

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 591,  
Page 18, Section 137.115, Line 173, by inserting after all of said section the following:

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

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or  
illegally collected, or has been erroneously or illegally computed, such sum shall be credited on  
any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010  
to 144.525, and the balance, with interest as determined by section 32.065, shall be refunded to  
the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless  
duplicate copies of a claim for refund are filed within three years from date of overpayment.

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

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

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

16           (2) In the event the vendor or seller fails or refuses to provide an assignment of rights  
17 statement within sixty days from the date of such purchaser's written request to the vendor or  
18 seller, or the purchaser is not able to locate the vendor or seller or the vendor or seller is no longer  
19 in business, the purchaser may provide the director a notarized statement confirming the efforts  
20 that have been made to obtain an assignment of rights from the vendor or seller. Such statement  
21 shall contain a list of the transactions covered by the assignment, the tax periods and location for  
22 which the original sale was reported to the director of revenue by the vendor or seller.

23  
24 The director shall not require such vendor, seller, or purchaser to submit amended returns for  
25 refund claims submitted under the provisions of this subsection. Notwithstanding the provisions  
26 of section 32.057, if the seller is registered with the director for collection and remittance of sales

1 tax, the director shall notify the seller at the seller's last known address of the claim for refund. If  
2 the seller objects to the refund within thirty days of the date of the notice, the director shall not  
3 pay the refund. If the seller agrees that the refund is warranted or fails to respond within thirty  
4 days, the director may issue the refund and amend the seller's return to reflect the refund. For  
5 purposes of section 32.069, the refund claim shall not be considered to have been filed until the  
6 seller agrees that the refund is warranted or thirty days after the date the director notified the seller  
7 and the seller failed to respond.

8 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim  
9 on behalf of a purchaser and such refund claim is denied by the director, notice of such denial and  
10 the reason for the denial shall be sent by the director to the vendor and each purchaser whose  
11 name and address is submitted with the refund claim form filed by the vendor. A purchaser shall  
12 be entitled to appeal the denial of the refund claim within sixty days of the date such notice of  
13 denial is mailed by the director as provided in section 144.261. The provisions of this subsection  
14 shall apply to all refund claims filed after August 28, 2012. The provisions of this subsection  
15 allowing a purchaser to appeal the director's decision to deny a refund claim shall also apply to  
16 any refund claim denied by the director on or after January 1, 2007, if an appeal of the denial of  
17 the refund claim is filed by the purchaser no later than September 28, 2012, and if such claim is  
18 based solely on the issue of the exemption of the electronic transmission or delivery of computer  
19 software.

20 6. Notwithstanding the provisions of this section, the director of revenue shall authorize  
21 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty  
22 thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the  
23 purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70, 92,  
24 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of business  
25 of the purchaser.

26 [5.] 7. Special rules applicable to error corrections requested by customers of mobile

telecommunications service are as follows:

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

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

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

[6.] 8. For all refund claims submitted to the department of revenue on or after September 1, 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes

1 for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for  
2 a tax period beginning on or after the date the original refund check issued to such person, no  
3 refund shall be allowed. This subsection shall not apply and a refund shall be allowed if an  
4 additional refund claim is filed due to any of the following:

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

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

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

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

18 [8.] 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly  
19 computed, such sum shall be credited on any taxes then due from the person legally obligated to  
20 remit the tax pursuant to sections 144.010 to 144.510, against any deficiency or tax due  
21 discovered through an audit of the person by the department of revenue through adjustment during  
22 the same tax filing period for which the audit applied.”; and

23  
24 Further amend said bill by amending the title, enacting clause, and intersectional references  
25 accordingly.