

FIRST REGULAR SESSION

# HOUSE BILL NO. 767

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BAHR (Sponsor), KELLEY (126), GATSCHENBERGER,  
KELLY (24), LASATER, PACE AND McGEOGHEGAN (Co-sponsors).

1774L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 32, RSMo, by adding thereto one new section relating to offsets from state income tax refunds.

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

Section A. Chapter 32, RSMo, is amended by adding thereto one new section, to be  
2 known as section 32.386, to read as follows:

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

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

5 (2) **"Nontax liability due the state", a liability certified to the director of revenue**  
6 **by a state agency, including but not limited to fines, fees, penalties, and other nontax**  
7 **assessments imposed by or payable to any state agency that is finally determined to be due**  
8 **and owing;**

9 (3) **"Offset agreement", an agreement authorized by this section;**

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

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

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.

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

18           (7) "Vendor payment", any payment, other than a refund, made by the state to any  
19 person or entity, including but not limited to any expense reimbursement to an employee  
20 of the state. "Vendor payment" shall not include a person's salary, wages, or pension.

21           2. The director of revenue and the commissioner of administration may jointly  
22 enter into a reciprocal collection and offset of indebtedness agreement with the United  
23 States government, under which the state will offset from state tax refunds and from  
24 payments otherwise due to vendors and contractors providing goods or services to state  
25 departments, agencies, or other state agencies nontax debt owed to the federal government,  
26 and the United States government will offset from federal payments to vendors,  
27 contractors, and taxpayers debt owed to the state of Missouri.

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

29           (1) Certify to the state of Missouri the existence of a person's delinquent nontax  
30 liability owed by the person to the United States government;

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

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

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

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

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

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

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

45           (2) The social security number or federal tax identification number;

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

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

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

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

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

56 (3) Pay any refund or vendor payment in excess of the certified amount to the  
57 person; and

58 (4) Pay to the federal official the lesser of:

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

60 (b) The amount certified.

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

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

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

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

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

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

71 (2) The social security number or tax identification number;

72 (3) The amount of the tax or nontax liability;

73 (4) A statement that the debt is past due and legally enforceable in the amount  
74 certified; and

75 (5) Any other information required by federal statute or regulation applicable to  
76 the collection of the debt by offset of federal payments.

77 8. Notwithstanding any other provision of law to the contrary, the director of  
78 revenue and the commissioner of administration shall have the authority to enter into  
79 reciprocal agreements with any other state which extends a like comity to this state to set  
80 off offset from state tax refunds and from payments otherwise due to vendors and  
81 contractors providing goods or services to state departments, agencies, or other state  
82 agencies nontax debt for debts due the other state that extends a like comity to this state.