

60-4110. Recognition of exemption. (a) The plaintiff's attorney may make an opportunity to file a petition for recognition of exemption available in the following manner:

(1) If the plaintiff's attorney makes an opportunity to file a petition for recognition of exemption available, the plaintiff's attorney shall so indicate in the notice of pending forfeiture described in subsection (a) of K.S.A. 60-4109.

(2) An owner of or an interest holder in the property may elect to file a claim within 30 days after the effective date of the notice of pending forfeiture or a petition for recognition of exemption with the plaintiff's attorney within 30 days after the effective date of the notice, but no petition may be filed after a court action has been commenced by the seizing agency. The claim or petition shall comply with the requirements for claims in K.S.A. 60-4111. The effective date of a notice of pending forfeiture shall be as provided for in K.S.A. 60-4109.

(b) The following shall apply if one or more owners or interest holders timely petition for recognition of exemption:

(1) The plaintiff's attorney shall provide the seizing agency and the petitioning party with a written recognition of exemption and statement of nonexempt interests relating to any or all interests in the property in response to each petitioning party within 120 days after the effective date of the notice of pending forfeiture.

(2) An owner of or interest holder in any property declared nonexempt may file a claim as described in K.S.A. 60-4111 within 30 days after the effective date of the notice of the recognition of exemption and statement of nonexempt interests.

(3) The plaintiff's attorney may elect to proceed as provided herein for judicial forfeiture at any time.

(4) If no petitioning party files a proper claim within 30 days after the effective date of notice of the recognition of exemption and statement of nonexempt interests, the recognition of exemption and statement of nonexempt interests becomes final, and the plaintiff's attorney shall proceed as provided in K.S.A. 60-4116 and 60-4117.

(5) If a judicial proceeding follows a notice of pending forfeiture making an opportunity to file a petition for recognition of exemption available:

(A) No duplicate or repetitive notice is required. If a proper claim has been timely filed pursuant to subsection (b)(2), the claim shall be determined in a judicial forfeiture proceeding after the commencement of such a proceeding under K.S.A. 60-4113, 60-4114 and 60-4115.

(B) The proposed recognition of exemption and statement of nonexempt interests responsive to all petitioning parties who subsequently filed claims are void and will be regarded as rejected offers to compromise.

(c) If no proper petition for recognition of exemption or proper claim is timely filed, the plaintiff's attorney shall proceed as provided in K.S.A. 60-4116 and 60-4117.

History: L. 1994, ch. 339, § 10; July 1.