

SECOND REGULAR SESSION
[PERFECTED]
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.

Taken up for Perfection March 7, 2002. House Committee Substitute for House Bill No. 1202 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

3281L.02P

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Section A. Section 144.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.190, to read as follows: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

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

14 **3. Except as provided in subsection 6 of this section, if any tax was paid more than**
15 **once, was incorrectly collected, or was incorrectly computed, such sum shall be credited**
16 **on any taxes then due from the person legally obligated to remit the tax pursuant to**
17 **sections 144.010 to 144.510, or refunded, with interest as determined by section 32.065,**
18 **RSMo, to the person legally obligated to remit the tax, only if duplicate copies of a claim**
19 **for refund are filed within three years from date of 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.**

45 **6. All new revenues resulting from the enactment of this section shall be deposited**
46 **in the state school moneys trust fund as provided in section 163.031, RSMo.**

47 **7. In lieu of subsection 3 of this section, if any tax was paid more than once, was**
48 **incorrectly collected, or was incorrectly computed, such sum shall be credited on any taxes**
49 **then due from the person legally obligated to remit the tax pursuant to sections 144.010 to**

50 **144.510, or refunded, with interest as determined by section 32.065, RSMo, to the person**
51 **legally obligated to remit the tax, only if duplicate copies of a claim for refund are filed**
52 **within three years from date of overpayment and the person legally obligated to remit the**
53 **tax submits a plan between the person and the director to generally refund the amount of**
54 **overpayment in equal installments to future customers of the person by mutually agreed**
55 **to distribution of a fixed value coupon to such customers.**