

SECOND REGULAR SESSION

HOUSE BILL NO. 1564

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TAYLOR.

Read 1st time February 24, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4625L.011

AN ACT

To repeal sections 139.031 and 140.730, RSMo, and to enact in lieu thereof two new sections relating to the collection of taxes.

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

Section A. Sections 139.031 and 140.730, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 139.031 and 140.730, to read as follows:

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

6 2. Upon receiving payment of **current** taxes under protest pursuant to subsection 1 of
7 this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the
8 collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer
9 and shall impound in a separate fund all portions of such taxes which are in dispute. Except as
10 provided in subsection 3 of this section, every taxpayer protesting the payment of **current** taxes
11 shall, within ninety days after filing his protest, commence an action against the collector by
12 filing a petition for the recovery of the amount protested in the circuit court of the county in
13 which the collector maintains his office. If any taxpayer so protesting his taxes shall fail to
14 commence an action in the circuit court for the recovery of the taxes protested within the time
15 prescribed in this subsection, such protest shall become null and void and of no effect, and the
16 collector shall then disburse to the proper official the taxes impounded, and any interest earned

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.

17 thereon, as provided above in this subsection.

18 3. No action against the collector shall be commenced by any taxpayer who has, for the
19 **current** tax year in issue, filed with the state tax commission a timely and proper appeal of the
20 protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement
21 required by subsection 1 of this section. The taxes so protested shall be impounded in a separate
22 fund and 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 **current** taxes paid under
28 protest, together with any interest earned thereon, or to authorize the collector to release and
29 disburse all or any part of the impounded taxes, and any interest earned thereon, to the
30 appropriate officials of the taxing authorities. Either party to the proceedings may appeal the
31 determination of the 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 or credit against the taxpayer's tax
34 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer
35 has received credit in full for any real or personal property tax mistakenly or erroneously levied
36 against the taxpayer and collected in whole or in part by the collector. Such application shall be
37 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or
38 other appropriate body or official of the county or city not within a county, shall make available
39 to the collector funds necessary to make refunds under this subsection by issuing warrants upon
40 the fund to which the mistaken or erroneous payment has been credited, or otherwise.

41 6. No taxpayer shall receive any interest on any money paid in by the taxpayer
42 erroneously.

43 7. All protested taxes shall be invested by the collector in the same manner as assets
44 specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled
45 to a refund of protested taxes shall also receive the interest earned on the investment thereof. If
46 the collector is ordered to release and disburse all or part of the taxes paid under protest to the
47 proper official, such taxes shall be disbursed along with the proportional amount of interest
48 earned on the investment of the taxes due the particular taxing authority.

49 8. On or before March first next following the delinquent date of taxes paid under
50 protest, the county collector shall notify any taxing authority of the taxes paid under protest
51 which would be received by such taxing authority if the funds were not the subject of a protest.
52 Any taxing authority may apply to the circuit court of the county or city not within a county in

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

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

140.730. 1. Tangible personal property taxes assessed on and after January 1, 1946 and
2 all personal taxes delinquent at that date, shall constitute a debt, as of the date on which such
3 taxes were levied for which a personal judgment may be recovered against the party assessed
4 with such taxes before any court of this state having jurisdiction.

5 2. All actions commenced pursuant to this law shall be prosecuted in the name of the
6 state of Missouri, at the relation and to the use of the collector and against the person or persons
7 named in the tax bill, and in one petition and in one count thereof may be included the said taxes
8 for all such years as may be delinquent and unpaid, and said taxes shall be set forth in a tax bill
9 or bills of said personal back taxes duly authenticated by the certificate of the collector and filed
10 with the petition; and said tax bill or tax bills so certified shall be prima facie evidence that the
11 amount claimed in said suit is just and correct, and all notices and process in suits pursuant to
12 this chapter shall be sued and served in the same manner as in civil actions, and the general laws
13 of this state as to practice and proceedings and appeals and writs of error in civil cases shall
14 apply, as far as applicable, to the above actions; provided, however, that in no case shall the state,
15 county, city or collector be liable for any costs nor shall any be taxed against them or any of
16 them.

17 3. For the purpose of this chapter, personal tax bills shall become delinquent on the first

18 day of January following the [day when said bills are placed in the hands of the collector] **year**
19 **the taxes are due**, and suits thereon may be instituted on and after the first day of February
20 following, and within three years from said day.

21 4. Said personal tax shall be presented and allowed against the estates of deceased or
22 insolvent debtors, in the same manner and with like effect, as other indebtedness of said debtors.
23 The remedy hereby provided for the collection of personal tax bills is cumulative, and shall not
24 in any manner impair other methods existing or hereafter provided for the collection of the same.