

**79-3288. Procedure where allocation does not fairly represent taxpayer's business activity; burden of proof of tax evasion.** If the allocation and apportionment provisions of this act including the provisions of K.S.A. 79-3279, do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the secretary of revenue may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (a) Separate accounting;
- (b) the exclusion of any one or more of the factors;
- (c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income; or
- (e) in the case of two or more businesses, whether or not incorporated and whether or not organized in Kansas, owned or controlled directly or indirectly by the same interests, which contrive through inter-company transactions to evade taxes imposed under this act, the secretary of revenue may distribute or allocate the gross income and deductions between or among such businesses or may require returns on a consolidated basis. The burden of proof of any contrivance to evade taxes under this act shall rest upon the director of taxation or secretary of revenue.

**History:** L. 1963, ch. 485, § 18; L. 1965, ch. 526, § 1; L. 1972, ch. 342, § 99; L. 1980, ch. 318, § 3; July 1.