

FIRST REGULAR SESSION

HOUSE BILL NO. 819

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DENISON.

1768L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.057, 142.836, 142.842, 142.900, 143.571, 143.611, 143.971, 144.100, 144.210, 144.320, and 144.640, RSMo, and to enact in lieu thereof thirteen new sections relating to electronic notifications and forms from the department of revenue, with penalty provisions.

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

Section A. Sections 32.057, 142.836, 142.842, 142.900, 143.571, 143.611, 143.971, 144.100, 144.210, 144.320, and 144.640, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 32.057, 32.064, 32.081, 142.836, 142.842, 142.900, 143.571, 143.611, 143.971, 144.100, 144.210, 144.320, and 144.640, to read as follows:

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

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.

14 2. Nothing in this section shall be construed to prohibit:

15 (1) The disclosure of information, returns, reports, or facts shown thereby, as described
16 in subsection 1 of this section, by any officer, clerk or other employee of the department of
17 revenue charged with the custody of such information:

18 (a) To a taxpayer or the taxpayer's duly authorized representative under regulations
19 which the director of revenue may prescribe, **including notification by electronic means if the**
20 **taxpayer has consented to such notification;**

21 (b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue
22 laws of this state;

23 (c) To the state auditor or the auditor's duly authorized employees as required by
24 subsection 4 of this section;

25 (d) To any city officer designated by ordinance of a city within this state to collect a city
26 earnings tax, upon written request of such officer, which request states that the request is made
27 for the purpose of determining or enforcing compliance with such city earnings tax ordinance
28 and provided that such information disclosed shall be limited to that sufficient to identify the
29 taxpayer, and further provided that in no event shall any information be disclosed that will result
30 in the department of revenue being denied such information by the United States or any other
31 state. The city officer requesting the identity of taxpayers filing state returns but not paying city
32 earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax,
33 and the director shall compare the list submitted with the director's records and return to such
34 city official the name and address of any taxpayer who is a resident of such city who has filed
35 a state tax return but who does not appear on the list furnished by such city. The director of
36 revenue may set a fee to reimburse the department for the costs reasonably incurred in providing
37 this information;

38 (e) To any employee of any county or other political subdivision imposing a sales tax
39 which is administered by the state department of revenue whose office is authorized by the
40 governing body of the county or other political subdivision to receive any and all records of the
41 state director of revenue pertaining to the administration, collection and enforcement of its sales
42 tax. The request for sales tax records and reports shall include a description of the type of report
43 requested, the media form including electronic transfer, computer tape or disk, or printed form,
44 and the frequency desired. The request shall be made by annual written application and shall be
45 filed with the director of revenue. The director of revenue may set a fee to reimburse the
46 department for the costs reasonably incurred in providing this information. Such city or county
47 or any employee thereof shall be subject to the same standards for confidentiality as required for
48 the department of revenue in using the information contained in the reports;

49 (f) To the director of the department of economic development or the director's duly
50 authorized employees in discharging the director's official duties to certify taxpayers eligibility
51 to claim state tax credits as prescribed by statutes;

52 (g) To any employee of any political subdivision, such records of the director of revenue
53 pertaining to the administration, collection and enforcement of the tax imposed in chapter 149
54 as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such
55 political subdivision. The request for such records shall be made in writing to the director of
56 revenue, and shall include a description of the type of information requested and the desired
57 frequency. The director of revenue may charge a fee to reimburse the department for costs
58 reasonably incurred in providing such information;

59 (2) The publication by the director of revenue or of the state auditor in the audit reports
60 relating to the department of revenue of:

61 (a) Statistics, statements or explanations so classified as to prevent the identification of
62 any taxpayer or of any particular reports or returns and the items thereof;

63 (b) The names and addresses without any additional information of persons who filed
64 returns and of persons whose tax refund checks have been returned undelivered by the United
65 States Post Office;

66 (3) The director of revenue from permitting the Secretary of the Treasury of the United
67 States or the Secretary's delegates, the proper officer of any state of the United States imposing
68 a tax equivalent to any of the taxes administered by the department of revenue of the state of
69 Missouri or the appropriate representative of the multistate tax commission to inspect any return
70 or report required by the respective tax provision of this state, or may furnish to such officer an
71 abstract of the return or report or supply the officer with information contained in the return or
72 disclosed by the report of any authorized investigation. Such permission, however, shall be
73 granted on condition that the corresponding revenue statute of the United States or of such other
74 state, as the case may be, grants substantially similar privileges to the director of revenue and on
75 further condition that such corresponding statute gives confidential status to the material with
76 which it is concerned;

77 (4) The disclosure of information, returns, reports, or facts shown thereby, by any person
78 on behalf of the director of revenue, in any action or proceeding to which the director is a party
79 or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state
80 when such information is directly involved in the action or proceeding, in either of which events
81 the court may require the production of, and may admit in evidence, so much of such information
82 as is pertinent to the action or proceeding and no more;

83 (5) The disclosure of information, returns, reports, or facts shown thereby, by any person
84 to a state or federal prosecuting official, including, but not limited to, the state and federal
85 attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil

86 investigation, action or proceeding pursuant to the laws of this state or of the United States when
87 such information is pertinent to an investigation, action or proceeding involving the
88 administration of the revenue laws or duties of public office or employment connected therewith;

89 (6) Any school district from obtaining the aggregate amount of the financial institution
90 tax paid pursuant to chapter 148 by financial institutions located partially or exclusively within
91 the school district's boundaries, provided that the school district request such disclosure in
92 writing to the department of revenue;

93 (7) The disclosure of records which identify all companies licensed by this state pursuant
94 to the provisions of subsections 1 and 2 of section 149.035. The director of revenue may charge
95 a fee to reimburse the department for the costs reasonably incurred in providing such records;

96 (8) The disclosure to the commissioner of administration pursuant to section 34.040 of
97 a list of vendors and their affiliates who meet the conditions of section 144.635, but refuse to
98 collect the use tax levied pursuant to chapter 144 on their sales delivered to this state;

99 (9) The disclosure to the public of any information, or facts shown thereby regarding the
100 claiming of a state tax credit by a member of the Missouri general assembly or any statewide
101 elected public official.

102 3. Any person violating any provision of subsection 1 or 2 of this section shall, upon
103 conviction, be guilty of a class D felony.

104 4. The state auditor or the auditor's duly authorized employees who have taken the oath
105 of confidentiality required by section 29.070 shall have the right to inspect any report or return
106 filed with the department of revenue if such inspection is related to and for the purpose of
107 auditing the department of revenue; except that, the state auditor or the auditor's duly authorized
108 employees shall have no greater right of access to, use and publication of information, audit and
109 related activities with respect to income tax information obtained by the department of revenue
110 pursuant to chapter 143 or federal statute than specifically exists pursuant to the laws of the
111 United States and of the income tax laws of the state of Missouri.

**32.064. 1. The director of the department of revenue may use electronic means to
2 fulfill the duties and functions of the department of revenue relating to the administration
3 and collection of all taxes and fees payable to the state as provided by law. Any statutory
4 requirements for the department of revenue to provide notification to any person shall be
5 satisfied by electronic notification when the taxpayer has agreed to such notification and
6 the electronic notification is sent.**

7 **2. The director of the department of revenue may promulgate rules to implement
8 the provisions of this section. Any rule or portion of a rule, as that term is defined in
9 section 536.010, that is created under the authority delegated in this section shall become
10 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
11 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**

12 the powers vested with the general assembly under chapter 536 to review, to delay the
13 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
14 then the grant of rulemaking authority and any rule proposed or adopted after August 28,
15 2011, shall be invalid and void.

32.081. 1. Notwithstanding any other provision of law to the contrary, beginning
2 on January 1, 2012, the director of the department of revenue may transmit any
3 notification required under chapters 142, 143, 144, 147, 149, 211, 301, 302, 303, 304, 306,
4 454, 544, 571, and 577 by electronic mail if the intended recipient of the notice has provided
5 an electronic mail address to the department and has consented to the receipt of
6 notifications through the electronic mail address provided. Such electronic notification
7 shall be in lieu of and in full satisfaction of any requirement to provide notification by
8 ordinary mail.

9 2. The department of revenue may promulgate rules to implement the provisions
10 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
11 is created under the authority delegated in this section shall become effective only if it
12 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
13 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
14 vested with the general assembly under chapter 536 to review, to delay the effective date,
15 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
16 of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be
17 invalid and void.

142.836. Except as otherwise provided in this chapter, the tax imposed by section
2 142.803 on motor fuel measured by gallons imported from another state shall be precollected on
3 behalf of the consumers and remitted to the state by the:

4 (1) Licensed distributor who has imported the nonexempt motor fuel. The precollection
5 shall be made and remitted within three business days after:

6 (a) The nonexempt motor fuel was entered into the state; or

7 (b) A valid import verification number required by this chapter was assigned by the
8 director; whichever occurred earlier. If the motor fuel was not subject to a precollection
9 agreement with the supplier, the precollection shall be remitted in the manner specified by the
10 director; or

11 (2) Licensed distributor who has imported the nonexempt motor fuel which is subject
12 to a precollection agreement with the supplier. The precollection shall be made and remitted on
13 or before the last day of the following month unless such day falls upon a weekend or state
14 holiday, in which case the liability would be due the next succeeding business day. **If the**
15 **supplier remits the tax in full electronically and files the monthly report required by**
16 **subsection 6 of section 142.884 electronically in an approved format,** the remittance of all

17 amounts of tax due shall be paid on the basis of ninety-seven percent for gasoline, gasoline
18 blends and gasoline blend stocks and ninety-eight percent for diesel, diesel blends and diesel
19 blend stocks. **If either the tax or the monthly report is not submitted electronically, the**
20 **remittance of all amounts of tax due shall be paid on the basis of one hundred percent for**
21 **gasoline, gasoline blends, gasoline blend stocks, diesel, diesel blends, and diesel blend**
22 **stocks.** The distributor shall remit the tax to the supplier, acting as trustee, who shall remit to
23 the director on behalf of the distributor under the same terms as a supplier payment pursuant to
24 section 142.842 and no import verification number shall be required; or

25 (3) Unlicensed importer at the time the fuel is entered into this state. However, if the
26 supplier of the motor fuel, as shown on the records of the terminal operator, has made a blanket
27 election to precollect tax in accordance with section 142.839, then the importer shall remit the
28 tax to the supplier, acting as trustee, who shall remit to the director on behalf of the importer
29 under the same terms as a supplier payment pursuant to section 142.842, and no import
30 verification number shall be required.

142.842. 1. The tax imposed by section 142.803, measured by motor fuel removed from
2 a terminal or refinery in this state, other than a terminal bulk transfer, shall be precollected and
3 remitted on behalf of the consumers to the state by the person removing the motor fuel from the
4 facility through the supplier of the motor fuel, as shown in the records of the terminal operator,
5 acting as a trustee.

6 2. The supplier and each reseller shall list the amount of tax as a separate line item on
7 all invoices or billings.

8 3. All tax to be paid by a supplier with respect to gallons removed on the account of the
9 supplier during a calendar month shall be due and payable on or before the second day of the
10 second succeeding month unless such day falls upon a weekend or state holiday in which case
11 the liability would be due the next succeeding business day.

12 4. A supplier shall remit any late taxes remitted to the supplier by an eligible purchaser
13 and shall timely notify the director of any late remittances if that supplier has previously given
14 notice to the director that the tax amount was not received pursuant to subsection 1 of section
15 142.857.

16 5. **If the supplier remits the tax in full electronically and files the monthly report**
17 **required by subsection 6 of section 142.884 electronically in an approved format,** the
18 remittance of all amounts of tax due shall be paid on the basis of [the amount invoiced to eligible
19 purchasers or] ninety-seven percent for gasoline, gasoline blends and gasoline blend stocks and
20 ninety-eight percent for diesel fuel, diesel blends and diesel blend stocks [when the supplier
21 removed the motor fuel for its own account or on sales to noneligible purchasers]. [At the
22 director's discretion, payment may be made by electronic funds transfer] **If either the tax or the**

23 **monthly report is not submitted electronically, the remittance of all amounts of tax due**
24 **shall be paid on the basis of one hundred percent for gasoline, gasoline blends, gasoline**
25 **blend stocks, diesel, diesel blends, and diesel blend stocks.**

142.900. The director of the department of revenue may prescribe forms upon which
2 reports are made to the director and all other forms and information the director deems necessary
3 to enforce the provisions of this chapter, and may require periodic submission of information
4 from any person dealing in, transporting or storing motor fuel. **The director may require that**
5 **the forms and information necessary to enforce the provisions of this chapter be submitted**
6 **electronically in an approved format after notifying all affected entities in writing at least**
7 **six months before the effective date. For any person failing to file electronically under this**
8 **section, there shall be added two percent to the amount required to be shown as tax on**
9 **such return, unless the person can establish by a preponderance of evidence that the failure**
10 **to meet the requirements of this section was due to reasonable cause and not willful neglect.**
11 **It shall be presumed that a taxpayer failing to file electronically as provided in this section**
12 **is due to willful neglect unless reasonable cause is established.**

143.571. 1. For all taxable years beginning on or after January 1, 2011, and ending
2 on or before December 31, 2011, the director of revenue shall require any person acting as
3 a practitioner or preparer who completed and filed more than one hundred individual
4 income tax returns in the previous year, to file such returns electronically or in a paper
5 format, where the paper format contains a two-dimensional barcode in a format approved
6 by the director. For all taxable years beginning on or after January 1, 2012, the director
7 of revenue shall require any person acting as a practitioner or preparer who completed
8 and filed more than eleven individual income tax returns in the previous year to file such
9 returns electronically or in a paper format, where the paper format contains a
10 two-dimensional barcode in a format approved by the director. Any practitioner or
11 preparer failing to file electronically or using a two-dimensional barcode in accordance
12 with this section is liable for a penalty in the amount of fifty dollars for each individual
13 income tax return prepared and filed, unless the practitioner or preparer can establish by
14 a preponderance of evidence the failure to meet the requirements of this section was due
15 to reasonable cause and not willful neglect. It shall be presumed that a tax preparer or
16 practitioner failing to file electronically or by two-dimensional barcode in accordance with
17 this section is due to willful neglect unless reasonable cause is established.

18 2. For all taxable years beginning on or after January 1, 2011, the director of
19 revenue shall require any person acting as a practitioner or preparer and who completed
20 and filed more than ten corporate income and franchise tax returns in the previous year
21 to file such returns electronically in a format approved by the director. Any practitioner

22 **or preparer failing to file electronically in accordance with this section is liable for a**
23 **penalty in the amount of fifty dollars for each corporate income and franchise tax return**
24 **prepared and filed, unless the practitioner or preparer can establish by a preponderance**
25 **of evidence the failure to meet the requirements of this section was due to reasonable cause**
26 **and not willful neglect. It shall be presumed that a tax preparer or practitioner failing to**
27 **file electronically in accordance with this section is due to willful neglect unless reasonable**
28 **cause is established.**

29 **3. For all taxable years beginning on or after January 1, 2011, the director of**
30 **revenue shall require employer withholding tax returns to be submitted electronically in**
31 **a format approved by the director and the use of an electronic funds payment system for**
32 **the payment of employer withholding taxes where the aggregate amount withheld was four**
33 **thousand dollars or more in each of at least six months during the prior calendar year.**
34 **Any taxpayer failing to file electronically in accordance with this section is liable for a**
35 **penalty in the amount of two percent of the tax, unless the taxpayer can establish by a**
36 **preponderance of evidence the failure to meet the requirements of this section was due to**
37 **reasonable cause and not willful neglect. It shall be presumed that a taxpayer failing to file**
38 **electronically in accordance with this section is due to willful neglect unless reasonable**
39 **cause is established.**

40 **4. The director of revenue may prescribe regulations as to the keeping of records, the**
41 **content and form of returns and statements, and the filing of copies of federal income returns and**
42 **determinations. The director of revenue may require any person, by regulation or notice served**
43 **on such person, to make such returns, render such statements, or keep such records as the**
44 **director of revenue may deem sufficient to show whether or not such person is liable under**
45 **sections 143.011 to 143.996 for tax or for the collection of tax.**

143.611. 1. As soon as practical after the return is filed, the director of revenue shall
2 examine it to determine the correct amount of tax. If the director of revenue finds that the
3 amount of tax shown on the return is less than the correct amount, he shall notify the taxpayer
4 of the amount of the deficiency proposed to be assessed. If the director of revenue finds that the
5 tax paid is more than the correct amount, he shall credit the overpayment against any taxes due
6 under sections 143.011 to 143.996 from the taxpayer and refund the difference. No deficiency
7 shall be proposed and no refund shall be made pursuant to this or any section of sections 143.011
8 to 143.996 unless the amount exceeds one dollar.

9 2. If the taxpayer fails to file an income tax return, the director of revenue shall estimate
10 the taxpayer's taxable income and the tax thereon from any available information and notify the
11 taxpayer of the amount proposed to be assessed as in the case of a deficiency.

12 3. The notice required by subsections 1 and 2 of this section, hereafter referred to as a
13 notice of deficiency, shall set forth the reason for the proposed assessment. The notice of

14 deficiency shall be mailed by certified or registered mail to the taxpayer at his last known
15 address. In the case of a combined return, the notice of deficiency may be a single combined
16 notice except that if the director of revenue is notified by either spouse that separate residences
17 have been established he shall mail notices to each spouse. If the taxpayer is deceased, is under
18 a legal disability, or, in the case of a corporation, has terminated its existence, a notice of
19 deficiency may be mailed to his last known address unless the director of revenue has received
20 notice of the existence and address of a person to receive notices with respect to such taxpayer.

21 **4. Certified or registered mailing under sections 143.611 to 143.773 shall include**
22 **electronic notification if the taxpayer has agreed to electronic notification under section**
23 **32.057.**

143.971. 1. The director of revenue may prescribe the form and contents of any return
2 or other document required to be filed under the provisions of sections 143.011 to 143.996.

3 2. The director of revenue for the purpose of ascertaining the correctness of any return,
4 or for the purpose of making an estimate of taxable income of any person, shall have power to
5 examine or to cause to have examined, by any agent or representative designated by him for that
6 purpose, any books, papers, records, or memoranda bearing upon the matters required to be
7 included in the return, and may require the attendance of the person rendering the return or any
8 officer or employee of such person, or the attendance of any other person having knowledge in
9 the premises, and may take testimony and require proof material for his information, with power
10 to administer oaths to such person or persons. **If any records necessary for the purposes**
11 **specified in this subsection are maintained in an electronic format, the person shall comply**
12 **with reasonable requests by the director or the director's agents to provide those electronic**
13 **records in a standard record format capable of being accessed by the department. Upon**
14 **making any request for electronic records from a person, the director or the director's**
15 **agents shall only request nonelectronic records from the person if the director has a**
16 **reasonable basis for making the request for nonelectronic records. Any person who fails**
17 **to comply with the provisions of this subsection shall be assessed an additional penalty of**
18 **ten percent of assessed taxes plus any applicable penalty and interest based on the**
19 **information available to the director at the time of inspection or request for electronic**
20 **records, unless the person can establish by a preponderance of evidence the failure to meet**
21 **the requirements of this section was due to reasonable cause and not willful neglect. It**
22 **shall be presumed that a person's failure to provide records according to this section was**
23 **due to willful neglect unless reasonable cause is established.**

24 3. Reports and returns required to be filed under sections 143.011 to 143.996 shall be
25 preserved for four years and thereafter until the director of revenue orders them to be destroyed.

144.100. 1. Every person making any taxable sales of property or service, except
2 transactions provided for in sections 144.070 and 144.440, individually or by duly authorized

3 officer or agent, shall make and file a written return with the director of revenue in such manner
4 as he may prescribe.

5 2. The returns shall be on blanks designed and furnished by the director of the
6 department of revenue and shall be filed at the times provided in sections 144.080 and 144.090.
7 The returns shall show the amount of gross receipts from sales of taxable property and services
8 by the person and the amount of tax due thereon by that person during and for the period covered
9 by the return. With each return, the person shall remit to the director of revenue the full amount
10 of the tax due. **Beginning on or after January 1, 2013, the director of revenue shall require**
11 **returns to be submitted electronically in a format approved by the director and the use of**
12 **an electronic funds payment system for the payment of sales taxes where the seller's**
13 **aggregate state sales tax was four thousand dollars or more in each of at least six months**
14 **during the prior calendar year. As used in this section, the term "state sales tax" means**
15 **the tax imposed by sections 144.010 to 144.510 and the additional sales tax imposed by**
16 **sections 43(a) to 43(c) and 47(a) to 47(c) of article IV of the Missouri Constitution, and does**
17 **not include any sales taxes imposed by political subdivisions of the state under other**
18 **provisions of law. For any seller failing to file electronically and make payment according**
19 **to this section, there shall be added two percent to the amount required to be shown as tax**
20 **on such return, unless the seller can establish by a preponderance of evidence that the**
21 **failure to meet the requirements of this section was due to reasonable cause and not willful**
22 **neglect. It shall be presumed that a taxpayer's failure to file electronically in accordance**
23 **with this section is due to willful neglect unless reasonable cause is established.**

24 3. In case of charge and time sales the gross receipts thereof shall be included as sales
25 in the returns as and when payments are received by the person, without any deduction therefrom
26 whatsoever.

27 4. If an error or omission is discovered in a return or a change be necessary to show the
28 true facts, the error may be corrected, the omission supplied, or the change made in the return
29 next filed with the director for the filing period immediately following the filing period in which
30 the error was made or the omission occurred, as prescribed by law, except that no refund under
31 this chapter shall be allowed for any amount of tax paid by a seller which is based upon charges
32 incident to credit card discounts. Any other omission or error must be corrected by filing an
33 amended return for the erroneously reported period if the amount of tax is less than that
34 originally reported, or an additional return if the amount of tax is greater than that originally
35 reported. An additional return shall be deemed filed on the date the envelope in which it is
36 mailed is postmarked or the date it is received by the director, whichever is earlier. Any payment
37 of tax, interest, penalty or additions to tax shall be deemed filed on the date the envelope
38 containing the payment is postmarked or the date the payment is received by the director,
39 whichever is earlier. If a refund or credit results from the filing of an amended return, no refund

40 or credit shall be allowed unless an application for refund or credit is properly completed and
41 submitted to the director pursuant to section 144.190.

42 5. The amount of gross receipts from sales and the amount of tax due returned by the
43 person, as well as all matters contained in the return, is subject to review and revision in the
44 manner herein provided for the correction of the returns.

144.210. 1. The burden of proving that a sale of tangible personal property, services,
2 substances or things was not a sale at retail shall be upon the person who made the sale, except
3 that with respect to sales, services, or transactions provided for in section 144.070. The seller
4 shall obtain and maintain exemption certificates signed by the purchaser or his agent as evidence
5 for any exempt sales claimed; provided, however, that before any administrative tribunal of this
6 state, a seller may prove that sale is exempt from tax under this chapter in accordance with proof
7 admissible under the applicable rules of evidence; except that when a purchaser has purchased
8 tangible personal property or services sales tax free under a claim of exemption which is found
9 to be improper, the director of revenue may collect the proper amount of tax, interest, additions
10 to tax and penalty from the purchaser directly. Any tax, interest, additions to tax or penalty
11 collected by the director from the purchaser shall be credited against the amount otherwise due
12 from the seller on the purchases or sales where the exemption was claimed.

13 2. If the director of revenue is not satisfied with the return and payment of the tax made
14 by any person, he is hereby authorized and empowered to make an additional assessment of tax
15 due from such person, based upon the facts contained in the return or upon any information
16 within his possession or that shall come into his possession.

17 3. The director of revenue shall give to the person written notice of such additional or
18 revised assessment by certified or registered mail to the person at his or its last known address.

19 **4. Certified or registered mailing under sections 144.210 to 144.761 shall include**
20 **electronic notification if the taxpayer has agreed to electronic notification under section**
21 **32.057.**

144.320. Every person engaged in the business as defined in section 144.010 of this
2 chapter in this state shall keep such records and books as may be required by title 26, the United
3 States Code, **as amended**, for federal income tax purposes, **and by this chapter for purposes**
4 **specified in section 144.330.** Such books and records and other papers and documents shall,
5 at all times during business hours of the day, be subject to inspection by the director of revenue
6 or his duly authorized agents and employees. Such books and records shall be preserved for a
7 period of at least three years, unless the director of revenue, in writing, authorized their
8 destruction or disposal at any earlier date. **If such records are maintained in an electronic**
9 **format, the person shall comply with reasonable requests by the director or the director's**
10 **agents to provide those electronic records in a standard record format capable of being**
11 **accessed by the department. Upon making any request for electronic records from a**

12 **person, the director or the director's agents shall only request nonelectronic records from**
13 **the person if the director has a reasonable basis for making the request for nonelectronic**
14 **records. Any person who fails to comply with the provisions of this section shall be**
15 **assessed an additional penalty of ten percent of assessed taxes plus any applicable penalty**
16 **and interest based on the information available to the director at the time of inspection or**
17 **request for electronic records, unless the person can establish by a preponderance of**
18 **evidence the failure to meet the requirements of this section was due to reasonable cause**
19 **and not willful neglect. It shall be presumed that the failure to provide records according**
20 **to this section is due to willful neglect unless reasonable cause is established.**

144.640. Every taxpayer subject to the tax imposed by this law shall keep and preserve
2 suitable records and other books and accounts necessary to determine the amount of tax for
3 which he is liable under the provisions of this law. Every taxpayer shall preserve the books and
4 records for a period of three years unless the director of revenue, in writing, authorizes their
5 destruction at an earlier date. The books and records shall be open for examination at any time
6 by the director of revenue or his agent during the business hours of the day. **If such records are**
7 **maintained in an electronic format, the person shall comply with reasonable requests by**
8 **the director or the director's agents to provide those electronic records in a standard**
9 **record format capable of being accessed by the department. Upon making any request for**
10 **electronic records from a person, the director or the director's agents shall only request**
11 **nonelectronic records from the person if the director has a reasonable basis for making the**
12 **request for nonelectronic records. Any person who fails to comply with the provisions of**
13 **this section shall be assessed an additional penalty of ten percent of assessed taxes plus any**
14 **applicable penalty and interest based on the information available to the director at the**
15 **time of inspection or request for electronic records, unless the person can establish by a**
16 **preponderance of evidence the failure to meet the requirements of this section was due to**
17 **reasonable cause and not willful neglect. It shall be presumed that the failure to provide**
18 **records according to this section is due to willful neglect unless reasonable cause is**
19 **established.**