

**79-32,100c. Same; failure to withhold, consequences; persons designated as employers.** (a) If an employer, payer, person or organization deducting and withholding tax fails to deduct and withhold the tax as required under this act, and thereafter, the income tax against which the tax may be credited is paid, the tax required to be deducted and withheld shall not be collected from the employer, payer, person or organization. The payment of such tax does not, however, operate to relieve the employer, payer, person or organization from liability for penalties, interest or additions to the tax applicable with respect to such failure to deduct and withhold. The employer, payer, person or organization shall not be relieved under this provision from liability for payment of the tax required to be withheld unless it can be shown that the income tax against which the tax required to be withheld under this act may be credited has been paid.

(b) Every agent or other person having control, receipt, custody or disposal of, or paying the wages of an employee or group of employees employed by one or more employers, is for the purpose of this act designated to be an employer. In the case of the corporation, the officers and board of directors are likewise considered employers. Employers of classes named in this section shall be subject to all the provisions of law including penalties as is their principal. Any employer who willfully fails to collect the tax imposed by the Kansas withholding tax act or truthfully account for any pay over such tax, or willfully attempts in any manner to evade or defeat any tax or the payment thereof, shall be subject to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over in addition to other penalties provided by law. As used in this section, "willfully" has the same meaning as such term has for federal tax purposes in 26 U.S.C. § 6672.

**History:** L. 2000, ch. 184, § 12; L. 2003, ch. 147, § 44; L. 2010, ch. 123, § 9; Apr. 29.