

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 584

97TH GENERAL ASSEMBLY

2014

4396S.08T

AN ACT

To repeal sections 136.300, 142.815, 143.221, 143.451, 144.010, 144.018, 144.020, 144.030, 144.044, 144.080, 144.190, and 221.407, RSMo, and to enact in lieu thereof fifteen new sections relating to taxation, with an existing penalty provision.

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

Section A. Sections 136.300, 142.815, 143.221, 143.451, 144.010, 144.018, 144.020, 144.030, 144.044, 144.080, 144.190, and 221.407, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 136.300, 137.133, 142.815, 143.221, 143.451, 144.010, 144.018, 144.020, 144.030, 144.044, 144.052, 144.058, 144.080, 144.190, and 221.407, to read as follows:

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

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

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

(3) In the case of a partnership, corporation or trust, the net worth of the taxpayer does not exceed seven million dollars and the taxpayer does not have

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 more than five hundred employees at the time the final decision of the director
13 of the department of revenue is issued].

14 2. This section shall not apply to any issue with respect to the
15 applicability of any tax [exemption or] credit.

137.133. **In any county with a charter form of government and
2 with more than nine hundred fifty thousand inhabitants, any
3 correspondence by the assessor with a taxpayer requesting information
4 from the taxpayer shall include the following statement in bold,
5 fourteen point font: "Disclosure of information requested on this
6 document is voluntary and not required by law. Any information
7 disclosed may become public record.". The provisions of this section
8 shall not apply to requests for information required to be disclosed
9 under sections 137.092 and 137.155.**

142.815. 1. Motor fuel used for the following nonhighway purposes is
2 exempt from the fuel tax imposed by this chapter, and a refund may be claimed
3 by the consumer, except as provided for in subdivision (1) of this subsection, if the
4 tax has been paid and no refund has been previously issued:

5 (1) Motor fuel used for nonhighway purposes including fuel for farm
6 tractors or stationary engines owned or leased and operated by any person and
7 used exclusively for agricultural purposes and including, beginning January 1,
8 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and
9 delivered by the ultimate [vender] **vendor** to a farm location for agricultural
10 purposes only. As used in this section, the term "farmer" shall mean any person
11 engaged in farming in an authorized farm corporation, family farm, or family
12 farm corporation as defined in section 350.010. At the discretion of the ultimate
13 [vender] **vendor**, the refund may be claimed by the ultimate [vender] **vendor**
14 on behalf of the consumer for sales made to farmers and to persons engaged in
15 construction for agricultural purposes as defined in section 142.800. After
16 December 31, 2000, the refund may be claimed only by the consumer and may not
17 be claimed by the ultimate [vender] **vendor** unless bulk sales of gasoline are
18 made to a farmer after January 1, 2006, as provided in this subdivision and the
19 farmer provides an exemption certificate to the ultimate [vender] **vendor**, in
20 which case the ultimate [vender] **vendor** may make a claim for refund under
21 section 142.824 but shall be liable for any erroneous refund;

22 (2) Kerosene sold for use as fuel to generate power in aircraft engines,

23 whether in aircraft or for training, testing or research purposes of aircraft
24 engines;

25 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other
26 motorized flanged-wheel rail equipment, or used for other nonhighway purposes
27 other than as expressly exempted pursuant to another provision.

28 2. Subject to the procedural requirements and conditions set out in this
29 chapter, the following uses are exempt from the tax imposed by section 142.803
30 on motor fuel, and a deduction or a refund may be claimed:

31 (1) Motor fuel for which proof of export is available in the form of a
32 terminal-issued destination state shipping paper and which is either:

33 (a) Exported by a supplier who is licensed in the destination state or
34 through the bulk transfer system;

35 (b) Removed by a licensed distributor for immediate export to a state for
36 which all the applicable taxes and fees (however nominated in that state) of the
37 destination state have been paid to the supplier, as a trustee, who is licensed to
38 remit tax to the destination state; or which is destined for use within the
39 destination state by the federal government for which an exemption has been
40 made available by the destination state subject to procedural rules and
41 regulations promulgated by the director; or

42 (c) Acquired by a licensed distributor and which the tax imposed by this
43 chapter has previously been paid or accrued either as a result of being stored
44 outside of the bulk transfer system immediately prior to loading or as a diversion
45 across state boundaries properly reported in conformity with this chapter and was
46 subsequently exported from this state on behalf of the distributor; The exemption
47 pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on
48 the report of the supplier which is otherwise responsible for remitting the tax
49 upon removal of the product from a terminal or refinery in this state. The
50 exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed
51 by the distributor, upon a refund application made to the director within three
52 years. A refund claim may be made monthly or whenever the claim exceeds one
53 thousand dollars;

54 (2) Undyed K-1 kerosene sold at retail through dispensers which have
55 been designed and constructed to prevent delivery directly from the dispenser
56 into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through
57 nonbarricaded dispensers in quantities of not more than twenty-one gallons for

58 use other than for highway purposes. Exempt use of undyed kerosene shall be
59 governed by rules and regulations of the director. If no rules or regulations are
60 promulgated by the director, then the exempt use of undyed kerosene shall be
61 governed by rules and regulations of the Internal Revenue Service. A distributor
62 or supplier delivering to a retail facility shall obtain an exemption certificate from
63 the owner or operator of such facility stating that its sales conform to the
64 dispenser requirements of this subdivision. A licensed distributor, having
65 obtained such certificate, may provide a copy to his or her supplier and obtain
66 undyed kerosene without the tax levied by section 142.803. Having obtained such
67 certificate in good faith, such supplier shall be relieved of any responsibility if the
68 fuel is later used in a taxable manner. An ultimate vendor who obtained undyed
69 kerosene upon which the tax levied by section 142.803 had been paid and makes
70 sales qualifying pursuant to this subsection may apply for a refund of the tax
71 pursuant to application, as provided in section 142.818, to the director provided
72 the ultimate vendor did not charge such tax to the consumer;

73 (3) Motor fuel sold to the United States or any agency or instrumentality
74 thereof. This exemption shall be claimed as provided in section 142.818;

75 (4) Motor fuel used solely and exclusively as fuel to propel motor vehicles
76 on the public roads and highways of this state when leased or owned and when
77 being operated by a federally recognized Indian tribe in the performance of
78 essential governmental functions, such as providing police, fire, health or water
79 services. The exemption for use pursuant to this subdivision shall be made
80 available to the tribal government upon a refund application stating that the
81 motor fuel was purchased for the exclusive use of the tribe in performing named
82 essential governmental services;

83 (5) That portion of motor fuel used to operate equipment attached to a
84 motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor
85 vehicle that has a common fuel reservoir for travel on a highway and for the
86 operation of equipment, or if the motor fuel was placed in a separate fuel tank
87 and used only for the operation of auxiliary equipment. The exemption for use
88 pursuant to this subdivision shall be claimed by a refund claim filed by the
89 consumer who shall provide evidence of an allocation of use satisfactory to the
90 director;

91 (6) Motor fuel acquired by a consumer out-of-state and carried into this
92 state, retained within and consumed from the same vehicle fuel supply tank

93 within which it was imported, except interstate motor fuel users;

94 (7) Motor fuel which was purchased tax-paid and which was lost or
95 destroyed as a direct result of a sudden and unexpected casualty or which had
96 been accidentally contaminated so as to be unsalable as highway fuel as shown
97 by proper documentation as required by the director. The exemption pursuant
98 to this subdivision shall be refunded to the person or entity owning the motor fuel
99 at the time of the contamination or loss. Such person shall notify the director in
100 writing of such event and the amount of motor fuel lost or contaminated within
101 ten days from the date of discovery of such loss or contamination, and within
102 thirty days after such notice, shall file an affidavit sworn to by the person having
103 immediate custody of such motor fuel at the time of the loss or contamination,
104 setting forth in full the circumstances and the amount of the loss or
105 contamination and such other information with respect thereto as the director
106 may require;

107 (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This
108 exemption shall be claimed as follows:

109 (a) A supplier or importer shall take a deduction against motor fuel tax
110 owed on their monthly report for those gallons of dyed diesel fuel or dyed
111 kerosene imported or removed from a terminal or refinery destined for delivery
112 to a point in this state as shown on the shipping papers;

113 (b) This exemption shall be claimed by a deduction on the report of the
114 supplier which is otherwise responsible for remitting the tax on removal of the
115 product from a terminal or refinery in this state;

116 (c) This exemption shall be claimed by the distributor, upon a refund
117 application made to the director within three years. A refund claim may be made
118 monthly or whenever the claim exceeds one thousand dollars.

119 **(9) Motor fuel delivered to any marina within this state that sells**
120 **such fuel solely for use in any watercraft, as such term is defined in**
121 **section 306.010, and not accessible to other motor vehicles, is exempt**
122 **from the fuel tax imposed by this chapter. Any motor fuel distributor**
123 **that delivers motor fuel to any marina in this state for use solely in any**
124 **watercraft, as such term is defined in section 306.010, may claim the**
125 **exemption provided in this subsection. Any motor fuel customer who**
126 **purchases motor fuel for use in any watercraft, as such term is defined**
127 **in section 306.010, at a location other than a marina within this state**

128 **may claim the exemption provided in this subsection by filing a claim**
129 **for refund of the fuel tax.**

143.221. 1. Every employer required to deduct and withhold tax under
2 sections 143.011 to 143.996 shall, for each calendar quarter, on or before the last
3 day of the month following the close of such calendar quarter, file a withholding
4 return as prescribed by the director of revenue and pay over to the director of
5 revenue or to a depository designated by the director of revenue the taxes so
6 required to be deducted and withheld.

7 2. Where the aggregate amount required to be deducted and withheld by
8 any employer exceeds fifty dollars for at least two of the preceding twelve months,
9 the director, by regulation, may require a monthly return. The due dates of the
10 monthly return and the monthly payment or deposit for the first two months of
11 each quarter shall be by the fifteenth day of the succeeding month. The due
12 dates of the monthly return and the monthly payment or deposit for the last
13 month of each quarter shall be by the last day of the succeeding month. The
14 director may increase the amount required for making a monthly employer
15 withholding payment and return to more than fifty dollars or decrease such
16 required amount, however, the decreased amount shall not be less than fifty
17 dollars.

18 3. Where the aggregate amount required to be deducted and withheld by
19 any employer is less than **[twenty] one hundred** dollars in each of the four
20 preceding quarters, **and to the extent the employer does not meet the**
21 **requirements in subsection 1 or 2 of this section for filing a**
22 **withholding return on a quarterly or monthly basis**, the employer shall file
23 a withholding return for a calendar year. The director, by regulation, may also
24 allow other employers to file annual returns. The return shall be filed and the
25 taxes if any paid on or before January thirty-first of the succeeding year. The
26 director may increase the amount required for making an annual employer
27 withholding payment and return to more than **[twenty] one hundred** dollars or
28 decrease such required amount, however, the decreased amount shall not be less
29 than **[twenty] one hundred** dollars.

30 4. If the director of revenue finds that the collection of taxes required to
31 be deducted and withheld by an employer may be jeopardized by delay, he may
32 require the employer to pay over the tax or make a return at any time. A lien
33 outstanding with regard to any tax administered by the director shall be a

34 sufficient basis for this action.

143.451. 1. Missouri taxable income of a corporation shall include all
2 income derived from sources within this state.

3 2. A corporation described in subdivision (1) of subsection 1 of section
4 143.441 shall include in its Missouri taxable income all income from sources
5 within this state, including that from the transaction of business in this state and
6 that from the transaction of business partly done in this state and partly done in
7 another state or states. However:

8 (1) Where income results from a transaction partially in this state and
9 partially in another state or states, and income and deductions of the portion in
10 the state cannot be segregated, then such portions of income and deductions shall
11 be allocated in this state and the other state or states as will distribute to this
12 state a portion based upon the portion of the transaction in this state and the
13 portion in such other state or states.

14 (2) The taxpayer may elect to compute the portion of income from all
15 sources in this state in the following manner, or the manner set forth in
16 subdivision (3) of this subsection:

17 (a) The income from all sources shall be determined as provided,
18 excluding therefrom the figures for the operation of any bridge connecting this
19 state with another state.

20 (b) The amount of sales which are transactions wholly in this state shall
21 be added to one-half of the amount of sales which are transactions partly within
22 this state and partly without this state, and the amount thus obtained shall be
23 divided by the total sales or in cases where sales do not express the volume of
24 business, the amount of business transacted wholly in this state shall be added
25 to one-half of the amount of business transacted partly in this state and partly
26 outside this state and the amount thus obtained shall be divided by the total
27 amount of business transacted, and the net income shall be multiplied by the
28 fraction thus obtained, to determine the proportion of income to be used to arrive
29 at the amount of Missouri taxable income. The investment or reinvestment of its
30 own funds, or sale of any such investment or reinvestment, shall not be
31 considered as sales or other business transacted for the determination of said
32 fraction.

33 (c) For the purposes of this subdivision, a transaction involving the sale
34 of tangible property is:

35 a. "Wholly in this state" if both the seller's shipping point and the
36 purchaser's destination point are in this state;

37 b. "Partly within this state and partly without this state" if the seller's
38 shipping point is in this state and the purchaser's destination point is outside
39 this state, or the seller's shipping point is outside this state and the purchaser's
40 destination point is in this state;

41 c. Not "wholly in this state" or not "partly within this state and partly
42 without this state" only if both the seller's shipping point and the purchaser's
43 destination point are outside this state.

44 (d) For purposes of this subdivision:

45 a. The purchaser's destination point shall be determined without regard
46 to the FOB point or other conditions of the sale; and

47 b. The seller's shipping point is determined without regard to the location
48 of the seller's principle office or place of business.

49 (3) The taxpayer may elect to compute the portion of income from all
50 sources in this state in the following manner:

51 (a) The income from all sources shall be determined as provided,
52 excluding therefrom the figures for the operation of any bridge connecting this
53 state with another state;

54 (b) The amount of sales which are transactions in this state shall be
55 divided by the total sales, and the net income shall be multiplied by the fraction
56 thus obtained, to determine the proportion of income to be used to arrive at the
57 amount of Missouri taxable income. The investment or reinvestment of its own
58 funds, or sale of any such investment or reinvestment, shall not be considered as
59 sales or other business transacted for the determination of said fraction;

60 (c) For the purposes of this subdivision, a transaction involving the sale
61 of tangible property is:

62 a. "In this state" if the purchaser's destination point is in this state;

63 b. Not "in this state" if the purchaser's destination point is outside this
64 state;

65 (d) For purposes of this subdivision, the purchaser's destination point
66 shall be determined without regard to the FOB point or other conditions of the
67 sale and shall not be in this state if the purchaser received the tangible personal
68 property from the seller in this state for delivery to the purchaser's location
69 outside this state;

70 **(e) For the purposes of this subdivision, a transaction involving**
71 **the sale other than the sale of tangible property is "in this state" if the**
72 **taxpayer's market for the sales is in this state. The taxpayer's market**
73 **for sales is in this state:**

74 **a. In the case of sale, rental, lease, or license of real property, if**
75 **and to the extent the property is located in this state;**

76 **b. In the case of rental, lease, or license of tangible personal**
77 **property, if and to the extent the property is located in this state;**

78 **c. In the case of sale of a service, if and to the extent the benefit**
79 **of the service is delivered to a purchaser location in this state; and**

80 **d. In the case of intangible property:**

81 **(i) That is rented, leased, or licensed, if and to the extent the**
82 **property is used in this state by the rentee, lessee, or licensee, provided**
83 **that intangible property utilized in marketing a good or service to a**
84 **consumer is "used in this state" if that good or service is purchased by**
85 **a consumer who is in this state. Franchise fees or royalties received**
86 **for the rent, lease, license, or use of a trade name, trademark, service**
87 **mark, or franchise system or provides a right to conduct business**
88 **activity in a specific geographic area are "used in this state" to the**
89 **extent the franchise location is in this state; and**

90 **(ii) That is sold, if and to the extent the property is used in this**
91 **state, provided that:**

92 **i. A contract right, government license, or similar intangible**
93 **property that authorizes the holder to conduct a business activity in a**
94 **specific geographic area is "used in this state" if the geographic area**
95 **includes all or part of this state;**

96 **ii. Receipts from intangible property sales that are contingent on**
97 **the productivity, use, or disposition of the intangible property shall be**
98 **treated as receipts from the rental, lease, or licensing of such**
99 **intangible property under item (i) of this subparagraph; and**

100 **iii. All other receipts from a sales of intangible property shall**
101 **be excluded from the numerator and denominator of the sales factor;**

102 **(f) If the state or states of assignment under paragraph (e) of this**
103 **subdivision cannot be determined, the state or states of assignment**
104 **shall be reasonably approximated;**

105 **(g) If the state of assignment cannot be determined under**
106 **paragraph (e) of this subdivision or reasonably approximated under**
107 **paragraph (f) of this subdivision, such sales shall be excluded from the**
108 **denominator of the sales factor;**

109 **(h) The director may prescribe such rules and regulations as**
110 **necessary or appropriate to carry out the purposes of this section.**

111 (4) For purposes of this subsection, the following words shall, unless the
112 context otherwise requires, have the following meaning:

113 (a) "Administration services" include, but are not limited to, clerical, fund
114 or shareholder accounting, participant record keeping, transfer agency,
115 bookkeeping, data processing, custodial, internal auditing, legal and tax services
116 performed for an investment company;

117 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C),
118 as may be amended from time to time;

119 (c) "Distribution services" include, but are not limited to, the services of
120 advertising, servicing, marketing, underwriting or selling shares of an investment
121 company, but, in the case of advertising, servicing or marketing shares, only
122 where such service is performed by a person who is, or in the case of a closed end
123 company, was, either engaged in the services of underwriting or selling
124 investment company shares or affiliated with a person that is engaged in the
125 service of underwriting or selling investment company shares. In the case of an
126 open end company, such service of underwriting or selling shares must be
127 performed pursuant to a contract entered into pursuant to 15 U.S.C. Section 80a-
128 15(b), as from time to time amended;

129 (d) "Investment company", any person registered under the federal
130 Investment Company Act of 1940, as amended from time to time, (the act) or a
131 company which would be required to register as an investment company under
132 the act except that such person is exempt to such registration pursuant to Section
133 80a-3(c)(1) of the act;

134 (e) "Investment funds service corporation" includes any corporation or S
135 corporation doing business in the state which derives more than fifty percent of
136 its gross income in the ordinary course of business from the provision directly or
137 indirectly of management, distribution or administration services to or on behalf
138 of an investment company or from trustees, sponsors and participants of employee
139 benefit plans which have accounts in an investment company. An investment

140 funds service corporation shall include any corporation or S corporation providing
141 management services as an investment advisory firm registered under Section
142 203 of the Investment Advisors Act of 1940, as amended from time to time,
143 regardless of the percentage of gross revenues consisting of fees from
144 management services provided to or on behalf of an investment company;

145 (f) "Management services" include but are not limited to, the rendering of
146 investment advice directly or indirectly to an investment company making
147 determinations as to when sales and purchases of securities are to be made on
148 behalf of the investment company, or the selling or purchasing of securities
149 constituting assets of an investment company, and related activities, but only
150 where such activity or activities are performed:

151 a. Pursuant to a contract with the investment company entered into
152 pursuant to 15 U.S.C. Section 80a-15(a), as from time to time amended;

153 b. For a person that has entered into such contract with the investment
154 company; or

155 c. For a person that is affiliated with a person that has entered into such
156 contract with an investment company;

157 (g) "Qualifying sales", gross income derived from the provision directly or
158 indirectly of management, distribution or administration services to or on behalf
159 of an investment company or from trustees, sponsors and participants of employee
160 benefit plans which have accounts in an investment company. For purposes of
161 this section, "gross income" is defined as that amount of income earned from
162 qualifying sources without deduction of expenses related to the generation of such
163 income;

164 (h) "Residence", presumptively the fund shareholder's mailing address on
165 the records of the investment company. If, however, the investment company or
166 the investment funds service corporation has actual knowledge that the fund
167 shareholder's primary residence or principal place of business is different than
168 the fund shareholder's mailing address such presumption shall not control. To
169 the extent an investment funds service corporation does not have access to the
170 records of the investment company, the investment funds service corporation may
171 employ reasonable methods to determine the investment company fund
172 shareholder's residence.

173 (5) Notwithstanding other provisions of law to the contrary, qualifying
174 sales of an investment funds service corporation, or S corporation, shall be

175 considered wholly in this state only to the extent that the fund shareholders of
176 the investment companies, to which the investment funds service corporation, or
177 S corporation, provide services, are resided in this state. Wholly in this state
178 qualifying sales of an investment funds service corporation, or S corporation, shall
179 be determined as follows:

180 (a) By multiplying the investment funds service corporation's total dollar
181 amount of qualifying sales from services provided to each investment company by
182 a fraction, the numerator of which shall be the average of the number of shares
183 owned by the investment company's fund shareholders resided in this state
184 at the beginning of and at the end of the investment company's taxable year that
185 ends with or within the investment funds service corporation's taxable year, and
186 the denominator of which shall be the average of the number of shares owned by
187 the investment company's fund shareholders everywhere at the beginning of and
188 at the end of the investment company's taxable year that ends with or within the
189 investment funds service corporation's taxable year;

190 (b) A separate computation shall be made to determine the wholly in this
191 state qualifying sales from each investment company. The qualifying sales for
192 each investment company shall be multiplied by the respective percentage of each
193 fund, as calculated pursuant to paragraph (a) of this subdivision. The product of
194 this equation shall result in the wholly in this state qualifying sales. The
195 qualifying sales for each investment company which are not wholly in this state
196 will be considered wholly without this state;

197 (c) To the extent an investment funds service corporation has sales which
198 are not qualifying sales, those nonqualified sales shall be apportioned to this
199 state based on the methodology utilized by the investment funds service
200 corporation without regard to this subdivision.

201 3. Any corporation described in subdivision (1) of subsection 1 of section
202 143.441 organized in this state or granted a permit to operate in this state for the
203 transportation or care of passengers shall report its gross earnings within the
204 state on intrastate business and shall also report its gross earnings on all
205 interstate business done in this state which report shall be subject to inquiry for
206 the purpose of determining the amount of income to be included in Missouri
207 taxable income. The previous sentence shall not apply to a railroad.

208 4. A corporation described in subdivision (2) of subsection 1 of section
209 143.441 shall include in its Missouri taxable income all income arising from all

210 sources in this state and all income from each transportation service wholly
211 within this state, from each service where the only lines of such corporation used
212 are those in this state, and such proportion of revenue from each service where
213 the facilities of such corporation in this state and in another state or states are
214 used, as the mileage used over the lines of such corporation in the state shall
215 bear to the total mileage used over the lines of such corporation. The taxpayer
216 may elect to compute the portion of income from all sources within this state in
217 the following manner:

218 (1) The income from all sources shall be determined as provided;

219 (2) The amount of investment of such corporation on December thirty-first
220 of each year in this state in fixed transportation facilities, real estate and
221 improvements, plus the value on December thirty-first of each year of any fixed
222 transportation facilities, real estate and improvements in this state leased from
223 any other railroad shall be divided by the sum of the total amount of investment
224 of such corporation on December thirty-first of each year in fixed transportation
225 facilities, real estate and improvements, plus the value on December thirty-first
226 of each year, of any fixed transportation facilities, real estate and improvements
227 leased from any other railroad. Where any fixed transportation facilities, real
228 estate or improvements are leased by more than one railroad, such portion of the
229 value shall be used by each railroad as the rental paid by each shall bear to the
230 rental paid by all lessees. The income shall be multiplied by the fraction thus
231 obtained to determine the proportion to be used to arrive at the amount of
232 Missouri taxable income.

233 5. A corporation described in subdivision (3) of subsection 1 of section
234 143.441 shall include in its Missouri taxable income one-half of the net income
235 from the operation of a bridge between this and another state. If any such bridge
236 is owned or operated by a railroad corporation or corporations, or by a corporation
237 owning a railroad corporation using such bridge, then the figures for operation
238 of such bridge may be included in the return of such railroad or railroads; or if
239 such bridge is owned or operated by any other corporation which may now or
240 hereafter be required to file an income tax return, one-half of the income or loss
241 to such corporation from such bridge may be included in such return by adding
242 or subtracting same to or from another net income or loss shown by the return.

243 6. A corporation described in subdivision (4) of subsection 1 of section
244 143.441 shall include in its Missouri taxable income all income arising from all

245 sources within this state. Income shall include revenue from each telephonic or
246 telegraphic service rendered wholly within this state; from each service rendered
247 for which the only facilities of such corporation used are those in this state; and
248 from each service rendered over the facilities of such corporation in this state and
249 in other state or states, such proportion of such revenue as the mileage involved
250 in this state shall bear to the total mileage involved over the lines of said
251 company in all states. The taxpayer may elect to compute the portion of income
252 from all sources within this state in the following manner:

253 (1) The income from all sources shall be determined as provided;

254 (2) The amount of investment of such corporation on December thirty-first
255 of each year in this state in telephonic or telegraphic facilities, real estate and
256 improvements thereon, shall be divided by the amount of the total investment of
257 such corporation on December thirty-first of each year in telephonic or telegraphic
258 facilities, real estate and improvements. The income of the taxpayer shall be
259 multiplied by fraction thus obtained to determine the proportion to be used to
260 arrive at the amount of Missouri taxable income.

261 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this
262 section to be from all sources within this state shall be deducted such of the
263 deductions for expenses in determining Missouri taxable income as were incurred
264 in this state to produce such income and all losses actually sustained in this state
265 in the business of the corporation.

266 8. If a corporation derives only part of its income from sources within
267 Missouri, its Missouri taxable income shall only reflect the effect of the following
268 listed deductions to the extent applicable to Missouri. The deductions are: (a)
269 its deduction for federal income taxes pursuant to section 143.171, and (b) the
270 effect on Missouri taxable income of the deduction for net operating loss allowed
271 by Section 172 of the Internal Revenue Code. The extent applicable to Missouri
272 shall be determined by multiplying the amount that would otherwise affect
273 Missouri taxable income by the ratio for the year of the Missouri taxable income
274 of the corporation for the year divided by the Missouri taxable income for the year
275 as though the corporation had derived all of its income from sources within
276 Missouri. For the purpose of the preceding sentence, Missouri taxable income
277 shall not reflect the listed deductions.

278 9. Any investment funds service corporation organized as a corporation
279 or S corporation which has any shareholders resided in this state shall be

280 subject to Missouri income tax as provided in this chapter.

144.010. 1. The following words, terms, and phrases when used in
2 sections 144.010 to 144.525 have the meanings ascribed to them in this section,
3 except when the context indicates a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and
5 other similar accommodations and charges made therefor and amount paid for
6 admission, exclusive of any admission tax imposed by the federal government or
7 by sections 144.010 to 144.525;

8 (2) "Business" includes any activity engaged in by any person, or caused
9 to be engaged in by him, with the object of gain, benefit or advantage, either
10 direct or indirect, and the classification of which business is of such character as
11 to be subject to the terms of sections 144.010 to 144.525. A person is "engaging
12 in business" in this state for purposes of sections 144.010 to 144.525 if such
13 person "engages in business in this state" or "maintains a place of business in
14 this state" under section 144.605. The isolated or occasional sale of tangible
15 personal property, service, substance, or thing, by a person not engaged in such
16 business, does not constitute engaging in business within the meaning of sections
17 144.010 to 144.525 unless the total amount of the gross receipts from such sales,
18 exclusive of receipts from the sale of tangible personal property by persons which
19 property is sold in the course of the partial or complete liquidation of a
20 household, farm or nonbusiness enterprise, exceeds three thousand dollars in any
21 calendar year. The provisions of this subdivision shall not be construed to make
22 any sale of property which is exempt from sales tax or use tax on June 1, 1977,
23 subject to that tax thereafter;

24 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray
25 partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl,
26 captive white-tailed deer, captive elk, and captive furbearers held under permit
27 issued by the Missouri department of conservation for hunting purposes. The
28 provisions of this subdivision shall not apply to sales tax on a harvested animal;

29 (4) "Gross receipts", except as provided in section 144.012, means the total
30 amount of the sale price of the sales at retail including any services other than
31 charges incident to the extension of credit that are a part of such sales made by
32 the businesses herein referred to, capable of being valued in money, whether
33 received in money or otherwise; except that, the term "gross receipts" shall not
34 include the sale price of property returned by customers when the full sale price

35 thereof is refunded either in cash or by credit. In determining any tax due under
36 sections 144.010 to 144.525 on the gross receipts, charges incident to the
37 extension of credit shall be specifically exempted. For the purposes of sections
38 144.010 to 144.525 the total amount of the sale price above mentioned shall be
39 deemed to be the amount received. It shall also include the lease or rental
40 consideration where the right to continuous possession or use of any article of
41 tangible personal property is granted under a lease or contract and such transfer
42 of possession would be taxable if outright sale were made and, in such cases, the
43 same shall be taxable as if outright sale were made and considered as a sale of
44 such article, and the tax shall be computed and paid by the lessee upon the
45 rentals paid;

46 (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not
47 limited to, ostrich and emu, aquatic products as defined in section 277.024,
48 llamas, alpaca, buffalo, elk documented as obtained from a legal source and not
49 from the wild, goats, horses, other equine, or rabbits raised in confinement for
50 human consumption;

51 (6) "Motor vehicle leasing company" shall be a company obtaining a
52 permit from the director of revenue to operate as a motor vehicle leasing
53 company. Not all persons renting or leasing trailers or motor vehicles need to
54 obtain such a permit; however, no person failing to obtain such a permit may
55 avail itself of the optional tax provisions of subsection 5 of section 144.070, as
56 hereinafter provided;

57 (7) "Person" includes any individual, firm, copartnership, joint adventure,
58 association, corporation, municipal or private, and whether organized for profit
59 or not, state, county, political subdivision, state department, commission, board,
60 bureau or agency, except the state transportation department, estate, trust,
61 business trust, receiver or trustee appointed by the state or federal court,
62 syndicate, or any other group or combination acting as a unit, and the plural as
63 well as the singular number;

64 (8) "Purchaser" means a person who purchases tangible personal property
65 or to whom are rendered services, receipts from which are taxable under sections
66 144.010 to 144.525;

67 (9) "Research or experimentation activities" are the development of an
68 experimental or pilot model, plant process, formula, invention or similar property,
69 and the improvement of existing property of such type. Research or

70 experimentation activities do not include activities such as ordinary testing or
71 inspection of materials or products for quality control, efficiency surveys,
72 advertising promotions or research in connection with literary, historical or
73 similar projects;

74 (10) "Sale" or "sales" includes installment and credit sales, and the
75 exchange of properties as well as the sale thereof for money, every closed
76 transaction constituting a sale, and means any transfer, exchange or barter,
77 conditional or otherwise, in any manner or by any means whatsoever, of tangible
78 personal property for valuable consideration and the rendering, furnishing or
79 selling for a valuable consideration any of the substances, things and services
80 herein designated and defined as taxable under the terms of sections 144.010 to
81 144.525;

82 (11) "Sale at retail" means any transfer made by any person engaged in
83 business as defined herein of the ownership of, or title to, tangible personal
84 property to the purchaser, for use or consumption and not for resale in any form
85 as tangible personal property, for a valuable consideration; except that, for the
86 purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
87 purchases of tangible personal property made by duly licensed physicians,
88 dentists, optometrists and veterinarians and used in the practice of their
89 professions shall be deemed to be purchases for use or consumption and not for
90 resale; and (ii) the selling of computer printouts, computer output or microfilm
91 or microfiche and computer-assisted photo compositions to a purchaser to enable
92 the purchaser to obtain for his or her own use the desired information contained
93 in such computer printouts, computer output on microfilm or microfiche and
94 computer-assisted photo compositions shall be considered as the sale of a service
95 and not as the sale of tangible personal property. Where necessary to conform to
96 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
97 "sale at retail" shall be construed to embrace:

98 (a) Sales of admission tickets[, cash admissions,] **and** charges and fees
99 **for admission** to [or in places of amusement, entertainment and recreation,
100 games and athletic events] **view sporting events, dance performances,**
101 **theater performances, orchestra, concerts, and other performing arts**
102 **productions, and amounts paid for admission to racetracks, arcades,**
103 **theme and amusement parks, water parks, circuses, carnivals, festivals,**
104 **air shows, museums, marinas, motion picture theaters, and other**

105 **commercial attractions. Such tax shall not include any sales regardless**
106 **of how offered and sold as a right of first refusal, right to purchase,**
107 **single admission ticket, bundled package or season pass for admission**
108 **and seating accommodations, or fees paid to, or in any place having an**
109 **exemption under subdivision (20), (21), or (22) of subsection 2 of section**
110 **144.030. Such sales shall not include the amount paid that results in**
111 **the first opportunity to purchase or decline tickets for admission to**
112 **events, but does not itself result in admission;**

113 (b) Sales of electricity, electrical current, water and gas, natural or
114 artificial, to domestic, commercial or industrial consumers;

115 (c) Sales of local and long distance telecommunications service to
116 telecommunications subscribers and to others through equipment of
117 telecommunications subscribers for the transmission of messages and
118 conversations, and the sale, rental or leasing of all equipment or services
119 pertaining or incidental thereto;

120 (d) Sales of service for transmission of messages by telegraph companies;

121 (e) Sales or charges for all rooms, meals and drinks furnished at any
122 hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist
123 camp, tourist cabin, or other place in which rooms, meals or drinks are regularly
124 served to the public;

125 (f) Sales of tickets by every person operating a railroad, sleeping car,
126 dining car, express car, boat, airplane, and such buses and trucks as are licensed
127 by the division of motor carrier and railroad safety of the department of economic
128 development of Missouri, engaged in the transportation of persons for hire;

129 (12) "Seller" means a person selling or furnishing tangible personal
130 property or rendering services, on the receipts from which a tax is imposed
131 pursuant to section 144.020;

132 (13) The noun "tax" means either the tax payable by the purchaser of a
133 commodity or service subject to tax, or the aggregate amount of taxes due from
134 the vendor of such commodities or services during the period for which he or she
135 is required to report his or her collections, as the context may require;

136 (14) "Telecommunications service", for the purpose of this chapter, the
137 transmission of information by wire, radio, optical cable, coaxial cable, electronic
138 impulses, or other similar means. As used in this definition, "information" means
139 knowledge or intelligence represented by any form of writing, signs, signals,

140 pictures, sounds, or any other symbols. Telecommunications service does not
141 include the following if such services are separately stated on the customer's bill
142 or on records of the seller maintained in the ordinary course of business:

143 (a) Access to the internet, access to interactive computer services or
144 electronic publishing services, except the amount paid for the telecommunications
145 service used to provide such access;

146 (b) Answering services and one-way paging services;

147 (c) Private mobile radio services which are not two-way commercial mobile
148 radio services such as wireless telephone, personal communications services or
149 enhanced specialized mobile radio services as defined pursuant to federal law; or

150 (d) Cable or satellite television or music services; and

151 (15) "Product which is intended to be sold ultimately for final use or
152 consumption" means tangible personal property, or any service that is subject to
153 state or local sales or use taxes, or any tax that is substantially equivalent
154 thereto, in this state or any other state.

155 2. For purposes of the taxes imposed under sections 144.010 to 144.525,
156 and any other provisions of law pertaining to sales or use taxes which incorporate
157 the provisions of sections 144.010 to 144.525 by reference, the term
158 "manufactured homes" shall have the same meaning given it in section 700.010.

159 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales
160 Tax Law".

144.018. 1. Notwithstanding any other provision of law to the contrary,
2 except as provided under subsection 2 or 3 of this section, when a purchase of
3 tangible personal property or service subject to tax is made for the purpose of
4 resale, such purchase shall be either exempt or excluded under this chapter if the
5 subsequent sale is:

6 (1) Subject to a tax in this or any other state;

7 (2) For resale;

8 (3) Excluded from tax under this chapter;

9 (4) Subject to tax but exempt under this chapter; or

10 (5) Exempt from the sales tax laws of another state, if the subsequent sale
11 is in such other state.

12 The purchase of tangible personal property by a taxpayer shall not be deemed to
13 be for resale if such property is used or consumed by the taxpayer in providing
14 a service on which tax is not imposed by subsection 1 of section 144.020, except

15 purchases made in fulfillment of any obligation under a defense contract with the
16 United States government.

17 2. For purposes of subdivision (2) of subsection 1 of section 144.020, a
18 place of amusement, entertainment or recreation, including games or athletic
19 events, shall remit tax on the amount paid for admissions or seating
20 accommodations[, or fees paid] to[, or in] such place of amusement,
21 entertainment or recreation. Any subsequent sale of such admissions or seating
22 accommodations shall not be subject to tax if the initial sale was an arms length
23 transaction for fair market value with an unaffiliated entity. If the sale of such
24 admissions or seating accommodations is exempt or excluded from payment of
25 sales and use taxes, the provisions of this subsection shall not require the place
26 of amusement, entertainment, or recreation to remit tax on that sale. **Such**
27 **sales under subdivision (2) of subsection 1 of section 144.020 shall**
28 **include sales of admission tickets and charges and fees for admission**
29 **to view sporting events, dance performances, theater performances,**
30 **orchestra, concerts and other performing arts productions, and**
31 **amounts paid for admission to racetracks, arcades, theme and**
32 **amusement parks, water parks, circuses, carnivals, festivals, air shows,**
33 **museums, marinas, motion picture theaters, and other commercial**
34 **attractions. Such tax shall not include any sales regardless of how**
35 **offered and sold as a right of first refusal, right to purchase, single**
36 **admission ticket, bundled package or season pass for admission and**
37 **seating accommodations, or charges or, fees paid to, or in any place**
38 **having an exemption under subdivision (20), (21), or (22) of subsection**
39 **2 of section 144.030. Such sales shall not include the amount paid that**
40 **results in the first opportunity to purchase or decline tickets for**
41 **admission to events, but does not itself result in admission.**

42 3. For purposes of subdivision (6) of subsection 1 of section 144.020, a
43 hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist
44 cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly
45 served to the public shall remit tax on the amount of sales or charges for all
46 rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant,
47 eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in
48 which rooms, meals, or drinks are regularly served to the public. Any subsequent
49 sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale

50 was an arms length transaction for fair market value with an unaffiliated entity.
51 If the sale of such rooms, meals, or drinks is exempt or excluded from payment
52 of sales and use taxes, the provisions of this subsection shall not require the
53 hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist
54 cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly
55 served to the public to remit tax on that sale.

56 4. The provisions of this section are intended to reject and abrogate
57 earlier case law interpretations of the state's sales and use tax law with regard
58 to sales for resale as extended in Music City Centre Management, LLC v. Director
59 of Revenue, 295 S.W.3d 465, (Mo. 2009) and ICC Management, Inc. v. Director of
60 Revenue, 290 S.W.3d 699, (Mo. 2009). The provisions of this section are intended
61 to clarify the exemption or exclusion of purchases for resale from sales and use
62 taxes as originally enacted in this chapter.

144.020. 1. A tax is hereby levied and imposed for the privilege of titling
2 new and used motor vehicles, trailers, boats, and outboard motors purchased or
3 acquired for use on the highways or waters of this state which are required to be
4 titled under the laws of the state of Missouri and, except as provided in
5 subdivision (9) of this subsection, upon all sellers for the privilege of engaging in
6 the business of selling tangible personal property or rendering taxable service at
7 retail in this state. The rate of tax shall be as follows:

8 (1) Upon every retail sale in this state of tangible personal property,
9 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and
10 outboard motors required to be titled under the laws of the state of Missouri and
11 subject to tax under subdivision (9) of this subsection, a tax equivalent to four
12 percent of the purchase price paid or charged, or in case such sale involves the
13 exchange of property, a tax equivalent to four percent of the consideration paid
14 or charged, including the fair market value of the property exchanged at the time
15 and place of the exchange, except as otherwise provided in section 144.025;

16 (2) A tax equivalent to four percent of the amount paid for
17 admission **tickets** and [seating accommodations, or] **charges and fees [paid]**
18 to[, or in any place of amusement, entertainment or recreation, games and
19 athletic events] **view sporting events, dance performances, theater**
20 **performances, orchestra, concerts and other performing arts**
21 **productions, and amounts paid for admission to racetracks, arcades,**
22 **theme and amusement parks, water parks, circuses, carnivals, festivals,**

23 **air shows, museums, marinas, motion picture theaters, and other**
24 **commercial attractions. Such tax shall not include any sales regardless**
25 **of how offered and sold as a right of first refusal, right to purchase,**
26 **single admission ticket, bundled package or season pass for admission**
27 **and seating accommodations, or fees paid to, or in any place having an**
28 **exemption under subdivision (20), (21), or (22) of subsection 2 of section**
29 **144.030. Such sales shall not include the amount paid that results in**
30 **the first opportunity to purchase or decline tickets for admission to**
31 **events, but does not itself result in admission;**

32 (3) A tax equivalent to four percent of the basic rate paid or charged on
33 all sales of electricity or electrical current, water and gas, natural or artificial, to
34 domestic, commercial or industrial consumers;

35 (4) A tax equivalent to four percent on the basic rate paid or charged on
36 all sales of local and long distance telecommunications service to
37 telecommunications subscribers and to others through equipment of
38 telecommunications subscribers for the transmission of messages and
39 conversations and upon the sale, rental or leasing of all equipment or services
40 pertaining or incidental thereto; except that, the payment made by
41 telecommunications subscribers or others, pursuant to section 144.060, and any
42 amounts paid for access to the internet or interactive computer services shall not
43 be considered as amounts paid for telecommunications services;

44 (5) A tax equivalent to four percent of the basic rate paid or charged for
45 all sales of services for transmission of messages of telegraph companies;

46 (6) A tax equivalent to four percent on the amount of sales or charges for
47 all rooms, meals and drinks furnished at any hotel, motel, tavern, inn,
48 restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or
49 other place in which rooms, meals or drinks are regularly served to the public;

50 (7) A tax equivalent to four percent of the amount paid or charged for
51 intrastate tickets by every person operating a railroad, sleeping car, dining car,
52 express car, boat, airplane and such buses and trucks as are licensed by the
53 division of motor carrier and railroad safety of the department of economic
54 development of Missouri, engaged in the transportation of persons for hire;

55 (8) A tax equivalent to four percent of the amount paid or charged for
56 rental or lease of tangible personal property, provided that if the lessor or renter
57 of any tangible personal property had previously purchased the property under

58 the conditions of "sale at retail" or leased or rented the property and the tax was
59 paid at the time of purchase, lease or rental, the lessor, sublessor, renter or
60 subrenter shall not apply or collect the tax on the subsequent lease, sublease,
61 rental or subrental receipts from that property. The purchase, rental or lease of
62 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard
63 motors shall be taxed and the tax paid as provided in this section and section
64 144.070. In no event shall the rental or lease of boats and outboard motors be
65 considered a sale, charge, or fee to, for or in places of amusement, entertainment
66 or recreation nor shall any such rental or lease be subject to any tax imposed to,
67 for, or in such places of amusement, entertainment or recreation. Rental and
68 leased boats or outboard motors shall be taxed under the provisions of the sales
69 tax laws as provided under such laws for motor vehicles and trailers. Tangible
70 personal property which is exempt from the sales or use tax under section
71 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the
72 lease or rental thereof;

73 (9) A tax equivalent to four percent of the purchase price, as defined in
74 section 144.070, of new and used motor vehicles, trailers, boats, and outboard
75 motors purchased or acquired for use on the highways or waters of this state
76 which are required to be registered under the laws of the state of Missouri. This
77 tax is imposed on the person titling such property, and shall be paid according
78 to the procedures in section 144.440.

79 2. All tickets sold which are sold under the provisions of sections 144.010
80 to 144.525 which are subject to the sales tax shall have printed, stamped or
81 otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.030. 1. There is hereby specifically exempted from the provisions of
2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be
4 made in commerce between this state and any other state of the United States,
5 or between this state and any foreign country, and any retail sale which the state
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the
7 United States of America, and such retail sales of tangible personal property
8 which the general assembly of the state of Missouri is prohibited from taxing or
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, section 238.235, and sections 144.010

12 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied,
13 assessed or payable pursuant to the local sales tax law as defined in section
14 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

15 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
16 all or part of such excise tax is refunded pursuant to section 142.824; or upon the
17 sale at retail of fuel to be consumed in manufacturing or creating gas, power,
18 steam, electrical current or in furnishing water to be sold ultimately at retail; or
19 feed for livestock or poultry; or grain to be converted into foodstuffs which are to
20 be sold ultimately in processed form at retail; or seed, limestone or fertilizer
21 which is to be used for seeding, liming or fertilizing crops which when harvested
22 will be sold at retail or will be fed to livestock or poultry to be sold ultimately in
23 processed form at retail; economic poisons registered pursuant to the provisions
24 of the Missouri pesticide registration law (sections 281.220 to 281.310) which are
25 to be used in connection with the growth or production of crops, fruit trees or
26 orchards applied before, during, or after planting, the crop of which when
27 harvested will be sold at retail or will be converted into foodstuffs which are to
28 be sold ultimately in processed form at retail;

29 (2) Materials, manufactured goods, machinery and parts which when used
30 in manufacturing, processing, compounding, mining, producing or fabricating
31 become a component part or ingredient of the new personal property resulting
32 from such manufacturing, processing, compounding, mining, producing or
33 fabricating and which new personal property is intended to be sold ultimately for
34 final use or consumption; and materials, including without limitation, gases and
35 manufactured goods, including without limitation slagging materials and
36 firebrick, which are ultimately consumed in the manufacturing process by
37 blending, reacting or interacting with or by becoming, in whole or in part,
38 component parts or ingredients of steel products intended to be sold ultimately
39 for final use or consumption;

40 (3) Materials, replacement parts and equipment purchased for use directly
41 upon, and for the repair and maintenance or manufacture of, motor vehicles,
42 watercraft, railroad rolling stock or aircraft engaged as common carriers of
43 persons or property;

44 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and
45 the trailers pulled by such motor vehicles, that are actually used in the normal
46 course of business to haul property on the public highways of the state, and that

47 are capable of hauling loads commensurate with the motor vehicle's registered
48 weight; and the materials, replacement parts, and equipment purchased for use
49 directly upon, and for the repair and maintenance or manufacture of such
50 vehicles. For purposes of this subdivision "motor vehicle" and "public highway"
51 shall have the meaning as ascribed in section 390.020;

52 (5) Replacement machinery, equipment, and parts and the materials and
53 supplies solely required for the installation or construction of such replacement
54 machinery, equipment, and parts, used directly in manufacturing, mining,
55 fabricating or producing a product which is intended to be sold ultimately for
56 final use or consumption; and machinery and equipment, and the materials and
57 supplies required solely for the operation, installation or construction of such
58 machinery and equipment, purchased and used to establish new, or to replace or
59 expand existing, material recovery processing plants in this state. For the
60 purposes of this subdivision, a "material recovery processing plant" means a
61 facility that has as its primary purpose the recovery of materials into a useable
62 product or a different form which is used in producing a new product and shall
63 include a facility or equipment which are used exclusively for the collection of
64 recovered materials for delivery to a material recovery processing plant but shall
65 not include motor vehicles used on highways. For purposes of this section, the
66 terms motor vehicle and highway shall have the same meaning pursuant to
67 section 301.010. Material recovery is not the reuse of materials within a
68 manufacturing process or the use of a product previously recovered. The material
69 recovery processing plant shall qualify under the provisions of this section
70 regardless of ownership of the material being recovered;

71 (6) Machinery and equipment, and parts and the materials and supplies
72 solely required for the installation or construction of such machinery and
73 equipment, purchased and used to establish new or to expand existing
74 manufacturing, mining or fabricating plants in the state if such machinery and
75 equipment is used directly in manufacturing, mining or fabricating a product
76 which is intended to be sold ultimately for final use or consumption;

77 (7) Tangible personal property which is used exclusively in the
78 manufacturing, processing, modification or assembling of products sold to the
79 United States government or to any agency of the United States government;

80 (8) Animals or poultry used for breeding or feeding purposes, or captive
81 wildlife;

82 (9) Newsprint, ink, computers, photosensitive paper and film, toner,
83 printing plates and other machinery, equipment, replacement parts and supplies
84 used in producing newspapers published for dissemination of news to the general
85 public;

86 (10) The rentals of films, records or any type of sound or picture
87 transcriptions for public commercial display;

88 (11) Pumping machinery and equipment used to propel products delivered
89 by pipelines engaged as common carriers;

90 (12) Railroad rolling stock for use in transporting persons or property in
91 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
92 thousand pounds or more or trailers used by common carriers, as defined in
93 section 390.020, in the transportation of persons or property;

94 (13) Electrical energy used in the actual primary manufacture, processing,
95 compounding, mining or producing of a product, or electrical energy used in the
96 actual secondary processing or fabricating of the product, or a material recovery
97 processing plant as defined in subdivision (5) of this subsection, in facilities
98 owned or leased by the taxpayer, if the total cost of electrical energy so used
99 exceeds ten percent of the total cost of production, either primary or secondary,
100 exclusive of the cost of electrical energy so used or if the raw materials used in
101 such processing contain at least twenty-five percent recovered materials as
102 defined in section 260.200. There shall be a rebuttable presumption that the raw
103 materials used in the primary manufacture of automobiles contain at least
104 twenty-five percent recovered materials. For purposes of this subdivision,
105 "processing" means any mode of treatment, act or series of acts performed upon
106 materials to transform and reduce them to a different state or thing, including
107 treatment necessary to maintain or preserve such processing by the producer at
108 the production facility;

109 (14) Anodes which are used or consumed in manufacturing, processing,
110 compounding, mining, producing or fabricating and which have a useful life of
111 less than one year;

112 (15) Machinery, equipment, appliances and devices purchased or leased
113 and used solely for the purpose of preventing, abating or monitoring air pollution,
114 and materials and supplies solely required for the installation, construction or
115 reconstruction of such machinery, equipment, appliances and devices;

116 (16) Machinery, equipment, appliances and devices purchased or leased

117 and used solely for the purpose of preventing, abating or monitoring water
118 pollution, and materials and supplies solely required for the installation,
119 construction or reconstruction of such machinery, equipment, appliances and
120 devices;

121 (17) Tangible personal property purchased by a rural water district;

122 (18) All amounts paid or charged for admission or participation or other
123 fees paid by or other charges to individuals in or for any place of amusement,
124 entertainment or recreation, games or athletic events, including museums, fairs,
125 zoos and planetariums, owned or operated by a municipality or other political
126 subdivision where all the proceeds derived therefrom benefit the municipality or
127 other political subdivision and do not inure to any private person, firm, or
128 corporation, provided, however, that a municipality or other political subdivision
129 may enter into revenue-sharing agreements with private persons, firms, or
130 corporations providing goods or services, including management services, in or for
131 the place of amusement, entertainment or recreation, games or athletic events,
132 and provided further that nothing in this subdivision shall exempt from tax any
133 amounts retained by any private person, firm, or corporation under such revenue-
134 sharing agreement;

135 (19) All sales of insulin and prosthetic or orthopedic devices as defined on
136 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
137 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
138 of that act, and also specifically including hearing aids and hearing aid supplies
139 and all sales of drugs which may be legally dispensed by a licensed pharmacist
140 only upon a lawful prescription of a practitioner licensed to administer those
141 items, including samples and materials used to manufacture samples which may
142 be dispensed by a practitioner authorized to dispense such samples and all sales
143 or rental of medical oxygen, home respiratory equipment and accessories, hospital
144 beds and accessories and ambulatory aids, all sales or rental of manual and
145 powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment
146 and, if purchased or rented by or on behalf of a person with one or more physical
147 or mental disabilities to enable them to function more independently, all sales or
148 rental of scooters, reading machines, electronic print enlargers and magnifiers,
149 electronic alternative and augmentative communication devices, and items used
150 solely to modify motor vehicles to permit the use of such motor vehicles by
151 individuals with disabilities or sales of over-the-counter or nonprescription drugs

152 to individuals with disabilities, and drugs required by the Food and Drug
153 Administration to meet the over-the-counter drug product labeling requirements
154 in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner
155 licensed to prescribe;

156 (20) All sales made by or to religious and charitable organizations and
157 institutions in their religious, charitable or educational functions and activities
158 and all sales made by or to all elementary and secondary schools operated at
159 public expense in their educational functions and activities;

160 (21) All sales of aircraft to common carriers for storage or for use in
161 interstate commerce and all sales made by or to not-for-profit civic, social, service
162 or fraternal organizations, including fraternal organizations which have been
163 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
164 1986 Internal Revenue Code, as amended, in their civic or charitable functions
165 and activities and all sales made to eleemosynary and penal institutions and
166 industries of the state, and all sales made to any private not-for-profit institution
167 of higher education not otherwise excluded pursuant to subdivision (20) of this
168 subsection or any institution of higher education supported by public funds, and
169 all sales made to a state relief agency in the exercise of relief functions and
170 activities;

171 (22) All ticket sales made by benevolent, scientific and educational
172 associations which are formed to foster, encourage, and promote progress and
173 improvement in the science of agriculture and in the raising and breeding of
174 animals, and by nonprofit summer theater organizations if such organizations are
175 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
176 and all admission charges and entry fees to the Missouri state fair or any fair
177 conducted by a county agricultural and mechanical society organized and
178 operated pursuant to sections 262.290 to 262.530;

179 (23) All sales made to any private not-for-profit elementary or secondary
180 school, all sales of feed additives, medications or vaccines administered to
181 livestock or poultry in the production of food or fiber, all sales of pesticides used
182 in the production of crops, livestock or poultry for food or fiber, all sales of
183 bedding used in the production of livestock or poultry for food or fiber, all sales
184 of propane or natural gas, electricity or diesel fuel used exclusively for drying
185 agricultural crops, natural gas used in the primary manufacture or processing of
186 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity

187 used by an eligible new generation cooperative or an eligible new generation
188 processing entity as defined in section 348.432, and all sales of farm machinery
189 and equipment, other than airplanes, motor vehicles and trailers, and any freight
190 charges on any exempt item. As used in this subdivision, the term "feed
191 additives" means tangible personal property which, when mixed with feed for
192 livestock or poultry, is to be used in the feeding of livestock or poultry. As used
193 in this subdivision, the term "pesticides" includes adjuvants such as crop oils,
194 surfactants, wetting agents and other assorted pesticide carriers used to improve
195 or enhance the effect of a pesticide and the foam used to mark the application of
196 pesticides and herbicides for the production of crops, livestock or poultry. As
197 used in this subdivision, the term "farm machinery and equipment" means new
198 or used farm tractors and such other new or used farm machinery and equipment
199 and repair or replacement parts thereon and any accessories for and upgrades to
200 such farm machinery and equipment, rotary mowers used exclusively for
201 agricultural purposes, and supplies and lubricants used exclusively, solely, and
202 directly for producing crops, raising and feeding livestock, fish, poultry,
203 pheasants, chukar, quail, or for producing milk for ultimate sale at retail,
204 including field drain tile, and one-half of each purchaser's purchase of diesel fuel
205 therefor which is:

206 (a) Used exclusively for agricultural purposes;

207 (b) Used on land owned or leased for the purpose of producing farm
208 products; and

209 (c) Used directly in producing farm products to be sold ultimately in
210 processed form or otherwise at retail or in producing farm products to be fed to
211 livestock or poultry to be sold ultimately in processed form at retail;

212 (24) Except as otherwise provided in section 144.032, all sales of metered
213 water service, electricity, electrical current, natural, artificial or propane gas,
214 wood, coal or home heating oil for domestic use and in any city not within a
215 county, all sales of metered or unmetered water service for domestic use:

216 (a) "Domestic use" means that portion of metered water service,
217 electricity, electrical current, natural, artificial or propane gas, wood, coal or
218 home heating oil, and in any city not within a county, metered or unmetered
219 water service, which an individual occupant of a residential premises uses for
220 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
221 a single or master meter for residential apartments or condominiums, including

222 service for common areas and facilities and vacant units, shall be deemed to be
223 for domestic use. Each seller shall establish and maintain a system whereby
224 individual purchases are determined as exempt or nonexempt;

225 (b) Regulated utility sellers shall determine whether individual purchases
226 are exempt or nonexempt based upon the seller's utility service rate
227 classifications as contained in tariffs on file with and approved by the Missouri
228 public service commission. Sales and purchases made pursuant to the rate
229 classification "residential" and sales to and purchases made by or on behalf of the
230 occupants of residential apartments or condominiums through a single or master
231 meter, including service for common areas and facilities and vacant units, shall
232 be considered as sales made for domestic use and such sales shall be exempt from
233 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
234 classified as nondomestic use. The seller's utility service rate classification and
235 the provision of service thereunder shall be conclusive as to whether or not the
236 utility must charge sales tax;

237 (c) Each person making domestic use purchases of services or property
238 and who uses any portion of the services or property so purchased for a
239 nondomestic use shall, by the fifteenth day of the fourth month following the year
240 of purchase, and without assessment, notice or demand, file a return and pay
241 sales tax on that portion of nondomestic purchases. Each person making
242 nondomestic purchases of services or property and who uses any portion of the
243 services or property so purchased for domestic use, and each person making
244 domestic purchases on behalf of occupants of residential apartments or
245 condominiums through a single or master meter, including service for common
246 areas and facilities and vacant units, under a nonresidential utility service rate
247 classification may, between the first day of the first month and the fifteenth day
248 of the fourth month following the year of purchase, apply for credit or refund to
249 the director of revenue and the director shall give credit or make refund for taxes
250 paid on the domestic use portion of the purchase. The person making such
251 purchases on behalf of occupants of residential apartments or condominiums shall
252 have standing to apply to the director of revenue for such credit or refund;

253 (25) All sales of handicraft items made by the seller or the seller's spouse
254 if the seller or the seller's spouse is at least sixty-five years of age, and if the total
255 gross proceeds from such sales do not constitute a majority of the annual gross
256 income of the seller;

257 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041,
258 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
259 States Code. The director of revenue shall promulgate rules pursuant to chapter
260 536 to eliminate all state and local sales taxes on such excise taxes;

261 (27) Sales of fuel consumed or used in the operation of ships, barges, or
262 waterborne vessels which are used primarily in or for the transportation of
263 property or cargo, or the conveyance of persons for hire, on navigable rivers
264 bordering on or located in part in this state, if such fuel is delivered by the seller
265 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
266 river;

267 (28) All sales made to an interstate compact agency created pursuant to
268 sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the
269 functions and activities of such agency as provided pursuant to the compact;

270 (29) Computers, computer software and computer security systems
271 purchased for use by architectural or engineering firms headquartered in this
272 state. For the purposes of this subdivision, "headquartered in this state" means
273 the office for the administrative management of at least four integrated facilities
274 operated by the taxpayer is located in the state of Missouri;

275 (30) All livestock sales when either the seller is engaged in the growing,
276 producing or feeding of such livestock, or the seller is engaged in the business of
277 buying and selling, bartering or leasing of such livestock;

278 (31) All sales of barges which are to be used primarily in the
279 transportation of property or cargo on interstate waterways;

280 (32) Electrical energy or gas, whether natural, artificial or propane, water,
281 or other utilities which are ultimately consumed in connection with the
282 manufacturing of cellular glass products or in any material recovery processing
283 plant as defined in subdivision (5) of this subsection;

284 (33) Notwithstanding other provisions of law to the contrary, all sales of
285 pesticides or herbicides used in the production of crops, aquaculture, livestock or
286 poultry;

287 (34) Tangible personal property and utilities purchased for use or
288 consumption directly or exclusively in the research and development of
289 agricultural/biotechnology and plant genomics products and prescription
290 pharmaceuticals consumed by humans or animals;

291 (35) All sales of grain bins for storage of grain for resale;

292 (36) All sales of feed which are developed for and used in the feeding of
293 pets owned by a commercial breeder when such sales are made to a commercial
294 breeder, as defined in section 273.325, and licensed pursuant to sections 273.325
295 to 273.357;

296 (37) All purchases by a contractor on behalf of an entity located in another
297 state, provided that the entity is authorized to issue a certificate of exemption for
298 purchases to a contractor under the provisions of that state's laws. For purposes
299 of this subdivision, the term "certificate of exemption" shall mean any document
300 evidencing that the entity is exempt from sales and use taxes on purchases
301 pursuant to the laws of the state in which the entity is located. Any contractor
302 making purchases on behalf of such entity shall maintain a copy of the entity's
303 exemption certificate as evidence of the exemption. If the exemption certificate
304 issued by the exempt entity to the contractor is later determined by the director
305 of revenue to be invalid for any reason and the contractor has accepted the
306 certificate in good faith, neither the contractor or the exempt entity shall be liable
307 for the payment of any taxes, interest and penalty due as the result of use of the
308 invalid exemption certificate. Materials shall be exempt from all state and local
309 sales and use taxes when purchased by a contractor for the purpose of fabricating
310 tangible personal property which is used in fulfilling a contract for the purpose
311 of constructing, repairing or remodeling facilities for the following:

312 (a) An exempt entity located in this state, if the entity is one of those
313 entities able to issue project exemption certificates in accordance with the
314 provisions of section 144.062; or

315 (b) An exempt entity located outside the state if the exempt entity is
316 authorized to issue an exemption certificate to contractors in accordance with the
317 provisions of that state's law and the applicable provisions of this section;

318 (38) All sales or other transfers of tangible personal property to a lessor
319 who leases the property under a lease of one year or longer executed or in effect
320 at the time of the sale or other transfer to an interstate compact agency created
321 pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

322 (39) Sales of tickets to any collegiate athletic championship event that is
323 held in a facility owned or operated by a governmental authority or commission,
324 a quasi-governmental agency, a state university or college or by the state or any
325 political subdivision thereof, including a municipality, and that is played on a
326 neutral site and may reasonably be played at a site located outside the state of

327 Missouri. For purposes of this subdivision, "neutral site" means any site that is
328 not located on the campus of a conference member institution participating in the
329 event;

330 (40) All purchases by a sports complex authority created under section
331 64.920, and all sales of utilities by such authority at the authority's cost that are
332 consumed in connection with the operation of a sports complex leased to a
333 professional sports team;

334 (41) Beginning January 1, 2009, but not after January 1, 2015, materials,
335 replacement parts, and equipment purchased for use directly upon, and for the
336 modification, replacement, repair, and maintenance of aircraft, aircraft power
337 plants, and aircraft accessories;

338 (42) Sales of sporting clays, wobble, skeet, and trap targets to any
339 shooting range or similar places of business for use in the normal course of
340 business and money received by a shooting range or similar places of business
341 from patrons and held by a shooting range or similar place of business for
342 redistribution to patrons at the conclusion of a shooting event;

343 **(43) All sales of motor fuel, as defined in section 142.800, used in**
344 **any watercraft, as defined in section 306.010.**

345 3. Any ruling, agreement, or contract, whether written or oral, express or
346 implied, between a person and this state's executive branch, or any other state
347 agency or department, stating, agreeing, or ruling that such person is not
348 required to collect sales and use tax in this state despite the presence of a
349 warehouse, distribution center, or fulfillment center in this state that is owned
350 or operated by the person or an affiliated person shall be null and void unless it
351 is specifically approved by a majority vote of each of the houses of the general
352 assembly. For purposes of this subsection, an "affiliated person" means any
353 person that is a member of the same controlled group of corporations as defined
354 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the
355 vendor or any other entity that, notwithstanding its form of organization, bears
356 the same ownership relationship to the vendor as a corporation that is a member
357 of the same controlled group of corporations as defined in Section 1563(a) of the
358 Internal Revenue Code, as amended.

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

2 (1) "Sale of a modular unit", a transfer of a modular unit as defined in
3 section 700.010;

4 (2) "Sale of a new manufactured home", a transfer of a manufactured
5 home, as defined in section 700.010, which involves the delivery of the document
6 known as the manufacturer's statement of origin to a person other than a
7 manufactured home dealer, as dealer is defined in section 700.010, for purposes
8 of allowing such person to obtain a title to the manufactured home from the
9 department of revenue of this state or the appropriate agency or officer of any
10 other state;

11 **(3) "Sale of a used manufactured home", any subsequent sale of**
12 **a manufactured home as defined in section 700.010, which does not**
13 **qualify as "new" as defined in subdivision (9) of section 700.010.**

14 2. In the event of the sale of a new manufactured home, forty percent of
15 the purchase price, as defined in section 700.320, shall be considered the sale of
16 a service and not the sale of tangible personal property. In addition to the
17 exemptions granted under the provisions of section 144.030, the sale of services
18 as defined in this section shall be specifically exempted from the provisions of
19 sections 238.235 and 238.410, the local sales tax law as defined in section 32.085,
20 sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of
21 the tax levied, assessed or payable under sections 238.235 and 238.410, the local
22 sales tax law as defined in section 32.085, sections 144.010 to 144.525 and
23 144.600 to 144.745, and section 238.235.

24 3. In the event of the sale of a new modular unit, forty percent of the
25 retail sale of the unit or forty percent of the manufacturer's sales price of the unit
26 if the manufacturer makes a sale to a consumer that is not a retail sale, plus any
27 carrier charge and freight charges shall be considered the sale of a service and
28 sixty percent shall be the retail sale of tangible personal property. In addition
29 to the exemptions granted under the provisions of section 144.030, the sale of
30 services as defined in this section shall be specifically exempted from the
31 provisions of sections 238.235 and 238.410, the local sales tax law as defined in
32 section 32.085, sections 144.010 to 144.525 and 144.600 to 144.745, and from the
33 computation of the tax levied, assessed, or payable under sections 238.235 and
34 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to
35 144.525 and 144.600 to 144.745, and section 238.235.

36 **4. In addition to the exemptions granted under the provisions of**
37 **section 144.030, the sale of a used manufactured home as defined in this**
38 **section shall be specifically exempted from the provisions of sections**

39 238.235 and 238.410, the local sales tax law as defined in section 32.085,
40 sections 144.010 to 144.525 and 144.600 to 144.745, and from the
41 computation of the tax levied, assessed, or payable under sections
42 238.235 and 238.410, the local sales tax law as defined in section 32.085,
43 sections 144.010 to 144.525 and 144.600 to 144.745, and section 238.235.

144.052. 1. In addition to all other exemptions granted under
2 this chapter, there is hereby specifically exempted from the provisions
3 of sections 144.010 to 144.525, 144.600 to 144.761, and 238.235, and the
4 local sales tax law as defined in section 32.085, from the computation
5 of the tax levied, assessed, or payable under sections 144.010 to 144.525,
6 144.600 to 144.761, 238.235, and the local sales tax law as defined in
7 section 32.085, all sales of prescription drugs, biological products, and
8 devices approved by the United States Food and Drug Administration
9 and all drugs, biological products, and devices that have successfully
10 completed phase one of a clinical trial, but have not been approved for
11 general use by the United States Food and Drug Administration and
12 remain under investigation in a clinical trial, used for the treatment of
13 terminal illnesses, including components and repair parts, and the
14 disposable or single patient use supplies required for the use of such
15 devices.

16 2. For purposes of this section the term “terminal illness” shall
17 mean a disease that without life-sustaining procedures will result in
18 death in the near future or a state of permanent unconsciousness from
19 which recovery is unlikely.

144.058. 1. In addition to all other exemptions granted under
2 this chapter, there is hereby specifically exempted from the provisions
3 of sections 144.010 to 144.525, 144.600 to 144.761, and from the
4 computation of the tax levied, assessed, or payable under sections
5 144.010 to 144.525, 144.600 to 144.761, electrical energy and gas, whether
6 natural, artificial, or propane; water, coal, and energy sources;
7 chemicals, machinery, equipment, parts, and materials used or
8 consumed in connection with or to facilitate the generation,
9 transmission, distribution, sale, or furnishing of electricity for light,
10 heat, or power; and any conduits, ducts, or other devices, materials,
11 apparatus, or property for containing, holding, or carrying conductors

12 **used or to be used for the transmission of electricity for light, heat, or**
13 **power service to customers.**

14 **2. In addition to all other exemptions granted under this chapter,**
15 **there is hereby specifically exempted from the provisions of sections**
16 **144.010 to 144.525, 144.600 to 144.761, 238.235, and the local sales tax law**
17 **as defined in section 32.085, and from the computation of the tax levied,**
18 **assessed, or payable under sections 144.010 to 144.525, 144.600 to**
19 **144.761, 238.235, and the local sales tax law as defined in section 32.085,**
20 **electrical energy, machinery, equipment, parts, and materials used or**
21 **consumed in connection with or to facilitate the storage or processing**
22 **of data in any facility or part of a facility that is used primarily for**
23 **such data storage or processing. "Processing", as used in this section,**
24 **shall mean any action or process performed upon or using data in any**
25 **form.**

144.080. 1. Every person receiving any payment or consideration upon
2 the sale of property or rendering of service, subject to the tax imposed by the
3 provisions of sections 144.010 to 144.525, is exercising the taxable privilege of
4 selling the property or rendering the service at retail and is subject to the tax
5 levied in section 144.020. The person shall be responsible not only for the
6 collection of the amount of the tax imposed on the sale or service to the extent
7 possible under the provisions of section 144.285, but shall, on or before the last
8 day of the month following each calendar quarterly period of three months, file
9 a return with the director of revenue showing the person's gross receipts and the
10 amount of tax levied in section 144.020 for the preceding quarter, and shall remit
11 to the director of revenue, with the return, the taxes levied in section 144.020,
12 except as provided in subsections 2 and 3 of this section. The director of revenue
13 may promulgate rules or regulations changing the filing and payment
14 requirements of sellers, but shall not require any seller to file and pay more
15 frequently than required in this section.

16 **2. Where the aggregate amount levied and imposed upon a seller by**
17 **section 144.020 is in excess of two hundred and fifty dollars for either the first or**
18 **second month of a calendar quarter, the seller shall file a return and pay such**
19 **aggregate amount for such months to the director of revenue by the twentieth day**
20 **of the succeeding month.**

21 **3. Where the aggregate amount levied and imposed upon a seller by**

22 section 144.020 is less than forty-five dollars in a calendar quarter, the director
23 of revenue shall by regulation permit the seller to file a return for a calendar
24 year. The return shall be filed and the taxes paid on or before January
25 thirty-first of the succeeding year.

26 4. The seller of any property or person rendering any service, subject to
27 the tax imposed by sections 144.010 to 144.525, shall collect the tax from the
28 purchaser of such property or the recipient of the service to the extent possible
29 under the provisions of section 144.285, but the seller's inability to collect any
30 part or all of the tax does not relieve the seller of the obligation to pay to the
31 state the tax imposed by section 144.020; except that the collection of the tax
32 imposed by sections 144.010 to 144.525 on motor vehicles and trailers shall be
33 made as provided in sections 144.070 and 144.440.

34 5. ~~[It shall be unlawful for]~~ Any person ~~[to]~~ **may** advertise or hold out or
35 state to the public or to any customer directly ~~[or indirectly]~~ that the tax or any
36 part thereof imposed by sections 144.010 to 144.525, and required to be collected
37 by the person, will be assumed or absorbed by the person, ~~[or that it will not be~~
38 ~~separately stated and added to the selling price of the]~~ **provided that the**
39 **amount of tax assumed or absorbed shall be stated on any invoice or**
40 **receipt for the** property sold or service rendered~~], or if added, that it or any~~
41 ~~part thereof will be refunded]~~. Any person violating any of the provisions of this
42 section shall be guilty of a misdemeanor. **This subsection shall not apply to**
43 **any retailer prohibited from collecting and remitting sales tax under**
44 **section 66.630.**

144.190. 1. If a tax has been incorrectly computed by reason of a clerical
2 error or mistake on the part of the director of revenue, such fact shall be set forth
3 in the records of the director of revenue, and the amount of the overpayment shall
4 be credited on any taxes then due from the person legally obligated to remit the
5 tax pursuant to sections 144.010 to 144.525, and the balance shall be refunded
6 to the person legally obligated to remit the tax, such person's administrators or
7 executors, as provided for in section 144.200.

8 2. If any tax, penalty or interest has been paid more than once, or has
9 been erroneously or illegally collected, or has been erroneously or illegally
10 computed, such sum shall be credited on any taxes then due from the person
11 legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the
12 balance, with interest as determined by section 32.065, shall be refunded to the

13 person legally obligated to remit the tax, but no such credit or refund shall be
14 allowed unless duplicate copies of a claim for refund are filed within three years
15 from date of overpayment.

16 3. Every claim for refund must be in writing and signed by the applicant,
17 and must state the specific grounds upon which the claim is founded. Any refund
18 or any portion thereof which is erroneously made, and any credit or any portion
19 thereof which is erroneously allowed, may be recovered in any action brought by
20 the director of revenue against the person legally obligated to remit the tax. In
21 the event that a tax has been illegally imposed against a person legally obligated
22 to remit the tax, the director of revenue shall authorize the cancellation of the tax
23 upon the [director's] **director of revenue's** record.

24 4. Notwithstanding the provisions of section 32.057, a purchaser that
25 originally paid sales or use tax to a vendor or seller may submit a refund claim
26 directly to the director of revenue for such sales or use taxes paid to such vendor
27 or seller and remitted to the director **of revenue**, provided no sum shall be
28 refunded more than once, any such claim shall be subject to any offset, defense,
29 or other claim the director **of revenue** otherwise would have against either the
30 purchaser or vendor or seller **if such offset or claim has been assessed**
31 **under section 144.240 or 144.670 and such assessment is no longer**
32 **subject to appeal**, and such claim for refund is accompanied by either:

33 (1) A notarized assignment of rights statement by the vendor or seller to
34 the purchaser allowing the purchaser to seek the refund on behalf of the vendor
35 or seller. An assignment of rights statement shall contain the Missouri sales or
36 use tax registration number of the vendor or seller, a list of the transactions
37 covered by the assignment, the tax periods and location for which the original
38 sale was reported to the director of revenue by the vendor or seller, and a
39 notarized statement signed by the vendor or seller affirming that the vendor or
40 seller has not received a refund or credit, will not apply for a refund or credit of
41 the tax collected on any transactions covered by the assignment, and authorizes
42 the director **of revenue** to amend the seller's return to reflect the refund; or

43 (2) In the event the vendor or seller fails or refuses to provide an
44 assignment of rights statement within sixty days from the date of such
45 purchaser's written request to the vendor or seller, or the purchaser is not able
46 to locate the vendor or seller or the vendor or seller is no longer in business, the
47 purchaser may provide the director **of revenue** a notarized statement confirming

48 the efforts that have been made to obtain an assignment of rights from the vendor
49 or seller. Such statement shall contain a list of the transactions covered by the
50 assignment, the tax periods and location for which the original sale was reported
51 to the director of revenue by the vendor or seller.

52 The director **of revenue** shall not require such vendor, seller, or purchaser to
53 submit amended returns for refund claims submitted under the provisions of this
54 subsection. Notwithstanding the provisions of section 32.057, if the seller is
55 registered with the director **of revenue** for collection and remittance of sales tax,
56 the director **of revenue** shall notify the seller at the seller's last known address
57 of the claim for refund. If the seller objects to the refund within thirty days of
58 the date of the notice, the director **of revenue** shall not pay the refund. If the
59 seller agrees that the refund is warranted or fails to respond within thirty days,
60 the director **of revenue** may issue the refund and amend the seller's return to
61 reflect the refund. For purposes of section 32.069, the refund claim shall not be
62 considered to have been filed until the seller agrees that the refund is warranted
63 or thirty days after the date the director **of revenue** notified the seller and the
64 seller failed to respond.

65 5. Notwithstanding the provisions of section 32.057, when a vendor files
66 a refund claim on behalf of a purchaser and such refund claim is denied by the
67 director **of revenue**, notice of such denial and the reason for the denial shall be
68 sent by the director **of revenue** to the vendor and each purchaser whose name
69 and address is submitted with the refund claim form filed by the vendor. A
70 purchaser shall be entitled to appeal the denial of the refund claim within sixty
71 days of the date such notice of denial is mailed by the director **of revenue** as
72 provided in section 144.261. The provisions of this subsection shall apply to all
73 refund claims filed after August 28, 2012. The provisions of this subsection
74 allowing a purchaser to appeal the [director's] **director of revenue's** decision
75 to deny a refund claim shall also apply to any refund claim denied by the director
76 **of revenue** on or after January 1, 2007, if an appeal of the denial of the refund
77 claim is filed by the purchaser no later than September 28, 2012, and if such
78 claim is based solely on the issue of the exemption of the electronic transmission
79 or delivery of computer software.

80 6. Notwithstanding the provisions of this section, the director of revenue
81 shall authorize direct-pay agreements to purchasers which have annual purchases
82 in excess of seven hundred fifty thousand dollars pursuant to rules and

83 regulations adopted by the director of revenue. For the purposes of such
84 direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70, 92,
85 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the
86 place of business of the purchaser.

87 7. Special rules applicable to error corrections requested by customers of
88 mobile telecommunications service are as follows:

89 (1) For purposes of this subsection, the terms "customer", "home service
90 provider", "place of primary use", "electronic database", and "enhanced zip code"
91 shall have the same meanings as defined in the Mobile Telecommunications
92 Sourcing Act incorporated by reference in section 144.013;

93 (2) Notwithstanding the provisions of this section, if a customer of mobile
94 telecommunications services believes that the amount of tax, the assignment of
95 place of primary use or the taxing jurisdiction included on a billing is erroneous,
96 the customer shall notify the home service provider, in writing, within three years
97 from the date of the billing statement. The customer shall include in such
98 written notification the street address for the customer's place of primary use, the
99 account name and number for which the customer seeks a correction of the tax
100 assignment, a description of the error asserted by the customer and any other
101 information the home service provider reasonably requires to process the request;

102 (3) Within sixty days of receiving the customer's notice, the home service
103 provider shall review its records and the electronic database or enhanced zip code
104 to determine the customer's correct taxing jurisdiction. If the home service
105 provider determines that the review shows that the amount of tax, assignment
106 of place of primary use or taxing jurisdiction is in error, the home service
107 provider shall correct the error and, at its election, either refund or credit the
108 amount of tax erroneously collected to the customer for a period of up to three
109 years from the last day of the home service provider's sixty-day review period. If
110 the home service provider determines that the review shows that the amount of
111 tax, the assignment of place of primary use or the taxing jurisdiction is correct,
112 the home service provider shall provide a written explanation of its determination
113 to the customer.

114 8. For all refund claims submitted to the department of revenue on or
115 after September 1, 2003, notwithstanding any provision of this section to the
116 contrary, if a person legally obligated to remit the tax levied pursuant to sections
117 144.010 to 144.525 has received a refund of such taxes for a specific issue and

118 submits a subsequent claim for refund of such taxes on the same issue for a tax
119 period beginning on or after the date the original refund check issued to such
120 person, no refund shall be allowed. This subsection shall not apply and a refund
121 shall be allowed if **the refund claim is filed by a purchaser under the**
122 **provisions of subsection 4 of this section, the refund claim is for use tax**
123 **remitted by the purchaser, or** an additional refund claim is filed **by a**
124 **person legally obligated to remit the tax** due to any of the following:

125 (1) Receipt of additional information or an exemption certificate from the
126 purchaser of the item at issue;

127 (2) A decision of a court of competent jurisdiction or the administrative
128 hearing commission; or

129 (3) Changes in regulations or policy by the department of revenue.

130 9. Notwithstanding any provision of law to the contrary, the director of
131 revenue shall respond to a request for a binding letter ruling filed in accordance
132 with section 536.021 within sixty days of receipt of such request. If the director
133 of revenue fails to respond to such letter ruling request within sixty days of
134 receipt by the director **of revenue**, the director of revenue shall be barred from
135 pursuing collection of any assessment of sales or use tax with respect to the issue
136 which is the subject of the letter ruling request. For purposes of this subsection,
137 the term "letter ruling" means a written interpretation of law by the director **of**
138 **revenue** to a specific set of facts provided by a specific taxpayer or his or her
139 agent.

140 10. If any tax was paid more than once, was incorrectly collected, or was
141 incorrectly computed, such sum shall be credited on any taxes then due from the
142 person legally obligated to remit the tax pursuant to sections 144.010 to 144.510
143 against any deficiency or tax due discovered through an audit of the person by the
144 department of revenue through adjustment during the same tax filing period for
145 which the audit applied.

146 **11. The provisions of this section are intended to clarify the**
147 **limitations on refund claims as originally enacted in this chapter.**

221.407. 1. The commission of any regional jail district may impose, by
2 order, a sales tax in the amount of one-eighth of one percent, one-fourth of one
3 percent, three-eighths of one percent, or one-half of one percent on all retail sales
4 made in such region which are subject to taxation pursuant to the provisions of
5 sections 144.010 to 144.525 for the purpose of providing jail services and court

6 facilities and equipment for such region. The tax authorized by this section shall
7 be in addition to any and all other sales taxes allowed by law, except that no
8 order imposing a sales tax pursuant to this section shall be effective unless the
9 commission submits to the voters of the district, on any election date authorized
10 in chapter 115, a proposal to authorize the commission to impose a tax.

11 2. The ballot of submission shall contain, but need not be limited to, the
12 following language:

13 Shall the regional jail district of (counties' names) impose a
14 region-wide sales tax of (insert amount) for the purpose of providing
15 jail services and court facilities and equipment for the region?

16 YES NO

17 If you are in favor of the question, place an "X" in the box opposite "Yes". If you
18 are opposed to the question, place an "X" in the box opposite "No".

19 If a majority of the votes cast on the proposal by the qualified voters of the
20 district voting thereon are in favor of the proposal, then the order and any
21 amendment to such order shall be in effect on the first day of the second quarter
22 immediately following the election approving the proposal. If the proposal
23 receives less than the required majority, the commission shall have no power to
24 impose the sales tax authorized pursuant to this section unless and until the
25 commission shall again have submitted another proposal to authorize the
26 commission to impose the sales tax authorized by this section and such proposal
27 is approved by the required majority of the qualified voters of the district voting
28 on such proposal; however, in no event shall a proposal pursuant to this section
29 be submitted to the voters sooner than twelve months from the date of the last
30 submission of a proposal pursuant to this section.

31 3. All revenue received by a district from the tax authorized pursuant to
32 this section shall be deposited in a special trust fund and shall be used solely for
33 providing jail services and court facilities and equipment for such district for so
34 long as the tax shall remain in effect.

35 4. Once the tax authorized by this section is abolished or terminated by
36 any means, all funds remaining in the special trust fund shall be used solely for
37 providing jail services and court facilities and equipment for the district. Any
38 funds in such special trust fund which are not needed for current expenditures
39 may be invested by the commission in accordance with applicable laws relating
40 to the investment of other county funds.

41 5. All sales taxes collected by the director of revenue pursuant to this
42 section on behalf of any district, less one percent for cost of collection which shall
43 be deposited in the state's general revenue fund after payment of premiums for
44 surety bonds as provided in section 32.087, shall be deposited in a special trust
45 fund, which is hereby created, to be known as the "Regional Jail District Sales
46 Tax Trust Fund". The moneys in the regional jail district sales tax trust fund
47 shall not be deemed to be state funds and shall not be commingled with any funds
48 of the state. The director of revenue shall keep accurate records of the amount
49 of money in the trust fund which was collected in each district imposing a sales
50 tax pursuant to this section, and the records shall be open to the inspection of
51 officers of each member county and the public. Not later than the tenth day of
52 each month the director of revenue shall distribute all moneys deposited in the
53 trust fund during the preceding month to the district which levied the tax. Such
54 funds shall be deposited with the treasurer of each such district, and all
55 expenditures of funds arising from the regional jail district sales tax trust fund
56 shall be paid pursuant to an appropriation adopted by the commission and shall
57 be approved by the commission. Expenditures may be made from the fund for
58 any function authorized in the order adopted by the commission submitting the
59 regional jail district tax to the voters.

60 6. The director of revenue may authorize the state treasurer to make
61 refunds from the amounts in the trust fund and credited to any district for
62 erroneous payments and overpayments made, and may redeem dishonored checks
63 and drafts deposited to the credit of such districts. If any district abolishes the
64 tax, the commission shall notify the director of revenue of the action at least
65 ninety days prior to the effective date of the repeal, and the director of revenue
66 may order retention in the trust fund, for a period of one year, of two percent of
67 the amount collected after receipt of such notice to cover possible refunds or
68 overpayment of the tax and to redeem dishonored checks and drafts deposited to
69 the credit of such accounts. After one year has elapsed after the effective date of
70 abolition of the tax in such district, the director of revenue shall remit the
71 balance in the account to the district and close the account of that district. The
72 director of revenue shall notify each district in each instance of any amount
73 refunded or any check redeemed from receipts due the district.

74 7. Except as provided in this section, all provisions of sections 32.085 and
75 32.087 shall apply to the tax imposed pursuant to this section.

76 8. The provisions of this section shall expire September 30, [2015] **2027**.

✓

Unofficial

Bill

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