

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 87, Page 4, Section 143.1029, Line 32, by
2 inserting after all of said section and line the following:

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4 "144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake
5 on the part of the director of revenue, such fact shall be set forth in the records of the director of
6 revenue, and the amount of the overpayment shall be credited on any taxes then due from the person
7 legally obligated to remit the tax ~~[pursuant to sections 144.010 to 144.525]~~ under chapter 144, and
8 the balance shall be refunded to the person legally obligated to remit the tax, such person's
9 administrators or executors, as provided for in section 144.200.

10 2. If any tax, penalty or interest has been paid more than once, or has been erroneously or
11 illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any
12 taxes then due from the person legally obligated to remit the tax ~~[pursuant to sections 144.010 to~~
13 ~~144.525]~~ under chapter 144, and the balance, with interest as determined by section 32.065, shall be
14 refunded to the person legally obligated to remit the tax, but no such credit or refund shall be
15 allowed unless duplicate copies of a claim for refund are filed within ~~[three]~~ ten years from date of
16 overpayment.

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

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

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

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1 authorizes the director to amend the seller's return to reflect the refund; or

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

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

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

31 6. Notwithstanding the provisions of this section, the director of revenue shall authorize
32 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty
33 thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the
34 purposes of such direct-pay agreements, the taxes authorized ~~[pursuant to]~~ under chapters 66, 67, 70,
35 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of
36 business of the purchaser.

37 7. Special rules applicable to error corrections requested by customers of mobile
38 telecommunications service are as follows:

39 (1) For purposes of this subsection, the terms "customer", "home service provider", "place
40 of primary use", "electronic database", and "enhanced zip code" shall have the same meanings as
41 defined in the Mobile Telecommunications Sourcing Act incorporated by reference in section
42 144.013;

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

1 provider reasonably requires to process the request;

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

12 8. For all refund claims submitted to the department of revenue on or after September 1,
 13 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to
 14 remit the tax levied ~~[pursuant to sections 144.010 to 144.525]~~ under chapter 144 has received a
 15 refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on
 16 the same issue for a tax period beginning on or after the date the original refund check issued to
 17 such person, no refund shall be allowed. This subsection shall not apply and a refund shall be
 18 allowed if the refund claim is filed by a purchaser under the provisions of subsection 4 of this
 19 section, the refund claim is for use tax remitted by the purchaser, or an additional refund claim is
 20 filed by a person legally obligated to remit the tax due to any of the following:

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

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

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

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

34 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly
 35 computed, such sum shall be credited on any taxes then due from the person legally obligated to
 36 remit the tax ~~[pursuant to sections 144.010 to 144.510]~~ under chapter 144 against any deficiency or
 37 tax due discovered through an audit of the person by the department of revenue through adjustment
 38 during the same tax filing period for which the audit applied."; and

39
 40 Further amend said bill by amending the title, enacting clause, and intersectional references
 41 accordingly.