

NOTICE 17-09

ESTIMATED TAX PAYMENTS FOR NONWAGE BUSINESS INCOME (JULY 1, 2017)

The 2017 Kansas Legislature made substantial changes to income tax law including, specifically, K.S.A. 79-32,117. The effect of these changes (contained in Senate Bill 30) is to make nonwage business income subject to Kansas income tax. The new law does this by making changes to several addition and subtraction modifications. Please see Notice 17-03 for more specific information.

Kansas tax law changes made in 2012 stated that beginning after December 31, 2012, certain categories of nonwage business income were exempt from income tax. As a result, taxpayers receiving this nonwage business income were no longer required to make estimated tax payments, and have not made such payments for the last several years. The provisions of Senate Bill 30 change this, so **taxpayers receiving nonwage business income should immediately begin making estimated tax payments.**

Section 5 of Senate Bill 30 essentially reverses the 2012 changes. Generally, for tax years beginning after December 31, 2016, the following nonwage business income will be subject to Kansas income tax:

- Income paid to stockholders in banks and savings and loans
- “Business income”, including income reported by sole proprietors and to individuals considered statutory employees, reported on federal Schedule C and line 12 of federal Form 1040
- Income received from certain types of entities, including income received from partnerships, S corporations, limited liability companies, estates and trusts, and certain types of income, including income from rental real estate, royalties, residual interests in real estate mortgage investment conduits, and net farm rental, reported on federal Schedule E and line 17 of federal Form 1040
- Farm income reported on federal Schedule F and line 18 of federal Form 1040
- Net gain from the sale of draft, breeding, dairy animals, and animals used for sporting purposes subject to depreciation
- Net gain from the sale of Christmas trees

Like the federal tax system, the Kansas tax system is designed so that income tax is remitted as income is earned. While income earned as wages is generally subject to withholding, most income

other than wages is not usually subject to withholding. As a result, an individual who receives non-wage income should make estimated tax payments. An estimated payment is a direct payment to the Department of the estimated amount of tax due on income that has been received.

Individuals receiving nonwage income that is now subject to tax because of the amendments made in Section 5 of Senate Bill 30 should begin making estimated tax payments immediately. And, because the effective date of the amendments is retroactive to January 1, 2017, consideration should be given to increasing the amount of the estimated payment(s) in order to “catch-up” with the amount of tax had payments been made for the first two quarters of the tax year. Failure to make these estimated payments could result in having to pay a significant amount of income tax being due in April of 2018 when filing the 2017 income tax return.

Usually, failure to make estimated tax payments in a timely fashion will result in a penalty being imposed. However, this legislation specifically provides that a penalty will not be imposed if all of the tax that was underpaid as a result of changes made by the legislation is paid by April 17, 2018, which is the due date of 2017 calendar year income tax returns. Section 4 of the Bill amends K.S.A. 79-32,117 by adding subsection (f) which states:

(f) No taxpayer shall be assessed penalties and interest arising from the underpayment of taxes due to changes to the rates in subsection (a) that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.

Despite the fact no penalty will be imposed for failing to make estimated tax payments, the Department strongly encourages all taxpayers receiving nonwage business income to make estimated tax payments for tax year 2017, and to review their personal tax situation with their tax preparer or tax professional. Making estimated payments now will help avoid a large, unpaid tax bill later.

To access the Kansas estimated tax form, K40-ES, please visit our website at: <https://ksrevenue.org/pdf/k-40es17.pdf>

Taxpayer Assistance

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