

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute for House Bill No. 1935, Page 1, In the Title, Line 5 by deleting the words, "interest rates" and inserting in lieu thereof the words, "the collection of state money"; and

Further amend said bill, page, Section A, Line 6, by inserting after all of said section, the following:

"32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law and may collect, upon referral by a state agency, debts owed to any state agency subject to section 32.420.

2. The powers, duties and functions of the department of revenue, chapter 32 and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138 and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to administration of the corporation franchise tax, chapter 152, and others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430 relating to appeals from decisions of the director of revenue shall apply to these taxes.

5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, are transferred by type II transfer to the department of revenue.

32.058. For all years beginning after January 1, 2013, notwithstanding the certified mail provisions contained in chapters 32, 140, 142, 143, 144, 147, 148, 149, and 302, the director of revenue may choose to mail any document by first class mail only if at least one notice of deficiency or assessment is sent to the taxpayer via certified mail to the last known address."; and

Further amend said bill, Page 1, Section 32.069, Line 10, by inserting after all of said section, the following:

"32.087. 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar

1 quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided
2 in subsection 18 of this section.

3 3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or
4 more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax
5 imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax
6 shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall
7 be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax
8 and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of
9 the sale.

10 4. The brackets required to be established by the director of revenue under the provisions of
11 section 144.285 shall be based upon the sum of the combined rate of the state sales tax and all local sales
12 taxes imposed under the provisions of the local sales tax law.

13 5. The ordinance or order imposing a local sales tax under the local sales tax law shall impose
14 upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or
15 rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to
16 144.525, and the rules and regulations of the director of revenue issued pursuant thereto; except that the
17 rate of the tax shall be the sum of the combined rate of the state sales tax or state highway use tax and all
18 local sales taxes imposed under the provisions of the local sales tax law.

19 6. On and after the effective date of any local sales tax imposed under the provisions of the local
20 sales tax law, the director of revenue shall perform all functions incident to the administration, collection,
21 enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax
22 for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax
23 law. The director shall retain one percent of the amount of any local sales or use tax collected for cost of
24 collection. All local sales taxes imposed under the local sales tax law together with all taxes imposed
25 under the sales tax law of the state of Missouri shall be collected together and reported upon such forms
26 and under such administrative rules and regulations as may be prescribed by the director of revenue.

27 7. All applicable provisions contained in sections 144.010 to 144.525 governing the state sales
28 tax and section 32.057, the uniform confidentiality provision, shall apply to the collection of any local
29 sales tax imposed under the local sales tax law except as modified by the local sales tax law.

30 8. All exemptions granted to agencies of government, organizations, persons and to the sale of
31 certain articles and items of tangible personal property and taxable services under the provisions of
32 sections 144.010 to 144.525, as these sections now read and as they may hereafter be amended, it being
33 the intent of this general assembly to ensure that the same sales tax exemptions granted from the state
34 sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition
35 and collection of all local sales taxes imposed under the local sales tax law.

36 9. The same sales tax permit, exemption certificate and retail certificate required by sections
37 144.010 to 144.525 for the administration and collection of the state sales tax shall satisfy the
38 requirements of the local sales tax law, and no additional permit or exemption certificate or retail
39 certificate shall be required; except that the director of revenue may prescribe a form of exemption
40 certificate for an exemption from any local sales tax imposed by the local sales tax law.

1 10. All discounts allowed the retailer under the provisions of the state sales tax law for the
2 collection of and for payment of taxes under the provisions of the state sales tax law are hereby allowed
3 and made applicable to any local sales tax collected under the provisions of the local sales tax law.

4 11. The penalties provided in section 32.057 and sections 144.010 to 144.525 for a violation of
5 the provisions of those sections are hereby made applicable to violations of the provisions of the local
6 sales tax law.

7 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local
8 sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, shall be
9 deemed to be consummated at the place of business of the retailer unless the tangible personal property
10 sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has more
11 than one place of business in this state which participates in the sale, the sale shall be deemed to be
12 consummated at the place of business of the retailer where the initial order for the tangible personal
13 property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit,
14 shipment or billing. A sale by a retailer's agent or employee shall be deemed to be consummated at the
15 place of business from which he works.

16 (2) For the purposes of any local sales tax imposed by an ordinance or order under the local sales
17 tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be deemed to be
18 consummated at the residence of the purchaser and not at the place of business of the retailer, or the place
19 of business from which the retailer's agent or employee works.

20 (3) For the purposes of any local tax imposed by an ordinance or under the local sales tax law on
21 charges for mobile telecommunications services, all taxes of mobile telecommunications service shall be
22 imposed as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through
23 124, as amended.

24 13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of
25 motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but
26 shall be collected by the director of revenue at the time application is made for a certificate of title, if the
27 address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.

28 14. The director of revenue and any of [his] the director's deputies, assistants and employees who
29 have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,
30 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of
31 revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any
32 and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the
33 amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a
34 blanket bond covering [himself] the director and all such deputies, assistants and employees. The cost of
35 any premium for such bonds shall be paid by the director of revenue from the share of the collections
36 under the sales tax law retained by the director of revenue for the benefit of the state.

37 15. The director of revenue shall annually report on [his] the director's management of each trust
38 fund which is created under the local sales tax law and administration of each local sales tax imposed
39 under the local sales tax law. [He] The director shall provide each taxing entity imposing one or more
40 local sales taxes authorized by the local sales tax law with a detailed accounting of the source of all funds

received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by [him] such person under the local sales tax law or in the event a determination has been made against [him] such person for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525.

Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount of any local sales tax due so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

32.088. 1. Beginning January 1, 2013, the possession of a statement from the department of revenue stating no tax, applicable to the business seeking to issue or renew its license, is due under chapters 142, 143, 144, 147, and 149, and that no fees are due under section 260.262 or 260.273, shall be a prerequisite to the issuance or renewal of any city or county occupation license or any state license required for conducting any business unless the owner is by law subject at least biennially to a state tax check for purposes of retaining a professional license under sections 168.071, 324.010 and 484.053. The statement of no tax due shall be dated no longer than ninety days before the date of submission for application or renewal of the city or county license.

2. Beginning January 1, 2013, in lieu of subsection 1 of this section, the director shall, as soon as practical thereafter, enter into an agreement with any state agency responsible for issuing any state license for conducting any business requiring the agency to provide the director of revenue with the name and

1 Missouri tax identification number of each applicant for licensure within one month of the date the
2 application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such
3 licensee is delinquent on any taxes under chapters 142, 143, 144, 147, and 149, or fees under section
4 260.262 or 260.273, the director shall then send notice to each such entity and licensee. In the case of
5 such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice
6 of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or
7 failure has been remedied or arrangements have been made to achieve such remedy. The director of
8 revenue shall, within ten business days of notification to the governmental entity issuing the license that
9 the delinquency has been remedied or arrangements have been made to remedy such delinquency, send
10 written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or
11 reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

12 32.383. 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes
13 administered by the department of revenue and imposed in this chapter and chapters 143, 144, and 147, an
14 amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with
15 respect to unpaid taxes or taxes due and owing reported and paid in full from August 1, 2012, to October
16 31, 2012, regardless of whether previously assessed, except for penalties, additions to tax, and interest
17 paid before August 1, 2012. The amnesty shall apply only to state tax liabilities due or due but unpaid on
18 or before December 31, 2011, and shall not extend to any taxpayer who at the time of payment is a party
19 to any criminal investigations or to any civil or criminal litigation that is pending in any court of the
20 United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by
21 this state.

22 2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and
23 upon compliance with the provisions of this section, the department of revenue shall not seek to collect
24 any penalty, addition to tax, or interest that may be applicable. The department of revenue shall not seek
25 civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been
26 granted unless subsequent investigation or audit shows that the taxpayer engaged in fraudulent or criminal
27 conduct in applying for amnesty.

28 3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the
29 period stated in this section, who have filed a tax return for each taxable period for which amnesty is
30 requested, who have paid the entire balance due by October 31, 2012, and who agree to comply with state
31 tax laws for the next eight years from the date of the agreement. No taxpayer shall be entitled to a waiver
32 of any penalty, addition to tax, or interest under this section unless full payment of the tax due is made in
33 accordance with rules established by the director of revenue.

34 4. All taxpayers granted amnesty under this section shall comply with this state's tax laws for the
35 eight years following the date of the amnesty agreement. If any such taxpayer fails to comply with all of
36 this state's tax laws at any time during the eight years following the date of the agreement, all penalties,
37 additions to tax, and interest that were waived under the amnesty agreement shall become due and owing
38 immediately.

39 5. If a taxpayer elects to participate in the amnesty program established in this section as
40 evidenced by full payment of the tax due as established by the director of revenue, that election shall

1 constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No
2 tax payment received under this section shall be eligible for refund or credit.

3 6. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a
4 taxpayer's tax return as a result of any state or federal audit.

5 7. All tax payments received as a result of the amnesty program established in this section, other
6 than revenues earmarked by the Constitution of Missouri or this state's statutes, shall be deposited in the
7 state general revenue fund. The department must track all payments received and submit a report, no later
8 than December 31, 2012, to the speaker of the house of representatives and the president pro tem of the
9 senate.

10 8. The department may promulgate rules or issue administrative guidelines as are necessary to
11 implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section
12 536.010, that is created under the authority delegated in this section shall become effective only if it
13 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
14 This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
15 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
16 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July
17 1, 2012, shall be invalid and void.

18 9. This section shall become effective on July 1, 2012, and shall expire on December 31, 2015.

19 32.385. 1. The director of revenue and the commissioner of administration may jointly enter into
20 a reciprocal collection and offset of indebtedness agreement with the federal government, under which the
21 State will offset from state tax refunds and from payments otherwise due to vendors and contractors
22 providing goods or services to state departments, agencies, or other state agencies non-tax debt owed to
23 the federal government; and the federal government will offset from federal payments to vendors,
24 contractors, and taxpayers debt owed to the state of Missouri.

25 2. When used in this section, the following words, terms, and phrases are defined as set forth
26 herein:

27 (1) "Federal official", a unit or official of the federal government charged with the collection of
28 nontax liabilities payable to the federal government under 31 U.S.C. Section 3716, as amended;

29 (2) "Nontax liability due the state", a liability certified to the director of revenue by a state agency
30 and shall include, but shall not be limited to, fines, fees, penalties, and other nontax assessments imposed
31 by or payable to any state agency that is finally determined to be due and owing;

32 (3) "Offset agreement", the agreement authorized by this section;

33 (4) "Person", an individual, partnership, society, association, joint stock company, corporation,
34 public corporation, or any public authority, estate, receiver, trustee, assignee, referee, and any other
35 person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, and any
36 combination of the foregoing;

37 (5) "Refund", an amount described as a refund of tax under the provisions of the state tax law that
38 authorized its payment;

39 (6) "State agency", any department, division, board, commission, office, or other agency of the
40 state of Missouri;

1 (7) "Vendor payment", any payment, other than a refund, made by the state to any person or
2 entity, and shall include but shall not be limited to any expense reimbursement to an employee of the
3 state; but shall not include a person's salary, wages, or pension.

4 3. Under the offset agreement, a federal official may:

5 (1) Certify to the state of Missouri the existence of a person's delinquent nontax liability owed by
6 the person to the federal government;

7 (2) Request that the state of Missouri withhold any refund and vendor payment to which the
8 person is entitled;

9 (3) Certify and request the state of Missouri to withhold a refund or vendor payment only if the
10 laws of the United States:

11 (a) Allow the state of Missouri to enter into a reciprocal agreement with the United States, under
12 which the federal official would be authorized to offset federal payments to collect delinquent tax and
13 nontax debts owed to the state; and

14 (b) Provide for the payment of the amount withheld to the state;

15 (4) Retain a portion of the proceeds of any collection setoff as provided under the setoff
16 agreement.

17 4. Under the offset agreement, a certification by a federal official to the state of Missouri shall
18 include:

19 (1) The full name of the person and any other names known to be used by the person;

20 (2) The Social Security number or federal tax identification number;

21 (3) The amount of the nontax liability; and

22 (4) A statement that the debt is past due and legally enforceable in the amount certified.

23 5. If a person for whom a certification is received from a federal official is due a refund of
24 Missouri tax or a vendor payment, the agreement may provide that the state of Missouri shall:

25 (1) Withhold a refund or vendor payment that is due a person whose name has been certified by a
26 federal official;

27 (2) In accordance with the provisions of the offset agreement, notify the person of the amount
28 withheld in satisfaction of a liability certified by a federal official;

29 (3) Pay to the federal official the lesser of:

30 (a) The entire refund or vendor payment; or

31 (b) The amount certified; and

32 (4) Pay any refund or vendor payment in excess of the certified amount to the person.

33 6. Under the agreement, the director of revenue shall:

34 (1) Certify to a federal official the existence of a person's delinquent tax or nontax liability due
35 the state owed by the person to any state agency;

36 (2) Request that the federal official withhold any eligible vendor payment to which the person is
37 entitled; and

38 (3) Provide for the payment of the amount withheld to the state.

39 7. A certification by a state agency to the director of revenue and by the director of revenue to the
40 federal official under the offset agreement shall include:

1 (1) The full name and address of the person and any other names known to be used by the person;
2 (2) The Social Security number or tax identification number;
3 (3) The amount of the tax or nontax liability;
4 (4) A statement that the debt is past due and legally enforceable in the amount certified; and
5 (5) Any other information required by federal statute or regulation applicable to the collection of
6 the debt by offset of federal payments.

7 8. Any other provisions of law to the contrary notwithstanding, the director of revenue and the
8 commissioner of administration shall have the authority to enter into reciprocal agreements with any other
9 state which extends a like comity to this state to set off offset from state tax refunds and from payments
10 otherwise due to vendors and contractors providing goods or services to state departments, agencies, or
11 other state agencies nontax debt for debts due the other state that extends a like comity to this state.

12 32.410. As used in sections 32.410 to 32.460, the following terms shall mean:

13 (1) "Debt", an amount owed to the state directly or through a state agency, on account of a fee,
14 duty, lease, direct loan, loan insured or guaranteed by the state, rent, service, sale of real or personal
15 property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond, forfeiture,
16 reimbursement, liability owed, an assignment, recovery of costs incurred by the state, or any other source
17 of indebtedness to the state;

18 (2) "Debtor", an individual, a corporation, a partnership, an unincorporated association, a limited
19 liability company, a trust, an estate, or any other public or private entity, including a state, local, or federal
20 government, or an Indian tribe, that is liable for a debt or against whom there is a claim for a debt;

21 (3) "Department", the department of revenue;

22 (4) "State agency", any division, board, commission, office, or other agency of the state of
23 Missouri, including public community college districts and any state or municipal court.

24 32.420. 1. Notwithstanding any other provision of law to the contrary, all state agencies may
25 refer to the department for collection debts owed to them. The department may provide collection
26 services on debts referred to the department by a state agency. This authority shall not supersede the
27 authority granted to the attorney general under section 27.060 or any other statute.

28 2. A referring agency may refer the debt to the department for collection at any time after a debt
29 becomes delinquent and uncontested and the debtor shall have no further administrative appeal of the
30 amount of the debt. Methods and procedures for referral shall be governed by an agreement between the
31 referring agency and the department.

32 3. The collection procedures and remedies under this chapter are in addition to any other
33 procedure or remedy available by law. If the state agency's applicable state or federal law requires the use
34 of a particular remedy or procedure for the collection of a debt, that particular remedy or procedure shall
35 govern the collection of that debt to the extent the procedure or remedy is inconsistent with this chapter.

36 4. The state agency shall send notice to the debtor by United States mail at the debtor's last
37 known address at least twenty days before the debt is referred to the department. The notice shall state the
38 nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies
39 available under this chapter or the state agency's own procedures.

40 32.430. 1. Except as otherwise provided in this section, the department shall have the authority

1 to use all general remedies afforded creditors of this state in collection of debt as well as any remedies
2 afforded the state agency referring the debt and to the state in general as a creditor. The department shall
3 not have authority to prosecute or defend civil actions on behalf of any other state agency, except as
4 necessary to defend any challenges made to actions under section 140.910 or 143.902 for a debt referred
5 by a state agency or to prosecute an action under subsection 10 of section 140.910.

6 2. In addition to the remedies identified in sections 32.410 to 32.460, the department may use the
7 collection remedies afforded under sections 140.910 and 143.902 in the collection of any state debt
8 referred to the department.

9 3. The department may employ department staff and attorneys, and at the department's discretion,
10 prosecuting attorneys and private collection agencies as authorized in sections 136.150 and 140.850 in
11 seeking collection of debts referred to the department by a state agency.

12 32.440. 1. The department shall add to the amount of debt referred to the department by a state
13 agency the cost of collection which shall be ten percent of the total debt referred by the state agency. The
14 department shall have the same authority to collect the cost of collection as the department has in
15 collecting the debt referred by the state agency.

16 2. The cost of collection shall only be waived when:

17 (1) Within thirty days after the initial notice to the debtor by the department, the debtor
18 establishes to the department reasonable cause for the failure to pay the debt prior to referral of the debt to
19 the department, enters into an agreement satisfactory to the department to pay the debt in full, and fully
20 abides by the terms of that agreement;

21 (2) A good faith dispute as to the legitimacy or the amount of the debt exists, and payment is
22 remitted or an agreement satisfactory to the department to pay the debt in full is entered into within thirty
23 days after resolution of the dispute, and the debtor fully abides by the terms of that agreement; or

24 (3) Collection costs have been added by the state agency and are included in the amount of the
25 referred debt.

26 3. If the department collects an amount less than the total due, the payment shall be applied
27 proportionally to collection costs and the underlying debt unless the department has waived this
28 requirement for certain categories of debt. Collection costs collected by the department under this section
29 shall be deposited in the general revenue fund.

30 32.450. The department may compromise state debt referred to the department in accordance with
31 section 32.378 and any agreement with the referring agency.”

32 32.460. The department and state agencies, including the judiciary, may exchange such
33 information, including the debtor's Social Security number, as is necessary for the successful collection of
34 the state debt referred. The referring agency shall follow all applicable federal and state laws regarding
35 the confidentiality of information and records regarding the debtor. The confidentiality laws applicable to
36 the particular information received and retained by each agency shall apply to the employees of such state
37 agency and to the department when such information has been forwarded to the department.”; and
38

39 Further amend said bill, Page 7, Section 34.057, Line 152, by inserting after all of said section, the
40 following:

1 “105.716. 1. Any investigation, defense, negotiation, or compromise of any claim covered by
2 sections 105.711 to 105.726 shall be conducted by the attorney general; provided, that in the case of any
3 claim against the department of conservation, the department of transportation or a public institution
4 which awards baccalaureate degrees, or any officer or employee of such department or such institution,
5 any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to
6 105.726 shall be conducted by legal counsel provided by the respective entity against which the claim is
7 made or which employs the person against whom the claim is made.
8

9 In the case of any payment from the state legal expense fund based upon a claim or judgment against the
10 department of conservation, the department of transportation or any officer or employee thereof, the
11 department so affected shall immediately transfer to the state legal expense fund from the department
12 funds a sum equal to the amount expended from the state legal expense fund on its behalf.

13 2. All persons and entities protected by the state legal expense fund shall cooperate with the
14 attorneys conducting any investigation and preparing any defense under the provisions of sections 105.711
15 to 105.726 by assisting such attorneys in all respects, including the making of settlements, the securing
16 and giving of evidence, and the attending and obtaining witness to attend hearings and trials. Funds in the
17 state legal expense fund shall not be used to pay claims and judgments against those persons and entities
18 who do not cooperate as required by this subsection.

19 3. The provisions of sections 105.711 to 105.726 notwithstanding, the attorney general may
20 investigate, defend, negotiate, or compromise any claim covered by sections 105.711 to 105.726 against
21 any public institution which awards baccalaureate degrees whose governing body has declared a state of
22 financial exigency.

23 4. Notwithstanding the provisions of subsection 2 of section 105.711, funds in the state legal
24 expense fund may be expended prior to the payment of any claim or any final judgment to pay costs of
25 defense, including reasonable attorney's fees for retention of legal counsel, when the attorney general
26 determines that a conflict exists or particular expertise is required, and also to pay for related legal
27 expenses including medical examination fees, expert witness fees, court reporter expenses, travel costs
28 and ancillary legal expenses incurred prior to the payment of a claim or any final judgment.

29 5. Notwithstanding any other provision of law to the contrary, except for payments of less than
30 ten thousand dollars for property damage, no funds shall be expended from the state legal expense fund
31 for settlement of any liability claim except upon the production of a no tax due statement from the
32 department of revenue by the party making claim or having judgment under section 105.711, which shall
33 be satisfied from such fund. If the party is found by the director of revenue to owe a delinquent tax debt
34 to the state of Missouri under the revenue laws of this state, after the payment of attorney's fees and
35 expenses associated with liability of the fund to the party, any remaining funds to be paid to the party from
36 the state legal expense fund shall be offset to satisfy such tax debt before payment is made to the party
37 making claim or having judgment.

38 140.910. 1. In addition to any other remedy provided by law for the collection of delinquent
39 taxes due the state of Missouri, if the director has filed a certificate of lien in the circuit court as provided
40 by section 143.902, 144.380, or 144.690, the director or the director's designee may issue an order

1 directing any person, after the payment of attorney fees and expenses associated with creating the
2 proceeds belonging to, due, or to become due to the taxpayer, to withhold and pay over to the department
3 assets belonging to, due, or to become due the taxpayer. The director or the director's designee shall not
4 issue the administrative garnishment if the taxpayer has entered into a written agreement with the
5 department for an alternative payment arrangement and the taxpayer is in compliance with the agreement.

6 2. An order entered under this section shall be served on the person or other legal entity either by
7 regular mail or by certified mail, return receipt requested, or may be issued through electronic means, and
8 shall be binding on the employer or other payor two weeks after mailing or electronic issuance of such
9 service. The person or other entity in possession of assets belonging to, due, or to become due the
10 taxpayer may deduct an additional sum not to exceed six dollars per month as reimbursement for costs,
11 except that the total amount withheld shall not exceed the limitations contained in the federal Consumer
12 Credit Protection Act, 15 U.S.C. Section 1673, as amended.

13 3. A copy of the order shall be mailed to the taxpayer at the taxpayer's last known address. The
14 notice shall advise the taxpayer that the administrative garnishment has commenced and the procedures to
15 contest such garnishment on the grounds that such garnishment is improper due to a mistake of fact by
16 requesting a hearing within thirty days from mailing or electronic issuance of the notice. At such a
17 hearing the certified records of the department shall constitute prima facie evidence that the director's
18 order is valid and enforceable. If a prima facie case is established, the obligor may only assert as a
19 defense mistake as to the identity of the taxpayer, mistake as to payments made, or existence of an
20 alternative payment agreement for which no default has occurred. The taxpayer shall have the burden of
21 proof on such issues. The taxpayer may obtain relief from the garnishment by paying the amount owed.

22 4. An employer or other payor shall withhold from the earnings or other income of each taxpayer
23 the amount specified in the order. The employer or other payor shall transmit the payments as directed in
24 the order within ten business days of the date the earnings, money due, or other income was payable to the
25 taxpayer. For purposes of this section, "business day" means a day that state offices are open for regular
26 business. The employer or other payor shall, along with the amounts transmitted, provide the date the
27 amount was withheld from the taxpayer.

28 5. An order issued under subsection 1 of this section shall be a continuing order and shall remain
29 in effect and be binding upon any employer or other payor upon whom it is directed until a further order
30 of the director. The director shall notify an employer or other payor upon whom such an order has been
31 directed whenever the deficiency is paid in full.

32 6. If the order is served on a person other than an employer or other payor, it shall be a lien
33 against any money belonging to the taxpayer that is in the possession of the person on the date of service.
34 The person other than an employer or other payor shall pay over any assets within ten business days of the
35 service date of the order. A financial institution ordered to surrender an account shall be entitled to
36 collect its normally scheduled account activity surcharges to maintain the account during the period of
37 time the account is garnished. For purposes of this section, the interest of the taxpayer in any joint
38 financial accounts shall be presumed to be equal to all other joint owners.

39 7. An order issued under subsection 1 of this section shall have priority over any other legal
40 process under state law against the same income or other asset, except that where the other legal process is

1 an order issued under section 452.350, 454.505, or 454.507, the withholding for child support shall have
2 priority.

3 8. No person who complies with an order entered under this section shall be liable to the
4 taxpayer, or to any other person claiming rights derived from the taxpayer, for wrongful withholding. A
5 person who fails or refuses to withhold or pay the amounts as ordered under this section shall be liable to
6 the state in a sum equal to the value of the wages or property not surrendered, but not to exceed the
7 amount of tax deficiency. The director is hereby authorized to bring an action in circuit court to determine
8 the liability of a person for failure to withhold or pay the amounts as ordered. If a court finds that a
9 violation has occurred, the court may fine the person in an amount not to exceed five hundred dollars.
10 The court may also enter a judgment against the person or other legal entity for the amounts to be
11 withheld or paid, court costs, and reasonable attorney's surcharges.

12 9. The remedy provided by this section shall be available where the state or any of its political
13 subdivisions is the employer or other payor of the taxpayer in the same manner and to the same extent as
14 where the employer or other payor is a private party.

15 10. An employer shall not discharge, or refuse to hire or otherwise discipline, an employee as a
16 result of an order to withhold and pay over certain money authorized by this section. If any such
17 employee is discharged within thirty days of the date upon which an order to withhold and pay over
18 certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result
19 of such order. This presumption shall be overcome only by clear, cogent, and convincing evidence
20 produced by the employer that the employee was not terminated because of the order to withhold and pay
21 over certain money. The director or the director's designee is hereby authorized to bring an action in
22 circuit court to determine whether the discharge constitutes a violation of this subsection. If the court
23 finds that a violation has occurred, the court may enter an order against the employer requiring
24 reinstatement of the employee and may fine the employer in an amount not to exceed five hundred dollars.
25 Further, the court may enter judgment against the employer for the back wages, costs, attorney's
26 surcharges, and for the amount of taxes that should have been withheld and paid over during the period of
27 time the employee was wrongfully discharged.

28 11. If a taxpayer for whom an order to withhold has been issued under subsection 1 of this section
29 terminates the taxpayer's employment, the employer shall, within ten days of the termination, notify the
30 department of the termination, shall provide to the department the last known address of the taxpayer, if
31 known to the employer, and shall provide to the department the name and address of the taxpayer's new
32 employer, if known. The director or the director's designee may issue an order to the new employer as
33 provided in subsection 1 of this section.

34 12. For purposes of this section, "assets" include, but are not limited to, currency, any financial
35 account or other liquid asset, and any income or other periodic form of payment due to a taxpayer
36 regardless of source, including, but not limited to, wages, salaries, commissions, bonuses, workers'
37 compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and
38 interest.

39 144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake on the
40 part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the

1 amount of the overpayment shall be credited on any taxes then due from the person legally obligated to
2 remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be refunded to the person
3 legally obligated to remit the tax, such person's administrators or executors, as provided for in section
4 144.200.

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

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

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

33 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser allowing
34 the purchaser to seek the refund on behalf of the vendor or seller. An assignment of rights statement shall
35 contain the Missouri sales or use tax registration number of the vendor or seller, a list of the transactions
36 covered by the assignment, the tax periods and location for which the original sale was reported to the
37 director of revenue by the vendor or seller, and a notarized statement signed by the vendor or seller
38 affirming that the vendor or seller has not received a refund or credit, will not apply for a refund or credit
39 of the tax collected on any transactions covered by the assignment, and authorizes the director to amend
40 the seller's return to reflect the refund; or

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

8
9 The director shall not require such vendor, seller, or purchaser to submit amended returns for refund
10 claims submitted under the provisions of this subsection. Notwithstanding the provisions of section
11 32.057, if the seller is registered with the director for collection and remittance of sales tax, the director
12 shall notify the seller at the seller's last known address of the claim for refund. If the seller objects to the
13 refund within thirty days of the date of the notice, the director shall not pay the refund. If the seller agrees
14 that the refund is warranted or fails to respond within thirty days, the director may issue the refund and
15 amend the seller's return to reflect the refund. For purposes of section 32.069, the refund claim shall not
16 be considered to have been filed until the seller agrees that the refund is warranted or thirty days after the
17 date the director notified the seller and the seller failed to respond.

18 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim on behalf
19 of a purchaser and such refund claim is denied by the director, notice of such denial and the reason for the
20 denial shall be sent by the director to the vendor and each purchaser whose name and address is submitted
21 with the refund claim form filed by the vendor. A purchaser shall be entitled to appeal the denial of the
22 refund claim within sixty days of the date such notice of denial is mailed by the director as provided in
23 section 144.261. The provisions of this subsection shall apply to all refund claims filed after August 28,
24 2012. The provisions of this subsection allowing a purchaser to appeal the director's decision to deny a
25 refund claim shall also apply to any refund claim denied by the director on or after January 1, 2007, if an
26 appeal of the denial of the refund claim is filed by the purchaser no later than September 28, 2012, and if
27 such claim is based solely on the issue of the exemption of the electronic transmission or delivery of
28 computer software.

29 6. Notwithstanding the provisions of this section, the director of revenue shall authorize
30 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty
31 thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the purposes of
32 such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70, 92, 94, 162, 190, 238,
33 321, and 644 shall be remitted based upon the location of the place of business of the purchaser.

34 [5.] 7. Special rules applicable to error corrections requested by customers of mobile
35 telecommunications service are as follows:

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

39 (2) Notwithstanding the provisions of this section, if a customer of mobile telecommunications
40 services believes that the amount of tax, the assignment of place of primary use or the taxing jurisdiction

1 included on a billing is erroneous, the customer shall notify the home service provider, in writing, within
2 three years from the date of the billing statement. The customer shall include in such written notification
3 the street address for the customer's place of primary use, the account name and number for which the
4 customer seeks a correction of the tax assignment, a description of the error asserted by the customer and
5 any other information the home service provider reasonably requires to process the request;

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

15 [6.] 8. For all refund claims submitted to the department of revenue on or after September 1,
16 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to remit
17 the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for a specific
18 issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning
19 on or after the date the original refund check issued to such person, no refund shall be allowed. This
20 subsection shall not apply and a refund shall be allowed if an additional refund claim is filed due to any of
21 the following:

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

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

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

26 [7.] 9. Notwithstanding any provision of law to the contrary, the director of revenue shall respond
27 to a request for a binding letter ruling filed in accordance with section 536.021 within sixty days of receipt
28 of such request. If the director of revenue fails to respond to such letter ruling request within sixty days of
29 receipt by the director, the director of revenue shall be barred from pursuing collection of any assessment
30 of sales or use tax with respect to the issue which is the subject of the letter ruling request. For purposes
31 of this subsection, the term "letter ruling" means a written interpretation of law by the director to a
32 specific set of facts provided by a specific taxpayer or his or her agent.

33 [8.] 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly
34 computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the
35 tax pursuant to sections 144.010 to 144.510, against any deficiency or tax due discovered through an audit
36 of the person by the department of revenue through adjustment during the same tax filing period for which
37 the audit applied.”; and
38

39 Further amend said bill, Page 25, Section 643.079, Line 102, by inserting after all of said section, the
40 following:

1 “Section B. Because immediate action is necessary to secure adequate state revenue, the
2 enactment of section 32.383 of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and the enactment of section 32.383 of this act shall be in full force and effect upon its
5 passage and approval.”; and

6
7 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.