AN ACT concerning income taxation; relating to income and privilege taxes; enacting the Kansas taxpayer protection act, relating to paid tax return preparers, requiring a signature and tax identification number on returns and claims and authorizing actions by the secretary of revenue to enjoin certain conduct; extending certain return filing and tax payment deadlines; amending K.S.A. 79-1110, 79-3221 and 79-3225 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the Kansas taxpayer protection act.

New Sec. 2. As used in this act:

(a) (1) "Paid tax return preparer" means any person who prepares or substantially prepares for compensation, or who employs one or more persons who prepare or substantially prepare for compensation, any income tax return or claim for refund, required to be filed pursuant to K.S.A. 79-3201 et seq., and amendments thereto.

(2) "Paid tax return preparer" does not include the following:

(A) An individual licensed as a certified public accountant in this state under K.S.A. 1-302b or 1-322, and amendments thereto;

(B) an individual licensed as a certified public accountant in another licensing jurisdiction and practicing in this state under K.S.A. 1-302b or 1-322, and amendments thereto; or

(C) an individual employed by a firm licensed in this state under K.S.A. 1-308, and amendments thereto, and preparing a return under the supervision of an individual described in subparagraph (A) or (B).

(b) "Secretary" means secretary of the Kansas department of revenue.

New Sec. 3. (a) On and after January 1, 2021, any income tax return or claim for refund prepared or substantially prepared by a paid tax return preparer shall be signed by the paid tax return preparer and shall bear the paid tax return preparer's federal internal revenue service preparer tax identification number. Any paid tax return preparer who fails to sign the income tax return or claim for refund or who fails to provide the preparer's federal internal revenue service preparer tax identification number shall pay a civil penalty of $50 for each such failure to the Kansas department
of revenue, unless it can be shown that the failure was due to reasonable cause and not willful or reckless conduct. The penalty imposed on any paid tax return preparer with respect to returns or claims for refund filed during any calendar year shall not exceed $25,000 per paid tax return preparer.

(b) The penalty shall be imposed pursuant to this section upon the written order of the secretary or the secretary's designee to the paid tax return preparer who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the paid tax return preparer to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedure act.

(c) Any penalty collected pursuant to this section shall be remitted 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 to the credit of the state general fund.

New Sec. 4. (a) The secretary or the secretary's designee is hereby authorized to enjoin any person from engaging in conduct described in subsection (b) or from further action as a paid tax return preparer under the provisions of the Kansas taxpayer protection act who is found to be in violation of this act. The secretary or the secretary's designee shall be entitled in any proceeding brought for such purpose to have an order restraining such person from engaging in conduct in violation of the provisions of this act. No bond shall be required for any such restraining order or for any temporary or permanent injunction issued in such proceedings. The secretary may commence suit in a court of competent jurisdiction to enjoin any paid tax return preparer from further engaging in any conduct described in subsection (b) or from further action as a paid tax return preparer in this state. The secretary may request the assistance of the attorney general or the attorney general's duly authorized designee to enforce provisions of this section.

(b) In an action pursuant to subsection (a), the court may enjoin the paid tax return preparer from further engaging in any conduct described in this subsection, if the court finds that injunctive relief is appropriate to prevent the occurrence of such conduct. The court may issue an injunction when the paid tax return preparer has engaged in any of the following conduct:

(1) Prepared any income tax return or claim for refund that includes an understatement of a taxpayer's liability due to an unreasonable position. As used in this subsection, "unreasonable position" means the same as defined by section 6694(a)(2) of the federal internal revenue code;

(2) prepared any income tax return or claim for refund that includes an understatement of a taxpayer's liability due to the paid tax return
preparer's willful or reckless conduct. As used in this subsection, "willful or reckless conduct" means the same as defined by section 6694(b)(2) of the federal internal revenue code;

(3) where required, failed to do any of the following:
   (A) Furnish a copy of the income tax return or claim for refund;
   (B) sign the income tax return or claim for refund;
   (C) furnish an identifying number;
   (D) retain a copy of the income tax return or claim for refund; or
   (E) be diligent in determining eligibility for tax benefits;

(4) negotiated a check issued to the taxpayer by the department of revenue without the permission of the taxpayer;

(5) engaged in any conduct subject to any criminal penalty provided for in chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

(6) misrepresented the paid tax return preparer's eligibility to practice before the department of revenue or otherwise misrepresented the paid tax return preparer's experience or education;

(7) guaranteed the payment of any income tax refund or the allowance of any income tax credit; or

(8) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of the state of Kansas.

(c) If the court finds that a paid tax return preparer has continually or repeatedly engaged in any conduct described in subsection (b) and that an injunction prohibiting the conduct would not be sufficient to prevent the person's interference with the proper administration of the tax laws of the state of Kansas, the court may enjoin the person from acting as a paid tax return preparer in the state of Kansas. The fact that the person has been enjoined from preparing tax returns or claims for refund for the United States or any other state in the five years preceding the petition for an injunction shall establish a prima facie case for an injunction to be issued pursuant to this section. For purposes of this subsection, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(d) The secretary or the secretary's designee shall annually report a summary of the secretary's enjoinment actions on the department of revenue's website.

New Sec. 5. (a) Preparation or substantial preparation of any income tax return or claim for refund filed pursuant to K.S.A. 79-3201 et seq., and amendments thereto, by a paid tax return preparer, whether or not a resident or citizen of this state, thereby submits the preparer to the jurisdiction of the courts of this state as to any cause of action arising from
the provisions of this act.

(b) Every action pursuant to this act shall be brought in the district court of Shawnee county.

(c) In lieu of initiating or continuing an action or proceeding, the secretary or the secretary’s designee may accept a consent judgment with respect to any act or practice declared to be a violation of this act. A consent judgment shall provide for the discontinuance by the paid tax return preparer entering the same of any act or practice declared to be a violation of this act. Any consent judgment entered into pursuant to this section shall not be deemed to admit the violation, unless it does so by its terms. Before any consent judgment entered into pursuant to this section shall be effective, it shall be approved by the district court and an entry made in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment shall be treated as a violation of a court order and shall be subject to all the penalties provided by law.

New Sec. 6. The secretary may adopt rules and regulations necessary to carry out the provisions of the Kansas taxpayer protection act.

Sec. 7. K.S.A. 79-1110 is hereby amended to read as follows: 79-1110. (a) Every national banking association, bank, trust company, and savings and loan association subject to taxation under this act shall make its return and pay the tax imposed to the director of taxation on or before the 15th day of the fourth month following the close of its federal taxable year, in the same manner, except for computing the net income subject to tax, as corporations are required to make their returns and pay their taxes under the Kansas income tax act. Every such national banking association, bank, trust company and savings and loan association shall be subject to other provisions of the Kansas income tax act applicable to other corporations and shall be subject to the penalties imposed on corporations by K.S.A. 79-3222, 79-3228 and 79-3234 insofar as the same can be made applicable.

(b) With respect to tax year 2019, the deadline for filing returns shall be extended to July 15, 2020, for returns with original due dates of April 15, 2020, through July 15, 2020. With respect to tax year 2019, no penalty or interest authorized pursuant to K.S.A. 79-3228, and amendments thereto, shall be imposed if such tax liability is paid on or before July 15, 2020.

Sec. 8. K.S.A. 79-3221 is hereby amended to read as follows: 79-3221. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security
number issued to an individual, the individual's spouse, and all
dependents of such individual for purposes of section 205 (c)(2)(A) of
the social security act shall be used as the identifying number and
included on the return when filing such return.

(b) All returns shall be filed in the office of the director of taxation
on or before the 15th day of the fourth month following the close of the
taxable year, except as provided in subsection (c)—hereof. Tentative
returns may be filed before the close of the taxable year and the
estimated tax computed on such return, paid, but no interest will be paid
on any overpayment of tax liability, computed on such tentative return.

(c) (1) The director of taxation may grant a reasonable extension of
time for filing returns in accordance with rules and regulations of the
secretary of revenue. Whenever any such extension of time to file is
requested by a taxpayer and granted by the director with respect to any
tax year commencing after December 31, 1992, no penalty authorized by
K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the
liability is paid on or before the original due date.

(2) With respect to tax year 2019, the deadline for filing returns shall
be extended to July 15, 2020, for returns with original due dates of April
15, 2020, through July 15, 2020. With respect to tax year 2019, no penalty
or interest authorized pursuant to K.S.A. 79-3228, and amendments
thereto, shall be imposed if such tax liability is paid on or before July 15,
2020.

(d) In the case of an individual serving in the armed forces of the
United States, or serving in support of such armed forces, in an area
designated by the president of the United States by executive order as a
"combat zone" as defined under 26 U.S.C. § 112 at any time during the
period designated by the president by executive order as the period of
combatant activities in such zone for the purposes of such section, or
hospitalized as a result of injury received or sickness incurred while
serving in such an area during such time, the period of service in such
area, plus the period of continuous qualified hospitalization attributable
to such injury or sickness, and the next 180 days thereafter, shall be
disregarded in determining, under article 32 of chapter 79 of the Kansas
Statutes Annotated, and amendments thereto, in respect to any tax
liability, including any interest, penalty, additional amount, or addition
to the tax, of such individual:

(1) Whether any of the following acts was performed within the
time prescribed therefor: (A) Filing any return of income tax; (B)
payment of any income tax or installment thereof; (C) filing a notice of
appeal with the director of taxation or the state board of tax appeals for
redetermination of a deficiency or for a review of a decision rendered by
either the director or the state board of tax appeals; (D) allowance of a
credit or refund of any income tax; (E) filing a claim for credit or refund of any income tax; (F) bringing suit upon any such claim for credit or refund; (G) assessment of any income tax; (H) giving or making any notice or demand for the payment of any income tax, or with respect to any liability to the state of Kansas in respect of any income tax; (I) collection, by the director of taxation or the director’s agent, by warrant, levy or otherwise, of the amount of any liability in respect to any income tax; (J) bringing suit by the state of Kansas, or any officer on its behalf, in respect to any liability in respect of any income tax; and (K) any other act required or permitted under the Kansas income tax act specified in rules and regulations adopted by the secretary of revenue under this section;

(2) the amount of any credit or refund.

(e) (1) Subsection (d) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) If an individual is entitled to the benefits of subsection (d) with respect to any return and such return is timely filed, determined after the application of subsection (d), subsections (e)(5) and (e)(7) of K.S.A. 79-32,105(d), (e)(5) and (e)(7), and amendments thereto, shall not apply.

(f) The provisions of subsections (d) through (j) shall apply to the spouse of any individual entitled to the benefits of subsection (d). Except in the case of the combat zone designated for purposes of the Vietnam conflict, this subsection shall not cause subsections (d) through (j) to apply for any spouse for any taxable year beginning more than two years after the date designated under 26 U.S.C. § 112, and amendments thereto, as the date of termination of combatant activities in a combat zone.

(g) The period of service in the area referred to in subsection (d) shall include the period during which an individual entitled to benefits under subsection (d) is in a missing status, within the meaning of 26 U.S.C. § 6013(f)(3).

(h) (1) Notwithstanding the provisions of subsection (d), any action or proceeding authorized by K.S.A. 79-3229, and amendments thereto, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun or prosecuted. In any other case in which the secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (d) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this subsection the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (d). In any case to which this subsection relates, if the secretary is required to
give any notice to or make any demand upon any person, such
requirement shall be deemed to be satisfied if the notice or demand is
prepared and signed, in any case in which the address of such person
last known to the secretary is in an area for which United States post
offices under instructions of the postmaster general are not, by reason of
the combatant activities, accepting mail for delivery at the time the
notice or demand is signed. In such case the notice or demand shall be
deemed to have been given or made upon the date it is signed.

(2) The assessment or collection of any tax under the provisions of
article 32 of chapter 79 of the Kansas Statutes Annotated, and
amendments thereto, or any action or proceeding by or on behalf of the
state in connection therewith, may be made, taken, begun or prosecuted
in accordance with law, without regard to the provisions of subsection
(d), unless prior to such assessment, collection, action or proceeding it is
ascertained that the person concerned is entitled to the benefits of
subsection (d).

(i) (1) Any individual who performed Desert Shield services, and
the spouse of such individual, shall be entitled to the benefits of
subsections (d) through (j) in the same manner as if such services were
services referred to in subsection (d).

(2) For purposes of this subsection, the term "Desert Shield
services" means any services in the armed forces of the United States or
in support of such armed forces if:

(A) Such services are performed in the area designated by the
president as the "Persian Gulf Desert Shield area"; and

(B) such services are performed during the period beginning on
August 2, 1990, and ending on the date on which any portion of the area
referred to in subsection (i)(2)(A) is designated by the president as a
combat zone pursuant to 26 U.S.C. § 112.

(j) For purposes of subsection (d), the term "qualified
hospitalization" means:

(1) Any hospitalization outside the United States; and

(2) any hospitalization inside the United States, except that not
more than five years of hospitalization may be taken into account under
this subsection. This subsection shall not apply for purposes of applying
subsections (d) through (j) with respect to the spouse of an individual
entitled to the benefits of subsection (d).

Sec. 9. K.S.A. 79-3225 is hereby amended to read as follows: 79-
3225. (a) All taxes imposed under the provisions of the "Kansas income
tax act" shall be paid on the 15th day of the fourth month following the
close of the taxable year; except with respect to tax year 2019, such taxes
shall be paid on or before July 15, 2020, if the return was due on or
before July 15, 2020. When the tax as shown to be due on a return is less
than $5, such tax shall be canceled and no payment need be remitted by
the taxpayer.
(b) The director of taxation may extend the time for payment of the
tax, or any installment thereof, for a reasonable period of time not to
exceed six months from the date fixed for payment thereof. Such
extension may exceed six months in the case of a taxpayer who is
abroad. Interest shall be charged at the rate prescribed by K.S.A. 79-
2968(a) and amendments thereto for the period of such extension.
Sec. 10. K.S.A. 79-1110, 79-3221 and 79-3225 are hereby repealed.
Sec. 11. This act shall take effect and be in force from and after its
publication in the statute book Kansas register.