

12-1,104. Local option intangibles tax; filing of returns, procedure and forms; persons required to file and pay tax. (a) Every taxpayer receiving earnings which are taxable under the provisions of this act shall file a return on or before April 15 following the taxable year, with the county clerk of the county in which the gross earnings has acquired situs. Such return shall contain such information and be made upon forms prescribed by the director of taxation and provided by the county clerk. The county clerk shall compute the tax due and payable on such taxable earnings of each taxpayer and shall certify such amount to the county treasurer. The director of taxation shall prescribe to the county clerk the form for the making of such return and a current listing of each taxing subdivision imposing a tax on gross earnings derived from money, notes and other evidence of debt for which the listing has been received pursuant to subsection (d) of K.S.A. 12-1,101 by July 15 of the year preceding the year of imposition of the tax.

(b) A return listing the gross earnings of every resident conservatee which are taxable pursuant to this act shall be filed by the conservator of such conservatee. The return of every resident minor shall be filed by the minor's father, if living and of sound mind, but if such father is not living or is an incapacitated person, by the minor's mother or if neither the father or mother is living, by the person having possession or control of the minor's property.

A return listing the gross earnings of a resident trustee or cotrustee of a revocable trust created by a resident settlor which are taxable pursuant to this act shall be filed by the resident settlor. A return listing the gross earnings of a resident trustee or cotrustee of an irrevocable or testamentary trust created by a resident settlor or a resident decedent which are taxable pursuant to this act shall be filed by any beneficiary residing in this state who receives earnings from such trust, to the extent of such earnings, otherwise a return listing such gross earnings shall be filed by the resident trustee to the extent that such earnings are not distributed. A nonresident beneficiary shall not be obligated to file a return listing earnings taxable pursuant to this act nor shall the trustee be obligated to file a return listing the same to the extent they were distributed to a nonresident beneficiary. Where a resident trustee or cotrustee is acting under a revocable, irrevocable or testamentary trust of a nonresident settlor or nonresident decedent, the trustee shall not be required to file a return listing earnings taxable pursuant to this act, but any beneficiary of such trust, residing in this state, who receives or is entitled to receive such earnings from such trust shall be required to file a return. Any resident of this state including the settlor of a revocable trust who receives or is entitled to receive earnings taxable pursuant to this act from a trust, not having a situs in this state, shall file a return listing such resident's share of such earnings.

For the purposes of this act, a settlor of a revocable trust shall be deemed to be entitled to the gross earnings on money, notes and other evidence of debt of such trust whether or not such settlor actually receives the same and a beneficiary shall be deemed to be entitled to a share of such earnings if all or a specific part or percentage of the net income of the trust must be distributed to such beneficiary or if the beneficiary may withdraw all or a specific part of the net income. If such beneficiary may receive earnings only on the exercise of discretion by the trustee or on the occurrence of an event outside of the beneficiary's sole control such beneficiary shall not be deemed to have received the earnings and shall file a return listing only earnings actually received. If earnings of a trust which are taxable pursuant to this act are accumulated and subsequently distributed in a different calendar year than the year in which received by the trust and if the same are reported as income under the revenue laws of Kansas and regulations promulgated thereunder, and if a return listing such earnings has not been filed by the trustees in the year in which earned, then a return listing such earnings shall be filed by such beneficiary in the year in which the same are reported under the revenue laws of Kansas, but otherwise a return listing the same shall not be filed. Where the beneficiary of any trust is required to file a return listing earnings which are taxable pursuant to this act and which are held in trust, such beneficiary for purposes of this act shall be deemed to have received or to be entitled to receive such beneficiary's pro rata share of the earnings without specific allocation, unless the trust provides otherwise, and based upon the proportion which the beneficiary's share of the earnings bears to the total earnings of the trust. A return listing gross earnings taxable under this act which belong to the estate of a resident decedent shall be filed by the executor or administrator. If the decedent is a nonresident, such executor or administrator shall not be required to file a return listing such gross earnings.

A return listing the gross earnings of persons, companies or corporations which are taxable pursuant to this act, whose assets are in the hands of receivers shall be filed by such receivers and a return listing the gross earnings belonging to a corporation, and subject to this act, shall be filed by some person designated for that purpose by such corporation.

A return listing the gross earnings which are taxable pursuant to this act which belong to a corporation, association or a partnership shall be listed by an agent or partner. Unless subject to tax by reason of K.S.A. 12-1,103, and amendments thereto, no return listing the gross earnings from money, notes and other evidence of debt collected or received by any agent or representative of any person, company, or corporation, which is to be transmitted immediately to such person, company or corporation, shall be filed by such agent or representative, but such agent or representative, upon request, shall state under oath the amount of such money or credits and the person, company or corporation to whom such money or credits have been or is to be transmitted.

Taxes levied pursuant to this act shall be paid by the person or fiduciary required to file such return.

History: L. 1982, ch. 63, § 4; L. 1983, ch. 61, § 2; L. 2010, ch. 123, § 6; Apr. 29.