

SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 384

AN ACT

To amend chapters 32 and 136, RSMo, by adding thereto four new sections relating to taxation, with an emergency clause for a certain section.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Chapters 32 and 136, RSMo, are amended by adding  
2 thereto four new sections, to be known as sections 32.383,  
3 32.385, 136.375, and 136.450, to read as follows:

4           32.383. 1. Notwithstanding the provisions of any other law  
5 to the contrary, with respect to taxes administered by the  
6 department of revenue under this chapter and chapters 143, 144,  
7 and 147, an amnesty from the assessment or payment of all  
8 penalties, additions to tax, and interest shall apply with  
9 respect to unpaid taxes or taxes due and owing reported and paid  
10 in full from September 1, 2015, to November 30, 2015, regardless  
11 of whether previously assessed, except for penalties, additions  
12 to tax, and interest paid before September 1, 2015. The amnesty  
13 shall apply only to tax liabilities due or due but unpaid on or  
14 before December 31, 2014, and shall not extend to any taxpayer  
15 who at the time of payment is a party to any criminal  
16 investigations or to any civil or criminal litigation that is  
17 pending in any court of the United States or this state for  
18 nonpayment, delinquency, or fraud in relation to any state tax

1 imposed by this state.

2 2. Upon written application by the taxpayer, on forms  
3 prescribed by the director of revenue, and upon compliance with  
4 the provisions of this section, the department of revenue shall  
5 not seek to collect any penalty, addition to tax, or interest  
6 that may be applicable. The department of revenue shall not seek  
7 civil or criminal prosecution for any taxpayer for the taxable  
8 period for which the amnesty has been granted unless subsequent  
9 investigation or audit shows that the taxpayer engaged in  
10 fraudulent or criminal conduct in applying for amnesty.

11 3. Amnesty shall be granted only to those taxpayers who  
12 have applied for amnesty within the period stated in this  
13 section, who have filed a tax return for each taxable period for  
14 which amnesty is requested, who have paid the entire balance by  
15 November 30, 2015, and who agree to comply with state tax laws  
16 for the next eight years from the date of the agreement. No  
17 taxpayer shall be entitled to a waiver of any penalty, addition  
18 to tax, or interest under this section unless full payment of the  
19 tax due is made in accordance with rules established by the  
20 director of revenue.

21 4. All taxpayers granted amnesty under this section shall  
22 in good faith comply with this state's tax laws for the eight  
23 years following the date of the amnesty agreement. If any such  
24 taxpayer fails to comply with all of this state's tax laws at any  
25 time during the eight years following the date of the agreement,  
26 all penalties, additions to tax, and interest that were waived  
27 under the amnesty agreement shall become due and owing  
28 immediately.

1           5. If a taxpayer is granted amnesty under this section,  
2 such taxpayer shall not be eligible to participate in any future  
3 amnesty for the same type of tax.

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

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

14           8. All tax payments received as a result of the amnesty  
15 program established in this section, other than revenues  
16 earmarked by the Constitution of Missouri or this state's  
17 statutes, shall be deposited in the state general revenue fund.

18           9. The department may promulgate rules or issue  
19 administrative guidelines as are necessary to implement the  
20 provisions of this section. Any rule or portion of a rule, as  
21 that term is defined in section 536.010, that is created under  
22 the authority delegated in this section shall become effective  
23 only if it complies with and is subject to all of the provisions  
24 of chapter 536 and, if applicable, section 536.028. This section  
25 and chapter 536 are nonseverable, and if any of the powers vested  
26 with the general assembly pursuant to chapter 536 to review, to  
27 delay the effective date, or to disapprove and annul a rule are  
28 subsequently held unconstitutional, then the grant of rulemaking

1 authority and any rule proposed or adopted after August 28, 2015,  
2 shall be invalid and void.

3 10. This section shall expire on December 31, 2023.

4 32.385. 1. As used in this section, the following terms  
5 shall mean:

6 (1) "Federal official", a unit or official of the federal  
7 government charged with the collection of nontax liabilities  
8 payable to the federal government under 31 U.S.C. Section 3716,  
9 as amended;

10 (2) "Nontax liability due the state", a liability certified  
11 to the director of revenue by a state agency and shall include,  
12 but shall not be limited to, fines, fees, penalties, and other  
13 nontax assessments imposed by or payable to any state agency that  
14 is finally determined to be due and owing;

15 (3) "Offset agreement", the agreement authorized by this  
16 section;

17 (4) "Person", an individual, partnership, society,  
18 association, joint stock company, corporation, public  
19 corporation, or any public authority, estate, receiver, trustee,  
20 assignee, referee, and any other person acting in a fiduciary or  
21 representative capacity whether appointed by a court or  
22 otherwise, and any combination of the foregoing;

23 (5) "Refund", an amount described as a refund of tax under  
24 the provisions of the state tax law that authorized its payment;

25 (6) "State agency", any department, division, board,  
26 commission, office, or other agency of the state of Missouri;

27 (7) "Vendor payment", any payment, other than a refund,  
28 made by the state to any person or entity, and shall include but

1 shall not be limited to any expense reimbursement to an employee  
2 of the state; but shall not include a person's salary, wages, or  
3 pension.

4 2. The director of revenue and the commissioner of  
5 administration may jointly enter into a reciprocal collection and  
6 offset of indebtedness agreement with the federal government,  
7 under which the federal government will offset from federal  
8 payments to vendors, contractors, and taxpayers debt owed to the  
9 state of Missouri, and the state will offset from state tax  
10 refunds and from payments otherwise due to vendors and  
11 contractors providing goods or services to state departments,  
12 agencies, or other state agencies nontax debt owed to the federal  
13 government.

14 3. Under the offset agreement, the director of revenue may:

15 (1) Certify to a federal official the existence of a  
16 person's delinquent tax or nontax liability due the state owed by  
17 the person to any state agency;

18 (2) Request that the federal official withhold any eligible  
19 vendor payment to which the person is entitled; and

20 (3) Provide for the payment of the amount withheld to the  
21 state.

22 4. A certification by a state agency to the director of  
23 revenue and by the director of revenue to the federal official  
24 under the offset agreement shall include:

25 (1) The full name and address of the person and any other  
26 names known to be used by the person;

27 (2) The Social Security number or tax identification  
28 number;

1           (3) The amount of the tax or nontax liability;

2           (4) A statement that the debt is past due and legally  
3 enforceable in the amount certified; and

4           (5) Any other information required by federal statute or  
5 regulation applicable to the collection of the debt by offset of  
6 federal payments.

7           5. Under the offset agreement, a federal official may:

8           (1) Certify to the state of Missouri the existence of a  
9 person's delinquent nontax liability owed by the person to the  
10 federal government;

11           (2) Request that the state of Missouri withhold any refund  
12 and vendor payment to which the person is entitled;

13           (3) Certify and request the state of Missouri to withhold a  
14 refund or vendor payment only if the laws of the United States:

15           (a) Allow the state of Missouri to enter into a reciprocal  
16 agreement with the United States, under which the federal  
17 official would be authorized to offset federal payments to  
18 collect delinquent tax and nontax debts owed to the state; and

19           (b) Provide for the payment of the amount withheld to the  
20 state;

21           (4) Retain a portion of the proceeds of any collection  
22 setoff as provided under the offset agreement.

23           6. Under the offset agreement, a certification by a federal  
24 official to the state of Missouri shall include:

25           (1) The full name of the person and any other names known  
26 to be used by the person;

27           (2) The Social Security number or federal tax  
28 identification number;

1           (3) The amount of the nontax liability; and

2           (4) A statement that the debt is past due and legally  
3 enforceable in the amount certified.

4           7. If a person for whom a certification is received from a  
5 federal official is due a refund of Missouri tax or a vendor  
6 payment, the agreement may provide that the state of Missouri  
7 shall:

8           (1) Withhold a refund or vendor payment that is due a  
9 person whose name has been certified by a federal official;

10           (2) In accordance with the provisions of the offset  
11 agreement, notify the person of the amount withheld in  
12 satisfaction of a liability certified by a federal official;

13           (3) Pay to the federal official the lesser of:

14           (a) The entire refund or vendor payment; or

15           (b) The amount certified; and

16           (4) Pay any refund or vendor payment in excess of the  
17 certified amount to the person.

18           8. Notwithstanding any other provisions of law to the  
19 contrary, the director of revenue and the commissioner of  
20 administration shall have the authority to enter into reciprocal  
21 agreements with any other state which extends a like comity to  
22 this state to offset from state tax refunds and from payments  
23 otherwise due to vendors and contractors providing goods or  
24 services to state departments, agencies, or other state agencies  
25 nontax debt for debts due the other state that extends a like  
26 comity to this state.

27           136.375. Missouri taxpayers shall have the right to fair  
28 and consistent application of Missouri tax laws by the department

1 of revenue.

2 136.450. 1. There is hereby established the "Study  
3 Commission on State Tax Policy" which shall be composed of the  
4 following members:

5 (1) The members of the joint committee on tax policy  
6 established in section 21.810;

7 (2) The state treasurer;

8 (3) The state budget director;

9 (4) The director of the department of revenue, but only if  
10 such person has been appointed by the governor with the advice  
11 and consent of the senate in accordance with article IV, section  
12 51 of the Constitution of Missouri;

13 (5) Three individuals representing the needs and concerns  
14 of individual taxpayers in this state, one of whom shall be  
15 appointed by the lieutenant governor, one of whom shall be  
16 appointed by the minority floor leader of the house of  
17 representatives, and one of whom shall be appointed by the  
18 minority floor leader of the senate;

19 (6) A certified public accountant, who shall be appointed  
20 by the lieutenant governor in consultation with the Missouri  
21 Society of Certified Public Accountants;

22 (7) An independent tax practitioner, who shall be appointed  
23 by the lieutenant governor in consultation with the Missouri  
24 Society of Accountants;

25 (8) An individual with experience operating a business with  
26 a headquarters in this state and fewer than fifty employees, who  
27 shall be appointed by the speaker of the house of  
28 representatives;

1       (9) An individual with experience operating a business with  
2 a headquarters in this state and at least fifty employees, who  
3 shall be appointed by the president pro tempore of the senate;

4       (10) Two individuals with significant experience in state  
5 and local taxation, public or private budgeting and finance, or  
6 public services delivery, one of whom shall be appointed by the  
7 speaker of the house of representatives in consultation with the  
8 Missouri Association of Counties and the other appointed by the  
9 president pro tempore of the senate in consultation with Missouri  
10 Municipal League; and

11       (11) A member of the Missouri Bar with knowledge of the tax  
12 laws of this state, including tax administration and compliance,  
13 who shall be appointed by the board of governors of the Missouri  
14 Bar.

15       2. Any vacancy on the commission shall be filled in the  
16 same manner as the original appointment. Any appointed member of  
17 the commission shall serve at the pleasure of the appointing  
18 authority. Commission members shall serve without compensation  
19 but shall be entitled to reimbursement for actual and necessary  
20 expenses incurred in the performance of their official duties.

21       3. The commission shall meet in the capitol building within  
22 ten days after its creation and organize by selecting a chair and  
23 vice chair from its members. After its organization, the  
24 commission shall adopt an agenda establishing at least five  
25 hearing dates. The hearings shall be held in different  
26 geographic regions of the state and open to the public.  
27 Additional meetings may be scheduled and held as often as the  
28 chair deems advisable. A majority of the members shall

1 constitute a quorum.

2 4. It shall be the duty of the commission:

3 (1) To make a complete, detailed review and study of the  
4 tax structure of the state and its political subdivisions,  
5 including tax sources, the impact of taxes, collection  
6 procedures, administrative regulations, and all other factors  
7 pertinent to the fiscal operation of the state;

8 (2) To identify the strengths and weaknesses of state tax  
9 laws, and develop a broad range of improvements that could be  
10 made to modernize the tax system, maximize economic development  
11 and growth, and maintain necessary government services at an  
12 appropriate level;

13 (3) To investigate measures and methods to simplify state  
14 tax law, improve tax compliance, and reduce administrative costs;  
15 and

16 (4) To examine and study any other aspects of state and  
17 local government which may be related to the tax structure of the  
18 state.

19 5. In order to carry out its duties and responsibilities  
20 under this section, the commission shall have the authority to:

21 (1) Consult with public and private universities and  
22 academies, public and private organizations, and private citizens  
23 in the performance of its duties;

24 (2) Within the limits of appropriations made for such  
25 purpose, employ consultants or others to assist the commission in  
26 its work, or contract with public and private entities for  
27 analysis and study of current or proposed changes to state and  
28 local tax policy; and

1       (3) Make reasonable requests for staff assistance from the  
2 research and appropriations staffs of the house of  
3 representatives and senate and the committee on legislative  
4 research, as well as the office of administration and the  
5 department of revenue.

6       6. All state agencies and political subdivisions of the  
7 state responsible for the administration of tax policies shall  
8 cooperate with and assist the commission in the performance of  
9 its duties and shall make available all books, records, and  
10 information requested, except such books, records, and  
11 information as are by law declared confidential in nature,  
12 including individually identifiable information regarding a  
13 specific taxpayer.

14       7. The commission may issue interim reports as it deems  
15 fit, but it shall provide the governor and the general assembly  
16 with reports of its findings and recommendations for legal and  
17 administrative changes, along with any proposed legislation the  
18 commission recommends for adoption by the general assembly. A  
19 preliminary report shall be due by December 31, 2016. A final  
20 report shall be due December 31, 2017.

21       8. The commission shall cease all activities by January 1,  
22 2018. This section shall expire August 28, 2018.

23       Section B. Because immediate action is necessary to secure  
24 adequate state revenue, the enactment of section 32.383 is deemed  
25 necessary for the immediate preservation of the public health,  
26 welfare, peace, and safety, and the enactment of section 32.383  
27 is hereby declared to be an emergency act within the meaning of  
28 the constitution, and the enactment of section 32.383 shall be in

1 full force and effect upon its passage and approval.

2