

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 1957
100TH GENERAL ASSEMBLY

3193H.05C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 143.011, 144.605, 144.701, and 144.757, RSMo, and to enact in lieu thereof six new sections relating to taxation, with a penalty provision.

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

Section A. Sections 143.011, 144.605, 144.701, and 144.757, RSMo, are repealed and
2 six new sections enacted in lieu thereof, to be known as sections 143.011, 144.605, 144.637,
3 144.701, 144.752, and 144.757, to read as follows:

143.011. 1. A tax is hereby imposed for every taxable year on the Missouri taxable
2 income of every resident. The tax shall be determined by applying the tax table or the rate
3 provided in section 143.021, which is based upon the following rates:

If the Missouri taxable income is:	The tax is:
Not over \$1,000.00	1 1/2% of the Missouri taxable income
Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over \$2,000
Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over \$4,000
Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess over \$6,000
Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
Over \$8,000 but not over \$9,000	\$260 plus 5 1/2% of excess over \$8,000

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

14 Over \$9,000	\$315 plus 6% of excess over \$9,000
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16 2. (1) Beginning with the 2017 calendar year, the top rate of tax under subsection 1 of
 17 this section may be reduced over a period of years. Each reduction in the top rate of tax shall be
 18 by one-tenth of a percent and no more than one reduction shall occur in a calendar year. No
 19 more than five reductions shall be made under this subsection. Reductions in the rate of tax shall
 20 take effect on January first of a calendar year and such reduced rates shall continue in effect until
 21 the next reduction occurs.

22 (2) A reduction in the rate of tax shall only occur if the amount of net general revenue
 23 collected in the previous fiscal year exceeds the highest amount of net general revenue collected
 24 in any of the three fiscal years prior to such fiscal year by at least one hundred fifty million
 25 dollars.

26 (3) Any modification of tax rates under this subsection shall only apply to tax years that
 27 begin on or after a modification takes effect.

28 (4) The director of the department of revenue shall, by rule, adjust the tax tables under
 29 subsection 1 of this section to effectuate the provisions of this subsection. The bracket for
 30 income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced
 31 to five and one-half percent, and the top remaining rate of tax shall apply to all income in excess
 32 of the income in the second highest remaining income bracket.

33 3. (1) In addition to the rate reductions under subsection 2 of this section, beginning
 34 with the 2019 calendar year, the top rate of tax under subsection 1 of this section shall be reduced
 35 by four-tenths of one percent. Such reduction in the rate of tax shall take effect on January first
 36 of the 2019 calendar year.

37 (2) The modification of tax rates under this subsection shall only apply to tax years that
 38 begin on or after the date the modification takes effect.

39 (3) The director of the department of revenue shall, by rule, adjust the tax tables under
 40 subsection 1 of this section to effectuate the provisions of this subsection.

41 4. (1) **Beginning with the 2021 calendar year, the top rate of tax under subsection**
 42 **1 of this section shall be reduced by fourteen-hundredths of one percent. Such reduction**
 43 **in the rate of tax shall take effect on January 1, 2021.**

44 (2) (a) **Beginning with the 2022 calendar year, the top rate of tax under subsection**
 45 **1 of this section may be adjusted annually over a period of two years, according to the**
 46 **provisions of this subdivision.**

47 (b) **For the 2022 calendar year, for every additional eighteen million dollars in total**
 48 **state sales and use tax revenue received from October 1, 2020, to September 30, 2021, less**
 49 **one hundred thirty million dollars, that exceeds a two and eight-tenths percent increase**

50 from the total state sales and use tax revenue received from October 1, 2019, to September
51 30, 2020, the top rate of tax under subsection 1 of this section shall be reduced from its
52 2021 rate by two-hundredths of one percent. For the 2022 calendar year, for every
53 eighteen million dollars by which the total state sales and use tax revenue received from
54 October 1, 2020, to September 30, 2021, less one hundred thirty million dollars, fails to
55 equal a two and eight-tenths percent increase from the amount of total state sales and use
56 tax revenue received from October 1, 2019, to September 30, 2020, the top rate of tax under
57 subsection 1 of this section shall be increased from its 2021 rate by two-hundredths of one
58 percent.

59 (c) Beginning with the 2023 calendar year, for every additional eighteen million
60 dollars by which half of the total state sales and use tax revenue received from October 1,
61 2020, to September 30, 2022, less one hundred thirty million dollars, that exceeds a two and
62 eight-tenths percent increase from the total state sales and use tax revenue received from
63 October 1, 2019, to September 30, 2020, the top rate of tax under subsection 1 of this
64 section shall be reduced from its 2021 rate by two-hundredths of one percent. Beginning
65 with the 2023 calendar year, for every eighteen million dollars by which half of the total
66 state sales and use tax revenue received from October 1, 2020, to September 30, 2022, less
67 one hundred thirty million dollars, fails to equal a two and eight-tenths percent increase
68 from the amount of total state sales and use tax revenue received from October 1, 2019, to
69 September 30, 2020, the top rate of tax under subsection 1 of this section shall be increased
70 from its 2021 rate by two-hundredths of one percent. Any adjustment of tax rates under
71 subsection 2 of this section shall take effect in addition to any adjustment of tax rates under
72 this subdivision.

73 (3) Any adjustment of tax rates under subdivision (2) of this subsection shall take
74 effect on January first of the calendar year following the year in which a change in total
75 state sales and use tax revenue triggered an adjustment.

76 (4) The director of the department of revenue shall, by rule, adjust the tax tables
77 under subsection 1 of this section to effectuate the provisions of this subsection.

78 5. Beginning with the 2017 calendar year, the brackets of Missouri taxable income
79 identified in subsection 1 of this section shall be adjusted annually by the percent increase in
80 inflation. The director shall publish such brackets annually beginning on or after October 1,
81 2016. Modifications to the brackets shall take effect on January first of each calendar year and
82 shall apply to tax years beginning on or after the effective date of the new brackets.

83 [5-] 6. As used in this section, the following terms mean:

84 (1) "CPI", the Consumer Price Index for All Urban Consumers for the United States as
85 reported by the Bureau of Labor Statistics, or its successor index;

86 (2) "CPI for the preceding calendar year", the average of the CPI as of the close of the
87 twelve month period ending on August thirty-first of such calendar year;

88 (3) "Net general revenue collected", all revenue deposited into the general revenue fund,
89 less refunds and revenues originally deposited into the general revenue fund but designated by
90 law for a specific distribution or transfer to another state fund;

91 (4) "Percent increase in inflation", the percentage, if any, by which the CPI for the
92 preceding calendar year exceeds the CPI for the year beginning September 1, 2014, and ending
93 August 31, 2015.

144.605. The following words and phrases as used in sections 144.600 to 144.745 mean
2 and include:

3 (1) "Calendar quarter", the period of three consecutive calendar months ending on March
4 thirty-first, June thirtieth, September thirtieth or December thirty-first;

5 (2) "Engages in business activities within this state" includes:

6 (a) Maintaining or having a franchisee or licensee operating under the seller's trade name
7 in this state if the franchisee or licensee is required to collect sales tax pursuant to sections
8 144.010 to 144.525;

9 (b) Soliciting sales or taking orders by sales agents or traveling representatives;

10 (c) A vendor is presumed to engage in business activities within this state if any person,
11 other than a common carrier acting in its capacity as such, that has substantial nexus with this
12 state:

13 a. Sells a similar line of products as the vendor and does so under the same or a similar
14 business name;

15 b. Maintains an office, distribution facility, warehouse, or storage place, or similar place
16 of business in the state to facilitate the delivery of property or services sold by the vendor to the
17 vendor's customers;

18 c. Delivers, installs, assembles, or performs maintenance services for the vendor's
19 customers within the state;

20 d. Facilitates the vendor's delivery of property to customers in the state by allowing the
21 vendor's customers to pick up property sold by the vendor at an office, distribution facility,
22 warehouse, storage place, or similar place of business maintained by the person in the state; or

23 e. Conducts any other activities in the state that are significantly associated with the
24 vendor's ability to establish and maintain a market in the state for the sales;

25 (d) The presumption in paragraph (c) **of this subdivision** may be rebutted by
26 demonstrating that the person's activities in the state are not significantly associated with the
27 vendor's ability to establish or maintain a market in this state for the vendor's sales;

28 (e) Notwithstanding paragraph (c) **of this subdivision**, a vendor shall be presumed to
29 engage in business activities within this state if the vendor enters into an agreement with one or
30 more residents of this state under which the resident, for a commission or other consideration,
31 directly or indirectly refers potential customers, whether by a link on an internet website, an in-
32 person oral presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross
33 receipts from sales by the vendor to customers in the state who are referred to the vendor by all
34 residents with this type of an agreement with the vendor is in excess of ten thousand dollars
35 during the preceding twelve months;

36 (f) The presumption in paragraph (e) **of this subdivision** may be rebutted by submitting
37 proof that the residents with whom the vendor has an agreement did not engage in any activity
38 within the state that was significantly associated with the vendor's ability to establish or maintain
39 the vendor's market in the state during the preceding twelve months. Such proof may consist of
40 sworn written statements from all of the residents with whom the vendor has an agreement
41 stating that they did not engage in any solicitation in the state on behalf of the vendor during the
42 preceding year provided that such statements were provided and obtained in good faith; **and**

43 (g) **a. Beginning January 1, 2021, a vendor also engages in business activities**
44 **within this state if the cumulative gross receipts from the vendor's sales of tangible**
45 **personal property to purchasers for the purpose of storage, use, or consumption in this**
46 **state equal one hundred thousand dollars or more during any twelve-month period, as**
47 **determined under subparagraph b. of this paragraph;**

48 **b. Following the close of each calendar quarter, a vendor shall determine whether**
49 **the vendor met the requirements provided under subparagraph a. of this paragraph**
50 **during the twelve-month period ending on the last day of the preceding calendar quarter.**
51 **If the vendor met such requirements for any such twelve-month period, such vendor shall**
52 **collect and remit applicable use tax in future transactions, in lieu of any obligations to**
53 **collect or remit such use tax that would otherwise be attributed to any other party to a**
54 **transaction, as provided under section 144.635, for a period of no less than twelve months,**
55 **beginning no more than three months following the close of the preceding calendar**
56 **quarter, and such vendor shall continue to collect and remit the use tax for as long as the**
57 **vendor is engaged in business activities in this state, as provided under this paragraph, or**
58 **otherwise maintains a substantial nexus with this state;**

59 **c. The provisions of this paragraph shall only apply to vendors that do not have a**
60 **physical presence within the state and the associated sales of tangible personal property**
61 **occurred with use of the internet;**

62 **d. Any department that has the constitutional authority to collect sales or use tax**
63 **under Article IV of the Constitution of Missouri may remit any moneys collected under this**

64 **paragraph to the department of revenue and such moneys shall be deposited into the state**
65 **general revenue fund established under section 33.543;**

66 **e. Any vendor that meets the provisions of subparagraph c. of this paragraph shall**
67 **not be subject to local use tax imposed by a political subdivision in this state enacted prior**
68 **to January 1, 2021, except in such political subdivisions in which a majority of voters have**
69 **approved expanding a use tax that was enacted prior to January 1, 2021; and**

70 **f. Notwithstanding the provisions of this paragraph, political subdivisions that wish**
71 **to enact a new local use tax, but do not wish to subject vendors that meet the provisions of**
72 **subparagraph c. of this paragraph to such local use tax, may enact such local use tax**
73 **according to the applicable provisions of sections 144.757 to 144.761, or any other**
74 **applicable local use tax authorization provisions, and may exclude such vendors from such**
75 **new tax;**

76 (3) "Maintains a place of business in this state" includes maintaining, occupying, or
77 using, permanently or temporarily, directly or indirectly, by whatever name called, an office,
78 place of distribution, sales or sample room or place, warehouse or storage place, or other place
79 of business in this state, whether owned or operated by the vendor or by any other person other
80 than a common carrier acting in its capacity as such;

81 (4) "Person", any individual, firm, copartnership, joint venture, association, corporation,
82 municipal or private, and whether organized for profit or not, state, county, political subdivision,
83 state department, commission, board, bureau or agency, except the state transportation
84 department, estate, trust, business trust, receiver or trustee appointed by the state or federal court,
85 syndicate, or any other group or combination acting as a unit, and the plural as well as the
86 singular number;

87 (5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property,
88 through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

89 (6) "Purchaser", any person who is the recipient for a valuable consideration of any sale
90 of tangible personal property acquired for use, storage or consumption in this state;

91 (7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal
92 property, or the right to use, store or consume the same, for a consideration paid or to be paid,
93 and any transaction whether called leases, rentals, bailments, loans, conditional sales or
94 otherwise, and notwithstanding that the title or possession of the property or both is retained for
95 security. For the purpose of this law the place of delivery of the property to the purchaser, user,
96 storer or consumer is deemed to be the place of sale, whether the delivery be by the vendor or
97 by common carriers, private contractors, mails, express, agents, salesmen, solicitors, hawkers,
98 representatives, consignors, peddlers, canvassers or otherwise;

99 (8) "Sales price", the consideration including the charges for services, except charges
100 incident to the extension of credit, paid or given, or contracted to be paid or given, by the
101 purchaser to the vendor for the tangible personal property, including any services that are a part
102 of the sale, valued in money, whether paid in money or otherwise, and any amount for which
103 credit is given to the purchaser by the vendor, without any deduction therefrom on account of the
104 cost of the property sold, the cost of materials used, labor or service cost, losses or any other
105 expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included
106 and "sales price" shall not include the amount charged for property returned by customers upon
107 rescission of the contract of sales when the entire amount charged therefor is refunded either in
108 cash or credit or the amount charged for labor or services rendered in installing or applying the
109 property sold, the use, storage or consumption of which is taxable pursuant to sections 144.600
110 to 144.745. The sales price shall not include usual and customary delivery charges that are
111 separately stated. In determining the amount of tax due pursuant to sections 144.600 to 144.745,
112 any charge incident to the extension of credit shall be specifically exempted;

113 (9) "Selling agent", every person acting as a representative of a principal, when such
114 principal is not registered with the director of revenue of the state of Missouri for the collection
115 of the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and
116 who receives compensation by reason of the sale of tangible personal property of the principal,
117 if such property is to be stored, used, or consumed in this state;

118 (10) "Storage", any keeping or retention in this state of tangible personal property
119 purchased from a vendor, except property for sale or property that is temporarily kept or retained
120 in this state for subsequent use outside the state;

121 (11) "Tangible personal property", all items subject to the Missouri sales tax as provided
122 in subdivisions (1) and (3) **of subsection 1** of section 144.020;

123 (12) "Taxpayer", any person remitting the tax or who should remit the tax levied by
124 sections 144.600 to 144.745;

125 (13) "Use", the exercise of any right or power over tangible personal property incident
126 to the ownership or control of that property, except that it does not include the temporary storage
127 of property in this state for subsequent use outside the state, or the sale of the property in the
128 regular course of business;

129 (14) "Vendor", every person engaged in making sales of tangible personal property by
130 mail order, by advertising, by agent or peddling tangible personal property, soliciting or taking
131 orders for sales of tangible personal property, for storage, use or consumption in this state, all
132 salesmen, solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of
133 the dealers, distributors, consignors, supervisors, principals or employers under whom they
134 operate or from whom they obtain the tangible personal property sold by them, and every person

135 who maintains a place of business in this state, maintains a stock of goods in this state, or
136 engages in business activities within this state and every person who engages in this state in the
137 business of acting as a selling agent for persons not otherwise vendors as defined in this
138 subdivision. Irrespective of whether they are making sales on their own behalf or on behalf of
139 the dealers, distributors, consignors, supervisors, principals or employers, they must be regarded
140 as vendors and the dealers, distributors, consignors, supervisors, principals or employers must
141 be regarded as vendors for the purposes of sections 144.600 to 144.745.

**144.637. 1. The director of revenue shall provide and maintain a database that
2 describes boundary changes for all taxing jurisdictions and the effective dates of such
3 changes for the use of vendors collecting the tax imposed under sections 144.600 to 144.746.**

**4 2. For the identification of counties and cities, codes corresponding to the rates shall
5 be provided according to Federal Information Processing Standards (FIPS) as developed
6 by the National Institute of Standards and Technology. For the identification of all other
7 jurisdictions, codes corresponding to the rates shall be in a format determined by the
8 director.**

**9 3. The director shall provide and maintain address-based boundary database
10 records for assigning taxing jurisdictions and associated rates. The database records shall
11 meet the requirements developed pursuant to the federal Mobile Telecommunications
12 Sourcing Act, 4 U.S.C. Section 119(a). If a vendor is unable to determine the applicable
13 rate and jurisdiction using an address-based database record after exercising due diligence,
14 the vendor may apply the nine-digit zip code designation applicable to a purchase. If a
15 nine-digit zip code designation is not available for a street address or if a vendor is unable
16 to determine the nine-digit zip code designation applicable to a purchase after exercising
17 due diligence to determine the designation, the vendor may apply the rate for the five-digit
18 zip code area. The lowest combined tax rate imposed in the zip code area shall apply if the
19 area includes more than one tax rate in any level of taxing jurisdiction. For the purposes
20 of this section, there shall be a rebuttable presumption that a vendor has exercised due
21 diligence if the vendor has attempted to determine the tax rate and jurisdiction by utilizing
22 software approved by the director and makes the assignment from the address and zip
23 code information applicable to the purchase. The databases shall be in the same approved
24 format as the database records under this section and meet the requirements developed
25 pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a).
26 If the director certifies an address-based database provided by a third party, a vendor may
27 use such database in place of the database provided for in this subsection.**

**28 4. The electronic database provided for in subsections 1, 2, and 3 of this section
29 shall be in downloadable format as determined by the director. The database may be**

30 **directly provided by the director or provided by a third party as designated by the**
31 **director. The databases shall be provided at no cost to the user of the database. The**
32 **provisions of subsection 3 of this section shall not apply if the purchased product is**
33 **received by the purchaser at the business location of the vendor.**

34 **5. No vendor shall be liable for reliance upon erroneous data provided by the**
35 **director on tax rates, boundaries, or taxing jurisdiction assignments.**

144.701. 1. The revenue derived from the rate of one cent on the dollar of the tax
2 imposed by sections 144.010 to 144.430 and sections 144.600 to 144.745 which shall be deemed
3 to be local tax revenue, shall be deposited by the state treasurer in a special trust fund, which is
4 hereby created, to be known as the "School District Trust Fund". The money in the fund shall
5 be distributed to the public school districts of the state in the manner provided in sections
6 163.031 and 163.087 and shall be appropriated and used for no other purpose; except that, of all
7 refunds made of taxes collected under the provisions of sections 144.010 to 144.430 and sections
8 144.600 to 144.745, the appropriate percentage of any refund shall be paid from the school
9 district trust fund, and except that, the state may retain a fee as a charge for collecting and
10 disbursing moneys so deposited, and transfers may be made from the fund as provided in section
11 164.013. The state collection fee shall not exceed two and one-half million dollars or one
12 percent of the amount deposited in the fund, whichever is less. The fee shall be negotiated
13 annually through the appropriation process. Any balance remaining in the fund at the end of an
14 appropriation period shall not be transferred to general revenue, and the provisions of section
15 33.080 shall not apply to the fund. Moneys in the trust fund shall be invested by the state
16 treasurer in the same deposits and obligations in which state funds are authorized by law to be
17 invested, except that the deposits and obligations shall mature and become payable in time for
18 distribution of the funds as provided in sections 163.031 and 163.087.

19 **2. The revenue derived under paragraph (g) of subdivision (2) of section 144.605**
20 **shall be exempt from the provisions of this section and shall be deposited into the state**
21 **general revenue fund established under section 33.543.**

144.752. 1. For the purposes of this section, the following terms shall mean:

2 **(1) "Marketplace facilitator", a person who:**

3 **(a) Facilitates a retail sale by a marketplace seller by listing or advertising for sale**
4 **by the marketplace seller in any forum tangible personal property or services that are**
5 **subject to tax under this chapter; and**

6 **(b) Either directly or indirectly through agreements or arrangements with third**
7 **parties collects payment from the purchaser and transmits such payment to the**
8 **marketplace seller, regardless of whether the "marketplace facilitator" receives**
9 **compensation or other consideration in exchange for its services.**

10

11 A "marketplace facilitator" is a seller and shall comply with the provisions of this chapter.
12 A "marketplace facilitator" shall not include a person who provides internet advertising
13 services or product listing and who does not collect payment from the purchaser and
14 transmit payment to the marketplace seller. A "marketplace facilitator" shall also not
15 include a third-party financial institution appointed by a marketplace seller or a
16 marketplace facilitator to handle various forms of payment transactions, such as
17 processing credit cards and debit cards, and whose sole activity with respect to
18 marketplace sales is to facilitate the payment transactions between two parties;

19 (2) "Marketplace seller", a seller that makes sales through any electronic
20 marketplace operated by a marketplace facilitator;

21 (3) "Person", any individual, firm, copartnership, joint venture, association, or
22 corporation, municipal or private, whether organized for profit or not; any state, county,
23 political subdivision, state department, commission, board, bureau, or agency, except the
24 department of transportation; any estate, trust, business trust, or receiver or trustee
25 appointed by a state or federal court; or any syndicate or other group or combination
26 acting as a unit;

27 (4) "Purchaser", any person who is the recipient for a valuable consideration of
28 any sale of tangible personal property acquired for use, storage, or consumption in this
29 state;

30 (5) "Retail sale", the same meaning as defined under sections 144.010 and 144.011,
31 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and
32 outboard motors required to be titled under the laws of the state and subject to tax under
33 subdivision (9) of subsection 1 of section 144.020;

34 (6) "Seller", a person selling or furnishing tangible personal property or rendering
35 services on the receipts from which a tax is imposed under section 144.020.

36 2. (1) By no later than January 1, 2021, marketplace facilitators that reach the
37 threshold provided under paragraph (g) of subdivision (2) of section 144.605 shall register
38 with the department to collect and remit sales and use tax, as applicable, on sales made
39 through the marketplace facilitator's marketplace by or on behalf of a marketplace seller
40 that are purchased in or delivered into the state, whether by the marketplace facilitator or
41 another person, and regardless of whether the marketplace seller for whom sales are
42 facilitated possesses a retail sales license or would have been required to collect sales or use
43 tax had the sale not been facilitated by the marketplace facilitator. Such retail sales shall
44 include those made directly by the marketplace facilitator and shall also include those
45 retail sales made by marketplace sellers through the marketplace facilitator's marketplace.

46 The collection and reporting requirements of this subsection shall not apply to retail sales
47 other than those made through a marketplace facilitator's marketplace. Nothing in this
48 section shall be construed to limit or prohibit the ability of a marketplace facilitator and
49 a marketplace seller to enter into agreements regarding the fulfillment of the requirements
50 of this chapter.

51 3. Marketplace facilitators that are required to collect sales and use tax under this
52 section shall report and remit the tax separately from any sales and use tax collected by the
53 marketplace facilitator, or by affiliates of the marketplace facilitator, which the
54 marketplace facilitator would have been required to collect and remit under the provisions
55 of this chapter prior to January 1, 2021. Such tax shall be reported and remitted on a
56 marketplace facilitator return to be developed and published by the department.
57 Marketplace facilitators shall maintain records of all sales delivered to a location in the
58 state, including copies of invoices showing the purchaser, address, items purchased,
59 purchase amount, and sales and use tax collected. Such records shall be made available
60 for review and inspection upon request by the department.

61 4. Marketplace facilitators who properly collect and remit to the department in a
62 timely manner sales and use tax on sales in accordance with the provisions of this section
63 by or on behalf of marketplace sellers shall be eligible for any discount provided under this
64 chapter.

65 5. A marketplace facilitator shall provide the purchaser with a statement or invoice
66 showing that the sales or use tax was collected and shall be remitted on the purchaser's
67 behalf.

68 6. Any purchaser, marketplace facilitator, or marketplace seller who remits sales
69 or use tax under this section shall be entitled to refunds or credits to the same extent and
70 in the same manner provided for in section 144.190 for taxes collected and remitted under
71 this section. Nothing in this section shall relieve a purchaser of the obligation to remit sales
72 or use tax for any retail sale taxable under this chapter for which a marketplace facilitator
73 or marketplace seller does not collect and remit the sales or use tax.

74 7. Except as provided under subsections 8 and 9 of this section, marketplace
75 facilitators shall be subject to the penalty provisions, procedures, and reporting
76 requirements provided under the provisions of this chapter.

77 8. An audit performed by the department under this chapter shall only be
78 performed on a marketplace facilitator for sales made by marketplace sellers but
79 facilitated by the marketplace facilitator. The department shall not audit a marketplace
80 seller for sales facilitated by a marketplace facilitator except to the extent a marketplace

81 **facilitator seeks relief from liability under the provisions of paragraph (a) of subdivision**
82 **(1) of subsection 9 of this section.**

83 **9. (1) A marketplace facilitator shall be relieved from liability under this section**
84 **for the failure to collect and remit the correct amount of sales or use tax on retail sales**
85 **facilitated for marketplace sellers under the following circumstances:**

86 **(a) To the extent that the marketplace facilitator demonstrates to the satisfaction**
87 **of the department that the error was due to insufficient or incorrect information given to**
88 **the marketplace facilitator by the marketplace seller; provided, however, that a**
89 **marketplace facilitator shall not be relieved of liability under this paragraph if the**
90 **marketplace facilitator and the marketplace seller are affiliated; or**

91 **(b) To the extent that the marketplace facilitator demonstrates to the satisfaction**
92 **of the department that:**

93 **a. The marketplace facilitator is not the seller and that the marketplace facilitator**
94 **and marketplace seller are not affiliated;**

95 **b. The retail sale was facilitated for a marketplace seller through a marketplace**
96 **operated by the marketplace facilitator; and**

97 **c. The failure to collect and remit the correct amount of sales or use tax was due to**
98 **an error other than an error in sourcing the sale under the provisions of this chapter.**

99 **(2) The relief from liability provided under subdivision (1) of this subsection shall**
100 **not exceed the following percentage of the total sales and use tax due on retail sales**
101 **facilitated by a marketplace facilitator for marketplace sellers and sourced to this state**
102 **during a calendar year, which such retail sales shall not include retail sales made directly**
103 **by the marketplace facilitator or affiliates of the marketplace facilitator:**

104 **(a) For retail sales made or facilitated during the 2021 calendar year, four percent;**

105 **(b) For retail sales made or facilitated during the 2022 calendar year, two percent;**

106 **(c) For retail sales made or facilitated during the 2023 calendar year, one percent;**

107 **and**

108 **(d) For retail sales made or facilitated on or after January 1, 2024, zero percent.**

109 **(3) To the extent that a marketplace facilitator is relieved of liability for the**
110 **collection of sales and use tax under this subsection, the marketplace seller for whom the**
111 **marketplace facilitator has made or facilitated the sale shall also be relieved of liability**
112 **under this subsection.**

113 **(4) The department shall determine the manner in which a marketplace facilitator**
114 **or marketplace seller shall apply for and claim the relief from liability provided for under**
115 **this subsection.**

116 **10. The department may grant a waiver from the requirements of this section if a**
117 **marketplace facilitator demonstrates to the satisfaction of the department that all of its**
118 **marketplace sellers are already registered under the provisions of this chapter to collect**
119 **and remit sales and use tax. If such waiver is granted, the sales or use tax due shall be**
120 **collected and remitted by the marketplace seller. The department shall develop guidelines**
121 **by rule that establish the criteria for obtaining a waiver, the process and procedure for a**
122 **marketplace facilitator or marketplace seller to apply for a waiver, and the process for**
123 **providing notice to an affected marketplace facilitator and marketplace seller of a waiver**
124 **obtained under the provisions of this subsection. Any rule or portion of a rule, as that term**
125 **is defined in section 536.010, that is created under the authority delegated in this section**
126 **shall become effective only if it complies with and is subject to all of the provisions of**
127 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
128 **nonseverable, and if any of the powers vested with the general assembly pursuant to**
129 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
130 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
131 **proposed or adopted after August 28, 2020, shall be invalid and void.**

144.757. 1. **(1)** Any county or municipality [~~except municipalities within a county~~
2 ~~having a charter form of government with a population in excess of nine hundred thousand,~~
3 may, by a majority vote of its governing body, impose a local use tax if a local sales tax is
4 imposed as defined in section 32.085 at a rate equal to the rate of the local sales tax in effect in
5 such county or municipality; provided, however, that no ordinance or order enacted pursuant to
6 sections 144.757 to 144.761 shall be effective unless the governing body of the county or
7 municipality submits to the voters thereof at a municipal, county or state general, primary or
8 special election a proposal to authorize the governing body of the county or municipality to
9 impose a local use tax pursuant to sections 144.757 to 144.761.

10 **(2)** Municipalities within a county having a charter form of government with a
11 population in excess of nine hundred thousand [~~may, upon voter approval received pursuant to~~
12 ~~paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the~~
13 ~~same rate as the local municipal sales tax with the revenues from all such municipal use taxes~~
14 ~~to be distributed pursuant to subsection 4 of section 94.890. The municipality shall within thirty~~
15 ~~days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of~~
16 ~~subsection 2 of this section select one of the distribution options permitted in]~~ **shall, within**
17 **thirty days of the approval of the use tax imposed under subdivision (1) of subsection 2 of**
18 **this section, select one of the distribution options permitted under subsection 4 of section**
19 **94.890 for distribution of all municipal use taxes.**

20 2. (1) The ballot of submission [~~except for counties and municipalities described in~~
 21 ~~subdivisions (2) and (3) of this subsection,~~] shall contain substantially the following language:

22 Shall the _____ (county or municipality's name) **be authorized to** impose a
 23 local use tax at the same rate as the [total] local sales tax rate [~~currently _____~~
 24 ~~(insert percent),~~] **by a vote of the governing body**, provided that if **any local**
 25 **sales tax is repealed**, [~~the local sales tax rate is~~] reduced, or raised by voter
 26 approval, the **respective** local use tax [rate] shall also be **repealed**, reduced, or
 27 raised by the same action? **Use taxes on out-of-state purchases made through**
 28 **an internet website shall apply to all purchases, and shall be calculated,**
 29 **collected, and remitted by the website. Use taxes on out-of-state purchases**
 30 **not made through an internet website shall require the purchaser to**
 31 **calculate and remit use tax payment to the Missouri Department of Revenue**
 32 **annually with a use tax return, but** a use tax return shall not be required to be
 33 filed by persons whose purchases from out-of-state vendors do not in total exceed
 34 two thousand dollars in any calendar year.

35 YES NO

36

37 If you are in favor of the question, place an "X" in the box opposite "YES". If
 38 you are opposed to the question, place an "X" in the box opposite "NO".

39

40 (2) [~~(a) The ballot of submission in a county having a charter form of government with~~
 41 ~~a population in excess of nine hundred thousand shall contain substantially the following~~
 42 ~~language:~~

43 ~~_____ For the purposes of enhancing county and municipal public safety, parks, and job~~
 44 ~~creation and enhancing local government services, shall the county be authorized~~
 45 ~~to collect a local use tax equal to the total of the existing county sales tax rate of~~
 46 ~~(insert tax rate), provided that if the county sales tax is repealed, reduced or~~
 47 ~~raised by voter approval, the local use tax rate shall also be repealed, reduced or~~
 48 ~~raised by the same voter action? Fifty percent of the revenue shall be used by the~~
 49 ~~county throughout the county for improving and enhancing public safety, park~~
 50 ~~improvements, and job creation, and fifty percent shall be used for enhancing~~
 51 ~~local government services. The county shall be required to make available to the~~
 52 ~~public an audited comprehensive financial report detailing the management and~~
 53 ~~use of the countywide portion of the funds each year.~~

54

55 ~~_____ A use tax is the equivalent of a sales tax on purchases from out-of-state sellers~~
 56 ~~by in-state buyers and on certain taxable business transactions. A use tax return~~
 57 ~~shall not be required to be filed by persons whose purchases from out-of-state~~
 58 ~~vendors do not in total exceed two thousand dollars in any calendar year.~~

59 ~~_____ YES _____ NO~~

60

61 ~~_____ If you are in favor of the question, place an "X" in the box opposite "YES". If you~~
 62 ~~are opposed to the question, place an "X" in the box opposite "NO".~~

63

64 ~~_____ (b) The ballot of submission in a municipality within a county having a charter form of~~
 65 ~~government with a population in excess of nine hundred thousand shall contain substantially the~~
 66 ~~following language:~~

67 ~~_____ Shall the municipality be authorized to impose a local use tax at the same rate as~~
 68 ~~the local sales tax by a vote of the governing body, provided that if any local sales~~
 69 ~~tax is repealed, reduced or raised by voter approval, the respective local use tax~~
 70 ~~shall also be repealed, reduced or raised by the same action? A use tax return~~
 71 ~~shall not be required to be filed by persons whose purchases from out-of-state~~
 72 ~~vendors do not in total exceed two thousand dollars in any calendar year.~~

73 ~~_____ YES _____ NO~~

74

75 ~~_____ If you are in favor of the question, place an "X" in the box opposite "YES". If you~~
 76 ~~are opposed to the question, place an "X" in the box opposite "NO".~~

77

78 ~~_____ (3) The ballot of submission in any city not within a county shall contain substantially~~
 79 ~~the following language:~~

80 ~~_____ Shall the _____ (city name) impose a local use tax at the same rate as the local~~
 81 ~~sales tax, currently at a rate of _____ (insert percent) which includes the capital~~
 82 ~~improvements sales tax and the transportation tax, provided that if any local sales~~
 83 ~~tax is repealed, reduced or raised by voter approval, the respective local use tax~~
 84 ~~shall also be repealed, reduced or raised by the same action? A use tax return~~
 85 ~~shall not be required to be filed by persons whose purchases from out-of-state~~
 86 ~~vendors do not in total exceed two thousand dollars in any calendar year.~~

87 ~~_____ YES _____ NO~~

88

89 ~~_____ If you are in favor of the question, place an "X" in the box opposite "YES". If you~~
 90 ~~are opposed to the question, place an "X" in the box opposite "NO".~~

91 ~~——(4) If [any of such ballots are submitted on August 6, 1996, and if a majority of the~~
92 ~~votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then~~
93 ~~the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided~~
94 ~~the director of revenue receives notice of adoption of the local use tax on or before August 16,~~
95 ~~1996. If any of such ballots are submitted after December 31, 1996, and if] a majority of the~~
96 votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then
97 the ordinance or order and any amendments thereto shall be in effect on the first day of the
98 calendar quarter which begins at least forty-five days after the director of revenue receives notice
99 of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are
100 opposed to the proposal, then the governing body of the county or municipality shall have no
101 power to impose the local use tax as herein authorized unless and until the governing body of the
102 county or municipality shall again have submitted another proposal to authorize the governing
103 body of the county or municipality to impose the local use tax and such proposal is approved by
104 a majority of the qualified voters voting thereon.

105 **(3) Any county or municipality with an existing local use tax enacted prior to**
106 **January 1, 2021, shall be permitted to keep such existing local use tax at a rate not to**
107 **exceed the rate enacted as of January 1, 2021. If any such county or municipality places**
108 **the use tax measure of this section on the ballot and the measure fails to pass, the use tax**
109 **enacted prior to January 1, 2021, shall remain in effect until it expires or is repealed,**
110 **reduced, or raised by a future ballot measure. If any such county or municipality places**
111 **the use tax measure of this section on the ballot and the measure passes, the use tax of this**
112 **section shall replace the previously enacted use tax.**

113 3. The local use tax may be imposed at the same rate as the local sales tax then currently
114 in effect in the county or municipality upon all transactions which are subject to the taxes
115 imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting
116 such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced
117 or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced
118 or raised by the same action repealing, reducing or raising the local sales tax.

119 4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or
120 described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state
121 buyers and on certain intrabusiness transactions. Such a description shall not change the
122 classification, form or subject of the use tax or the manner in which it is collected. **The use tax**
123 **shall not be described as a new tax, described as not being a new tax, nor shall it be**
124 **advertised or promoted in a manner in violation of section 115.646.**

Section B. Notwithstanding the provisions of section 1.140 to the contrary, the
2 provisions of Section A of this act shall be nonseverable, and if any provision is for any reason
3 held to be invalid, such decision shall invalidate all of the remaining provisions of this act.

✓