

**SENATE BILL No. 39**

By Committee on Assessment and Taxation

1-18

1 AN ACT concerning taxation; relating to permitted use of tax information;  
2 tax liens upon personal property; warrants; time for returns and  
3 payment of tax; liability for persons responsible for collection of sales  
4 or compensating tax; amending K.S.A. 2016 Supp. 75-5133, 79-3234,  
5 79-3235, 79-3235a, 79-3607, 79-3617, 79-3643 and 79-41a03 and  
6 repealing the existing sections; also repealing K.S.A. 2016 Supp. 79-  
7 3235b.

8  
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2016 Supp. 75-5133 is hereby amended to read as  
11 follows: 75-5133. (a) Except as otherwise more specifically provided by  
12 law, all information received by the secretary of revenue, the director of  
13 taxation or the director of alcoholic beverage control from returns, reports,  
14 license applications or registration documents made or filed under the  
15 provisions of any law imposing any sales, use or other excise tax  
16 administered by the secretary of revenue, the director of taxation, or the  
17 director of alcoholic beverage control, or from any investigation conducted  
18 under such provisions, shall be confidential, and it shall be unlawful for  
19 any officer or employee of the department of revenue to divulge any such  
20 information except in accordance with other provisions of law respecting  
21 the enforcement and collection of such tax, in accordance with proper  
22 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

23 (b) The secretary of revenue or the secretary's designee may:

24 (1) Publish statistics, so classified as to prevent identification of  
25 particular reports or returns and the items thereof;

26 (2) allow the inspection of returns by the attorney general or the  
27 attorney general's designee;

28 (3) provide the post auditor access to all such excise tax reports or  
29 returns in accordance with and subject to the provisions of K.S.A. 46-  
30 1106(g), and amendments thereto;

31 (4) disclose taxpayer information from excise tax returns to persons  
32 or entities contracting with the secretary of revenue where the secretary  
33 has determined disclosure of such information is essential for completion  
34 of the contract and has taken appropriate steps to preserve confidentiality;

35 (5) provide information from returns and reports filed under article 42  
36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,

1 to county appraisers as is necessary to ensure proper valuations of  
2 property. Information from such returns and reports may also be  
3 exchanged with any other state agency administering and collecting  
4 conservation or other taxes and fees imposed on or measured by mineral  
5 production;

6 (6) provide, upon request by a city or county clerk or treasurer or  
7 finance officer of any city or county receiving distributions from a local  
8 excise tax, monthly reports identifying each retailer doing business in such  
9 city or county or making taxable sales sourced to such city or county,  
10 setting forth the tax liability and the amount of such tax remitted by each  
11 retailer during the preceding month, and identifying each business location  
12 maintained by the retailer and such retailer's sales or use tax registration or  
13 account number;

14 (7) provide information from returns and applications for registration  
15 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-  
16 3601, and amendments thereto, to a city or county treasurer or clerk or  
17 finance officer to explain the basis of statistics contained in reports  
18 provided by subsection (b)(6);

19 (8) disclose the following oil and gas production statistics received by  
20 the department of revenue in accordance with K.S.A. 79-4216 et seq., and  
21 amendments thereto: Volumes of production by well name, well number,  
22 operator's name and identification number assigned by the state  
23 corporation commission, lease name, leasehold property description,  
24 county of production or zone of production, name of purchaser and  
25 purchaser's tax identification number assigned by the department of  
26 revenue, name of transporter, field code number or lease code, tax period,  
27 exempt production volumes by well name or lease, or any combination of  
28 this information;

29 (9) release or publish liquor brand registration information provided  
30 by suppliers, farm wineries, microdistilleries and microbreweries in  
31 accordance with the liquor control act. The information to be released is  
32 limited to: Item number, universal numeric code, type status, product  
33 description, alcohol percentage, selling units, unit size, unit of  
34 measurement, supplier number, supplier name, distributor number and  
35 distributor name;

36 (10) release or publish liquor license information provided by liquor  
37 licensees, distributors, suppliers, farm wineries, microdistilleries and  
38 microbreweries in accordance with the liquor control act. The information  
39 to be released is limited to: County name, owner, business name, address,  
40 license type, license number, license expiration date and the process agent  
41 contact information;

42 (11) release or publish cigarette and tobacco license information  
43 obtained from cigarette and tobacco licensees in accordance with the

1 Kansas cigarette and tobacco products act. The information to be released  
2 is limited to: County name, owner, business name, address, license type  
3 and license number;

4 (12) provide environmental surcharge or solvent fee, or both,  
5 information from returns and applications for registration filed pursuant to  
6 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary  
7 of health and environment or the secretary's designee for the sole purpose  
8 of ensuring that retailers collect the environmental surcharge tax or solvent  
9 fee, or both;

10 (13) provide water protection fee information from returns and  
11 applications for registration filed pursuant to K.S.A. 82a-954, and  
12 amendments thereto, to the secretary of the state board of agriculture or the  
13 secretary's designee and the secretary of the Kansas water office or the  
14 secretary's designee for the sole purpose of verifying revenues deposited to  
15 the state water plan fund;

16 (14) provide to the secretary of commerce copies of applications for  
17 project exemption certificates sought by any taxpayer under the enterprise  
18 zone sales tax exemption pursuant to K.S.A. 79-3606(cc), and  
19 amendments thereto;

20 (15) disclose information received pursuant to the Kansas cigarette  
21 and tobacco act and subject to the confidentiality provisions of this act to  
22 any criminal justice agency, as defined in K.S.A. 22-4701(c), and  
23 amendments thereto, or to any law enforcement officer, as defined in  
24 K.S.A. 2016 Supp. 21-5111, and amendments thereto, on behalf of a  
25 criminal justice agency, when requested in writing in conjunction with a  
26 pending investigation;

27 (16) provide to retailers tax exemption information for the sole  
28 purpose of verifying the authenticity of tax exemption numbers issued by  
29 the department;

30 (17) provide information concerning remittance by sellers, as defined  
31 in K.S.A. 2016 Supp. 12-5363, and amendments thereto, of prepaid  
32 wireless 911 fees from returns to the local collection point administrator,  
33 as defined in K.S.A. 2016 Supp. 12-5363, and amendments thereto, for  
34 purposes of verifying seller compliance with collection and remittance of  
35 such fees;

36 (18) release or publish charitable gaming information obtained in  
37 charitable gaming licensee and registration applications and renewals in  
38 accordance with the Kansas charitable gaming act, K.S.A. 2016 Supp. 75-  
39 5171 et seq., and amendments thereto. The information to be released is  
40 limited to: The name, address, phone number, license registration number  
41 and email address of the organization, distributor or of premises; ~~and~~

42 (19) provide to the attorney general confidential information for  
43 purposes of determining compliance with or enforcing K.S.A. 50-6a01 et

1 seq., and amendments thereto, the master settlement agreement referred to  
2 therein and all agreements regarding disputes under the master settlement  
3 agreement. The secretary and the attorney general may share the  
4 information specified under this subsection with any of the following:

5 (A) Federal, state or local agencies for the purposes of enforcement  
6 of corresponding laws of other states; and

7 (B) a court, arbitrator, data clearinghouse or similar entity for the  
8 purpose of assessing compliance with or making calculations required by  
9 the master settlement agreement or agreements regarding disputes under  
10 the master settlement agreement, and with counsel for the parties or expert  
11 witnesses in any such proceeding, if the information otherwise remains  
12 confidential; *and*

13 (20) *disclose taxpayer information in any administrative proceeding*  
14 *or any civil or criminal action or proceeding brought to enforce the tax or*  
15 *revenue laws of this state with respect to such taxpayer.*

16 (c) Any person receiving any information under the provisions of  
17 subsection (b) shall be subject to the confidentiality provisions of  
18 subsection (a) and to the penalty provisions of subsection (d).

19 (d) Any violation of this section shall be a class A, nonperson  
20 misdemeanor, and if the offender is an officer or employee of this state,  
21 such officer or employee shall be dismissed from office. Reports of  
22 violations of this paragraph shall be investigated by the attorney general.  
23 The district attorney or county attorney and the attorney general shall have  
24 authority to prosecute any violation of this section if the offender is a city  
25 or county clerk or treasurer or finance officer of a city or county.

26 Sec. 2. K.S.A. 2016 Supp. 79-3234 is hereby amended to read as  
27 follows: 79-3234. (a) All reports and returns required by this act shall be  
28 preserved for three years and thereafter until the director orders them to be  
29 destroyed.

30 (b) Except in accordance with proper judicial order, or as provided in  
31 subsection (c) or in K.S.A. 17-7511, ~~subsection (g) of~~ K.S.A. 46-1106(g),  
32 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be  
33 unlawful for the secretary, the director, any deputy, agent, clerk or other  
34 officer, employee or former employee of the department of revenue or any  
35 other state officer or employee or former state officer or employee to  
36 divulge, or to make known in any way, the amount of income or any  
37 particulars set forth or disclosed in any report, return, federal return or  
38 federal return information required under this act; and it shall be unlawful  
39 for the secretary, the director, any deputy, agent, clerk or other officer or  
40 employee engaged in the administration of this act to engage in the  
41 business or profession of tax accounting or to accept employment, with or  
42 without consideration, from any person, firm or corporation for the  
43 purpose, directly or indirectly, of preparing tax returns or reports required

1 by the laws of the state of Kansas, by any other state or by the United  
2 States government, or to accept any employment for the purpose of  
3 advising, preparing material or data, or the auditing of books or records to  
4 be used in an effort to defeat or cancel any tax or part thereof that has been  
5 assessed by the state of Kansas, any other state or by the United States  
6 government.

7 (c) The secretary or the secretary's designee may: (1) Publish  
8 statistics, so classified as to prevent the identification of particular reports  
9 or returns and the items thereof;

10 (2) allow the inspection of returns by the attorney general or other  
11 legal representatives of the state;

12 (3) provide the post auditor access to all income tax reports or returns  
13 in accordance with and subject to the provisions of ~~subsection (g) of~~  
14 K.S.A. 46-1106(g) or K.S.A. 46-1114, and amendments thereto;

15 (4) disclose taxpayer information from income tax returns to persons  
16 or entities contracting with the secretary of revenue where the secretary  
17 has determined disclosure of such information is essential for completion  
18 of the contract and has taken appropriate steps to preserve confidentiality;

19 (5) disclose to the secretary of commerce the following: (A) Specific  
20 taxpayer information related to financial information previously submitted  
21 by the taxpayer to the secretary of commerce concerning or relevant to any  
22 income tax credits, for purposes of verification of such information or  
23 evaluating the effectiveness of any tax credit or economic incentive  
24 program administered by the secretary of commerce; (B) the amount of  
25 payroll withholding taxes an employer is retaining pursuant to K.S.A.  
26 2016 Supp. 74-50,212, and amendments thereto; (C) information received  
27 from businesses completing the form required by K.S.A. 2016 Supp. 74-  
28 50,217, and amendments thereto; and (D) findings related to a compliance  
29 audit conducted by the department of revenue upon the request of the  
30 secretary of commerce pursuant to K.S.A. 2016 Supp. 74-50,215, and  
31 amendments thereto;

32 (6) disclose income tax returns to the state gaming agency to be used  
33 solely for the purpose of determining qualifications of licensees of and  
34 applicants for licensure in tribal gaming. Any information received by the  
35 state gaming agency shall be confidential and shall not be disclosed except  
36 to the executive director, employees of the state gaming agency and  
37 members and employees of the tribal gaming commission;

38 (7) disclose the taxpayer's name, last known address and residency  
39 status to the Kansas department of wildlife, parks and tourism to be used  
40 solely in its license fraud investigations;

41 (8) disclose the name, residence address, employer or Kansas  
42 adjusted gross income of a taxpayer who may have a duty of support in a  
43 title IV-D case to the secretary of the Kansas department for children and

1 families for use solely in administrative or judicial proceedings to  
2 establish, modify or enforce such support obligation in a title IV-D case. In  
3 addition to any other limits on use, such use shall be allowed only where  
4 subject to a protective order which prohibits disclosure outside of the title  
5 IV-D proceeding. As used in this section, "title IV-D case" means a case  
6 being administered pursuant to part D of title IV of the federal social  
7 security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person  
8 receiving any information under the provisions of this subsection shall be  
9 subject to the confidentiality provisions of subsection (b) and to the  
10 penalty provisions of subsection (e);

11 (9) permit the commissioner of internal revenue of the United States,  
12 or the proper official of any state imposing an income tax, or the  
13 authorized representative of either, to inspect the income tax returns made  
14 under this act and the secretary of revenue may make available or furnish  
15 to the taxing officials of any other state or the commissioner of internal  
16 revenue of the United States or other taxing officials of the federal  
17 government, or their authorized representatives, information contained in  
18 income tax reports or returns or any audit thereof or the report of any  
19 investigation made with respect thereto, filed pursuant to the income tax  
20 laws, as the secretary may consider proper, but such information shall not  
21 be used for any other purpose than that of the administration of tax laws of  
22 such state, the state of Kansas or of the United States;

23 (10) communicate to the executive director of the Kansas lottery  
24 information as to whether a person, partnership or corporation is current in  
25 the filing of all applicable tax returns and in the payment of all taxes,  
26 interest and penalties to the state of Kansas, excluding items under formal  
27 appeal, for the purpose of determining whether such person, partnership or  
28 corporation is eligible to be selected as a lottery retailer;

29 (11) communicate to the executive director of the Kansas racing  
30 commission as to whether a person, partnership or corporation has failed  
31 to meet any tax obligation to the state of Kansas for the purpose of  
32 determining whether such person, partnership or corporation is eligible for  
33 a facility owner license or facility manager license pursuant to the Kansas  
34 parimutuel racing act;

35 (12) provide such information to the executive director of the Kansas  
36 public employees retirement system for the purpose of determining that  
37 certain individuals' reported compensation is in compliance with the  
38 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and  
39 amendments thereto;

40 (13) (i) provide taxpayer information of persons suspected of  
41 violating K.S.A. 2016 Supp. 44-766, and amendments thereto, to the  
42 secretary of labor or such secretary's designee for the purpose of  
43 determining compliance by any person with the provisions of ~~subsection~~

1 ~~(i)(3)(D)~~ of K.S.A. 44-703(i)(3)(D) and K.S.A. 2016 Supp. 44-766, and  
 2 amendments thereto. The information to be provided shall include all  
 3 relevant information in the possession of the department of revenue  
 4 necessary for the secretary of labor to make a proper determination of  
 5 compliance with the provisions of ~~subsection (i)(3)(D)~~ of K.S.A. 44-703(i)  
 6 (3)(D) and K.S.A. 2016 Supp. 44-766, and amendments thereto, and to  
 7 calculate any unemployment contribution taxes due. Such information to  
 8 be provided by the department of revenue shall include, but not be limited to,  
 9 to, withholding tax and payroll information, the identity of any person that  
 10 has been or is currently being audited or investigated in connection with  
 11 the administration and enforcement of the withholding and declaration of  
 12 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the  
 13 results or status of such audit or investigation;

14 (ii) any person receiving tax information under the provisions of this  
 15 paragraph shall be subject to the same duty of confidentiality imposed by  
 16 law upon the personnel of the department of revenue and shall be subject  
 17 to any civil or criminal penalties imposed by law for violations of such  
 18 duty of confidentiality; and

19 (iii) each of the secretary of labor and the secretary of revenue may  
 20 adopt rules and regulations necessary to effect the provisions of this  
 21 paragraph;

22 (14) provide such information to the state treasurer for the sole  
 23 purpose of carrying out the provisions of K.S.A. 58-3934, and  
 24 amendments thereto. Such information shall be limited to current and prior  
 25 addresses of taxpayers or associated persons who may have knowledge as  
 26 to the location of an owner of unclaimed property. For the purposes of this  
 27 paragraph, "associated persons" includes spouses or dependents listed on  
 28 income tax returns; ~~and~~

29 (15) after receipt of information pursuant to subsection (f), forward  
 30 such information and provide the following reported Kansas individual  
 31 income tax information for each listed defendant, if available, to the state  
 32 board of indigents' defense services in an electronic format and in the  
 33 manner determined by the secretary: (A) The defendant's name; (B) social  
 34 security number; (C) Kansas adjusted gross income; (D) number of  
 35 exemptions claimed; and (E) the relevant tax year of such records. Any  
 36 social security number provided to the secretary and the state board of  
 37 indigents' defense services pursuant to this section shall remain  
 38 confidential; *and*

39 (16) *disclose taxpayer information in any administrative proceeding*  
 40 *or any civil or criminal action or proceeding brought to enforce the tax or*  
 41 *revenue laws of this state with respect to such taxpayer.*

42 (d) Any person receiving information under the provisions of  
 43 subsection (c) shall be subject to the confidentiality provisions of

1 subsection (b) and to the penalty provisions of subsection (e).

2 (e) Any violation of subsection (b) or (c) is a class A nonperson  
3 misdemeanor and, if the offender is an officer or employee of the state,  
4 such officer or employee shall be dismissed from office.

5 (f) For the purpose of determining whether a defendant is financially  
6 able to employ legal counsel under the provisions of K.S.A. 22-4504, and  
7 amendments thereto, in all felony cases with appointed counsel where the  
8 defendant's social security number is accessible from the records of the  
9 district court, the court shall electronically provide the defendant's name,  
10 social security number, district court case number and county to the  
11 secretary of revenue in the manner and format agreed to by the office of  
12 judicial administration and the secretary.

13 (g) Nothing in this section shall be construed to allow disclosure of  
14 the amount of income or any particulars set forth or disclosed in any  
15 report, return, federal return or federal return information, where such  
16 disclosure is prohibited by the federal internal revenue code as in effect on  
17 September 1, 1996, and amendments thereto, related federal internal  
18 revenue rules or regulations, or other federal law.

19 Sec. 3. K.S.A. 2016 Supp. 79-3235 is hereby amended to read as  
20 follows: 79-3235. (a) If any tax imposed by this act or any portion of such  
21 tax is not paid within 60 days after it becomes due, the secretary or the  
22 secretary's designee shall issue a warrant under the secretary's or the  
23 secretary's designee's hand and official seal, directed to the sheriff of any  
24 county of the state, commanding the sheriff to levy upon and sell the real  
25 and personal property of the taxpayer found within the sheriff's county for  
26 the payment of the amount thereof, with the added penalties, interest and  
27 the cost of executing the warrant and to return the warrant to the secretary  
28 or the secretary's designee and pay to the secretary or the secretary's  
29 designee the money collected by virtue of it not more than 60 days from  
30 the date of the warrant. Firearms seized may be appraised and disposed of  
31 in the same manner prescribed in K.S.A. 79-5212, and amendments  
32 thereto. The sheriff, within five days after the receipt of the warrant, shall  
33 file with the clerk of the district court of the county a copy thereof, and  
34 thereupon the clerk shall either enter in the appearance docket the name of  
35 the taxpayer mentioned in the warrant, the amount of the tax or portion of  
36 it, interest and penalties for which the warrant is issued and the date such  
37 copy is filed and note the taxpayer's name in the general index. No fee  
38 shall be charged for either entry. The amount of such warrant so docketed  
39 shall thereupon become a lien upon the title to and interest in the real  
40 property of the taxpayer against whom it is issued. The sheriff shall  
41 proceed in the same manner and with the same effect as prescribed by law  
42 with respect to executions issued against property upon judgments of a  
43 court of record and shall be entitled to the same fees for services to be



1 collected in the same manner.

2 (b) *Once the warrant has been docketed with the clerk of the district*  
3 *court, the secretary or the secretary's designee shall file with the office of*  
4 *the secretary of state a notice of lien. The notice of lien shall be filed in the*  
5 *uniform commercial code filing system with the secretary of state in*  
6 *accordance with part 5 of article 9 of chapter 84 of the Kansas Statutes*  
7 *Annotated, and amendments thereto, in an electronic format as prescribed*  
8 *by the secretary of state. No fee shall be charged by the secretary of state*  
9 *for the initial filing. The fee to terminate the filing shall be set in*  
10 *accordance with the rules and regulations adopted by the secretary of*  
11 *state. Once filed, the notice of lien shall be deemed a lien upon the right*  
12 *and interest in tangible personal property, wherever located in the state of*  
13 *Kansas, of the taxpayer against whom the notice of lien was filed. This*  
14 *section shall not apply to tangible personal property which is required to*  
15 *be registered and for which a certificate of title has been issued by the*  
16 *state of Kansas.*

17 (c) The court in which the warrant is docketed shall have jurisdiction  
18 over all subsequent proceedings as fully as though a judgment had been  
19 rendered in the court. In the discretion of the secretary or the secretary's  
20 designee a warrant of like terms, force and effect may be issued and  
21 directed to any officer or employee of the secretary, and in the execution  
22 thereof such officer or employee shall have all the powers conferred by  
23 law upon sheriffs, and the subsequent proceedings thereunder shall be the  
24 same as provided where the warrant is issued directly to the sheriff. The  
25 taxpayer shall have the right to redeem the real estate within a period of 18  
26 months from the date of such sale. If a warrant is returned, unsatisfied in  
27 full, the secretary or the secretary's designee shall have the same remedies  
28 to enforce the claim for taxes as if the state of Kansas had recovered  
29 judgment against the taxpayer for the amount of the tax. No law exempting  
30 any goods and chattels, lands and tenements from forced sale under  
31 execution shall apply to a levy and sale under any such warrant or upon  
32 any execution issued upon any judgment rendered in any action for income  
33 taxes. Except as provided ~~further~~ in subsection (d), the secretary or the  
34 secretary's designee shall have the right after a warrant has been returned  
35 unsatisfied or satisfied only in part, to issue alias warrants until the full  
36 amount of the tax is collected.

37 (d) If execution is not issued within 10 years from the date of the  
38 docketing of any such warrant, or if 10 years shall have intervened  
39 between the date of the last execution issued on such warrant, and the time  
40 of issuing another writ of execution thereon, such warrant shall become  
41 dormant, and shall cease to operate as a lien on the real estate of the  
42 delinquent taxpayer. Such dormant warrant may be revived in like manner  
43 as dormant judgment under the code of civil procedure. *If the warrant is*

1 *dormant, it shall cause the lien upon personal property filed with the office*  
2 *of the secretary of state to be dormant as well. In the event the warrant is*  
3 *revived, the lien upon personal property filed with the office of the*  
4 *secretary of state shall be revived as well.*

5 *(e) The lien on tangible personal property under subsection (b) shall*  
6 *cease to exist 10 years from the date of the filing of the notice of lien with*  
7 *the office of the secretary of state, unless before such time the secretary or*  
8 *the secretary's designee files with the office of the secretary of state a*  
9 *notice or renewal of such lien. The notice of renewal shall operate to*  
10 *extend the lien for 10 years from the date of the filing of the notice. The*  
11 *lien may be extended through the filing of a notice of renewal an unlimited*  
12 *number of times, as long as each notice of renewal is filed within 10 years*  
13 *of the date the previous notice of renewal was filed.*

14 Sec. 4. K.S.A. 2016 Supp. 79-3235a is hereby amended to read as  
15 follows: 79-3235a. (a) Notwithstanding any provision of K.S.A. 79-3235,  
16 and amendments thereto, to the contrary, the procedures set forth by this  
17 section shall apply to the issuance of any warrant and the levy upon  
18 property pursuant to such provisions.

19 (b) The secretary or the secretary's designee shall notify in writing the  
20 person who is the subject of the warrant of the filing of a warrant under  
21 K.S.A. 79-3235, and amendments thereto. The notice required shall be  
22 ~~given in person, left at the dwelling or usual place of business of such~~  
23 ~~person or sent by certified or registered mail to such person's last known~~  
24 ~~dwelling address, not more than five business days after the day of the~~  
25 ~~filing of the notice of lien with the warrant.~~ The notice shall include in  
26 simple and nontechnical terms the amount of unpaid taxes, the  
27 administrative appeals available to the taxpayer with respect to such  
28 warrant and the procedures relating to such appeals, and the provisions of  
29 law and procedures relating to the release of warrants on property.

30 Sec. 5. K.S.A. 2016 Supp. 79-3607 is hereby amended to read as  
31 follows: 79-3607. (a) Retailers shall make returns to the director at the  
32 times prescribed by this section in the manner prescribed by the director,  
33 including electronic filing, upon forms or format prescribed by the director  
34 stating: (1) The name and address of the retailer; (2) the total amount of  
35 gross sales of all tangible personal property and taxable services rendered  
36 by the retailer during the period for which the return is made; (3) the total  
37 amount received during the period for which the return is made on charge  
38 and time sales of tangible personal property made and taxable services  
39 rendered prior to the period for which the return is made; (4) deductions  
40 allowed by law from such total amount of gross sales and from total  
41 amount received during the period for which the return is made on such  
42 charge and time sales; (5) receipts during the period for which the return is  
43 made from the total amount of sales of tangible personal property and

1 taxable services rendered during such period in the course of such  
2 business, after deductions allowed by law have been made; (6) receipts  
3 during the period for which the return is made from charge and time sales  
4 of tangible personal property made and taxable services rendered prior to  
5 such period in the course of such business, after deductions allowed by law  
6 have been made; (7) gross receipts during the period for which the return  
7 is made from sales of tangible personal property and taxable services  
8 rendered in the course of such business upon the basis of which the tax is  
9 imposed. The return shall include such other pertinent information as the  
10 director may require. In making such return, the retailer shall determine  
11 the market value of any consideration, other than money, received in  
12 connection with the sale of any tangible personal property in the course of  
13 the business and shall include such value in the return. Such value shall be  
14 subject to review and revision by the director as hereinafter provided.  
15 Refunds made by the retailer during the period for which the return is  
16 made on account of tangible personal property returned to the retailer shall  
17 be allowed as a deduction under ~~subdivision (4) of this section~~ *subsection*  
18 *(a)(4)* in case the retailer has theretofore included the receipts from such  
19 sale in a return made by such retailer and paid taxes therein imposed by  
20 this act. The retailer shall, at the time of making such return, pay to the  
21 director the amount of tax herein imposed, except as otherwise provided in  
22 this section. The director may extend the time for making returns and  
23 paying the tax required by this act for any period not to exceed 60 days  
24 under such rules and regulations as the secretary of revenue may prescribe.  
25 When the total tax for which any retailer is liable under this act, does not  
26 exceed the sum of \$80 in any calendar year, the retailer shall file an annual  
27 return on or before January 25 of the following year. When the total tax  
28 liability does not exceed \$3,200 in any calendar year, the retailer shall file  
29 returns quarterly on or before the 25<sup>th</sup> day of the month following the end  
30 of each calendar quarter. When the total tax liability exceeds \$3,200 in any  
31 calendar year, the retailer shall file a return for each month on or before the  
32 25<sup>th</sup> day of the following month. When the total tax liability exceeds  
33 \$32,000 in any calendar year, the retailer shall be required to pay the sales  
34 tax liability for the first 15 days of each month to the director on or before  
35 the 25<sup>th</sup> day of that month. Any such payment shall accompany the return  
36 filed for the preceding month. A retailer will be considered to have  
37 complied with the requirements to pay the first 15 days' liability for any  
38 month if, on or before the 25<sup>th</sup> day of that month, the retailer paid 90% of  
39 the liability for that fifteen-day period, or 50% of such retailer's liability in  
40 the immediate preceding calendar year for the same month as the month in  
41 which the fifteen-day period occurs computed at the rate applicable in the  
42 month in which the fifteen-day period occurs, and, in either case, paid any  
43 underpayment with the payment required on or before the 25<sup>th</sup> day of the

1 following month. Such retailers shall pay their sales tax liabilities for the  
2 remainder of each such month at the time of filing the return for such  
3 month. Determinations of amounts of liability in a calendar year for  
4 purposes of determining filing requirements shall be made by the director  
5 upon the basis of amounts of liability by those retailers during the  
6 preceding calendar year or by estimates in cases of retailers having no  
7 previous sales tax histories. The director is hereby authorized to modify  
8 the filing schedule for any retailer when it is apparent that the original  
9 determination was inaccurate.

10 (b) All model 1, model 2 and model 3 sellers are required to file  
11 returns electronically. Any model 1, model 2 or model 3 seller may submit  
12 its sales and use tax returns in a simplified format approved by the  
13 director. Any seller that is registered under the agreement, which does not  
14 have a legal requirement to register in this state, and is not a model 1,  
15 model 2 or model 3 seller, may submit its sales and use tax returns as  
16 follows: (1) Upon registration, the director shall provide to the seller the  
17 returns required;

18 (2) seller shall file a return anytime within one year of the month of  
19 initial registration, and future returns are required on an annual basis in  
20 succeeding years; and

21 (3) in addition to the returns required in subsection (b)(2), sellers are  
22 required to submit returns in the month following any month in which they  
23 have accumulated state and local sales tax funds for this state in the  
24 amount of \$1,600 or more.

25 (c) *Whenever the director has cause to believe that the tax levied by*  
26 *the Kansas retailers sales tax act may be converted, diverted, lost or*  
27 *otherwise not timely paid in accordance with this section, the director*  
28 *shall have the power to require returns and payment at any time, at more*  
29 *frequent intervals than prescribed by this section in order to secure full*  
30 *payment to the state of all amounts due in accordance with the Kansas*  
31 *retailers sales tax act.*

32 Sec. 6. K.S.A. 2016 Supp. 79-3617 is hereby amended to read as  
33 follows: 79-3617. (a) Whenever any taxpayer liable to pay any sales or  
34 compensating tax, refuses or neglects to pay the tax, the amount, including  
35 any interest or penalty, shall be collected in the following manner. The  
36 secretary of revenue or the secretary's designee shall issue a warrant under  
37 the hand of the secretary or the secretary's designee and official seal  
38 directed to the sheriff of any county of the state commanding the sheriff to  
39 levy upon and sell the real and personal property of the taxpayer found  
40 within the sheriff's county to satisfy the tax, including penalty and interest,  
41 and the cost of executing the warrant and to return such warrant to the  
42 secretary or the secretary's designee and pay to the secretary or the  
43 secretary's designee the money collected by virtue thereof not more than

1 90 days from the date of the warrant. Firearms seized may be appraised  
2 and disposed of in the same manner prescribed in K.S.A. 79-5212, and  
3 amendments thereto. The sheriff ~~shall~~, within five days, after the receipt of  
4 the warrant, *shall* file with the clerk of the district court of the county a  
5 copy thereof, and thereupon the clerk shall either enter in the appearance  
6 docket the name of the taxpayer mentioned in the warrant, the amount of  
7 the tax or portion of it, interest and penalties for which the warrant is  
8 issued and the date such copy is filed and note the taxpayer's name in the  
9 general index. No fee shall be charged for either such entry. The amount of  
10 such warrant so docketed shall thereupon become a lien upon the title to,  
11 and interest in, the real property of the taxpayer against whom it is issued.  
12 The sheriff shall proceed in the same manner and with the same effect as  
13 prescribed by law with respect to executions issued against property upon  
14 judgments of a court of record, and shall be entitled to the same fees for  
15 services.

16 *(b) Once the warrant has been docketed with the clerk of the district*  
17 *court, the secretary or the secretary's designee shall file with the office of*  
18 *the secretary of state a notice of lien. The notice of lien shall be filed in the*  
19 *uniform commercial code filing system with the secretary of state in*  
20 *accordance with part 5 of article 9 of chapter 84 of the Kansas Statutes*  
21 *Annotated, and amendments thereto, in an electronic format as prescribed*  
22 *by the secretary of state. No fee shall be charged by the secretary of state*  
23 *for the initial filing. The fee to terminate the filing shall be set in*  
24 *accordance with the rules and regulations adopted by the secretary of*  
25 *state. The department shall release any lien upon the property of a*  
26 *taxpayer upon payment of all tax, penalty and interest within 30 days of*  
27 *payment. Liens filed in error shall be so noted on the satisfaction of*  
28 *judgment. The department shall be liable for any court costs associated*  
29 *with the release of such erroneous liens. Once filed, the notice of lien shall*  
30 *be deemed a lien upon the right and interest in tangible personal property,*  
31 *wherever located in the state of Kansas, of the taxpayer against whom the*  
32 *notice of lien was filed. This section shall not apply to tangible personal*  
33 *property which is required to be registered and for which a certificate of*  
34 *title has been issued by the state of Kansas.*

35 *(c) The court in which the warrant is docketed shall have jurisdiction*  
36 *over all subsequent proceedings as fully as though a judgment had been*  
37 *rendered in the court. A warrant of similar terms, force and effect may be*  
38 *issued by the secretary or the secretary's designee and directed to any*  
39 *officer or employee of the secretary or the secretary's designee, and in the*  
40 *execution thereof such officer or employee shall have all the powers*  
41 *conferred by law upon sheriffs with respect to executions issued against*  
42 *property upon judgments of a court of record and the subsequent*  
43 *proceedings thereunder shall be the same as provided where the warrant is*

1 issued directly to the sheriff. The taxpayer shall have the right to redeem  
2 the real estate within a period of 18 months from the date of such sale. If a  
3 warrant is returned, unsatisfied in full, the secretary or the secretary's  
4 designee shall have the same remedies to enforce the claim for taxes as if  
5 the state of Kansas had recovered judgment against the taxpayer for the  
6 amount of the tax. No law exempting any goods and chattels, land and  
7 tenements from forced sale under execution shall apply to a levy and sale  
8 under any of the warrants or upon any execution issued upon any  
9 judgment rendered in any action for sales or compensating taxes. Except  
10 as provided ~~further~~ *in subsection (d)*, the secretary or the secretary's  
11 designee shall have the right after a warrant has been returned unsatisfied,  
12 or satisfied only in part, to issue alias warrants until the full amount of the  
13 tax is collected. No costs incurred by the sheriff or the clerk of the court  
14 shall be charged to the secretary or the secretary's designee.

15 *(d) If execution is not issued within 10 years from the date of the*  
16 *docketing of any such warrant, or if 10 years shall have intervened*  
17 *between the date of the last execution issued on such warrant, and the time*  
18 *of issuing another writ of execution thereon, such warrant shall become*  
19 *dormant, and shall cease to operate as a lien on the real estate of the*  
20 *delinquent taxpayer. Such dormant warrant may be revived in like manner*  
21 *as dormant judgments under the code of civil procedure. If the warrant is*  
22 *dormant, it shall cause the lien upon personal property filed with the office*  
23 *of the secretary of state to be dormant as well. In the event the warrant is*  
24 *revived, the lien upon personal property filed with the office of the*  
25 *secretary of state shall be revived as well.*

26 *(e) The lien on tangible personal property under subsection (b) shall*  
27 *cease to exist 10 years from the date of the filing of the notice of lien with*  
28 *the office of the secretary of state, unless before such time the secretary or*  
29 *the secretary's designee files with the office of the secretary of state a*  
30 *notice of renewal of such lien. The notice of renewal shall operate to*  
31 *extend the lien for 10 years from the date of the filing of the notice. The*  
32 *lien may be extended through the filing of a notice of renewal an unlimited*  
33 *number of times, as long as each notice of renewal is filed within 10 years*  
34 *of the date the previous notice of renewal was filed.*

35 Sec. 7. K.S.A. 2016 Supp. 79-3643 is hereby amended to read as  
36 follows: 79-3643. (a) Any ~~individual~~ *person* who is responsible for  
37 collection or payment of sales or compensating tax or control, receipt,  
38 custody or disposal of funds due and owing under the Kansas retailers'  
39 sales and compensating tax acts who willfully fails to collect such tax, or  
40 account for and pay over such tax, or attempts in any manner to evade or  
41 defeat such tax or the payment thereof shall be ~~personally~~ *personally* liable for the  
42 total amount of the tax evaded, or not collected, or not accounted for and  
43 paid over, together with any interest and penalty imposed thereon. The

1 provisions of this section shall apply regardless of the: (1) Relationship  
2 with the retailer held by such ~~individual person~~; (2) form under which the  
3 retailer conducts business, whether a sole proprietorship, partnership or  
4 corporation; or (3) dissolution of the business. As used in this section,  
5 "willfully" has the same meaning as such term has for federal tax purposes  
6 in 26 U.S.C. § 6672.

7 (b) A notice of assessment issued to a responsible ~~individual person~~  
8 shall be considered to be a proceeding for the collection of the tax liability  
9 of the business. If the liability of the business is determined in a  
10 proceeding that has become final, any notice of assessment against a  
11 responsible ~~individual person~~ must be issued within three years after the  
12 proceeding against the business has become final.

13 (c) Within 60 days after the mailing of a notice of assessment against  
14 a responsible ~~individual person~~, the person assessed may request an  
15 informal conference with the secretary of revenue under K.S.A. 79-3226,  
16 and amendments thereto, for a determination of whether such person is a  
17 responsible ~~individual person~~ under subsection (a) and for a determination  
18 of the tax liability of the business.

19 (d) If notice of assessment and warrant are issued to a responsible  
20 ~~individual person~~ pursuant to K.S.A. 79-3610, and amendments thereto, or  
21 any other jeopardy provision of chapter 79 of the Kansas Statutes  
22 Annotated, *and amendments thereto*, the person assessed may request that  
23 the informal conference held pursuant to subsection (c) be expedited.  
24 When such a request is made, the secretary shall schedule the conference  
25 to be held within 21 days after receipt of the request and shall issue a  
26 written final determination within 21 days after the close of the  
27 conference.

28 (e) The provisions of this section shall be deemed to be supplemental  
29 to the Kansas retailers' sales and compensating tax acts.

30 Sec. 8. K.S.A. 2016 Supp. 79-41a03 is hereby amended to read as  
31 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-  
32 41a02, and amendments thereto, shall become due and payable by the  
33 club, caterer, drinking establishment, public venue or temporary permit  
34 holder monthly, or on or before the 25<sup>th</sup> day of the month immediately  
35 succeeding the month in which it is collected, but any club, caterer,  
36 drinking establishment, public venue or temporary permit holder filing an  
37 annual or quarterly return under the Kansas retailers' sales tax act, as  
38 prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such  
39 conditions as the secretary of revenue may prescribe, pay the tax required  
40 by this act on the same basis and at the same time the club, caterer,  
41 drinking establishment, public venue or temporary permit holder pays such  
42 retailers' sales tax. Each club, caterer, drinking establishment, public venue  
43 or temporary permit holder shall make a true report to the department of

1 revenue, on a form prescribed by the secretary of revenue, providing such  
2 information as may be necessary to determine the amounts to which any  
3 such tax shall apply for all gross receipts derived from the sale of alcoholic  
4 liquor by the club, caterer, drinking establishment, public venue or  
5 temporary permit holder for the applicable month or months, which report  
6 shall be accompanied by the tax disclosed thereby. Records of gross  
7 receipts derived from the sale of alcoholic liquor shall be kept separate and  
8 apart from the records of other retail sales made by a club, caterer,  
9 drinking establishment, public venue or temporary permit holder in order  
10 to facilitate the examination of books and records as provided herein.

11 (b) The secretary of revenue or the secretary's authorized  
12 representative shall have the right at all reasonable times during business  
13 hours to make such examination and inspection of the books and records  
14 of a club, caterer, drinking establishment, public venue or temporary  
15 permit holder as may be necessary to determine the accuracy of such  
16 reports required hereunder.

17 (c) The secretary of revenue is hereby authorized to administer and  
18 collect the tax imposed hereunder and to adopt such rules and regulations  
19 as may be necessary for the efficient and effective administration and  
20 enforcement of the collection thereof. Whenever any club, caterer,  
21 drinking establishment, public venue or temporary permit holder liable to  
22 pay the tax imposed hereunder refuses or neglects to pay the same, the  
23 amount, including any penalty, shall be collected in the manner prescribed  
24 for the collection of the retailers' sales tax by K.S.A. 79-3617, and  
25 amendments thereto.

26 (d) The secretary of revenue shall remit all revenue collected under  
27 the provisions of this act to the state treasurer in accordance with the  
28 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
29 each such remittance, the state treasurer shall deposit the entire amount in  
30 the state treasury. Subject to the maintenance requirements of the local  
31 alcoholic liquor refund fund created under K.S.A. 79-41a09, and  
32 amendments thereto, 25% of the remittance shall be credited to the state  
33 general fund, 5% shall be credited to the community alcoholism and  
34 intoxication programs fund created by K.S.A. 41-1126, and amendments  
35 thereto, and the balance shall be credited to the local alcoholic liquor fund  
36 created by K.S.A. 79-41a04, and amendments thereto.

37 (e) Whenever, in the judgment of the secretary of revenue, it is  
38 necessary, in order to secure the collection of any tax, penalties or interest  
39 due, or to become due, under the provisions of this act, the secretary may  
40 require any person subject to such tax to file a bond with the director of  
41 taxation under conditions established by and in such form and amount as  
42 prescribed by rules and regulations adopted by the secretary.

43 (f) The amount of tax imposed by this act shall be assessed within



1 three years after the return is filed, and no proceedings in court for the  
2 collection of such taxes shall be begun after the expiration of such period  
3 except in the cases of fraud. In the case of a false or fraudulent return with  
4 intent to evade tax, the tax may be assessed or a proceeding in court for  
5 collection of such tax may be begun at any time, within two years from the  
6 discovery of such fraud. No refund or credit shall be allowed by the  
7 director after three years from the date of payment of the tax as provided  
8 in this act unless before the expiration of such period a claim therefor is  
9 filed by the taxpayer, and no suit or action to recover on any claim for  
10 refund shall be commenced until after the expiration of six months from  
11 the date of filing a claim therefor with the director. Before the expiration  
12 of time prescribed in this section for the assessment of additional tax or the  
13 filing of a claim for refund, the director is hereby authorized to enter into  
14 an agreement in writing with the taxpayer consenting to the extension of  
15 the periods of limitations for the assessment of tax or for the filing of a  
16 claim for refund, at any time prior to the expiration of the periods of  
17 limitations. The period so agreed upon may be extended by subsequent  
18 agreements in writing made before the expiration of the period previously  
19 agreed upon.

20 (g) *Whenever the secretary of revenue has cause to believe that the*  
21 *tax levied pursuant to K.S.A. 79-41a02, and amendments thereto, may be*  
22 *converted, diverted, lost or otherwise not timely paid in accordance with*  
23 *this section, the secretary shall have the power to require returns and*  
24 *payment at any time, at more frequent intervals than prescribed by this*  
25 *section in order to secure full payment to the state of all amounts due in*  
26 *accordance with K.S.A. 79-41a01 et seq., and amendments thereto.*

27 Sec. 9. K.S.A. 2016 Supp. 75-5133, 79-3234, 79-3235, 79-3235a, 79-  
28 3235b, 79-3607, 79-3617, 79-3643 and 79-41a03 are hereby repealed.

29 Sec. 10. This act shall take effect and be in force from and after its  
30 publication in the statute book.