

Missouri Codes

Title IV — EXECUTIVE BRANCH

Chapter 32 State Department of Revenue

32.010. Director appointed, how.

Director appointed, how.

32.010. The department of revenue is in charge of the director of revenue. The director shall be appointed by the governor, by and with the advice and consent of the senate, and shall serve at the pleasure of the governor.

(L. 1945 p. 1428 § 1, A.L. 1955 p. 571, A.L. 1957 p. 497, A.L. 1959 H.B. 115, A.L. 1967 p. 100, A.L. 1977 H.B. 841)

Effective 1-1-78

CROSS REFERENCE:

For compensation of department head, RSMo 105.950

32.028. Department created—powers, duties.

Department created—powers, duties.

32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law.

2. The powers, duties and functions of the department of revenue, chapter 32, RSMo and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138, RSMo and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to administration of the corporation franchise tax chapter 152, RSMo and

others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430, RSMo relating to appeals from decisions of the director of revenue shall apply to these taxes.

5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, RSMo, are transferred by type II transfer to the department of revenue.

(L. 1973 1st Ex. Sess. S.B. 1 § 12)

Effective 5-2-74

*Transferred 1986; formerly section 12 Reorganization Act 1974

CROSS REFERENCE:

Highway reciprocity commission abolished, duties and functions transferred to highways and transportation commission, RSMo 226.008

32.030. Oath of office and bond of director.

Oath of office and bond of director.

32.030. Before taking office, the director of revenue shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this state, and to demean himself faithfully in office. He shall also deposit with the secretary of state a bond, with sureties to be approved by the governor, in the amount of five hundred thousand dollars payable to the state of Missouri, conditioned on the faithful performance of the duties of his office and the satisfactory accounting of all moneys received by him. The premium of said bond shall be paid out of the appropriation for the department of revenue.

(L. 1945 p. 1428 § 2)

32.040. Headquarters in Jefferson City—branch offices.

Headquarters in Jefferson City—branch offices.

32.040. The board of public buildings shall provide the director of revenue and the department of revenue with suitable quarters in the City of Jefferson. The director of revenue shall establish and maintain permanent branch offices in the cities of St. Louis and Kansas City, and may select additional places in the

state for special full-time or temporary offices.

(L. 1945 p. 1428 § 7, A.L. 1959 H.B. 115)

32.042. Director of revenue may be served, how--proof of service.

Director of revenue may be served, how--proof of service.

32.042. Service of a summons and petition upon the director of the department of revenue may be made in the manner provided by subsections 4 and 5 of section 506.150, RSMo, provided that in lieu of the acknowledgment provided by said section, service may be made by certified mail, return receipt requested, and such receipt when returned indicating delivery of such mail shall serve as proof of service.

(L. 1996 S.B. 869)

32.050. Powers and duties of director.

Powers and duties of director.

32.050. 1. The director of revenue shall:

- (1) Prepare estimates of the requirements for appropriation for the department of revenue and for each division thereof which is under his supervision;
- (2) Procure, either through the division of purchasing, or by other means authorized by law, supplies, material, equipment or contractual services for the department of revenue and for each division in the department;
- (3) Prescribe, as far as practicable, a central system for payroll in the department of revenue;
- (4) Prepare and submit to each regular session of the general assembly and to the governor a report of the activities of the department, including the activities of each division of the department;
- (5) Prescribe a seal for the department of revenue.

2. With respect to all divisions in the department, the director shall:

- (1) Order and supervise the exchange among the several divisions of employees, quarters, facilities and equipment, and to this end the heads of the respective

divisions subject to the approval of the director of revenue, shall cooperate with each other in the use of employees, quarters, facilities and equipment and with the director of revenue;

(2) Coordinate, consolidate and arrange the functions, procedures and facilities of the several divisions as is necessary to bring about economy and efficiency in the operation of the department of revenue and each division of the department;

(3) Decide questions of policy of the department of revenue and each of its divisions;

(4) Decide any question arising in the interpretation or carrying out of chapters 32 and 136, RSMo, between:

(a) The director of revenue and any other officer or employee in the department of revenue;

(b) The director of revenue and any officer or employee of any other state department;

(c) Officers and employees of any of the state departments. The decision of the director of revenue is final;

(5) Administer the provisions of chapters 32 and 136, RSMo, and in case of any conflict in powers and duties between the director of revenue and any other administrator, director, officer or employee in the department of revenue and its several divisions, the powers and duties of the director of revenue are paramount;

(6) Approve all rules and regulations promulgated by all administrators, directors, officers or employees who have the authority under the provisions of chapters 32 and 136, RSMo, to make rules and regulations;

(7) Receive all appropriations to the department of revenue for the use of the department of revenue and its several divisions and is responsible for the disbursement and expenditure thereof.

3. The director of revenue may:

(1) Initiate, order and direct the arrangement and rearrangement of the employees, quarters, facilities and equipment in the department of revenue and each division of the department which is under his supervision;

(2) Employ and remove assistants, clerks and other employees in the department

of revenue and each of the divisions of the department which are under his supervision as the work of the department and its divisions require, and fix their compensation within the limits of the appropriation.

(L. 1945 p. 1428 § 4, A.L. 1947 V. I p. 479, A.L. 1957 p. 495, A.L. 1958 2d Ex. Sess. p. 170, A.L. 1965 p. 126)

CROSS REFERENCES:

Delinquencies, contracts to collect with attorneys and collection agencies, RSMo 140.850

Fund commissioners, member of board, RSMo 33.300

Gifts to public school fund, RSMo 166.071 to 166.121

Gross receipt taxes, city of St. Louis, powers and duties, RSMo 92.073

Seminary fund, duty to collect amounts due, RSMo 172.661

32.051. (Repealed L. 2006 S.B. 678 § A)

This section has been repealed. There is no longer any statute data associated with this section number. See the headnote previously listed for the year and the bill number which repealed it.

32.052. Employers failing to pay withholding taxes, sales or use taxes—director's duty to notify—procedure to pay, deposit to be made to special fund—continued failure to comply deemed intent t

Employers failing to pay withholding taxes, sales or use taxes—director's duty to notify—procedure to pay, deposit to be made to special fund—continued failure to comply deemed intent to defraud.

32.052. 1. The provisions of this section shall apply to the following: employer withholding tax as provided in sections 143.191 to 143.265, RSMo, and sales and use tax, including local sales taxes, as provided in chapter 144, RSMo.

2. If the director of revenue determines that any person required to collect, account for, and pay over any tax described in subsection 1 of this section has, at the time and in the manner prescribed by law or regulations, failed to collect, truthfully account for, or pay over any such tax, the director may notify such person in accordance with subsection 4 of this section and such

person shall:

(1) Collect, at the times and in the manner provided by law and regulations, all of the taxes described in subsection 1 of this section which become collectible by him after receipt of such notice;

(2) Deposit the taxes so collected, not later than the end of the second business day after collection, with a financial institution approved by the director of revenue, in a separate account established in accordance with subsection 3 of this section; and

(3) Keep in such account the taxes so deposited until payment thereof is made to the state of Missouri as required by the law and regulations in respect to such taxes.

3. The separate account referred to in subsection 2 of this section shall be established under the designation, "(Name of person required to establish account), Trustee, Special Fund in Trust for the State of Missouri under Chapter 32, RSMo". The taxes deposited in such account shall constitute a fund in trust for the state of Missouri payable only to the director of revenue on demand of the trustee. At no time shall the amount of funds so deposited in such account exceed the maximum federally insured limit. It shall be the duty of such person upon whom such notice is served to notify the director of revenue in writing the name and address of the financial institution wherein such account is proposed to be kept.

4. Notice to any person requiring his compliance with the provisions of this section shall be in writing and shall be hand delivered by the director of revenue or sent by certified mail to the last mailing address provided by the taxpayer.

5. The director of revenue may relieve a person from the requirement to comply with the provisions of this section whenever he is satisfied that such person will comply with the tax laws of this state. Such notice of cancellation shall be made in writing and shall take effect at such time as is specified in the written notice of cancellation.

6. Failure to comply with use of the trust account as required by this section shall be presumed to be a willful failure to truthfully account for and pay over the tax with intent to defraud.

(L. 1990 H. B. 960 § 4)

32.053. Policy change by department effecting particular class of person to be applied prospectively.

Policy change by department effecting particular class of person to be applied prospectively.

32.053. Any final decision of the department of revenue which is a result of a change in policy or interpretation by the department effecting a particular class of person subject to such decision shall only be applied prospectively.

(L. 1995 S.B. 374 § 1 subsec. 2)

32.055. Sale of motor vehicle registration lists and personal information prohibited, may be disclosed to whom.

Sale of motor vehicle registration lists and personal information prohibited, may be disclosed to whom.

32.055. Subject to the provisions of sections 32.090 and 32.091, the director of revenue shall not sell lists of motor vehicle registrations or other personal information held by the department of revenue for the purposes of bulk distribution for surveys, marketing and solicitations. Individual motor vehicle registration records and other personal information held by the department of revenue may be disclosed to any person or organization organized under an act of the Congress of the United States in accordance with the fee limitations as provided in section 610.026, RSMo.

(L. 1969 H.B. 973 § 1, A.L. 1997 S.B. 19, A.L. 2000 H.B. 1797)

32.056. Confidentiality of motor vehicle or driver registration records of county, state or federal parole officers or federal pretrial officers.

Confidentiality of motor vehicle or driver registration records of county, state or federal parole officers or federal pretrial officers.

32.056. The department of revenue shall not release the home address or any other information contained in the department's motor vehicle or driver registration records regarding any person who is a county, state or federal parole officer or who is a federal pretrial officer or who is a peace officer pursuant to section 590.100, RSMo, or a member of the parole officer's, pretrial officer's or peace officer's immediate family based on a specific request for such information from any person. Any person who is a county, state or federal parole officer or who is a federal pretrial officer or who is a

peace officer pursuant to section 590.100, RSMo, may notify the department of such status and the department shall protect the confidentiality of the records on such a person and his or her immediate family as required by this section. This section shall not prohibit the department from releasing information on a motor registration list pursuant to section 32.055 or from releasing information on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.

(L. 1996 H.B. 773 § 1, A.L. 2001 H.B. 80 merged with H.B. 144 & 46 merged with S.B. 4)

32.057. Confidentiality of tax returns and department records—exceptions—penalty for violation.

Confidentiality of tax returns and department records—exceptions—penalty for violation.

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

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

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

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

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

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

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

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

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

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

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

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

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

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

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, including, but not limited to, the state and federal attorneys general, or the official's

designees involved in any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

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

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

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

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

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

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.

(L. 1979 H.B. 296, A.L. 1980 S.B. 910, A.L. 1983 1st Ex. Sess. H.B. 10, A.L. 1993 S.B. 194, A.L. 1994 H.B. 1248 & 1048 merged with S.B. 685, A.L. 1996 H.B. 1098, A.L. 2003 H.B. 600, A.L. 2004 S.B. 1099, A.L. 2008 H.B. 2058)

CROSS REFERENCES:

Director to furnish statements to certain persons, when, RSMo
144.150

Income tax refund setoff, limited waiver of confidentiality, RSMo
143.788

**32.059. Contracts prohibiting agents from employing lobbyists not binding and prohibited.
Contracts prohibiting agents from employing lobbyists not binding and prohibited.**

32.059. Any other provision of the law to the contrary notwithstanding, no contractual provision between the department of revenue and its agents which prohibits said agent from employing a lobbyist shall be binding on said agent, and no subsequent contract shall contain such a provision.

(L. 1997 H.B. 459 § 1)

32.060. Annual report, contents.

Annual report, contents.

32.060. The director of the department of revenue shall prepare, in consultation with the commissioner of administration and state treasurer, a combined financial report for each fiscal year and submit such report to the governor and the members of the general assembly within sixty days after the close of the fiscal year. This report shall contain an interpretative summary of the financial status of the state, including a statement of the income into each fund, sources of income, unencumbered balances in each fund, programs for which expenditures were made, unencumbered balances by appropriations, and estimates of revenue for the coming fiscal year from the various sources. The report also shall show the state's indebtedness, its total unencumbered balance, portions of such balance as may be invested, and the depositories in which state funds are located, together with the type of deposit, and such other information as may be included at the discretion of the director of revenue or the governor.

(RSMo 1939 § 13022, A.L. 1945 p. 1428 § 6, A.L. 1959 S.B. 40, A.L. 1961 p. 411)

Prior revisions: 1929 § 11400; 1919 § 13297; 1909 § 11809

32.063. Credit cards may be accepted by department for payment of taxes and fees—
director may establish fee for use.

Credit cards may be accepted by department for payment of taxes and fees—
director may establish fee for use.

32.063. 1. The director of revenue and the director's employees or agents may accept credit cards in payment of taxes and fees. The type of credit cards accepted shall be at the discretion of the director.

2. In addition to other fees provided by law, the director of revenue and the director's employees or agents may set a fee to be added to each credit card transaction equal to the charge paid by the state or the taxpayer for the use of the credit card by the taxpayer. No other fees shall be imposed other than those herein authorized.

(L. 1990 S.B. 768 § 1, A.L. 1992 S.B. 589, A.L. 2009 H.B. 683)

32.065. Interest rates for certain taxes, director to set, when, how—failure of director
to set rates, rates to be used.

Interest rates for certain taxes, director to set, when, how—failure of
director to set rates, rates to be used.

32.065. 1. The annual rate established under this section shall be such adjusted rate as is established by the director of revenue under subsection 2 of this section.

2. The director shall establish an adjusted rate of interest for the purpose of subsection 1 not later than October twenty-second of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate which is then in effect. Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on January first of the immediately succeeding year.

3. For purposes of subsection 2, the term "adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

4. The annual rate provided in subsection 1 of this section shall apply not later than January 1, 1984, to amounts outstanding on that date or arising thereafter; provided, however, prior to January 1, 1984, the director of revenue may, by rule, implement and apply in lieu of any of the interest rates for any specific tax or taxes provided for in the following sentence, the annual rate provided in subsection 1 for amounts outstanding on the effective date of the implementing rule. If the director of revenue does not implement the use of the annual rate provided in subsection 1 prior to January 1, 1984, for any particular tax, sections 142.180, 142.561, 143.731, 143.761, 144.170, 146.060, 148.050, 148.060, 148.160, 148.180, 148.300*, 148.530* and 149.051, RSMo 1978, and section 147.120, RSMo Supp. 1981, shall continue to be applied to amounts outstanding prior to January 1, 1984, with respect to determining interest and other amounts due for periods before January 1, 1984.

(L. 1982 H.B. 1351, et al., A.L. 1986 S.B. 669, et al., A.L. 1995 S.B. 374)

*Sections 148.300 and 148.530 were repealed by H.B. 713 § 1, 1983.

32.067. Department of revenue information fund created--purpose--deposit.

Department of revenue information fund created--purpose--deposit.

32.067. 1. All moneys received by the Missouri department of revenue for the dissemination of information and publications to individuals, businesses, federal, state and local governments shall be deposited in the state treasury to the credit of the "Department of Revenue Information Fund" which is hereby created. The state treasurer shall be custodian of the fund and shall make disbursements from the funds requested by the Missouri director of revenue for personal services, expenses, and equipment required to prepare and disseminate requested information and to refund overpayments for such information and publications to individuals and organizations and for no other purpose.

2. At the end of each state fiscal year after August 13, 1986, the Missouri director of revenue shall:

(1) Determine the amount of all moneys derived from highway users as an incident to their use or right to use the highways of the state which were deposited into the department of revenue information fund;

(2) Determine the amount of the disbursements from the department of revenue information fund which were made to produce the moneys referred to in subdivision (1) of this subsection;

(3) Subtract the amount of disbursements from the income figure referred to in subdivision (1) of this subsection and deliver this figure to the state treasurer.

3. The state treasurer shall transfer an amount of money equal to the figure provided by the director of revenue from the department of revenue information fund to the state highway department fund. An unexpended balance in the department of revenue information fund at the end of the biennium not exceeding twenty-five thousand dollars is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balance to the ordinary revenue fund.

(L. 1985 H.B. 842 § 2, A.L. 1986 S.B. 669, et al., A.L. 1987 H.B. 89)

Effective 6-25-87

32.068. Annual rate of interest to be calculated, director of revenue to apply rate, when.

Annual rate of interest to be calculated, director of revenue to apply rate, when.

32.068. 1. The state treasurer shall calculate an annual rate of interest pursuant to this section and provide the calculated rate of interest to the director of revenue as determined by subsection 2 of this section.

2. Each calendar quarter the state treasurer shall calculate the annual rate of interest. The rate of interest shall be equal to the previous twelve-month annualized average rate of return on all funds invested by the state treasurer, rounded to the nearest one-tenth of one percent. The state treasurer shall provide such calculated rate to the director of revenue not later than thirty days prior to the end of each calendar quarter. The director of revenue shall apply the calculated rate of interest to all applicable situations during the next calendar quarter after the release of the calculated rate of interest.

3. Beginning January 1, 2003, the director of revenue shall apply the calculated rate of interest as determined by this section to all applicable situations.

4. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the

future fund created in section 163.005, RSMo.

(L. 2002 S.B. 1248)

Effective 6-19-02

32.069. Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.

Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.

32.069. Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days from the latest of the following dates:

- (1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;
- (2) The date the return, payment, or claim is filed; or
- (3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

(L. 2002 S.B. 1248, A.L. 2007 S.B. 613 Revision)

32.075. Audit of tax records by political subdivisions--costs--joint audits, when--taxpayer's audit limitation.

Audit of tax records by political subdivisions--costs--joint audits, when--taxpayer's audit limitation.

32.075. 1. The director of revenue, under rules prescribed by him, may delegate to any political subdivision by cooperative agreement the auditing of records incident to the administration, collection, and operation of any tax imposed by that political subdivision under the authority of the sections set forth in subsection 4 of this section.

2. Once the director of revenue has approved a cooperative agreement made under this section, the state shall pay to each political subdivision which performs an audit in accordance with such agreement the one percent collection fee retained by the state, or an agreed upon portion thereof.

3. The director of revenue shall maintain supervisory control over any such function or functions delegated by cooperative agreement and may require such information, reports, and documents, or the modification or termination of such agreement as may be necessary for the performance of the duties imposed upon the director of revenue.

4. This section shall apply to taxes authorized by sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, RSMo, sections 67.550 to 67.580, RSMo, sections 67.600 to 67.640, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, RSMo, and sections 94.600 to 94.655, RSMo.

5. No audit authorized by this section shall be undertaken by any political subdivision without the specific approval of the director of revenue. All audits so approved shall be conducted at the location where the taxpayer's records are maintained. The director of revenue may authorize a joint audit by the state and one or more political subdivisions and may use the results of such joint audit for enforcing and collecting both state and local taxes. The director shall not authorize more than one audit of the same taxpayer in any one year under this section.

(L. 1983 1st Ex. Sess. H.B. 10)

Effective 1-1-84

32.080. ~~Reproduction of drivers' licenses, tax reports, returns and related documents by department--destruction of originals permitted when--electronic filings, issuances or renewals authorized--~~

Reproduction of drivers' licenses, tax reports, returns and related documents by department--destruction of originals permitted when--electronic filings, issuances or renewals authorized--confidentiality--admissibility--period of preservation of reproduced records--electronic filing authorized admissible in evidence, procedure.

32.080. 1. Notwithstanding other provisions of law, the director of revenue may destroy motor vehicle, driver's license, or tax reports, returns and other related documents at any time if such reports, returns, and other related documents have been photographed, microphotographed, electronically generated, electronically recorded, photostated, reproduced on film or other process capable of producing a clear, accurate and permanent copy of the original. Such film or reproducing material shall be of durable material and the device used to reproduce the records, reports, returns, and other related documents on film

or material shall be such as to accurately reproduce and perpetuate the original records, reports, returns and other documents in all details.

2. The reproductions so made may be used as permanent records of the original. When microfilm or a similar reproduction is used as a permanent record by the director of revenue, one copy shall be stored in a fireproof vault and other copies may be made for use by any person entitled thereto. All reproductions shall retain the same confidentiality as is provided in the law regarding the original record.

3. Such photostatic copy, photograph, microphotograph, electronically generated, electronically recorded, or other process copy shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy of any motor vehicle, driver's license or tax reports, records, returns and other related documents made from such photostatic copy, photograph, microphotograph, electronically generated, electronically recorded, or other process copy shall, for all purposes be deemed to be a transcript, exemplification or certified copy of the original and shall be admissible in evidence in all courts or administrative agencies. No documents shall be admissible under this section unless the offeror shall comply with section 490.692, RSMo.

4. Reproductions made of motor vehicle, driver's license, or tax reports, returns and related documents hereunder shall be preserved for four years and thereafter until the director of revenue orders them to be destroyed.

5. Notwithstanding other provisions of law, the department of revenue may allow the electronic filing, issuance or renewal of any motor vehicle, driver's license, or tax records, reports, returns and other related documents. All restrictions imposed by law that apply to the disclosure of information by the department of revenue shall also apply to any persons or entities contracting with the director of the department of revenue to provide electronic filing, issuance or renewal services. Notwithstanding other provisions of law, any on-line access or access via other electronic means granted to such persons or entities may be limited to the persons or entities providing such electronic filing, issuance or renewal services.

6. A transcript, exemplification or certified copy of any electronically filed motor vehicle, driver's license or tax reports, records, returns and other related document upon certification of the director of revenue shall be admissible in evidence in all courts or administrative agencies without further proof. "Records, reports, returns, and other related documents" include, but are not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or

electronically recorded information, deposited or filed with the department of revenue.

7. Notwithstanding other provisions of law, the department of revenue may determine alternative methods for the signing, subscribing or verifying of a record, report, return, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, return, or related document.

8. The director of revenue may renew motor vehicle registrations by electronic means when the information, fees and documents required by chapters 301, 303 and 307, RSMo, to accompany such application are provided to the director electronically in a format prescribed by the director of revenue.

9. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to July 1, 2000, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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 July 1, 2000, shall be invalid and void.

(L. 1986 S.B. 669, et al. § 5, A.L. 1995 S.B. 374, A.L. 1999 H.B. 795, S.B. 19, A.L. 2000 H.B. 1797)

32.085. Local sales taxes, collection of—definitions.

Local sales taxes, collection of—definitions.

32.085. The following words or phrases as used in this section and section 32.087 shall have the following meaning unless a different meaning clearly appears from the context:

- (1) "Boat" shall only include motorboats and vessels as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo;
- (2) "Farm machinery" means new or used farm tractors, cultivating

and harvesting equipment which ordinarily is attached thereto, combines, cornpickers, cottonpickers, farm trailers, and such other new or used farm equipment or machinery which are used exclusively for agricultural purposes as the director of revenue may exempt by rule or regulation of the department of revenue;

(3) "Local sales tax" shall mean any tax levied, assessed, or payable under the local sales tax law;

(4) "Local sales tax law" shall refer specifically to sections 66.600 to 66.630, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, section 67.548, RSMo, sections 67.550 to 67.570, RSMo, section 67.581, RSMo, section 67.582, RSMo, section 67.583, RSMo, sections 67.590 to 67.594, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, section 67.782, RSMo, sections 67.1712 to 67.1715, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.550, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, and sections 94.700 to 94.755, RSMo, and any provision of law hereafter enacted authorizing the imposition of a sales tax by a political subdivision of this state; provided that such sales tax applies to all transactions which are subject to the taxes imposed under the provisions of sections 144.010 to 144.525, RSMo;

(5) "Taxing entity" shall refer specifically to any political subdivision of this state which is authorized by the local sales tax law to impose one or more local sales taxes.

(L. 1991 H.B. 29 § 1, A.L. 2001 S.B. 203)

CROSS REFERENCE:

County sales tax, to fund emergency central dispatching services, law applicable, RSMo 190.337

~~32.087. Local sales taxes, procedures and duties of director of revenue, generally-- effective date of tax--duty of retailers and director of revenue--exemptions--discounts allowed--penalties--motor ve~~

~~Local sales taxes, procedures and duties of director of revenue, generally-- effective date of tax--duty of retailers and director of revenue--exemptions-- discounts allowed--penalties--motor vehicle and boat sales, mobile telecommunications services--bond required--annual report of director, contents--delinquent payments--reapproval, effect, procedures.~~

32.087. 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

4. The brackets required to be established by the director of revenue under the provisions of section 144.285, RSMo, shall be based upon the sum of the combined rate of the state sales tax and all local sales taxes imposed under the provisions of the local sales tax law.

5. The ordinance or order imposing a local sales tax under the local sales tax law shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of the state sales tax or state highway use tax and all local sales taxes imposed under the provisions of the local sales tax law.

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and

regulations as may be prescribed by the director of revenue.

7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection of any local sales tax imposed under the local sales tax law except as modified by the local sales tax law.

8. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may hereafter be amended, it being the intent of this general assembly to ensure that the same sales tax exemptions granted from the state sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition and collection of all local sales taxes imposed under the local sales tax law.

9. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of the local sales tax law, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from any local sales tax imposed by the local sales tax law.

10. All discounts allowed the retailer under the provisions of the state sales tax law for the collection of and for payment of taxes under the provisions of the state sales tax law are hereby allowed and made applicable to any local sales tax collected under the provisions of the local sales tax law.

11. The penalties provided in section 32.057 and sections 144.010 to 144.525, RSMo, for a violation of the provisions of those sections are hereby made applicable to violations of the provisions of the local sales tax law.

12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall be deemed to be consummated at the

place of business from which he works.

(2) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be deemed to be consummated at the residence of the purchaser and not at the place of business of the retailer, or the place of business from which the retailer's agent or employee works.

(3) For the purposes of any local tax imposed by an ordinance or under the local sales tax law on charges for mobile telecommunications services, all taxes of mobile telecommunications service shall be imposed as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.

14. The director of revenue and any of his deputies, assistants and employees who have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a blanket bond covering himself and all such deputies, assistants and employees. The cost of any premium for such bond shall be paid by the director of revenue from the share of the collections under the sales tax law retained by the director of revenue for the benefit of the state.

15. The director of revenue shall annually report on his management of each trust fund which is created under the local sales tax law and administration of each local sales tax imposed under the local sales tax law. He shall provide each taxing entity imposing one or more local sales taxes authorized by the local sales tax law with a detailed accounting of the source of all funds received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales

taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him under the local sales tax law or in the event a determination has been made against him for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount of any local sales tax due so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

(L. 1991 H. B. 29 § 2, A. L. 1994 S. B. 477, et al., A. L. 2002 H. B. 1890, A. L. 2004 S. B. 1394)

CROSS REFERENCE:

County sales tax, to fund emergency central dispatching services,
law applicable, RSMo 190.337

32.090. Department to keep copies of records--records to be made available to public, when--disclosure of personal information, when.

Department to keep copies of records--records to be made available to public, when--disclosure of personal information, when.

32.090. 1. The department of revenue shall keep a record of each application or other document filed with it and each certificate or other official document issued by it.

2. Except as otherwise provided by law, all records of the department of revenue are public records and shall be made available to the public according to procedures established by the department.

3. Personal information obtained by the department shall not be disclosed to any person requesting such personal information except as provided in section 32.091.

(L. 1997 S.B. 19 § 1, A.L. 2000 H.B. 1797)

32.091. Definitions--disclosure of individual motor vehicle records, when--certain disclosures prohibited without express consent--disclosure pursuant to United States law--disclosure for purposes of

Definitions--disclosure of individual motor vehicle records, when--certain disclosures prohibited without express consent--disclosure pursuant to United States law--disclosure for purposes of public safety--certain information not to be collected, when.

32.091. 1. As used in sections 32.090 and 32.091, the following terms mean:

(1) "Motor vehicle record", any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration or identification card issued by the department of revenue;

(2) "Person", an individual, organization or entity, but does not include a state or agency thereof;

(3) "Personal information", information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address, but not the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations and driver's status.

2. The department of revenue may disclose individual motor vehicle records pursuant to Section 2721(b)(11) of Title 18 of the United States Code and may disclose motor vehicle records in bulk pursuant to Section 2721(b)(12) of Title 18 of the United States Code, as amended by Public Law 106-69, Section 350, only if the department has obtained the express consent of the person to whom such personal information pertains.

3. Notwithstanding any other provisions of law to the contrary, the department of revenue shall not disseminate a person's driver's license photograph, Social Security number and medical or disability information from a motor vehicle record, as defined in Section 2725(1) of Title 18 of the United States Code without the express consent of the person to whom such information pertains, except for uses permitted under Sections 2721(b)(1), 2721(b)(4), 2721(b)(6) and 2721(b)(9) of Title 18 of the United States Code.

4. The department of revenue shall disclose any motor vehicle record or personal information permitted to be disclosed pursuant to Sections 2721(b)(1) to 2721(b)(10) and 2721(b)(13) to 2721(b)(14) of Title 18 of the United States Code except for the personal information described in subsection 3 of this section.

5. Pursuant to Section 2721(b)(14) of Title 18 of the United States Code, any person who has a purpose to disseminate to the public a newspaper, book, magazine, broadcast or other similar form of public communication, including dissemination by computer or other electronic means, may request the department to provide individual or bulk motor vehicle records, such dissemination being related to the operation of a motor vehicle or to public safety. Upon receipt of such request, the department shall release the requested motor vehicle records.

6. This section is not intended to limit media access to any personal information when such access is provided by agencies or entities in the interest of public safety and is otherwise authorized by law.

7. The department of revenue shall not collect from persons applying for any driver's license issued by the department any information by which such persons can be individually identified, unless the department has specific statutory authorization to collect such information; nor shall the department of revenue include on any driver's license, in print, magnetic, digital, or any other format, any information by which an individual may be identified, unless the department has specific statutory authorization to include such information.

(L. 1997 S.B. 19 § 2, A.L. 2000 H.B. 1797, A.L. 2001 H.B. 897 merged with S.B. 540)

32.095. Motor vehicle dealer to act as agent of department, purpose—rulemaking authority.

Motor vehicle dealer to act as agent of department, purpose—rulemaking authority.

32.095. 1. Beginning January 1, 2012, the director of the department of revenue may select or appoint any motor vehicle dealer, as such term is defined in chapter 301, RSMo, to act as an agent of the department of revenue for the purpose of titling and registering motor vehicles under chapter 301, RSMo. Such motor vehicle dealers shall only act as an agent under this section for an initial sale or lease of a motor vehicle, but shall not act as an agent under this section for any subsequent registration under chapter 301 or 306, RSMo.

2. The director of revenue may promulgate rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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.

(L. 2009 H.B. 683)

32.100. Short title.

Short title.

32.100. Sections 32.100 to 32.125 shall be known and may be cited as the "Neighborhood Assistance Act".

(L. 1977 S.B. 375 § 1)

Effective 1-1-78

32.105. Definitions.

Definitions.

32.105. As used in sections 32.100 to 32.125, the following terms mean:

- (1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;
- (2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. For rental units, persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area", as used in this subdivision, means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Percent of State or

Geographic Area Family

Size of Household Median Income

One Person 35%

Two Persons 40%

Three Persons 45%

Four Persons 50%

Five Persons 54%

Six Persons 58%

Seven Persons 62%

Eight Persons 66%

For owner-occupied units, persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger:

Percent of State or

Geographic Area Family

Size of Household Median Income

One Person 70%

Two Persons 80%

Three Persons 90%

Four Persons 100%

Five Persons 108%

Six Persons 116%

Seven Persons 124%

Eight Persons 132%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax

on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed six million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community

awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

(L. 1977 S.B. 375 § 2, A.L. 1980 H.B. 1349 & 1577, A.L. 1982 H.B. 1353, A.L. 1985 H.B. 305, A.L. 1989 H.B. 378, A.L. 1990 H.B. 960, A.L. 1991 S.B. 185, A.L. 1992 S.B. 661 & 620, A.L. 1993 H.B. 566 merged with S.B. 376, A.L. 1994 H.B. 1248 & 1048, A.L. 1996 H.B. 1237, A.L. 1998 H.B. 1052 merged with H.B. 1201, A.L. 2000 S.B. 894, A.L. 2004 S.B. 1155, A.L. 2007 1st Ex. Sess H.B. 1, A.L. 2008 H.B. 2058 merged with S.B. 718, A.L. 2009 H.B. 191 merged with H.B. 802)

32.110. Firms providing neighborhood assistance to receive tax credits.

Firms providing neighborhood assistance to receive tax credits.

32.110. Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (13) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal funding.

(L. 1977 S.B. 375 § 3, A.L. 1980 H.B. 1349 & 1577, A.L. 1989 H.B. 378, A.L. 1990 H.B. 960, A.L. 1998 S.B. 827, A.L. 1999 S.B. 20, A.L. 2000 S.B. 894, A.L. 2004 S.B. 1155)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, RSMo 135.800 to 135.830

32.111. Affordable housing assistance activities and affordable housing units, market rate housing in distressed communities, or workfare renovation projects, business firms proposing to provide, procedure for approval and tax credit-- restricted use of property to create a lien.

Affordable housing assistance activities and affordable housing units, market rate housing in distressed communities, or workfare renovation projects, business firms proposing to provide, procedure for approval and tax credit-- restricted use of property to create a lien.

32.111. Any business firm which engages in providing affordable housing assistance activities or market rate housing in distressed communities as defined in section 135.530, RSMo, in the state of Missouri shall receive a tax credit as provided in section 32.115 if the commissioner or its delegate approves a proposal submitted by one or more business firms for the provision of affordable housing units or market rate housing in distressed communities or in accordance with the requirements of participation in the workfare renovation project in sections 215.340 to 215.355, RSMo. The proposal shall set forth the program of affordable housing to be conducted, the location and number of affordable housing units, the neighborhood area to be served, why the program is needed, the time period for which affordable housing units shall be provided, the estimated amount to be invested in the program, plans for implementing the program and a list of the business firms proposing to provide affordable housing assistance activities which are part of the proposal. The same type of information shall be provided in proposals for market rate housing in distressed communities. In the case of rental units of affordable housing, but not market rate housing in distressed communities, all proposals approved by the commission shall require a land use restriction agreement stating the provision of affordable housing on such property for a time period deemed reasonable by the commission. In the case of owner-occupied units of affordable housing, all proposals approved by the commission shall require a land use restriction agreement for a time period deemed reasonable by the commission requiring any subsequent owner, except a lender with a security interest in the property, to be an owner occupant whose income at the time of acquisition is at or below the level described in section 32.105, and further requiring the acquisition price to any subsequent owner shall not exceed by more than a five percent annual appreciation the acquisition price to the original, eligible owner at the time tax credits are first claimed. The land use restriction agreement shall constitute a lien as described in subdivision (4) of subsection 3 of section 32.115. The restriction shall be approved by the property owner and shall be binding on any subsequent owner of the property unless otherwise approved by the commission. In approving a proposal, the commission may authorize the use of tax credits by one or more of the business firms listed in the proposal and shall establish specific requirements regarding the degree of completion of affordable housing assistance activities or market rate housing activities in

distressed communities necessary to be eligible for tax credits provided pursuant to this section. If, in the opinion of the commission or its delegate, a business firm's investment can more consistently with the purposes of this section be made through a neighborhood organization, tax credits may be allowed as provided in this section. The commission may approve requests for multiyear credit commitments provided eligibility is maintained. The commission or its delegate is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval, for establishing housing priorities for approval or disapproval of such proposals by business firms, and for the certification of eligibility for tax credits authorized pursuant to this section. The decision of the commission or its delegate to approve or disapprove a proposal pursuant to this section shall be in writing, and if approved, the maximum credit allowable to the business firm shall be stated. A copy of the decision of the commission or its delegate shall be transmitted to the director of revenue and to the governor. A copy of the certification approved by the commission and a statement of the total amount of credits approved by the commission, the amount of credits previously taken by the taxpayer and the amount being claimed for the current tax year shall be filed in a manner and form designated by the director of revenue for any tax year in which a tax credit is being claimed.

(L. 1990 H.B. 960, A.L. 1993 S.B. 376, A.L. 1996 H.B. 1237, A.L. 1998 H.B. 1052, A.L. 1999 S.B. 20)

Effective 1-1-00

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, RSMo 135.800 to 135.830

32.112. Tax credit for businesses making contribution to neighborhood organization-- proposal required, content--rules authorized--approval or disapproval by commission to be filed--approval to contain

Tax credit for businesses making contribution to neighborhood organization-- proposal required, content--rules authorized--approval or disapproval by commission to be filed--approval to contain maximum tax credit allowed.

32.112. Any business firm which makes a contribution to a neighborhood organization, a significant part of whose activities consist of affordable housing assistance activities or market rate housing in distressed communities as defined in section 135.530, RSMo, in the state of Missouri, shall receive a

tax credit as provided in section 32.115 if the commission approves a proposal submitted by one or more business firms for the general operating assistance of such neighborhood organization. The proposal shall set forth the activities of the neighborhood organization, including the affordable housing assistance activities or market rate housing in distressed communities, the neighborhood area to be served, why the activities are needed, the estimated amount to be contributed to the neighborhood organization, and a list of the business firms proposing to make the contributions. The commission is hereby authorized to promulgate rules and regulations pursuant to section 536.024, RSMo, for establishing criteria for evaluating such proposals by business firms for approval or disapproval, and for the certification of eligibility for tax credits authorized pursuant to this section. The decision of the commission to approve or disapprove a proposal pursuant to this section shall be in writing and, if approved, the maximum credit allowable to the business firm shall be stated. A copy of the decision of the commission shall be transmitted to the director of revenue and to the governor. A copy of the certification approved by the commission and a statement of the total amount of credits approved, the amount of credits previously taken by the taxpayer and the amount being claimed for the current tax year shall be filed in a manner and form designated by the director of revenue for any tax year in which a tax credit is being claimed.

(L. 1996 H.B. 1237, A.L. 1999 S.B. 20)

Effective 1-1-00

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, RSMo 135.800 to 135.830

32.115. Tax credits authorized, order in which applied—amount allowed annually, exceeded when—upper limit set—carry-over permitted, enforceability—credit limit for amount contributed, carry-over,

Tax credits authorized, order in which applied—amount allowed annually, exceeded when—upper limit set—carry-over permitted, enforceability—credit limit for amount contributed, carry-over, total amount of credit allowed.

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 148, RSMo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

(2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy percent may be allowed for contributions to programs where activities fall within the scope of special program priorities as defined with the approval of the governor in regulations promulgated by the director of the department of economic development;

(3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for contributions to programs located in any community shall be equal to seventy percent of the total amount contributed where such community is a city, town or village which has fifteen thousand or less inhabitants as of the last decennial census and is located in a county which is either located in:

(a) An area that is not part of a standard metropolitan statistical area;

(b) A standard metropolitan statistical area but such county has only one city, town or village which has more than fifteen thousand inhabitants; or

(c) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture.

Such community may also be in an unincorporated area in such county as provided in subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit of the combined federal and state tax savings to the

taxpayer exceed the amount contributed by the taxpayer during the tax year;

(4) Such tax credit allocation, equal to seventy percent of the total amount contributed, shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit allocation is committed, the tax credit allocation for such programs shall then be equal to fifty percent credit of the total amount contributed. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at such times during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit shall be approved for any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution was made may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. Except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in credits are not approved, then the remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125;

(5) The credit may exceed two hundred fifty thousand dollars annually and shall not be limited if community services, crime prevention, education, job training, physical revitalization or economic development, as defined by section 32.105, is rendered in an area defined by federal or state law as an impoverished, economically distressed, or blighted area or as a neighborhood experiencing problems endangering its existence as a viable and stable neighborhood, or if the community services, crime prevention, education, job training, physical revitalization or economic development is limited to impoverished persons.

3. For proposals approved pursuant to section 32.111:

(1) The amount of the tax credit shall not exceed fifty-five percent of the total amount invested in affordable housing assistance activities or market rate housing in distressed communities as defined in section 135.530, RSMo, by a business firm. Whenever such investment is made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits may be claimed only where the loan or equity investment is accompanied by a donation which is eligible for federal income tax charitable deduction, and where the total value of the tax credits herein plus the value of the federal income tax

charitable deduction is less than or equal to the value of the donation. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. If the affordable housing units or market rate housing units in distressed communities for which a tax is claimed are within a larger structure, part of which are not the subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated basis in proportion to the ratio of the number of square feet devoted to the affordable housing units or market rate housing units in distressed communities, for purposes of determining the amount of the tax credit. The total amount of tax credit granted for programs approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars, to be increased by no more than two million dollars each succeeding fiscal year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

(2) For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing rental units for which a credit is being claimed shall certify to the commission that all tenants renting claimed units are income eligible for affordable housing units and that the rentals for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify such certification;

(3) In the case of owner-occupied affordable housing units, the qualifying owner occupant shall, before the end of the first year in which credits are claimed, certify to the commission that the occupant is income eligible during the preceding two years, and at the time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further certify to the commission, before the end of the first year in which credits are claimed, that during the compliance period indicated in the land use restriction agreement, the cost of the affordable housing unit to the occupant for the claimed unit can reasonably be projected to be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant acquiring the affordable housing unit during the compliance period indicated in the land use restriction agreement shall make the same certification;

(4) If at any time during the compliance period the commission determines a project for which a proposal has been approved is not in compliance with the applicable provisions of sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one hundred fifty days of notice to the owner either seek injunctive enforcement action against the owner, or seek legal damages against the owner representing the value of the tax credits, or

foreclose on the lien in the land userestriction agreement, selling the project at a public sale, and paying tothe owner the proceeds of the sale, less the costs of the sale and less thevalue of all tax credits allowed herein. The commission shall remit to thedirector of revenue the portion of the legal damages collected or the saleproceeds representing the value of the tax credits. However, except in theevent of intentional fraud by the taxpayer, the proposal's certificate ofeligibility for tax credits shall not be revoked.

4. For proposals approved pursuant to section 32.112, the amount ofthe tax credit shall not exceed fifty-five percent of the total amountcontributed to a neighborhood organization by business firms. Any taxcredit not used in the period for which the credit was approved may becarried over the next ten succeeding calendar or fiscal years until thefull credit has been allowed. The total amount of tax credit granted forprograms approved pursuant to section 32.112 shall not exceed one milliondollars for each fiscal year.

5. The total amount of tax credits used for market rate housing indistressed communities pursuant to sections 32.100 to 32.125 shall notexceed thirty percent of the total amount of all tax credits authorizedpursuant to sections 32.111 and 32.112.

(L. 1977 S.B. 375 § 4, A.L. 1980 H.B. 1349 & 1577, A.L. 1982 H.B. 1353, A.L. 1985 H.B. 305, A.L. 1986 S.B. 669, et al., A.L. 1989 H.B. 378, A.L. 1990 H.B. 960, A.L. 1993 H.B. 566 merged with S.B. 376, A.L. 1995 H.B. 174, et al., A.L. 1996 H.B. 1237, A.L. 1998 S.B. 827, A.L. 1999 S.B. 20)

Effective 1-1-00

32.117. Homelessness assistance projects--business firms proposing to provide, approval required--location of project requirements--tax credit, amount.

Homelessness assistance projects--business firms proposing to provide, approval required--location of project requirements--tax credit, amount.

32.117. 1. Any business firm which engages in theactivity of providing a homeless assistance project forlow-income persons in the state of Missouri shall receive a taxcredit as provided in section 32.115, if the division ofcommunity development within the department of economicdevelopment annually approves the proposal of the business firm.The proposal shall only be approved if the project is located ina city with a population of four hundred thousand or moreinhabitants which is located in more than one county and whichserves a mix of rural and urban counties.

2. For purposes of this section "low-income persons" shall mean families or persons with incomes of fifty percent or less of median income adjusted for family size as allowed by the Department of Housing and Urban Development (HUD) under section 8.

3. The purpose of a homeless assistance project shall be to serve low-income families or persons who are experiencing economic crisis caused by one or more of the following:

- (1) Loss of employment;
- (2) Medical disability or emergency;
- (3) Loss or delay of some form of public assistance benefits;
- (4) Natural disaster;
- (5) Substantial change in household composition;
- (6) Victimization by criminal activity;
- (7) Illegal action by a landlord;
- (8) Displacement by government or private action; or
- (9) Some other condition which constitutes a hardship.

4. The amount of the tax credit shall not exceed fifty-five percent of the value of the proposal benefits, which shall include one or more of the following types of benefits to low-income persons in order to be eligible:

- (1) Payment of rent or mortgage for not more than three months during any twelve-month period;
- (2) Payment to a landlord of a rent deposit or a security deposit for not more than two months during any twelve-month period;
- (3) Case management services which shall include support services such as child care, education resource assistance, job resource assistance, counseling, and resource and referral;
- (4) Outreach services to low-income persons to prevent homelessness;
- (5) Transitional housing facilities with support services.

5. The homeless assistance program shall give priority to the following types of low-income families or individuals:

- (1) Families with minor children who are in imminent danger of removal from the family because of a lack of suitable housing accommodation;
- (2) Single parent household;
- (3) Other households with children;
- (4) Households with a disabled household member or a household member who is at least sixty-five years of age;
- (5) All other households.

6. The organization implementing a homeless assistance program pursuant to this section shall make annual reports identifying the goal of the program, the number of recipients served, the type of services rendered, and money expended to provide the program. The program report shall be submitted to the governor, speaker of the house of representatives and the president pro tem of the senate. These reports shall also be available to the general public upon request.

7. For each of the fiscal years beginning on July 1, 1991, and July 1, 1992, one million dollars in tax credits may be allowed to be used for the homeless assistance pilot project, pursuant to this section.

(L. 1990 H.B. 960)

Effective 10-1-90

32.120. Director's decisions to be in writing--director to determine amount of credit.

Director's decisions to be in writing--director to determine amount of credit.

32.120. The decision of the director of the department of economic development to approve or disapprove a proposal pursuant to section 32.110 shall be in writing, and if he approves the proposal, he shall state the maximum credit allowable to the business firm. A copy of the decision of the director of the department of economic development shall be transmitted to the director of revenue and to the governor.

(L. 1977 S.B. 375 § 5, A.L. 1980 H.B. 1349 & 1577, A.L. 1989 H.B.

32.125. Rules and regulations, promulgation, procedures.

Rules and regulations, promulgation, procedures.

32.125. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1977 S.B. 375 § 6, A.L. 1981 S.B. 200, A.L. 1990 H.B. 960, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

*This section was amended by both S.B. 3 and S.B. 374 during the First Regular Session of the 88th General Assembly, 1995. Due to possible conflict, both versions are printed here.

Rules and regulations, promulgation--filing, disapproval, effect--ratification of disapproval by general assembly--suspension or revocation of rule by general assembly, publication.

32.125. 1. No rule or portion of a rule promulgated under the authority of this chapter or any provisions of any other chapter by the department of revenue shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

2. Upon filing any proposed rule with the secretary of state, the department of revenue shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

3. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department of revenue may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

4. The committee may, by majority vote of the members, suspend the order of

rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

5. If the committee disapproves any rule or portion thereof, the department of revenue shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

6. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

7. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

(L. 1977 S.B. 375 § 6, A.L. 1981 S.B. 200, A.L. 1990 H.B. 960, A.L. 1993 S.B. 52, A.L. 1995 S.B. 374)

*This section was amended by both S.B. 3 and S.B. 374 during the First Regular Session of the 88th General Assembly, 1995. Due to possible conflict, both versions are printed here.

32.200. Multistate tax compact.

Multistate tax compact.

32.200. The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

MULTISTATE TAX COMPACT

Article I

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. "Subdivision" means any governmental unit or special district of a state.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed

on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which

(a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property; and

(b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.

Article III

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments

and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV

1. As used in this article, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(5) "Nonbusiness income" means all income other than business income.

(6) "Public utility" means any business entity

(a) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and

(b) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(7) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(8) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(9) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article, to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if

(1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5

through 8 of this article.

5. (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(a) if and to the extent that the property is utilized in this state; or

(b) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if

(a) the property had a situs in this state at the time of the sale; or

(b) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8. (1) Patent and copyright royalties are allocable to this state:

(a) if and to the extent that the patent or copyright is utilized by the payer

in this state; or

(b) if and to the extent that the patent copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
- (3) some of the service is performed in the state; and
 - (a) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or
 - (b) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

- (1) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or
- (2) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and
 - (a) the purchaser is the United States government; or
 - (b) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

- (1) the income-producing activity is performed in this state; or
- (2) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not

fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) separate accounting;
- (2) the exclusion of any one or more of the factors;
- (3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1 (e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer

in each of the party states.

(1) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

4. (a) The commission shall submit to the governor or designated officer or

officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of this article; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1 (i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII*

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise

being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at anytime and place fixed by the commission within the state of which he is a resident; provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax" in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.
2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.
3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.
4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.
5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

Article X

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.
2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.
3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI

Nothing in this compact shall be construed to:

- (a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement article III 2 of this compact.
- (b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.
- (c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.
- (d) Supersede or limit the jurisdiction of any court of the United States.

Article XII

This compact shall be liberally construed so as to effectuate the purposes

thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

(L. 1967 p. 102 § 1)

*Article VIII adopted in this state, RSMo 32.205

32.205. Article VIII adopted in this state.

Article VIII adopted in this state.

32.205. Article VIII of the multistate tax compact shall be in force in and with respect to the state of Missouri.

(L. 1974 H.B. 1290 § 1)

32.210. Compact to apply to all state and local taxes.

Compact to apply to all state and local taxes.

32.210. The provisions of the compact shall apply to any tax levied by the state of Missouri or its political subdivisions.

(L. 1967 p. 102 § 2, A.L. 1974 H.B. 1291)

32.220. Governor to appoint member to commission.

Governor to appoint member to commission.

32.220. The governor, with the advice and consent of the senate, shall appoint the member of the multistate tax commission to represent this state, from among the persons made eligible by article VI 1(a) of the compact.

(L. 1967 p. 102 § 3)

32.230. Alternate may represent member on commission--how selected.

Alternate may represent member on commission--how selected.

32.230. The member representing this state on the multistate tax commission may be represented thereon by an alternate designated by him. Any such alternate shall be a principal deputy or assistant of the member of the commission in the agency which the member heads.

(L. 1967 p. 102 § 4)

32.240. Governor to appoint three representatives of subdivisions--to consult with commission member.

Governor to appoint three representatives of subdivisions--to consult with commission member.

32.240. The governor, after consultation with representatives of local governments, shall, with the advice and consent of the senate, appoint three persons who are representative of subdivisions affected or likely to be affected by the multistate tax compact. The member of the commission representing this state, and any alternate designated by him, shall consult regularly with these appointees, in accordance with article VI 1 (b) of the compact.

(L. 1967 p. 102 § 6)

32.250. Multistate tax compact advisory committee--memberships--duties.

Multistate tax compact advisory committee--memberships--duties.

32.250. There is hereby established the "Multistate Tax Compact Advisory Committee" composed of the member of the multistate tax commission representing this state, any alternate designated by him, the attorney general or his designee, and two members of the senate, appointed by the president pro tem thereof and two members of the house of representatives, appointed by the speaker thereof. The chairman shall be the member of the commission representing this state. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing this state thereon.

(L. 1967 p. 102 § 7)

32.260. Advisory committee may employ counsel.

Advisory committee may employ counsel.

32.260. The multistate tax compact advisory committee may employ counsel to represent it or to act for it, and may fix his compensation within the limits of funds appropriated to the committee.

(L. 1967 p. 102 § 5)

32.300. Department to implement Internet motor vehicle license renewal system for certain counties and filing and payment system for state taxes for all taxpayers, deadlines.

Department to implement Internet motor vehicle license renewal system for certain counties and filing and payment system for state taxes for all taxpayers, deadlines.

32.300. In a county where personal property tax records are accessible via computer, and when proof of motor vehicle liability insurance, safety inspections and emission inspections where required are verifiable by computer, the department of revenue shall design and implement a motor vehicle license renewal system which may be used through the department's Internet web site connection. The on-line license renewal system shall be available no later than January 1, 2002. The department of revenue shall also design and implement an on-line system allowing the filing and payment of Missouri state taxes through the department's Internet web site connection. The on-line tax filing and payment system shall be available for the payment of Missouri state taxes for tax years beginning on or after January 1, 2002.

(L. 2000 H.B. 1797)

32.375. Dispute over collection or remittance of sales or use tax--abatement allowed, when--administrative review.

Dispute over collection or remittance of sales or use tax--abatement allowed, when--administrative review.

32.375. 1. Notwithstanding any provision of law to the contrary, in any dispute regarding the potential liability of a taxpayer for collection and remittance

or payment of sales or use tax or related interest, additions to tax or penalties, the director of revenue may, at the request of the taxpayer, consider the reasons for the taxpayer's failure to pay the amounts in dispute.

2. The director may abate all or any portion of any amount assessed or decide to not assess any such amount pursuant to this section if the director determines:

(1) The taxpayer took reasonable steps to determine whether the amounts were owed;

(2) Based on information reasonably available to the taxpayer, the taxpayer reasonably believed that the transactions at issue were not subject to tax and that the amounts in dispute were not owed;

(3) At the time of the transactions at issue, the department of revenue had not issued either:

(a) A regulation that indicated that the transactions at issue were subject to tax; or

(b) Any other written or oral communication that the taxpayer knew of or should have known of stating that the transactions at issue were subject to tax; and

(4) In the discretion of the director, such abatement is in the best interest of the state and will not undermine compliance by taxpayers with the tax laws of this state.

3. If the director determines that any amounts may be abated pursuant to this section, as consideration for the abatement, the taxpayer shall agree that:

(1) The taxpayer shall bear his or her own costs, including any attorney fees;

(2) During the three-year period beginning with the date of the agreement, the taxpayer shall comply with all sales and use tax obligations arising from the type of transactions that were the basis of the amounts that are the subject of the agreement and the taxpayer shall not challenge or protest any such sales or use tax obligations arising during the three-year period; except that any final decision of a court of competent jurisdiction finding such transactions to be nontaxable and any statutory changes that become effective during the three-year period shall apply to the taxpayer notwithstanding any provision of the agreement; and

(3) The taxpayer shall not contest in court or otherwise any amount of the

liability sought to be abated.

4. If due to a disagreement concerning the amount to be abated the taxpayer does not agree to the terms provided by subsection 3 of this section or if the director determines the amounts in dispute should not be abated, the director shall issue a final decision setting forth the director's determination. Within sixty days after the date on which the director's decision is delivered in person or is mailed to the taxpayer, whichever is earlier, the taxpayer may file a petition for review of the final decision with the administrative hearing commission.

5. On petition for review before the administrative hearing commission, the commission shall consider whether the director's determination was reasonable based on the factors set forth in subsection 2 of this section. The commission may:

(1) Issue an order to the director stating an amount to be abated by the director, if the commission finds the director's decision unreasonable; or

(2) Issue an order denying the relief sought by the taxpayer, if the commission finds the director's determination reasonable.

6. The provisions of subsection 3 of this section shall apply to any abatement ordered by the commission.

7. A decision of the administrative hearing commission pursuant to this section shall not be subject to appeal or petition for review by the taxpayer or the director.

(L. 2002 H.B. 1150, et al.)

Effective 7-01-02

32.378. Compromise of taxes, interest, penalties, or additions to the tax, when--taxpayer agreements and duties--statute of limitations if compromise agreed upon--director's duties--rulemaking authority

Compromise of taxes, interest, penalties, or additions to the tax, when--taxpayer agreements and duties--statute of limitations if compromise agreed upon--director's duties--rulemaking authority.

32.378. 1. In addition to the authority granted to the director of revenue and the administrative hearing commission pursuant to section 32.375, the director

of revenue may agree to compromise any tax, interest, penalties or additions to tax assessed or collected by the director of revenue on any of the following grounds:

(1) Doubt as to liability, which exists in any case where there is a genuine dispute as to the existence or amount of the correct tax liability under the law;

(2) Doubt as to collectibility, which exists in any case where the amount assessed including interest, additions to tax and penalties exceeds the taxpayer's ability to pay as defined by regulations promulgated by the director of revenue; or

(3) To promote effective tax administration which means that compromise of the liability will not undermine compliance by taxpayers with the tax laws and that:

(a) Collection of the full liability will result in severe economic hardship to the taxpayer; or

(b) Regardless of the taxpayer's financial circumstances, exceptional circumstances exist such that collection of the full liability will be detrimental to voluntary compliance by taxpayers. Such exceptional circumstances include, but are not limited to, instances where the taxpayer's failure to pay the taxes assessed is the result of circumstances beyond the reasonable control of the taxpayer and is not the result of negligence on the part of the taxpayer, or instances where a reasonable person would not have expected the assessment based on previous policy of the department of revenue or information provided to the taxpayer by the department of revenue.

2. As part of the consideration for any compromise of taxes that is based on subdivision (2) or (3) of subsection 1 of this section, the taxpayer shall agree:

(1) That the state of Missouri shall keep all payments and other credits applied to the tax, interest, penalties or additions to tax for the periods covered by the offer;

(2) That the state of Missouri shall keep any and all amounts otherwise due the taxpayer as a result of overpayments of any tax or other liability, including interest, additions to tax and penalties, for periods ending before or as of the end of the calendar year in which the offer is accepted; except that the state shall not keep any amounts that, together with amounts already paid on the compromise, exceed the liability compromised;

(3) That the taxpayer shall have no right to contest in court or otherwise the amount of the liability compromised;

(4) That the taxpayer shall bear his or her own costs, including any attorney fees;

(5) That during the three-year period beginning with the date of the compromise, the taxpayer shall comply with all tax obligations arising from issues or transactions related to the issues or transactions that were the basis of the tax that is the subject of the compromise and that the taxpayer shall not challenge or protest any such tax obligations arising during the three-year period; however, any statutory changes that become effective during the three-year period shall apply to the taxpayer notwithstanding this provision of the compromise;

(6) That if there is a default in payment of any principal or interest due under terms of the agreement of compromise, or if the taxpayer fails to comply with the provisions of the agreement set forth in subdivision (5) of this subsection, the director of revenue may:

(a) Proceed immediately by suit to collect the entire unpaid balance of the amount agreed upon; or

(b) Proceed immediately by suit to collect as liquidated damages an amount equal to the liability compromised, minus any payments already received under the terms of the agreement, with interest on the unpaid balance from the date of default; or

(c) Disregard the amount of the compromise and apply all amounts previously paid under the agreement against the amount of the liability compromised and assess and collect by levy or suit the balance of the liability. If the director chooses this option, the taxpayer shall have the right to contest in court or otherwise the amount of the liability compromised.

3. The director's remedies under this section are cumulative and the director may pursue any combination of such remedies together or consecutively until the entire liability is paid. No action or inaction by the director shall constitute a waiver or election not to pursue any remedy granted by this section.

4. The taxpayer requesting to compromise payment of taxes, interest, additions to tax, or penalties shall provide any information reasonably requested by the director in order that the director may determine that the offer is made in

good faith.

5. If compromise of taxes is agreed upon, any statute of limitations applicable to the assessment and collection of the liability compromised shall be tolled during the period beginning on the date of the compromise and ending one year after the last payment is due pursuant to the agreement.

6. The director's decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer's record of overall compliance with the tax laws. Notwithstanding any provision of law to the contrary, the director's decision shall not be subject to review by the administrative hearing commission or any court.

7. The director shall prescribe guidelines for employees of the Missouri department of revenue to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

8. The director shall establish procedures for an independent administrative review of any rejection of a proposed offer-in-compromise made by a taxpayer pursuant to this section before such rejection is communicated to the taxpayer.

9. The provisions of this section shall not apply to the resolution of any dispute of tax liability in accordance with section 32.375.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2002, shall be invalid and void.

(L. 2002 H.B. 1150, et al.)

Effective 7-01-02

32.379. (Repealed L. 2007 S.B. 613 Revision § A)

This section has been repealed. There is no longer any statute data associated with this section number. See the headnote previously listed for the year and the bill number which repealed it.

32.380. (Repealed L. 2007 S.B. 613 Revision § A)

This section has been repealed. There is no longer any statute data associated with this section number. See the headnote previously listed for the year and the bill number which repealed it.

32.381. Detrimental reliance by taxpayer, effect of.

Detrimental reliance by taxpayer, effect of.

32.381. In the event the department of revenue enters into an agreement with a taxpayer and said agreement exceeds the department's statutory authority and the taxpayer has relied to his detriment, the department shall be permitted to honor said contract. This section shall only apply to cases where the department has collected sales tax that was not owed by the taxpayer.

(L. 2002 H.B. 1150, et al.)

Effective 7-01-02

32.382. (Repealed L. 2007 S.B. 613 Revision § A)

This section has been repealed. There is no longer any statute data associated with this section number. See the headnote previously listed for the year and the bill number which repealed it.

32.384. (Repealed L. 2007 S.B. 613 Revision § A)

This section has been repealed. There is no longer any statute data associated with this section number. See the headnote previously listed for the year and the bill number which repealed it.

