

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 8

As Amended by House Committee on Taxation

Brief*

SB 8, as amended, would amend law related to property tax filings and penalties for late remittance of withholding taxes.

Personal Property Tax Filings

The bill would limit the instances in which a taxpayer must file statements regarding tangible personal property for tax purposes, reduce penalties for late filings, and specify circumstances in which extensions of time for filing such statements and abatements of penalties would be provided.

Single Initial Filing

The bill would provide that if an initial statement listing tangible personal property for taxation has been filed with a county appraiser, future annual filings would only be required when there has been a change to report that is related to the property previously listed or to the initial statement.

Reduced Penalties

The bill would reduce the penalty for late filing of oil and gas leases and tangible personal property from 5 percent to 2 percent per month with the maximum penalty for late filing being reduced from 25 percent to 10 percent. The penalty for

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

a failure to file resulting in escaped taxation would be reduced from 50 percent to 12.5 percent.

Extensions of Time and Abated Penalties

The bill would require county appraisers, who currently have discretionary authority to do so, to grant an extension of a reasonable amount of time for taxpayers to file tangible personal property for taxation upon a showing of good cause.

County appraisers and the State Board of Tax Appeals would be required to abate late filing penalties under cases of excusable neglect or in the event the property has been repossessed by a creditor who paid the taxes on the property. [Note: Current law provides only the State Board of Tax Appeals with discretionary authority to abate such penalties.]

Beginning in tax year 2022, such good cause and excusable neglect would be specified to include instances in which tangible personal property had been previously classified as real property or a fixture to real property and was reclassified to be personal property. Such instances would be specified to include machinery and equipment used in industries of grain storage and processing and ethanol or other biofuels processing.

Withholding Tax Remittance Penalties

The bill would replace the 15 percent penalty for employers not timely remitting withholding taxes with a graduated penalty system providing for penalties as follows:

- 2 percent, if the remittance is 1 to 5 days late;
- 5 percent, if the remittance is 6 to 15 days late;
- 10 percent, if the remittance is more than 15 days late; and

- 15 penalty, if the remittance is more than 15 days late and the Department of Revenue notified the taxpayer regarding the delinquency, but the tax was not remitted within 10 days of the notification.

Background

The bill was prefiled for introduction by Senator Steffen on January 3, 2023.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by Senator Steffen; representatives of Kansas Grain and Feed Association, Kansas Manufactured Housing Association, and Renew Kansas Biofuels Association; and a private citizen. The proponents generally stated the bill would alleviate penalties that seem stronger than necessary and may penalize taxpayers for simply forgetting to annually re-notify county appraisers of property.

Written-only proponent testimony was provided by representatives of the Kansas Cooperative Council, Kansas Livestock Association, and an attorney whose practice deals with property tax matters.

The Senate Committee amended the bill to insert the provisions to require only a single filing and specifying circumstances related to extensions of time and abatements of penalties.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by Senator Steffen, a private citizen, and representatives of the Kansas Grain and Feed Association and Renew Kansas Biofuels Association and the Kansas Manufactured Housing Association. The proponents generally

stated the bill would reduce excessively punitive late filing penalties and make personal property tax compliance less burdensome for taxpayers.

Written-only proponent testimony was provided by representatives of the Kansas Cooperative Council and the League of Kansas Municipalities.

Written-only neutral testimony was provided by a representative of the Kansas County Appraisers Association.

No other testimony was provided.

The House Committee amended the bill to clarify the effective date of the provision requiring a single initial filing and inserted the contents of HB 2411, regarding withholding remittance penalties. Background information for HB 2411 is provided below.

HB 2411 (Withholding Remittance Penalties)

The bill was introduced by the House Committee on Taxation at the request of Representative Waggoner.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by Representative Waggoner and representatives of the Kansas Chamber of Commerce and National Federation of Independent Businesses. The proponents generally stated the current penalties are unnecessarily punitive, and the penalties proposed by the bill mirror federal law.

Written-only proponent testimony was provided by a representative of Americans for Prosperity-Kansas.

No other testimony was provided.

Fiscal Information

SB 8 (Personal Property Tax Filings)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates enactment of the bill would reduce state building fund receipts by \$27,485 per year, state uniform school levy receipts by \$366,468 per year, and local property taxes by \$18.3 million per year.

The Department of Revenue indicated amendments by the Senate Committee on Assessment and Taxation and the House Committee on Taxation to the provisions related to personal property tax filing have not altered the original fiscal estimate. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

HB 2411 (Withholding Tax Remittance Penalties)

According to the fiscal note prepared by the Division of the Budget on the bill, the Department of Revenue indicates enactment of the bill has the potential to increase state receipts by a negligible amount beginning in FY 2024, due to the possibility that smaller penalties could result in more late filings, resulting in higher net penalty collections. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; tax filings; penalties; property tax; withholding tax