

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Bill No. 0002, Page 15, Section 140.910, Line 94, by inserting after all of said
2 section the following:

3 “144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or
4 mistake on the part of the director of revenue, such fact shall be set forth in the records of the
5 director of revenue, and the amount of the overpayment shall be credited on any taxes then due
6 from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the
7 balance shall be refunded to the person legally obligated to remit the tax, such person's
8 administrators or executors, as provided for in section 144.200.

9 2. If any tax, penalty or interest has been paid more than once, or has been erroneously or
10 illegally collected, or has been erroneously or illegally computed, such sum shall be credited on
11 any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010
12 to 144.525, and the balance, with interest as determined by section 32.065, shall be refunded to
13 the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless
14 duplicate copies of a claim for refund are filed within three years from date of overpayment. If a
15 taxpayer applying for a refund, under the provisions of this section, submits a written request for
16 the director to hold a refund claim unprocessed pending the outcome of legal proceedings on the
17 same or similar grounds or transactions, and agrees that the taxpayer’s claim will be bound by the
18 outcome of such legal proceeding should the outcome of such proceeding be adverse to the
19 taxpayer’s position, the director shall hold such refund claim unprocessed pending the outcome of
20 such legal proceedings on the same or similar grounds or transactions. Notwithstanding any
21 provisions of section 32.069, to the contrary, interest shall not accrue on any refund for the time
22 period such refund claim is held at the request of the taxpayer applying for a refund under the
23 provisions of this subsection.

24 3. Every claim for refund must be in writing and signed by the applicant, and must state
25 the specific grounds upon which the claim is founded. Any refund or any portion thereof which is
26 erroneously made, and any credit or any portion thereof which is erroneously allowed, may be
27 recovered in any action brought by the director of revenue against the person legally obligated to
28 remit the tax. In the event that a tax has been illegally imposed against a person legally obligated

1 to remit the tax, the director of revenue shall authorize the cancellation of the tax upon the
2 director's record.

3 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid sales
4 or use tax to a vendor or seller may submit a refund claim directly to the director of revenue for
5 such sales or use taxes paid to such vendor or seller and remitted to the director, provided no sum
6 shall be refunded more than once, any such claim shall be subject to any offset, defense, or other
7 claim the director otherwise would have against either the purchaser or vendor or seller, and such
8 claim for refund is accompanied by either:

9 a. A notarized assignment of rights statement by the vendor or seller to the purchaser
10 allowing the purchaser to seek the refund on behalf of the vendor or seller. An assignment of
11 rights statement shall contain the Missouri sales or use tax registration number of the vendor or
12 seller, a list of the transactions covered by the assignment, the tax periods and location for which
13 the original sale was reported to the director of revenue by the vendor or seller, and a notarized
14 statement signed by the vendor or seller affirming that the vendor or seller has not received a
15 refund or credit, will not apply for a refund or credit of the tax collected on any transactions
16 covered by the assignment, and authorizes the director to amend the seller's return to reflect the
17 refund; or,

18 b. In the event the vendor or seller fails or refuses to provide an assignment of rights
19 statement within sixty days from the date of such purchaser's written request to the vendor or
20 seller, or the purchaser is not able to locate the vendor or seller or the vendor or seller is no longer
21 in business, the purchaser may provide the director a notarized statement confirming the efforts
22 that have been made to obtain an assignment of rights from the vendor or seller. Such statement
23 shall contain a list of the transactions covered by the assignment, the tax periods and location for
24 which the original sale was reported to the director of revenue by the vendor or seller. The
25 director shall not require such vendor, seller or purchaser to submit amended returns for refund
26 claims submitted under the provisions of this subsection. Notwithstanding the provisions of
27 section 32.057, if the seller is registered with the director for collection and remittance of sales
28 tax, the director must notify the seller at the seller's last known address of the claim for refund. If
29 the seller objects to the refund within thirty days of the date of the notice, the director shall not
30 pay the refund. If the seller agrees that the refund is warranted or fails to respond within thirty
31 days, the director may issue the refund and amend the seller's return to reflect the refund. For
32 purposes of section 32.069, the refund claim will not be considered to have been filed until the
33 seller agrees that the refund is warranted or thirty days after the date the director notified the seller
34 and the seller failed to respond. If the seller did not file a return with the director for the period
35 for which the refund is claimed, the director shall not issue the refund to the purchaser.

36 [4.]5. Notwithstanding the provisions of this section, the director of revenue shall

1 authorize direct-pay agreements to purchasers which have annual purchases in excess of seven
2 hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of
3 revenue. For the purposes of such direct-pay agreements, the taxes authorized pursuant to
4 chapters 66, 67, 70, 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location
5 of the place of business of the purchaser.

6 [5.]6. Special rules applicable to error corrections requested by customers of mobile
7 telecommunications service are as follows:

8 (1) For purposes of this subsection, the terms "customer", "home service provider", "place
9 of primary use", "electronic database", and "enhanced zip code" shall have the same meanings as
10 defined in the Mobile Telecommunications Sourcing Act incorporated by reference in section
11 144.013;

12 (2) Notwithstanding the provisions of this section, if a customer of mobile
13 telecommunications services believes that the amount of tax, the assignment of place of primary
14 use or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the home
15 service provider, in writing, within three years from the date of the billing statement. The
16 customer shall include in such written notification the street address for the customer's place of
17 primary use, the account name and number for which the customer seeks a correction of the tax
18 assignment, a description of the error asserted by the customer and any other information the
19 home service provider reasonably requires to process the request;

20 (3) Within sixty days of receiving the customer's notice, the home service provider shall
21 review its records and the electronic database or enhanced zip code to determine the customer's
22 correct taxing jurisdiction. If the home service provider determines that the review shows that the
23 amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home
24 service provider shall correct the error and, at its election, either refund or credit the amount of tax
25 erroneously collected to the customer for a period of up to three years from the last day of the
26 home service provider's sixty-day review period. If the home service provider determines that the
27 review shows that the amount of tax, the assignment of place of primary use or the taxing
28 jurisdiction is correct, the home service provider shall provide a written explanation of its
29 determination to the customer.

30 [6.]7. For all refund claims submitted to the department of revenue on or after September
31 1, 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated
32 to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes
33 for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for
34 a tax period beginning on or after the date the original refund check issued to such person, no
35 refund shall be allowed. This subsection shall not apply and a refund shall be allowed if an
36 additional refund claim is filed due to any of the following:

1 (1) Receipt of additional information or an exemption certificate from the purchaser of the
2 item at issue;

3 (2) A decision of a court of competent jurisdiction or the administrative hearing
4 commission; or

5 (3) Changes in regulations or policy by the department of revenue.

6 [7.]8. Notwithstanding any provision of law to the contrary, the director of revenue shall
7 respond to a request for a binding letter ruling filed in accordance with section 536.021 within
8 sixty days of receipt of such request. If the director of revenue fails to respond to such letter
9 ruling request within sixty days of receipt by the director, the director of revenue shall be barred
10 from pursuing collection of any assessment of sales or use tax with respect to the issue which is
11 the subject of the letter ruling request. For purposes of this subsection, the term "letter ruling"
12 means a written interpretation of law by the director to a specific set of facts provided by a
13 specific taxpayer or his or her agent.

14 [8.]9. If any tax was paid more than once, was incorrectly collected, or was incorrectly
15 computed, such sum shall be credited on any taxes then due from the person legally obligated to
16 remit the tax pursuant to sections 144.010 to 144.510, against any deficiency or tax due
17 discovered through an audit of the person by the department of revenue through adjustment during
18 the same tax filing period for which the audit applied.”; and

19
20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.