

SENATE BILL No. 28

By Committee on Assessment and Taxation

1-13

1 AN ACT concerning income taxation; relating to reporting requirements,
2 dates; amending K.S.A. 2016 Supp. 79-3298 and 79-3299 and
3 repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 79-3298 is hereby amended to read as
7 follows: 79-3298. (a) Every employer, payer, person or organization
8 deducting and withholding tax shall remit the taxes and file returns in
9 accordance with the following provisions:

10 (1) Whenever the total amount withheld exceeds \$100,000 in any
11 calendar year, the employer, payer, person or organization deducting and
12 withholding tax shall remit the taxes withheld in accordance with the
13 following schedule: Each calendar month shall be divided into four
14 remittance periods that end on the 7th, 15th, 21st and the last day of such
15 month. If at the end of any one or all of such remittance periods the total
16 undeposited taxes equal or exceed \$667, the taxes shall be remitted within
17 three banking days. Saturdays, Sundays and legal holidays shall not be
18 treated as banking days.

19 (2) Whenever the total amount withheld exceeds \$8,000 but does not
20 exceed \$100,000 in any calendar year, the employer, payer, person or
21 organization deducting and withholding tax shall remit the taxes withheld
22 for wages paid during the first 15 days of any month on or before the 25th
23 day of the month. The employer, payer, person or organization deducting
24 and withholding tax shall remit the taxes withheld for wages paid during
25 the remainder of that month on or before the 10th day of the following
26 month.

27 (3) Whenever the total amount withheld exceeds \$1,200 but does not
28 exceed \$8,000 in any calendar year, the employer, payer, person or
29 organization deducting and withholding tax shall remit the taxes withheld
30 during any month on or before the 15th day of the following month.

31 (4) Whenever the total amount withheld exceeds \$200 but does not
32 exceed \$1,200 in any calendar year, the employer, payer, person or
33 organization deducting and withholding tax shall remit the taxes withheld
34 in any calendar quarter on or before the 25th day of the first month
35 following the end of that calendar quarter.

36 (5) Whenever the total amount withheld does not exceed \$200 in any

1 calendar year, the employer, payer, person or organization deducting and
2 withholding tax shall remit the taxes withheld during that year on or before
3 January 25 of the following year.

4 (b) Each remittance required under the provisions of subsection (a)
5 shall be accompanied by a Kansas withholding tax remittance form and
6 shall be filed in the manner prescribed by the director, including electronic
7 filing.

8 (c) Every employer, payer, person or organization deducting and
9 withholding tax and making remittances pursuant to subsection (a) shall
10 file a return on a form or in the format and shall file in the manner
11 prescribed by the director, including electronic filing, for each calendar
12 year on or before ~~the last day of February~~ *January 31* of the following
13 year.

14 (d) The excess of any remittance over the actual taxes withheld in any
15 withholding period shall be credited against the liability for following
16 withholding periods until exhausted. A refund shall be allowed in
17 accordance with K.S.A. 79-32,105, and amendments thereto, where an
18 overpayment cannot be adjusted by an offset against the liability for a
19 subsequent withholding period.

20 (e) For purposes of determining filing requirements, determinations
21 of amounts withheld during a calendar year by employers, payers, persons
22 or organizations deducting and withholding tax shall be made by the
23 director upon the basis of amounts withheld by those employers, payers,
24 persons or organizations during the preceding calendar year or by
25 estimates in cases of employers, payers, persons or organizations having
26 no previous withholding histories. The director is hereby authorized to
27 modify the filing schedule for any employer, payer, person or organization
28 deducting and withholding tax when it is apparent that the original
29 determination was inaccurate.

30 (f) Whenever the director has cause to believe that money withheld
31 by an employer, payer, person or organization deducting and withholding
32 tax pursuant to this act may be converted, diverted, lost, or otherwise not
33 timely paid in accordance with this section, the director shall have the
34 power to require returns and payment from any such employer, payer,
35 person or organization at any time at more frequent intervals than
36 prescribed by this section in order to secure full payment to the state of all
37 amounts withheld by such employer, payer, person or organization in
38 accordance with this act.

39 Sec. 2. K.S.A. 2016 Supp. 79-3299 is hereby amended to read as
40 follows: 79-3299. (a) Every employer, payer, person or organization
41 deducting and withholding tax, on or before January 31 of each year, shall
42 prepare a statement for each employee or payee on a form prescribed by
43 the director stating the amount of wages or payments other than wages

1 subject to Kansas income tax paid during the preceding year, the total
2 amount of tax withheld, if any, from such wages or payments other than
3 wages by the employer, payer, person or organization pursuant to this act
4 and such other information as may be prescribed by the director. One copy
5 of such statement shall be filed by the employer, payer, person or
6 organization with the division of taxation on or before ~~the last day of~~
7 ~~February~~ *January 31* of each year. Except as otherwise provided, if the
8 employer, payer, person or organization files statements which report such
9 withholding information for 51 or more employees or payees, the
10 statements shall be filed by electronic means. If filing such statements by
11 electronic means would be a hardship for any such employer, payer,
12 person or organization, the secretary may permit such statements to be
13 filed other than by electronic means. Two copies of such statement shall be
14 given to the employee or payee concerned, one of which will be filed by
15 the employee or payee with the tax return required by this chapter.

16 (b) In the case of an employee whose employment is terminated
17 before the end of a calendar year, the statement required by subsection (a)
18 may be mailed at the time provided in that subsection to the last known
19 address of the employee, or issued at the time of the last payment to the
20 employee, at the employer's option.

21 (c) Any employer, payer, person or organization deducting and
22 withholding tax who intentionally fails to furnish a statement to an
23 employee or payee as required under the provisions of subsections (a) and
24 (b) shall be guilty of a nonperson misdemeanor and upon conviction
25 thereof shall be punished by a fine not exceeding \$100 for each such
26 offense.

27 (d) The annual statement of wages and salaries paid and amount
28 withheld required by this section shall be in lieu of the annual information
29 return required under K.S.A. 79-3222, and amendments thereto.

30 Sec. 3. K.S.A. 2016 Supp. 79-3298 and 79-3299 are hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its
32 publication in the statute book.