Session of 2015

SENATE BILL No. 31

By Committee on Assessment and Taxation

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

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

Section 1. K.S.A. 2014 Supp. 75-5133 is hereby amended to read as follows: 75-5133.

(a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

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

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

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

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

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

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
to county appraisers as is necessary to insure proper valuations of property.

Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

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

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

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

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

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

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released
is limited to: County name, owner, business name, address, license type and license number;

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

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

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

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

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

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

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

(19) disclose taxpayer information in any administrative proceeding or any civil or criminal action or proceeding brought to enforce the tax or revenue laws of this state with respect to such taxpayer.
(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

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

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

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

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

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

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

(4) disclose taxpayer information from income tax returns to persons
or entities contracting with the secretary of revenue where the secretary
has determined disclosure of such information is essential for completion
of the contract and has taken appropriate steps to preserve confidentiality;
(5) disclose to the secretary of commerce the following: (A) Specific
taxpayer information related to financial information previously submitted
by the taxpayer to the secretary of commerce concerning or relevant to any
income tax credits, for purposes of verification of such information or
evaluating the effectiveness of any tax credit or economic incentive
program administered by the secretary of commerce; (B) the amount of
payroll withholding taxes an employer is retaining pursuant to K.S.A.
2014 Supp. 74-50,212, and amendments thereto; (C) information received
from businesses completing the form required by K.S.A. 2014 Supp. 74-
50,217, and amendments thereto; and (D) findings related to a compliance
audit conducted by the department of revenue upon the request of the
secretary of commerce pursuant to K.S.A. 2014 Supp. 74-50,215, and
amendments thereto;
(6) disclose income tax returns to the state gaming agency to be used
solely for the purpose of determining qualifications of licensees of and
applicants for licensure in tribal gaming. Any information received by the
state gaming agency shall be confidential and shall not be disclosed except
to the executive director, employees of the state gaming agency and
members and employees of the tribal gaming commission;
(7) disclose the taxpayer's name, last known address and residency
status to the Kansas department of wildlife, parks and tourism to be used
solely in its license fraud investigations;
(8) disclose the name, residence address, employer or Kansas
adjusted gross income of a taxpayer who may have a duty of support in a
title IV-D case to the secretary of the Kansas department for children and
families for use solely in administrative or judicial proceedings to
establish, modify or enforce such support obligation in a title IV-D case. In
addition to any other limits on use, such use shall be allowed only where
subject to a protective order which prohibits disclosure outside of the title
IV-D proceeding. As used in this section, "title IV-D case" means a case
being administered pursuant to part D of title IV of the federal social
security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person
receiving any information under the provisions of this subsection shall be
subject to the confidentiality provisions of subsection (b) and to the
penalty provisions of subsection (e);
(9) permit the commissioner of internal revenue of the United States,
or the proper official of any state imposing an income tax, or the
authorized representative of either, to inspect the income tax returns made
under this act and the secretary of revenue may make available or furnish
to the taxing officials of any other state or the commissioner of internal
revenue of the United States or other taxing officials of the federal
government, or their authorized representatives, information contained in
income tax reports or returns or any audit thereof or the report of any
investigation made with respect thereto, filed pursuant to the income tax
laws, as the secretary may consider proper, but such information shall not
be used for any other purpose than that of the administration of tax laws of
such state, the state of Kansas or of the United States;

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

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

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

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

(ii) any person receiving tax information under the provisions of this
paragraph shall be subject to the same duty of confidentiality imposed by
law upon the personnel of the department of revenue and shall be subject
to any civil or criminal penalties imposed by law for violations of such
duty of confidentiality; and
(iii) each of the secretary of labor and the secretary of revenue may
adopt rules and regulations necessary to effect the provisions of this
paragraph;
(14) provide such information to the state treasurer for the sole
purpose of carrying out the provisions of K.S.A. 58-3934, and
amendments thereto. Such information shall be limited to current and prior
addresses of taxpayers or associated persons who may have knowledge as
to the location of an owner of unclaimed property. For the purposes of this
paragraph, "associated persons" includes spouses or dependents listed on
income tax returns; and
(15) after receipt of information pursuant to subsection (f), forward
such information and provide the following reported Kansas individual
income tax information for each listed defendant, if available, to the state
board of indigents' defense services in an electronic format and in the
manner determined by the secretary: (A) The defendant's name; (B) social
security number; (C) Kansas adjusted gross income; (D) number of
exemptions claimed; and (E) the relevant tax year of such records. Any
social security number provided to the secretary and the state board of
indigents' defense services pursuant to this section shall remain
confidential; and
(16) disclose taxpayer information in any administrative proceeding
or any civil or criminal action or proceeding brought to enforce the tax or
revenue laws of this state with respect to such taxpayer.
(d) Any person receiving information under the provisions of
subsection (c) shall be subject to the confidentiality provisions of
subsection (b) and to the penalty provisions of subsection (e).
(e) Any violation of subsection (b) or (c) is a class A nonperson
misdemeanor and, if the offender is an officer or employee of the state,
such officer or employee shall be dismissed from office.
(f) For the purpose of determining whether a defendant is financially
able to employ legal counsel under the provisions of K.S.A. 22-4504, and
amendments thereto, in all felony cases with appointed counsel where the
defendant's social security number is accessible from the records of the
district court, the court shall electronically provide the defendant's name,
social security number, district court case number and county to the
secretary of revenue in the manner and format agreed to by the office of
judicial administration and the secretary.
(g) Nothing in this section shall be construed to allow disclosure of
the amount of income or any particulars set forth or disclosed in any
report, return, federal return or federal return information, where such
Sec. 3. K.S.A. 2014 Supp. 79-3235 is hereby amended to read as follows: 79-3235. (a) If any tax imposed by this act or any portion of such tax is not paid within 60 days after it becomes due, the secretary or the secretary's designee shall issue a warrant under the secretary's or the secretary's designee's hand and official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within the sheriff's county for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant and to return the warrant to the secretary or the secretary's designee and pay to the secretary or the secretary's designee the money collected by virtue of it not more than 60 days from the date of the warrant. Firearms seized may be appraised and disposed of in the same manner prescribed in K.S.A. 79-5212, and amendments thereto. The sheriff, within five days after the receipt of the warrant, shall file with the clerk of the district court of the county a copy thereof, and thereupon the clerk shall either enter in the appearance docket the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for either entry. The amount of such warrant so docketed shall thereupon become a lien upon the title to and interest in the real and personal property of the taxpayer against whom it is issued. The sheriff shall proceed in the same manner and with the same effect as prescribed by law with respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for services to be collected in the same manner.

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

(c) If execution is not issued within 10 years from the date of the docketing of any such warrant, or if 10 years shall have intervened between the date of the last execution issued on such warrant, and the time of issuing another writ of execution thereon, such warrant shall become dormant, and shall cease to operate as a lien on the real—estate and personal property of the delinquent taxpayer. Such dormant warrant may be revived in like manner as dormant judgment under the code of civil procedure.

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

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

Sec. 5. K.S.A. 2014 Supp. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section in the manner prescribed by the director, including electronic filing, upon forms or format prescribed by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is
made from the total amount of sales of tangible personal property and
taxable services rendered during such period in the course of such
business, after deductions allowed by law have been made; (6) receipts
during the period for which the return is made from charge and time sales
of tangible personal property made and taxable services rendered prior to
such period in the course of such business, after deductions allowed by law
have been made; (7) gross receipts during the period for which the return
is made from sales of tangible personal property and taxable services
rendered in the course of such business upon the basis of which the tax is
imposed. The return shall include such other pertinent information as the
director may require. In making such return, the retailer shall determine
the market value of any consideration, other than money, received in
connection with the sale of any tangible personal property in the course of
the business and shall include such value in the return. Such value shall be
subject to review and revision by the director as hereinafter provided.
Refunds made by the retailer during the period for which the return is
made on account of tangible personal property returned to the retailer shall
be allowed as a deduction under subdivision paragraph (4) of this section
in case the retailer has theretofore included the receipts from such sale in a
return made by such retailer and paid taxes therein imposed by this act.
The retailer shall, at the time of making such return, pay to the director the
amount of tax herein imposed, except as otherwise provided in this
section. The director may extend the time for making returns and paying
the tax required by this act for any period not to exceed 60 days under such
rules and regulations as the secretary of revenue may prescribe. When the
total tax for which any retailer is liable under this act, does not exceed the
sum of $80 in any calendar year, the retailer shall file an annual return on
or before January 25 of the following year. When the total tax liability
does not exceed $3,200 in any calendar year, the retailer shall file returns
quarterly on or before the 25th day of the month following the end of each
calendar quarter. When the total tax liability exceeds $3,200 in any
calendar year, the retailer shall file a return for each month on or before the
25th day of the following month. When the total tax liability exceeds
$32,000 in any calendar year, the retailer shall be required to pay the sales
tax liability for the first 15 days of each month to the director on or before
the 25th day of that month. Any such payment shall accompany the return
filed for the preceding month. A retailer will be considered to have
complied with the requirements to pay the first 15 days' liability for any
month if, on or before the 25th day of that month, the retailer paid 90% of
the liability for that fifteen-day period, or 50% of such retailer's liability in
the immediate preceding calendar year for the same month as the month in
which the fifteen-day period occurs computed at the rate applicable in the
month in which the fifteen-day period occurs, and, in either case, paid any
underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.

(b) All model 1, model 2 and model 3 sellers are required to file returns electronically. Any model 1, model 2 or model 3 seller may submit its sales and use tax returns in a simplified format approved by the director. Any seller that is registered under the agreement, which does not have a legal requirement to register in this state, and is not a model 1, model 2 or model 3 seller, may submit its sales and use tax returns as follows: (1) Upon registration, the director shall provide to the seller the returns required;

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

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

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

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

(b) The court in which the warrant is docketed shall have jurisdiction
over all subsequent proceedings as fully as though a judgment had been
rendered in the court. A warrant of similar terms, force and effect may be
issued by the secretary or the secretary's designee and directed to any
officer or employee of the secretary or the secretary's designee, and in the
time thereof such officer or employee shall have all the powers
conferred by law upon sheriffs with respect to executions issued against
property upon judgments of a court of record and the subsequent
proceedings thereunder shall be the same as provided where the warrant is
issued directly to the sheriff. The taxpayer shall have the right to redeem
the real estate within a period of 18 months from the date of such sale. If a
warrant is returned, unsatisfied in full, the secretary or the secretary's
designee shall have the same remedies to enforce the claim for taxes as if
the state of Kansas had recovered judgment against the taxpayer for the
amount of the tax. No law exempting any goods and chattels, land and
tenements from forced sale under execution shall apply to a levy and sale
under any of the warrants or upon any execution issued upon any
judgment rendered in any action for sales or compensating taxes. Except
as provided further in subsection (c), the secretary or the secretary's
designee shall have the right after a warrant has been returned unsatisfied,
or satisfied only in part, to issue alias warrants until the full amount of the
tax is collected. No costs incurred by the sheriff or the clerk of the court
shall be charged to the secretary or the secretary's designee.

(c) If execution is not issued within 10 years from the date of the
docketing of any such warrant, or if 10 years shall have intervened
between the date of the last execution issued on such warrant, and the time
of issuing another writ of execution thereon, such warrant shall become
dormant, and shall cease to operate as a lien on the real estate and personal property of the delinquent taxpayer. Such dormant warrant may be revived in like manner as dormant judgments under the code of civil procedure.

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

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

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

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

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

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

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer, drinking establishment, public venue or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

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

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

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

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

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


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