

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 704
100TH GENERAL ASSEMBLY

1617H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 139.031, RSMo, and to enact in lieu thereof one new section relating to protests of assessed taxes.

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

Section A. Section 139.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 139.031, to read as follows:

139.031. 1. Any taxpayer may protest all or any part of any current taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under protest or while paying taxes based upon a disputed assessment shall, at the time of paying such taxes, make full payment of the current tax bill before the delinquency date and file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed. An appeal before the state tax commission shall not be dismissed on the grounds that a taxpayer failed to file a written statement when paying taxes based upon a disputed assessment.

2. Upon receiving payment of current taxes under protest ~~[pursuant to]~~ **under** subsection 1 of this section or upon receiving from the state tax commission or the circuit court notice of an appeal from the state tax commission or the circuit court ~~[pursuant to]~~ **under** section 138.430, along with full payment of the current tax bill before the delinquency date, the collector shall disburse to the proper official all portions of taxes not protested or not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are protested or in dispute. Every taxpayer protesting the payment of current taxes under subsection 1 of this section shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 collector maintains his office. If any taxpayer so protesting his taxes under subsection 1 of this
20 section shall fail to commence an action in the circuit court for the recovery of the taxes
21 protested within the time prescribed in this subsection, such protest shall become null and void
22 and of no effect, and the collector shall then disburse to the proper official the taxes impounded,
23 and any interest earned thereon, as provided above in this subsection.

24 3. No action against the collector shall be commenced by any taxpayer who has, effective
25 for the current tax year, filed with the state tax commission or the circuit court a timely and
26 proper appeal of the assessment of the taxpayer's property. The portion of taxes in dispute from
27 an appeal of an assessment shall be impounded in a separate fund and the commission in its
28 decision and order issued ~~[pursuant to]~~ **under** chapter 138 or the circuit court in its judgment
29 may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector
30 to release and disburse all or any part of such taxes.

31 4. Trial of the action for recovery of taxes protested under subsection 1 of this section
32 in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after
33 determination of the issues, the court shall make such orders as may be just and equitable to
34 refund to the taxpayer all or any part of the current taxes paid under protest, together with any
35 interest earned thereon, or to authorize the collector to release and disburse all or any part of the
36 impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing
37 authorities. Either party to the proceedings may appeal the determination of the circuit court.

38 5. All the county collectors of taxes, and the collector of taxes in any city not within a
39 county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax
40 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer
41 has received credit in full for any real or personal property tax mistakenly or erroneously levied
42 against the taxpayer and collected in whole or in part by the collector. Such application shall be
43 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or
44 other appropriate body or official of the county or city not within a county, shall make available
45 to the collector funds necessary to make refunds under this subsection by issuing warrants upon
46 the fund to which the mistaken or erroneous payment has been credited, or otherwise.

47 6. No taxpayer shall receive any interest on any money paid in by the taxpayer
48 erroneously.

49 7. All protested taxes impounded under protest under subsection 1 of this section and
50 all disputed taxes impounded under notice as required by section 138.430 shall be invested by
51 the collector in the same manner as assets specified in section 30.260 for investment of state
52 moneys. A taxpayer who is entitled to a refund of protested or disputed taxes shall also receive
53 the interest earned on the investment thereof. If the collector is ordered to release and disburse
54 all or part of the taxes paid under protest or dispute to the proper official, such taxes shall be

55 disbursed along with the proportional amount of interest earned on the investment of the taxes
56 due the particular taxing authority.

57 8. Any taxing authority may request to be notified by the county collector of current
58 taxes paid under protest. Such request shall be in writing and submitted on or before February
59 first next following the delinquent date of current taxes paid under protest or disputed, and the
60 county collector shall provide such information on or before March first of the same year to the
61 requesting taxing authority of the taxes paid under protest and disputed taxes which would be
62 received by such taxing authority if the funds were not the subject of a protest or dispute. Any
63 taxing authority may apply to the circuit court of the county or city not within a county in which
64 a collector has impounded protested or disputed taxes under this section and, upon a satisfactory
65 showing that such taxing authority would receive such impounded tax funds if they were not the
66 subject of a protest or dispute and that such taxing authority has the financial ability and legal
67 capacity to repay such impounded tax funds in the event a decision ordering a refund to the
68 taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or
69 any part of such impounded tax funds to such taxing authority. The circuit court issuing an order
70 under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to
71 compel restitution of such tax funds to the taxpayer. In the event that any protested or disputed
72 tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection
73 instead of being held and invested by the collector under subsection 7 of this section, ~~[such~~
74 ~~taxing authority shall pay the taxpayer entitled to the refund of such protested or disputed taxes~~
75 ~~the same amount of interest, as determined by the circuit court having jurisdiction in the matter,~~
76 ~~such protested or disputed taxes would have earned if they had been held and invested by the~~
77 ~~collector]~~ **the taxpayer shall be entitled to interest on all refunded tax funds at the annual**
78 **rate calculated by the state treasurer and applied by the director of revenue under section**
79 **32.068. This measure of interest shall only apply to protested or disputed tax funds**
80 **actually distributed to a taxing authority pursuant to this subsection. In the event of a**
81 **refund of protested or disputed tax funds which remain impounded by the collector, the**
82 **taxpayer shall instead be entitled to the interest actually earned on those refunded**
83 **impounded tax funds under subsection 7 of this section. Any sovereign or official**
84 **immunity otherwise applicable to the taxing authorities and the collector is hereby waived**
85 **for all purposes related to this subsection, and the taxpayer is expressly authorized to seek**
86 **an order enforcing this provision from the circuit court that originally ordered the**
87 **distribution of the protested or disputed funds, or directly from the state tax commission,**
88 **if the tax appeal that resulted in the refund was heard and determined by the state tax**
89 **commission.**

90 9. No appeal filed from the circuit court's or state tax commission's determination
91 pertaining to the amount of refund shall stay any order of refund, but the decision filed by any
92 court of last review modifying that determination shall be binding on the parties, and the decision
93 rendered shall be complied with by the party affected by any modification within ninety days of
94 the date of such decision. No taxpayer shall receive any interest on any additional award of
95 refund, and the collector shall not receive any interest on any ordered return of refund in whole
96 or in part.

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