

FIRST REGULAR SESSION

HOUSE BILL NO. 554

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EGGLESTON.

1018H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 32.310, 143.011, 144.605, 144.757, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, and 144.1015, 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Sections 32.310, 143.011, 144.605, 144.757, 144.1000, 144.1003, 144.1006, 2 144.1009, 144.1012, and 144.1015, RSMo, are repealed and six new sections enacted in lieu 3 thereof, to be known as sections 32.310, 143.011, 144.605, 144.637, 144.752, and 144.757, to 4 read as follows:

32.310. 1. The department of revenue shall create and maintain a mapping feature on 2 its official public website that displays sales **and use** tax information of political subdivisions 3 of this state that have taxing authority, including the current tax rate for each sales **and use** tax 4 imposed and collected. Such display shall have the option to showcase the borders and 5 jurisdiction of the following political subdivisions on a map of the state to the extent that such 6 political subdivisions collect sales **or use** tax:

- 7 (1) Ambulance districts;
- 8 (2) Community improvement districts;
- 9 (3) Fire protection districts;
- 10 (4) Levee districts;
- 11 (5) Library districts;
- 12 (6) Neighborhood improvement districts;
- 13 (7) Port authority districts;
- 14 (8) Tax increment financing districts;

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.

- 15 (9) Transportation development districts;
- 16 (10) School districts; or
- 17 (11) Any other political subdivision that imposes a sales **or use** tax within its borders
- 18 and jurisdiction.

19 2. The mapping feature shall also have the option to superimpose state house of
 20 representative districts and state senate districts over the political subdivisions.

21 3. A political subdivision collecting sales **or use** tax listed in subsection 1 of this section
 22 shall provide to the department of revenue mapping and geographic data pertaining to the
 23 political subdivision's borders and jurisdictions. The political subdivision shall certify the
 24 accuracy of the data by affidavit and shall provide the data in a format specified by the
 25 department of revenue. Such data shall be sent to the department of revenue by April 1, 2019,
 26 and shall be updated and sent to the department if a change in the political subdivision's borders
 27 or jurisdiction occurs thereafter.

28 4. The department of revenue may contract with another entity to build and maintain the
 29 mapping feature.

30 5. By July 1, 2019, the department shall implement the mapping feature using the data
 31 provided to it under subsection 3 of this section.

32 **6. By July 1, 2022, the department shall update the mapping feature to include the**
 33 **total sales tax rate for combined rates of overlapping sales taxes levied and the total use tax**
 34 **rate for combined rates of overlapping use taxes levied.**

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

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~~ **six** reductions shall be made under this subsection. Reductions in the rate of
 20 tax shall take effect on January first of a calendar year and such reduced rates shall continue in
 21 effect until 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) In addition to the rate reductions under subsections 2 and 3 of this section,**
 42 **beginning the effective date of this act, the top rate of tax under subsection 1 of this section**
 43 **shall be reduced by one-tenth of one percent.**

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

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

48 **5.** Beginning with the 2017 calendar year, the brackets of Missouri taxable income
 49 identified in subsection 1 of this section shall be adjusted annually by the percent increase in

50 inflation. The director shall publish such brackets annually beginning on or after October 1,
51 2016. Modifications to the brackets shall take effect on January first of each calendar year and
52 shall apply to tax years beginning on or after the effective date of the new brackets.

53 ~~[5-]~~ 6. As used in this section, the following terms mean:

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

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

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

61 (4) "Percent increase in inflation", the percentage, if any, by which the CPI for the
62 preceding calendar year exceeds the CPI for the year beginning September 1, 2014, and ending
63 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, 2022, 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 apply only to vendors that do not have a**
60 **physical presence within the state and if 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, 2022, 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, 2022; 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 under the federal Mobile Telecommunications Sourcing
12 Act, 4 U.S.C. Section 119(a). If a vendor is unable to determine the applicable rate and
13 jurisdiction using an address-based database record after exercising due diligence, the
14 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 database records shall be in the same
24 approved format as the database under this section and shall meet the requirements
25 developed under the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section**

26 **119(a). If the director certifies an address-based database provided by a third party, a**
27 **vendor may use such database in place of the database records provided for in this**
28 **subsection.**

29 **4. The electronic databases provided for in subsections 1 and 3 of this section shall**
30 **be in downloadable format as determined by the director. The databases may be directly**
31 **provided by the director or provided by a third party as designated by the director. The**
32 **databases shall be provided at no cost to the user of the database.**

33 **5. The provisions of subsection 3 of this section shall not apply if the purchased**
34 **product is received by the purchaser at the business location of the vendor.**

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

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 does not collect payment from the purchaser and transmit**
14 **payment to the marketplace seller; is a third-party financial institution appointed by a**
15 **marketplace seller or a marketplace facilitator to handle various forms of payment**
16 **transactions, such as processing credit cards and debit cards, and whose sole activity with**
17 **respect to marketplace sales is to facilitate the payment transactions between two parties;**
18 **or is a provider of travel agency services and whose sole activity with respect to**
19 **marketplace sales is to provide such services. For the purposes of this subdivision, "travel**
20 **agency services" means facilitating, for a commission, fee, or other consideration, vacation**
21 **or travel packages; rental car or other travel reservations; tickets for domestic or foreign**
22 **travel by air, rail, ship, bus, or other medium of transportation; or hotel or other lodging**
23 **accommodations;**

24 **(2) "Marketplace seller", a seller that makes sales through any electronic**
25 **marketplace operated by a marketplace facilitator;**

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

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

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

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

41 2. (1) By no later than January 1, 2022, marketplace facilitators that reach the
42 threshold provided under paragraph (g) of subdivision (2) of section 144.605 shall register
43 with the department to collect and remit sales and use tax, as applicable, on sales made
44 through the marketplace facilitator's marketplace by or on behalf of a marketplace seller
45 that are purchased in or delivered into the state, whether by the marketplace facilitator or
46 another person, and regardless of whether the marketplace seller for whom sales are
47 facilitated possesses a retail sales license or would have been required to collect sales or use
48 tax had the sale not been facilitated by the marketplace facilitator. Such retail sales shall
49 include those made directly by the marketplace facilitator and shall also include those
50 retail sales made by marketplace sellers through the marketplace facilitator's marketplace.
51 The collection and reporting requirements of this subsection shall not apply to retail sales
52 other than those made through a marketplace facilitator's marketplace. Nothing in this
53 section shall be construed to limit or prohibit the ability of a marketplace facilitator and
54 a marketplace seller to enter into agreements regarding the fulfillment of the requirements
55 of this chapter.

56 (2) All taxable sales made through a marketplace facilitator's marketplace by or
57 on behalf of a marketplace seller shall be deemed to be consummated at the location in this
58 state to which the item is shipped or delivered, or at which possession is taken by the
59 purchaser.

60 3. Marketplace facilitators that are required to collect sales and use tax under this
61 section shall report and remit the tax separately from any sales and use tax collected by the

62 marketplace facilitator, or by affiliates of the marketplace facilitator, which the
63 marketplace facilitator would have been required to collect and remit under the provisions
64 of this chapter prior to January 1, 2022. Such tax shall be reported and remitted on a
65 marketplace facilitator return to be developed and published by the department.
66 Marketplace facilitators shall maintain records of all sales delivered to a location in the
67 state, including copies of invoices showing the purchaser, address, items purchased,
68 purchase amount, and sales and use tax collected. Such records shall be made available
69 for review and inspection upon request by the department.

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

74 **5. A marketplace facilitator shall provide the purchaser with a statement or invoice**
75 **showing the amount of the sales or use tax and that the sales or use tax was collected and**
76 **shall be remitted on the purchaser's behalf.**

77 **6. Any purchaser, marketplace facilitator, or marketplace seller who remits sales**
78 **or use tax under this section shall be entitled to refunds or credits to the same extent and**
79 **in the same manner provided for in section 144.190 for taxes collected and remitted under**
80 **this section. Nothing in this section shall relieve a purchaser of the obligation to remit sales**
81 **or use tax for any retail sale taxable under this chapter for which a marketplace facilitator**
82 **or marketplace seller does not collect and remit the sales or use tax.**

83 **7. (1) Except as provided under this subsection, marketplace facilitators shall be**
84 **subject to the penalty provisions, procedures, and reporting requirements provided under**
85 **this chapter.**

86 **(2) (a) The department shall not perform an audit under this chapter on a**
87 **marketplace facilitator except on sales made by a marketplace seller and facilitated by the**
88 **marketplace facilitator.**

89 **(b) The department shall not perform an audit under this chapter on a marketplace**
90 **seller for sales facilitated by a marketplace facilitator except to the extent that the**
91 **marketplace facilitator seeks relief from liability on the basis that insufficient or incorrect**
92 **information was provided to the marketplace facilitator by the marketplace seller.**

93 **(3) A marketplace facilitator shall be relieved from liability under this section for**
94 **the failure to collect and remit the correct amount of sales or use tax on retail sales**
95 **facilitated for a marketplace seller if the marketplace facilitator demonstrates to the**
96 **satisfaction of the department that the error was due to insufficient or incorrect**
97 **information provided to the marketplace facilitator by the marketplace seller and not an**

98 error in sourcing the sale, unless the marketplace facilitator and the marketplace seller are
99 the same entity or are otherwise affiliated.

100 (4) The relief from liability provided to a marketplace facilitator under subdivision
101 (3) of this subsection shall not exceed the following percentage of the total sales and use tax
102 due on retail sales facilitated by the marketplace facilitator for marketplace sellers and
103 sourced to this state during a calendar year, excluding any retail sales made directly by the
104 marketplace facilitator or its affiliates:

105 (a) For retail sales made or facilitated during the 2022 calendar year, four percent;

106 (b) For retail sales made or facilitated during the 2023 calendar year, two percent;

107 (c) For retail sales made or facilitated during the 2024 calendar year, one percent;

108 and

109 (d) For retail sales made or facilitated on or after January 1, 2025, zero percent.

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

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

117 8. The department may grant a waiver from the requirements of this section if a
118 marketplace facilitator demonstrates to the satisfaction of the department that all of its
119 marketplace sellers are already registered under the provisions of this chapter to collect
120 and remit sales and use tax. If such waiver is granted, the sales or use tax due shall be
121 collected and remitted by the marketplace seller. The department shall develop guidelines
122 by rule that establish the criteria for obtaining a waiver, the process and procedure for a
123 marketplace facilitator or marketplace seller to apply for a waiver, and the process for
124 providing notice to an affected marketplace facilitator and marketplace seller of a waiver
125 obtained under the provisions of this subsection. Any rule or portion of a rule, as that term
126 is defined in section 536.010, that is created under the authority delegated in this section
127 shall become effective only if it complies with and is subject to all of the provisions of
128 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
129 nonseverable, and if any of the powers vested with the general assembly pursuant to
130 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
131 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
132 proposed or adopted after August 28, 2021, shall be invalid and void.

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

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

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

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

YES NO

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

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

106 **(3) Any county or municipality with an existing local use tax enacted prior to**
107 **January 1, 2022, shall be permitted to keep such existing local use tax at a rate not to**
108 **exceed the rate enacted as of January 1, 2022. If any such county or municipality places**

109 **the use tax measure of this section on the ballot and the measure fails to pass, the use tax**
 110 **enacted prior to January 1, 2022, shall remain in effect until it expires or is repealed,**
 111 **reduced, or raised by a future ballot measure. If any such county or municipality places**
 112 **the use tax measure of this section on the ballot and the measure passes, the use tax of this**
 113 **section shall replace the previously enacted use tax.**

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

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

126 ~~[144.1000. Sections 144.1000 to 144.1015 shall be known as and referred~~
 127 ~~to as the "Simplified Sales and Use Tax Administration Act".]~~

128
 129 ~~[144.1003. As used in sections 144.1000 to 144.1015, the following~~
 130 ~~terms shall mean:-~~

131 ~~———— (1) "Agreement", the streamlined sales and use tax agreement;~~

132 ~~———— (2) "Certified automated system", software certified jointly by the states~~
 133 ~~that are signatories to the agreement to calculate the tax imposed by each~~
 134 ~~jurisdiction on a transaction, determine the amount of tax to remit to the~~
 135 ~~appropriate state and maintain a record of the transaction;~~

136 ~~———— (3) "Certified service provider", an agent certified jointly by the states~~
 137 ~~that are signatories to the agreement to perform all of the seller's sales tax~~
 138 ~~functions;~~

139 ~~———— (4) "Person", an individual, trust, estate, fiduciary, partnership, limited~~
 140 ~~liability company, limited liability partnership, corporation or any other legal~~
 141 ~~entity;~~

142 ~~———— (5) "Sales tax", any sales tax levied pursuant to this chapter, section~~
 143 ~~32.085, or any other sales tax authorized by statute and levied by this state or its~~
 144 ~~political subdivisions;~~

145 ~~———— (6) "Seller", any person making sales, leases or rentals of personal~~
 146 ~~property or services;~~

147 ~~———— (7) "State", any state of the United States and the District of Columbia;~~

148 ~~———— (8) "Use tax", the use tax levied pursuant to this chapter.]~~

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~~[144.1006. For the purposes of reviewing and, if necessary, amending the agreement embodying the simplification recommendations contained in section 144.1015, the state may enter into multistate discussions. For purposes of such discussions, the state shall be represented by seven delegates, one of whom shall be appointed by the governor, two members appointed by the speaker of the house of representatives, one member appointed by the minority leader of the house of representatives, two members appointed by the president pro tempore of the senate and one member appointed by the minority leader of the senate. The delegates need not be members of the general assembly and at least one of the delegates appointed by the speaker of the house of representatives and one member appointed by the president pro tempore of the senate shall be from the private sector and represent the interests of Missouri businesses. The delegates shall recommend to the committees responsible for reviewing tax issues in the senate and the house of representatives each year any amendment of state statutes required to be substantially in compliance with the agreement. Such delegates shall make a written report by the fifteenth day of January each year regarding the status of the multistate discussions and upon final adoption of the terms of the sales and use tax agreement by the multistate body.]~~

~~[144.1009. No provision of the agreement authorized by sections 144.1000 to 144.1015 in whole or in part invalidates or amends any provision of the law of this state. Implementation of any condition of this agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by action of the general assembly. Such report shall be delivered to the governor, the secretary of state, the president pro tempore of the senate and the speaker of the house of representatives and shall simultaneously be made publicly available by the secretary of state to any person requesting a copy.]~~

~~[144.1012. Unless five of the seven delegates agree, the delegates shall not enter into or vote for any streamlined sales and use tax agreement that:~~

~~————— (1) Requires adoption of a definition of any term that would cause any item or transaction that is now excluded or exempted from sales or use tax to become subject to sales or use tax;~~

~~————— (2) Requires the state of Missouri to fully exempt or fully apply sales taxes to the sale of food or any other item;~~

~~————— (3) Restricts the ability of local governments under statutes in effect on August 28, 2002, to enact one or more local taxes on one or more items without application of the tax to all sales within the taxing jurisdiction, however, restriction of any such taxes allowed by statutes effective after August 28, 2002, may be supported;~~

191 ~~_____ (4) Provides for adoption of any uniform rate structure that would result~~
 192 ~~in a tax increase for any Missouri taxpayer;~~
 193 ~~_____ (5) Affects the sourcing of sales tax transactions; or~~
 194 ~~_____ (6) Prohibits limitations or thresholds on the application of sales and use~~
 195 ~~tax rates or prohibits any current sales or use tax exemption in the state of~~
 196 ~~Missouri, including exemptions that are based on the value of the transaction or~~
 197 ~~item.]~~
 198
 199 ~~_____ [144.1015. In addition to the requirements of section 144.1012, the~~
 200 ~~delegates should consider the following features when deciding whether or not~~
 201 ~~to enter into any streamlined sales and use tax agreement:~~
 202 ~~_____ (1) The agreement should address the limitation of the number of state~~
 203 ~~rates over time;~~
 204 ~~_____ (2) The agreement should establish uniform standards for administration~~
 205 ~~of exempt sales and the form used for filing sales and use tax returns and~~
 206 ~~remittances;~~
 207 ~~_____ (3) The agreement should require the state to provide a central, electronic~~
 208 ~~registration system that allows a seller to register to collect and remit sales and~~
 209 ~~use taxes for all signatory states;~~
 210 ~~_____ (4) The agreement should provide that registration with the central~~
 211 ~~registration system and the collection of sales and use taxes in the signatory states~~
 212 ~~will not be used as a factor in determining whether the seller has nexus with a~~
 213 ~~state for any tax;~~
 214 ~~_____ (5) The agreement should provide for reduction of the burdens of~~
 215 ~~complying with local sales and use taxes through the following so long as they~~
 216 ~~do not conflict with the provisions of section 144.1012:~~
 217 ~~_____ (a) Restricting variances between the state and local tax bases;~~
 218 ~~_____ (b) Requiring states to administer any sales and use taxes levied by local~~
 219 ~~jurisdictions within the state so that sellers collecting and remitting these taxes~~
 220 ~~will not have to register or file returns with, remit funds to, or be subject to~~
 221 ~~independent audits from local taxing jurisdictions;~~
 222 ~~_____ (c) Restricting the frequency of changes in the local sales and use tax~~
 223 ~~rates and setting effective dates for the application of local jurisdictional~~
 224 ~~boundary changes to local sales and use taxes; and~~
 225 ~~_____ (d) Providing notice of changes in local sales and use tax rates and of~~
 226 ~~changes in the boundaries of local taxing jurisdictions;~~
 227 ~~_____ (6) The agreement should outline any monetary allowances that are to be~~
 228 ~~provided by the states to sellers or certified service providers. The agreement~~
 229 ~~must allow for a joint public and private sector study of the compliance cost on~~
 230 ~~sellers and certified service providers to collect sales and use taxes for state and~~
 231 ~~local governments under various levels of complexity to be completed by July 1,~~
 232 ~~2003;~~

- 233 ~~————— (7) The agreement should require each state to certify compliance with~~
234 ~~the terms of the agreement prior to joining and to maintain compliance, under the~~
235 ~~laws of the member state, with all provisions of the agreement while a member,~~
236 ~~only if the agreement and any amendment thereto complies with the provisions~~
237 ~~of section 144.1012;~~
- 238 ~~————— (8) The agreement should require each state to adopt a uniform policy for~~
239 ~~certified service providers that protects the privacy of consumers and maintains~~
240 ~~the confidentiality of tax information; and~~
- 241 ~~————— (9) The agreement should provide for the appointment of an advisory~~
242 ~~council of private sector representatives and an advisory council of nonmember~~
243 ~~state representatives to consult with in the administration of the agreement.]~~
244

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.

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