

As Amended by House Committee

As Amended by Senate Committee

Session of 2023

SENATE BILL No. 8

By Senator Steffen

1-3

1 AN ACT concerning ~~property~~ taxation; relating to ~~personal~~ property
2 **taxation**; reducing penalties for the late filing of or the failure to file
3 statements listing property for assessment and the discovery of escaped
4 property; **reporting changes after initial statement**; relating to income
5 **taxation**; decreasing the penalties for failing to timely remit
6 **withholding income taxes of employees by employers**; amending
7 K.S.A. 79-306, 79-332a, 79-1422~~and~~, 79-1427a and 79-32,107 and
8 repealing the existing sections.
9

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

11 **Section 1.** *K.S.A. 79-306 is hereby amended to read as follows: 79-*
12 *306. On or before March 15 of each year, or the next following business*
13 *day if such date falls on a day other than a regular business day, every*
14 *person, association, company or corporation required by this act to list*
15 *property shall make and personally sign a statement listing all tangible*
16 *personal property which by this act such person is required to list, either*
17 *as the owner thereof, or as parent, guardian, trustee, executor,*
18 *administrator, receiver, accounting officer, partner or agent, as the case*
19 *may be, and deliver the same to the county appraiser of the county where*
20 *such property has its situs for the purpose of taxation. In addition to the*
21 *foregoing requirements, any such statement prepared by a personal*
22 *property tax rendition form preparer shall be certified as true and*
23 *correct by such preparer's signature. ~~On and after January 1, 2024, after~~*
24 **If a person has filed an initial statement listing property with the county**
25 **appraiser pursuant to this section, no subsequent annual statement shall**
26 **be required to be filed with the county appraiser regarding such property**
27 **unless there is a change to report relating to the property previously listed**
28 **or the statement.**

29 ~~Section 1.~~ **Sec. 2.** K.S.A. 79-332a is hereby amended to read as
30 follows: 79-332a. (a) Any person, corporation or association owning oil
31 and gas leases or engaged in operating for oil or gas who fails to make and
32 file a statement of assessment on or before April 1 shall be subject to a
33 penalty as follows:

34 (1) The appraiser shall, after having ascertained the assessed value of

1 the property of such taxpayer, add ~~5%~~ 2% thereto as a penalty for late
2 filing if the failure is not for more than one month, with an additional ~~5%~~
3 2% for each additional month or fraction thereof during which such failure
4 continues, not exceeding ~~25%~~ 10% in the aggregate.

5 (2) If the statement of assessment is filed more than one year from
6 April 1, the appraiser shall, after having ascertained the assessed value of
7 the property of such taxpayer, add ~~50%~~ 12.5% thereto as a penalty for late
8 filing. The county treasurer may not distribute any taxes assessed under
9 this section and paid under protest by the taxpayer pursuant to K.S.A. 79-
10 2005, and amendments thereto, until such time as the appeal is final.

11 (b) For good cause shown the county appraiser may extend the time
12 in which to make and file such statement. Such request for extension of
13 time shall be in writing and shall be received by the county appraiser prior
14 to the due date of the statement of assessment.

15 (c) Whenever any person, corporation or association owning oil and
16 gas leases or engaged in operating for oil or gas shall fail to make and
17 deliver to the county appraiser of every county wherein the property to be
18 assessed is located, a full and complete statement of assessment relative to
19 such property as required by blank forms prepared or approved for the
20 purpose by the director of property valuation to elicit the information
21 necessary to fix the valuation of the property, the appraiser shall ascertain
22 the assessed value of the property of such taxpayer, and shall add ~~50%~~
23 12.5% thereto as a penalty for failing to file such statement.

24 (d) The state board of tax appeals shall have the authority to abate
25 any penalty imposed under the provisions of this section and order the
26 refund of the abated penalty, whenever excusable neglect on the part of the
27 person, corporation or association required to make and file the statement
28 of assessment is shown, or whenever the property for which a statement of
29 assessment was not filed as required by law is repossessed, judicially or
30 otherwise, by a secured creditor and such secured creditor pays the taxes
31 and interest due.

32 ~~Sec. 2:~~ 3. K.S.A. 79-1422 is hereby amended to read as follows: 79-
33 1422. (a) Any person required to file a statement listing property for
34 assessment and taxation purposes under the provisions of this act who fails
35 to make and file such statement on or before the date prescribed by K.S.A.
36 79-306, and amendments thereto, shall be subject to a penalty as follows:

37 The appraiser shall, after having ascertained the assessed value of the
38 property of such taxpayer, add ~~5%~~ 2% thereto as a penalty for late filing if
39 the failure is not for more than one month, with an additional ~~5%~~ 2% for
40 each additional month or fraction thereof during which such failure
41 continues, not exceeding ~~25%~~ 10% in the aggregate.

42 For good cause shown the appraiser ~~may~~ **shall** extend ~~the a reasonable~~
43 **amount of** time in which to make and file such statement. Such request for

1 extension of time must be in writing and shall state just and adequate
2 reasons on which the request ~~may~~ **shall** be granted. ~~The request must be~~
3 ~~received by the appraiser prior to the due date of the statement.~~ **For**
4 ***purposes of this section, on and after January 1, 2022, good cause for***
5 ***granting an extension of time in which to make and file a statement***
6 ***listing property for assessment and taxation purposes shall include, but***
7 ***not be limited to, the previous classification of the property as real***
8 ***property or as a fixture to real property. Such previous classification***
9 ***shall specifically include, but not be limited to, machinery and***
10 ***equipment used in the grain storage and processing industry, ethanol***
11 ***processing industry or other biofuels processing industry that had been***
12 ***previously classified as real property or fixtures to real property.***

13 (b) If, within one year following the date prescribed by K.S.A. 79-
14 306, and amendments thereto, any person shall fail to make and file the
15 statement listing property for assessment and taxation purposes or shall
16 fail to make and file a full and complete statement listing property for such
17 purposes, the appraiser shall proceed to ascertain the assessed value of the
18 property of such taxpayer, and for this purpose the appraiser may examine
19 under oath any person or persons whom the appraiser deems to have
20 knowledge thereof. The appraiser shall, after having ascertained the
21 assessed value of such property, add ~~50%~~ **12.5%** thereto as a penalty for
22 failure to file such statement or for failure to file a full and complete
23 statement.

24 (c) The state board of tax appeals ***or the county appraiser*** shall ~~have~~
25 ~~the authority to~~ abate any penalty imposed under the provisions of this
26 section and order the refund of the abated penalty, whenever excusable
27 neglect on the part of the person required to make and file the statement
28 listing property for assessment and taxation purposes is shown, or
29 whenever the property for which a statement of assessment was not filed
30 as required by law is repossessed, judicially or otherwise, by a secured
31 creditor and such secured creditor pays the taxes and interest due. **For**
32 ***purposes of this section, on and after January 1, 2022, excusable neglect***
33 ***for the failure to make and file a statement listing property for***
34 ***assessment and taxation purposes shall include, but not be limited to, the***
35 ***previous classification of the property as real property or as a fixture to***
36 ***real property. Such previous classification shall specifically include, but***
37 ***not be limited to, machinery and equipment used in the grain storage***
38 ***and processing industry, ethanol processing industry or other biofuels***
39 ***processing industry that had been previously classified as real property***
40 ***or fixtures to real property.***

41 Sec. ~~3~~ **4.** K.S.A. 79-1427a is hereby amended to read as follows: 79-
42 1427a. (a) If, the county appraiser discovers, after the tax roll has been
43 certified to the county clerk, that any tangible personal property subject to

1 taxation has been omitted from the tax rolls, the county clerk shall place
2 such property on the tax roll as an added tax, or if, after one year from the
3 date prescribed by K.S.A. 79-306, and amendments thereto, for the listing
4 of tangible personal property, the county appraiser discovers that any
5 tangible personal property—~~which that~~ was subject to taxation in any year
6 or years within two years next preceding January 1 of the calendar year in
7 which it was discovered has not been listed or has been underreported for
8 whatever reason, such property shall be deemed to have escaped taxation.
9 In the case of property—~~which that~~ has not been listed, it shall be the duty
10 of the county appraiser to list and appraise such property and, for an added
11 tax, add penalties as prescribed in K.S.A. 79-1422, and amendments
12 thereto, and—~~which that~~ shall be designated on the appraisal roll as an
13 added appraisal for that year. In the case of property—~~which that~~ has
14 escaped taxation, it shall be the duty of the county appraiser to list and
15 appraise such property and add—~~50%~~ 12.5% thereto as a penalty for
16 escaping taxation for each such year during which such property was not
17 listed, and it shall be designated on the appraisal roll as "escaped
18 appraisal" for each such preceding year or years. In the case of property
19 ~~which that~~ has been listed but underreported, it shall be the duty of the
20 county appraiser to list and appraise the underreported portion of such
21 property and add—~~50%~~ 12.5% thereto as a penalty for escaping taxation for
22 each such year during which such property was underreported, and it shall
23 be designated on the appraisal roll as "escaped appraisal" for each such
24 preceding year or years. The county clerk, upon receipt of the valuation for
25 such property in either of the aforementioned cases, shall place such
26 property on the tax rolls and compute the amount of tax due based upon
27 the mill levy for the year or years in which such tax should have been
28 levied, and shall certify such amount to the county treasurer as an added or
29 escaped appraisal. The amount of such tax shall be due immediately and
30 payable within 45 days after the issuance of an additional or escaped
31 property tax bill by the county treasurer. The county treasurer may not
32 distribute any taxes assessed under this section and paid under protest by
33 the taxpayer pursuant to K.S.A. 79-2005, and amendments thereto, until
34 such time as the appeal is final. No interest shall be imposed unless the tax
35 remains unpaid after such 45-day period. Taxes levied pursuant to this
36 section—~~which that~~ remain unpaid after such 45-day period shall be deemed
37 delinquent and the county treasurer shall collect and distribute such tax in
38 the same manner as prescribed by law for the collection and distribution of
39 other taxes levied upon property—~~which that~~ are delinquent. If the owner of
40 such property is deceased, taxes charged as herein provided shall be levied
41 against the estate of such deceased person for only two calendar years
42 preceding death and shall be paid by the legal representative or
43 representatives of such estate. In the event that such escaped appraisal is

1 due to any willful or clerical error of the county appraiser, such property
2 shall be appraised at its fair market value and no penalty shall be added.

3 (b) A taxpayer with a grievance as to any penalty applied pursuant to
4 the provisions of this section, may appeal to the state board of tax appeals
5 on forms prepared by the state board of tax appeals and provided by the
6 county appraiser. The state board of tax appeals shall have the authority to
7 abate any penalty imposed under the provisions of this section and order
8 the refund of the abated penalty, whenever excusable neglect on the part of
9 the person required to make and file the statement listing property for
10 assessment and taxation purposes is shown, or whenever the property
11 ~~which~~ *that* has been deemed to have escaped taxation is repossessed,
12 judicially or otherwise, by a secured creditor and such creditor pays the
13 taxes and interest due. No interest shall be assessed during the pendency of
14 this appeal.

15 (c) The provisions of this section shall apply to any tangible personal
16 property discovered during the calendar years 1982, 1983, 1984 and any
17 year thereafter to have escaped appraisal and taxation during any such year
18 or any year within two years next preceding any such year.

19 **{Sec. 5. K.S.A. 79-32,107 is hereby amended to read as follows:**
20 **79-32,107. (a) All penalties and interest prescribed by K.S.A. 79-3228,**
21 **and amendments thereto, for noncompliance with the income tax laws**
22 **of Kansas shall be applicable for noncompliance with the provisions of**
23 **the Kansas withholding and declaration of estimated tax act relating**
24 **to withholding tax which shall be enforced in the same manner as the**
25 **Kansas income tax act. A penalty at the same rate per annum**
26 **prescribed by ~~subsection (b) of K.S.A. 79-2968(b),~~ and amendments**
27 **thereto, for interest upon delinquent or unpaid taxes shall be applied**
28 **and added to a taxpayer's amount of underpayment of estimated tax**
29 **due from the date the estimated tax payment was due until the same is**
30 **paid or until the 15th day of the fourth month following the close of the**
31 **taxable year for which such estimated tax is a credit, whichever date is**
32 **earlier, but such penalty shall not be added if the total amount thereof**
33 **does not exceed \$1. For purposes of this subsection, the amount of**
34 **underpayment of estimated tax shall be the excess of the amount of**
35 **the installment which would be required to be paid if the estimated tax**
36 **were equal to 90% of the tax shown on the return for the taxable year**
37 **or, if no return was filed, 90% of the tax for such year, over the**
38 **amount, if any, of the installment paid on or before the last date**
39 **prescribed for payment. Amounts due from any employer on account**
40 **of withholding or from any taxpayer for estimated tax may be**
41 **collected by the director in the manner provided for the collection of**
42 **state income tax in K.S.A. 79-3235, and amendments thereto. For**
43 **purposes of this subsection, "underpayment of tax" means the**

1 difference between the amount of tax actually paid and the amount of
2 tax which would have been required to be paid to avoid penalty
3 pursuant to subsection (b) or (c).

4 (b) No penalty or interest shall be imposed upon any individual
5 with respect to any underpayment of any installment if the total
6 amount of all payments of estimated tax made on or before the last
7 date prescribed for the payment of such installment equals or exceeds
8 the amount which would have been required to be paid on or before
9 such date if the estimated tax were whichever of the following is the
10 least:

11 (1) The tax shown on the return of the individual for the
12 preceding taxable year, if a return showing a liability for tax was filed
13 by the individual for the preceding taxable year;

14 (2) zero if no return was required to be filed or if the tax liability
15 on the individual's return was less than \$200 for the preceding taxable
16 year;

17 (3) an amount equal to $66\frac{2}{3}\%$, in the case of individuals referred
18 to in ~~subsection (b) of K.S.A. 79-32,102(b)~~, and amendments thereto,
19 and 90%, in the case of all other individuals, of the tax for the taxable
20 year computed by placing on an annualized basis, pursuant to rules
21 and regulations adopted by the secretary of revenue, the taxable
22 income for the months in the taxable year ending before the month in
23 which the installment is required to be made.

24 (c) No penalty or interest shall be imposed upon any corporation
25 with respect to any underpayment of any installment of estimated tax
26 if the total amount of all payments of estimated tax made on or before
27 the last date prescribed for the payment of such installment equals or
28 exceeds the amount which would have been required to be paid on or
29 before such date if the estimated tax were whichever of the following is
30 the least:

31 (1) The tax shown on the return of the corporation for the
32 preceding taxable year, if a return showing a liability for tax was filed
33 by the corporation for the preceding taxable year, or zero if no return
34 was required to be filed, or if the tax liability on the corporation's
35 return was less than \$500 for the preceding taxable year; or

36 (2) (A) an amount equal to 90% of the tax for the taxable year
37 computed by placing on an annualized basis the taxable income:

38 (i) For the first three months of the taxable year, in the case of the
39 installment required to be paid in the fourth month;

40 (ii) for the first three months or for the first five months of the
41 taxable year, in the case of the installment required to be paid in the
42 sixth month;

43 (iii) for the first six months or for the first eight months of the

1 taxable year in the case of the installment required to be paid in the
2 ninth month; and

3 (iv) for the first nine months or for the first 11 months of the
4 taxable year, in the case of the installment required to be paid in the
5 12th month of the taxable year.

6 (B) For purposes of this ~~subsection~~ *paragraph* (2), the taxable
7 income shall be placed on an annualized basis by:

8 (i) Multiplying by 12 the taxable income referred to in ~~subsection~~
9 ~~(2)(A)~~, *subparagraph* (A); and

10 (ii) dividing the resulting amount by the number of months in the
11 taxable year (three, five, six, eight, nine, or 11, as the case may be)
12 referred to in ~~subsection (2)(A)~~ *subparagraph* (A).

13 (d) If the employer, in violation of the provisions of this act, fails
14 to deduct and withhold under this chapter, and thereafter the tax
15 against which such withholding may be credited is paid, the amount
16 otherwise required to be deducted and withheld shall not be collected
17 from the employer. This subsection shall in no case relieve the
18 employer from liability for any penalties or additions to the tax
19 otherwise applicable in respect of such failure to deduct and withhold.

20 (e) Any person required to collect, truthfully account for, and pay
21 over any tax imposed by this act, who willfully fails to collect such tax,
22 or truthfully account for and pay over such tax, or willfully attempts
23 in any manner to evade or defeat any such tax or the payment thereof,
24 shall in addition to the other penalties of this section be liable to a
25 penalty equal to the total amount of the tax evaded, or not collected,
26 or not accounted for and paid over. As used in this section, "willfully"
27 has the same meaning as such term has for federal tax purposes in 26
28 U.S.C. § 6672.

29 (f) (1) In case of failure by any employer required by ~~subsection~~
30 ~~(b)~~ of K.S.A. 79-3298(b), and amendments thereto, to remit any
31 amount of withheld taxes by the date prescribed therefor, unless it is
32 shown that such failure is due to reasonable cause and not due to
33 willful neglect, there shall be imposed upon such person a penalty of
34 15% of the amount of the underpayment:

35 (A) 2% of the amount of the underpayment if remitted within one to
36 five days;

37 (B) 5% of the amount of the underpayment if remitted within six to 15
38 days;

39 (C) 10% of the amount of the underpayment if remitted after 15 days;
40 and

41 (D) 15% of the amount of the underpayment if remitted after 15 days
42 and the department has issued a notice to the person regarding the
43 underpayment but the amount of the underpayment was not remitted

1 *within 10 days of issuance of the notice.*

2 (2) For purposes of this subsection, the term "underpayment"
3 means the excess of the amount of the tax required to be withheld and
4 remitted over the amount, if any, remitted on or before the date
5 prescribed therefor. The failure to remit for any withholding period
6 shall be deemed not to continue beyond the last date prescribed for
7 filing the annual return as required by ~~subsection (d) of K.S.A. 79-~~
8 ~~3298(d), and amendments thereto. Penalty and interest as prescribed~~
9 ~~by K.S.A. 79-3228, and amendments thereto, shall not begin to accrue~~
10 ~~under subsection (a) of this section on the amount of any such~~
11 ~~underpayment until the due date of the annual return for the calendar~~
12 ~~year in which such failure to remit occurs.~~

13 (g) Whenever the secretary or the secretary's designee determines
14 that the failure of the taxpayer to comply with the provisions of
15 subsections (a), (e); or (f) ~~of this section~~ was due to reasonable causes,
16 the secretary or the secretary's designee may waive or reduce any of
17 ~~said~~ *such* penalties and may reduce the interest rate to the
18 underpayment rate prescribed and determined for the applicable
19 period under section 6621 of the federal internal revenue code as in
20 effect on January 1, 1994, upon making a record of the reasons
21 therefor.}

22 Sec. ~~4-5-6~~ 6. K.S.A. 79-306, 79-332a, 79-1422 ~~and~~, 79-1427a and 79-
23 32,107 are hereby repealed.

24 Sec. ~~5-6-7~~ 7. This act shall take effect and be in force from and after
25 its publication in the statute book.