

FIRST REGULAR SESSION

SENATE BILL NO. 195

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNEIDER.

Pre-filed December 15, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0812S.011

AN ACT

To repeal section 144.190, RSMo 2000, relating to refunds of incorrectly collected sales tax to original purchasers, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 144.190, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 144.190, to read as follows: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.

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 obligated to remit the tax pursuant to sections 144.010 to 144.510, or refunded, with interest as determined by section 32.065, RSMo, to the person legally obligated to remit the tax, only if duplicate copies of a claim for refund are filed within three years from date of overpayment and, either the person legally obligated to remit the tax demonstrates to the satisfaction of the director of revenue that all incorrectly collected amounts were or will be refunded or credited to every purchaser that originally paid the tax, or the person legally obligated to remit the tax submits to the director amended sales tax returns showing the correct amount of gross receipts for each reporting period originally filed and proves to the director's satisfaction that the tax originally reported and remitted to the director was paid by such person claiming the refund or credit and was not collected from purchasers.

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

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