

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 894, 975 & 927
91ST GENERAL ASSEMBLY

Reported from the Committee on Miscellaneous Bills and Resolutions, May 2, 2002, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 894, 975 & 927 Do Pass.

TED WEDEL, Chief Clerk

3680L.06C

AN ACT

To repeal section 144.190, RSMo, and to enact in lieu thereof three new sections relating to tax relief, with an emergency clause and an expiration date.

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

Section A. Section 144.190, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 136.320, 144.049, and 144.190, to read as follows:

136.320. 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes reported and paid in full from August 1, 2002, to September 30, 2002, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due but unpaid on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment:

- (1) Is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri;**
- (2) Is a party to an appeal with the administrative hearing commission; or**
- (3) Is a party to a protest with the department of revenue.**

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

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

144.049. 1. For purposes of this section, the following terms mean:

(1) "Clothing", any article of wearing apparel, including footwear, intended to be worn on or about the human body. The term shall include but not be limited to cloth and other material used to make school uniforms or other school clothing. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles;

(2) "Personal computers", a laptop, desktop, or tower computer system which may consist of a central processing unit, random access memory, a storage drive, a display monitor, and a keyboard, a mouse, multimedia speakers, and a printer;

(3) "School supplies", any item normally used by students in a standard classroom for educational purposes, including but not limited to, textbooks, notebooks, paper, writing instruments, crayons, art supplies, rulers, book bags, back packs, handheld calculators, chalk, maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting

equipment, portable or desktop computers, portable or desktop telephones, copiers or other office equipment, furniture, or fixtures.

2. There is hereby specifically exempted from state and local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.745, and section 238.235, RSMo, and from the computation of the tax levied, assessed, or payable pursuant to state and local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.745, and section 238.235, RSMo, all retail sales of any article of clothing having a taxable value of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per purchase, and all retail sales of personal computers not to exceed one thousand dollars per purchase, during the two three-day periods beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the Sunday following, and beginning at 12:01 a.m. on the second Friday in August and ending at midnight on the Sunday following. This subsection shall not apply to retail sales of personal computers purchased by any business or corporation.

3. Any local sales tax revenue lost in calendar year 2002 due to implementation of the sales tax holiday defined in this section shall be reimbursed by the state and every local political subdivision shall be held harmless.

4. Beginning January 1, 2003, the governing body of any political subdivision may adopt an ordinance to prohibit the provisions of this section from exempting sales that occur within the political subdivision from being subject to the local sales taxes applicable to sales within the political subdivision. Upon adoption of such an ordinance, the governing body of the political subdivision shall provide written notice to the department of revenue of the substance of the ordinance. In the event such notification is not received by the department of revenue before the first day of May in any given year, the ordinance shall not go into effect before the first day of September in the year the notice is received.

5. There is hereby established a "Sales Tax Holiday Joint Legislative Committee" which shall be composed of eight members appointed as follows: four members of the senate, two from each of the major political parties, shall be appointed by the president pro tem of the senate; and four members of the house of representatives, two from each of the major political parties, shall be appointed by the speaker of the house. The committee members shall elect a chair from among their membership. The committee shall study and review the effects of the sales tax holiday defined in this section and shall issue a report to the general assembly on or before January 8, 2004, setting forth in detail the committee's findings and recommendations.

6. This section shall expire July 1, 2004.

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 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:

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

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

(3) In lieu of subdivisions (1) and (2) of this subsection and regardless of the amount of refund claimed, 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 and signed by the applicant, 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, 67, 92 and 94, RSMo, shall be

remitted based upon the location of the place of business of the purchaser.

Section B. Because immediate action is necessary to provide tax relief to the citizens of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect July 1, 2002, or upon its passage and approval, whichever later occurs.

Unofficial

Bill

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