

2012 Kansas Statutes

79-3226. Examination of returns; notice of additional tax; informal conference; final determination and notice; appeals; tax and interest due and payable, when. (a) As soon as practicable after the return is filed, the director of taxation shall examine it and shall determine the correct amount of the tax. If the tax found due shall be greater than the amount theretofore paid, or if a claim for a refund is denied, notice shall be mailed to the taxpayer. Within 60 days after the mailing of such notice the taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to the tax liability or denial of refund by filing a written request with the secretary of revenue or the secretary's designee which sets forth the objections to the proposed liability or proposed denial of refund. The purpose of such conference shall be to review and reconsider all facts and issues that underlie the proposed liability or proposed denial of refund. The secretary of revenue or the secretary's designee shall hold an informal conference with the taxpayer and shall issue a written final determination thereon. The informal conference shall not constitute an adjudicative proceeding under the Kansas administrative procedure act. Informal conferences held pursuant to this section may be conducted by the secretary of revenue or the secretary's designee. The rules of evidence shall not apply to an informal conference and no record shall be made, except at the request and expense of the secretary of revenue or the secretary's designee or taxpayer. The taxpayer may bring to the informal conference an attorney, certified public accountant and any other person to represent the taxpayer or to provide information. Because the purpose of the department staff is to aid the secretary or secretary's designee in the proper discharge of the secretary's or secretary's designee's duties, the secretary or secretary's designee may confer at any time with any staff member with respect to the case under reconsideration. The secretary of revenue or the secretary's designee shall issue a written final determination within 270 days of the date of the request for informal conference unless the parties agree in writing to extend the time for issuing such final determination. A final determination issued within or after 270 days, with or without extension, constitutes final agency action subject to administrative review by the state court of tax appeals. In the event that a written final determination is not rendered within 270 days, the taxpayer may appeal to the state court of tax appeals at any time provided that a written extension of time is not in effect.

(b) A final determination finding additional tax shall be accompanied by a notice and demand for payment. Notice under this section shall be sent by first-class mail in the case of individual taxpayers and by registered or certified mail in the case of all other taxpayers. The tax shall be paid within 20 days thereafter, together with interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, on the additional tax from the date the tax was due unless an appeal is taken in the manner provided by K.S.A. 74-2438, and amendments thereto, but no additional tax shall be assessed for less than \$5 unless the secretary or the secretary's designee determines the administration and collection cost involved in collecting an amount over \$5 but less than \$100 would not warrant collection of the amount due. Interest at such rate shall continue to accrue on any additional tax liability during the course of any appeal.

History: L. 1933, ch. 320, § 26; L. 1943, ch. 290, § 3; L. 1957, ch. 429, § 18; L. 1980, ch. 316, § 3; L. 1980, ch. 308, §17; L. 1984, ch. 351, § 11; L. 1988, ch. 356, § 329; L. 1992, ch. 65, § 1; L. 1997, ch. 126, § 10; L. 2002, ch. 186, § 4; L. 2008, ch. 109, § 114; July 1.

Revisor's Note:

Section was amended twice in the 2002 session, see also 79-3226c.