

SECOND REGULAR SESSION

SENATE BILL NO. 840

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 27, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5974S.011

AN ACT

To amend chapter 144, RSMo, by adding thereto one new section relating to sales and use tax collection.

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

Section A. Chapter 144, RSMo, is amended by adding thereto one new
2 section, to be known as section 144.001, to read as follows:

144.001. 1. This section shall be known and may be cited as the
2 "Sales Tax Technology Act".

3 2. As used in this section, the following terms mean:

4 (1) "Automated sales and use tax collection system", a technology
5 system capable of automatic collection and remittance of state and
6 local sales and use tax collections by a seller on any sales and use tax
7 transaction when the original payment is made by a credit or debit
8 card by the purchaser;

9 (2) "Delinquent business", any business that has exhausted all
10 remedies to appeal a decision of a court of competent jurisdiction
11 under this chapter relating to nonfiling, nonpayment, or late payment
12 of state and local sales or use taxes in this state on or after July 1, 2013;

13 (3) "Director", the director of the department of revenue or the
14 director's designee;

15 (4) "Electronic cash register system", any electronic cash register
16 system capable of processing the automated sales and use tax collection
17 system, unless implementation is deferred as provided in this section;

18 (5) "New business", any business with sales and use tax
19 transactions that commences operations in this state on or after July
20 1, 2013, unless implementation is deferred as provided in this section;

21 (6) "Other business", any business that is not a new business or

22 delinquent business as defined in this section;

23 (7) "Payment service provider", the payment service provider
24 capable of processing an automated sales and use tax collection
25 transaction via the automated sales and use tax collection system;

26 (8) "Sales and use tax transaction", any taxable transaction as
27 levied by this chapter;

28 (9) "Third-party tax collection and remittance provider", the
29 third-party tax collection and remittance provider capable of providing
30 an automated sales and use tax collection system that has contracted
31 with the director to implement the automated sales and use tax
32 collection system and that provides for direct payment to the
33 department of revenue for all credit and debit card transactions
34 involving the collection and remittance of sales or use tax on
35 transactions processed through the electronic cash register system and
36 then processed through a payment service provider.

37 3. On July 1, 2013, the department of revenue shall implement an
38 automated sales and use tax system for the collection and remittance
39 of state and local sales and use taxes. The system shall be mandatory
40 for any new business or delinquent business. Any other business may
41 adopt and voluntarily enroll in the system. All costs associated with
42 the purchasing and maintaining of the hardware and software of the
43 automated sales and use tax transmission system shall be the
44 responsibility of the business subject to any credit, offset, or
45 adjustment as may be authorized by the director in the implementation
46 of the system. Each new business shall receive one installed and
47 operational electronic cash register hardware unit and system software
48 at the cost of the payment service provider. The department shall
49 notify any new business or delinquent business of the requirements of
50 this section and such businesses shall have thirty calendar days to
51 begin the operation of the system as provided in this chapter. Failure
52 to comply within the thirty calendar days shall result in revocation of
53 the business's state sales and use tax license in addition to other
54 penalty provisions. All transaction fees associated with use of a credit
55 or debit card shall be the responsibility of the businesses. The
56 department shall provide a method for reconciliation of any taxes paid
57 through the automated sales and use tax transmission system. This
58 method of reconciliation shall be developed by the director so as to

59 provide for an adjustment to the sales tax return of the merchant for
60 returns of merchandise and for refunds paid to the purchaser.

61 4. The director is authorized to contract with one or more third-
62 party tax collection and remittance providers to implement and operate
63 the automated sales and use tax collection system. The system, at a
64 minimum, shall include:

65 (1) A process requiring participating businesses to use an
66 electronic cash register system for the receipt and processing of all
67 credit and debit transactions;

68 (2) A requirement that participating businesses electronically
69 transmit all credit and debit transactions to their respective payment
70 service provider at or near the time of the transaction, but not less
71 than once per business day. Such transmittal may be by either a direct
72 system-to-system interface between the businesses' electronic cash
73 register system and the payment service provider or between an
74 in-store data communication processor and the payment service
75 provider;

76 (3) A requirement that the minimum data to be transmitted by
77 the participating business to the payment service provider include:

78 (a) The total sale or return amount on credit and debit card
79 transactions;

80 (b) The total taxable sale or taxable return amount on credit and
81 debit card transactions;

82 (c) The total amount of sales or use tax applicable on credit and
83 debit card transactions;

84 (d) A unique merchant identification number value indicating
85 both the specific merchant for whom the transaction is being processed
86 from which the payment service provider system can then derive the
87 exact merchant involved in the transaction and the exact location from
88 which the transaction is being processed;

89 (4) A process requiring the participating business to, once a
90 business day, electronically transmit to the director or the director's
91 contractual third-party tax collection and remittance provider, the
92 cumulative amounts and information required in subdivision (3) of this
93 subsection;

94 (5) A requirement that the payment service provider of the
95 participating businesses electronically transmit to the director or the

96 director's contractual third-party tax collection and remittance
97 provider, at least once every business day, the information as to the
98 sales tax applicable to each credit and debit card transaction along
99 with the data required in subdivision (3) of this subsection. Such
100 information shall include a cumulative net total of credit and debit
101 transactions, incremented by sales transactions and offset by return
102 transactions;

103 (6) A requirement that the director's contractual third-party tax
104 collection and remittance provider provide to the merchant and the
105 director a secure web portal with the following information:

106 (a) Information pertaining to the data listed in subdivision (3) of
107 this subsection and, in addition, at the conclusion of each tax reporting
108 period, a report that the merchant shall be able to download and print
109 as relates to the total sales of the merchant in any tax month for which
110 sales tax is levied, and the total amount of sales tax transmitted to the
111 director's direct deposit account on behalf of that merchant by the
112 director's contractual third-party tax collection and remittance
113 provider;

114 (b) Information from the secure web portal made available to the
115 director that reflects the total sales of the merchant in any tax month
116 for which sales tax is levied, and the total amount of sales tax
117 transmitted to the director's direct deposit account on behalf of that
118 merchant by the director's contractual third-party tax collection and
119 remittance provider.

120 5. The director shall establish a separate direct deposit account
121 that shall receive the transmission of all sales tax instructed to be paid
122 to the director's direct deposit account by the director or the director's
123 contractual third-party tax collection and remittance provider, and the
124 director shall authorize and require such deposits to be made to the
125 director's direct deposit account on a daily business day basis.

126 6. At a specified time on each business day, each electronic cash
127 register system shall transmit the data listed in subdivision (3) of
128 subsection 4 of this section to the director or the director's contractual
129 third-party tax collection and remittance provider.

130 7. Upon validating the amounts from the payment service
131 provider, the director or the director's contractual third-party tax
132 collection and remittance provider shall electronically generate

133 instructions directing the payment service provider to remit taxes to
134 the director's direct deposit account on behalf of the merchant business
135 as follows:

136 (1) For each unique business location, the director or the
137 director's contractual third-party tax collection and remittance
138 provider shall make available to the director the information as it
139 relates to the aggregate of the total tax amounts calculated by all of the
140 electronic cash register systems as to credit and debit transactions at
141 that business location via the secure web portal. The director's
142 contractual third-party tax collection and remittance provider shall
143 provide an interface between the merchant identification number value
144 and the Missouri sales and use tax identification number assigned to
145 the merchant business by the director through the secure web portal;

146 (2) The director or the director's contractual third-party tax
147 collection and remittance provider shall forward the information as it
148 relates to the aggregated total tax amount on credit and debit
149 transactions to the payment service provider along with:

150 (a) A copy of the payment service provider's merchant
151 identification number value and any other information required by the
152 payment service provider in order to make a positive association of the
153 business for whom taxes are being collected and remitted and the
154 merchants' payment processing account with the payment service
155 provider;

156 (b) A copy of the information to be included with the tax
157 remittance to the director to identify the business and business
158 location for which taxes are being remitted.

159 8. The director or the director's contractual third-party tax
160 collection and remittance provider shall electronically generate
161 instructions before daily settlement by the payment service provider,
162 directing the payment service provider to remit taxes directly to the
163 director's direct deposit account on behalf of the merchant business.

164 9. During the daily settlement process, for each business for
165 which tax is being remitted to the director in accordance with
166 instructions from the director or the director's contractual third-party
167 tax collection and remittance provider, the payment service provider
168 shall:

169 (1) Direct a portion of the cardholder payments to be settled to

170 the indicated merchant business account, equal to the total tax amount
171 of sales and use tax on credit and debit transactions to the direct
172 deposit account of the director. The director's direct deposit account
173 and the merchant's direct deposit account shall be specified during
174 registration and configuration of the merchant business account when
175 the business is enrolled in the automated sales and use tax collection
176 system rather than solely to the businesses' direct deposit account
177 alone;

178 (2) Direct the balance of the total deposits to be settled during
179 any business day from the cardholder payments to the indicated
180 merchant business account. In addition to the businesses' merchant
181 direct deposit account, the director's direct deposit account shall be set
182 up in the automated sales and use tax collection system;

183 (3) Retain accurate totals of amounts remitted to the director's
184 direct deposit account for each of the various participating businesses,
185 including identifying information for such businesses as listed in
186 paragraph (d) of subdivision (3) of subsection 4 of this section, for
187 transmission to the director or the director's contractual third-party
188 tax collection and remittance provider.

189 10. After settlement has been performed by the payment service
190 provider, the payment service provider shall deliver a file containing
191 the information retained in subdivision (3) of subsection 9 of this
192 section back to the director or the director's contractual third-party tax
193 collection and remittance provider.

194 11. (1) In the event that the director contracts with a third-party
195 tax collection and remittance provider to implement and operate the
196 automated sales and use tax collection system, the third-party tax
197 collection and remittance provider shall retain records pertaining to
198 the tax collection and remittance and make them available on a web
199 portal for the use of the director. The web portal shall provide the
200 director with the ability to obtain reports for individual business
201 locations, segregated or aggregated by a date with up to one hundred
202 eighty-five days of history, business location, multiple locations within
203 a single business, an individual business or all businesses to retrieve
204 download files detailing all activity, including business tax
205 identification and business location identifier. Such records
206 maintained on the web portal shall include:

207 **(a) Daily totals by location of gross sales amounts, taxable sales**
208 **amounts, and tax amounts reported on all credit and debit transactions**
209 **by all participating business locations;**

210 **(b) A record of all business identifiers and tax instructions**
211 **provided to payment service providers as provided in this section;**

212 **(c) A record of all business identifiers, remittance and related**
213 **amounts, and status and warning messages returned to the third-party**
214 **tax collection and remittance provider by the payment service provider**
215 **as provided in subsection 9 of this section.**

216 **(2) In the event of a settlement, the third-party tax collection and**
217 **remittance provider shall electronically instruct that the sales and use**
218 **tax collected be remitted within forty-eight hours.**

219 **(3) The third-party tax collection and remittance provider shall**
220 **make available to the director a telephone-based customer-support**
221 **capability during normal business hours for the purpose of responding**
222 **to inquiries regarding participating businesses and tax payments.**

223 **(4) The third-party tax collection and remittance provider shall**
224 **make available to the director an after-hours support telephone**
225 **number for the purpose of receiving information regarding data**
226 **processing service issues and responding to the director after normal**
227 **business hours or before the next business day.**

228 **(5) Such contract shall be for the implementation and operation**
229 **of the entire automated sales and use tax collection system and not for**
230 **portions thereof.**

231 **12. Any new business or delinquent business that complies with**
232 **the provisions of this section shall be exempt from the provisions of**
233 **section 144.087 relating to the posting of a sales tax security bond.**

234 **13. Any business enrolled in the automated sales and use tax**
235 **collection system shall be entitled to claim the allowance provided**
236 **under section 144.140 for all sales and use tax collected and paid to the**
237 **director for any tax reporting period, and shall be allowed to validate**
238 **such allowance by attaching to all sales and use tax returns the**
239 **monthly reconciliation report generated by the director's contractual**
240 **third-party tax collection and remittance provider. Any returns or**
241 **adjustments to previous months' sales for any tax reporting period**
242 **shall be validated and then credited as an adjustment against sales tax**
243 **or use tax due when the returns or adjustments have been reflected on**

244 the monthly payment service provider's credit or debit card
245 reconciliation reports.

246 14. Any business with an annual filing status requirement under
247 section 144.080 shall be exempt from the provisions of this
248 section. Businesses that file monthly sales tax returns and remit
249 payments on a four-times per monthly basis shall be exempt from the
250 implementation of the automated sales and use tax collection system.

251 15. The director may defer implementation of the automated
252 sales and use tax collection system for certain businesses for which the
253 integration of the business's existing system does not interface with the
254 electronic cash register system as of July 1, 2013, such as pay at the
255 pump petroleum service stations applications and hotel or motel
256 reservation systems with integrated payments. Integration of such
257 systems shall be implemented as promptly as reasonably possible.

258 16. The department of revenue may promulgate rules to
259 implement the provisions of this section. Any rule or portion of a rule,
260 as that term is defined in section 536.010, that is created under the
261 authority delegated in this section shall become effective only if it
262 complies with and is subject to all of the provisions of chapter 536 and,
263 if applicable, section 536.028. This section and chapter 536 are
264 nonseverable and if any of the powers vested with the general assembly
265 under chapter 536 to review, to delay the effective date, or to
266 disapprove and annul a rule are subsequently held unconstitutional,
267 then the grant of rulemaking authority and any rule proposed or
268 adopted after August 28, 2012, shall be invalid and void.

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