

FIRST REGULAR SESSION

SENATE BILL NO. 412

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS FOSTER, STOLL AND GRIESHEIMER.

Read 1st time February 4, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1355S.011

AN ACT

To repeal sections 137.275, 137.345, and 138.430, RSMo, and to enact in lieu thereof four new sections relating to depreciation of tangible personal property, with an emergency clause.

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

Section A. Sections 137.275, 137.345, and 138.430, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 137.121, 137.275, 137.345, and 138.430, to read as follows:

137.121. 1. As used in this section, the following words and phrases shall mean:

(1) "Asset class", the group, type, or category of property that an item of depreciable tangible personal property falls within as established by the Internal Revenue Code tables as the code exists on the assessment date;

(2) "Class life", the number of years that represents the anticipated economic life of property in certain asset class as determined by using the Internal Revenue Code's General Depreciation System, or GDS, method under the Modified Accelerated Cost Recovery System, or MACRS, as either may be amended from time to time;

(3) "Depreciable tangible personal property", every tangible thing that is the subject of ownership, including all machinery, equipment, support machinery and equipment, either loose or temporarily affixed to real property, which is used in a trade or business or used for the production of, but not including livestock, farm machinery, property subject to the motor vehicle registration provisions of chapter 301, RSMo, nor property assessed by the state tax commission pursuant to chapters 151, 153, 155, RSMo, or section 137.022 and sections 137.1000 through 137.1030;

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

(4) "Depreciation factor", the percentage of the original cost that is taxable as established pursuant to the depreciation factor table established in subsection 3 of this section based on the year acquired and the recovery period;

(5) "Original cost", the purchase price paid by the taxpayer including but not limited to all costs incurred in placing the item in service or capable of service, such as excise taxes, freight charges, installation, engineering, start-up and related software and testing charges;

(6) "Recovery period", the period over which the original cost of depreciable tangible personal property shall be depreciated for property tax purposes as determined by MACRS using the GDS recovery period, regardless of whether the taxpayer actually uses the GDS recovery period for federal income tax purposes;

(7) "True value in money", the taxable value of depreciable tangible personal property as determined by the method of valuation described in this section and equals the adjusted basis.

2. Depreciable tangible personal property shall be a separate subclass of tangible personal property, and, in compliance with article X, section 4(b) of the Missouri Constitution, its value for tax purposes shall be equal to its true value in money as determined by the method set forth in this section.

3. The table set forth in this subsection provides the depreciation factor percentages for depreciable tangible personal property. The factor shown for year one shall be the percentage used for January 1 of the year following the year of acquisition of the property, and the factor shown for each succeeding year in that column shall be the percentage used for January 1 of the respective succeeding year following the year of acquisition. The vertical axis represents the year and the horizontal axis represents the recovery period. The applicable recovery period and depreciation factors shall be as follows:

	11	3	5	7	10	25.00
1	12	95.00	95.00	95.00	95.00	
2	13	68.33	79.00	85.00	88.00	
3	14	41.67	63.00	75.00	81.00	
4	15	15.00	47.00	65.00	74.00	
5	16		31.00	55.00	67.00	
6	17		15.00	45.00	60.00	
7	18			35.00	53.00	
8	19			25.00	46.00	
9	20				39.00	
10	21				32.00	

15	20
95.	96.50
33	93.18
90.	89.85
98	86.53
86.	83.20
62	79.88
82.	76.55
27	73.23
77.	69.90
91	66.58
73.	63.25
56	59.93
69.	56.60
20	53.28
64.	49.95
85	46.63
60.	43.30
49	39.98
56.	36.65
14	33.33
51.	30.00
78	
47.	
43	
43.	
07	
38.	
72	
34.	
36	
30.	
00	

Unofficial
Bill
Copy

4. Depreciable tangible personal property in all recovery periods following the last depreciation factor entry in the applicable column of the table established

pursuant to subsection 3 of this section shall continue in subsequent years to be assessed at the last depreciation factor listed in such column so long as the property is owned or held by the taxpayer.

5. Depreciable tangible personal property shall be assessed at thirty-three and one-third percent of its true value in money, except such property that qualifies as tools and equipment used for pollution control and tools and equipment used in retooling pursuant to subsection 6 of section 137.115 shall be assessed at twenty-five percent of its true value in money.

6. Except as otherwise provided in subsection 7 of this section, the true value in money of depreciable tangible personal property shall be determined by establishing its assets class and resulting recovery period and applying the depreciation factor established pursuant to subsection 3 of this section.

7. The true value in money of depreciable tangible personal property which has been held by the taxpayer but which has remained idle or not in use for at least twelve months immediately preceding the assessment date shall be determined using a depreciation factor equal to fifty percent of the last depreciation factor entry in the applicable column of the table established pursuant to subsection 3 of this section; provided that when idle or unused tangible personal property is returned to use by the taxpayer, the true value in money of such property shall be determined using the otherwise applicable depreciation factor as established pursuant to subsection 3 of this section.

8. On or before January thirty-first of the assessment year, the assessor shall supply forms that are approved by the state tax commission to those required in subsection 9 of this section to submit lists of depreciable tangible personal property. Such forms shall require the name and current address of the person required to file, a description of the depreciable tangible personal property, its asset class, the year acquired, the recovery period, the original cost, the depreciation factor, the property's value and any other information the assessor deems necessary in assessing such property.

9. All owners of taxable depreciable tangible personal property and all persons holding such property under their care, charge, or management, must submit depreciable tangible personal property lists to the assessor on forms supplied by the assessor pursuant to subsection 8 of this section. Such lists shall be completed and submitted with the same oath, affirmation or certification requirements and within the same time frame and subject to the same omitted personal property provisions and penalties for late or fraudulent filing as provided pursuant to this chapter for other personal property.

10. The assessor shall review the information supplied by property owners or holders and any information at the assessor's disposal and shall assure that the depreciable tangible personal property is valued properly.

11. Provisions of section 137.345 to the contrary notwithstanding assessments of depreciable tangible personal property shall be made in the manner established pursuant to this section. There shall be a presumption that the true value in money of depreciable tangible personal property determined by using the method established in this section is correct. In order to rebut the presumption of correctness, a taxpayer shall produce competent and substantial evidence that the assessor's valuation is arbitrary, capricious, unreasonable, unfair, improper, unconstitutional, is in excess of statutory authority, or is not supported by competent and substantial evidence.

12. Other provisions of law to the contrary notwithstanding, a separate and distinct levy shall be established for depreciable tangible personal property. Beginning with the tax year beginning January 1, 2004, to replace any lost revenues due to the creation of depreciable tangible personal property as a separate subclass of personal property and assessment thereof, any taxing authority may adjust its 2004 depreciable tangible personal property levy rate without voter approval not to exceed the voter approved levy to the extent necessary to generate the same property tax revenue as was provided in the previous year from property taxes on business personal property that would have been depreciable tangible personal property under this section had this section been in effect and that was subject to taxation by such taxing authority. Levy adjustments may continue during any year of general reassessment thereafter. As used in this subsection, tangible personal property is the category of property reported by the county clerk to the state tax commission as "all other tangible personal property on the assessor's book". The county clerk of each county, and the assessor in each city not within a county, shall notify each political subdivision wholly or partially within such county, or city not within a county, of the difference in assessed valuation of business personal property in 2003 and the assessed value of depreciable tangible personal property in 2004. Nothing in this section shall be construed to prohibit a change in the levy by a vote of the people.

137.275. Every person who thinks himself aggrieved by the assessment of his property may appeal to the county board of equalization, in person, by attorney or agent, or in writing. The county clerk shall provide each political subdivision whose territory or any part thereof falls within the boundaries of the county with written notification of the pending appeal within ten business days of the filing of the appeal.

137.345. 1. If any person, corporation, partnership or association neglects or refuses to

deliver an itemized statement or list of all the taxable tangible personal property signed and certified by the taxpayer, as required by section 137.340, by the first day of March, they shall be assessed a penalty added to the tax bill, based on the assessed value of the property that was not reported, as follows:

Assessed Valuation	Penalty
0-\$1,000	\$ 10.00
\$1,001-\$2,000	\$ 20.00
\$2,001-\$3,000	\$ 30.00
\$3,001-\$4,000	\$ 40.00
\$4,001-\$5,000	\$ 50.00
\$5,001-\$6,000	\$ 60.00
\$6,001-\$7,000	\$ 70.00
\$7,001-\$8,000	\$ 80.00
\$8,001-\$9,000	\$ 90.00
\$9,001 and above	\$100.00.

The assessor in any county of the first classification without a charter form of government with a population of one hundred thousand or more inhabitants which contains all or part of a city with a population of three hundred fifty thousand or more inhabitants shall omit assessing the penalty in any case where he is satisfied the neglect is unavoidable and not willful or falls into one of the following categories. The assessor in all other political subdivisions shall omit assessing the penalty in any case where he is satisfied the neglect falls into at least one of the following categories:

- (1) The taxpayer is in military service and is outside the state;
- (2) The taxpayer filed timely, but in the wrong county;
- (3) There was a loss of records due to fire, theft, fraud or flood;
- (4) The taxpayer can show the list was mailed timely as evidenced by the date of postmark; or
- (5) The assessor determines that no form for listing personal property was mailed to the taxpayer for that tax year; or
- (6) The neglect occurred as a direct result of the actions or inactions of the county or its employees or contractors.

2. It shall be the duty of the county commission and assessor to place on the assessment rolls for the year all property discovered in the calendar year which was taxable on January first of that year.

3. Between March first and April first, the assessor shall send to each taxpayer who was sent an assessment list for the current tax year, and said list was not returned to the assessor, a second notice that statutes require that the assessment list be returned immediately. In the

event the taxpayer returns the assessment list to the assessor before May first, the penalty described in subsection 1 of this section shall not apply. If said assessment list is not returned before May first by the taxpayer, the penalty shall apply.

4. The assessor, in the absence of the owner failing to deliver a required list of property is not required to furnish to the owner a duplicate of the assessment as made.

5. In every instance where a taxpayer has appealed to the board of equalization or the state tax commission the assessment of the taxpayer's property, real or personal, and that appeal has been successful, then in the next following [and all subsequent years] **year** the basis upon which the assessor must base [future assessments] **the assessment** of the subject property shall be the basis established by the successful appeal and any increases must be established from that basis. **On and after the effective date of this section, the assessment of depreciable tangible personal property shall be determined as set forth in section 137.121.**

138.430. 1. Every owner of real property or tangible personal property **and every affected county assessor or a license collector in a city not within a county** shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date later occurs, concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. **The commission shall provide written notification of the pending appeal to the county clerk at the time notice of institution of the case is provided to the parties. The county clerk shall, within ten days of receipt of written notification from the commission, provide written notification of the pending appeal to each political subdivision whose territory or any part thereof falls within the boundaries of the county.** The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the

board of equalization concerning all questions and disputes involving the exclusion or exemption of such property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings.

4. Upon the timely filing of an appeal as provided in this section, the state tax commission or the clerk of the circuit court, as applicable, shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed, which notice shall contain the name and address of the taxpayer filing the appeal.

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration.

6. If an assessor classifies real property under a classification that is contrary to or in conflict with a determination by the state tax commission or a court of competent jurisdiction of said property, the taxpayer shall be awarded costs of appeal and reasonable attorney's fees on a challenge of the assessor's determination.

Section B. Because immediate action is necessary to promote public welfare, ensure fairness and to preserve the personal property tax base of the 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 upon its passage and approval.