

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 584
97TH GENERAL ASSEMBLY

4396H.07C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 136.300, 142.815, 143.221, 144.010, 144.018, 144.020, 144.030, 144.044, 144.049, 144.080, and 144.190, RSMo, and to enact in lieu thereof fourteen new sections relating to taxation, with an existing penalty provision.

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

Section A. Sections 136.300, 142.815, 143.221, 144.010, 144.018, 144.020, 144.030,
2 144.044, 144.049, 144.080, 144.190, RSMo, are repealed and fourteen new sections enacted in
3 lieu thereof, to be known as sections 67.585, 136.300, 142.815, 143.221, 144.010, 144.018,
4 144.020, 144.030, 144.044, 144.049, 144.052, 144.058, 144.080, and 144.190, to read as
5 follows:

**67.585. 1. The governing body of any county of the first classification with more
2 than two hundred thousand but fewer than two hundred sixty thousand inhabitants,
3 through the creation of a recreational and community center district which shall include
4 only the area encompassed by the portion of a school district located within that county
5 having an average daily attendance for the 2012-13 school year between eleven thousand
6 and twelve thousand students and any public park located wholly or partially within that
7 portion of the school district, upon voter approval as outlined in subsections 2 and 3 of this
8 section, shall impose, by order or ordinance, a sales tax on all retail sales made within the
9 recreational and community center district which are subject to sales tax under chapter
10 144. The tax authorized in this section shall not exceed one-half of one percent and shall
11 be imposed for the purpose of funding the construction, maintenance, and operation of and
12 the purchase of equipment for community centers and other purposes of recreation and
13 wellness as determined by the board which is established in subsection 8 of this section.**

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.

14 **The tax authorized in this section shall be in addition to all other sales taxes imposed by**
15 **law and shall be stated separately from all other charges and taxes.**

16 **2. (1) No such order or ordinance adopted under subsection 1 of this section shall**
17 **become effective unless the governing body of the county submits to the voters residing**
18 **within the recreational and community center district on any date available for elections**
19 **in the county, a proposal to authorize the governing body of the county to impose a tax**
20 **under this section; or**

21 **(2) If the governing body of the county receives a petition signed by ten percent of**
22 **the registered voters of the county within the recreational and community center district**
23 **who voted in the last gubernatorial election calling for an election to impose a tax under**
24 **this section, the governing body shall submit to the voters of the county within the**
25 **recreational and community center district on any date available for elections in the**
26 **county, a proposal to authorize the governing body of the county to impose a tax under this**
27 **section; or**

28 **(3) If the governing body of a special charter city with more than twenty-nine**
29 **thousand but fewer than thirty-two thousand inhabitants, and a governing body of a home**
30 **rule city with more than four hundred thousand inhabitants and located in more than one**
31 **county, jointly request, the governing body of the county shall submit to the voters of the**
32 **county within the recreational and community center district on any date available for**
33 **elections in the county a proposal to authorize the governing body of the county to impose**
34 **a tax under this section.**

35

36 **All costs associated with placing such a question to the voters within the recreational and**
37 **community center district shall be borne by the cities referenced in subdivision (3) of this**
38 **subsection. If such tax is authorized by the voters of the recreational and community**
39 **center district, the cost may be reimbursed to such cities upon implementation of the tax.**

40 **3. The ballot of submission shall contain, but need not be limited to, the following**
41 **language:**

42 **Shall the county of (county's name) impose a sales tax of (insert amount)**
43 **within the boundaries of the (insert name) school district for the purpose of funding**
44 **the construction, repair, improvement, maintenance, and operation of and purchase of**
45 **equipment for community centers and other recreational facilities and programs?**

46

47 **If a majority of the votes cast on the question by the qualified voters voting thereon are in**
48 **favor of the question, then the tax shall become effective on the first day of the second**
49 **calendar quarter after the director of revenue receives notification of adoption of the local**

50 sales tax. If a majority of the votes cast on the question by the qualified voters voting
51 thereon are opposed to the question, then the tax shall not become effective unless and until
52 the question is resubmitted under this section to the qualified voters and such question is
53 approved by the requisite majority of the qualified voters voting on the question. In no
54 event shall a proposal under this section be submitted to the voters sooner than twelve
55 months from the date of the last proposal under this section.

56 4. Except as modified in this section, all provisions of sections 32.085 and 32.087
57 shall apply to the tax imposed under this section.

58 5. All revenue collected under this section by the director of the department of
59 revenue on behalf of any county, except for one percent for the cost of collection which
60 shall be deposited in the state's general revenue fund after payment of premiums for surety
61 bonds as provided in section 32.087, shall be deposited in a special trust fund, which is
62 hereby created and shall be known as the "Recreational and Community Center District
63 Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in
64 the fund shall not be deemed to be state funds and shall not be commingled with any funds
65 of the state. The director may make refunds from the amounts in the fund and credited
66 to the county for erroneous payments and overpayments made and may redeem
67 dishonored checks and drafts deposited to the credit of such county.

68 6. A question of repeal of the sales tax authorized in this section shall be submitted
69 to the voters on any date available for elections in the county of the recreational and
70 community center district by the governing body of any county that has adopted the sales
71 tax authorized in this section if:

72 (1) The board authorized in subsection 8 of this section requests such; or

73 (2) A petition signed by a number of registered voters of the county within the
74 recreational and community center district equal to at least ten percent of the number of
75 registered voters of the county within the recreational and community center district voting
76 in the last gubernatorial election is received requesting such.

77

78 If a majority of the votes cast on the question by the qualified voters voting thereon are in
79 favor of the repeal, that repeal shall become effective on December thirty-first of the
80 calendar year in which such repeal was approved. If less than a majority of the votes cast
81 on the question by the qualified voters voting thereon are in favor of the repeal, then the
82 sales tax authorized in this section shall remain effective until the question is resubmitted
83 under this section to the qualified voters. In no event shall a proposal under this section
84 be submitted to the voters sooner than twelve months from the date of the last proposal
85 under this section. No tax imposed under this section for the purpose of retiring bonds, as

86 authorized in subsection 8 of this section, shall be terminated until all such bonds have
87 been retired.

88 7. If the tax is repealed or terminated by any means, all funds remaining in the
89 special trust fund shall continue to be used solely for the designated purposes, and the
90 county shall notify the director of the department of revenue of the action at least ninety
91 days before the effective date of the repeal, and the director may order retention in the
92 trust fund, for a period of one year, of two percent of the amount collected after receipt of
93 such notice to cover possible refunds or overpayment of the tax and to redeem dishonored
94 checks and drafts deposited to the credit of such accounts. After one year has elapsed after
95 the effective date of abolition of the tax in such county, the director shall remit the balance
96 in the account to the county and close the account of that county. The director shall notify
97 each county of each instance of any amount refunded or any check redeemed from receipts
98 due to the county.

99 8. A board shall be established to administer the powers and duties as provided in
100 this section. The board may issue debt for the district as authorized under section 67.798.
101 All board members shall be residents of the recreational and community center district.
102 The board shall consist of eight members as follows:

103 (1) Four members appointed by the mayor of a home rule city with more than four
104 hundred thousand inhabitants and located in more than one county, with two of the first
105 members appointed for a two-year term and the other two members appointed for a
106 four-year term. Thereafter, each appointment shall be for a four-year term;

107 (2) Four members appointed by the mayor of a special charter city with more than
108 twenty-nine thousand but fewer than thirty-two thousand inhabitants, with two of the first
109 members appointed for a two-year term and the other two members appointed for a
110 four-year term. Thereafter, each appointment shall be for a four-year term.

111

112 A board member may be removed by the mayor who appointed him or her, at any time
113 during his or her term, for reasons of excessive absence at regularly scheduled board
114 meetings. The mayor shall appoint a replacement member to serve for the remainder of
115 the current term. No member may serve more than two full terms. A partial term shall
116 not be considered a term.

136.300. 1. With respect to any issue relevant to ascertaining the tax liability of a
2 taxpayer all laws of the state imposing a tax shall be strictly construed against the taxing
3 authority in favor of the taxpayer. The director of revenue shall have the burden of proof with
4 respect to any factual issue relevant to ascertaining the liability of a taxpayer only if:

5 (1) The taxpayer has produced evidence that establishes that there is a reasonable dispute
6 with respect to the issue; and

7 (2) The taxpayer has adequate records of its transactions and provides the department
8 of revenue reasonable access to these records[; and

9 (3) In the case of a partnership, corporation or trust, the net worth of the taxpayer does
10 not exceed seven million dollars and the taxpayer does not have more than five hundred
11 employees at the time the final decision of the director of the department of revenue is issued].

12 2. This section shall not apply to any issue with respect to the applicability of any tax
13 [exemption or] credit.

142.815. 1. Motor fuel used for the following nonhighway purposes is exempt from the
2 fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as
3 provided for in subdivision (1) of this subsection, if the tax has been paid and no refund has been
4 previously issued:

5 (1) Motor fuel used for nonhighway purposes including fuel for farm tractors or
6 stationary engines owned or leased and operated by any person and used exclusively for
7 agricultural purposes and including, beginning January 1, 2006, bulk sales of one hundred
8 gallons or more of gasoline made to farmers and delivered by the ultimate [vender] **vendor** to
9 a farm location for agricultural purposes only. As used in this section, the term "farmer" shall
10 mean any person engaged in farming in an authorized farm corporation, family farm, or family
11 farm corporation as defined in section 350.010. At the discretion of the ultimate [vender]
12 **vendor**, the refund may be claimed by the ultimate [vender] **vendor** on behalf of the consumer
13 for sales made to farmers and to persons engaged in construction for agricultural purposes as
14 defined in section 142.800. After December 31, 2000, the refund may be claimed only by the
15 consumer and may not be claimed by the ultimate [vender] **vendor** unless bulk sales of gasoline
16 are made to a farmer after January 1, 2006, as provided in this subdivision and the farmer
17 provides an exemption certificate to the ultimate [vender] **vendor**, in which case the ultimate
18 [vender] **vendor** may make a claim for refund under section 142.824 but shall be liable for any
19 erroneous refund;

20 (2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft
21 or for training, testing or research purposes of aircraft engines;

22 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized
23 flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly
24 exempted pursuant to another provision.

25 2. Subject to the procedural requirements and conditions set out in this chapter, the
26 following uses are exempt from the tax imposed by section 142.803 on motor fuel, and a
27 deduction or a refund may be claimed:

28 (1) Motor fuel for which proof of export is available in the form of a terminal-issued
29 destination state shipping paper and which is either:

30 (a) Exported by a supplier who is licensed in the destination state or through the bulk
31 transfer system;

32 (b) Removed by a licensed distributor for immediate export to a state for which all the
33 applicable taxes and fees (however nominated in that state) of the destination state have been
34 paid to the supplier, as a trustee, who is licensed to remit tax to the destination state; or which
35 is destined for use within the destination state by the federal government for which an exemption
36 has been made available by the destination state subject to procedural rules and regulations
37 promulgated by the director; or

38 (c) Acquired by a licensed distributor and which the tax imposed by this chapter has
39 previously been paid or accrued either as a result of being stored outside of the bulk transfer
40 system immediately prior to loading or as a diversion across state boundaries properly reported
41 in conformity with this chapter and was subsequently exported from this state on behalf of the
42 distributor; The exemption pursuant to paragraph (a) of this subdivision shall be claimed by a
43 deduction on the report of the supplier which is otherwise responsible for remitting the tax upon
44 removal of the product from a terminal or refinery in this state. The exemption pursuant to
45 paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund
46 application made to the director within three years. A refund claim may be made monthly or
47 whenever the claim exceeds one thousand dollars;

48 (2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and
49 constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and
50 undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more
51 than twenty-one gallons for use other than for highway purposes. Exempt use of undyed
52 kerosene shall be governed by rules and regulations of the director. If no rules or regulations are
53 promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules
54 and regulations of the Internal Revenue Service. A distributor or supplier delivering to a retail
55 facility shall obtain an exemption certificate from the owner or operator of such facility stating
56 that its sales conform to the dispenser requirements of this subdivision. A licensed distributor,
57 having obtained such certificate, may provide a copy to his or her supplier and obtain undyed
58 kerosene without the tax levied by section 142.803. Having obtained such certificate in good
59 faith, such supplier shall be relieved of any responsibility if the fuel is later used in a taxable
60 manner. An ultimate vendor who obtained undyed kerosene upon which the tax levied by
61 section 142.803 had been paid and makes sales qualifying pursuant to this subsection may apply
62 for a refund of the tax pursuant to application, as provided in section 142.818, to the director
63 provided the ultimate vendor did not charge such tax to the consumer;

64 (3) Motor fuel sold to the United States or any agency or instrumentality thereof. This
65 exemption shall be claimed as provided in section 142.818;

66 (4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public
67 roads and highways of this state when leased or owned and when being operated by a federally
68 recognized Indian tribe in the performance of essential governmental functions, such as
69 providing police, fire, health or water services. The exemption for use pursuant to this
70 subdivision shall be made available to the tribal government upon a refund application stating
71 that the motor fuel was purchased for the exclusive use of the tribe in performing named
72 essential governmental services;

73 (5) That portion of motor fuel used to operate equipment attached to a motor vehicle, if
74 the motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel
75 reservoir for travel on a highway and for the operation of equipment, or if the motor fuel was
76 placed in a separate fuel tank and used only for the operation of auxiliary equipment. The
77 exemption for use pursuant to this subdivision shall be claimed by a refund claim filed by the
78 consumer who shall provide evidence of an allocation of use satisfactory to the director;

79 (6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained
80 within and consumed from the same vehicle fuel supply tank within which it was imported,
81 except interstate motor fuel users;

82 (7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct
83 result of a sudden and unexpected casualty or which had been accidentally contaminated so as
84 to be unsalable as highway fuel as shown by proper documentation as required by the director.
85 The exemption pursuant to this subdivision shall be refunded to the person or entity owning the
86 motor fuel at the time of the contamination or loss. Such person shall notify the director in
87 writing of such event and the amount of motor fuel lost or contaminated within ten days from
88 the date of discovery of such loss or contamination, and within thirty days after such notice, shall
89 file an affidavit sworn to by the person having immediate custody of such motor fuel at the time
90 of the loss or contamination, setting forth in full the circumstances and the amount of the loss
91 or contamination and such other information with respect thereto as the director may require;

92 (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall
93 be claimed as follows:

94 (a) A supplier or importer shall take a deduction against motor fuel tax owed on their
95 monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from
96 a terminal or refinery destined for delivery to a point in this state as shown on the shipping
97 papers;

98 (b) This exemption shall be claimed by a deduction on the report of the supplier which
99 is otherwise responsible for remitting the tax on removal of the product from a terminal or
100 refinery in this state;

101 (c) This exemption shall be claimed by the distributor, upon a refund application made
102 to the director within three years. A refund claim may be made monthly or whenever the claim
103 exceeds one thousand dollars.

104 **(9) Motor fuel delivered to any marina within this state that sells such fuel solely for**
105 **use in any watercraft, as such term is defined in section 306.010, and not accessible to other**
106 **motor vehicles, is exempt from the fuel tax imposed by this chapter. Any motor fuel**
107 **distributor that delivers motor fuel to any marina in this state for use solely in any**
108 **watercraft, as such term is defined in section 306.010, at a location other than a marina**
109 **within this state may claim the exemption provided in this subsection by filing a claim for**
110 **refund of the fuel tax.**

143.221. 1. Every employer required to deduct and withhold tax under sections 143.011
2 to 143.996 shall, for each calendar quarter, on or before the last day of the month following the
3 close of such calendar quarter, file a withholding return as prescribed by the director of revenue
4 and pay over to the director of revenue or to a depository designated by the director of revenue
5 the taxes so required to be deducted and withheld.

6 2. Where the aggregate amount required to be deducted and withheld by any employer
7 exceeds fifty dollars for at least two of the preceding twelve months, the director, by regulation,
8 may require a monthly return. The due dates of the monthly return and the monthly payment or
9 deposit for the first two months of each quarter shall be by the fifteenth day of the succeeding
10 month. The due dates of the monthly return and the monthly payment or deposit for the last
11 month of each quarter shall be by the last day of the succeeding month. The director may
12 increase the amount required for making a monthly employer withholding payment and return
13 to more than fifty dollars or decrease such required amount, however, the decreased amount shall
14 not be less than fifty dollars.

15 3. Where the aggregate amount required to be deducted and withheld by any employer
16 is less than [twenty] **one hundred** dollars in each of the four preceding quarters, **and to the**
17 **extent the employer does not meet the requirements in subsection 1 or 2 of this section for**
18 **filing a withholding return on a quarterly or monthly basis**, the employer shall file a
19 withholding return for a calendar year. The director, by regulation, may also allow other
20 employers to file annual returns. The return shall be filed and the taxes if any paid on or before
21 January thirty-first of the succeeding year. The director may increase the amount required for
22 making an annual employer withholding payment and return to more than [twenty] **one hundred**

23 dollars or decrease such required amount, however, the decreased amount shall not be less than
24 [twenty] **one hundred** dollars.

25 4. If the director of revenue finds that the collection of taxes required to be deducted and
26 withheld by an employer may be jeopardized by delay, he may require the employer to pay over
27 the tax or make a return at any time. A lien outstanding with regard to any tax administered by
28 the director shall be a sufficient basis for this action.

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to
2 144.525 have the meanings ascribed to them in this section, except when the context indicates
3 a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and other similar
5 accommodations and charges made therefor and amount paid for admission, exclusive of any
6 admission tax imposed by the federal government or by sections 144.010 to 144.525;

7 (2) "Business" includes any activity engaged in by any person, or caused to be engaged
8 in by him, with the object of gain, benefit or advantage, either direct or indirect, and the
9 classification of which business is of such character as to be subject to the terms of sections
10 144.010 to 144.525. A person is "engaging in business" in this state for purposes of sections
11 144.010 to 144.525 if such person "engages in business in this state" or "maintains a place of
12 business in this state" under section 144.605. The isolated or occasional sale of tangible personal
13 property, service, substance, or thing, by a person not engaged in such business, does not
14 constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the
15 total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible
16 personal property by persons which property is sold in the course of the partial or complete
17 liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any
18 calendar year. The provisions of this subdivision shall not be construed to make any sale of
19 property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

20 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge,
21 northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer,
22 captive elk, and captive furbearers held under permit issued by the Missouri department of
23 conservation for hunting purposes. The provisions of this subdivision shall not apply to sales
24 tax on a harvested animal;

25 (4) "Gross receipts", except as provided in section 144.012, means the total amount of
26 the sale price of the sales at retail including any services other than charges incident to the
27 extension of credit that are a part of such sales made by the businesses herein referred to, capable
28 of being valued in money, whether received in money or otherwise; except that, the term "gross
29 receipts" shall not include the sale price of property returned by customers when the full sale
30 price thereof is refunded either in cash or by credit. In determining any tax due under sections

31 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be
32 specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the
33 sale price above mentioned shall be deemed to be the amount received. It shall also include the
34 lease or rental consideration where the right to continuous possession or use of any article of
35 tangible personal property is granted under a lease or contract and such transfer of possession
36 would be taxable if outright sale were made and, in such cases, the same shall be taxable as if
37 outright sale were made and considered as a sale of such article, and the tax shall be computed
38 and paid by the lessee upon the rentals paid;

39 (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,
40 ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk
41 documented as obtained from a legal source and not from the wild, goats, horses, other equine,
42 or rabbits raised in confinement for human consumption;

43 (6) "Motor vehicle leasing company" shall be a company obtaining a permit from the
44 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
45 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
46 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
47 144.070, as hereinafter provided;

48 (7) "Person" includes any individual, firm, copartnership, joint adventure, association,
49 corporation, municipal or private, and whether organized for profit or not, state, county, political
50 subdivision, state department, commission, board, bureau or agency, except the state
51 transportation department, estate, trust, business trust, receiver or trustee appointed by the state
52 or federal court, syndicate, or any other group or combination acting as a unit, and the plural as
53 well as the singular number;

54 (8) "Purchaser" means a person who purchases tangible personal property or to whom
55 are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

56 (9) "Research or experimentation activities" are the development of an experimental or
57 pilot model, plant process, formula, invention or similar property, and the improvement of
58 existing property of such type. Research or experimentation activities do not include activities
59 such as ordinary testing or inspection of materials or products for quality control, efficiency
60 surveys, advertising promotions or research in connection with literary, historical or similar
61 projects;

62 (10) "Sale" or "sales" includes installment and credit sales, and the exchange of
63 properties as well as the sale thereof for money, every closed transaction constituting a sale, and
64 means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means
65 whatsoever, of tangible personal property for valuable consideration and the rendering,

66 furnishing or selling for a valuable consideration any of the substances, things and services
67 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

68 (11) "Sale at retail" means any transfer made by any person engaged in business as
69 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use
70 or consumption and not for resale in any form as tangible personal property, for a valuable
71 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed
72 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,
73 optometrists and veterinarians and used in the practice of their professions shall be deemed to
74 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,
75 computer output or microfilm or microfiche and computer-assisted photo compositions to a
76 purchaser to enable the purchaser to obtain for his or her own use the desired information
77 contained in such computer printouts, computer output on microfilm or microfiche and
78 computer-assisted photo compositions shall be considered as the sale of a service and not as the
79 sale of tangible personal property. Where necessary to conform to the context of sections
80 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to
81 embrace:

82 (a) Sales of admission tickets[, cash admissions,] **and charges and fees for admission**
83 to [or in places of amusement, entertainment and recreation, games and athletic events] **view**
84 **sporting events, dance performances, theater performances, orchestra, concerts, and other**
85 **performing arts productions, and amounts paid for admission to racetracks, arcades,**
86 **theme and amusement parks, water parks, circuses, carnivals, festivals, air shows,**
87 **museums, marinas, motion picture theaters, and other commercial attractions. Such tax**
88 **shall not include any sales regardless of how offered and sold as a right of first refusal,**
89 **right to purchase, single admission ticket, bundled package or season pass for admission**
90 **and seating accommodations, or fees paid to, or in any place having an exemption under**
91 **subdivision (20) or (21) of subsection 2 of section 144.030. Such sales shall not include the**
92 **amount paid that results in the first opportunity to purchase or decline tickets for**
93 **admission to events, but does not itself result in admission;**

94 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,
95 commercial or industrial consumers;

96 (c) Sales of local and long distance telecommunications service to telecommunications
97 subscribers and to others through equipment of telecommunications subscribers for the
98 transmission of messages and conversations, and the sale, rental or leasing of all equipment or
99 services pertaining or incidental thereto;

100 (d) Sales of service for transmission of messages by telegraph companies;

101 (e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern,
102 inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in
103 which rooms, meals or drinks are regularly served to the public;

104 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express
105 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and
106 railroad safety of the department of economic development of Missouri, engaged in the
107 transportation of persons for hire;

108 (12) "Seller" means a person selling or furnishing tangible personal property or rendering
109 services, on the receipts from which a tax is imposed pursuant to section 144.020;

110 (13) The noun "tax" means either the tax payable by the purchaser of a commodity or
111 service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities
112 or services during the period for which he or she is required to report his or her collections, as
113 the context may require;

114 (14) "Telecommunications service", for the purpose of this chapter, the transmission of
115 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar
116 means. As used in this definition, "information" means knowledge or intelligence represented
117 by any form of writing, signs, signals, pictures, sounds, or any other symbols.
118 Telecommunications service does not include the following if such services are separately stated
119 on the customer's bill or on records of the seller maintained in the ordinary course of business:

120 (a) Access to the internet, access to interactive computer services or electronic publishing
121 services, except the amount paid for the telecommunications service used to provide such access;

122 (b) Answering services and one-way paging services;

123 (c) Private mobile radio services which are not two-way commercial mobile radio
124 services such as wireless telephone, personal communications services or enhanced specialized
125 mobile radio services as defined pursuant to federal law; or

126 (d) Cable or satellite television or music services; and

127 (15) "Product which is intended to be sold ultimately for final use or consumption"
128 means tangible personal property, or any service that is subject to state or local sales or use taxes,
129 or any tax that is substantially equivalent thereto, in this state or any other state.

130 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
131 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
132 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning
133 given it in section 700.010.

134 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.018. 1. Notwithstanding any other provision of law to the contrary, except as
2 provided under subsection 2 or 3 of this section, when a purchase of tangible personal property

3 or service subject to tax is made for the purpose of resale, such purchase shall be either exempt
4 or excluded under this chapter if the subsequent sale is:

5 (1) Subject to a tax in this or any other state;

6 (2) For resale;

7 (3) Excluded from tax under this chapter;

8 (4) Subject to tax but exempt under this chapter; or

9 (5) Exempt from the sales tax laws of another state, if the subsequent sale is in such
10 other state.

11

12 The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if
13 such property is used or consumed by the taxpayer in providing a service on which tax is not
14 imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any
15 obligation under a defense contract with the United States government.

16 2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of
17 amusement, entertainment or recreation, including games or athletic events, shall remit tax on
18 the amount paid for admissions or seating accommodations, or fees paid to, or in such place of
19 amusement, entertainment or recreation. Any subsequent sale of such admissions or seating
20 accommodations shall not be subject to tax if the initial sale was an arms length transaction for
21 fair market value with an unaffiliated entity. If the sale of such admissions or seating
22 accommodations is exempt or excluded from payment of sales and use taxes, the provisions of
23 this subsection shall not require the place of amusement, entertainment, or recreation to remit
24 tax on that sale. **Such sales under subdivision (2) of subsection 1 of section 144.020 shall**
25 **include sales of admission tickets and charges and fees for admission to view sporting**
26 **events, dance performances, theater performances, orchestra, concerts and other**
27 **performing arts productions, and amounts paid for admission to racetracks, arcades,**
28 **theme and amusement parks, water parks, circuses, carnivals, festivals, air shows,**
29 **museums, marinas, motion picture theaters, and other commercial attractions. Such tax**
30 **shall not include any sales regardless of how offered and sold as a right of first refusal,**
31 **right to purchase, single admission ticket, bundled package or season pass for admission**
32 **and seating accommodations, or fees paid to, or in any place having an exemption under**
33 **subdivision (20) or (21) of subsection 2 of section 144.030. Such sales shall not include the**
34 **amount paid that results in the first opportunity to purchase or decline tickets for**
35 **admission to events, but does not itself result in admission.**

36 3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel,
37 tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other
38 place in which rooms, meals, or drinks are regularly served to the public shall remit tax on the

39 amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern,
40 inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in
41 which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such
42 rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length
43 transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or
44 drinks is exempt or excluded from payment of sales and use taxes, the provisions of this
45 subsection shall not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore,
46 dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are
47 regularly served to the public to remit tax on that sale.

48 4. The provisions of this section are intended to reject and abrogate earlier case law
49 interpretations of the state's sales and use tax law with regard to sales for resale as extended in
50 Music City Centre Management, LLC v. Director of Revenue, 295 S.W.3d 465, (Mo. 2009) and
51 ICC Management, Inc. v. Director of Revenue, 290 S.W.3d 699, (Mo. 2009). The provisions
52 of this section are intended to clarify the exemption or exclusion of purchases for resale from
53 sales and use taxes as originally enacted in this chapter.

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

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

14 (2) A tax equivalent to four percent of the amount paid for admission **tickets** and
15 [seating accommodations, or] **charges and fees** [paid] to[, or in any place of amusement,
16 entertainment or recreation, games and athletic events] **view sporting events, dance**
17 **performances, theater performances, orchestra, concerts and other performing arts**
18 **productions, and amounts paid for admission to racetracks, arcades, theme and**
19 **amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas,**
20 **motion picture theaters, and other commercial attractions. Such tax shall not include any**
21 **sales regardless of how offered and sold as a right of first refusal, right to purchase, single**

22 **admission ticket, bundled package or season pass for admission and seating**
23 **accommodations, or fees paid to, or in any place having an exemption under subdivision**
24 **(20) or (21) of subsection 2 of section 144.030. Such sales shall not include the amount paid**
25 **that results in the first opportunity to purchase or decline tickets for admission to events,**
26 **but does not itself result in admission;**

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

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

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

39 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
40 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
41 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
42 regularly served to the public;

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

48 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
49 tangible personal property, provided that if the lessor or renter of any tangible personal property
50 had previously purchased the property under the conditions of "sale at retail" or leased or rented
51 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
52 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
53 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
54 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
55 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
56 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
57 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,

58 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
59 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
60 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
61 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
62 upon the lease or rental thereof;

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

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

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

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

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of
15 such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be
16 consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide
22 registration law (sections 281.220 to 281.310) which are to be used in connection with the
23 growth or production of crops, fruit trees or orchards applied before, during, or after planting,

24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which
25 are to be sold ultimately in processed form at retail;

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

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

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

45 (5) Replacement machinery, equipment, and parts and the materials and supplies solely
46 required for the installation or construction of such replacement machinery, equipment, and
47 parts, used directly in manufacturing, mining, fabricating or producing a product which is
48 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
49 the materials and supplies required solely for the operation, installation or construction of such
50 machinery and equipment, purchased and used to establish new, or to replace or expand existing,
51 material recovery processing plants in this state. For the purposes of this subdivision, a "material
52 recovery processing plant" means a facility that has as its primary purpose the recovery of
53 materials into a useable product or a different form which is used in producing a new product and
54 shall include a facility or equipment which are used exclusively for the collection of recovered
55 materials for delivery to a material recovery processing plant but shall not include motor vehicles
56 used on highways. For purposes of this section, the terms motor vehicle and highway shall have
57 the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials
58 within a manufacturing process or the use of a product previously recovered. The material

59 recovery processing plant shall qualify under the provisions of this section regardless of
60 ownership of the material being recovered;

61 (6) Machinery and equipment, and parts and the materials and supplies solely required
62 for the installation or construction of such machinery and equipment, purchased and used to
63 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
64 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
65 which is intended to be sold ultimately for final use or consumption;

66 (7) Tangible personal property which is used exclusively in the manufacturing,
67 processing, modification or assembling of products sold to the United States government or to
68 any agency of the United States government;

69 (8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

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

73 (10) The rentals of films, records or any type of sound or picture transcriptions for public
74 commercial display;

75 (11) Pumping machinery and equipment used to propel products delivered by pipelines
76 engaged as common carriers;

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

81 (13) Electrical energy used in the actual primary manufacture, processing, compounding,
82 mining or producing of a product, or electrical energy used in the actual secondary processing
83 or fabricating of the product, or a material recovery processing plant as defined in subdivision
84 (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical
85 energy so used exceeds ten percent of the total cost of production, either primary or secondary,
86 exclusive of the cost of electrical energy so used or if the raw materials used in such processing
87 contain at least twenty-five percent recovered materials as defined in section 260.200. There
88 shall be a rebuttable presumption that the raw materials used in the primary manufacture of
89 automobiles contain at least twenty-five percent recovered materials. For purposes of this
90 subdivision, "processing" means any mode of treatment, act or series of acts performed upon
91 materials to transform and reduce them to a different state or thing, including treatment necessary
92 to maintain or preserve such processing by the producer at the production facility;

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

95 (15) Machinery, equipment, appliances and devices purchased or leased and used solely
96 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies
97 solely required for the installation, construction or reconstruction of such machinery, equipment,
98 appliances and devices;

99 (16) Machinery, equipment, appliances and devices purchased or leased and used solely
100 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies
101 solely required for the installation, construction or reconstruction of such machinery, equipment,
102 appliances and devices;

103 (17) Tangible personal property purchased by a rural water district;

104 (18) All amounts paid or charged for admission or participation or other fees paid by or
105 other charges to individuals in or for any place of amusement, entertainment or recreation, games
106 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a
107 municipality or other political subdivision where all the proceeds derived therefrom benefit the
108 municipality or other political subdivision and do not inure to any private person, firm, or
109 corporation, provided, however, that a municipality or other political subdivision may enter into
110 revenue-sharing agreements with private persons, firms, or corporations providing goods or
111 services, including management services, in or for the place of amusement, entertainment or
112 recreation, games or athletic events, and provided further that nothing in this subdivision shall
113 exempt from tax any amounts retained by any private person, firm, or corporation under such
114 revenue-sharing agreement;

115 (19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,
116 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
117 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
118 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
119 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
120 administer those items, including samples and materials used to manufacture samples which may
121 be dispensed by a practitioner authorized to dispense such samples and all sales or rental of
122 medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and
123 ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway lifts, Braille
124 writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with
125 one or more physical or mental disabilities to enable them to function more independently, all
126 sales or rental of scooters, reading machines, electronic print enlargers and magnifiers, electronic
127 alternative and augmentative communication devices, and items used solely to modify motor
128 vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-
129 the-counter or nonprescription drugs to individuals with disabilities, and drugs required by the
130 Food and Drug Administration to meet the over-the-counter drug product labeling requirements

131 in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed to
132 prescribe;

133 (20) All sales made by or to religious and charitable organizations and institutions in
134 their religious, charitable or educational functions and activities and all sales made by or to all
135 elementary and secondary schools operated at public expense in their educational functions and
136 activities;

137 (21) All sales of aircraft to common carriers for storage or for use in interstate commerce
138 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
139 including fraternal organizations which have been declared tax-exempt organizations pursuant
140 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or
141 charitable functions and activities and all sales made to eleemosynary and penal institutions and
142 industries of the state, and all sales made to any private not-for-profit institution of higher
143 education not otherwise excluded pursuant to subdivision (20) of this subsection or any
144 institution of higher education supported by public funds, and all sales made to a state relief
145 agency in the exercise of relief functions and activities;

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

153 (23) All sales made to any private not-for-profit elementary or secondary school, all sales
154 of feed additives, medications or vaccines administered to livestock or poultry in the production
155 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for
156 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,
157 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying
158 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as
159 defined in section 142.028, natural gas, propane, and electricity used by an eligible new
160 generation cooperative or an eligible new generation processing entity as defined in section
161 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and
162 trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed
163 additives" means tangible personal property which, when mixed with feed for livestock or
164 poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term
165 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted
166 pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark

167 the application of pesticides and herbicides for the production of crops, livestock or poultry. As
168 used in this subdivision, the term "farm machinery and equipment" means new or used farm
169 tractors and such other new or used farm machinery and equipment and repair or replacement
170 parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary
171 mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively,
172 solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants,
173 chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-
174 half of each purchaser's purchase of diesel fuel therefor which is:

175 (a) Used exclusively for agricultural purposes;

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

177 (c) Used directly in producing farm products to be sold ultimately in processed form or
178 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
179 ultimately in processed form at retail;

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

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

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

202 (c) Each person making domestic use purchases of services or property and who uses any
203 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day
204 of the fourth month following the year of purchase, and without assessment, notice or demand,
205 file a return and pay sales tax on that portion of nondomestic purchases. Each person making
206 nondomestic purchases of services or property and who uses any portion of the services or
207 property so purchased for domestic use, and each person making domestic purchases on behalf
208 of occupants of residential apartments or condominiums through a single or master meter,
209 including service for common areas and facilities and vacant units, under a nonresidential utility
210 service rate classification may, between the first day of the first month and the fifteenth day of
211 the fourth month following the year of purchase, apply for credit or refund to the director of
212 revenue and the director shall give credit or make refund for taxes paid on the domestic use
213 portion of the purchase. The person making such purchases on behalf of occupants of residential
214 apartments or condominiums shall have standing to apply to the director of revenue for such
215 credit or refund;

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

219 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,
220 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
221 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes
222 on such excise taxes;

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

228 (28) All sales made to an interstate compact agency created pursuant to sections 70.370
229 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such
230 agency as provided pursuant to the compact;

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

235 (30) All livestock sales when either the seller is engaged in the growing, producing or
236 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering
237 or leasing of such livestock;

238 (31) All sales of barges which are to be used primarily in the transportation of property
239 or cargo on interstate waterways;

240 (32) Electrical energy or gas, whether natural, artificial or propane, water, or other
241 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
242 products or in any material recovery processing plant as defined in subdivision (5) of this
243 subsection;

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

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

249 (35) All sales of grain bins for storage of grain for resale;

250 (36) All sales of feed which are developed for and used in the feeding of pets owned by
251 a commercial breeder when such sales are made to a commercial breeder, as defined in section
252 273.325, and licensed pursuant to sections 273.325 to 273.357;

253 (37) All purchases by a contractor on behalf of an entity located in another state,
254 provided that the entity is authorized to issue a certificate of exemption for purchases to a
255 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
256 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
257 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.
258 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's
259 exemption certificate as evidence of the exemption. If the exemption certificate issued by the
260 exempt entity to the contractor is later determined by the director of revenue to be invalid for any
261 reason and the contractor has accepted the certificate in good faith, neither the contractor or the
262 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result
263 of use of the invalid exemption certificate. Materials shall be exempt from all state and local
264 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible
265 personal property which is used in fulfilling a contract for the purpose of constructing, repairing
266 or remodeling facilities for the following:

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

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

272 (38) All sales or other transfers of tangible personal property to a lessor who leases the
273 property under a lease of one year or longer executed or in effect at the time of the sale or other

274 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections
275 238.010 to 238.100;

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

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

285 (41) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement
286 parts, and equipment purchased for use directly upon, and for the modification, replacement,
287 repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

288 (42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or
289 similar places of business for use in the normal course of business and money received by a
290 shooting range or similar places of business from patrons and held by a shooting range or similar
291 place of business for redistribution to patrons at the conclusion of a shooting event;

292 **(43) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as**
293 **defined in section 306.010.**

294 3. Any ruling, agreement, or contract, whether written or oral, express or implied,
295 between a person and this state's executive branch, or any other state agency or department,
296 stating, agreeing, or ruling that such person is not required to collect sales and use tax in this
297 state despite the presence of a warehouse, distribution center, or fulfillment center in this state
298 that is owned or operated by the person or an affiliated person shall be null and void unless it is
299 specifically approved by a majority vote of each of the houses of the general assembly. For
300 purposes of this subsection, an "affiliated person" means any person that is a member of the same
301 controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of
302 1986, as amended, as the vendor or any other entity that, notwithstanding its form of
303 organization, bears the same ownership relationship to the vendor as a corporation that is a
304 member of the same controlled group of corporations as defined in Section 1563(a) of the
305 Internal Revenue Code, as amended.

144.044. 1. As used in this section, the following terms mean:

2 (1) "Sale of a modular unit", a transfer of a modular unit as defined in section 700.010;

3 (2) "Sale of a new manufactured home", a transfer of a manufactured home, as defined
4 in section 700.010, which involves the delivery of the document known as the manufacturer's

5 statement of origin to a person other than a manufactured home dealer, as dealer is defined in
6 section 700.010, for purposes of allowing such person to obtain a title to the manufactured home
7 from the department of revenue of this state or the appropriate agency or officer of any other
8 state;

9 **(3) "Sale of a used manufactured home", any subsequent sale of a manufactured**
10 **home as defined in section 700.010, which does not qualify as "new" as defined in**
11 **subdivision (9) of section 700.010.**

12 2. In the event of the sale of a new manufactured home, forty percent of the purchase
13 price, as defined in section 700.320, shall be considered the sale of a service and not the sale of
14 tangible personal property. In addition to the exemptions granted under the provisions of section
15 144.030, the sale of services as defined in this section shall be specifically exempted from the
16 provisions of sections 238.235 and 238.410, the local sales tax law as defined in section 32.085,
17 sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of the tax levied,
18 assessed or payable under sections 238.235 and 238.410, the local sales tax law as defined in
19 section 32.085, sections 144.010 to 144.525 and 144.600 to 144.745, and section 238.235.

20 3. In the event of the sale of a new modular unit, forty percent of the retail sale of the unit
21 or forty percent of the manufacturer's sales price of the unit if the manufacturer makes a sale to
22 a consumer that is not a retail sale, plus any carrier charge and freight charges shall be considered
23 the sale of a service and sixty percent shall be the retail sale of tangible personal property. In
24 addition to the exemptions granted under the provisions of section 144.030, the sale of services
25 as defined in this section shall be specifically exempted from the provisions of sections 238.235
26 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525
27 and 144.600 to 144.745, and from the computation of the tax levied, assessed, or payable under
28 sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections
29 144.010 to 144.525 and 144.600 to 144.745, and section 238.235.

30 **4. In addition to the exemptions granted under the provisions of section 144.030,**
31 **the sale of a used manufactured home as defined in this section shall be specifically**
32 **exempted from the provisions of sections 238.235 and 238.410, the local sales tax law as**
33 **defined in section 32.085, sections 144.010 to 144.525 and 144.600 to 144.745, and from the**
34 **computation of the tax levied, assessed, or payable under sections 238.235 and 238.410, the**
35 **local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to**
36 **144.745, and section 238.235.**

144.049. 1. For purposes of this section, the following terms mean:

2 (1) "Clothing", any article of wearing apparel, including footwear, intended to be worn
3 on or about the human body. The term shall include but not be limited to cloth and other
4 material used to make school uniforms or other school clothing. Items normally sold in pairs

5 shall not be separated to qualify for the exemption. The term shall not include watches,
6 watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt
7 buckles; and

8 (2) "Personal computers", a laptop, desktop, or tower computer system which consists
9 of a central processing unit, random access memory, a storage drive, a display monitor, and a
10 keyboard and devices designed for use in conjunction with a personal computer, such as a disk
11 drive, memory module, compact disk drive, daughterboard, [digitalizer] **digitizer**, microphone,
12 modem, motherboard, mouse, multimedia speaker, printer, scanner, single-user hardware,
13 single-user operating system, soundcard, or video card;

14 (3) "School supplies", any item normally used by students in a standard classroom for
15 educational purposes, including but not limited to textbooks, notebooks, paper, writing
16 instruments, crayons, art supplies, rulers, book bags, backpacks, handheld calculators, chalk,
17 maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting
18 equipment, portable or desktop telephones, copiers or other office equipment, furniture, or
19 fixtures. School supplies shall also include computer software having a taxable value of three
20 hundred fifty dollars or less **and any graphing calculator having a taxable value of one**
21 **hundred fifty dollars or less.**

22 2. In each year beginning on or after January 1, 2005, there is hereby specifically
23 exempted from state sales tax law all retail sales of any article of clothing having a taxable value
24 of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per
25 purchase, all computer software with a taxable value of three hundred fifty dollars or less, **all**
26 **graphing calculators having a taxable value of one hundred fifty dollars or less**, and all
27 retail sales of personal computers or computer peripheral devices not to exceed three thousand
28 five hundred dollars, during a three-day period beginning at 12:01 a.m. on the first Friday in
29 August and ending at midnight on the Sunday following.

30 3. If the governing body of any political subdivision adopted an ordinance that applied
31 to the 2004 sales tax holiday to prohibit the provisions of this section from allowing the sales tax
32 holiday to apply to such political subdivision's local sales tax, then, notwithstanding any
33 provision of a local ordinance to the contrary, the 2005 sales tax holiday shall not apply to such
34 political subdivision's local sales tax. However, any such political subdivision may enact an
35 ordinance to allow the 2005 sales tax holiday to apply to its local sales taxes. A political
36 subdivision must notify the department of revenue not less than forty-five calendar days prior
37 to the beginning date of the sales tax holiday occurring in that year of any ordinance or order
38 rescinding an ordinance or order to opt out.

39 4. This section shall not apply to any sales which take place within the Missouri state
40 fairgrounds.

41 5. This section applies to sales of items bought for personal use only.

42 6. After the 2005 sales tax holiday, any political subdivision may, by adopting an
43 ordinance or order, choose to prohibit future annual sales tax holidays from applying to its local
44 sales tax. After opting out, the political subdivision may rescind the ordinance or order. The
45 political subdivision must notify the department of revenue not less than forty-five calendar days
46 prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or
47 order rescinding an ordinance or order to opt out.

48 7. This section may not apply to any retailer when less than two percent of the retailer's
49 merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales
50 tax refund in lieu of the sales tax holiday.

**144.052. 1. In addition to all other exemptions granted under this chapter, there
2 is hereby specifically exempted from the provisions of sections 144.010 to 144.525, 144.600
3 to 144.761, and 238.235, and the local sales tax law as defined in section 32.085, from the
4 computation of the tax levied, assessed, or payable under sections 144.010 to 144.525,
5 144.600 to 144.761, 238.235, and the local sales tax law as defined in section 32.085, all sales
6 of prescription drugs, biological products, and devices approved by the United States Food
7 and Drug Administration and all drugs, biological products, and devices that have
8 successfully completed phase one of a clinical trial, but have not been approved for general
9 use by the United States Food and Drug Administration and remain under investigation
10 in a clinical trial, used for the treatment of terminal illnesses, including components and
11 repair parts, and the disposable or single patient use supplies required for the use of such
12 devices.**

13 **2. For purposes of this section the term “terminal illness” shall mean a disease that
14 without life-sustaining procedures will result in death in the near future or a state of
15 permanent unconsciousness from which recovery is unlikely.**

**144.058. In addition to all other exemptions granted under this chapter, there is
2 hereby specifically exempted from the provisions of sections 144.010 to 144.525, 144.600
3 to 144.761, 238.235, and the local sales tax law as defined in section 32.085, and from the
4 computation of the tax levied, assessed, or payable under sections 144.010 to 144.525,
5 144.600 to 144.761, 238.235, and the local sales tax law as defined in section 32.085,
6 electrical energy and gas, whether natural, artificial, or propane; water, coal, and energy
7 sources; chemicals, machinery, equipment, parts, and materials used or consumed in
8 connection with or to facilitate the generation, transmission, distribution, sale, or
9 furnishing of electricity for light, heat, or power; and any conduits, ducts, or other devices,
10 materials, apparatus, or property for containing, holding, or carrying conductors used or
11 to be used for the transmission of electricity for light, heat, or power service to customers.**

144.080. 1. Every person receiving any payment or consideration upon the sale of
2 property or rendering of service, subject to the tax imposed by the provisions of sections 144.010
3 to 144.525, is exercising the taxable privilege of selling the property or rendering the service at
4 retail and is subject to the tax levied in section 144.020. The person shall be responsible not only
5 for the collection of the amount of the tax imposed on the sale or service to the extent possible
6 under the provisions of section 144.285, but shall, on or before the last day of the month
7 following each calendar quarterly period of three months, file a return with the director of
8 revenue showing the person's gross receipts and the amount of tax levied in section 144.020 for
9 the preceding quarter, and shall remit to the director of revenue, with the return, the taxes levied
10 in section 144.020, except as provided in subsections 2 and 3 of this section. The director of
11 revenue may promulgate rules or regulations changing the filing and payment requirements of
12 sellers, but shall not require any seller to file and pay more frequently than required in this
13 section.

14 2. Where the aggregate amount levied and imposed upon a seller by section 144.020 is
15 in excess of two hundred and fifty dollars for either the first or second month of a calendar
16 quarter, the seller shall file a return and pay such aggregate amount for such months to the
17 director of revenue by the twentieth day of the succeeding month.

18 3. Where the aggregate amount levied and imposed upon a seller by section 144.020 is
19 less than forty-five dollars in a calendar quarter, the director of revenue shall by regulation permit
20 the seller to file a return for a calendar year. The return shall be filed and the taxes paid on or
21 before January thirty-first of the succeeding year.

22 4. The seller of any property or person rendering any service, subject to the tax imposed
23 by sections 144.010 to 144.525, shall collect the tax from the purchaser of such property or the
24 recipient of the service to the extent possible under the provisions of section 144.285, but the
25 seller's inability to collect any part or all of the tax does not relieve the seller of the obligation
26 to pay to the state the tax imposed by section 144.020; except that the collection of the tax
27 imposed by sections 144.010 to 144.525 on motor vehicles and trailers shall be made as provided
28 in sections 144.070 and 144.440.

29 5. [It shall be unlawful for] Any person [to] **may** advertise or hold out or state to the
30 public or to any customer directly [or indirectly] that the tax or any part thereof imposed by
31 sections 144.010 to 144.525, and required to be collected by the person, will be assumed or
32 absorbed by the person, [or that it will not be separately stated and added to the selling price of
33 the] **provided that the amount of tax assumed or absorbed shall be stated on any invoice**
34 **or receipt for the property sold or service rendered**[, or if added, that it or any part thereof will
35 be refunded]. Any person violating any of the provisions of this section shall be guilty of a

36 misdemeanor. **This subsection shall not apply to any retailer prohibited from collecting and**
37 **remitting sales tax under section 66.630.**

144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or
2 mistake on the part of the director of revenue, such fact shall be set forth in the records of the
3 director of revenue, and the amount of the overpayment shall be credited on any taxes then due
4 from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and
5 the balance shall be refunded to the person legally obligated to remit the tax, such person's
6 administrators or executors, as provided for in section 144.200.

7 2. If any tax, penalty or interest has been paid more than once, or has been erroneously
8 or illegally collected, or has been erroneously or illegally computed, such sum shall be credited
9 on any taxes then due from the person legally obligated to remit the tax pursuant to sections
10 144.010 to 144.525, and the balance, with interest as determined by section 32.065, shall be
11 refunded to the person legally obligated to remit the tax, but no such credit or refund shall be
12 allowed unless duplicate copies of a claim for refund are filed within three years from date of
13 overpayment.

14 3. Every claim for refund must be in writing and signed by the applicant, and must state
15 the specific grounds upon which the claim is founded. Any refund or any portion thereof which
16 is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be
17 recovered in any action brought by the director of revenue against the person legally obligated
18 to remit the tax. In the event that a tax has been illegally imposed against a person legally
19 obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon
20 the [director's] **director of revenue's** record.

21 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid
22 sales or use tax to a vendor or seller may submit a refund claim directly to the director of revenue
23 for such sales or use taxes paid to such vendor or seller and remitted to the director **of revenue**,
24 provided no sum shall be refunded more than once, any such claim shall be subject to any offset,
25 defense, or other claim the director **of revenue** otherwise would have against either the purchaser
26 or vendor or seller **if such offset or claim has been assessed under section 144.240 or 144.670**
27 **and such assessment is no longer subject to appeal**, and such claim for refund is accompanied
28 by either:

29 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser
30 allowing the purchaser to seek the refund on behalf of the vendor or seller. An assignment of
31 rights statement shall contain the Missouri sales or use tax registration number of the vendor or
32 seller, a list of the transactions covered by the assignment, the tax periods and location for which
33 the original sale was reported to the director of revenue by the vendor or seller, and a notarized
34 statement signed by the vendor or seller affirming that the vendor or seller has not received a

35 refund or credit, will not apply for a refund or credit of the tax collected on any transactions
36 covered by the assignment, and authorizes the director **of revenue** to amend the seller's return
37 to reflect the refund; or

38 (2) In the event the vendor or seller fails or refuses to provide an assignment of rights
39 statement within sixty days from the date of such purchaser's written request to the vendor or
40 seller, or the purchaser is not able to locate the vendor or seller or the vendor or seller is no
41 longer in business, the purchaser may provide the director **of revenue** a notarized statement
42 confirming the efforts that have been made to obtain an assignment of rights from the vendor or
43 seller. Such statement shall contain a list of the transactions covered by the assignment, the tax
44 periods and location for which the original sale was reported to the director of revenue by the
45 vendor or seller.

46

47 The director **of revenue** shall not require such vendor, seller, or purchaser to submit amended
48 returns for refund claims submitted under the provisions of this subsection. Notwithstanding the
49 provisions of section 32.057, if the seller is registered with the director **of revenue** for collection
50 and remittance of sales tax, the director **of revenue** shall notify the seller at the seller's last
51 known address of the claim for refund. If the seller objects to the refund within thirty days of
52 the date of the notice, the director **of revenue** shall not pay the refund. If the seller agrees that
53 the refund is warranted or fails to respond within thirty days, the director **of revenue** may issue
54 the refund and amend the seller's return to reflect the refund. For purposes of section 32.069, the
55 refund claim shall not be considered to have been filed until the seller agrees that the refund is
56 warranted or thirty days after the date the director **of revenue** notified the seller and the seller
57 failed to respond.

58 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim
59 on behalf of a purchaser and such refund claim is denied by the director **of revenue**, notice of
60 such denial and the reason for the denial shall be sent by the director **of revenue** to the vendor
61 and each purchaser whose name and address is submitted with the refund claim form filed by the
62 vendor. A purchaser shall be entitled to appeal the denial of the refund claim within sixty days
63 of the date such notice of denial is mailed by the director **of revenue** as provided in section
64 144.261. The provisions of this subsection shall apply to all refund claims filed after August 28,
65 2012. The provisions of this subsection allowing a purchaser to appeal the [director's] **director**
66 **of revenue's** decision to deny a refund claim shall also apply to any refund claim denied by the
67 director **of revenue** on or after January 1, 2007, if an appeal of the denial of the refund claim is
68 filed by the purchaser no later than September 28, 2012, and if such claim is based solely on the
69 issue of the exemption of the electronic transmission or delivery of computer software.

70 6. Notwithstanding the provisions of this section, the director of revenue shall authorize
71 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred
72 fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For
73 the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70,
74 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of
75 business of the purchaser.

76 7. Special rules applicable to error corrections requested by customers of mobile
77 telecommunications service are as follows:

78 (1) For purposes of this subsection, the terms "customer", "home service provider",
79 "place of primary use", "electronic database", and "enhanced zip code" shall have the same
80 meanings as defined in the Mobile Telecommunications Sourcing Act incorporated by reference
81 in section 144.013;

82 (2) Notwithstanding the provisions of this section, if a customer of mobile
83 telecommunications services believes that the amount of tax, the assignment of place of primary
84 use or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the
85 home service provider, in writing, within three years from the date of the billing statement. The
86 customer shall include in such written notification the street address for the customer's place of
87 primary use, the account name and number for which the customer seeks a correction of the tax
88 assignment, a description of the error asserted by the customer and any other information the
89 home service provider reasonably requires to process the request;

90 (3) Within sixty days of receiving the customer's notice, the home service provider shall
91 review its records and the electronic database or enhanced zip code to determine the customer's
92 correct taxing jurisdiction. If the home service provider determines that the review shows that
93 the amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home
94 service provider shall correct the error and, at its election, either refund or credit the amount of
95 tax erroneously collected to the customer for a period of up to three years from the last day of
96 the home service provider's sixty-day review period. If the home service provider determines
97 that the review shows that the amount of tax, the assignment of place of primary use or the taxing
98 jurisdiction is correct, the home service provider shall provide a written explanation of its
99 determination to the customer.

100 8. For all refund claims submitted to the department of revenue on or after September
101 1, 2003, notwithstanding any provision of this section to the contrary, if a person legally
102 obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund
103 of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the
104 same issue for a tax period beginning on or after the date the original refund check issued to such
105 person, no refund shall be allowed. This subsection shall not apply and a refund shall be allowed

106 **if the refund claim is filed by a purchaser under the provisions of subsection 4 of this**
107 **section, the refund claim is for use tax remitted by the purchaser, or** an additional refund
108 claim is filed **by a person legally obligated to remit the tax** due to any of the following:

109 (1) Receipt of additional information or an exemption certificate from the purchaser of
110 the item at issue;

111 (2) A decision of a court of competent jurisdiction or the administrative hearing
112 commission; or

113 (3) Changes in regulations or policy by the department of revenue.

114 9. Notwithstanding any provision of law to the contrary, the director of revenue shall
115 respond to a request for a binding letter ruling filed in accordance with section 536.021 within
116 sixty days of receipt of such request. If the director of revenue fails to respond to such letter
117 ruling request within sixty days of receipt by the director **of revenue**, the director of revenue
118 shall be barred from pursuing collection of any assessment of sales or use tax with respect to the
119 issue which is the subject of the letter ruling request. For purposes of this subsection, the term
120 "letter ruling" means a written interpretation of law by the director **of revenue** to a specific set
121 of facts provided by a specific taxpayer or his or her agent.

122 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly
123 computed, such sum shall be credited on any taxes then due from the person legally obligated
124 to remit the tax pursuant to sections 144.010 to 144.510 against any deficiency or tax due
125 discovered through an audit of the person by the department of revenue through adjustment
126 during the same tax filing period for which the audit applied.

127 **11. The provisions of this section are intended to clarify the limitations on refund**
128 **claims as originally enacted in this chapter.**

✓