

SECOND REGULAR SESSION

SENATE BILL NO. 1016

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5270S.021

AN ACT

To repeal sections 105.716, 143.621, 143.631, 143.831, 143.841, 144.083, 144.230, 144.240, 144.261, and 147.040, RSMo, and to enact in lieu thereof fifteen new sections relating to the collection of delinquent taxes, with penalty provisions.

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

Section A. Sections 105.716, 143.621, 143.631, 143.831, 143.841, 144.083, 144.230, 144.240, 144.261, and 147.040, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 32.088, 105.716, 140.910, 140.915, 140.920, 143.621, 143.631, 143.831, 143.841, 144.083, 144.230, 144.240, 144.261, 147.040, and 473.401, to read as follows:

32.088. 1. Beginning January 1, 2012, the possession of a statement from the department of revenue stating no tax is due under sections 143.191 to 143.265 or sections 144.010 to 144.510, and sections 143.431 to 143.471 or sections 147.010 to 147.120 if an assessment for which tax is due under sections 143.431 to 143.471 and sections 147.010 to 147.120 has become final under section 143.621, and that no fees are due under sections 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. 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, 2012, in lieu of the provisions of subsection 1 of this section, the director may 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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 of revenue with the name and Missouri tax identification number of
17 each applicant for licensure with, or licensee of, such entities within
18 one month of the date the application is filed or at least one month
19 prior to the anticipated renewal of a licensee's license. If such licensee
20 is delinquent on any taxes under sections 143.191 to 143.265 or sections
21 144.010 to 144.510, and sections 143.431 to 143.471 or sections 147.010 to
22 147.120 if an assessment for which tax is due under sections 143.431 to
23 143.471 and sections 147.010 to 147.120 has become final under section
24 143.621, or fees under sections 260.262 or 260.273, the director shall
25 then send notice to each such entity and licensee. In the case of such
26 delinquency or failure to file, the licensee's license shall be suspended
27 within ninety days after notice of such delinquency or failure to file,
28 unless the director of revenue verifies that such delinquency or failure
29 has been remedied or arrangements have been made to achieve such
30 remedy. The director of revenue shall, within ten business days of
31 notification to the governmental entity issuing the license that the
32 delinquency has been remedied or arrangements have been made to
33 remedy such delinquency, send written notification to the licensee that
34 the delinquency has been remedied. Tax liability paid in protest,
35 timely appealed, remedied through a payment plan with the
36 department or disposed of through an offer and compromise settlement
37 with the department, properly under the state revenue code pending
38 before a court of competent jurisdiction or reasonably founded disputes
39 with such liability shall be considered paid for the purposes of this
40 section.

105.716. 1. Any investigation, defense, negotiation, or compromise of any
2 claim covered by sections 105.711 to 105.726 shall be conducted by the attorney
3 general; provided, that in the case of any claim against the department of
4 conservation, the department of transportation or a public institution which
5 awards baccalaureate degrees, or any officer or employee of such department or
6 such institution, any investigation, defense, negotiation, or compromise of any
7 claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel
8 provided by the respective entity against which the claim is made or which
9 employs the person against whom the claim is made. In the case of any payment
10 from the state legal expense fund based upon a claim or judgment against the
11 department of conservation, the department of transportation or any officer or
12 employee thereof, the department so affected shall immediately transfer to the

13 state legal expense fund from the department funds a sum equal to the amount
14 expended from the state legal expense fund on its behalf.

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

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

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

36 **5. Notwithstanding any other provisions of law to the contrary,**
37 **no funds shall be expended from the state legal expense fund except**
38 **upon the production of a no tax due statement from the department of**
39 **revenue by the party making claim or having judgment under section**
40 **105.711, which shall be satisfied from such fund. If the party is found**
41 **by the director of revenue to owe a delinquent tax debt to the state of**
42 **Missouri under the revenue laws of this state, any funds to be paid to**
43 **the party from the state legal expense fund shall be offset to satisfy**
44 **such tax debt before payment is made to the party making claim or**
45 **having judgment.**

140.910. 1. In addition to any other remedy provided by law for
2 the collection of delinquent taxes due the state, if the director has filed
3 a certificate of lien in the circuit court as provided by section 143.902,

4 144.380, or 144.690, the director or the director's designee may issue an
5 order directing any person to withhold and pay over to the department
6 assets belonging to, due, or to become due the taxpayer. The director
7 or the director's designee shall not issue the administrative
8 garnishment if the taxpayer has entered into a written agreement with
9 the department for an alternative payment arrangement and the
10 taxpayer is in compliance with the agreement.

11 2. An order entered under this section shall be served on the
12 person or other legal entity either by regular mail or certified mail,
13 return receipt requested, or may be issued through electronic means,
14 and shall be binding on the employer or other payor two weeks after
15 mailing or electronic issuance of such service. The person or other
16 entity in possession of assets belonging to, due, or to become due the
17 taxpayer may deduct an additional sum not to exceed six dollars per
18 month as reimbursement for costs, except that the total amount
19 withheld shall not exceed the limitations contained in Section 303 of
20 the federal Consumer Credit Protection Act (15 U.S.C. Section 1673), as
21 amended.

22 3. A copy of the order shall be mailed to the taxpayer at the
23 taxpayer's last known address. The notice shall advise the taxpayer
24 that the administrative garnishment has commenced and the
25 procedures to contest such garnishment on the grounds that such
26 garnishment is improper because of a mistake of fact by requesting a
27 hearing within thirty days from the mailing or electronic issuance of
28 the notice. At such hearing, the certified records of the department
29 shall constitute prima facie evidence that the director's order is valid
30 and enforceable. If a prima facie case is established, the obligor may
31 only assert as a defense mistake as to the identity of the taxpayer,
32 mistake as to payments made, or existence of an alternative payment
33 agreement for which no default has occurred. The taxpayer shall have
34 the burden of proof on such issues. The taxpayer may obtain relief
35 from the garnishment by paying the amount owed.

36 4. An employer or other payor shall withhold from the earnings
37 or other income of each taxpayer the amount specified in the
38 order. The employer or other payor shall transmit the payments as
39 directed in the order within ten business days of the date the earnings,
40 money due, or other income was payable to the taxpayer. The employer

41 or other payor shall, along with the amounts transmitted, provide the
42 date the amount was withheld from the taxpayer. As used in this
43 section, the term "business day" means a day that state offices are open
44 for regular business.

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

51 6. If the order is served on a person other than an employer or
52 other payor, it shall be a lien against any money belonging to the
53 taxpayer that is in the possession of the person on the date of
54 service. The person other than an employer or other payor shall pay
55 over any assets within ten business days of the service date of the
56 order. A financial institution ordered to surrender an account shall be
57 entitled to collect its normally scheduled account activity surcharges
58 to maintain the account during the period of time the account is
59 garnished. For purposes of this section, the interest of the taxpayer in
60 any joint financial accounts shall be presumed to be equal to all other
61 joint owners.

62 7. An order issued under subsection 1 of this section shall have
63 priority over any other legal process under state law against the same
64 income or other asset, except that where the other legal process is an
65 order issued under section 452.350, 454.505, or 454.507, the withholding
66 for child support shall have priority.

67 8. No person who complies with an order entered under this
68 section shall be liable to the taxpayer, or to any other person claiming
69 rights derived from the taxpayer, for wrongful withholding. A person
70 who fails or refuses to withhold or pay the amounts as ordered under
71 this section shall be liable to the state in a sum equal to the value of
72 the wages or property not surrendered, but not to exceed the amount
73 of tax deficiency. The director is hereby authorized to bring an action
74 in circuit court to determine the liability of a person for failure to
75 withhold or pay the amounts as ordered. If a court finds that a
76 violation has occurred, the court may fine the person in an amount not
77 to exceed five hundred dollars. The court may also enter a judgment

78 against the person or other legal entity for the amounts to be withheld
79 or paid, court costs, and reasonable attorney's surcharges.

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

84 10. An employer shall not discharge or refuse to hire or
85 otherwise discipline an employee as a result of an order to withhold
86 and pay over certain money authorized by this section.

87 11. If a taxpayer for whom an order to withhold has been issued
88 under subsection 1 of this section terminates the taxpayer's
89 employment, the employer shall, within ten days of the termination,
90 notify the department of the termination, shall provide to the
91 department the last known address of the taxpayer, if known to the
92 employer, and shall provide to the department the name and address
93 of the taxpayer's new employer, if known. The director or the
94 director's designee may issue an order to the new employer as provided
95 in subsection 1 of this section.

96 12. For purposes of this section, the term "assets" includes, but
97 is not limited to, currency, any financial account or other liquid asset,
98 and any income or other periodic form of payment due to a taxpayer
99 regardless of source, including, but not limited to, wages, salaries,
100 commissions, bonuses, workers' compensation benefits, disability
101 benefits, payments under a pension or a retirement program, and
102 interest.

140.915. 1. As used in this section, the following terms mean:

2 (1) "Delinquent taxpayer", any taxpayer against whom the
3 director has a current outstanding certificate of lien filed with the
4 circuit court as provided by section 143.902, 144.380, or 144.690;

5 (2) "Financial institution", any financial institution defined in
6 section 454.507.

7 2. To assist the department in the collection of delinquent taxes
8 and debts owed to the state, the department may implement and
9 operate a financial institution match system for the purpose of
10 identifying and seizing the financial assets of delinquent taxpayers as
11 identified by the department. This provision shall be applied uniformly
12 to all financial institutions within the state holding accounts subject to

13 garnishment as authorized by section 140.910.

14 3. Any financial institution with an agreement under subsection
15 3 of section 454.507 shall use the data match system to identify accounts
16 of delinquent taxpayers as provided by subsection 2 of this section.

17 4. (1) When the department determines that the name, record
18 address, and either Social Security number or taxpayer identification
19 number of an account with a financial institution matches the name,
20 record address, and either the Social Security number or taxpayer
21 identification number of a delinquent taxpayer or debtor, a lien or levy
22 shall arise against the assets in the account at the time of receipt of the
23 notice by the financial institution at which the account is maintained.

24 (2) The department shall provide notice of the following to the
25 delinquent taxpayer and the financial institution:

26 (a) The match;

27 (b) The lien or garnishment arising therefrom; and

28 (c) The action to be taken to surrender or encumber the account
29 with the lien or garnishment for delinquent taxes.

30 The department shall provide notice to the delinquent taxpayer by
31 regular mail or other electronic means within two business days of the
32 date the department sends the notice to the financial institution.

33 5. (1) The financial institution shall provide identifying
34 information each calendar quarter to the department for each
35 delinquent taxpayer or debtor identified by the department that is
36 indebted to the state for delinquent taxes or debts and who maintains
37 an account at the institution.

38 (2) The financial institution shall be paid a fee from the
39 delinquent taxpayer's account, not to exceed the actual cost, for
40 conducting data matches.

41 (3) Except for the exchange of information between the
42 department and financial institutions necessary for the enforcement of
43 this section and section 140.910, any information obtained by the
44 department from financial institutions shall be subject to
45 confidentiality restrictions imposed on the department by section
46 32.057.

47 (4) A financial institution shall not be liable for encumbering or
48 surrendering any assets held by the financial institution in response to
49 a lien or notice of levy issued by the department or any other action

50 taken in good faith to comply with the requirements of this section or
51 section 140.910.

52 6. (1) A financial institution furnishing a report or providing
53 asset information about a delinquent taxpayer or debtor to the
54 department shall not disclose to the delinquent taxpayer or debtor that
55 the name of that person has been received from or furnished to the
56 department. A financial institution may disclose to its depositors or
57 account holders that under the financial institution match system, the
58 department has the authority to request certain identifying information
59 on certain depositors or account holders.

60 (2) If a financial institution willfully violates the provisions of
61 this section, the institution shall pay to the department the lesser of
62 one thousand dollars or the amount on deposit or in the account of the
63 person about whom the disclosure was made.

64 (3) A financial institution shall incur no obligation or liability to
65 a depositor or account holder or any other person arising from the
66 furnishing of a report or information to the department under this
67 section or section 140.910, or from the failure to disclose to a depositor
68 or account holder that the name of the person was included in a list or
69 report furnished by the financial institution to the department.

70 (4) A financial institution shall not give notice to an account
71 holder or customer of the financial institution that the financial
72 institution has provided information or taken any action under this
73 section or section 140.910 and shall not be liable for failure to provide
74 that notice. However, a financial institution may disclose to its
75 depositors or account holders that, under the data match system, the
76 department has the authority to request certain identifying information
77 on certain depositors or account holders.

140.920. 1. In any case in which an assessment of tax, interest,
2 additions to tax, or penalty imposed under chapters 142 through 155
3 has been made and has become final, the director of revenue may file
4 a certificate of tax lien in the situations listed in this subsection. Such
5 certificate shall be in the same form as those filed under sections
6 143.902 and 144.380. The director shall notify the taxpayer of the
7 department's intent to file before the filing of such certificate.

8 (1) The director may cause a lien to be filed upon any workers'
9 compensation benefits payable to a taxpayer.

10 **(a) No such lien shall be effective unless and until a certificate**
11 **of tax lien is filed with the director of the division of workers'**
12 **compensation.**

13 **(b) Upon the filing of the certificate under this section, the**
14 **director of the division of workers' compensation shall mail a copy of**
15 **the certificate to the taxpayer and to all attorneys and insurance**
16 **carriers of record. The taxpayer, attorneys, and insurance carriers**
17 **shall be deemed to have received notice within five days of the mailing**
18 **of the certificate by the director of the division of workers'**
19 **compensation. The lien described in this section shall attach to all**
20 **workers' compensation benefits which are thereafter payable.**

21 **(2) The director may cause a lien to be filed upon a taxpayer's**
22 **distributive share of a decedent's estate.**

23 **(a) No such lien shall be effective unless and until a certificate**
24 **of tax lien is filed with the clerk of the probate court in which the**
25 **decedent's estate is being administered and a copy of the certificate of**
26 **tax lien is mailed to the personal representative of the decedent or the**
27 **attorney of record.**

28 **(b) The lien shall attach to the taxpayer's distributive share upon**
29 **the filing of the certificate of tax lien with the probate**
30 **clerk. Thereafter, the personal representative of the decedent shall pay**
31 **to the department of revenue the lesser of the taxpayer's distributive**
32 **share or the amount certified on the certificate of tax lien. If the**
33 **personal representative fails to pay the department of revenue, the**
34 **personal representative shall be liable upon the representative's bond**
35 **to the department of revenue.**

36 **(3) The director may cause a lien to be filed upon any and all**
37 **claims, counterclaims, or suits at law of any taxpayer.**

38 **(a) No such lien shall be effective unless and until the certificate**
39 **of tax lien is filed with the clerk of the court in which the claim,**
40 **counterclaim, or suit at law is pending.**

41 **(b) Upon filing with the clerk, the clerk of the court shall mail**
42 **a copy of the certificate of tax lien to the taxpayer and to all attorneys**
43 **of record. The taxpayer and attorneys of record shall be deemed to**
44 **have received the notice within five days of the mailing by the**
45 **clerk. The lien shall attach to any payment or settlement made more**
46 **than five days after the clerk mailed the notice.**

47 **(4) The director may cause a lien to be filed upon any and all**
48 **demands or rights of action for negligence or personal injury which the**
49 **taxpayer may have. No such lien shall be effective unless and until the**
50 **certificate of tax lien is mailed to the alleged tort-feasor or the attorney**
51 **of record, if any. The certificate of tax lien shall include instructions**
52 **to the alleged tort-feasor or the attorney to mail a copy of the**
53 **certificate of tax lien to the alleged tort-feasor's insurance carrier, if**
54 **any.**

55 **2. In all above cases where the director files a certificate of tax**
56 **lien, the director shall within twenty days after filing such certificate**
57 **notify the taxpayer by first class mail postage prepaid at the taxpayers**
58 **last known address.**

59 **3. The remedies in this section are cumulative and in addition**
60 **to other collection methods given the director of revenue. No action**
61 **taken shall be construed as an election on the part of the state or any**
62 **of its officers to pursue any remedy or action hereunder to the**
63 **exclusion of any other remedy or action for which provision is made.**

64 **4. If any certificate of lien has been erroneously or**
65 **improvidently filed, the taxpayer or any other person affected by the**
66 **lien may notify the director of revenue. The taxpayer or other affected**
67 **person shall provide the director with the reasons the filing of the**
68 **certificate of lien is erroneous or improvident as to such person,**
69 **including that the affected person's name or other identification is**
70 **similar to the taxpayer's, and a list of creditors with current addresses**
71 **who are affected by the department's action. Upon receipt of the**
72 **creditor list, reasons, and verification of the erroneous or improvident**
73 **filing, the director shall release the lien as to the taxpayer or the**
74 **affected person, as necessary, and notify all creditors, stating the**
75 **certificate of lien was filed erroneously or improvidently. If the**
76 **certificate of lien was erroneously or improvidently filed the director**
77 **shall forthwith make a determination in writing which shall become a**
78 **public record in the same place the certificate of lien is noted under**
79 **subsection 5 of this section that the same be expunged from the record**
80 **and give written notice thereof, duly certified, by certified mail to all**
81 **parties identified in subsection 1 who received notice by the**
82 **department of revenue. The director shall take whatever steps are**
83 **necessary to ensure the lien is expunged.**

84 **5. The director of revenue shall establish and maintain records**
85 **for all certificates of lien filed under this section. The director shall**
86 **also maintain records of all releases of lien filed under this**
87 **section. Notwithstanding any provisions of section 32.057 to the**
88 **contrary, the records prepared by the director under this section, to**
89 **the extent such information is contained in the certificate of tax lien**
90 **or any such release, withdrawal, or expungement, shall be open to**
91 **public inspection. Such records established and maintained by the**
92 **director shall not be the official record and are not conclusive evidence**
93 **of any liability of any taxpayer to this state.**

94 **6. If any action is taken by the director under the provisions of**
95 **chapters 142 to 155 to alter or abate any assessment upon which a**
96 **judgment has been filed under subsection 1 of this section, the director**
97 **is authorized to file a modification or satisfaction of such judgment.**

143.621. [Sixty] **Thirty** days after the date on which it was mailed [(], or
2 one hundred fifty days if the taxpayer is outside the United States)], a notice of
3 deficiency shall constitute a final assessment of the amount of tax specified
4 together with interest, additions to tax, and penalties except only for such
5 amounts as to which the taxpayer has filed a protest with the director of revenue.

143.631. 1. Within [sixty] **thirty** days [(], or one hundred fifty days if
2 the taxpayer is outside the United States)], after the mailing of a notice of
3 deficiency, the taxpayer may file with the director of revenue a written protest
4 against the proposed assessment in which he shall set forth the grounds on which
5 the protest is based. If a protest is filed, the director of revenue shall reconsider
6 the proposed deficiency.

7 2. A taxpayer's protest may include a request for an informal hearing with
8 the director. If such a request is made, an informal hearing shall be heard. The
9 informal hearing shall be a forum for discussion of the merits of the proposed
10 assessment. The parties shall also consider the possibility of negotiating a
11 settlement of the contested tax liability.

12 3. If a taxpayer has filed a timely protest under subsection 1 of this
13 section, the taxpayer may, at any time before an assessment has become final,
14 make a deposit with the director of revenue of any part or all of the tax, interest,
15 additions to tax or penalties proposed in the notice of deficiency. The deposit
16 shall be accompanied by a written statement setting forth:

17 (1) The identification of the tax and the tax period to which the deposit

18 applies;

19 (2) The amount of tax, interest, additions to tax or penalties to which the
20 deposit is to be applied by the director; and

21 (3) Such other identifying information as the director of revenue may by
22 regulation provide.

23 4. Upon receipt of a timely deposit under subsection 2 of this section, the
24 director of revenue shall issue a receipt to the taxpayer acknowledging receipt of
25 the deposit, and confirming the amount of tax, interest, additions to tax and
26 penalty to which the deposit has been applied. All such deposits shall be
27 deposited in the general revenue fund of the state as payments of tax, interest,
28 additions to tax and penalty, as the case may be. The director of revenue shall
29 refuse the tender of any deposit which does not satisfy the requirements of this
30 section, and shall return such payment to the taxpayer.

31 5. A taxpayer which had made a deposit under this section which has
32 been accepted by the director of revenue may at any time before an assessment
33 has become final or an action has been filed in the circuit court of Cole County
34 under subsection 5 of section 143.841, request in writing that the director of
35 revenue return the deposit to the taxpayer. The director of revenue shall return
36 such deposit without interest if a written request is made. The taxpayer's request
37 for return of a deposit shall not be treated under this chapter as a claim for
38 refund for purposes of section 143.821.

39 6. The payment under protest provision provided by this section shall only
40 apply to taxes imposed by this chapter and shall not be incorporated by reference
41 to apply to taxes imposed by other chapters.

143.831. The director of revenue shall mail notice of his action on the
2 claim for refund within one hundred twenty days of the mailing of such
3 claim. The action denying a claim for refund is final upon the expiration of
4 **[sixty] thirty** days from the date when he mails notice of his action to the
5 taxpayer, except only for such amounts as to which the taxpayer has filed a
6 protest with the director of revenue.

143.841. 1. Within **[sixty] thirty** days after denial of the claim, the
2 taxpayer may file with the director of revenue a written protest against such
3 denial setting forth the grounds on which the protest is based. If a protest is
4 filed, the director of revenue shall reconsider the denial.

5 2. Within ninety days after the filing of a protest, notice of the director of
6 revenue's determination shall be mailed to the taxpayer by certified or registered

7 mail and such notice shall set forth briefly the director of revenue's findings of
8 fact and the basis of decision in each case decided in whole or in part adversely
9 to the taxpayer.

10 3. The action of the director of revenue on the taxpayer's protest is final
11 upon the expiration of thirty days from the date when he mails notice of his
12 action to the taxpayer unless within this period the taxpayer seeks review of the
13 director of revenue's determination by the administrative hearing commission.

14 4. The administrative hearing commission shall hold all hearings under
15 this section in the county in which the taxpayer resides, or if a corporation, in the
16 county of its principal place of business in this state.

17 5. A taxpayer which has made a deposit with the director of revenue
18 under subsection 2 of section 143.631, in lieu of seeking review by the
19 administrative hearing commission of a determination by the director of revenue
20 under section 143.641 or subsection 2 of section 143.841, may, within the time
21 permitted for filing an action in the administrative hearing commission seeking
22 review of such action of the director of revenue, bring an action against the
23 director of revenue by filing a petition for recovery of an overpayment in the
24 circuit court of Cole County. Trial of the action in the circuit court shall be in the
25 manner prescribed for nonjury civil proceedings, and, after determination of the
26 issues, the court shall make such orders as may be just and equitable to refund
27 to the taxpayer all or any part of the taxes paid for the tax periods at issue, with
28 interest as prescribed in section 143.811. The director of revenue may be
29 represented by legal counsel from the department of revenue in such
30 proceedings. Either party to the proceedings may appeal the determination of the
31 circuit court.

144.083. 1. The director of revenue shall require all persons who are
2 responsible for the collection of taxes under the provisions of section 144.080 to
3 procure a retail sales license at no cost to the licensee which shall be prominently
4 displayed at the licensee's place of business, and the license is valid until revoked
5 by the director or surrendered by the person to whom issued when sales are
6 discontinued. The director shall issue the retail sales license within ten working
7 days following the receipt of a properly completed application. Any person
8 applying for a retail sales license or reinstatement of a revoked sales tax license
9 who owes any tax under sections 144.010 to 144.510 or sections 143.191 to
10 143.261, RSMo, must pay the amount due plus interest and penalties before the
11 department may issue the applicant a license or reinstate the revoked license. All

12 persons beginning business subsequent to August 13, 1986, and who are required
13 to collect the sales tax shall secure a retail sales license prior to making sales at
14 retail. Such license may, after ten days' notice, be revoked by the director of
15 revenue only in the event the licensee shall be in default for a period of sixty days
16 in the payment of any taxes levied under section 144.020 or sections 143.191 to
17 143.261, RSMo. Notwithstanding the provisions of section 32.057, RSMo, in the
18 event of revocation, the director of revenue may publish the status of the business
19 account including the date of revocation in a manner as determined by the
20 director.

21 2. The possession of a retail sales license and a statement from the
22 department of revenue that the licensee owes no tax due under [sections 144.010
23 to 144.510 or sections 143.191 to 143.261, RSMo,] **section 32.088** shall be a
24 prerequisite to the issuance or renewal of any city or county occupation license
25 or any state license which is required for conducting any business where goods
26 are sold at retail. The date of issuance on the statement that the licensee owes
27 no tax due shall be no more than ninety days before the date of submission for
28 application or renewal of the local license. The revocation of a retailer's license
29 by the director shall render the occupational license or the state license null and
30 void.

31 3. No person responsible for the collection of taxes under section 144.080
32 shall make sales at retail unless such person is the holder of a valid retail sales
33 license. After all appeals have been exhausted, the director of revenue may notify
34 the county or city law enforcement agency representing the area in which the
35 former licensee's business is located that the retail sales license of such person
36 has been revoked, and that any county or city occupation license of such person
37 is also revoked. The county or city may enforce the provisions of this section, and
38 may prohibit further sales at retail by such person.

39 4. In addition to the provisions of subsection 2 of this section, beginning
40 January 1, 2009, **and ending on December 31, 2011**, the possession of a
41 statement from the department of revenue stating no tax is due under sections
42 143.191 to 143.265, RSMo, or sections 144.010 to 144.510 shall also be a
43 prerequisite to the issuance or renewal of any city or county occupation license
44 or any state license required for conducting any business where goods are sold at
45 retail. The statement of no tax due shall be dated no longer than ninety days
46 before the date of submission for application or renewal of the city or county
47 license.

48 5. Notwithstanding any law or rule to the contrary, sales tax shall only
49 apply to the sale price paid by the final purchaser and not to any off-invoice
50 discounts or other pricing discounts or mechanisms negotiated between
51 manufacturers, wholesalers, and retailers.

144.230. Any amount assessed or any additional amount assessed by the
2 director of revenue under the provisions of sections 144.010 to 144.525, together
3 with the penalty, if any there be, shall be due and payable from the person to the
4 director of revenue **[sixty] thirty** days after the service upon or mailing to the
5 person of notice of such assessment or such additional assessment, except only
6 for such amounts as to which the person has filed a petition for review with the
7 administrative hearing commission.

144.240. 1. An additional assessment shall be a final decision of the
2 director of revenue. Notwithstanding the provisions of section 621.050, RSMo, to
3 the contrary, an additional assessment may be appealed to the administrative
4 hearing commission within **[sixty] thirty** days after the date the assessment is
5 delivered in person or is sent by certified mail, whichever is earlier.

6 2. Within **[sixty] thirty** days after the date on which an additional
7 assessment is delivered in person or is sent by certified mail, whichever is earlier,
8 the taxpayer may request an informal review of the assessment by the director
9 of revenue. The informal review shall not affect the time within which the
10 taxpayer may appeal the assessment to the administrative hearing commission
11 and any such appeal must be filed within **[sixty] thirty** days after the date the
12 assessment is delivered in person or is sent by certified mail, whichever is earlier.
13 If such an informal review is requested by a taxpayer, the director of revenue
14 shall informally review the assessment. The informal review shall not require
15 findings of fact or conclusions of law. If the taxpayer proves to the director's
16 satisfaction that the assessment is incorrect, the assessment shall be cancelled
17 and a revised assessment may be made against the taxpayer for the same period,
18 notwithstanding the provisions of section 144.220 to the contrary.

19 3. The taxpayer may request and the director may enter into a payment
20 agreement with any taxpayer against which an assessment has been made, if the
21 director determines that such agreement is in the best interest of the state.

144.261. Final decisions of the director under the provisions of this
2 chapter are reviewable by the filing of a petition with the administrative hearing
3 commission in the manner provided in section 621.050, RSMo; except that,
4 notwithstanding the provisions of section 621.050, RSMo, to the contrary, such

5 petition must be filed within [sixty] **thirty** days after the mailing or delivery of
6 such decision, whichever is earlier.

147.040. 1. As soon as practical after a corporation's franchise tax report
2 is filed, the director of revenue shall examine it to determine the correct amount
3 of tax based upon the facts contained in the report or upon any information
4 within the director's possession or that may come into the director's possession.

5 2. In the event that the amount of tax is understated on a corporation's
6 franchise tax report, the director of revenue shall notify the corporation that an
7 amount of tax in excess of that shown on the return is due and has been
8 assessed. Such assessment shall be final unless the corporation files a protest
9 with the director of revenue, setting forth the grounds on which the protest is
10 based, within [sixty] **thirty** days from the date the notice of assessment was
11 mailed to the corporation.

12 3. If a protest is filed, the director of revenue shall reconsider the
13 assessment, and, if the corporation has so requested, shall grant the corporation
14 a hearing within ninety days after the protest is filed unless extended by
15 agreement between the corporation and the director of revenue.

16 4. Notice of the director of revenue's determination shall be mailed to the
17 corporation by certified or registered mail and such notice shall set forth briefly
18 the director of revenue's findings of fact and the basis of decision in each case
19 decided in whole or in part adversely to the corporation.

20 5. The action of the director of revenue on the corporation's protest is final
21 upon the expiration of thirty days from the date when the director mails notice
22 of the director's action to the corporation unless within this period the corporation
23 seeks review of the director of revenue's determination by the administrative
24 hearing commission.

25 6. In the event that the amount of tax is overstated on a corporation's
26 franchise tax report, the director of revenue shall notify the corporation that the
27 tax paid is more than the correct amount and credit such overpayment against
28 any tax, interest, additions to tax or penalties due from such corporation and
29 refund the difference.

30 7. No assessment or refund shall be made unless the amount exceeds ten
31 dollars.

32 8. If any corporation subject to the provisions of sections 147.010 to
33 147.120 fails or neglects to make the report required by sections 147.010 to
34 147.120 or pay its franchise taxes within ninety days after the time required by

35 sections 147.010 to 147.120 (determined with regard to any extension of time for
36 filing its franchise tax report or for the payment of its franchise tax), such
37 corporation, if organized pursuant to the laws of this state, shall be
38 administratively dissolved pursuant to the provisions of sections 351.484 and
39 351.486, RSMo, or if a foreign corporation, shall have its certificate of authority
40 revoked pursuant to the provisions of sections 351.598 and 351.602, RSMo.

**473.401. 1. As used in this section, the term "estate" shall be
2 defined beyond the definition as provided in subdivision (11) of section
3 472.010 to include any real or personal property and other assets in
4 which the individual has any legal title or interest at the time of death,
5 to the extent of such interest, including such assets conveyed to a
6 survivor, heir, or assign of the deceased individual through joint
7 tenancy, tenancy in common, survivorship, life estate, living trust,
8 annuity, or other arrangement.**

9 **2. Upon the death of a person who is determined by the director
10 of the department of revenue to owe a current or delinquent tax under
11 chapters 142 to 155, such tax shall be a debt due the state from the
12 estate of the decedent. The debt shall be collected as provided by the
13 probate code of Missouri, chapters 456, 461, 472, 473, 474, and 475, in
14 addition to all other remedies afforded the director under the revenue
15 laws of this state for the collection of current and delinquent taxes.**

16 **3. Such claims shall be allowed as a claim of the seventh class
17 under subdivision (7) of section 473.397.**

18 **4. Certified records of the director of the department of revenue,
19 or the director's designee, shall be prima facie evidence of the tax debt
20 owed by the decedent. Evidence of transcribed certificates of tax with
21 a circuit court of this state as allowed under sections 143.902, 144.380,
22 and 144.690 shall be conclusive evidence of the obligation of the
23 liability of the deceased. Objections to such claim shall be limited to
24 those objections the decedent would have had under the revenue laws
25 of this state had the decedent survived.**

26 **5. Before any probate estate may be closed under the probate
27 code or a certificate of the clerk may be issued under subsection 5 of
28 section 473.097, the personal representative, affiant, or conservator of
29 the estate shall file with the clerk of the court exercising probate
30 jurisdiction a statement of no tax due from the department of revenue,
31 or the department of revenue shall file claim under this section and file**

32 the proper satisfaction of claim with the court exercising probate
33 jurisdiction. Such statement of no tax due shall not be dated more than
34 sixty days before the closing of the estate or the issuance of the clerk's
35 certificate.

✓

Unofficial

Bill

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