14 full, the secretary or the secretary's designee shall have the same remedies
15 to enforce the claim for taxes as if the state of Kansas had recovered
16 judgment against the taxpayer for the amount of the tax. No law exempting
17 any goods and chattels, lands and tenements from forced sale under
18 execution shall apply to a levy and sale under any such warrant or upon
19 any execution issued upon any judgment rendered in any action for income
20 taxes. Except as provided ~~further~~ *in subsection (d)*, the secretary or the
21 secretary's designee shall have the right after a warrant has been returned
22 unsatisfied or satisfied only in part, to issue alias warrants until the full
23 amount of the tax is collected.

24 (d) If execution is not issued within 10 years from the date of the
25 docketing of any such warrant, or if 10 years shall have intervened
26 between the date of the last execution issued on such warrant, and the time
27 of issuing another writ of execution thereon, such warrant shall become
28 dormant, and shall cease to operate as a lien on the real estate of the
29 delinquent taxpayer. Such dormant warrant may be revived in like manner
30 as dormant judgment under the code of civil procedure. *If the warrant is*
31 *dormant, it shall cause the lien upon personal property filed with the office*
32 *of the secretary of state to be dormant as well. In the event the warrant is*
33 *revived, the lien upon personal property filed with the office of the*
34 *secretary of state shall be revived as well.*

35 (e) *The lien on tangible personal property provided in subsection (b)*
36 *shall cease to exist 10 years from the date of the filing of the notice of lien*
37 *with the office of the secretary of state, unless before such time the*
38 *secretary or the secretary's designee files with the office of the secretary of*
39 *state a notice of renewal of such lien. The notice of renewal shall operate*
40 *to extend the lien for 10 years from the date of the filing of the notice. The*
41 *lien may be extended through the filing of a notice of renewal an unlimited*
42 *number of times, as long as each notice of renewal is filed within 10 years*
43 *of the date the previous notice of renewal was filed.*

1 Sec. 4. K.S.A. 2014 Supp. 79-3235a is hereby amended to read as
2 follows: 79-3235a. (a) Notwithstanding any provision of K.S.A. 79-3235,
3 and amendments thereto, to the contrary, the procedures set forth by this
4 section shall apply to the issuance of any warrant and the levy upon
5 property pursuant to such provisions.

6 (b) The secretary or the secretary's designee shall notify in writing the
7 person who is the subject of the warrant of the filing of a warrant under
8 K.S.A. 79-3235, and amendments thereto. The notice required shall be
9 given ~~in person, left at the dwelling or usual place of business of such~~
10 ~~person or sent by certified or registered mail to such person's last known~~
11 ~~dwelling address, not more than five business days after the day of the~~
12 ~~filing of the notice of lien with the warrant.~~ The notice shall include in
13 simple and nontechnical terms the amount of unpaid taxes, the
14 administrative appeals available to the taxpayer with respect to such
15 warrant and the procedures relating to such appeals, and the provisions of
16 law and procedures relating to the release of warrants on property.

17 Sec. 5. K.S.A. 2014 Supp. 79-3607 is hereby amended to read as
18 follows: 79-3607. (a) Retailers shall make returns to the director at the
19 times prescribed by this section in the manner prescribed by the director,
20 including electronic filing, upon forms or format prescribed by the director
21 stating: (1) The name and address of the retailer; (2) the total amount of
22 gross sales of all tangible personal property and taxable services rendered
23 by the retailer during the period for which the return is made; (3) the total
24 amount received during the period for which the return is made on charge
25 and time sales of tangible personal property made and taxable services
26 rendered prior to the period for which the return is made; (4) deductions
27 allowed by law from such total amount of gross sales and from total
28 amount received during the period for which the return is made on such
29 charge and time sales; (5) receipts during the period for which the return is
30 made from the total amount of sales of tangible personal property and
31 taxable services rendered during such period in the course of such
32 business, after deductions allowed by law have been made; (6) receipts
33 during the period for which the return is made from charge and time sales
34 of tangible personal property made and taxable services rendered prior to
35 such period in the course of such business, after deductions allowed by law
36 have been made; (7) gross receipts during the period for which the return
37 is made from sales of tangible personal property and taxable services
38 rendered in the course of such business upon the basis of which the tax is
39 imposed. The return shall include such other pertinent information as the
40 director may require. In making such return, the retailer shall determine
41 the market value of any consideration, other than money, received in
42 connection with the sale of any tangible personal property in the course of
43 the business and shall include such value in the return. Such value shall be

1 subject to review and revision by the director as hereinafter provided.
2 Refunds made by the retailer during the period for which the return is
3 made on account of tangible personal property returned to the retailer shall
4 be allowed as a deduction under ~~subdivision~~ *paragraph* (4) of this section
5 in case the retailer has theretofore included the receipts from such sale in a
6 return made by such retailer and paid taxes therein imposed by this act.
7 The retailer shall, at the time of making such return, pay to the director the
8 amount of tax herein imposed, except as otherwise provided in this
9 section. The director may extend the time for making returns and paying
10 the tax required by this act for any period not to exceed 60 days under such
11 rules and regulations as the secretary of revenue may prescribe. When the
12 total tax for which any retailer is liable under this act, does not exceed the
13 sum of \$80 in any calendar year, the retailer shall file an annual return on
14 or before January 25 of the following year. When the total tax liability
15 does not exceed \$3,200 in any calendar year, the retailer shall file returns
16 quarterly on or before the 25th day of the month following the end of each
17 calendar quarter. When the total tax liability exceeds \$3,200 in any
18 calendar year, the retailer shall file a return for each month on or before
19 the 25th day of the following month. When the total tax liability exceeds
20 \$32,000 in any calendar year, the retailer shall be required to pay the sales
21 tax liability for the first 15 days of each month to the director on or before
22 the 25th day of that month. Any such payment shall accompany the return
23 filed for the preceding month. A retailer will be considered to have
24 complied with the requirements to pay the first 15 days' liability for any
25 month if, on or before the 25th day of that month, the retailer paid 90% of
26 the liability for that fifteen-day period, or 50% of such retailer's liability in
27 the immediate preceding calendar year for the same month as the month in
28 which the fifteen-day period occurs computed at the rate applicable in the
29 month in which the fifteen-day period occurs, and, in either case, paid any
30 underpayment with the payment required on or before the 25th day of the
31 following month. Such retailers shall pay their sales tax liabilities for the
32 remainder of each such month at the time of filing the return for such
33 month. Determinations of amounts of liability in a calendar year for
34 purposes of determining filing requirements shall be made by the director
35 upon the basis of amounts of liability by those retailers during the
36 preceding calendar year or by estimates in cases of retailers having no
37 previous sales tax histories. The director is hereby authorized to modify
38 the filing schedule for any retailer when it is apparent that the original
39 determination was inaccurate.

40 (b) All model 1, model 2 and model 3 sellers are required to file
41 returns electronically. Any model 1, model 2 or model 3 seller may submit
42 its sales and use tax returns in a simplified format approved by the
43 director. Any seller that is registered under the agreement, which does not

1 have a legal requirement to register in this state, and is not a model 1,
2 model 2 or model 3 seller, may submit its sales and use tax returns as
3 follows: (1) Upon registration, the director shall provide to the seller the
4 returns required;

5 (2) seller shall file a return anytime within one year of the month of
6 initial registration, and future returns are required on an annual basis in
7 succeeding years; and

8 (3) in addition to the returns required in subsection (b)(2), sellers are
9 required to submit returns in the month following any month in which they
10 have accumulated state and local sales tax funds for this state in the
11 amount of \$1,600 or more.

12 *(c) Whenever the director has cause to believe that the tax levied by*
13 *the Kansas retailers sales tax act may be converted, diverted, lost or*
14 *otherwise not timely paid in accordance with this section, the director*
15 *shall have the power to require returns and payment at any time, at more*
16 *frequent intervals than prescribed by this section in order to secure full*
17 *payment to the state of all amounts due in accordance with the Kansas*
18 *retailers sales tax act.*

19 Sec. 6. K.S.A. 2014 Supp. 79-3617 is hereby amended to read as
20 follows: 79-3617. (a) Whenever any taxpayer liable to pay any sales or
21 compensating tax, refuses or neglects to pay the tax, the amount, including
22 any interest or penalty, shall be collected in the following manner. The
23 secretary of revenue or the secretary's designee shall issue a warrant under
24 the hand of the secretary or the secretary's designee and official seal
25 directed to the sheriff of any county of the state commanding the sheriff to
26 levy upon and sell the real and personal property of the taxpayer found
27 within the sheriff's county to satisfy the tax, including penalty and interest,
28 and the cost of executing the warrant and to return such warrant to the
29 secretary or the secretary's designee and pay to the secretary or the
30 secretary's designee the money collected by virtue thereof not more than
31 90 days from the date of the warrant. Firearms seized may be appraised
32 and disposed of in the same manner prescribed in K.S.A. 79-5212, and
33 amendments thereto. The sheriff ~~shall~~, within five days; after the receipt of
34 the warrant, *shall* file with the clerk of the district court of the county a
35 copy thereof, and thereupon the clerk shall either enter in the appearance
36 docket the name of the taxpayer mentioned in the warrant, the amount of
37 the tax or portion of it, interest and penalties for which the warrant is
38 issued and the date such copy is filed and note the taxpayer's name in the
39 general index. No fee shall be charged for either such entry. The amount of
40 such warrant so docketed shall thereupon become a lien upon the title to,
41 and interest in, the real property of the taxpayer against whom it is issued.
42 The sheriff shall proceed in the same manner and with the same effect as
43 prescribed by law with respect to executions issued against property upon

1 judgments of a court of record, and shall be entitled to the same fees for
2 services.

3 *(b) Once the warrant has been docketed with the clerk of the district*
4 *court, the secretary or the secretary's designee shall file with the office of*
5 *the secretary of state a notice of lien. The notice of lien shall be filed in the*
6 *uniform commercial code filing system with the secretary of state in*
7 *accordance with part 5 of article 9 of the uniform commercial code, and*
8 *amendments thereto, in an electronic format as prescribed by the secretary*
9 *of state. No fee shall be charged by the secretary of state for the initial*
10 *filing. The fee to terminate the filing shall be set in accordance with the*
11 *rules and regulations filing act. The notice of lien shall thereupon become*
12 *a lien upon the title to and interest in the tangible personal property,*
13 *wherever located in the state of Kansas, of the taxpayer against whom the*
14 *notice of lien was filed. The department shall release any lien upon the*
15 *property of a taxpayer upon payment of all tax, penalty and interest within*
16 *30 days of payment. Liens filed in error shall be so noted on the*
17 *satisfaction of judgment. The department shall be liable for any court*
18 *costs associated with the release of such erroneous liens. Once filed, the*
19 *notice of lien shall be deemed a lien upon the right and interest in tangible*
20 *personal property, wherever located in the state of Kansas, of the taxpayer*
21 *against whom the notice of lien was filed. This section shall not apply to*
22 *tangible personal property which is required to be registered and for*
23 *which a certificate of title has been issued by the state of Kansas.*

24 *(c) The court in which the warrant is docketed shall have jurisdiction*
25 *over all subsequent proceedings as fully as though a judgment had been*
26 *rendered in the court. A warrant of similar terms, force and effect may be*
27 *issued by the secretary or the secretary's designee and directed to any*
28 *officer or employee of the secretary or the secretary's designee, and in the*
29 *execution thereof such officer or employee shall have all the powers*
30 *conferred by law upon sheriffs with respect to executions issued against*
31 *property upon judgments of a court of record and the subsequent*
32 *proceedings thereunder shall be the same as provided where the warrant is*
33 *issued directly to the sheriff. The taxpayer shall have the right to redeem*
34 *the real estate within a period of 18 months from the date of such sale. If a*
35 *warrant is returned, unsatisfied in full, the secretary or the secretary's*
36 *designee shall have the same remedies to enforce the claim for taxes as if*
37 *the state of Kansas had recovered judgment against the taxpayer for the*
38 *amount of the tax. No law exempting any goods and chattels, land and*
39 *tenements from forced sale under execution shall apply to a levy and sale*
40 *under any of the warrants or upon any execution issued upon any*
41 *judgment rendered in any action for sales or compensating taxes. Except*
42 *as provided—further in subsection (d), the secretary or the secretary's*
43 *designee shall have the right after a warrant has been returned unsatisfied,*

1 or satisfied only in part, to issue alias warrants until the full amount of the
2 tax is collected. No costs incurred by the sheriff or the clerk of the court
3 shall be charged to the secretary or the secretary's designee.

4 (d) If execution is not issued within 10 years from the date of the
5 docketing of any such warrant, or if 10 years shall have intervened
6 between the date of the last execution issued on such warrant, and the time
7 of issuing another writ of execution thereon, such warrant shall become
8 dormant, and shall cease to operate as a lien on the real estate of the
9 delinquent taxpayer. Such dormant warrant may be revived in like manner
10 as dormant judgments under the code of civil procedure. *If the warrant is*
11 *dormant, it shall cause the lien upon personal property filed with the office*
12 *of the secretary of state to be dormant as well. In the event the warrant is*
13 *revived, the lien upon personal property filed with the office of the*
14 *secretary of state shall be revived as well.*

15 (e) *The lien on tangible personal property provided in subsection (b)*
16 *shall cease to exist 10 years from the date of the filing of the notice of lien*
17 *with the office of the secretary of state, unless before such time the*
18 *secretary or the secretary's designee files with the office of the secretary of*
19 *state a notice of renewal of such lien. The notice of renewal shall operate*
20 *to extend the lien for 10 years from the date of the filing of the notice. The*
21 *lien may be extended through the filing of a notice of renewal an unlimited*
22 *number of times, as long as each notice of renewal is filed within 10 years*
23 *of the date the previous notice of renewal was filed.*

24 Sec. 7. K.S.A. 2014 Supp. 79-3643 is hereby amended to read as
25 follows: 79-3643. (a) Any ~~individual~~ *person* who is responsible for
26 collection or payment of sales or compensating tax or control, receipt,
27 custody or disposal of funds due and owing under the Kansas retailers'
28 sales and compensating tax acts who willfully fails to collect such tax, or
29 account for and pay over such tax, or attempts in any manner to evade or
30 defeat such tax or the payment thereof shall be ~~personally~~ *personally* liable for the
31 total amount of the tax evaded, or not collected, or not accounted for and
32 paid over, together with any interest and penalty imposed thereon. The
33 provisions of this section shall apply regardless of the: (1) Relationship
34 with the retailer held by such ~~individual~~ *person*; (2) form under which the
35 retailer conducts business, whether a sole proprietorship, partnership or
36 corporation; or (3) dissolution of the business. As used in this section,
37 "willfully" has the same meaning as such term has for federal tax purposes
38 in 26 U.S.C. § 6672.

39 (b) A notice of assessment issued to a responsible ~~individual~~ *person*
40 shall be considered to be a proceeding for the collection of the tax liability
41 of the business. If the liability of the business is determined in a
42 proceeding that has become final, any notice of assessment against a
43 responsible ~~individual~~ *person* must be issued within three years after the

1 proceeding against the business has become final.

2 (c) Within 60 days after the mailing of a notice of assessment against
3 a responsible ~~individual~~ *person*, the person assessed may request an
4 informal conference with the secretary of revenue under K.S.A. 79-3226,
5 and amendments thereto, for a determination of whether such person is a
6 responsible ~~individual~~ *person* under subsection (a) and for a determination
7 of the tax liability of the business.

8 (d) If notice of assessment and warrant are issued to a responsible
9 ~~individual~~ *person* pursuant to K.S.A. 79-3610, and amendments thereto, or
10 any other jeopardy provision of chapter 79 of the Kansas Statutes
11 Annotated, *and amendments thereto*, the person assessed may request that
12 the informal conference held pursuant to subsection (c) be expedited.
13 When such a request is made, the secretary shall schedule the conference
14 to be held within 21 days after receipt of the request and shall issue a
15 written final determination within 21 days after the close of the
16 conference.

17 (e) The provisions of this section shall be deemed to be supplemental
18 to the Kansas retailers' sales and compensating tax acts.

19 Sec. 8. K.S.A. 2014 Supp. 79-41a03 is hereby amended to read as
20 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-
21 41a02, and amendments thereto, shall become due and payable by the
22 club, caterer, drinking establishment, public venue or temporary permit
23 holder monthly, or on or before the 25th day of the month immediately
24 succeeding the month in which it is collected, but any club, caterer,
25 drinking establishment, public venue or temporary permit holder filing an
26 annual or quarterly return under the Kansas retailers' sales tax act, as
27 prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such
28 conditions as the secretary of revenue may prescribe, pay the tax required
29 by this act on the same basis and at the same time the club, caterer,
30 drinking establishment, public venue or temporary permit holder pays such
31 retailers' sales tax. Each club, caterer, drinking establishment, public venue
32 or temporary permit holder shall make a true report to the department of
33 revenue, on a form prescribed by the secretary of revenue, providing such
34 information as may be necessary to determine the amounts to which any
35 such tax shall apply for all gross receipts derived from the sale of alcoholic
36 liquor by the club, caterer, drinking establishment, public venue or
37 temporary permit holder for the applicable month or months, which report
38 shall be accompanied by the tax disclosed thereby. Records of gross
39 receipts derived from the sale of alcoholic liquor shall be kept separate and
40 apart from the records of other retail sales made by a club, caterer,
41 drinking establishment, public venue or temporary permit holder in order
42 to facilitate the examination of books and records as provided herein.

43 (b) The secretary of revenue or the secretary's authorized

1 representative shall have the right at all reasonable times during business
2 hours to make such examination and inspection of the books and records
3 of a club, caterer, drinking establishment, public venue or temporary
4 permit holder as may be necessary to determine the accuracy of such
5 reports required hereunder.

6 (c) The secretary of revenue is hereby authorized to administer and
7 collect the tax imposed hereunder and to adopt such rules and regulations
8 as may be necessary for the efficient and effective administration and
9 enforcement of the collection thereof. Whenever any club, caterer,
10 drinking establishment, public venue or temporary permit holder liable to
11 pay the tax imposed hereunder refuses or neglects to pay the same, the
12 amount, including any penalty, shall be collected in the manner prescribed
13 for the collection of the retailers' sales tax by K.S.A. 79-3617, and
14 amendments thereto.

15 (d) The secretary of revenue shall remit all revenue collected under
16 the provisions of this act to the state treasurer in accordance with the
17 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
18 each such remittance, the state treasurer shall deposit the entire amount in
19 the state treasury. Subject to the maintenance requirements of the local
20 alcoholic liquor refund fund created under K.S.A. 79-41a09, and
21 amendments thereto, 25% of the remittance shall be credited to the state
22 general fund, 5% shall be credited to the community alcoholism and
23 intoxication programs fund created by K.S.A. 41-1126, and amendments
24 thereto, and the balance shall be credited to the local alcoholic liquor fund
25 created by K.S.A. 79-41a04, and amendments thereto.

26 (e) Whenever, in the judgment of the secretary of revenue, it is
27 necessary, in order to secure the collection of any tax, penalties or interest
28 due, or to become due, under the provisions of this act, the secretary may
29 require any person subject to such tax to file a bond with the director of
30 taxation under conditions established by and in such form and amount as
31 prescribed by rules and regulations adopted by the secretary.

32 (f) The amount of tax imposed by this act shall be assessed within
33 three years after the return is filed, and no proceedings in court for the
34 collection of such taxes shall be begun after the expiration of such period
35 except in the cases of fraud. In the case of a false or fraudulent return with
36 intent to evade tax, the tax may be assessed or a proceeding in court for
37 collection of such tax may be begun at any time, within two years from the
38 discovery of such fraud. No refund or credit shall be allowed by the
39 director after three years from the date of payment of the tax as provided
40 in this act unless before the expiration of such period a claim therefor is
41 filed by the taxpayer, and no suit or action to recover on any claim for
42 refund shall be commenced until after the expiration of six months from
43 the date of filing a claim therefor with the director. Before the expiration

1 of time prescribed in this section for the assessment of additional tax or the
2 filing of a claim for refund, the director is hereby authorized to enter into
3 an agreement in writing with the taxpayer consenting to the extension of
4 the periods of limitations for the assessment of tax or for the filing of a
5 claim for refund, at any time prior to the expiration of the periods of
6 limitations. The period so agreed upon may be extended by subsequent
7 agreements in writing made before the expiration of the period previously
8 agreed upon.

9 *(g) Whenever the secretary of revenue has cause to believe that the*
10 *tax levied pursuant to K.S.A. 79-41a02, and amendments thereto, may be*
11 *converted, diverted, lost or otherwise not timely paid in accordance with*
12 *this section, the secretary shall have the power to require returns and*
13 *payment at any time, at more frequent intervals than prescribed by this*
14 *section in order to secure full payment to the state of all amounts due in*
15 *accordance with K.S.A. 79-41a01 et seq., and amendments thereto.*

16 Sec. 9. K.S.A. 2014 Supp. 75-5133, 79-3234, 79-3235, 79-3235a, 79-
17 3235b, 79-3607, 79-3617, 79-3643 and 79-41a03 are hereby repealed.

18 Sec. 10. This act shall take effect and be in force from and after its
19 publication in the statute book.