

2012 Kansas Statutes

79-5205. Marijuana and controlled substances; tax assessments; notice to taxpayer; presumption that assessment valid; informal review conference, procedure. (a) At such time as the director of taxation shall determine that a dealer has not paid the tax as provided by K.S.A. 79-5204, and amendments thereto, the director may immediately assess a tax based on personal knowledge or information available to the director of taxation; mail to the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax, penalties and interest; and demand its immediate payment. If payment is not immediately made, because collection of every assessment made hereunder is presumed to be in jeopardy due to the nature of the commodity being taxed, the director may immediately collect the tax, penalties and interest in any manner provided by K.S.A. 79-5212, and amendments thereto.

(b) The tax, penalties and interest assessed by the director of taxation are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the director of taxation with the court or any other certificate by the director of taxation of the amount of tax, penalties and interest determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.

(c) In making an assessment pursuant to subsection (a), the director of taxation may consider but shall not be bound by a plea agreement or judicial determination made in any criminal case.

(d) Within 15 days after the mailing or personal service of such notice of assessment pursuant to subsection (a), the taxpayer may request an informal conference with the secretary of revenue or the secretary's designee relating to the tax, penalties and interest assessed by filing a written request with the secretary or the secretary's designee. Such written request shall set forth the taxpayer's objections to the assessment. The purpose of such conference shall be to review and reconsider all facts and issues that underlie the assessment. The informal conference shall not constitute an adjudicative proceeding under the Kansas administrative procedure act and the rules of evidence shall not apply. No record of the informal conference shall be made except at the request and expense of the taxpayer. The taxpayer may be represented at the informal conference by an attorney licensed in the state of Kansas. The taxpayer may also present written or verbal information from other persons. The secretary or the secretary's designee may confer at any time with any employee of the department of revenue who has factual information relating to the assessment under reconsideration. The secretary or the secretary's designee shall issue a written final determination within 270 days of the date of the request for informal conference unless the parties agree in writing to extend the time for issuing such final determination. A final determination issued within or after 270 days, with or without extension, constitutes final agency action subject to administrative review by the state court of tax appeals pursuant to K.S.A. 74-2438, and amendments thereto. In the event that a written final determination is not rendered within 270 days or within an agreed extension, the taxpayer may appeal the assessment to the state court of tax appeals within 30 days after the expiration date of the 270 days or agreed extension. A taxpayer's request for an informal conference shall not stay the collection of the assessment but shall stay the sale of real or personal property, or the disposal of firearms, seized pursuant to K.S.A. 79-5212, and amendments thereto, until the final determination is made by the secretary or the secretary's designee. A taxpayer's appeal to the state court of tax appeals shall not stay the collection of the assessment but shall stay the sale of real or personal property seized pursuant to K.S.A. 79-5212, and amendments thereto, until a decision is rendered by the state court of tax appeals.

History: L. 1987, ch. 366, § 5; L. 1990, ch. 359, § 4; L. 1991, ch. 287, § 1; L. 1994, ch. 259, § 1; L. 2004, ch. 173, § 19; L. 2005, ch. 141, § 7; L. 2008, ch. 109, § 118; July 1.