

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 60

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SUTHERLAND.

Pre-filed December 4, 2002, and copies ordered printed.

Read 1st time January 8, 2003.

Read 2nd time January 9, 2003, and referred to the Committee on Tax Policy January 16, 2003.

Reported from the Committee on Tax Policy March 11, 2003, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 18, 2003.

STEPHEN S. DAVIS, Chief Clerk

0355L.02P

AN ACT

To repeal section 139.031, RSMo, and to enact in lieu thereof one new section relating to refunds of tax payments mistakenly or erroneously made.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 139.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 139.031, to read as follows:

139.031. 1. Any taxpayer may protest all or any part of any taxes assessed against [him] **the taxpayer**, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which [his] **the** protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of taxes shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

12 recovery of the amount protested in the circuit court of the county in which the collector
13 maintains his office. If any taxpayer so protesting his taxes shall fail to commence an action in
14 the circuit court for the recovery of the taxes protested within the time prescribed in this
15 subsection, such protest shall become null and void and of no effect, and the collector shall then
16 disburse to the proper official the taxes impounded, and any interest earned thereon, as provided
17 above in this subsection.

18 3. No action against the collector shall be commenced by any taxpayer who has, for the
19 tax year in issue, filed with the state tax commission a timely and proper appeal of the protested
20 taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by
21 subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and
22 the commission may order all or any part of such taxes refunded to the taxpayer, or may
23 authorize the collector to release and disburse all or any part of such taxes in its decision and
24 order issued pursuant to chapter 138, RSMo.

25 4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury
26 civil proceedings, and, after determination of the issues, the court shall make such orders as may
27 be just and equitable to refund to the taxpayer all or any part of the taxes paid under protest,
28 together with any interest earned thereon, or to authorize the collector to release and disburse all
29 or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials
30 of the taxing authorities. Either party to the proceedings may appeal the determination of the
31 circuit court.

32 5. All the county collectors of taxes, and the collector of taxes in any city not within a
33 county, shall, upon written application of a taxpayer, refund [any real or tangible personal
34 property tax mistakenly or erroneously paid in whole or in part to the collector,] or [shall] credit
35 against the taxpayer's tax liability in the following taxable year, any real or personal property tax
36 mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the
37 collector. Such application shall be filed within [one year] **three years** after the tax is mistakenly
38 or erroneously paid. The governing body, or other appropriate body or official of the county or
39 city not within a county, shall make available to the collector funds necessary to make refunds
40 under this subsection by issuing warrants upon the fund to which the mistaken or erroneous
41 payment has been credited, or otherwise.

42 6. No taxpayer shall receive any interest on any money paid in by [him] **the taxpayer**
43 erroneously.

44 7. All protested taxes shall be invested by the collector in the same manner as assets
45 specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled
46 to a refund of protested taxes shall also receive the interest earned on the investment thereof. If
47 the collector is ordered to release and disburse all or part of the taxes paid under protest to the

48 proper official, such taxes shall be disbursed along with the proportional amount of interest
49 earned on the investment of the taxes due the particular taxing authority.

50 8. On or before March first next following the delinquent date of taxes paid under
51 protest, the county collector shall notify any taxing authority of the taxes paid under protest
52 which would be received by such taxing authority if the funds were not the subject of a protest.
53 Any taxing authority may apply to the circuit court of the county or city not within a county in
54 which a collector has impounded protested taxes under this section and, upon a satisfactory
55 showing that such taxing authority would receive such impounded tax funds if they were not the
56 subject of a protest and that such taxing authority has the financial ability and legal capacity to
57 repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is
58 subsequently made, the circuit court shall order, pendente lite, the disbursal of all or any part of
59 such impounded tax funds to such taxing authority. The circuit court issuing an order under this
60 subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel
61 restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded
62 to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and
63 invested by the collector under subsection 7 of this section, such taxing authority shall pay the
64 taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined
65 by the circuit court having jurisdiction in the matter, such protested taxes would have earned if
66 they had been held and invested by the collector.

67 9. No appeal filed shall stay any order of refund, but the decision filed by any court of
68 last review modifying the circuit court's or state tax commission's determination pertaining to
69 the amount of refund shall be binding on the parties, and the decision rendered shall be complied
70 with by the party affected by any modification within ninety days of the date of such decision.
71 No taxpayer shall receive any interest on any additional award of refund, and the collector shall
72 not receive any interest on any ordered return of refund in whole or in part.