

SECOND REGULAR SESSION

# HOUSE BILL NO. 1971

100TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE GRIESHEIMER.

4414H.011

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To repeal sections 144.020 and 144.030, RSMo, and to enact in lieu thereof two new sections relating to sales tax on motor fuel, with a referendum clause.

---

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

Section A. Sections 144.020 and 144.030, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 144.020 and 144.030, to read as follows:

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

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

14 (2) A tax equivalent to four percent of the amount paid for admission and seating  
15 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,  
16 games and athletic events, except amounts paid for any instructional class;

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.

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

20 (4) (a) A tax equivalent to four percent on the basic rate paid or charged on all sales of  
21 local and long distance telecommunications service to telecommunications subscribers and to  
22 others through equipment of telecommunications subscribers for the transmission of messages  
23 and conversations and upon the sale, rental or leasing of all equipment or services pertaining or  
24 incidental thereto; except that, the payment made by telecommunications subscribers or others,  
25 pursuant to section 144.060, and any amounts paid for access to the internet or interactive  
26 computer services shall not be considered as amounts paid for telecommunications services;

27 (b) If local and long distance telecommunications services subject to tax under this  
28 subdivision are aggregated with and not separately stated from charges for telecommunications  
29 service or other services not subject to tax under this subdivision, including, but not limited to,  
30 interstate or international telecommunications services, then the charges for nontaxable services  
31 may be subject to taxation unless the telecommunications provider can identify by reasonable  
32 and verifiable standards such portion of the charges not subject to such tax from its books and  
33 records that are kept in the regular course of business, including, but not limited to, financial  
34 statement, general ledgers, invoice and billing systems and reports, and reports for regulatory  
35 tariffs and other regulatory matters;

36 (c) A telecommunications provider shall notify the director of revenue of its intention  
37 to utilize the standards described in paragraph (b) of this subdivision to determine the charges  
38 that are subject to sales tax under this subdivision. Such notification shall be in writing and shall  
39 meet standardized criteria established by the department regarding the form and format of such  
40 notice;

41 (d) The director of revenue may promulgate and enforce reasonable rules and regulations  
42 for the administration and enforcement of the provisions of this subdivision. Any rule or portion  
43 of a rule, as that term is defined in section 536.010, that is created under the authority delegated  
44 in this section shall become effective only if it complies with and is subject to all of the  
45 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
46 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536  
47 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
48 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
49 August 28, 2019, shall be invalid and void;

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

52 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,  
53 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,  
54 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are  
55 regularly served to the public. The tax imposed under this subdivision shall not apply to any  
56 automatic mandatory gratuity for a large group imposed by a restaurant when such gratuity is  
57 reported as employee tip income and the restaurant withholds income tax under section 143.191  
58 on such gratuity;

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

64 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of  
65 tangible personal property, provided that if the lessor or renter of any tangible personal property  
66 had previously purchased the property under the conditions of sale at retail or leased or rented  
67 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,  
68 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or  
69 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,  
70 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid  
71 as provided in this section and section 144.070. In no event shall the rental or lease of boats and  
72 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,  
73 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,  
74 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or  
75 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such  
76 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales  
77 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax  
78 upon the lease or rental thereof;

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

84 (10) (a) **For the year beginning January 1, 2021, and ending December 31, 2021,**  
85 **a tax equivalent to one percent of the purchase price paid or charged on all motor fuel used**  
86 **or consumed in this state, exclusive of the tax imposed under section 142.803;**

87           **(b) For the year beginning January 1, 2022, and ending December 31, 2022, a tax**  
88 **equivalent to two percent of the purchase price paid or charged on all motor fuel used or**  
89 **consumed in this state, exclusive of the tax imposed under section 142.803;**

90           **(c) For the year beginning January 1, 2023, and ending December 31, 2023, a tax**  
91 **equivalent to three percent of the purchase price paid or charged on all motor fuel used or**  
92 **consumed in this state, exclusive of the tax imposed under section 142.803; and**

93           **(d) For all years beginning on or after January 1, 2024, a tax equivalent to four**  
94 **percent of the purchase price paid or charged on all motor fuel used or consumed in this**  
95 **state, exclusive of the tax imposed under section 142.803.**

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

99           **3. Notwithstanding any provision of law to the contrary, all revenue received under**  
100 **the provisions of subdivision (10) of subsection 1 of this section shall be deposited into the**  
101 **state road fund created under Article IV, Section 30(b) of the Constitution of Missouri, to**  
102 **be used solely for the constitutionally permitted purposes described therein.**

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

9           2. There are also specifically exempted from the provisions of the local sales tax law as  
10 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to  
11 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local  
12 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and  
13 144.600 to 144.745:

14           (1) **(a) Motor fuel or special fuel subject to an excise tax of this state, unless all or part**  
15 **of such excise tax is refunded pursuant to section 142.824. Beginning January 1, 2021, motor**  
16 **fuel, as defined under section 142.800, shall not be exempted from the provisions of sections**  
17 **144.010 to 144.525 or from the computation of the tax levied, assessed, or payable under**  
18 **sections 144.010 to 144.525;**

19           ~~(b)~~ **(b) Upon the sale at retail, ~~of~~ fuel to be consumed in manufacturing or creating**  
20 **gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail;**

- 21           ~~[(c)]~~ (c) Feed for livestock or poultry;
- 22           ~~[(d)]~~ (d) Grain to be converted into foodstuffs which are to be sold ultimately in  
23 processed form at retail;
- 24           ~~[(e)]~~ (e) Seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing  
25 crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold  
26 ultimately in processed form at retail; **and**
- 27           (f) Economic poisons registered pursuant to the provisions of the Missouri pesticide  
28 registration law, sections 281.220 to 281.310, which are to be used in connection with the growth  
29 or production of crops, fruit trees or orchards applied before, during, or after planting, the crop  
30 of which when harvested will be sold at retail or will be converted into foodstuffs which are to  
31 be sold ultimately in processed form at retail;
- 32           (2) Materials, manufactured goods, machinery and parts which when used in  
33 manufacturing, processing, compounding, mining, producing or fabricating become a component  
34 part or ingredient of the new personal property resulting from such manufacturing, processing,  
35 compounding, mining, producing or fabricating and which new personal property is intended to  
36 be sold ultimately for final use or consumption; and materials, including without limitation,  
37 gases and manufactured goods, including without limitation slagging materials and firebrick,  
38 which are ultimately consumed in the manufacturing process by blending, reacting or interacting  
39 with or by becoming, in whole or in part, component parts or ingredients of steel products  
40 intended to be sold ultimately for final use or consumption;
- 41           (3) Materials, replacement parts and equipment purchased for use directly upon, and for  
42 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock  
43 or aircraft engaged as common carriers of persons or property;
- 44           (4) Replacement machinery, equipment, and parts and the materials and supplies solely  
45 required for the installation or construction of such replacement machinery, equipment, and  
46 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
47 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
48 the materials and supplies required solely for the operation, installation or construction of such  
49 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
50 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
51 recovery processing plant" means a facility that has as its primary purpose the recovery of  
52 materials into a usable product or a different form which is used in producing a new product and  
53 shall include a facility or equipment which are used exclusively for the collection of recovered  
54 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
55 used on highways. For purposes of this section, the terms motor vehicle and highway shall have  
56 the same meaning pursuant to section 301.010. For the purposes of this subdivision, subdivision

57 (5) of this subsection, and section 144.054, as well as the definition in subdivision (9) of  
58 subsection 1 of section 144.010, the term "product" includes telecommunications services and  
59 the term "manufacturing" shall include the production, or production and transmission, of  
60 telecommunications services. The preceding sentence does not make a substantive change in the  
61 law and is intended to clarify that the term "manufacturing" has included and continues to  
62 include the production and transmission of "telecommunications services", as enacted in this  
63 subdivision and subdivision (5) of this subsection, as well as the definition in subdivision (9) of  
64 subsection 1 of section 144.010. The preceding two sentences reaffirm legislative intent  
65 consistent with the interpretation of this subdivision and subdivision (5) of this subsection in  
66 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and  
67 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and  
68 accordingly abrogates the Missouri supreme court's interpretation of those exemptions in *IBM*  
69 *Corporation v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent inconsistent  
70 with this section and *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo.  
71 banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc  
72 2005). The construction and application of this subdivision as expressed by the Missouri  
73 supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001);  
74 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and  
75 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby  
76 affirmed. Material recovery is not the reuse of materials within a manufacturing process or the  
77 use of a product previously recovered. The material recovery processing plant shall qualify  
78 under the provisions of this section regardless of ownership of the material being recovered;

79 (5) Machinery and equipment, and parts and the materials and supplies solely required  
80 for the installation or construction of such machinery and equipment, purchased and used to  
81 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
82 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
83 which is intended to be sold ultimately for final use or consumption. The construction and  
84 application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc.*  
85 *v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director*  
86 *of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of*  
87 *Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed;

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

91 (7) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

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

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

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

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

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

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

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

121 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
122 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
123 solely required for the installation, construction or reconstruction of such machinery, equipment,  
124 appliances and devices;

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

126 (17) All amounts paid or charged for admission or participation or other fees paid by or  
127 other charges to individuals in or for any place of amusement, entertainment or recreation, games

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

137 (18) All sales of insulin, and all sales, rentals, repairs, and parts of durable medical  
138 equipment, prosthetic devices, and orthopedic devices as defined on January 1, 1980, by the  
139 federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including  
140 the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids  
141 and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed  
142 pharmacist only upon a lawful prescription of a practitioner licensed to administer those items,  
143 including samples and materials used to manufacture samples which may be dispensed by a  
144 practitioner authorized to dispense such samples and all sales or rental of medical oxygen, home  
145 respiratory equipment and accessories including parts, and hospital beds and accessories and  
146 ambulatory aids including parts, and all sales or rental of manual and powered wheelchairs  
147 including parts, and stairway lifts, Braille writers, electronic Braille equipment and, if purchased  
148 or rented by or on behalf of a person with one or more physical or mental disabilities to enable  
149 them to function more independently, all sales or rental of scooters including parts, and reading  
150 machines, electronic print enlargers and magnifiers, electronic alternative and augmentative  
151 communication devices, and items used solely to modify motor vehicles to permit the use of such  
152 motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription  
153 drugs to individuals with disabilities, and drugs required by the Food and Drug Administration  
154 to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its  
155 successor, as prescribed by a health care practitioner licensed to prescribe;

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

160 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce  
161 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,  
162 including fraternal organizations which have been declared tax-exempt organizations pursuant  
163 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or



164 charitable functions and activities and all sales made to eleemosynary and penal institutions and  
165 industries of the state, and all sales made to any private not-for-profit institution of higher  
166 education not otherwise excluded pursuant to subdivision (19) of this subsection or any  
167 institution of higher education supported by public funds, and all sales made to a state relief  
168 agency in the exercise of relief functions and activities;

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

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

198 (a) Used exclusively for agricultural purposes;

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

200 (c) Used directly in producing farm products to be sold ultimately in processed form or  
201 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
202 ultimately in processed form at retail;

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

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

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

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

236 portion of the purchase. The person making such purchases on behalf of occupants of residential  
237 apartments or condominiums shall have standing to apply to the director of revenue for such  
238 credit or refund;

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

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

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

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

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

258 (29) All livestock sales when either the seller is engaged in the growing, producing or  
259 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering  
260 or leasing of such livestock;

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

263 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other  
264 utilities which are ultimately consumed in connection with the manufacturing of cellular glass  
265 products or in any material recovery processing plant as defined in subdivision (4) of this  
266 subsection;

267 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or  
268 herbicides used in the production of crops, aquaculture, livestock or poultry;

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

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

273 (35) All sales of feed which are developed for and used in the feeding of pets owned by  
274 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
275 273.325, and licensed pursuant to sections 273.325 to 273.357;

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

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

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

295 (37) All sales or other transfers of tangible personal property to a lessor who leases the  
296 property under a lease of one year or longer executed or in effect at the time of the sale or other  
297 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections  
298 238.010 to 238.100;

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

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

308 (40) All materials, replacement parts, and equipment purchased for use directly upon,  
309 and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants,  
310 and aircraft accessories;

311 (41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or  
312 similar places of business for use in the normal course of business and money received by a  
313 shooting range or similar places of business from patrons and held by a shooting range or similar  
314 place of business for redistribution to patrons at the conclusion of a shooting event;

315 (42) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as  
316 defined in section 306.010;

317 (43) Any new or used aircraft sold or delivered in this state to a person who is not a  
318 resident of this state or a corporation that is not incorporated in this state, and such aircraft is not  
319 to be based in this state and shall not remain in this state more than ten business days subsequent  
320 to the last to occur of:

321 (a) The transfer of title to the aircraft to a person who is not a resident of this state or a  
322 corporation that is not incorporated in this state; or

323 (b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for  
324 any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that  
325 are completed contemporaneously with the transfer of title to the aircraft to a person who is not  
326 a resident of this state or a corporation that is not incorporated in this state;

327 (44) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers  
328 pulled by such motor vehicles, that are actually used in the normal course of business to haul  
329 property on the public highways of the state, and that are capable of hauling loads commensurate  
330 with the motor vehicle's registered weight; and the materials, replacement parts, and equipment  
331 purchased for use directly upon, and for the repair and maintenance or manufacture of such  
332 vehicles. For purposes of this subdivision, "motor vehicle" and "public highway" shall have the  
333 meaning as ascribed in section 390.020;

334 (45) All internet access or the use of internet access regardless of whether the tax is  
335 imposed on a provider of internet access or a buyer of internet access. For purposes of this  
336 subdivision, the following terms shall mean:

337 (a) "Direct costs", costs incurred by a governmental authority solely because of an  
338 internet service provider's use of the public right-of-way. The term shall not include costs that  
339 the governmental authority would have incurred if the internet service provider did not make  
340 such use of the public right-of-way. Direct costs shall be determined in a manner consistent with  
341 generally accepted accounting principles;

342 (b) "Internet", computer and telecommunications facilities, including equipment and  
343 operating software, that comprises the interconnected worldwide network that employ the

344 transmission control protocol or internet protocol, or any predecessor or successor protocols to  
345 that protocol, to communicate information of all kinds by wire or radio;

346 (c) "Internet access", a service that enables users to connect to the internet to access  
347 content, information, or other services without regard to whether the service is referred to as  
348 telecommunications, communications, transmission, or similar services, and without regard to  
349 whether a provider of the service is subject to regulation by the Federal Communications  
350 Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this  
351 subdivision, internet access also includes: the purchase, use, or sale of communications services,  
352 including telecommunications services as defined in section 144.010, to the extent the  
353 communications services are purchased, used, or sold to provide the service described in this  
354 subdivision or to otherwise enable users to access content, information, or other services offered  
355 over the internet; services that are incidental to the provision of a service described in this  
356 subdivision, when furnished to users as part of such service, including a home page, electronic  
357 mail, and instant messaging, including voice-capable and video-capable electronic mail and  
358 instant messaging, video clips, and personal electronic storage capacity; a home page electronic  
359 mail and instant messaging, including voice-capable and video-capable electronic mail and  
360 instant messaging, video clips, and personal electronic storage capacity that are provided  
361 independently or that are not packed with internet access. As used in this subdivision, internet  
362 access does not include voice, audio, and video programming or other products and services,  
363 except services described in this paragraph or this subdivision, that use internet protocol or any  
364 successor protocol and for which there is a charge, regardless of whether the charge is separately  
365 stated or aggregated with the charge for services described in this paragraph or this subdivision;

366 (d) "Tax", any charge imposed by the state or a political subdivision of the state for the  
367 purpose of generating revenues for governmental purposes and that is not a fee imposed for a  
368 specific privilege, service, or benefit conferred, except as described as otherwise under this  
369 subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political  
370 subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a  
371 governmental entity. The term tax shall not include any franchise fee or similar fee imposed or  
372 authorized under section 67.1830 or 67.2689; Section 622 or 653 of the Communications Act  
373 of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other fee related to obligations  
374 of telecommunications carriers under the Communications Act of 1934, 47 U.S.C. Section 151,  
375 et seq., except to the extent that:

376 a. The fee is not imposed for the purpose of recovering direct costs incurred by the  
377 franchising or other governmental authority from providing the specific privilege, service, or  
378 benefit conferred to the payer of the fee; or

379           b. The fee is imposed for the use of a public right-of-way based on a percentage of the  
380 service revenue, and the fee exceeds the incremental direct costs incurred by the governmental  
381 authority associated with the provision of that right-of-way to the provider of internet access  
382 service.

383

384 Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or  
385 services that were subject to tax on January 1, 2016.

386           3. Any ruling, agreement, or contract, whether written or oral, express or implied,  
387 between a person and this state's executive branch, or any other state agency or department,  
388 stating, agreeing, or ruling that such person is not required to collect sales and use tax in this  
389 state despite the presence of a warehouse, distribution center, or fulfillment center in this state  
390 that is owned or operated by the person or an affiliated person shall be null and void unless it is  
391 specifically approved by a majority vote of each of the houses of the general assembly. For  
392 purposes of this subsection, an "affiliated person" means any person that is a member of the same  
393 controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of  
394 1986, as amended, as the vendor or any other entity that, notwithstanding its form of  
395 organization, bears the same ownership relationship to the vendor as a corporation that is a  
396 member of the same controlled group of corporations as defined in Section 1563(a) of the  
397 Internal Revenue Code, as amended.

          Section B. Section A of this act is hereby submitted to the qualified voters of this state  
2 for approval or rejection at an election which is hereby ordered and which shall be held and  
3 conducted on the Tuesday immediately following the first Monday in November, 2020, pursuant  
4 to the laws and constitutional provisions of this state applicable to general elections and the  
5 submission of referendum measures by the general assembly. If approved by a majority of the  
6 votes cast thereon at such election and not otherwise, Section A of this act shall become effective  
7 on January 1, 2021.

✓