

FIRST REGULAR SESSION

SENATE BILL NO. 50

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0265S.02I

AN ACT

To repeal sections 143.011 and 144.021, RSMo, and to enact in lieu thereof nine new sections relating to taxation.

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

Section A. Sections 143.011 and 144.021, RSMo, are repealed and nine
2 new sections enacted in lieu thereof, to be known as sections 143.011, 144.021,
3 144.530, 144.535, 144.540, 144.545, 144.555, 144.565, and 144.575, to read as
4 follows:

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

5	If the Missouri taxable income is:	The tax is:
6	Not over \$1,000.00	1 1/2% of the Missouri taxable income
7	Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
8	Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over \$2,000
9	Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
10	Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over \$4,000
11	Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
12	Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess over \$6,000
13	Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
14	Over \$8,000 but not over \$9,000	\$260 plus 5 1/2% of excess over \$8,000
15	Over \$9,000	\$315 plus 6% of excess over \$9,000

16 2. (1) Beginning with the 2017 calendar year, the top rate of tax under
17 subsection 1 of this section may be reduced over a period of years. Each

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

18 reduction in the top rate of tax shall be by one-tenth of a percent and no more
19 than one reduction shall occur in a calendar year. No more than five reductions
20 shall be made under this subsection. Reductions in the rate of tax shall take
21 effect on January first of a calendar year and such reduced rates shall continue
22 in effect until the next reduction occurs.

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

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

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

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

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

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

44 4. **(1) In addition to the rate reductions under subsections 2 and**
45 **3 of this section, beginning with the 2020 calendar year, the top rate of**
46 **tax under subsection 1 of this section may be reduced over a period of**
47 **years. Reductions in the top rate of tax shall be in increments of**
48 **twenty-five thousandths of one percent, as provided under subdivision**
49 **(2) of this subsection. Reductions in the rate of tax shall take effect on**
50 **January first of a calendar year and such reduced rates shall continue**
51 **in effect until the next reduction occurs.**

52 (2) A reduction in the rate of tax shall only occur if the amount
53 of net general revenue collected under the provisions of sections

54 **144.530 to 144.565 in the previous fiscal year equals or exceeds forty**
55 **million dollars. For every twenty million dollars of net general revenue**
56 **collected during the same fiscal year above the threshold established**
57 **under this subdivision, the top rate of tax under subsection 1 of this**
58 **section shall be reduced by an additional twenty-five thousandths of**
59 **one percent. The aggregate amount of reductions made under this**
60 **subsection shall not exceed four-tenths of one percent.**

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

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

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

72 **[5.] 6.** As used in this section, the following terms mean:

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

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

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

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

144.021. 1. The purpose and intent of sections 144.010 to 144.510 is to
2 impose a tax upon the privilege of engaging in the business, in this state, of
3 selling tangible personal property and those services listed in section 144.020 and
4 for the privilege of titling new and used motor vehicles, trailers, boats, and

5 outboard motors purchased or acquired for use on the highways or waters of this
6 state which are required to be registered under the laws of the state of
7 Missouri. Except as otherwise provided, the primary tax burden is placed upon
8 the seller making the taxable sales of property or service and is levied at the rate
9 provided for in section 144.020. Excluding subdivision (9) of subsection 1 of
10 section 144.020 and sections 144.070, 144.440 and 144.450, the extent to which
11 a seller is required to collect the tax from the purchaser of the taxable property
12 or service is governed by section 144.285 and in no way affects sections 144.080
13 and 144.100, which require all sellers to report to the director of revenue their
14 "gross receipts", defined herein to mean the aggregate amount of the sales price
15 of all sales at retail, and remit tax at four percent of their gross receipts.

16 2. If any item of tangible personal property or service determined to be
17 taxable under the sales tax law or the compensating use tax law is modified by
18 a decision or order of:

- 19 (1) The director of revenue;
- 20 (2) The administrative hearing commission; or
- 21 (3) A court of competent jurisdiction;

22 which changes which items of tangible personal property or services are taxable,
23 and a reasonable person would not have expected the decision or order based
24 solely on prior law or regulation, all affected sellers shall be notified by the
25 department of revenue before such modification shall take effect for such
26 sellers. Failure of the department of revenue to notify a seller shall relieve such
27 seller of liability for taxes that would be due under the modification until the
28 seller is notified. The waiver of liability for taxes under this subsection shall only
29 apply to sellers actively selling the type of tangible personal property or service
30 affected by the decision on the date the decision or order is made or handed down
31 and shall not apply to any seller that has previously remitted tax on the tangible
32 personal property or taxable services subject to the decision or order or to any
33 seller that had prior notice that the seller must collect and remit the tax.

34 3. The notification required by subsection 2 of this section shall be
35 delivered by United States mail, electronic mail, or other secure electronic means
36 of direct communications. The department of revenue shall update its website
37 with information regarding modifications in sales tax law but such updates shall
38 not constitute a notification required by subsection 2 of this section.

39 4. **Notwithstanding any other provision of law to the contrary,**
40 **any seller, as defined in section 144.010, selling tangible personal**

41 property or services designated and defined as taxable under the
42 provisions of sections 144.010 to 144.565 for delivery into Missouri, who
43 does not have a physical presence in the state, is subject to the
44 provisions of sections 144.010 to 144.565, shall remit the sales tax, and
45 shall follow all applicable procedures and requirements of law as if the
46 seller had a physical presence in the state, provided the seller meets
47 either of the following criteria in the previous or current calendar
48 year:

49 (1) The seller's gross revenue from delivery of tangible personal
50 property into this state in the previous or current calendar year
51 exceeds one hundred thousand dollars; or

52 (2) The seller sold tangible personal property into this state in
53 two hundred or more separate transactions in the previous or current
54 calendar year.

55 No obligation to collect and remit sales tax required by this subsection
56 shall be applied prior to January 1, 2020.

144.530. For the purposes of sections 144.530 to 144.565, the
2 following terms shall mean:

3 (1) "Department", the department of revenue;

4 (2) "Eligible seller", a seller as described in subsection 4 of
5 section 144.021 that does not have a physical presence in this
6 state. The seller shall remain eligible for participation in the
7 simplified remote sales tax remittance program unless the seller
8 establishes a physical presence for the purpose of making retail sales
9 as defined in section 144.010;

10 (3) "Locality", a county, municipality, or other political
11 subdivision authorized to impose a local sales or use tax;

12 (4) "Simplified remote sales tax", the tax to be collected, reported,
13 and remitted by eligible sellers who are participating in the simplified
14 remote sales tax remittance program under sections 144.530 to 144.565;

15 (5) "Simplified remote sales tax remittance program" or
16 "program", the program established under sections 144.530 to 144.565 to
17 provide a mechanism for eligible sellers to collect, report, and remit the
18 simplified remote sales tax.

144.535. 1. In lieu of the sales or use taxes otherwise due by or
2 on behalf of Missouri customers who have purchased items from an
3 eligible seller that were shipped or otherwise delivered into the state

4 by the eligible seller, there is hereby established the "Simplified
5 Remote Sales Tax Remittance Program", designed to allow an eligible
6 seller who participates in the program to collect, report, and remit the
7 simplified remote sales tax authorized under the provisions of sections
8 144.530 to 144.565. Participation in the program shall be by election of
9 the eligible seller, and only those eligible sellers accepted into the
10 program shall collect and remit the simplified remote sales
11 tax. Participation in the program shall not be construed as subjecting
12 an eligible seller to franchise, income, occupation, or any other type of
13 taxes or licensing requirements levied or imposed by the state or any
14 locality.

15 2. The program shall be administered by the department, which
16 shall develop and make available to eligible sellers an easily accessible,
17 online system in which to collect, report, and remit the simplified
18 remote sales tax. Participants in the program are required to collect,
19 report, and remit the simplified remote sales tax for all sales delivered
20 into the state. Eligible sellers may continue in the program if they
21 comply with all provisions of this chapter and procedures adopted by
22 the director of revenue for participation in the program. The election
23 made by an eligible seller to participate in the program may be
24 withdrawn or revoked only upon permission of the director of revenue
25 and subject to such terms and conditions as he or she may prescribe.

26 3. In order to participate in the program, an eligible seller shall
27 apply to the department on a form designed by the department for that
28 purpose. The application shall require, at a minimum, that the eligible
29 seller:

30 (1) Certifies that the seller is an eligible seller as defined in
31 section 144.530;

32 (2) Agrees to collect, report, and remit the simplified remote
33 sales tax for all sales delivered into the state as long as the seller
34 remains a participant in the program;

35 (3) Agrees to provide the director of revenue with information
36 related to sales into the state as required by this section or requested
37 by the department; and

38 (4) Agrees to comply with all program reporting requirements.
39 Any applicant who falsely certifies on the application that the seller is
40 an eligible seller with the state is subject to the negligence or fraud

41 penalties under sections 144.480 to 144.510.

144.540. 1. The simplified remote sales tax due shall be equal to
2 six and one-half percent of the sales price on any tangible personal
3 property, excluding motor vehicles, trailers, motorcycles, mopeds,
4 motortricycles, boats, and outboard motors required to be titled under
5 the laws of the state of Missouri and subject to tax under subdivision
6 (9) of subsection 1 of section 144.020, or three and one-half percent of
7 the sales price on food, as defined in section 144.014, sold or delivered
8 into the state by an eligible seller.

9 2. The simplified remote sales tax collected by the eligible seller
10 shall be reported in the same manner as provided under sections
11 144.090 to 144.115. The required reporting from the eligible seller shall
12 only include statewide totals of the simplified remote sales taxes
13 collected and remitted, and shall not require information related to the
14 location of purchasers or amount of sales into a specific locality.

15 3. No eligible seller shall be required to collect the sales tax at
16 a rate greater than the rate provided in subsection 1 of this section,
17 regardless of the combined actual tax rates that may otherwise be
18 applicable. Additionally, no sales for which the simplified remote sales
19 tax is collected shall be subject to any additional sales or use tax from
20 any locality levying a sales or use tax with respect to the purchase or
21 use of the property, regardless of the actual tax rate that might have
22 otherwise been applicable.

23 4. The eligible seller shall collect the tax on all purchases
24 delivered into the state unless the purchaser furnishes the eligible
25 seller with a valid exemption certificate or direct pay agreement
26 authorized by the department. The eligible seller shall retain all
27 exemption certificates or direct pay agreements in its files or in such
28 other manner as directed by the department.

29 5. The eligible seller shall provide the purchaser with a
30 statement or invoice showing that the simplified remote sales tax was
31 collected and is to be remitted on the purchaser's behalf.

32 6. The provisions of sections 144.071 to 144.510 are incorporated
33 by reference to the collection and remittance of the simplified remote
34 sales tax.

144.545. 1. Any purchaser who pays a simplified remote sales tax
2 higher than the actual combined state and local sales tax levied in the

3 locality where the sale was delivered may file for a refund of the excess
4 amount paid to the eligible seller, pursuant to procedures established
5 by the director. All other taxpayers may claim a refund in the manner
6 prescribed under section 144.190.

7 2. Any purchaser seeking a refund or credit of excess taxes paid
8 to an eligible seller shall maintain records documenting the amount of
9 simplified remote sales tax paid. Refund requests shall require proper
10 documentation of amounts paid by the purchaser and shall be
11 submitted to the director with the claim for refund.

144.555. 1. The proceeds of simplified remote sales tax paid
2 under sections 144.530 to 144.565 shall be distributed by a formula
3 determined by the director of revenue by regulation to be updated
4 annually.

5 2. The manner of distribution of the proceeds from the simplified
6 remote sales tax paid to localities shall occur as determined by the
7 department.

144.565. For the purpose of more efficiently securing the
2 payment and accounting for the simplified remote sales tax, the
3 director of revenue shall make, promulgate, and enforce reasonable
4 rules and regulations for the administration and enforcement of the
5 provisions of sections 144.530 to 144.565. Any rule or portion of a rule,
6 as that term is defined in section 536.010 that is created under the
7 authority delegated in this section shall become effective only if it
8 complies with and is subject to all of the provisions of chapter 536, and,
9 if applicable, section 536.028. This section and chapter 536 are
10 nonseverable and if any of the powers vested with the general assembly
11 pursuant to chapter 536, to review, to delay the effective date, or to
12 disapprove and annul a rule are subsequently held unconstitutional,
13 then the grant of rulemaking authority and any rule proposed or
14 adopted after August 28, 2019, shall be invalid and void.

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

3 (1) "Marketplace facilitator", a person that contracts with sellers
4 to facilitate for consideration, regardless of whether deducted as fees
5 from the transaction, the sale of the seller's products through an
6 electronic marketplace operated by a person, and engages:

7 (a) Either directly or indirectly, through one or more affiliated

8 persons in any of the following:

9 a. Transmitting or otherwise communicating the offer or
10 acceptance between the purchaser and marketplace seller;

11 b. Owning or operating the infrastructure, electronic or physical,
12 or technology that brings purchasers and marketplace sellers together;

13 c. Providing a virtual currency that purchasers are allowed or
14 required to use to purchase products from the marketplace seller; or

15 d. Software development or research and development activities
16 related to any of the activities described in paragraph (b) of this
17 subdivision if such activities are directly related to an electronic
18 marketplace operated by a person or an affiliated person; and

19 (b) In any of the following activities with respect to the
20 marketplace seller's products:

21 a. Payment processing services;

22 b. Fulfillment or storage services;

23 c. Listing products for sale;

24 d. Setting prices;

25 e. Branding sales as those of the marketplace facilitator;

26 f. Order taking;

27 g. Advertising or promotion; or

28 h. Providing customer service or accepting or assisting with
29 returns or exchanges.

30 A marketplace facilitator is a seller and shall comply with the
31 provisions of this chapter;

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

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

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

44 (5) "Retail sale", the same meaning as defined in section 144.011,

45 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles,
46 boats, and outboard motors required to be titled under the laws of the
47 state and subject to tax under subdivision (9) of subsection 1 of section
48 144.020;

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

52 2. By no later than January 1, 2020, marketplace facilitators that
53 reach the threshold provided under subsection 4 of section 144.021 shall
54 register with the department to collect and remit sales tax on sales
55 made through the marketplace facilitator's marketplace by or on behalf
56 of a marketplace seller that are delivered in the state, whether by the
57 marketplace facilitator or another person. Such retail sales shall
58 include those made directly by the marketplace facilitator and shall
59 also include those retail sales made by marketplace sellers through the
60 marketplace facilitator's marketplace. The collection and reporting
61 requirements of this subsection shall not apply to retail sales other
62 than those made through a marketplace facilitator's marketplace.

63 3. Marketplace facilitators that collect sales tax under this
64 section may report and remit the tax in accordance with the provisions
65 of sections 144.530 to 144.565, and shall maintain records of all sales
66 delivered to a location in the state, including copies of invoices
67 showing the purchaser, address, purchase amount, and sales tax
68 collected. Such records shall be made available for review and
69 inspection upon request by the department.

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

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

77 6. Any taxpayer who remits sales tax under this section shall be
78 entitled to refunds or credits to the same extent and in the same
79 manner provided under section 144.190 for taxes collected and remitted
80 under this section.

81 7. Marketplace facilitators shall be subject to the penalty

82 **provisions, procedures, and reporting requirements of this chapter.**

83 **8. The distribution of the sales tax remitted by marketplace**
84 **facilitators shall be made in accordance with the provisions of section**
85 **144.555.**

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