

FIRST REGULAR SESSION

SENATE BILL NO. 335

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Read 1st time February 24, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1746S.011

AN ACT

To repeal section 32.057, RSMo, and to enact in lieu thereof one new section relating to confidentiality of department of revenue records, with existing penalty provisions.

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

Section A. Section 32.057, RSMo, is repealed and one new section enacted
2 in lieu thereof, to be known as section 32.057, to read as follows:

32.057. 1. Except as otherwise specifically provided by law, it shall be
2 unlawful for the director of revenue, any officer, employee, agent or deputy or
3 former director, officer, employee, agent or deputy of the department of revenue,
4 any person engaged or retained by the department of revenue on an independent
5 contract basis, any person to whom authorized or unauthorized disclosure is made
6 by the department of revenue, or any person who lawfully or unlawfully inspects
7 any report or return filed with the department of revenue or to whom a copy, an
8 abstract or a portion of any report or return is furnished by the department of
9 revenue to make known in any manner, to permit the inspection or use of or to
10 divulge to anyone any information relative to any such report or return, any
11 information obtained by an investigation conducted by the department in the
12 discharge of official duty, or any information received by the director in
13 cooperation with the United States or other states in the enforcement of the
14 revenue laws of this state. Such confidential information is limited to
15 information received by the department in connection with the administration of
16 the tax laws of this state.

17 2. Nothing in this section shall be construed to prohibit:

18 (1) The disclosure of information, returns, reports, or facts shown thereby,
19 as described in subsection 1 of this section, by any officer, clerk or other employee

20 of the department of revenue charged with the custody of such information:

21 (a) To a taxpayer or the taxpayer's duly authorized representative under
22 regulations which the director of revenue may prescribe;

23 (b) In any action or proceeding, civil, criminal or mixed, brought to enforce
24 the revenue laws of this state;

25 (c) To the state auditor or the auditor's duly authorized employees as
26 required by subsection 4 of this section;

27 (d) To any city officer designated by ordinance of a city within this state
28 to collect a city earnings tax, upon written request of such officer, which request
29 states that the request is made for the purpose of determining or enforcing
30 compliance with such city earnings tax ordinance and provided that such
31 information disclosed shall be limited to that sufficient to identify the taxpayer,
32 and further provided that in no event shall any information be disclosed that will
33 result in the department of revenue being denied such information by the United
34 States or any other state. The city officer requesting the identity of taxpayers
35 filing state returns but not paying city earnings tax shall furnish to the director
36 of revenue a list of taxpayers paying such earnings tax, and the director shall
37 compare the list submitted with the director's records and return to such city
38 official the name and address of any taxpayer who is a resident of such city who
39 has filed a state tax return but who does not appear on the list furnished by such
40 city. The director of revenue may set a fee to reimburse the department for the
41 costs reasonably incurred in providing this information;

42 (e) To any employee of any county or other political subdivision imposing
43 a sales tax which is administered by the state department of revenue whose office
44 is authorized by the governing body of the county or other political subdivision
45 to receive any and all records of the state director of revenue pertaining to the
46 administration, collection and enforcement of its sales tax. The request for sales
47 tax records and reports shall include a description of the type of report requested,
48 the media form including electronic transfer, computer tape or disk, or printed
49 form, and the frequency desired. The request shall be made by annual written
50 application and shall be filed with the director of revenue. The director of
51 revenue may set a fee to reimburse the department for the costs reasonably
52 incurred in providing this information. Such city or county or any employee
53 thereof shall be subject to the same standards for confidentiality as required for
54 the department of revenue in using the information contained in the reports;

55 (f) To the director of the department of economic development or the

56 director's duly authorized employees in discharging the director's official duties
57 to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

58 (g) To any employee of any political subdivision, such records of the
59 director of revenue pertaining to the administration, collection and enforcement
60 of the tax imposed in chapter 149 as are necessary for ensuring compliance with
61 any cigarette or tobacco tax imposed by such political subdivision. The request
62 for such records shall be made in writing to the director of revenue, and shall
63 include a description of the type of information requested and the desired
64 frequency. The director of revenue may charge a fee to reimburse the department
65 for costs reasonably incurred in providing such information;

66 (h) **To the public solely relating to the number of cigarettes sold**
67 **annually by each tobacco product manufacturer, including but not**
68 **limited to such information obtained by the department under sections**
69 **196.1020 to 196.1035;**

70 (2) The publication by the director of revenue or of the state auditor in the
71 audit reports relating to the department of revenue of:

72 (a) Statistics, statements or explanations so classified as to prevent the
73 identification of any taxpayer or of any particular reports or returns and the
74 items thereof;

75 (b) The names and addresses without any additional information of
76 persons who filed returns and of persons whose tax refund checks have been
77 returned undelivered by the United States Post Office;

78 (3) The director of revenue from permitting the Secretary of the Treasury
79 of the United States or the Secretary's delegates, the proper officer of any state
80 of the United States imposing a tax equivalent to any of the taxes administered
81 by the department of revenue of the state of Missouri or the appropriate
82 representative of the multistate tax commission to inspect any return or report
83 required by the respective tax provision of this state, or may furnish to such
84 officer an abstract of the return or report or supply the officer with information
85 contained in the return or disclosed by the report of any authorized
86 investigation. Such permission, however, shall be granted on condition that the
87 corresponding revenue statute of the United States or of such other state, as the
88 case may be, grants substantially similar privileges to the director of revenue and
89 on further condition that such corresponding statute gives confidential status to
90 the material with which it is concerned;

91 (4) The disclosure of information, returns, reports, or facts shown thereby,

92 by any person on behalf of the director of revenue, in any action or proceeding to
93 which the director is a party or on behalf of any party to any action or proceeding
94 pursuant to the revenue laws of this state when such information is directly
95 involved in the action or proceeding, in either of which events the court may
96 require the production of, and may admit in evidence, so much of such
97 information as is pertinent to the action or proceeding and no more;

98 (5) The disclosure of information, returns, reports, or facts shown thereby,
99 by any person to a state or federal prosecuting official, including, but not limited
100 to, the state and federal attorneys general, or the official's designees involved in
101 any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant
102 to the laws of this state or of the United States when such information is
103 pertinent to an investigation, action or proceeding involving the administration
104 of the revenue laws or duties of public office or employment connected therewith;

105 (6) Any school district from obtaining the aggregate amount of the
106 financial institution tax paid pursuant to chapter 148 by financial institutions
107 located partially or exclusively within the school district's boundaries, provided
108 that the school district request such disclosure in writing to the department of
109 revenue;

110 (7) The disclosure of records which identify all companies licensed by this
111 state pursuant to the provisions of subsections 1 and 2 of section 149.035. The
112 director of revenue may charge a fee to reimburse the department for the costs
113 reasonably incurred in providing such records;

114 (8) The disclosure to the commissioner of administration pursuant to
115 section 34.040 of a list of vendors and their affiliates who meet the conditions of
116 section 144.635, but refuse to collect the use tax levied pursuant to chapter 144
117 on their sales delivered to this state;

118 (9) The disclosure to the public of any information, or facts shown thereby
119 regarding the claiming of a state tax credit by a member of the Missouri general
120 assembly or any statewide elected public official.

121 3. Any person violating any provision of subsection 1 or 2 of this section
122 shall, upon conviction, be guilty of a class D felony.

123 4. The state auditor or the auditor's duly authorized employees who have
124 taken the oath of confidentiality required by section 29.070 shall have the right
125 to inspect any report or return filed with the department of revenue if such
126 inspection is related to and for the purpose of auditing the department of
127 revenue; except that, the state auditor or the auditor's duly authorized employees

128 shall have no greater right of access to, use and publication of information, audit
129 and related activities with respect to income tax information obtained by the
130 department of revenue pursuant to chapter 143 or federal statute than
131 specifically exists pursuant to the laws of the United States and of the income tax
132 laws of the state of Missouri.

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