

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 794,
2 Page 15, Section 144.087, Line 32, by inserting after all of said section and line the following:

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4 "144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake
5 on the part of the director of revenue, such fact shall be set forth in the records of the director of
6 revenue, and the amount of the overpayment shall be credited on any taxes then due from the person
7 legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be
8 refunded to the person legally obligated to remit the tax, such person's administrators or executors,
9 as provided for in section 144.200.

10 2. If any tax, penalty or interest has been paid more than once, or has been erroneously or
11 illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any
12 taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to
13 144.525, and the balance, with interest as determined by section 32.065, shall be refunded to the
14 person legally obligated to remit the tax, but no such credit or refund shall be allowed unless
15 duplicate copies of a claim for refund are filed within three years from date of overpayment.

16 3. Every claim for refund must be in writing and signed by the applicant, and must state the
17 specific grounds upon which the claim is founded. Any refund or any portion thereof which is
18 erroneously made, and any credit or any portion thereof which is erroneously allowed, may be
19 recovered in any action brought by the director of revenue against the person legally obligated to
20 remit the tax. In the event that a tax has been illegally imposed against a person legally obligated to
21 remit the tax, the director of revenue shall authorize the cancellation of the tax upon the [director's]
22 director of revenue's record.

23 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid sales or
24 use tax to a vendor or seller may submit a refund claim directly to the director of revenue for such
25 sales or use taxes paid to such vendor or seller and remitted to the director of revenue, provided no
26 sum shall be refunded more than once, any such claim shall be subject to any offset, defense, or
27 other claim the director of revenue otherwise would have against either the purchaser or vendor or
28 seller if such offset or claim has been assessed under section 144.240 or 144.670 and such
29 assessment is no longer subject to appeal, and such claim for refund is accompanied by either:

30 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser
31 allowing the purchaser to seek the refund on behalf of the vendor or seller. An assignment of rights
Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 statement shall contain the Missouri sales or use tax registration number of the vendor or seller, a
2 list of the transactions covered by the assignment, the tax periods and location for which the original
3 sale was reported to the director of revenue by the vendor or seller, and a notarized statement signed
4 by the vendor or seller affirming that the vendor or seller has not received a refund or credit, will
5 not apply for a refund or credit of the tax collected on any transactions covered by the assignment,
6 and authorizes the director of revenue to amend the seller's return to reflect the refund; or

7 (2) In the event the vendor or seller fails or refuses to provide an assignment of rights
8 statement within [sixty] thirty days from the date of such purchaser's written request to the vendor
9 or seller, or the purchaser is not able to locate the vendor or seller or the vendor or seller is no
10 longer in business, the purchaser may provide the director of revenue a notarized statement
11 confirming the efforts that have been made to obtain an assignment of rights from the vendor or
12 seller. Such statement shall contain a list of the transactions covered by the assignment, the tax
13 periods and location for which the original sale was reported to the director of revenue by the
14 vendor or seller.

15
16 The director of revenue shall not require such vendor, seller, or purchaser to submit amended returns
17 for refund claims submitted under the provisions of this subsection. Notwithstanding the provisions
18 of section 32.057, if the seller is registered with the director of revenue for collection and remittance
19 of sales tax, the director of revenue shall notify the seller at the seller's last known address of the
20 claim for refund. [If the seller objects to the refund within thirty days of the date of the notice, the
21 director shall not pay the refund. If the seller agrees that the refund is warranted or fails to respond
22 within thirty days, the] The director of revenue may issue the refund and amend the seller's return to
23 reflect the refund. For purposes of section 32.069, the refund claim shall [not] be considered to
24 have been filed [until the seller agrees that the refund is warranted or] thirty days after the date the
25 director of revenue notified the seller [and the seller failed to respond].

26 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim on
27 behalf of a purchaser and such refund claim is denied by the director of revenue, notice of such
28 denial and the reason for the denial shall be sent by the director of revenue to the vendor and each
29 purchaser whose name and address is submitted with the refund claim form filed by the vendor. A
30 purchaser shall be entitled to appeal the denial of the refund claim within sixty days of the date such
31 notice of denial is mailed by the director of revenue as provided in section 144.261. The provisions
32 of this subsection shall apply to all refund claims filed after August 28, 2012. The provisions of this
33 subsection allowing a purchaser to appeal the [director's] director of revenue's decision to deny a
34 refund claim shall also apply to any refund claim denied by the director of revenue on or after
35 January 1, 2007, if an appeal of the denial of the refund claim is filed by the purchaser no later than
36 September 28, 2012, and if such claim is based solely on the issue of the exemption of the electronic
37 transmission or delivery of computer software.

38 6. Notwithstanding the provisions of this section, the director of revenue shall authorize
39 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty
40 thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the
41 purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70, 92, 94,

1 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of business of the
2 purchaser.

3 7. Special rules applicable to error corrections requested by customers of mobile
4 telecommunications service are as follows:

5 (1) For purposes of this subsection, the terms "customer", "home service provider", "place
6 of primary use", "electronic database", and "enhanced zip code" shall have the same meanings as
7 defined in the Mobile Telecommunications Sourcing Act incorporated by reference in section
8 144.013;

9 (2) Notwithstanding the provisions of this section, if a customer of mobile
10 telecommunications services believes that the amount of tax, the assignment of place of primary use
11 or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the home
12 service provider, in writing, within three years from the date of the billing statement. The customer
13 shall include in such written notification the street address for the customer's place of primary use,
14 the account name and number for which the customer seeks a correction of the tax assignment, a
15 description of the error asserted by the customer and any other information the home service
16 provider reasonably requires to process the request;

17 (3) Within sixty days of receiving the customer's notice, the home service provider shall
18 review its records and the electronic database or enhanced zip code to determine the customer's
19 correct taxing jurisdiction. If the home service provider determines that the review shows that the
20 amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home service
21 provider shall correct the error and, at its election, either refund or credit the amount of tax
22 erroneously collected to the customer for a period of up to three years from the last day of the home
23 service provider's sixty-day review period. If the home service provider determines that the review
24 shows that the amount of tax, the assignment of place of primary use or the taxing jurisdiction is
25 correct, the home service provider shall provide a written explanation of its determination to the
26 customer.

27 8. For all refund claims submitted to the department of revenue on or after September 1,
28 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to
29 remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for
30 a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax
31 period beginning on or after the date the original refund check issued to such person, no refund shall
32 be allowed. This subsection shall not apply and a refund shall be allowed if the refund claim is filed
33 by a purchaser under the provisions of subsection 4 of this section, the refund claim is for use tax
34 remitted by the purchaser, or an additional refund claim is filed by a person legally obligated to
35 remit the tax due to any of the following:

36 (1) Receipt of additional information or an exemption certificate from the purchaser of the
37 item at issue;

38 (2) A decision of a court of competent jurisdiction or the administrative hearing
39 commission; or

40 (3) Changes in regulations or policy by the department of revenue.

41 9. Notwithstanding any provision of law to the contrary, the director of revenue shall

1 respond to a request for a binding letter ruling filed in accordance with section 536.021 within sixty
2 days of receipt of such request. If the director of revenue fails to respond to such letter ruling
3 request within sixty days of receipt by the director of revenue, the director of revenue shall be
4 barred from pursuing collection of any assessment of sales or use tax with respect to the issue which
5 is the subject of the letter ruling request. For purposes of this subsection, the term "letter ruling"
6 means a written interpretation of law by the director of revenue to a specific set of facts provided by
7 a specific taxpayer or his or her agent.

8 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly
9 computed, such sum shall be credited on any taxes then due from the person legally obligated to
10 remit the tax pursuant to sections 144.010 to 144.510 against any deficiency or tax due discovered
11 through an audit of the person by the department of revenue through adjustment during the same tax
12 filing period for which the audit applied."; and

13
14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.