

44-767. Classification of workers; withholding tax and payroll information; unemployment insurance contributions due; determination of misclassification of worker, collection of income withholding taxes. (a) The secretary or the secretary's designee shall make all determinations regarding the proper classification of any worker pursuant to K.S.A. 44-703(i)(3), and amendments thereto.

(b) If the department of revenue has reason to believe that a business has not properly classified a worker pursuant to K.S.A. 44-703(i)(3), and amendments thereto, the department of revenue shall request a determination of such worker's classification pursuant to K.S.A. 44-703(i)(3), and amendments thereto, from the secretary. The department of revenue shall submit to the secretary all relevant information, including withholding tax and payroll information, in the possession of the department of revenue necessary to make such determination.

(1) If the secretary deems it necessary to obtain additional information from the department of revenue in order to make such determination or to calculate any assessment of unemployment insurance contributions due, the secretary shall notify the department of revenue. The department of revenue shall obtain and remit the requested information to the secretary.

(2) The department of revenue shall accept the secretary's determination made pursuant to subsection (a) and shall rely on such determination in the department of revenue's examination and assessment of the business with regard to such worker.

(3) Relying upon the information provided by the department of revenue pursuant to this section, and amendments thereto, and upon making the determination required by subsection (a), the secretary shall notify the business of any unemployment insurance contributions due pursuant to this act. The secretary shall not engage a separate investigation into the same matter once a determination has been made pursuant to subsection (a) based upon information so obtained through the department of revenue.

(4) Information shared with the secretary by the department of revenue pursuant to this section, shall be held by the secretary to the same confidentiality standards as may be required by statutes governing the department of revenue.

(c) Upon investigation and determination by the secretary that a business has misclassified a worker, the secretary shall notify the department of revenue that a determination has been made, referring the matter for collection of applicable income withholding taxes.

(1) Upon request of the department of revenue, the secretary shall make available for its review any information relied upon by the secretary in making the determination.

(2) Information shared with the department of revenue by the secretary pursuant to this section shall be held by the department of revenue to the same confidentiality standards as may be required by statutes governing the department of labor.

(d) Each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the purposes of this section.

(e) This section shall be a part of and supplemental to the employment security law.

History: L. 2011, ch. 81, § 1; July 1.