

Missouri Revised Statutes

Chapter 136 Collection of State Taxes

- [←Chapter: 135](#)
- [Chapter: 137→](#) August 28, 2015

Division to collect all state revenues, exceptions, report.

[136.010](#). 1. The division of taxation and collection shall collect all taxes, licenses and fees payable to the state, except that county collectors and collector-treasurers shall collect the state tax on tangible property, which shall be transmitted promptly to the division of taxation and collection.

2. All money payable to the state, including gifts, escheats, penalties, federal funds, and money from every other source payable to the state shall be promptly transmitted to the division of taxation and collection; provided that all such money payable to the curators of the University of Missouri, except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source, appropriations, gifts or grants from the federal government, private organizations and individuals, funds for or from student activities, farm or housing activities, and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same, and hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly.

3. The director of revenue in cooperation with the state treasurer shall develop a uniform system of summary reporting on income, expenditures and balances of the excepted funds in subsection 2 of this section, and for all other funds handled by state agencies, institutions or state officials in their official duties pursuant to any law or administrative practice but not deposited with the state treasurer. Such forms shall be made available to all agencies, institutions and officials responsible for such funds. Said agencies and officials shall annually file a complete summary report on the uniform forms provided by the director of revenue by August first for the fiscal period July first to June thirtieth just passed. These reports shall be compiled by the director of revenue for inclusion in the annual report of the state treasurer and director of revenue showing balances, income, expenditures, asset value and form of all assets held by the account.

(L. 1945 p. 1428 § 9, A. 1949 S.B. 1020, A.L. 1959 H.B. 390, A.L. 1965 p. 252, A.L. 2005 H.B. 58 merged with S.B. 210)

Duties of director of revenue.

136.030. The director of revenue shall:

(1) Organize the division of taxation and collection in such manner as he may deem necessary for its most efficient operation;

(2) Make provisions for the collection of the state income tax, estate tax, motor vehicle drivers' license tax, motor vehicle registration fees, motor vehicle fuel tax, sales and use tax and all other taxes;

(3) Arrange, administer and organize the division of taxation and collection so that employees may be interchangeable in work assignment, to the end that they may be shifted within the division of taxation and collection to meet seasonal and temporary demands and that the number of such employees shall be kept to the minimum consistent with efficient operation; and

(4) Centralize all record keeping, filing, payroll and other services required by the division of taxation and collection.

(L. 1945 p. 1428 § 16, A.L. 1947 V. I p. 479, A. 1949 S.B. 1020, A.L. 1965 p. 139)

CROSS REFERENCES:

Reimbursement of political subdivisions for loss of tax on household goods, how computed--duties of director of revenue and of state tax commission, 21.505

Director to refund taxes, when--claim to be filed within two years of date of payment.

136.035. 1. The director of revenue from funds appropriated shall refund any overpayment or erroneous payment of any tax which the state is authorized to collect. The general assembly shall appropriate and set aside funds sufficient for the use of the director of revenue to make refunds authorized by this section or by final judgment of court.

2. The director of revenue shall refund any overpayment or erroneous payment of any tax on intangible personal property and the amount refunded shall be charged against the next apportionment to the political subdivision which was the residence or situs of the taxpayer at the time the tax was paid.

3. No refund shall be made by the director of revenue unless a claim for refund has been filed with him within two years from the date of payment. Every claim must be in writing and signed by the applicant, and must state the specific grounds upon which the claim is founded.

(L. 1951 p. 866 § 1, A.L. 2001 H.B. 816)

Director to appoint assistants--bonds.

136.040. 1. The director of revenue shall employ and remove such assistants, clerks and other employees in the division of taxation and collection as the work of the division may require, within the limits of the appropriation, and to fix their compensation.

2. The director of revenue shall have the power to require that any assistants, clerks and other employees in the division of taxation and collection shall execute bond to the state of Missouri in such amount as he may determine and with sureties to be approved by him. The premium of each such bond shall be paid out of the appropriation for the department of revenue.

(L. 1945 p. 1428 § 12, A.L. 1947 V. I p. 479)

Employees assigned to work in other departments.

136.050. The director of revenue may assign an employee or employees of the division of taxation and collection to discharge the duties of the division of taxation and collection in any department, institution or agency of the state, and such employee or employees shall be afforded office space and access to the records and property of the department, institution or agency used in the collection of any tax, license or fee payable to the state when approved by the director of revenue. The head of such department, institution or agency shall cooperate with and afford every necessary facility to such employee or employees in the discharge of his or their duties.

(L. 1945 p. 1428 § 13, A.L. 1947 V. I p. 479)

Agent to collect motor vehicle taxes and issue licenses--awarding office offices--fees--audit of records, when.

136.055. 1. Any person who is selected or appointed by the state director of revenue as provided in subsection 2 of this section to act as an agent of the department of revenue, whose duties shall be the processing of motor vehicle title and registration transactions and the collection of sales and use taxes when required under sections 144.070 and 144.440, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer registration issued, renewed or transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147;

(2) For each application or transfer of title--two dollars and fifty cents;

(3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's license issued for a period of three years or less--two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;

(4) For each notice of lien processed--two dollars and fifty cents;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

2. The director of revenue shall award fee office contracts under this section through a competitive bidding process. The competitive bidding process shall give priority to organizations and entities that are exempt from taxation under Section 501(c)(3), 501(c)(6), or 501(c)(4), except those civic organizations that would be considered action organizations under 26 C.F.R. Section

1.501(c)(3)-1(c)(3), of the Internal Revenue Code of 1986, as amended, with special consideration given to those organizations and entities that reinvest a minimum of seventy-five percent of the net proceeds to charitable organizations in Missouri, and political subdivisions, including but not limited to, municipalities, counties, and fire protection districts. The director of the department of revenue may promulgate rules and regulations necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. All fees collected by a tax-exempt organization may be retained and used by the organization.

4. All fees charged shall not exceed those in this section. The fees imposed by this section shall be collected by all permanent offices and all full-time or temporary offices maintained by the department of revenue.

5. Any person acting as agent of the department of revenue for the sale and issuance of registrations, licenses, and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

6. The fees authorized by this section shall not be collected by motor vehicle dealers acting as agents of the department of revenue under section [32.095](#) or those motor vehicle dealers authorized to collect and remit sales tax under subsection 8 of section [144.070](#).

7. Notwithstanding any other provision of law to the contrary, the state auditor may audit all records maintained and established by the fee office in the same manner as the auditor may audit any agency of the state, and the department shall ensure that this audit requirement is a necessary condition for the award of all fee office contracts. No confidential records shall be divulged in such a way to reveal personally identifiable information.

(L. 1951 p. 863 §§ 1, 2, A.L. 1965 p. 253, A.L. 1976 H.B. 1019, A.L. 1979 H.B. 90, A.L. 1985 H.B. 336, A.L. 1990 S.B. 560, A.L. 1997 H.B. 459, A.L. 1999 S.B. 19, A.L. 2000 S.B. 896, A.L. 2002 H.B. 1196, A.L. 2004 S.B. 1285, A.L. 2005 H.B. 487, A.L. 2009 H.B. 381 merged with H.B. 683, A.L. 2015 H.B. 137)

Effective 7-14-15

Deputization of employees in other state departments--bonds.

[136.060](#). 1. Except as otherwise provided by law, the director of revenue may deputize any officer or employee of any department, institution or agency of the state, subject to the approval of the head of such department, institution or agency, to collect any tax, license or fee payable to the state which has heretofore been collected by such department, institution or agency. Upon being so

deputized, such officer or employee shall in the name of and on behalf of the director of revenue and under such rules and regulations as the state director of revenue may prescribe collect any such tax, license or fee, provided that all moneys so collected shall be transmitted promptly to the division of taxation and collection.

2. The director of revenue may require a surety bond from any person so deputized in such amount and upon such conditions as he may deem necessary, with sureties to be approved by him. The premium of said bond shall be paid out of the appropriation for the department of revenue. The compensation of any officer or employee so deputized shall be paid by said department, institution or agency.

(L. 1945 p. 1428 § 14)

Access to all records.

[136.070](#). The director of revenue or his agent shall have access to all records and property used in the assessment or collection of any license, tax or fee payable to the state in any department, institution or agency in which such records may be.

(L. 1945 p. 1428 § 15)

Sales and use taxes, reciprocal agreements authorized--records furnished to other taxing authorities, when.

[136.073](#). The director of the department of revenue may enter into agreements with other states and the District of Columbia, providing for the reciprocal enforcement of the sales and use tax laws imposed by the states entering into such an agreement. Such agreement may empower the duly authorized officer of any contracting state which extends like authority to officers or employees of this state, to sue for the collection of the state's sales and use taxes in the courts of this state. In addition, the director of the department of revenue may furnish, at his discretion, any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, where such other jurisdictions grant equivalent privileges to this state and only where such information is to be used for tax purposes only.

(L. 1988 H.B. 1054, et al. § 3)

Effective 1-1-89

Examination of taxpayer's books and records, no contract for general revenue or special revenue funds to be expended, when--effect of such contract--tax, defined--exceptions to applicability of section.

[136.076](#). 1. Neither this state nor any county of this state shall enter into any contract or arrangement or expend any general revenue or special revenue funds for the examination of a taxpayer's books and records if any part of the compensation paid or payable for the services of the

person, firm or corporation conducting the examination is contingent upon or otherwise related to the amount of tax, interest, court cost or penalty assessed against or collected from the taxpayer. A contract or arrangement in violation of this section, if made or entered into after August 28, 2001, is void and unenforceable. Any assessment or preliminary assessment of taxes, penalties or interest proposed or asserted by a person, firm or corporation compensated pursuant to any such contract or arrangement shall likewise be null and void. Any contract or arrangement, if made or entered into after August 28, 2001, in which the person, firm or corporation conducting the examination agrees or has an understanding with the taxing authority that all or part of the compensation paid or payable will be waived or otherwise not paid if there is no assessment or no collection of tax or if less than a certain amount is assessed or collected is void and unenforceable.

2. For the purposes of this section the word "tax" shall mean any tax, license, fee or other charge payable to the state of Missouri, any agency thereof, county or any agency thereof, or other political subdivision or any agency thereof, including but not limited to, income, franchise, sales and use, property, business license, gross receipts or any other taxes payable by the taxpayer on account of its activities or property in, or income, sales, gross receipts or the like derived from sources within, the state, county or political subdivision.

3. The provisions of this section shall not be construed to prohibit or restrict this state or a county of this state from entering into contracts or arrangements for the collection of any tax, interest, court cost or penalty when the person, firm or corporation making such assessment or collection has no authority to determine the amount of tax, interest, court cost or penalty owed this state or a county or other political subdivision of this state without approval of the entity.

(L. 2001 H.B. 129)

Power to administer oaths.

136.080. The director of revenue and the employees of the division of taxation and collection designated by him shall have the power to administer oaths or affirmations and to take testimony in the conduct of the division.

(L. 1945 p. 1428 § 17)

Issue subpoenas--fees and mileage of witnesses.

136.090. 1. The director of revenue shall have the power to issue subpoenas for the purpose of requiring attendance and testimony and for the purpose of requiring production of designated books, records and papers in connection with matters coming within the scope of functions of the division of taxation and collection. Such subpoenas may be served upon the person required to attend in any county, or in the city of St. Louis, in the state of Missouri in which such person shall reside or shall have a place of business. If such person shall not reside or have a place of business in the state of Missouri then such subpoena may be served in any place in the state in which he may be found.

2. Each witness who shall appear before the division of taxation and collection by order of the director of revenue shall receive for his attendance the fees and mileage now or that may hereafter

be provided for witnesses in civil cases in circuit courts of this state, which shall be audited and paid by the state in the same manner as other expenses of the division of taxation and collection are audited and paid, upon the presentation of proper vouchers sworn to or affirmed by such witnesses and approved by the director of revenue.

(L. 1945 p. 1428 § 18)

Testimony--witnesses--subpoenas.

[136.100](#). 1. The director of revenue may invoke the aid of the circuit court of any county of the state of Missouri, or of the city of St. Louis, having jurisdiction over such witness in requiring the attendance and testimony of such witness and the production of books, records and papers. The circuit court of the city of St. Louis or the circuit court of any county of the state of Missouri within which such witness may be served may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before the director of revenue, or his deputy, and to produce books, records and papers if so ordered and any evidence touching the matter in question within the scope of authority of the state director of revenue; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

2. No person shall be excused from testifying or producing any books, papers, records or documents in any investigation, or upon any hearing in which a subpoena shall be issued by the director of revenue, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he may be compelled to testify or produce evidence, documentary or otherwise, before the director of revenue or his agent. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(L. 1945 p. 1428 § 19)

Fees to be deposited in state treasury.

[136.105](#). All fees received by the director of revenue for services to be performed by the secretary of state or the state auditor shall be deposited in the state treasury to the credit of the general revenue fund.

(RSMo 1939 § 13429, A.L. 1947 V. I p. 484, A.L. 1959 H.B. 117 § 30.285)

Transferred 1971; formerly 30.285

Moneys received--record--deposit--audit of director's books--promptly defined.

[136.110](#). 1. The director of revenue shall promptly record all sums of money collected or received by the director and shall immediately thereafter deposit the same with the state treasurer, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages. The state treasurer, upon receipt of any moneys from the director of revenue, shall give his or her receipt therefor, executing the same in triplicate, and shall deliver one copy of such receipt to

the director of revenue, one copy to the commissioner of administration, and shall retain the third copy thereof in the files of the state treasurer. The books of the director of revenue shall be audited by the state auditor at such times as may be required by law, and at such other times as may be directed by the governor.

2. For the purposes of this section, the term "promptly" shall mean within two business days.

(L. 1945 p. 1428 § 20, A.L. 1981 S.B. 288, A.L. 1999 H.B. 516, A.L. 2015 H.B. 517 & 754)

Powers of director to prescribe rules and regulations.

[136.120](#). The director of revenue shall have the power to prescribe such rules and regulations, not inconsistent with other provisions of law, as may be necessary to the efficient conduct of the division of taxation and collection. The director of revenue shall have the power to publish from time to time in pamphlet or booklet form said rules and regulations and the tax, licensing and fee laws of the state of Missouri. He shall distribute copies thereof for use of the public, but in his discretion may require payment of a reasonable charge therefor.

(L. 1945 p. 1428 § 21)

Monthly reports.

[136.130](#). The director of revenue shall publish monthly reports which shall include statistical information of all revenue received by the division of taxation and collection from each tax, license or fee collected by the division of taxation and collection.

(L. 1945 p. 1428 § 22)

Accounting systems--approval by director.

[136.140](#). The director of revenue shall maintain such accounting systems in his office as may be required to show receipts upon each kind or type of tax, license or fee which is collected by the division of taxation and collection. Such accounting systems maintained in the director of revenue's office shall be first approved by the director of revenue.

(L. 1945 p. 1428 § 23, A.L. 1947 V. I p. 479)

Certain fees and receipts shown separately.

[136.145](#). State fiscal reports shall show separately the amount of fees and receipts as reported and deposited in individual funds herein abolished*.

(L. 1965 p. 136 § 5)

*Funds abolished are those listed in S.B. 15 § I (L. 1965 p. 136):

Agricultural Fees Fund Athletic Commission Fund County Foreign Insurance Tax Fund County Private Car Tax Fund County Stock Insurance Fund Disposal Plant Fees Fund Division of Health--Water and Sewage Fund Forest Crop Land Fund Grain Warehouse Fund Handicapped Children's Fund Hotel Inspection Fund Insurance Division Fund Intermediate Reformatory Fund Livestock

Sales and Markets Fund Magistrate Fund Marketing Development Fund Milk Control Fund State Milk Inspection Fees Fund Mine Inspection Fund Missouri Post-War Reserve Fund Moberly Medium Security Prison Fund Motor Boat Fund Penitentiary for Men Fund Penitentiary for Women Fund Soldier Bonus Fund Soldier Bonus Interest and Sinking Fund State Building Bond Interest and Sinking Fund State Department of Education Fund State Division of Finance Fund State Interest Fund State Savings and Loan Supervision Fund State Training School for Boys Fund Textbook Filing Fees Fund Trailer Camp School Tax Fund Training School for Girls Fund

Attorney general and prosecutors to provide assistance--collectionfee on recoveries by prosecutors, deposit--distribution.

[136.150](#). The attorney general shall furnish legal advice to the director of revenue. He shall commence legal proceedings and conduct legal actions for the collection of delinquent taxes, licenses and fees, referred to him for collection by the director of revenue. The state director of revenue shall have the power to call upon circuit attorneys or prosecuting attorneys for assistance in the collection of delinquent taxes, licenses and fees, and such taxes, licenses and fees collected in any proceeding or action by the attorney general or by any circuit or prosecuting attorney shall be paid to and received by the director of revenue; except that, the state shall pay, from funds appropriated by the general assembly for such purpose, a collection fee of twenty percent of the delinquent tax, license, or fee recovered by the circuit or prosecuting attorney. The collection fee shall be deposited in the county treasury, with one-half of such collection fee being designated for the use of the prosecuting or circuit attorney's office and one-half of such collection fee to be expended as the county shall determine.

(L. 1945 p. 1428 § 24, A.L. 1983 1st Ex. Sess. H.B. 10)

Effective 1-1-84

Accounts and vouchers to be exhibited, when.

[136.160](#). All officers and others bound by law to pay money directly to the director of revenue or the department of revenue shall exhibit their accounts and vouchers to the director of revenue on or before the thirty-first day of December, to be adjusted and settled, except the county collectors of revenue and collector-treasurers, who shall, immediately after their final settlement with the county commission on the first Monday in March in each year, exhibit their accounts and vouchers to the director of revenue for the amount due the state to be adjusted and settled.

(L. 1945 p. 1428 § 25, A.L. 2005 H.B. 58 merged with S.B. 210)

CROSS REFERENCE:

County collector to remit to state director, when, [139.230](#), [139.240](#)

Delinquent accounts--penalty.

[136.170](#). If any of the persons mentioned in section [136.160](#) shall fail to pay the amounts so found due to the director of revenue after settlement and adjustment thereof, and after agreement thereto as for an account stated, within thirty days after the settlement above required, the delinquent shall forfeit to the state the amount of the commission thereon allowed him by law, and

also two and a half percent a month on the amount wrongfully withheld, to be computed from the time the same ought to have been paid until actual payment; and the director of revenue shall charge such delinquent accordingly.

(L. 1945 p. 1428 § 26)

Issuance of distress warrant--failure--penalty.

[136.180](#). The director of revenue shall, immediately after such delinquency shall occur, issue a warrant of distress against such delinquent and his sureties, directed to the sheriff of the proper county, or if he shall be disqualified to act, then to the sheriff of some adjoining county, who is authorized and required to execute the same, and who, together with his sureties, shall be liable on his official bond in the same manner and to the same extent as if the writ were to be executed in his own county, stating therein the amount due and the penalties and forfeitures thereon accrued; and upon any failure by the director of revenue to issue the distress warrant herein provided for within thirty days, he and his sureties shall become liable on his official bond for all losses which the state may sustain through such failures.

(L. 1945 p. 1428 § 27)

Form of distress warrant.

[136.190](#). The distress warrant may be in the following form:

State of Missouri, ss.

The state of Missouri to the of the county of, greeting: Whereas,, the collector of revenue of the county of aforesaid, for the year of our Lord two thousand and, hath failed and neglected to pay to the director of revenue the full amount with which he stands charged on the books of the director of revenue of the state of Missouri, and which he ought to have paid to the director of revenue aforesaid, on or before the day of, in the year of our Lord two thousand and; and whereas, the director of revenue of the state of Missouri has ascertained the balance due the state of Missouri by said to be the sum of dollars and cents and the said director of revenue has, according to law, charged the said, as aforesaid, with the further sum of two and a half percent a month on said ascertained balance as aforesaid, to be computed on said balance from the said day of, two thousand and, until the same shall be paid or collected: These are, therefore, to command you, in accordance with the provisions of chapter, to levy and collect the sum of dollars and cents, the balance as aforesaid, ascertained to be due, and the said two and a half percent a month from the day of, two thousand and, aforesaid, of the goods and chattels and real estate of the said, and for want of sufficient goods and chattels and real estate to satisfy the aforesaid balance, together with the said percent thereon, and the fees to the officer collecting the same, you are commanded to levy the same upon the goods and chattels and real estate of, the sureties of the said; you are also commanded, that after you have made such levy and collection, you pay the same to the director of revenue within thirty days after its collection, unless the first Monday of March next following the date of this warrant shall intervene, and, in that event, then on or before

that day, and return this warrant to the office of the director of revenue, and certify thereon how you have executed the same. In testimony whereof, I,, director of revenue, have hereunto set my hand and affixed the seal of the department of revenue, in the City of Jefferson, this day of, in the year of our Lord two thousand and

Director of Revenue.

(L. 1945 p. 1428 § 28)

Duty of sheriff.

[136.200](#). Such sheriff shall, without delay, levy and collect the same, together with the penalties and forfeitures stated in the writ, by sale of the goods and chattels and real estate of such delinquent.

(L. 1945 p. 1428 § 29)

Sale of property distrained.

[136.210](#). Property distrained shall be advertised and sold in such manner and at such time as is prescribed by law for advertising and selling property by virtue of a writ of fieri facias; and the sum collected shall be accounted for and paid to the director of revenue within thirty days after its collection, unless the first Monday of March next following the date of the warrant shall intervene, and in that event, then on or before that day.

(L. 1945 p. 1428 § 30)

Violation by sheriff.

[136.220](#). The officer to whom any distress warrant shall be delivered, and his sureties, shall be liable for the same causes, and in the same manner, and to the same extent, and with like effect, in all respects, as far as the same may be applicable, for refusing or neglecting to perform any duty under such distress warrant, as is provided by law against sheriffs and their sureties, in cases of refusal or neglect on the part of such sheriffs to perform the duties prescribed by law in case of executions.

(L. 1945 p. 1428 § 31)

Fees for collection by distress warrant--exceptions.

[136.230](#). The officer collecting money by virtue of a distress warrant shall receive such fees for paying the same to the director of revenue as are allowed by law to collectors for the same service; provided, that the provisions of this chapter found in sections [136.160](#) to [136.230](#) shall not be held or construed to apply to persons as defined and required to collect and remit and pay money to the state under the provisions of the sales tax law.

(L. 1945 p. 1428 § 32)

Report of delinquents to general assembly.

[136.240](#). The director of revenue shall report to the general assembly, during the first week of each regular session, a list of all collectors of the revenue and other holders of public money whose accounts have remained unsettled for the space of six months after they ought to have been settled, according to law, and the reason therefor, if known.

(L. 1945 p. 1428 § 33)

Legal counsel for director of revenue before administrative hearing commission.

[136.245](#). When the director of revenue is a party to any proceedings before the administrative hearing commission, he may be represented by legal counsel from the department of revenue.

(L. 1978 S.B. 661)

Period of stay or suspension not part of time limits for assessment or collection of taxes, interest or penalties.

[136.255](#). When the administrative hearing commission or any court of competent jurisdiction issues an order to stay or suspend any action of the director of revenue with respect to the assessment or collection of any taxes, interest or penalties, the period of such stay or suspension shall not be deemed or taken as any part of the time limited for the assessment or collection of such taxes, interest or penalties.

(L. 1978 S.B. 661)

Burden of proof in proceedings or appeal on director of revenue--when, exceptions.

[136.300](#). 1. With respect to any issue relevant to ascertaining the tax liability of a taxpayer all laws of the state imposing a tax shall be strictly construed against the taxing authority in favor of the taxpayer. The director of revenue shall have the burden of proof with respect to any factual issue relevant to ascertaining the liability of a taxpayer only if:

(1) The taxpayer has produced evidence that establishes that there is a reasonable dispute with respect to the issue; and

(2) The taxpayer has adequate records of its transactions and provides the department of revenue reasonable access to these records.

2. This section shall not apply to any issue with respect to the applicability of any tax credit.

(L. 1978 S.B. 661, A.L. 1999 H.B. 516, A.L. 2014 S.B. 829)

*Effective 10-10-14, see § [21.250](#). S.B. 829 was vetoed June 11, 2014. The veto was overridden on September 10, 2014.

Audit, supporting statement on request by taxpayer, content--innocent spouse, how determined--tax delinquency, certain federal laws to apply.

136.303. 1. Audit findings conducted by the department of revenue shall be accompanied, upon written request by the taxpayer under audit, by a statement from the supervising auditor of the basis for such findings, including relevant statutes, regulations, case law and private letter rulings, if applicable.

2. Any taxpayer who has been determined to be an innocent spouse pursuant to Section 6015 of the Internal Revenue Code and who filed a combined state income tax return for the same taxable year shall be considered an innocent spouse for state income tax purposes, and shall be accorded the same protections and relief of liability as provided under the federal law.

3. All agents and employees of the department of revenue shall be subject to the same provisions of the Fair Debt Collections Practices Act as made applicable to the Internal Revenue Service pursuant to the Internal Revenue Service Restructuring and Reform Act of 1998. A taxpayer shall have standing to bring a civil action for damages limited to the actual economic loss, subject to appropriation, against the department of revenue in the circuit court of the county in which the taxpayer resides for any collection practice which violates these provisions.

(L. 1999 H.B. 516)

Evidence of related federal determination admissible, when.

136.310. Evidence of a final federal determination relating to issues raised in any proceeding before the director of revenue or upon review of the director of revenue's determination by the administrative hearing commission shall be admissible.

(L. 1978 S.B. 661)

Litigation expenses may be allowed in certain tax cases, when, definitions, procedure--award may be denied or reduced.

136.315. 1. As used in this section the following terms shall mean:

(1) "Party", a natural person or sole proprietorship with a Missouri adjusted gross income of less than seventy-five thousand dollars in each of the two taxable years preceding the date of filing; a corporation or partnership with a federal taxable income of less than one hundred thousand dollars in each of the two taxable years preceding the date of filing; or an association, labor union or not-for-profit organization with less than fifty employees on the date of filing; provided, however, that a corporation that is a subsidiary or affiliate of a corporation with a federal taxable income of one hundred thousand dollars or more in each of the two taxable years preceding the date of filing is not a "party" under this section;

(2) "Prevail", to obtain disposition by final judgment or order, dismissal, or default which is favorable on all or substantially all issues;

(3) "Proceeding", a case before the administrative hearing commission or a court with respect to a tax imposed under chapter 143 or any sales or use tax imposed by chapter 144 or Section 43(a) of Article IV of the Missouri Constitution;

(4) "Reasonable litigation expenses", those actual expenses, not in excess of ten thousand dollars, that the administrative hearing commission or court finds were reasonably incurred in opposing the department's action, including, but not limited to, court costs, attorneys' fees and fees for expert and other witnesses.

2. When a party prevails in a proceeding filed after January 1, 1984, the court or administrative hearing commission may award the party reasonable litigation expenses if it finds that the position of the state was vexatious or was not substantially justified. Fees and expenses shall not be awarded if the final disposition is substantially the same as a settlement previously offered by the department to the taxpayer.

3. A party seeking an award for fees and other expenses pursuant to this section shall, not later than thirty days after final disposition is made in the proceeding, submit to the court or administrative hearing commission an application which provides evidence of eligibility for an award pursuant to this section, alleges in what particulars the department was vexatious or not substantially justified in its position and which specifies the amount sought. If the amount sought includes an attorney's fee or the fee for an expert witness, the application shall include an itemized statement for each such fee indicating the actual time expended in service to the applicant and the rate at which the fees were computed. The burden of proof shall be on the party seeking an award under this section to demonstrate the facts required as a condition to recovery.

4. The court or administrative hearing commission, in its discretion, may reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party, during the course of the proceedings, engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy or when an overriding public interest exists which would make an award unjust.

(L. 1983 1st Ex. Sess H.B. 10 § 4)

Effective 1-1-84

Citation of law.

[136.350](#). Sections [136.350](#) to [136.380](#) shall be known as the "Missouri Taxpayer's Bill of Rights".

(L. 1992 S.B. 716)

Amount of collections due to audit, not basis of employee performance, department of revenue.

[136.352](#). The director of revenue shall ensure that the work performance of any department of revenue employee shall not be evaluated based solely upon the number or amount of assessments or collections attributable to audits of taxpayer returns.

(L. 1992 S.B. 716)

Statement of taxpayer rights, director to compile, contents--distribution.

[136.355](#). 1. The director of revenue shall compile a statement of taxpayer's rights applicable to taxes imposed under the provisions of chapters 143 and 144 and for any other taxes which the director determines such a statement would be sufficiently useful to the general population. Each such statement shall summarize in a clear and concise manner state laws, rules, regulations and procedures of general applicability concerning tax collections, deficiencies, appeals, refunds and other information the director determines is necessary to inform the public of applicable state laws, departmental policies and procedures and taxpayer's rights.

2. Subject to appropriations, the director of revenue may require that the statement of taxpayer's rights be distributed as part of taxpayer instruction manuals, tax notices and other departmental communications with taxpayers as determined appropriate by the director to ensure the statement is widely distributed and available to taxpayers.

(L. 1992 S.B. 716)

Postal error cause for late return, no penalty assessed.

[136.357](#). For purposes of the timely payment of any taxes imposed under the provisions of law and collected by the director of revenue, no additional tax or penalty shall be imposed on any taxpayer or other person or entity lawfully required to make payment of such tax to the director if the payment is delivered by United States mail and the postmaster for the jurisdiction where the payment was mailed verifies in writing the payment was mailed within the prescribed time period, including any extension granted, and was delayed because of an error of the United States postal service and not because of an error by the taxpayer.

(L. 1992 S.B. 716)

Electronic transmission, adequate service on director, when.

[136.360](#). Whenever a notice is required to be sent by United States mail to be served on the director of revenue, an electronic transmission known as a "fax" shall be adequate notice by a taxpayer if otherwise timely sent.

(L. 1992 S.B. 716)

Advisory opinion to director, tax liability--taxpayer may obtain.

[136.362](#). When determining the tax liability of a taxpayer, the department of revenue shall be permitted to issue, follow or seek an informal advisory opinion from the attorney general or the

department's legal counsel, but such informal advisory opinion shall become a matter of record and available to the taxpayer.

(L. 1992 S.B. 716)

Appeal, taxpayer's right to, notice to be given, when.

136.365. Subject to chapter 143 and chapter 144, the director shall inform all taxpayers against whom an assessment of additional tax, interest or penalty has been issued of the taxpayer's right to appeal. Such written notification shall accompany each notice of assessment and shall set forth the time period within which the taxpayer must file an appeal, and how to proceed with the appeal should he desire.

(L. 1992 S.B. 716, A.L. 1998 H.B. 1301)

Employee error, cause of late return--no penalty to taxpayer, when.

136.370. Pursuant to chapter 143 and chapter 144, the director shall waive any interest or penalty assessed against any taxpayer when it is determined by the director, the administrative hearing commission, or a court of law that the negligence of an employee of the department resulted in undue delay, as defined by rule or regulation, in either assessing tax or notifying the taxpayer of the liability owed. Such waiver of interest or penalty shall be for that amount attributable to the period of delay and for any time that the penalty or interest is under appeal.

(L. 1992 S.B. 716, A.L. 1998 H.B. 1301)

Fair and consistent application of Missouri tax laws.

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

(L. 2015 H.B. 384)

Identification number of department employee provided to taxpayer, when.

136.380. Any employee of the department of revenue which communicates with an individual taxpayer either in writing or by telephone shall provide the taxpayer with an identifying number associated with the employee. The director may develop the identifying procedure by policy.

(L. 1992 S.B. 716, A.L. 2015 H.B. 384)

Excess revenue, certification.

136.400. The excess revenue to be refunded shall include all revenue in excess of the limit established in Article X, Section 18, Paragraph (a) of the Missouri Constitution collected during a fiscal year. The office of administration shall certify the amount of excess revenue to be refunded and certify annually to the general assembly in itemized list and definition of all sources and dollar amounts of total state revenue. Once a source of revenue has been certified as total state revenue

by the office of administration, such source shall remain total state revenue in subsequent years unless the source is* subsequently excluded from total state revenue pursuant to Article X, Section 18(c) of the Missouri Constitution. The amount of excess revenue to be refunded is subject to appeal according to Article X, Section 23 of the Missouri Constitution.

(L. 1996 S.B. 500)

*Word "in" appears in original rolls.

Annual return defined--the filing of amended return after certain date not to be included.

136.405. The phrase "annual returns filed following the close of such fiscal year", as used in Article X, Section 18, shall mean the last timely income tax returns which are filed and paid by the following June thirtieth. Amended returns filed after June thirtieth shall not be included in calculating the pro rata distribution amounts pursuant to Article X, Section 18, Paragraph (b). Returns filed for any part of a year shall be included.

(L. 1996 S.B. 500)

Study commission established, members, vacancies, meetings--duties and authority of commission--interim reports--termination date.

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

- (1) The members of the joint committee on tax policy established in section 21.810;
- (2) The state treasurer;
- (3) The state budget director;
- (4) The director of the department of revenue, but only if such person has been appointed by the governor with the advice and consent of the senate in accordance with Article IV, Section 51 of the Constitution of Missouri;
- (5) Three individuals representing the needs and concerns of individual taxpayers in this state, one of whom shall be appointed by the lieutenant governor, one of whom shall be appointed by the minority floor leader of the house of representatives, and one of whom shall be appointed by the minority floor leader of the senate;
- (6) A certified public accountant, who shall be appointed by the lieutenant governor in consultation with the Missouri Society of Certified Public Accountants;
- (7) An independent tax practitioner, who shall be appointed by the lieutenant governor in consultation with the Missouri Society of Accountants;
- (8) An individual with experience operating a business with a headquarters in this state and fewer than fifty employees, who shall be appointed by the speaker of the house of representatives;

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

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

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

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

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

4. It shall be the duty of the commission:

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

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

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

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

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

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

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

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

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

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

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

(L. 2015 H.B. 384)

Expires 8-28-18

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Missouri General Assembly

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