

**79-3295. Withholding tax; definitions.** (a) The term "employee" means a resident of this state as defined by subsection (b) of K.S.A. 79-32,109, and amendments thereto, performing services for an employer either within or without the state and a nonresident performing services within this state, and includes an officer, employee or elected official of the United States, a state, territory, or any political subdivision thereof or any agency or instrumentality thereof, and an officer of a corporation.

(b) The term "employer" means any person, firm, partnership, limited liability company, corporation, association, trust or fiduciary of any kind or other type organization qualifying as an employer for federal income tax withholding purposes and who maintains an office, transacts business in or derives any income from sources within the state of Kansas for whom an individual performs or performed any services, of whatever nature, as the employee of such employer, and who has control of the payment of wages for such services, or is the officer, agent or employee of the person having control of the payment of wages. It also includes the United States, the state and all political subdivisions thereof, and all agencies or instrumentalities of any of them.

(c) The term "distributee" means any person or organization who receives a distribution which is subject to withholding of income tax pursuant to this act.

(d) The term "distribution" means a distribution from a corporation for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, from a limited liability company formed under the laws of the state of Kansas, or from a partnership.

(e) The term "nonresident" means an individual domiciled outside of this state and an entity whose commercial domicile is outside of this state. For corporations, commercial domicile is as defined in K.S.A. 79-3271, and amendments thereto.

(f) The term "payee" means any person or organization who receives a payment other than wages, or a payment of a pension, annuity or deferred income, which is subject to withholding of income tax pursuant to this act.

(g) The term "payer" means any person or organization, other than an employer, who makes a payment other than wages, or a payment of a pension, annuity or deferred income, which is subject to withholding of income tax pursuant to this act.

(h) The term "payment other than wages" means a payment that is taxable under the Kansas income tax act, and that is a payment:

- (1) For any supplemental unemployment compensation, annuity, or sick pay;
- (2) pursuant to a voluntary withholding agreement;
- (3) of gambling winnings;
- (4) of taxable payments of Indian casino profits;
- (5) for any vehicle fringe benefit; or
- (6) of a management or consulting fee paid in the ordinary course of a trade, business or other for profit venture.

(i) The term "pension, annuity or other deferred income" means a payment that is taxable under the Kansas income tax act, and that is a payment:

- (1) Of periodic payments of pensions, annuities and other deferred income;
- (2) of nonperiodic distributions of pensions, annuities and other deferred income; or
- (3) of eligible rollover distributions of pensions, annuities and other deferred income.

(j) The term "wages" means wages as defined by section 3401(a) of the federal internal revenue code which are taxable under the Kansas income tax act.

**History:** L. 1965, ch. 525, § 2; L. 1967, ch. 497, § 37; L. 1987, ch. 384, § 1; L. 2000, ch. 184, § 8; L. 2002, ch. 185, § 29; L. 2003, ch. 147, § 37; July 1.