

79-3643. Personal liability for individuals responsible for collection of sales or compensating taxes. (a) Any individual who is responsible for collection or payment of sales or compensating tax or control, receipt, custody or disposal of funds due and owing under the Kansas retailers' sales and compensating tax acts who willfully fails to collect such tax, or account for and pay over such tax, or attempts in any manner to evade or defeat such tax or the payment thereof shall be personally liable for the total amount of the tax evaded, or not collected, or not accounted for and paid over, together with any interest and penalty imposed thereon. The provisions of this section shall apply regardless of the: (1) Relationship with the retailer held by such individual; (2) form under which the retailer conducts business, whether a sole proprietorship, partnership or corporation; or (3) dissolution of the business. As used in this section, "willfully" has the same meaning as such term has for federal tax purposes in 26 U.S.C. § 6672.

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

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

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

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

History: L. 1986, ch. 363, § 1; L. 1999, ch. 94, § 10; L. 2010, ch. 123, § 13; Apr. 29.