

Kansas Administrative Regulations

Department of Labor—Division of Employment

Article 2.—Unemployment Insurance; Contributing, Reimbursing and Rated Governmental Employment

50-2-24h. Levy and distraint; sale of seized property.

(a) Notice of seizure. As soon as practical after the seizure of property, notice in writing shall be:

(1) given by the secretary to the employer owning the property and in the case of personal property, any possessor of the property; or

(2) left at the usual place of abode or business of the employer or possessor. If the employer cannot be readily located, or has no dwelling or place of business within the state, the notice may be mailed to the employer's last known address as shown on the Department's records. The notice shall specify the sum demanded, and shall contain a listing of any personal property seized and a description, with reasonable certainty, of any real property seized.

(b) Notice of sale. The secretary shall, as soon as practical after the seizure of the property:

(1) give notice to the employer, in the manner prescribed in subsection (a);

(2) publish a notification in some newspaper published or generally circulated in the county in which the property is seized; and

(3) post a notice at the post office nearest the place where the seizure is made and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner and conditions of the sale. Whenever a levy is made without regard to the 10-day period provided in K.S.A. 44-717(e)(2), public notice of the sale of the property seized shall not be made prior to 10 days following seizure unless the goods seized are perishable.

(c) Sale of indivisible property. If any property subject to levy is not divisible, the whole property shall be sold.

(d) Time and place of sale. The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice. The sale may be postponed for good reason as determined by the chief of contributions. The postponement may not be more than 30 days from the original date of the sale. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(e) Manner and conditions of sale.

(1) Rules applicable to sale.

(A) The sale shall be conducted by public auction or public sale under sealed bids.

(B) If several items of property are seized, the notice of sale shall state whether:

(i) the items will be offered separately, in groups, or in the aggregate; or

(ii) the property will be offered both separately, in groups and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) The announcement of the minimum price determined by the secretary may be delayed until the receipt of the highest bid.

(D) Payment in full may be required at the time of the acceptance of a bid, or in the alternative part of the payment may be deferred for not more than one month.

(E) The sale may be advertised as appropriate in order to attract the largest number of prospective bidders.

(F) The secretary may adjourn the sale from time to time for a period not to exceed one month.

(2) Payment of amount bid.

(A) If payment in full is required at the time of acceptance of a bid and the purchaser fails to do so the secretary shall immediately sell the property again. If the conditions of the sale permit part of the payment to be deferred, and if the part deferred is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or the part of it that has not been paid or the sale may be declared by the secretary to be null and void for failure to make full payment of the purchase price and the property may be advertised again and sold.

(B) If the property is readvertised and sold again, the new purchaser shall receive the property or the rights to the property, free and clear of any claim or any right of the defaulting purchaser. The amount paid upon the bid price by the defaulting purchaser

shall be forfeited. The amount forfeited shall be applied first to sale expenses and then to the original tax debt.

(Authorized by K.S.A. 1985 Supp. 44-714 as amended by L. 1986, Ch. 191, Sec. 4; implementing K.S.A. 1985 Supp. 44-717 as amended by L. 1986, Ch. 191, Sec. 5; effective, T-87-40, Dec. 8, 1986; effective May 1, 1987.)

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