

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1202
91ST GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, February 19, 2002, with recommendation that the House Committee Substitute for House Bill No. 1202 Do Pass.

TED WEDEL, Chief Clerk

3281L.02C

AN ACT

To repeal section 144.190, RSMo, and to enact in lieu thereof one new section relating to refunds of incorrectly collected sales tax to original purchasers.

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

Section A. Section 144.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.190, to read as follows:

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

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.510, and the balance, with interest as determined by section 32.065, RSMo, shall be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within three years from date of overpayment.

3. **If any tax was paid more than once, was incorrectly collected, or was incorrectly computed, such sum shall be credited on any taxes then due from the person legally**

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

16 obligated to remit the tax pursuant to sections 144.010 to 144.510, or refunded, with
17 interest as determined by section 32.065, RSMo, to the person legally obligated to remit the
18 tax, only if duplicate copies of a claim for refund are filed within three years from date of
19 overpayment and:

20 (1) Where the claim for refund is over one thousand dollars, the person legally
21 obligated to remit the tax demonstrates to the satisfaction of the director of revenue that
22 all incorrectly collected or incorrectly computed amounts were or will be refunded or
23 credited to every purchaser that originally paid the tax;

24 (2) Refunds under one thousand dollars may not exceed one thousand dollars in the
25 aggregate over any five year time frame; or

26 (3) In lieu of subdivisions (1) and (2) of this subsection and regardless of the
27 amount of refund claimed, the person legally obligated to remit the tax submits to the
28 director amended sales tax returns showing the correct amount of gross receipts for each
29 reporting period originally filed and proves to the director's satisfaction that the tax
30 originally reported and remitted to the director was paid by such person claiming the
31 refund or credit and was not collected from purchasers.

32 4. Every claim for refund must be in writing and signed by the applicant, and must state
33 the specific grounds upon which the claim is founded. Any refund or any portion thereof which
34 is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be
35 recovered in any action brought by the director of revenue against the person legally obligated
36 to remit the tax. In the event that a tax has been illegally imposed against a person legally
37 obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon
38 the director's record.

39 [4.] 5. Notwithstanding the provisions of this section, the director of revenue shall
40 authorize direct-pay agreements to purchasers which have annual purchases in excess of seven
41 hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of
42 revenue. For the purposes of such direct-pay agreements, the taxes authorized pursuant to
43 chapters 66, 67, 92 and 94, RSMo, shall be remitted based upon the location of the place of
44 business of the purchaser.