

Kansas Administrative Regulations

Kansas Department of Revenue

Article 19.—Kansas Retailers' Sales Tax

92-19-2a. Registration certificates.

(a)(1) Every person who is required to collect retailers' sales tax under the act shall secure a sales tax registration certificate from the department of revenue before engaging in business or opening a new place of business in this state. As used in this regulation, "sales tax registration certificate," "registration certificate," and "certificate" shall mean the document that evidences the registration with the department and is required by K.S.A. 79-3608, and amendments thereto.

(2) Each retailer, before making retail sales of tangible personal property or performing taxable services in this state, shall secure a sales tax registration certificate. A certificate shall not be issued for any purpose other than to make retail sales of tangible personal property or to perform taxable services. A certificate shall be valid until the retailer ceases doing business or the certificate is canceled by the department. Certificates shall be issued and amended without charge.

(3) Failure to secure a certificate shall subject a retailer who engages in a taxable retail business to criminal or civil sanctions, or both. The failure to secure a certificate shall not relieve a retailer from either the obligation to properly collect, remit, and account for sales tax or the obligation to maintain complete records of all transactions in the manner required by law.

(4) Each retailer shall file a separate application and secure a separate certificate for each place of business. Any retailer that operates at more than one location under the same ownership may request permission to file that retailer's tax returns on a combined or consolidated basis.

(5)(A) Each retailer maintaining a public place of business in Kansas shall display the registration certificate in a conspicuous location so that the certificate can be readily seen and read by the public. If a retailer maintains more than one place of business, a certificate shall be displayed at each location.

(B) Each retailer who operates at a special event or at any other temporary location, including from a truck, wagon, portable stand, or other merchandising device, shall prominently display the certificate so that it can be readily seen and read by the public. Transient retailers who do not operate from such a merchandising device shall have their certificates in their possession and shall display them upon request.

(6) A certificate shall be valid only for use by the individual, partnership, corporation, or association in whose name it is issued and for the transaction of business at the place designated on the certificate. A certificate shall not be assigned or transferred. If there is a change in ownership or a change in the name or location of a business, the certificate shall no longer be valid. A new certificate shall be obtained, and the old certificate shall be returned to the department for cancellation whenever there is a change in ownership, business location, or name of a business.

(7) Each wholesaler, distributor, and manufacturer that makes retail sales, including sales to employees, shall secure a registration certificate and report these sales to the department. To simplify reporting, the wholesaler, distributor, or manufacturer may set up a retail division to report the retail sales. Transfers of inventory to the retail division for resale shall be exempt sales for resale, and the sales tax returns shall reflect only the sales made by the retail division to final consumers.

(b)(1) Each trustee, receiver, executor, administrator, and other fiduciary who by virtue of the appointment continues to operate, manage, control, or liquidate a retail business shall report and remit sales tax on the gross receipts received by the business and from liquidation of the business's inventory items. These reporting duties shall apply to each court-appointed fiduciary, whether appointed by a state or federal court.

(2) A certificate of a retail business that is being managed by a fiduciary that was valid at the time the fiduciary relationship was created shall continue to be valid to allow the fiduciary to conduct the business for a reasonable time before the transfer of ownership or to close out the business when probating an estate or liquidating the assets of the business.

(3) Each trustee, receiver, executor, administrator, and other fiduciary who engages in liquidating the inventory of a business that does not have an existing registration

certificate under which to report sales tax shall secure a certificate and shall report tax on taxable receipts from sales of inventory items and taxable services.

(c) Only a business that is actively engaged in making retail sales or performing taxable services that are subject to Kansas sales tax may hold a registration certificate. A registration certificate may be cancelled by the director if during any prior consecutive 12-month period the certificate holder does not file a return or, if any returns are filed, does not report any taxable transactions. When a certificate is to be cancelled, the certificate holder shall be notified in writing of the director's intention to cancel the certificate and the date when the cancellation is final. The certificate shall be cancelled on the date set forth in the notice, unless the certificate holder objects in writing within 60 days from the date that the notice of intention to cancel is mailed. If a certificate holder objects to cancellation, a hearing shall be scheduled pursuant to the Kansas administrative procedures act to determine whether the certificate holder is actively engaged in a retail business.

(d)(1) Issuance of a sales tax registration certificate may be refused by the department, if the department ascertains any of the following:

(A) The department has issued an unsatisfied tax warrant against a partner, business owner, corporate officer, or majority stockholder of the business that is applying for the certificate.

(B) There is a pending department administrative action or legal proceeding against a partner, business owner, corporate officer, or majority stockholder of the business that is applying for the certificate which claims that the partner, business owner, corporate officer, or majority stockholder is a responsible person who is liable for payment of taxes pursuant to K.S.A. 79-2971, K.S.A. 79-32,106, or K.S.A. 79-3643, and amendments thereto.

(C) The applicant is an agent or representative of a principal that is required to be registered and is responsible for filing sales tax returns, pursuant to K.S.A. 79-3604, and amendments thereto.

(2) If the department ascertains that a certificate was issued at a time when the certificate could have been denied under paragraph (d)(1)(A), (B), or (C), the certificate may be cancelled by the department. When such a certificate is cancelled, the

certificate holder shall be notified in writing of the director's intention to cancel the certificate and the date when the cancellation is final. The certificate shall be cancelled on the date specified in the notice, unless the certificate holder objects in writing within 60 days from the date that the notice of intention to cancel is mailed. If a certificate holder objects to cancellation, a hearing shall be scheduled by the secretary or designee pursuant to the Kansas administrative procedures act to determine whether there were adequate grounds under paragraph (d)(1)(A), (B), or (C) to refuse to issue the certificate.

(Authorized by K.S.A. 2001 Supp. 79-3618; implementing K.S.A. 79-3607, 79-3608, K.S.A. 2001 Supp. 79-3615, and K.S.A. 79-3630; effective Aug. 23, 2002.)

***** Authenticated Kansas Administrative Regulation *****