

**79-908. Railroad companies to withhold tax, file statements annually and remit to state; receipts; investigations; ad valorem tax basis.** Every railroad company using or leasing the cars of any organization, upon making payment to such organization for the use or lease of such cars, shall withhold from such payment two and one-half percent of as much thereof as shall constitute gross earnings of such organization within this state as defined in K.S.A. 79-907.

On or before March 1 of each year such railroad company shall make and file with the director, a consolidated statement, in quadruplicate, in a form to be prescribed by the director, showing the amount of such payments for the next preceding twelve-months period ending December 31, and the amounts so withheld. Such railroad company at the time of filing such statement shall remit the amounts so withheld and due the state of Kansas. Upon receipt of such payment, the director shall issue its receipt, in quadruplicate, one copy of which shall be mailed to such railroad company, one to the organization for which such tax is paid, one to the director of accounts and reports and one to the state treasurer which shall be accompanied by the remittance so made, together with a copy of the consolidated statement filed by such railroad company. The mailing of such receipt to such organization shall constitute notice of the filing of said statement and payment of said tax.

If any railroad company shall fail to make or file such report, or if the director be dissatisfied with any report filed, the director shall have the power to conduct a hearing and investigation for the purpose of ascertaining, from whatever sources to which it has access, the gross earnings of such organization from the use or operation of such cars within the borders of this state, and in conducting such hearing and investigation, the director may issue subpoenas *duces tecum*, directed to the officials of such railroad company, or the officials of the organization whose cars were used or leased by such railroad company. The director shall assess against such railroad company the actual expenses attended upon such hearing and investigation if such railroad company has failed to make or file such report or has filed a fraudulent report.

Every organization as hereinbefore defined shall be liable for the payment of the difference, if any, between two and one-half percent of all gross earnings in this state and the amounts withheld and remitted to the state of Kansas by railroads, and shall be liable for the payment of any additional taxes which the director may find due under its authority to raise or lower the rate to conform to the taxes which would be payable if the cars were taxed on the ad valorem basis.

**History:** L. 1937, ch. 356, § 3; L. 1943, ch. 289, § 2; Feb. 23.