

SECOND REGULAR SESSION

SENATE BILL NO. 776

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR FLOTRON.

Read 1st time January 20, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2399.011

AN ACT

To repeal section 136.300, RSMo 1994, relating to the burden of proof in state tax cases, and 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Section A. Section 136.300, RSMo, 1994, is repealed and one new section enacted in lieu thereof, to be known as section 136.300, to read as follows:

136.300. [In any proceeding before the director of revenue or upon review by the administrative hearing commission, the burden of proof shall be on the taxpayer except for the following issues, as to which the burden of proof shall be on the director of revenue:

(1) Whether the taxpayer has been guilty of fraud with attempt to evade tax;
(2) Whether the petitioner is liable as the transferee of property of a taxpayer (but not to show that the taxpayer was liable for the tax); and

(3) Whether the taxpayer is liable for any increase in a deficiency where such increase is asserted initially after the notice of deficiency was mailed and protest filed, unless such increase in deficiency is the result of change or correction of federal taxable income required to be reported by the taxpayer, and of which change or correction the director of revenue had no knowledge or notice at the time he mailed the notice of deficiency.] **Notwithstanding any provisions of law to the contrary, all tax laws of the state shall be strictly construed against the taxing authority and in favor of the taxpayers, and the initial burden of coming forward with the proof shall be on the taxpayer, but the ultimate burden of proof shall be on the**

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taxing authority.

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