

79-3706. Time for returns and payment of tax; interest and penalties; waiver or reduction; extension of time; signing and certification of returns. (a) Each retailer or person subject to the provisions of this act shall make remittances of the tax imposed by K.S.A. 79-3703, and amendments thereto, and file returns in accordance with the provisions of K.S.A. 79-3607, and amendments thereto, except that the time schedule for remitting tax and filing returns shall be determined on the basis of calendar year compensating tax liability in lieu of calendar year sales tax liability. Returns shall show in detail the total quantity of tangible personal property sold by any retailer or used, stored or consumed by any person within the state during the period for which the return is filed subject to the tax herein imposed, and such other information as the director may deem pertinent. The director may, upon request and a proper showing of the necessity therefor, grant an extension of time not to exceed 60 days for making any return and payment. Returns shall be signed by the retailer or such retailer's duly authorized agent, and must be certified by such retailer to be correct.

(b) If any taxpayer fails to pay the tax required under the act of which this section is amendatory at the time required by or under the provisions of the act of which this section is amendatory, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(c) For all taxable years ending prior to January 1, 2002, if any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of this section, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

(d) For all taxable years ending prior to January 1, 2002, if any person fails to make a return, or to pay any tax, within six months from the date the return or tax was due, except in the case of an extension of time granted by the secretary of revenue or the secretary's designee, there shall be added to the tax due a penalty equal to 25% of the unpaid balance of such tax due.

(e) For all taxable years ending after December 31, 2001, if any taxpayer fails to file a return or pay the tax if one is due, at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 1% of the unpaid balance of the tax due for each month or fraction thereof during which such failure continues, not exceeding 24% in the aggregate, plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid. Notwithstanding the foregoing, in the event an assessment is issued following a field audit for any period for which a return was filed by the taxpayer and all of the tax was paid pursuant to such return, a penalty shall be imposed for the period included in the assessment in an amount of 1% per month not exceeding 10% of the unpaid balance of tax due shown in the notice of assessment. If after review of a return for any period included in the assessment, the secretary or secretary's designee determines that the underpayment of tax was due to the failure of the taxpayer to make a reasonable attempt to comply with the provisions of this act, such penalty shall be imposed for the period included in the assessment in the amount of 25% of the unpaid balance of tax due.

(f) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of this section, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.

(g) Penalty or interest applied under the provisions of subsections (b) and (e) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (c) and (d) shall be mutually exclusive of each other.

(h) Whenever the secretary of revenue or the secretary's designee determines that the failure of the taxpayer to comply with the provisions of subsections (b), (c), (d) and (e) was due to reasonable causes, the secretary or the secretary's designee may waive or reduce any of the penalties and may reduce the interest rate to the underpayment rate prescribed and determined for the applicable period under section 6621 of the federal internal revenue code as in effect on January 1, 1994 upon making a record of the reasons therefor.

(i) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under the Kansas compensating tax act, or who makes a false or fraudulent return, or fails to keep any books or records prescribed by the Kansas compensating tax act, or who willfully violates any regulations of the secretary of revenue, for the enforcement and administration of the Kansas compensating tax act, or who aids and abets another in attempting to evade the payment of any tax imposed by the Kansas compensating tax act, or who violates any other provision of the Kansas compensating tax act, shall, upon conviction thereof, be fined not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than one month nor more than six months, or be both so fined and imprisoned, in the discretion of the court.

(j) No penalty assessed hereunder shall be collected if the taxpayer has had the tax abated on appeal, and any penalty collected upon such tax shall be refunded.

History: L. 1937, ch. 375, § 6; L. 1945, ch. 370, § 10; L. 1967, ch. 501, § 2; L. 1980, ch. 308, § 25; L. 1983, ch. 331, § 2; L. 1984, ch. 351, § 23; L. 1988, ch. 390, § 2; L. 1989, ch. 291, § 7; L. 1994, ch. 95, § 7; L. 2000, ch. 184, § 20; July 1.