

79-34,113. Records or returns; inspection; destruction; information confidential, exceptions; extension of time limits. (a) Every interstate motor fuel user shall keep true and accurate records of all miles operated within this state and of all miles operated within and without this state, and of all motor fuel purchased by such user. All such records shall be safely preserved for a period of three years in such manner as to insure their security and availability for inspection by the authorized agents and representatives of the director. Upon application in writing stating the reasons therefor, the director may consent to the destruction of such records at an earlier time, provided an audit of the interstate motor fuel user's records has been made.

Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for a refund, the director of taxation is authorized to enter into an agreement in writing with the interstate motor fuel user consenting to the extension of the periods of limitations as defined in this act for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the period of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) The director and the director's authorized agents and representatives shall have the right during regular business hours to inspect the books and records of any interstate motor fuel user.

(c) Information gained by the director, or the director's representatives or agents, as the result of any audit or inspection or from reports filed in compliance with this act, shall be confidential, and shall not be divulged by any person, except as shall be necessary in the administration and enforcement of this act or any rules and regulations adopted hereunder, or as otherwise provided in this act. The director, or any deputy or agent appointed in writing by the director, shall examine returns and shall determine the correct amount of the tax. If the tax found due shall be greater than the amount paid, or if a claim for a refund is denied, notice shall be mailed to the taxpayer. Within 60 days after the mailing of such notice, the taxpayer may request a hearing of the director relating to the tax liability by filing a written request with the director. Based on the evidence presented at such hearing, the director shall make a final determination within a reasonable time and shall notify the taxpayer of such decision and, if additional amounts are found to be due, such decision shall be accompanied by a notice and demand for payment. Notice under this section shall be sent by first-class mail. The tax shall be paid within 20 days thereafter, together with interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, on the additional tax from the date the tax was due unless an appeal is taken in the manner provided by law, but no additional tax shall be assessed for less than \$5. Interest at such rate shall continue to accrue on any additional tax liability during the course of any appeal.

Whenever the director of taxation has reason to believe that a person liable for tax under any provisions of the motor-fuel tax law is about to depart from the state or to remove such person's property therefrom, or to conceal oneself or such person's property therein, or to do any other act tending to prejudice, jeopardize or render wholly or partly ineffectual the collection of such motor-fuel tax unless proceedings be brought without delay, the director shall immediately make an assessment for all motor-fuel tax due from such taxpayer, noting such finding on the assessment. The assessment shall be made on the basis of emergency proceedings in accordance with the provisions of K.S.A. 77-536, and amendments thereto. Thereupon a warrant shall be issued for the collection of the tax as provided in K.S.A. 79-3412, and amendments thereto. The taxpayer, within 15 days from the date of filing of such warrant, may request a hearing by the director on the correctness of the jeopardy assessment. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Nothing in this act shall be construed to prohibit the publication of statistics. Nothing in this act shall be construed to prohibit the inspection of records or reports with the approval of the attorney general.

History: L. 1971, ch. 319, § 6; L. 1990, ch. 353, § 4; L. 1995, ch. 262, § 47; July 1.