

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR

# HOUSE BILL NO. 384

## 98TH GENERAL ASSEMBLY

1166S.04T

2015

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### AN ACT

To repeal section 136.380, RSMo, and to enact in lieu thereof six new sections relating to taxation.

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

Section A. Section 136.380, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 32.383, 32.385, 37.650, 136.375, 136.380, and 136.450, to read as follows:

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

**2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest that may be**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 applicable. The department of revenue shall not seek civil or criminal prosecution for any  
16 taxpayer for the taxable period for which the amnesty has been granted unless subsequent  
17 investigation or audit shows that the taxpayer engaged in fraudulent or criminal conduct  
18 in applying for amnesty.

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

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

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

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

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

40 **8. All tax payments received as a result of the amnesty program established in this**  
41 **section, other than revenues earmarked by the Constitution of Missouri, this state's**  
42 **statutes, or subsection 9 of this section, shall be deposited in the tax amnesty fund created**  
43 **in subsection 9 of this section. Moneys in the fund shall only be expended for the following**  
44 **except that any excess monies not used for such purposes shall be deposited into the state**  
45 **general revenue fund:**

46 **(1) An increase in the rate of reimbursement to MO HealthNet providers for the**  
47 **fiscal year ending June 30, 2016, above the rate in effect for the fiscal year ending June 30,**  
48 **2015; and**

49           (2) An increase in the number of adults receiving dental coverage under MO  
50 HealthNet in the fiscal year ending June 30, 2016, above the number of adults receiving  
51 dental coverage in the fiscal year ending June 30, 2015.

52           9. There is hereby created in the state treasury the "Tax Amnesty Fund", which  
53 shall consist of money collected under this section. The state treasurer shall be custodian  
54 of the fund and may approve disbursements from the fund in accordance with sections  
55 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the  
56 purpose provided in subsection 8 of this section. Any moneys remaining in the fund at the  
57 end of the biennium shall revert to the credit of the general revenue fund. The state  
58 treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
59 Any interest and moneys earned on such investments shall be credited to the fund.

60           10. The department of revenue may enter into an agreement with a third-party  
61 vendor to provide collection services for eligible delinquent tax liabilities that the  
62 department has undertaken to collect under this section, and to assist with the  
63 administration of the amnesty program under which contingency and other fees may be  
64 payable to such approved vendor out of the revenues from the amnesty program.

65           11. The department may promulgate rules or issue administrative guidelines as are  
66 necessary to implement the provisions of this section. Any rule or portion of a rule, as that  
67 term is defined in section 536.010, that is created under the authority delegated in this  
68 section shall become effective only if it complies with and is subject to all of the provisions  
69 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
70 nonseverable, and if any of the powers vested with the general assembly pursuant to  
71 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
72 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
73 proposed or adopted after August 28, 2015, shall be invalid and void.

74           12. This section shall expire on December 31, 2023.

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

2           (1) "Federal official", a unit or official of the federal government charged with the  
3 collection of nontax liabilities payable to the federal government under 31 U.S.C. Section  
4 3716, as amended;

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

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

10           **(4) "Person", an individual, partnership, society, association, joint stock company,**  
11 **corporation, public corporation, or any public authority, estate, receiver, trustee, assignee,**  
12 **referee, and any other person acting in a fiduciary or representative capacity whether**  
13 **appointed by a court or otherwise, and any combination of the foregoing;**

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

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

18           **(7) "Vendor payment", any payment, other than a refund, made by the state to any**  
19 **person or entity, and shall include but shall not be limited to any expense reimbursement**  
20 **to an employee of the state; but shall not include a person's salary, wages, or pension.**

21           **2. The director of revenue and the commissioner of administration may jointly**  
22 **enter into a reciprocal collection and offset of indebtedness agreement with the federal**  
23 **government, under which the federal government will offset from federal payments to**  
24 **vendors, contractors, and taxpayers debt owed to the state of Missouri, and the state will**  
25 **offset from state tax refunds and from payments otherwise due to vendors and contractors**  
26 **providing goods or services to state departments, agencies, or other state agencies nontax**  
27 **debt owed to the federal government.**

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

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

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

33           **(3) Provide for the payment of the amount withheld to the state.**

34           **4. A certification by a state agency to the director of revenue and by the director**  
35 **of revenue to the federal official under the offset agreement shall include:**

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

38           **(2) The Social Security number or tax identification number;**

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

40           **(4) A statement that the debt is past due and legally enforceable in the amount**  
41 **certified; and**

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

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

45           **(1) Certify to the state of Missouri the existence of a person's delinquent nontax**  
46 **liability owed by the person to the federal government;**

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

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

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

54           **(b) Provide for the payment of the amount withheld to the state;**

55           **(4) Retain a portion of the proceeds of any collection setoff as provided under the**  
56 **offset agreement.**

57           **6. Under the offset agreement, a certification by a federal official to the state of**  
58 **Missouri shall include:**

59           **(1) The full name of the person and any other names known to be used by the**  
60 **person;**

61           **(2) The Social Security number or federal tax identification number;**

62           **(3) The amount of the nontax liability; and**

63           **(4) A statement that the debt is past due and legally enforceable in the amount**  
64 **certified.**

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

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

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

72           **(3) Pay to the federal official the lesser of:**

73           **(a) The entire refund or vendor payment; or**

74           **(b) The amount certified; and**

75           **(4) Pay any refund or vendor payment in excess of the certified amount to the**  
76 **person.**

77           **8. Notwithstanding any other provisions of law to the contrary, the director of**  
78 **revenue and the commissioner of administration shall have the authority to enter into**  
79 **reciprocal agreements with any other state which extends a like comity to this state to offset**  
80 **from state tax refunds and from payments otherwise due to vendors and contractors**

81 providing goods or services to state departments, agencies, or other state agencies nontax  
82 debt for debts due the other state that extends a like comity to this state.

37.650. 1. There is hereby established within the department of revenue the "Office  
2 of Taxpayer Advocate", for the purpose of providing independent assistance to taxpayers.

3 2. The office shall be administered by the taxpayer advocate, who shall be  
4 appointed by the governor with the advice and consent of the senate. The taxpayer  
5 advocate shall hold office for a term of six years and shall continue to hold office until a  
6 successor has been duly appointed. The advocate shall act independently of the  
7 department of revenue in the performance of his or her duties. The department of revenue  
8 shall provide administrative support and staff as deemed necessary.

9 3. The office shall have the authority:

10 (1) To communicate with any taxpayer regarding any tax issues that the taxpayer  
11 is experiencing;

12 (2) To communicate with any employees of the department of revenue regarding  
13 a taxpayer's tax issues; and

14 (3) To have access to any records held by any department or agency regarding a  
15 taxpayer's tax issues.

16 4. For any information obtained from a state agency or entity under this section,  
17 the office of taxpayer advocate shall be subject to the same disclosure restrictions and  
18 confidentiality requirements that apply to the state agency or entity providing such  
19 information to the office of taxpayer advocate. For information obtained directly by the  
20 office of taxpayer advocate under this section, the office of taxpayer advocate shall be  
21 subject to the same disclosure restrictions and confidentiality requirements that apply to  
22 the department of revenue.

23 5. The office shall annually submit to the governor and the general assembly a  
24 detailed report on the work of the office of the taxpayer advocate. Such report shall  
25 include, but not be limited to, the number of taxpayer cases handled by the office and the  
26 disposition of such cases. The report shall also include any recommendation for changes  
27 in tax laws or the operation of the department of revenue. The report filed by the office  
28 shall not be subject to review by any executive branch official.

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

136.380. [1. The director of revenue shall establish or designate within the department  
2 of revenue the "Office of Taxpayers' Ombudsman". Such office shall be available to answer  
3 taxpayer questions and help solve taxpayer grievances. The telephone number, facsimile number  
4 and address of the taxpayers' ombudsman shall be disseminated to the general public as required

5 in subsection 2 of section 136.355. Such office shall be created from existing personnel or can  
6 be staffed from appropriations made for such purpose.

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

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

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

4 **(2) The state treasurer;**

5 **(3) The state budget director;**

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

9 **(5) Three individuals representing the needs and concerns of individual taxpayers  
10 in this state, one of whom shall be appointed by the lieutenant governor, one of whom shall  
11 be appointed by the minority floor leader of the house of representatives, and one of whom  
12 shall be appointed by the minority floor leader of the senate;**

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

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

17 **(8) An individual with experience operating a business with a headquarters in this  
18 state and fewer than fifty employees, who shall be appointed by the speaker of the house  
19 of representatives;**

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

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

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

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

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

42           **4. It shall be the duty of the commission:**

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

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

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

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

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

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

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

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

65           **6. All state agencies and political subdivisions of the state responsible for the**  
66 **administration of tax policies shall cooperate with and assist the commission in the**

67 performance of its duties and shall make available all books, records, and information  
68 requested, except such books, records, and information as are by law declared confidential  
69 in nature, including individually identifiable information regarding a specific taxpayer.

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

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

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