

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 944
95TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, March 18, 2010, with recommendation that the Senate Committee Substitute do pass.

5040S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 144.010 and 144.030, RSMo, and to enact in lieu thereof two new sections relating to sales and use tax exemptions.

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

Section A. Sections 144.010 and 144.030, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 144.010 and 144.030, to
3 read as follows:

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. The isolated or
12 occasional sale of tangible personal property, service, substance, or thing, by a
13 person not engaged in such business, does not constitute engaging in business
14 within the meaning of sections 144.010 to 144.525 unless the total amount of the
15 gross receipts from such sales, exclusive of receipts from the sale of tangible
16 personal property by persons which property is sold in the course of the partial
17 or complete liquidation of a household, farm or nonbusiness enterprise, exceeds

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

18 three thousand dollars in any calendar year. The provisions of this subdivision
19 shall not be construed to make any sale of property which is exempt from sales
20 tax or use tax on June 1, 1977, subject to that tax thereafter;

21 (3) **"Game birds", shall include, but not be limited to, exotic**
22 **partridges, gray partridge, northern bobwhite quail, ring-necked**
23 **pheasant, and captive waterfowl held under permit issued by the**
24 **department of conservation for hunting purposes;**

25 (4) "Gross receipts", except as provided in section 144.012, means the
26 total amount of the sale price of the sales at retail including any services other
27 than charges incident to the extension of credit that are a part of such sales made
28 by the businesses herein referred to, capable of being valued in money, whether
29 received in money or otherwise; except that, the term "gross receipts" shall not
30 include the sale price of property returned by customers when the full sale price
31 thereof is refunded either in cash or by credit. In determining any tax due under
32 sections 144.010 to 144.525 on the gross receipts, charges incident to the
33 extension of credit shall be specifically exempted. For the purposes of sections
34 144.010 to 144.525 the total amount of the sale price above mentioned shall be
35 deemed to be the amount received. It shall also include the lease or rental
36 consideration where the right to continuous possession or use of any article of
37 tangible personal property is granted under a lease or contract and such transfer
38 of possession would be taxable if outright sale were made and, in such cases, the
39 same shall be taxable as if outright sale were made and considered as a sale of
40 such article, and the tax shall be computed and paid by the lessee upon the
41 rentals paid;

42 [(4)] (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including
43 but not limited to, ostrich and emu, aquatic products as defined in section
44 277.024, RSMo, llamas, alpaca, buffalo, elk documented as obtained from a legal
45 source and not from the wild, goats, horses, other equine, or rabbits raised in
46 confinement for human consumption;

47 [(5)] (6) "Motor vehicle leasing company" shall be a company obtaining
48 a permit from the director of revenue to operate as a motor vehicle leasing
49 company. Not all persons renting or leasing trailers or motor vehicles need to
50 obtain such a permit; however, no person failing to obtain such a permit may
51 avail itself of the optional tax provisions of subsection 5 of section 144.070, as
52 hereinafter provided;

53 [(6)] (7) "Person" includes any individual, firm, copartnership, joint

54 adventure, association, corporation, municipal or private, and whether organized
55 for profit or not, state, county, political subdivision, state department,
56 commission, board, bureau or agency, except the state transportation department,
57 estate, trust, business trust, receiver or trustee appointed by the state or federal
58 court, syndicate, or any other group or combination acting as a unit, and the
59 plural as well as the singular number;

60 [(7)] (8) "Purchaser" means a person who purchases tangible personal
61 property or to whom are rendered services, receipts from which are taxable under
62 sections 144.010 to 144.525;

63 [(8)] (9) "Research or experimentation activities" are the development of
64 an experimental or pilot model, plant process, formula, invention or similar
65 property, and the improvement of existing property of such type. Research or
66 experimentation activities do not include activities such as ordinary testing or
67 inspection of materials or products for quality control, efficiency surveys,
68 advertising promotions or research in connection with literary, historical or
69 similar projects;

70 [(9)] (10) "Sale" or "sales" includes installment and credit sales, and the
71 exchange of properties as well as the sale thereof for money, every closed
72 transaction constituting a sale, and means any transfer, exchange or barter,
73 conditional or otherwise, in any manner or by any means whatsoever, of tangible
74 personal property for valuable consideration and the rendering, furnishing or
75 selling for a valuable consideration any of the substances, things and services
76 herein designated and defined as taxable under the terms of sections 144.010 to
77 144.525;

78 [(10)] (11) "Sale at retail" means any transfer made by any person
79 engaged in business as defined herein of the ownership of, or title to, tangible
80 personal property to the purchaser, for use or consumption and not for resale in
81 any form as tangible personal property, for a valuable consideration; except that,
82 for the purposes of sections 144.010 to 144.525 and the tax imposed thereby: (i)
83 purchases of tangible personal property made by duly licensed physicians,
84 dentists, optometrists and veterinarians and used in the practice of their
85 professions shall be deemed to be purchases for use or consumption and not for
86 resale; and (ii) the selling of computer printouts, computer output or microfilm
87 or microfiche and computer-assisted photo compositions to a purchaser to enable
88 the purchaser to obtain for his or her own use the desired information contained
89 in such computer printouts, computer output on microfilm or microfiche and

90 computer-assisted photo compositions shall be considered as the sale of a service
91 and not as the sale of tangible personal property. Where necessary to conform to
92 the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
93 "sale at retail" shall be construed to embrace:

94 (a) Sales of admission tickets, cash admissions, charges and fees to or in
95 places of amusement, entertainment and recreation, games and athletic events;

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

98 (c) Sales of local and long distance telecommunications service to
99 telecommunications subscribers and to others through equipment of
100 telecommunications subscribers for the transmission of messages and
101 conversations, and the sale, rental or leasing of all equipment or services
102 pertaining or incidental thereto;

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

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

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

112 ~~[(11)]~~ **(12)** "Seller" means a person selling or furnishing tangible personal
113 property or rendering services, on the receipts from which a tax is imposed
114 pursuant to section 144.020;

115 ~~[(12)]~~ **(13)** The noun "tax" means either the tax payable by the purchaser
116 of a commodity or service subject to tax, or the aggregate amount of taxes due
117 from the vendor of such commodities or services during the period for which he
118 or she is required to report his or her collections, as the context may require;

119 ~~[(13)]~~ **(14)** "Telecommunications service", for the purpose of this chapter,
120 the transmission of information by wire, radio, optical cable, coaxial cable,
121 electronic impulses, or other similar means. As used in this definition,
122 "information" means knowledge or intelligence represented by any form of
123 writing, signs, signals, pictures, sounds, or any other
124 symbols. Telecommunications service does not include the following if such
125 services are separately stated on the customer's bill or on records of the seller

126 maintained in the ordinary course of business:

127 (a) Access to the Internet, access to interactive computer services or
128 electronic publishing services, except the amount paid for the telecommunications
129 service used to provide such access;

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

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

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

135 [(14)] (15) "Product which is intended to be sold ultimately for final use
136 or consumption" means tangible personal property, or any service that is subject
137 to state or local sales or use taxes, or any tax that is substantially equivalent
138 thereto, in this state or any other state.

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

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

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

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless

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

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

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

46 (4) Replacement machinery, equipment, and parts and the materials and
47 supplies solely required for the installation or construction of such replacement
48 machinery, equipment, and parts, used directly in manufacturing, mining,
49 fabricating or producing a product which is intended to be sold ultimately for
50 final use or consumption; and machinery and equipment, and the materials and
51 supplies required solely for the operation, installation or construction of such
52 machinery and equipment, purchased and used to establish new, or to replace or

53 expand existing, material recovery processing plants in this state. For the
54 purposes of this subdivision, a "material recovery processing plant" means a
55 facility that has as its primary purpose the recovery of materials into a useable
56 product or a different form which is used in producing a new product and shall
57 include a facility or equipment which are used exclusively for the collection of
58 recovered materials for delivery to a material recovery processing plant but shall
59 not include motor vehicles used on highways. For purposes of this section, the
60 terms motor vehicle and highway shall have the same meaning pursuant to
61 section 301.010, RSMo. Material recovery is not the reuse of materials within a
62 manufacturing process or the use of a product previously recovered. The material
63 recovery processing plant shall qualify under the provisions of this section
64 regardless of ownership of the material being recovered;

65 (5) Machinery and equipment, and parts and the materials and supplies
66 solely required for the installation or construction of such machinery and
67 equipment, purchased and used to establish new or to expand existing
68 manufacturing, mining or fabricating plants in the state if such machinery and
69 equipment is used directly in manufacturing, mining or fabricating a product
70 which is intended to be sold ultimately for final use or consumption;

71 (6) Tangible personal property which is used exclusively in the
72 manufacturing, processing, modification or assembling of products sold to the
73 United States government or to any agency of the United States government;

74 (7) Animals [or], poultry, **or game birds** used for breeding or feeding
75 purposes;

76 (8) Newsprint, ink, computers, photosensitive paper and film, toner,
77 printing plates and other machinery, equipment, replacement parts and supplies
78 used in producing newspapers published for dissemination of news to the general
79 public;

80 (9) The rentals of films, records or any type of sound or picture
81 transcriptions for public commercial display;

82 (10) Pumping machinery and equipment used to propel products delivered
83 by pipelines engaged as common carriers;

84 (11) Railroad rolling stock for use in transporting persons or property in
85 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
86 thousand pounds or more or trailers used by common carriers, as defined in
87 section 390.020, RSMo, in the transportation of persons or property;

88 (12) Electrical energy used in the actual primary manufacture, processing,

89 compounding, mining or producing of a product, or electrical energy used in the
90 actual secondary processing or fabricating of the product, or a material recovery
91 processing plant as defined in subdivision (4) of this subsection, in facilities
92 owned or leased by the taxpayer, if the total cost of electrical energy so used
93 exceeds ten percent of the total cost of production, either primary or secondary,
94 exclusive of the cost of electrical energy so used or if the raw materials used in
95 such processing contain at least twenty-five percent recovered materials as
96 defined in section 260.200, RSMo. There shall be a rebuttable presumption that
97 the raw materials used in the primary manufacture of automobiles contain at
98 least twenty-five percent recovered materials. For purposes of this subdivision,
99 "processing" means any mode of treatment, act or series of acts performed upon
100 materials to transform and reduce them to a different state or thing, including
101 treatment necessary to maintain or preserve such processing by the producer at
102 the production facility;

103 (13) Anodes which are used or consumed in manufacturing, processing,
104 compounding, mining, producing or fabricating and which have a useful life of
105 less than one year;

106 (14) Machinery, equipment, appliances and devices purchased or leased
107 and used solely for the purpose of preventing, abating or monitoring air pollution,
108 and materials and supplies solely required for the installation, construction or
109 reconstruction of such machinery, equipment, appliances and devices;

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

115 (16) Tangible personal property purchased by a rural water district;

116 (17) All amounts paid or charged for admission or participation or other
117 fees paid by or other charges to individuals in or for any place of amusement,
118 entertainment or recreation, games or athletic events, including museums, fairs,
119 zoos and planetariums, owned or operated by a municipality or other political
120 subdivision where all the proceeds derived therefrom benefit the municipality or
121 other political subdivision and do not inure to any private person, firm, or
122 corporation;

123 (18) All sales of insulin and prosthetic or orthopedic devices as defined on
124 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the

125 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
126 of that act, and also specifically including hearing aids and hearing aid supplies
127 and all sales of drugs which may be legally dispensed by a licensed pharmacist
128 only upon a lawful prescription of a practitioner licensed to administer those
129 items, including samples and materials used to manufacture samples which may
130 be dispensed by a practitioner authorized to dispense such samples and all sales
131 of medical oxygen, home respiratory equipment and accessories, hospital beds and
132 accessories and ambulatory aids, all sales of manual and powered wheelchairs,
133 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by
134 or on behalf of a person with one or more physical or mental disabilities to enable
135 them to function more independently, all sales of scooters, reading machines,
136 electronic print enlargers and magnifiers, electronic alternative and augmentative
137 communication devices, and items used solely to modify motor vehicles to permit
138 the use of such motor vehicles by individuals with disabilities or sales of
139 over-the-counter or nonprescription drugs to individuals with disabilities;

140 (19) All sales made by or to religious and charitable organizations and
141 institutions in their religious, charitable or educational functions and activities
142 and all sales made by or to all elementary and secondary schools operated at
143 public expense in their educational functions and activities;

144 (20) All sales of aircraft to common carriers for storage or for use in
145 interstate commerce and all sales made by or to not-for-profit civic, social, service
146 or fraternal organizations, including fraternal organizations which have been
147 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
148 1986 Internal Revenue Code, as amended, in their civic or charitable functions
149 and activities and all sales made to eleemosynary and penal institutions and
150 industries of the state, and all sales made to any private not-for-profit institution
151 of higher education not otherwise excluded pursuant to subdivision (19) of this
152 subsection or any institution of higher education supported by public funds, and
153 all sales made to a state relief agency in the exercise of relief functions and
154 activities;

155 (21) All ticket sales made by benevolent, scientific and educational
156 associations which are formed to foster, encourage, and promote progress and
157 improvement in the science of agriculture and in the raising and breeding of
158 animals, and by nonprofit summer theater organizations if such organizations are
159 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
160 and all admission charges and entry fees to the Missouri state fair or any fair

161 conducted by a county agricultural and mechanical society organized and
162 operated pursuant to sections 262.290 to 262.530, RSMo;

163 (22) All sales made to any private not-for-profit elementary or secondary
164 school, all sales of feed additives, medications or vaccines administered to
165 livestock [or], poultry, **or game birds** in the production of food or fiber, all sales
166 of pesticides used in the production of crops, livestock [or], poultry, **or game**
167 **birds** for food or fiber, all sales of bedding used in the production of livestock
168 [or], poultry, **or game birds** for food or fiber, all sales of propane or natural gas,
169 electricity or diesel fuel used exclusively for drying agricultural crops, natural gas
170 used in the primary manufacture or processing of fuel ethanol as defined in
171 section 142.028, RSMo, natural gas, propane, and electricity used by an eligible
172 new generation cooperative or an eligible new generation processing entity as
173 defined in section 348.432, RSMo, and all sales of farm machinery and equipment,
174 other than airplanes, motor vehicles and trailers. As used in this subdivision, the
175 term "feed additives" means tangible personal property which, when mixed with
176 feed for livestock [or], poultry, **or game birds**, is to be used in the feeding of
177 livestock [or], poultry, **or game birds**. As used in this subdivision, the term
178 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and
179 other assorted pesticide carriers used to improve or enhance the effect of a
180 pesticide and the foam used to mark the application of pesticides and herbicides
181 for the production of crops, livestock [or], poultry, **or game birds**. As used in
182 this subdivision, the term "farm machinery and equipment" means new or used
183 farm tractors and such other new or used farm machinery and equipment and
184 repair or replacement parts thereon, and supplies and lubricants used
185 exclusively, solely, and directly for producing crops, raising and feeding livestock,
186 fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at
187 retail, including field drain tile, and one-half of each purchaser's purchase of
188 diesel fuel therefor which is:

189 (a) Used exclusively for agricultural purposes;

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

192 (c) Used directly in producing farm products to be sold ultimately in
193 processed form or otherwise at retail or in producing farm products to be fed to
194 livestock [or], poultry, **or game birds** to be sold ultimately in processed form at
195 retail;

196 (23) Except as otherwise provided in section 144.032, all sales of metered

197 water service, electricity, electrical current, natural, artificial or propane gas,
198 wood, coal or home heating oil for domestic use and in any city not within a
199 county, all sales of metered or unmetered water service for domestic use:

200 (a) "Domestic use" means that portion of metered water service,
201 electricity, electrical current, natural, artificial or propane gas, wood, coal or
202 home heating oil, and in any city not within a county, metered or unmetered
203 water service, which an individual occupant of a residential premises uses for
204 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
205 a single or master meter for residential apartments or condominiums, including
206 service for common areas and facilities and vacant units, shall be deemed to be
207 for domestic use. Each seller shall establish and maintain a system whereby
208 individual purchases are determined as exempt or nonexempt;

209 (b) Regulated utility sellers shall determine whether individual purchases
210 are exempt or nonexempt based upon the seller's utility service rate
211 classifications as contained in tariffs on file with and approved by the Missouri
212 public service commission. Sales and purchases made pursuant to the rate
213 classification "residential" and sales to and purchases made by or on behalf of the
214 occupants of residential apartments or condominiums through a single or master
215 meter, including service for common areas and facilities and vacant units, shall
216 be considered as sales made for domestic use and such sales shall be exempt from
217 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
218 classified as nondomestic use. The seller's utility service rate classification and
219 the provision of service thereunder shall be conclusive as to whether or not the
220 utility must charge sales tax;

221 (c) Each person making domestic use purchases of services or property
222 and who uses any portion of the services or property so purchased for a
223 nondomestic use shall, by the fifteenth day of the fourth month following the year
224 of purchase, and without assessment, notice or demand, file a return and pay
225 sales tax on that portion of nondomestic purchases. Each person making
226 nondomestic purchases of services or property and who uses any portion of the
227 services or property so purchased for domestic use, and each person making
228 domestic purchases on behalf of occupants of residential apartments or
229 condominiums through a single or master meter, including service for common
230 areas and facilities and vacant units, under a nonresidential utility service rate
231 classification may, between the first day of the first month and the fifteenth day
232 of the fourth month following the year of purchase, apply for credit or refund to

233 the director of revenue and the director shall give credit or make refund for taxes
234 paid on the domestic use portion of the purchase. The person making such
235 purchases on behalf of occupants of residential apartments or condominiums shall
236 have standing to apply to the director of revenue for such credit or refund;

237 (24) All sales of handicraft items made by the seller or the seller's spouse
238 if the seller or the seller's spouse is at least sixty-five years of age, and if the total
239 gross proceeds from such sales do not constitute a majority of the annual gross
240 income of the seller;

241 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,
242 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
243 States Code. The director of revenue shall promulgate rules pursuant to chapter
244 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

245 (26) Sales of fuel consumed or used in the operation of ships, barges, or
246 waterborne vessels which are used primarily in or for the transportation of
247 property or cargo, or the conveyance of persons for hire, on navigable rivers
248 bordering on or located in part in this state, if such fuel is delivered by the seller
249 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
250 river;

251 (27) All sales made to an interstate compact agency created pursuant to
252 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the
253 exercise of the functions and activities of such agency as provided pursuant to the
254 compact;

255 (28) Computers, computer software and computer security systems
256 purchased for use by architectural or engineering firms headquartered in this
257 state. For the purposes of this subdivision, "headquartered in this state" means
258 the office for the administrative management of at least four integrated facilities
259 operated by the taxpayer is located in the state of Missouri;

260 (29) All livestock **or game bird** sales when either the seller is engaged
261 in the growing, producing or feeding of such livestock **or game birds**, or the
262 seller is engaged in the business of buying and selling, bartering or leasing of
263 such livestock **or game birds**;

264 (30) All sales of barges which are to be used primarily in the
265 transportation of property or cargo on interstate waterways;

266 (31) Electrical energy or gas, whether natural, artificial or propane, water,
267 or other utilities which are ultimately consumed in connection with the
268 manufacturing of cellular glass products or in any material recovery processing

269 plant as defined in subdivision (4) of this subsection;

270 (32) Notwithstanding other provisions of law to the contrary, all sales of
271 pesticides or herbicides used in the production of crops, aquaculture, livestock
272 [or], poultry, **or game birds**;

273 (33) Tangible personal property and utilities purchased for use or
274 consumption directly or exclusively in the research and development of
275 agricultural/biotechnology and plant genomics products and prescription
276 pharmaceuticals consumed by humans or animals;

277 (34) All sales of grain bins for storage of grain for resale;

278 (35) All sales of feed which are developed for and used in the feeding of
279 pets owned by a commercial breeder when such sales are made to a commercial
280 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections
281 273.325 to 273.357, RSMo;

282 (36) All purchases by a contractor on behalf of an entity located in another
283 state, provided that the entity is authorized to issue a certificate of exemption for
284 purchases to a contractor under the provisions of that state's laws. For purposes
285 of this subdivision, the term "certificate of exemption" shall mean any document
286 evidencing that the entity is exempt from sales and use taxes on purchases
287 pursuant to the laws of the state in which the entity is located. Any contractor
288 making purchases on behalf of such entity shall maintain a copy of the entity's
289 exemption certificate as evidence of the exemption. If the exemption certificate
290 issued by the exempt entity to the contractor is later determined by the director
291 of revenue to be invalid for any reason and the contractor has accepted the
292 certificate in good faith, neither the contractor or the exempt entity shall be liable
293 for the payment of any taxes, interest and penalty due as the result of use of the
294 invalid exemption certificate. Materials shall be exempt from all state and local
295 sales and use taxes when purchased by a contractor for the purpose of fabricating
296 tangible personal property which is used in fulfilling a contract for the purpose
297 of constructing, repairing or remodeling facilities for the following:

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

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

304 (37) All sales or other transfers of tangible personal property to a lessor

305 who leases the property under a lease of one year or longer executed or in effect
306 at the time of the sale or other transfer to an interstate compact agency created
307 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
308 RSMo;

309 (38) Sales of tickets to any collegiate athletic championship event that is
310 held in a facility owned or operated by a governmental authority or commission,
311 a quasi-governmental agency, a state university or college or by the state or any
312 political subdivision thereof, including a municipality, and that is played on a
313 neutral site and may reasonably be played at a site located outside the state of
314 Missouri. For purposes of this subdivision, "neutral site" means any site that is
315 not located on the campus of a conference member institution participating in the
316 event;

317 (39) All purchases by a sports complex authority created under section
318 64.920, RSMo;

319 (40) Beginning January 1, 2009, but not after January 1, 2015, materials,
320 replacement parts, and equipment purchased for use directly upon, and for the
321 modification, replacement, repair, and maintenance of aircraft, aircraft power
322 plants, and aircraft accessories;

323 (41) **All gratuities, whether mandatory or voluntary, provided in**
324 **conjunction with the receipt of property or services regardless of**
325 **whether such property or service may be subject to tax under the**
326 **provisions of this chapter.**

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