

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2048
95TH GENERAL ASSEMBLY

4879L.04C

D. ADAM CRUMBLISS, Chief Clerk

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 eighteen new sections relating to sales tax collection, with penalty provisions and an emergency clause for a certain section.

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A. Sections 105.716, 143.621, 143.631, 143.831, 143.841, 144.083, 144.230, 144.240, 144.261, and 147.040, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 32.088, 105.716, 140.910, 140.915, 140.920, 143.621, 143.631, 143.831, 143.841, 144.018, 144.083, 144.230, 144.240, 144.261, 147.040, 473.401, 1, and 2, 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 of revenue with the name and Missouri tax identification number of each

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

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

2. All persons and entities protected by the state legal expense fund shall cooperate with
14 the attorneys conducting any investigation and preparing any defense under the provisions of
15 sections 105.711 to 105.726 by assisting such attorneys in all respects, including the making of
16 settlements, the securing and giving of evidence, and the attending and obtaining witness to
17 attend hearings and trials. Funds in the state legal expense fund shall not be used to pay claims

18 and judgments against those persons and entities who do not cooperate as required by this
19 subsection.

20 3. The provisions of sections 105.711 to 105.726 notwithstanding, the attorney general
21 may investigate, defend, negotiate, or compromise any claim covered by sections 105.711 to
22 105.726 against any public institution which awards baccalaureate degrees whose governing
23 body has declared a state of financial exigency.

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

31 **5. Notwithstanding any other provisions of law to the contrary, no funds shall be**
32 **expended from the state legal expense fund for settlement of any liability claim except upon**
33 **the production of a no tax due statement from the department of revenue by the party**
34 **making claim or having judgment under section 105.711, which shall be satisfied from such**
35 **fund. Payments of less than ten thousand dollars from the fund for property damage**
36 **claims shall not require a no tax due statement for the department. If the party is found**
37 **by the director of revenue to owe a delinquent tax debt to the state of Missouri under the**
38 **revenue laws of this state, any funds to be paid to the party from the state legal expense**
39 **fund shall be offset to satisfy such tax debt before payment is made to the party making**
40 **claim or having judgment.**

140.910. 1. In addition to any other remedy provided by law for the collection of
2 **delinquent taxes due the state, if the director has filed a certificate of lien in the circuit**
3 **court as provided by section 143.902, 144.380, or 144.690, the director or the director's**
4 **designee may issue an order directing any person to withhold and pay over to the**
5 **department assets belonging to, due, or to become due the taxpayer. The director or the**
6 **director's designee shall not issue the administrative garnishment if the taxpayer has**
7 **entered into a written agreement with the department for an alternative payment**
8 **arrangement and the taxpayer is in compliance with the agreement.**

9 **2. An order entered under this section shall be served on the person or other legal**
10 **entity either by regular mail or certified mail, return receipt requested, or may be issued**
11 **through electronic means, and shall be binding on the employer or other payor two weeks**
12 **after mailing or electronic issuance of such service. The person or other entity in**
13 **possession of assets belonging to, due, or to become due the taxpayer may deduct an**

14 **additional sum not to exceed six dollars per month as reimbursement for costs, except that**
15 **the total amount withheld shall not exceed the limitations contained in Section 303 of the**
16 **Federal Consumer Credit Protection Act (15 U.S.C. Section 1673), as amended.**

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

28 **4. An employer or other payor shall withhold from the earnings or other income**
29 **of each taxpayer the amount specified in the order. The employer or other payor shall**
30 **transmit the payments as directed in the order within ten business days of the date the**
31 **earnings, money due, or other income was payable to the taxpayer. The employer or other**
32 **payor shall, along with the amounts transmitted, provide the date the amount was withheld**
33 **from the taxpayer. As used in this section, the term "business day" means a day that state**
34 **offices are open for regular business.**

35 **5. An order issued under subsection 1 of this section shall be a continuing order,**
36 **and shall remain in effect and be binding upon any employer or other payor upon whom**
37 **it is directed until a further order of the director. The director shall notify an employer**
38 **or other payor upon whom such an order has been directed whenever the deficiency is paid**
39 **in full.**

40 **6. If the order is served on a person other than an employer or other payor, it shall**
41 **be a lien against any money belonging to the taxpayer that is in the possession of the person**
42 **on the date of service. The person other than an employer or other payor shall pay over**
43 **any assets within ten business days of the service date of the order. A financial institution**
44 **ordered to surrender an account shall be entitled to collect its normally scheduled account**
45 **activity surcharges to maintain the account during the period of time the account is**
46 **garnished. For purposes of this section, the interest of the taxpayer in any joint financial**
47 **accounts shall be presumed to be equal to all other joint owners.**

48 **7. An order issued under subsection 1 of this section shall have priority over any**
49 **other legal process under state law against the same income or other asset, except that**

50 where the other legal process is an order issued under section 452.350, 454.505, or 454.507,
51 the withholding for child support shall have priority.

52 **8. No person who complies with an order entered under this section shall be liable**
53 **to the taxpayer, or to any other person claiming rights derived from the taxpayer, for**
54 **wrongful withholding. A person who fails or refuses to withhold or pay the amounts as**
55 **ordered under this section shall be liable to the state in a sum equal to the value of the**
56 **wages or property not surrendered, but not to exceed the amount of tax deficiency. The**
57 **director is hereby authorized to bring an action in circuit court to determine the liability**
58 **of a person for failure to withhold or pay the amounts as ordered. If a court finds that a**
59 **violation has occurred, the court may fine the person in an amount not to exceed five**
60 **hundred dollars. The court may also enter a judgment against the person or other legal**
61 **entity for the amounts to be withheld or paid, court costs, and reasonable attorney's**
62 **surcharges.**

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

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

69 **11. If a taxpayer for whom an order to withhold has been issued under subsection**
70 **1 of this section terminates the taxpayer's employment, the employer shall, within ten days**
71 **of the termination, notify the department of the termination, shall provide to the**
72 **department the last known address of the taxpayer, if known to the employer, and shall**
73 **provide to the department the name and address of the taxpayer's new employer, if known.**
74 **The director or the director's designee may issue an order to the new employer as provided**
75 **in subsection 1 of this section.**

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

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

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

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

6 **2. To assist the department in the collection of delinquent taxes and debts owed to**
7 **the state, the department may implement and operate a financial institution match system**
8 **for the purpose of identifying and seizing the financial assets of delinquent taxpayers as**
9 **identified by the department. This provision shall be applied uniformly to all financial**
10 **institutions within the state holding accounts subject to garnishment as authorized by**
11 **section 140.910.**

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

15 **4. (1) When the department determines that the name, record address, and either**
16 **Social Security number or taxpayer identification number of an account with a financial**
17 **institution matches the name, record address, and either the Social Security number or**
18 **taxpayer identification number of a delinquent taxpayer or debtor, a lien or levy shall arise**
19 **against the assets in the account at the time of receipt of the notice by the financial**
20 **institution at which the account is maintained.**

21 **(2) The department shall provide notice of the following to the delinquent taxpayer**
22 **and the financial institution:**

23 **(a) The match;**

24 **(b) The lien or garnishment arising therefrom; and**

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

27

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

31 **5. (1) The financial institution shall provide identifying information each calendar**
32 **quarter to the department for each delinquent taxpayer or debtor identified by the**
33 **department that is indebted to the state for delinquent taxes or debts and who maintains**
34 **an account at the institution.**

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

37 **(3) Except for the exchange of information between the department and financial**
38 **institutions necessary for the enforcement of this section and section 140.910, any**
39 **information obtained by the department from financial institutions shall be subject to**
40 **confidentiality restrictions imposed on the department by section 32.057.**

41 **(4) A financial institution shall not be liable for encumbering or surrendering any**
42 **assets held by the financial institution in response to a lien or notice of levy issued by the**
43 **department or any other action taken in good faith to comply with the requirements of this**
44 **section or section 140.910.**

45 **6. (1) A financial institution furnishing a report or providing asset information**
46 **about a delinquent taxpayer or debtor to the department shall not disclose to the**
47 **delinquent taxpayer or debtor that the name of that person has been received from or**
48 **furnished to the department. A financial institution may disclose to its depositors or**
49 **account holders that under the financial institution match system, the department has the**
50 **authority to request certain identifying information on certain depositors or account**
51 **holders.**

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

55 **(3) A financial institution shall incur no obligation or liability to a depositor or**
56 **account holder or any other person arising from the furnishing of a report or information**
57 **to the department under this section or section 140.910, or from the failure to disclose to**
58 **a depositor or account holder that the name of the person was included in a list or report**
59 **furnished by the financial institution to the department.**

60 **(4) A financial institution shall not give notice to an account holder or customer of**
61 **the financial institution that the financial institution has provided information or taken any**
62 **action under this section or section 140.910 and shall not be liable for failure to provide**
63 **that notice. However, a financial institution may disclose to its depositors or account**
64 **holders that, under the data match system, the department has the authority to request**
65 **certain identifying information on certain depositors or account holders.**

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

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

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

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

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

19 (a) No such lien shall be effective unless and until a certificate of tax lien is filed
20 with the clerk of the probate court in which the decedent's estate is being administered and
21 a copy of the certificate of tax lien is mailed to the personal representative of the decedent
22 or the attorney of record.

23 (b) The lien shall attach to the taxpayer's distributive share upon the filing of the
24 certificate of tax lien with the probate clerk. Thereafter, the personal representative of the
25 decedent shall pay to the department of revenue the lesser of the taxpayer's distributive
26 share or the amount certified on the certificate of tax lien. If the personal representative
27 fails to pay the department of revenue, the personal representative shall be liable upon the
28 representative's bond to the department of revenue.

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

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

33 (b) Upon filing with the clerk, the clerk of the court shall mail a copy of the
34 certificate of tax lien to the taxpayer and to all attorneys of record. The taxpayer and
35 attorneys of record shall be deemed to have received the notice within five days of the
36 mailing by the clerk. The lien shall attach to any payment or settlement made more than
37 five days after the clerk mailed the notice.

38 (4) The director may cause a lien to be filed upon any and all demands or rights of
39 action for negligence or personal injury which the taxpayer may have. No such lien shall
40 be effective unless and until the certificate of tax lien is mailed to the alleged tort-feasor or
41 the attorney of record, if any. The certificate of tax lien shall include instructions to the
42 alleged tort-feasor or the attorney to mail a copy of the certificate of tax lien to the alleged
43 tort-feasor's insurance carrier, if any.

44 2. In all above cases where the director files a certificate of tax lien, the director
45 shall within twenty days after filing such certificate notify the taxpayer by first class mail
46 postage prepaid at the taxpayer's last known address.

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

51 **4. If any certificate of lien has been erroneously or improvidently filed, the taxpayer**
52 **or any other person affected by the lien may notify the director of revenue. The taxpayer**
53 **or other affected person shall provide the director with the reasons the filing of the**
54 **certificate of lien is erroneous or improvident as to such person, including that the affected**
55 **person's name or other identification is similar to the taxpayer's, and a list of creditors**
56 **with current addresses who are affected by the department's action. Upon receipt of the**
57 **creditor list, reasons, and verification of the erroneous or improvident filing, the director**
58 **shall release the lien as to the taxpayer or the affected person, as necessary, and notify all**
59 **creditors, stating the certificate of lien was filed erroneously or improvidently. If the**
60 **certificate of lien was erroneously or improvidently filed the director shall forthwith make**
61 **a determination in writing which shall become a public record in the same place the**
62 **certificate of lien is noted under subsection 5 of this section that the same be expunged**
63 **from the record and give written notice thereof, duly certified, by certified mail to all the**
64 **parties identified in subsection 1 who received notice by the department of revenue. The**
65 **director shall take whatever steps are necessary to ensure the lien is expunged.**

66 **5. The director of revenue shall establish and maintain records for all certificates**
67 **of lien filed under this section. The director shall also maintain records of all releases of**
68 **lien filed under this section. Notwithstanding any provisions of section 32.057 to the**
69 **contrary, the records prepared by the director under this section, to the extent such**
70 **information is contained in the certificate of tax lien or any such release, withdrawal, or**
71 **expungement, shall be open to public inspection. Such records established and maintained**
72 **by the director shall not be the official record and are not conclusive evidence of any**
73 **liability of any taxpayer to this state.**

74 **6. If any action is taken by the director under the provisions of chapters 142 to 155**
75 **to alter or abate any assessment upon which a judgment has been filed under subsection**
76 **1 of this section, the director is authorized to file a modification or satisfaction of such**
77 **judgment.**

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

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

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

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

14 (1) The identification of the tax and the tax period to which the deposit applies;

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

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

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

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

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

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

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

4 2. Within ninety days after the filing of a protest, notice of the director of revenue's
5 determination shall be mailed to the taxpayer by certified or registered mail and such notice shall
6 set forth briefly the director of revenue's findings of fact and the basis of decision in each case
7 decided in whole or in part adversely to the taxpayer.

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

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

15 5. A taxpayer which has made a deposit with the director of revenue under subsection
16 2 of section 143.631, in lieu of seeking review by the administrative hearing commission of a
17 determination by the director of revenue under section 143.641 or subsection 2 of section
18 143.841, may, within the time permitted for filing an action in the administrative hearing
19 commission seeking review of such action of the director of revenue, bring an action against the
20 director of revenue by filing a petition for recovery of an overpayment in the circuit court of Cole
21 County. Trial of the action in the circuit court shall be in the manner prescribed for nonjury civil
22 proceedings, and, after determination of the issues, the court shall make such orders as may be
23 just and equitable to refund to the taxpayer all or any part of the taxes paid for the tax periods
24 at issue, with interest as prescribed in section 143.811. The director of revenue may be
25 represented by legal counsel from the department of revenue in such proceedings. Either party
26 to the proceedings may appeal the determination of the circuit court.

**144.018. 1. Notwithstanding any other provision of law to the contrary, when a
2 purchase of tangible personal property or taxable service is made for the purpose of resale,
3 such purchase is exempt or excluded under this chapter if the subsequent sale is taxed in
4 this state or any other state, is for resale, is excluded from tax under this chapter, is subject
5 to tax but is exempt under this chapter, or is exempt from the sales tax laws of another**

6 state if the subsequent sale is in such other state. The purchase of tangible personal
7 property by a taxpayer shall not be deemed to be for resale if such property is used or
8 consumed by the taxpayer in providing a nontaxable service except purchases made in
9 fulfillment of an obligation under a defense contract.

10 2. Notwithstanding any other provision of law to the contrary, for purposes of
11 subdivision (2) of subsection 1 of section 144.020, the operator of a place of amusement,
12 entertainment, or recreation, including games or athletic events, shall charge tax on the
13 amount of gross receipts the operator charges for admissions or seating accommodations
14 to such place of amusement, entertainment, or recreation. Any subsequent sale of such
15 admissions or seating accommodations by a purchaser shall not be subject to tax. This
16 subsection shall not apply if the purchaser of such admissions or seating accommodations
17 is an entity that is exempt from payment of sales and use taxes under subsection 2 of
18 section 144.030.

19 3. Notwithstanding any other provision of law to the contrary, for purposes of
20 subdivision (6) of subsection 1 of section 144.020, the operator of a hotel, motel, tavern, inn,
21 restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place
22 in which rooms, meals, or drinks are regularly served to the public shall charge tax on the
23 amount of gross receipts the operator charges for all rooms, meals, or drinks furnished at
24 such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin,
25 tourist camp, or other place in which rooms, meals, or drinks are regularly served to the
26 public. Any subsequent sale of such rooms, meals, or drinks by a purchaser shall not be
27 subject to tax. This subsection shall not apply if the purchaser of such rooms, meals, or
28 drinks is an entity that is exempt from payment of sales and use taxes under subsection 2
29 of section 144.030.

30 4. The provisions of this section are intended to clarify the exemption or exclusion
31 of purchases for resale from sales and use taxes as originally enacted in chapter 144.

144.083. 1. The director of revenue shall require all persons who are responsible for the
2 collection of taxes under the provisions of section 144.080 to procure a retail sales license at no
3 cost to the licensee which shall be prominently displayed at the licensee's place of business, and
4 the license is valid until revoked by the director or surrendered by the person to whom issued
5 when sales are discontinued. The director shall issue the retail sales license within ten working
6 days following the receipt of a properly completed application. Any person applying for a retail
7 sales license or reinstatement of a revoked sales tax license who owes any tax under sections
8 144.010 to 144.510 or sections 143.191 to 143.261, RSMo, must pay the amount due plus
9 interest and penalties before the department may issue the applicant a license or reinstate the
10 revoked license. All persons beginning business subsequent to August 13, 1986, and who are

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

18 2. The possession of a retail sales license and a statement from the department of revenue
19 that the licensee owes no tax due under [sections 144.010 to 144.510 or sections 143.191 to
20 143.261, RSMo,] **section 32.088** shall be a prerequisite to the issuance or renewal of any city or
21 county occupation license or any state license which is required for conducting any business
22 where goods are sold at retail. The date of issuance on the statement that the licensee owes no
23 tax due shall be no more than ninety days before the date of submission for application or
24 renewal of the local license. The revocation of a retailer's license by the director shall render the
25 occupational license or the state license null and void.

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

33 4. In addition to the provisions of subsection 2 of this section, beginning January 1,
34 2009, **and ending on December 31, 2011**, the possession of a statement from the department
35 of revenue stating no tax is due under sections 143.191 to 143.265, RSMo, or sections 144.010
36 to 144.510 shall also be a prerequisite to the issuance or renewal of any city or county occupation
37 license or any state license required for conducting any business where goods are sold at retail.
38 The statement of no tax due shall be dated no longer than ninety days before the date of
39 submission for application or renewal of the city or county license.

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

144.230. Any amount assessed or any additional amount assessed by the director of
2 revenue under the provisions of sections 144.010 to 144.525, together with the penalty, if any
3 there be, shall be due and payable from the person to the director of revenue [sixty] **thirty** days
4 after the service upon or mailing to the person of notice of such assessment or such additional

5 assessment, except only for such amounts as to which the person has filed a petition for review
6 with the administrative hearing commission.

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

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

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

144.261. Final decisions of the director under the provisions of this chapter are
2 reviewable by the filing of a petition with the administrative hearing commission in the manner
3 provided in section 621.050, RSMo; except that, notwithstanding the provisions of section
4 621.050, RSMo, to the contrary, such petition must be filed within [sixty] **thirty** days after the
5 mailing or delivery of such decision, whichever is earlier.

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

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

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

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

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

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

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

28 8. If any corporation subject to the provisions of sections 147.010 to 147.120 fails or
29 neglects to make the report required by sections 147.010 to 147.120 or pay its franchise taxes
30 within ninety days after the time required by sections 147.010 to 147.120 (determined with
31 regard to any extension of time for filing its franchise tax report or for the payment of its
32 franchise tax), such corporation, if organized pursuant to the laws of this state, shall be
33 administratively dissolved pursuant to the provisions of sections 351.484 and 351.486, RSMo,
34 or if a foreign corporation, shall have its certificate of authority revoked pursuant to the
35 provisions of sections 351.598 and 351.602, RSMo.

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

7 **2. Upon the death of a person who is determined by the director of the department
8 of revenue to owe a current or delinquent tax under chapters 142 to 155, such tax shall be
9 a debt due the state from the estate of the decedent. The debt shall be collected as provided
10 by the probate code of Missouri, chapters 456, 461, 472, 473, 474, and 475, in addition to**

11 all other remedies afforded the director under the revenue laws of this state for the
12 collection of current and delinquent taxes.

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

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

21 5. Before any probate estate may be closed under the probate code or a certificate
22 of the clerk may be issued under subsection 5 of section 473.097, the personal
23 representative, affiant, or conservator of the estate shall file with the clerk of the court
24 exercising probate jurisdiction a statement of no tax due from the department of revenue,
25 or the department of revenue shall file claim under this section and file the proper
26 satisfaction of claim with the court exercising probate jurisdiction. Such statement of no
27 tax due shall not be dated more than sixty days before the closing of the estate or the
28 issuance of the clerk's certificate.

Section 1. There is hereby specifically exempted from the provisions of the local
2 sales tax law as defined, levied, assessed, payable, or calculated under section 32.085,
3 sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, all gratuities,
4 whether mandatory or voluntary, provided in conjunction with the receipt of property or
5 services regardless of whether such property or service may be subject to tax under the
6 provisions of chapter 144.

Section 2. Notwithstanding any other provisions of law to the contrary, any tax
2 imposed or collected by this state, any municipality, any county or any taxing entity on or
3 related to any transient accommodations, whether imposed as a sales tax, hotel tax or
4 otherwise, shall be imposed only upon the amount actually received by an operator. For
5 purposes of this section, an "operator" shall mean a person or entity that has primary
6 responsibility for the operation of any hotel, motel, tavern, inn, restaurant, eating house,
7 drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or
8 drinks are regularly serviced to the public. An operator shall not include any third party
9 that provides services to or on behalf of an operator.

Section B. Because immediate action is necessary to prevent the imposition of sales and
2 use taxes on items that are intended to be exempted or excluded from sales and use taxes, the
3 enactment of section 144.018 of section A of this act is deemed necessary for the immediate

4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the enactment of section 144.018 of
6 section A of this act shall be in full force and effect upon its passage and approval.

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