

FIRST REGULAR SESSION

HOUSE BILL NO. 712

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORRIS (140).

1377H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales tax exemptions.

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

Section A. Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

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

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and ~~sections 144.010 to 144.525 and 144.600 to 144.761~~ **chapter 144** and from the computation of the tax levied, assessed or payable ~~[pursuant to]~~ **under** the local sales tax law as defined in section 32.085, section 238.235, and ~~sections 144.010 to 144.525 and 144.600 to 144.745~~ **chapter 144**:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded ~~[pursuant to]~~ **under** section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing

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.

18 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into
19 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or
20 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will
21 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at
22 retail; economic poisons registered ~~[pursuant to the provisions of]~~ **under sections 281.220 to**
23 **281.310**, the Missouri pesticide registration ~~[law, sections 281.220 to 281.310]~~ **act**, which are
24 to be used in connection with the growth or production of crops, fruit trees or orchards applied
25 before, during, or after planting, the crop of which when harvested will be sold at retail or will
26 be converted into foodstuffs which are to be sold ultimately in processed form at retail;

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

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

39 (4) Replacement machinery, equipment, and parts and the materials and supplies solely
40 required for the installation or construction of such replacement machinery, equipment, and
41 parts, used directly in manufacturing, mining, fabricating or producing a product which is
42 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
43 the materials and supplies required solely for the operation, installation or construction of such
44 machinery and equipment, purchased and used to establish new, or to replace or expand existing,
45 material recovery processing plants in this state. For the purposes of this subdivision, a "material
46 recovery processing plant" means a facility that has as its primary purpose the recovery of
47 materials into a usable product or a different form which is used in producing a new product and
48 shall include a facility or equipment which are used exclusively for the collection of recovered
49 materials for delivery to a material recovery processing plant but shall not include motor vehicles
50 used on highways. For purposes of this section, the terms motor vehicle and highway shall have
51 the same meaning ~~[pursuant to]~~ **as under** section 301.010. For the purposes of this subdivision,
52 subdivision (5) of this subsection, and section 144.054, as well as the definition in subdivision
53 (9) of subsection 1 of section 144.010, the term "product" includes telecommunications services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

126 corporation, provided, however, that a municipality or other political subdivision may enter into
127 revenue-sharing agreements with private persons, firms, or corporations providing goods or
128 services, including management services, in or for the place of amusement, entertainment or
129 recreation, games or athletic events, and provided further that nothing in this subdivision shall
130 exempt from tax any amounts retained by any private person, firm, or corporation under such
131 revenue-sharing agreement;

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

152 (19) All sales made by or to religious and charitable organizations and institutions in
153 their religious, charitable or educational functions and activities and all sales made by or to all
154 elementary and secondary schools operated at public expense in their educational functions and
155 activities;

156 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
157 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
158 including fraternal organizations which have been declared tax-exempt organizations ~~[pursuant~~
159 ~~to]~~ **under** Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their
160 civic or charitable functions and activities and all sales made to eleemosynary and penal
161 institutions and industries of the state, and all sales made to any private not-for-profit institution

162 of higher education not otherwise excluded ~~[pursuant to]~~ **under** subdivision (19) of this
163 subsection or any institution of higher education supported by public funds, and all sales made
164 to a state relief agency in the exercise of relief functions and activities;

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

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

194 (a) Used exclusively for agricultural purposes;

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

196 (c) Used directly in producing farm products to be sold ultimately in processed form or
197 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
198 ultimately in processed form at retail;

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

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

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

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

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

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

238 (25) Excise taxes, collected on sales at retail, imposed ~~by~~ **under 26 U.S.C. Sections**
239 4041, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 ~~[of Title 26, United States Code]~~.
240 The director of revenue shall promulgate rules ~~[pursuant to]~~ **under** chapter 536 to eliminate all
241 state and local sales taxes on such excise taxes;

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

247 (27) All sales made to an interstate compact agency created ~~[pursuant to]~~ **under** sections
248 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities
249 of such agency as provided ~~[pursuant to]~~ **under** the compact;

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

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

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

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

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

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

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

269 (35) All sales of feed which are developed for and used in the feeding of pets owned by
270 a commercial breeder when such sales are made to a commercial breeder, as defined in section
271 273.325, and licensed ~~[pursuant to]~~ **under** sections 273.325 to 273.357;

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

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

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

291 (37) All sales or other transfers of tangible personal property to a lessor who leases the
292 property under a lease of one year or longer executed or in effect at the time of the sale or other
293 transfer to an interstate compact agency created ~~[pursuant to]~~ **under** sections 70.370 to 70.441
294 or sections 238.010 to 238.100;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379

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

382 **(46) All sales to a recipient of the award of the Purple Heart, as described under**
383 **10 U.S.C. Section 1127, who has been assigned a service-connected disability rating of one**
384 **hundred percent by the U.S. Department of Veterans Affairs under the provisions of Title**
385 **38 of the U.S. Code of Federal Regulations. Upon the death of such an individual, a**
386 **surviving spouse of such an individual shall receive the exemption authorized under this**
387 **subdivision until any time at which the surviving spouse enters into a new marriage. The**
388 **director of revenue shall promulgate rules pursuant to chapter 536 to effectuate the**
389 **provisions of this subdivision and to ensure that the individuals who are eligible for the**
390 **exemption provided under this subdivision shall be able to consistently receive such**
391 **exemption with minimal burden.**

392 3. Any ruling, agreement, or contract, whether written or oral, express or implied,
393 between a person and this state's executive branch, or any other state agency or department,
394 stating, agreeing, or ruling that such person is not required to collect sales and use tax in this
395 state despite the presence of a warehouse, distribution center, or fulfillment center in this state
396 that is owned or operated by the person or an affiliated person shall be null and void unless it is
397 specifically approved by a majority vote of each of the houses of the general assembly. For
398 purposes of this subsection, an "affiliated person" means any person that is a member of the same
399 controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of
400 1986, as amended, as the vendor or any other entity that, notwithstanding its form of
401 organization, bears the same ownership relationship to the vendor as a corporation that is a
402 member of the same controlled group of corporations as defined in Section 1563(a) of the
403 Internal Revenue Code, as amended.

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