

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 584

AN ACT

To repeal sections 136.300, 142.815, 143.221, 143.451, 144.010, 144.018, 144.020, 144.030, 144.044, 144.080, 144.190, and 221.407, RSMo, and to enact in lieu thereof fifteen new sections relating to taxation, with an existing penalty provision.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 136.300, 142.815, 143.221, 143.451,  
2           144.010, 144.018, 144.020, 144.030, 144.044, 144.080, 144.190,  
3           and 221.407, RSMo, are repealed and fifteen new sections enacted  
4           in lieu thereof, to be known as sections 136.300, 137.133,  
5           142.815, 143.221, 143.451, 144.010, 144.018, 144.020, 144.030,  
6           144.044, 144.052, 144.058, 144.080, 144.190, and 221.407, to read  
7           as follows:

8           136.300. 1. With respect to any issue relevant to  
9           ascertaining the tax liability of a taxpayer all laws of the  
10          state imposing a tax shall be strictly construed against the  
11          taxing authority in favor of the taxpayer. The director of  
12          revenue shall have the burden of proof with respect to any  
13          factual issue relevant to ascertaining the liability of a  
14          taxpayer only if:

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

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

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

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

13 137.133. In any county with a charter form of government  
14 and with more than nine hundred fifty thousand inhabitants, any  
15 correspondence by the assessor with a taxpayer requesting  
16 information from the taxpayer shall include the following  
17 statement in bold, fourteen point font: "Disclosure of  
18 information requested on this document is voluntary and not  
19 required by law. Any information disclosed may become public  
20 record.". The provisions of this section shall not apply to  
21 requests for information required to be disclosed under sections  
22 137.092 and 137.155.

23 142.815. 1. Motor fuel used for the following nonhighway  
24 purposes is exempt from the fuel tax imposed by this chapter, and  
25 a refund may be claimed by the consumer, except as provided for  
26 in subdivision (1) of this subsection, if the tax has been paid  
27 and no refund has been previously issued:

28 (1) Motor fuel used for nonhighway purposes including fuel

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

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

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

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

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

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

10           (b) Removed by a licensed distributor for immediate export  
11 to a state for which all the applicable taxes and fees (however  
12 nominated in that state) of the destination state have been paid  
13 to the supplier, as a trustee, who is licensed to remit tax to  
14 the destination state; or which is destined for use within the  
15 destination state by the federal government for which an  
16 exemption has been made available by the destination state  
17 subject to procedural rules and regulations promulgated by the  
18 director; or

19           (c) Acquired by a licensed distributor and which the tax  
20 imposed by this chapter has previously been paid or accrued  
21 either as a result of being stored outside of the bulk transfer  
22 system immediately prior to loading or as a diversion across  
23 state boundaries properly reported in conformity with this  
24 chapter and was subsequently exported from this state on behalf  
25 of the distributor; The exemption pursuant to paragraph (a) of  
26 this subdivision shall be claimed by a deduction on the report of  
27 the supplier which is otherwise responsible for remitting the tax  
28 upon removal of the product from a terminal or refinery in this

1 state. The exemption pursuant to paragraphs (b) and (c) of this  
2 subdivision shall be claimed by the distributor, upon a refund  
3 application made to the director within three years. A refund  
4 claim may be made monthly or whenever the claim exceeds one  
5 thousand dollars;

6 (2) Undyed K-1 kerosene sold at retail through dispensers  
7 which have been designed and constructed to prevent delivery  
8 directly from the dispenser into a vehicle fuel supply tank, and  
9 undyed K-1 kerosene sold at retail through nonbarricaded  
10 dispensers in quantities of not more than twenty-one gallons for  
11 use other than for highway purposes. Exempt use of undyed  
12 kerosene shall be governed by rules and regulations of the  
13 director. If no rules or regulations are promulgated by the  
14 director, then the exempt use of undyed kerosene shall be  
15 governed by rules and regulations of the Internal Revenue  
16 Service. A distributor or supplier delivering to a retail  
17 facility shall obtain an exemption certificate from the owner or  
18 operator of such facility stating that its sales conform to the  
19 dispenser requirements of this subdivision. A licensed  
20 distributor, having obtained such certificate, may provide a copy  
21 to his or her supplier and obtain undyed kerosene without the tax  
22 levied by section 142.803. Having obtained such certificate in  
23 good faith, such supplier shall be relieved of any responsibility  
24 if the fuel is later used in a taxable manner. An ultimate  
25 vendor who obtained undyed kerosene upon which the tax levied by  
26 section 142.803 had been paid and makes sales qualifying pursuant  
27 to this subsection may apply for a refund of the tax pursuant to  
28 application, as provided in section 142.818, to the director

1 provided the ultimate vendor did not charge such tax to the  
2 consumer;

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

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

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

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

1           (7) Motor fuel which was purchased tax-paid and which was  
2 lost or destroyed as a direct result of a sudden and unexpected  
3 casualty or which had been accidentally contaminated so as to be  
4 unsalable as highway fuel as shown by proper documentation as  
5 required by the director. The exemption pursuant to this  
6 subdivision shall be refunded to the person or entity owning the  
7 motor fuel at the time of the contamination or loss. Such person  
8 shall notify the director in writing of such event and the amount  
9 of motor fuel lost or contaminated within ten days from the date  
10 of discovery of such loss or contamination, and within thirty  
11 days after such notice, shall file an affidavit sworn to by the  
12 person having immediate custody of such motor fuel at the time of  
13 the loss or contamination, setting forth in full the  
14 circumstances and the amount of the loss or contamination and  
15 such other information with respect thereto as the director may  
16 require;

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

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

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

28           (c) This exemption shall be claimed by the distributor,

1 upon a refund application made to the director within three  
2 years. A refund claim may be made monthly or whenever the claim  
3 exceeds one thousand dollars.

4 (9) Motor fuel delivered to any marina within this state  
5 that sells such fuel solely for use in any watercraft, as such  
6 term is defined in section 306.010, and not accessible to other  
7 motor vehicles, is exempt from the fuel tax imposed by this  
8 chapter. Any motor fuel distributor that delivers motor fuel to  
9 any marina in this state for use solely in any watercraft, as  
10 such term is defined in section 306.010, may claim the exemption  
11 provided in this subsection. Any motor fuel customer who  
12 purchases motor fuel for use in any watercraft, as such term is  
13 defined in section 306.010, at a location other than a marina  
14 within this state may claim the exemption provided in this  
15 subsection by filing a claim for refund of the fuel tax.

16 143.221. 1. Every employer required to deduct and withhold  
17 tax under sections 143.011 to 143.996 shall, for each calendar  
18 quarter, on or before the last day of the month following the  
19 close of such calendar quarter, file a withholding return as  
20 prescribed by the director of revenue and pay over to the  
21 director of revenue or to a depository designated by the director  
22 of revenue the taxes so required to be deducted and withheld.

23 2. Where the aggregate amount required to be deducted and  
24 withheld by any employer exceeds fifty dollars for at least two  
25 of the preceding twelve months, the director, by regulation, may  
26 require a monthly return. The due dates of the monthly return  
27 and the monthly payment or deposit for the first two months of  
28 each quarter shall be by the fifteenth day of the succeeding

1 month. The due dates of the monthly return and the monthly  
2 payment or deposit for the last month of each quarter shall be by  
3 the last day of the succeeding month. The director may increase  
4 the amount required for making a monthly employer withholding  
5 payment and return to more than fifty dollars or decrease such  
6 required amount, however, the decreased amount shall not be less  
7 than fifty dollars.

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

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

28 143.451. 1. Missouri taxable income of a corporation shall

1 include all income derived from sources within this state.

2 2. A corporation described in subdivision (1) of subsection  
3 1 of section 143.441 shall include in its Missouri taxable income  
4 all income from sources within this state, including that from  
5 the transaction of business in this state and that from the  
6 transaction of business partly done in this state and partly done  
7 in another state or states. However:

8 (1) Where income results from a transaction partially in  
9 this state and partially in another state or states, and income  
10 and deductions of the portion in the state cannot be segregated,  
11 then such portions of income and deductions shall be allocated in  
12 this state and the other state or states as will distribute to  
13 this state a portion based upon the portion of the transaction in  
14 this state and the portion in such other state or states.

15 (2) The taxpayer may elect to compute the portion of income  
16 from all sources in this state in the following manner, or the  
17 manner set forth in subdivision (3) of this subsection:

18 (a) The income from all sources shall be determined as  
19 provided, excluding therefrom the figures for the operation of  
20 any bridge connecting this state with another state.

21 (b) The amount of sales which are transactions wholly in  
22 this state shall be added to one-half of the amount of sales  
23 which are transactions partly within this state and partly  
24 without this state, and the amount thus obtained shall be divided  
25 by the total sales or in cases where sales do not express the  
26 volume of business, the amount of business transacted wholly in  
27 this state shall be added to one-half of the amount of business  
28 transacted partly in this state and partly outside this state and

1 the amount thus obtained shall be divided by the total amount of  
2 business transacted, and the net income shall be multiplied by  
3 the fraction thus obtained, to determine the proportion of income  
4 to be used to arrive at the amount of Missouri taxable income.  
5 The investment or reinvestment of its own funds, or sale of any  
6 such investment or reinvestment, shall not be considered as sales  
7 or other business transacted for the determination of said  
8 fraction.

9 (c) For the purposes of this subdivision, a transaction  
10 involving the sale of tangible property is:

11 a. "Wholly in this state" if both the seller's shipping  
12 point and the purchaser's destination point are in this state;

13 b. "Partly within this state and partly without this state"  
14 if the seller's shipping point is in this state and the  
15 purchaser's destination point is outside this state, or the  
16 seller's shipping point is outside this state and the purchaser's  
17 destination point is in this state;

18 c. Not "wholly in this state" or not "partly within this  
19 state and partly without this state" only if both the seller's  
20 shipping point and the purchaser's destination point are outside  
21 this state.

22 (d) For purposes of this subdivision:

23 a. The purchaser's destination point shall be determined  
24 without regard to the FOB point or other conditions of the sale;  
25 and

26 b. The seller's shipping point is determined without regard  
27 to the location of the seller's principle office or place of  
28 business.

1           (3) The taxpayer may elect to compute the portion of income  
2 from all sources in this state in the following manner:

3           (a) The income from all sources shall be determined as  
4 provided, excluding therefrom the figures for the operation of  
5 any bridge connecting this state with another state;

6           (b) The amount of sales which are transactions in this  
7 state shall be divided by the total sales, and the net income  
8 shall be multiplied by the fraction thus obtained, to determine  
9 the proportion of income to be used to arrive at the amount of  
10 Missouri taxable income. The investment or reinvestment of its  
11 own funds, or sale of any such investment or reinvestment, shall  
12 not be considered as sales or other business transacted for the  
13 determination of said fraction;

14           (c) For the purposes of this subdivision, a transaction  
15 involving the sale of tangible property is:

16           a. "In this state" if the purchaser's destination point is  
17 in this state;

18           b. Not "in this state" if the purchaser's destination point  
19 is outside this state;

20           (d) For purposes of this subdivision, the purchaser's  
21 destination point shall be determined without regard to the FOB  
22 point or other conditions of the sale and shall not be in this  
23 state if the purchaser received the tangible personal property  
24 from the seller in this state for delivery to the purchaser's  
25 location outside this state;

26           (e) For the purposes of this subdivision, a transaction  
27 involving the sale other than the sale of tangible property is  
28 "in this state" if the taxpayer's market for the sales is in this

1 state. The taxpayer's market for sales is in this state:

2 a. In the case of sale, rental, lease, or license of real  
3 property, if and to the extent the property is located in this  
4 state;

5 b. In the case of rental, lease, or license of tangible  
6 personal property, if and to the extent the property is located  
7 in this state;

8 c. In the case of sale of a service, if and to the extent  
9 the benefit of the service is delivered to a purchaser location  
10 in this state; and

11 d. In the case of intangible property:

12 (i) That is rented, leased, or licensed, if and to the  
13 extent the property is used in this state by the rentee, lessee,  
14 or licensee, provided that intangible property utilized in  
15 marketing a good or service to a consumer is "used in this state"  
16 if that good or service is purchased by a consumer who is in this  
17 state. Franchise fees or royalties received for the rent, lease,  
18 license, or use of a trade name, trademark, service mark, or  
19 franchise system or provides a right to conduct business activity  
20 in a specific geographic area are "used in this state" to the  
21 extent the franchise location is in this state; and

22 (ii) That is sold, if and to the extent the property is  
23 used in this state, provided that:

24 i. A contract right, government license, or similar  
25 intangible property that authorizes the holder to conduct a  
26 business activity in a specific geographic area is "used in this  
27 state" if the geographic area includes all or part of this state;

28 ii. Receipts from intangible property sales that are

1 contingent on the productivity, use, or disposition of the  
2 intangible property shall be treated as receipts from the rental,  
3 lease, or licensing of such intangible property under item (i) of  
4 this subparagraph; and

5 iii. All other receipts from a sales of intangible  
6 property shall be excluded from the numerator and denominator of  
7 the sales factor;

8 (f) If the state or states of assignment under paragraph  
9 (e) of this subdivision cannot be determined, the state or states  
10 of assignment shall be reasonably approximated;

11 (g) If the state of assignment cannot be determined under  
12 paragraph (e) of this subdivision or reasonably approximated  
13 under paragraph (f) of this subdivision, such sales shall be  
14 excluded from the denominator of the sales factor;

15 (h) The director may prescribe such rules and regulations  
16 as necessary or appropriate to carry out the purposes of this  
17 section.

18 (4) For purposes of this subsection, the following words  
19 shall, unless the context otherwise requires, have the following  
20 meaning:

21 (a) "Administration services" include, but are not limited  
22 to, clerical, fund or shareholder accounting, participant record  
23 keeping, transfer agency, bookkeeping, data processing,  
24 custodial, internal auditing, legal and tax services performed  
25 for an investment company;

26 (b) "Affiliate", the meaning as set forth in 15 U.S.C.  
27 Section 80a-2(a) (3) (C), as may be amended from time to time;

28 (c) "Distribution services" include, but are not limited

1 to, the services of advertising, servicing, marketing,  
2 underwriting or selling shares of an investment company, but, in  
3 the case of advertising, servicing or marketing shares, only  
4 where such service is performed by a person who is, or in the  
5 case of a closed end company, was, either engaged in the services  
6 of underwriting or selling investment company shares or  
7 affiliated with a person that is engaged in the service of  
8 underwriting or selling investment company shares. In the case  
9 of an open end company, such service of underwriting or selling  
10 shares must be performed pursuant to a contract entered into  
11 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time  
12 amended;

13 (d) "Investment company", any person registered under the  
14 federal Investment Company Act of 1940, as amended from time to  
15 time, (the act) or a company which would be required to register  
16 as an investment company under the act except that such person is  
17 exempt to such registration pursuant to Section 80a-3(c)(1) of  
18 the act;

19 (e) "Investment funds service corporation" includes any  
20 corporation or S corporation doing business in the state which  
21 derives more than fifty percent of its gross income in the  
22 ordinary course of business from the provision directly or  
23 indirectly of management, distribution or administration services  
24 to or on behalf of an investment company or from trustees,  
25 sponsors and participants of employee benefit plans which have  
26 accounts in an investment company. An investment funds service  
27 corporation shall include any corporation or S corporation  
28 providing management services as an investment advisory firm

1 registered under Section 203 of the Investment Advisors Act of  
2 1940, as amended from time to time, regardless of the percentage  
3 of gross revenues consisting of fees from management services  
4 provided to or on behalf of an investment company;

5 (f) "Management services" include but are not limited to,  
6 the rendering of investment advice directly or indirectly to an  
7 investment company making determinations as to when sales and  
8 purchases of securities are to be made on behalf of the  
9 investment company, or the selling or purchasing of securities  
10 constituting assets of an investment company, and related  
11 activities, but only where such activity or activities are  
12 performed:

13 a. Pursuant to a contract with the investment company  
14 entered into pursuant to 15 U.S.C. Section 80a-15(a), as from  
15 time to time amended;

16 b. For a person that has entered into such contract with  
17 the investment company; or

18 c. For a person that is affiliated with a person that has  
19 entered into such contract with an investment company;

20 (g) "Qualifying sales", gross income derived from the  
21 provision directly or indirectly of management, distribution or  
22 administration services to or on behalf of an investment company  
23 or from trustees, sponsors and participants of employee benefit  
24 plans which have accounts in an investment company. For purposes  
25 of this section, "gross income" is defined as that amount of  
26 income earned from qualifying sources without deduction of  
27 expenses related to the generation of such income;

28 (h) "Residence", presumptively the fund shareholder's

1 mailing address on the records of the investment company. If,  
2 however, the investment company or the investment funds service  
3 corporation has actual knowledge that the fund shareholder's  
4 primary residence or principal place of business is different  
5 than the fund shareholder's mailing address such presumption  
6 shall not control. To the extent an investment funds service  
7 corporation does not have access to the records of the investment  
8 company, the investment funds service corporation may employ  
9 reasonable methods to determine the investment company fund  
10 shareholder's residence.

11 (5) Notwithstanding other provisions of law to the  
12 contrary, qualifying sales of an investment funds service  
13 corporation, or S corporation, shall be considered wholly in this  
14 state only to the extent that the fund shareholders of the  
15 investment companies, to which the investment funds service  
16 corporation, or S corporation, provide services, are resided  
17 in this state. Wholly in this state qualifying sales of an  
18 investment funds service corporation, or S corporation, shall be  
19 determined as follows:

20 (a) By multiplying the investment funds service  
21 corporation's total dollar amount of qualifying sales from  
22 services provided to each investment company by a fraction, the  
23 numerator of which shall be the average of the number of shares  
24 owned by the investment company's fund shareholders resided in  
25 this state at the beginning of and at the end of the investment  
26 company's taxable year that ends with or within the investment  
27 funds service corporation's taxable year, and the denominator of  
28 which shall be the average of the number of shares owned by the

1 investment company's fund shareholders everywhere at the  
2 beginning of and at the end of the investment company's taxable  
3 year that ends with or within the investment funds service  
4 corporation's taxable year;

5 (b) A separate computation shall be made to determine the  
6 wholly in this state qualifying sales from each investment  
7 company. The qualifying sales for each investment company shall  
8 be multiplied by the respective percentage of each fund, as  
9 calculated pursuant to paragraph (a) of this subdivision. The  
10 product of this equation shall result in the wholly in this state  
11 qualifying sales. The qualifying sales for each investment  
12 company which are not wholly in this state will be considered  
13 wholly without this state;

14 (c) To the extent an investment funds service corporation  
15 has sales which are not qualifying sales, those nonqualified  
16 sales shall be apportioned to this state based on the methodology  
17 utilized by the investment funds service corporation without  
18 regard to this subdivision.

19 3. Any corporation described in subdivision (1) of  
20 subsection 1 of section 143.441 organized in this state or  
21 granted a permit to operate in this state for the transportation  
22 or care of passengers shall report its gross earnings within the  
23 state on intrastate business and shall also report its gross  
24 earnings on all interstate business done in this state which  
25 report shall be subject to inquiry for the purpose of determining  
26 the amount of income to be included in Missouri taxable income.  
27 The previous sentence shall not apply to a railroad.

28 4. A corporation described in subdivision (2) of subsection

1 1 of section 143.441 shall include in its Missouri taxable income  
2 all income arising from all sources in this state and all income  
3 from each transportation service wholly within this state, from  
4 each service where the only lines of such corporation used are  
5 those in this state, and such proportion of revenue from each  
6 service where the facilities of such corporation in this state  
7 and in another state or states are used, as the mileage used over  
8 the lines of such corporation in the state shall bear to the  
9 total mileage used over the lines of such corporation. The  
10 taxpayer may elect to compute the portion of income from all  
11 sources within this state in the following manner:

12 (1) The income from all sources shall be determined as  
13 provided;

14 (2) The amount of investment of such corporation on  
15 December thirty-first of each year in this state in fixed  
16 transportation facilities, real estate and improvements, plus the  
17 value on December thirty-first of each year of any fixed  
18 transportation facilities, real estate and improvements in this  
19 state leased from any other railroad shall be divided by the sum  
20 of the total amount of investment of such corporation on December  
21 thirty-first of each year in fixed transportation facilities,  
22 real estate and improvements, plus the value on December thirty-  
23 first of each year, of any fixed transportation facilities, real  
24 estate and improvements leased from any other railroad. Where  
25 any fixed transportation facilities, real estate or improvements  
26 are leased by more than one railroad, such portion of the value  
27 shall be used by each railroad as the rental paid by each shall  
28 bear to the rental paid by all lessees. The income shall be

1 multiplied by the fraction thus obtained to determine the  
2 proportion to be used to arrive at the amount of Missouri taxable  
3 income.

4 5. A corporation described in subdivision (3) of subsection  
5 1 of section 143.441 shall include in its Missouri taxable income  
6 one-half of the net income from the operation of a bridge between  
7 this and another state. If any such bridge is owned or operated  
8 by a railroad corporation or corporations, or by a corporation  
9 owning a railroad corporation using such bridge, then the figures  
10 for operation of such bridge may be included in the return of  
11 such railroad or railroads; or if such bridge is owned or  
12 operated by any other corporation which may now or hereafter be  
13 required to file an income tax return, one-half of the income or  
14 loss to such corporation from such bridge may be included in such  
15 return by adding or subtracting same to or from another net  
16 income or loss shown by the return.

17 6. A corporation described in subdivision (4) of subsection  
18 1 of section 143.441 shall include in its Missouri taxable income  
19 all income arising from all sources within this state. Income  
20 shall include revenue from each telephonic or telegraphic service  
21 rendered wholly within this state; from each service rendered for  
22 which the only facilities of such corporation used are those in  
23 this state; and from each service rendered over the facilities of  
24 such corporation in this state and in other state or states, such  
25 proportion of such revenue as the mileage involved in this state  
26 shall bear to the total mileage involved over the lines of said  
27 company in all states. The taxpayer may elect to compute the  
28 portion of income from all sources within this state in the

1 following manner:

2 (1) The income from all sources shall be determined as  
3 provided;

4 (2) The amount of investment of such corporation on  
5 December thirty-first of each year in this state in telephonic or  
6 telegraphic facilities, real estate and improvements thereon,  
7 shall be divided by the amount of the total investment of such  
8 corporation on December thirty-first of each year in telephonic  
9 or telegraphic facilities, real estate and improvements. The  
10 income of the taxpayer shall be multiplied by fraction thus  
11 obtained to determine the proportion to be used to arrive at the  
12 amount of Missouri taxable income.

13 7. From the income determined in subsections 2, 3, 4, 5 and  
14 6 of this section to be from all sources within this state shall  
15 be deducted such of the deductions for expenses in determining  
16 Missouri taxable income as were incurred in this state to produce  
17 such income and all losses actually sustained in this state in  
18 the business of the corporation.

19 8. If a corporation derives only part of its income from  
20 sources within Missouri, its Missouri taxable income shall only  
21 reflect the effect of the following listed deductions to the  
22 extent applicable to Missouri. The deductions are: (a) its  
23 deduction for federal income taxes pursuant to section 143.171,  
24 and (b) the effect on Missouri taxable income of the deduction  
25 for net operating loss allowed by Section 172 of the Internal  
26 Revenue Code. The extent applicable to Missouri shall be  
27 determined by multiplying the amount that would otherwise affect  
28 Missouri taxable income by the ratio for the year of the Missouri

1 taxable income of the corporation for the year divided by the  
2 Missouri taxable income for the year as though the corporation  
3 had derived all of its income from sources within Missouri. For  
4 the purpose of the preceding sentence, Missouri taxable income  
5 shall not reflect the listed deductions.

6 9. Any investment funds service corporation organized as a  
7 corporation or S corporation which has any shareholders  
8 resided in this state shall be subject to Missouri income tax  
9 as provided in this chapter.

10 144.010. 1. The following words, terms, and phrases when  
11 used in sections 144.010 to 144.525 have the meanings ascribed to  
12 them in this section, except when the context indicates a  
13 different meaning:

14 (1) "Admission" includes seats and tables, reserved or  
15 otherwise, and other similar accommodations and charges made  
16 therefor and amount paid for admission, exclusive of any  
17 admission tax imposed by the federal government or by sections  
18 144.010 to 144.525;

19 (2) "Business" includes any activity engaged in by any  
20 person, or caused to be engaged in by him, with the object of  
21 gain, benefit or advantage, either direct or indirect, and the  
22 classification of which business is of such character as to be  
23 subject to the terms of sections 144.010 to 144.525. A person is  
24 "engaging in business" in this state for purposes of sections  
25 144.010 to 144.525 if such person "engages in business in this  
26 state" or "maintains a place of business in this state" under  
27 section 144.605. The isolated or occasional sale of tangible  
28 personal property, service, substance, or thing, by a person not

1 engaged in such business, does not constitute engaging in  
2 business within the meaning of sections 144.010 to 144.525 unless  
3 the total amount of the gross receipts from such sales, exclusive  
4 of receipts from the sale of tangible personal property by  
5 persons which property is sold in the course of the partial or  
6 complete liquidation of a household, farm or nonbusiness  
7 enterprise, exceeds three thousand dollars in any calendar year.  
8 The provisions of this subdivision shall not be construed to make  
9 any sale of property which is exempt from sales tax or use tax on  
10 June 1, 1977, subject to that tax thereafter;

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

18 (4) "Gross receipts", except as provided in section  
19 144.012, means the total amount of the sale price of the sales at  
20 retail including any services other than charges incident to the  
21 extension of credit that are a part of such sales made by the  
22 businesses herein referred to, capable of being valued in money,  
23 whether received in money or otherwise; except that, the term  
24 "gross receipts" shall not include the sale price of property  
25 returned by customers when the full sale price thereof is  
26 refunded either in cash or by credit. In determining any tax due  
27 under sections 144.010 to 144.525 on the gross receipts, charges  
28 incident to the extension of credit shall be specifically

1 exempted. For the purposes of sections 144.010 to 144.525 the  
2 total amount of the sale price above mentioned shall be deemed to  
3 be the amount received. It shall also include the lease or  
4 rental consideration where the right to continuous possession or  
5 use of any article of tangible personal property is granted under  
6 a lease or contract and such transfer of possession would be  
7 taxable if outright sale were made and, in such cases, the same  
8 shall be taxable as if outright sale were made and considered as  
9 a sale of such article, and the tax shall be computed and paid by  
10 the lessee upon the rentals paid;

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

17 (6) "Motor vehicle leasing company" shall be a company  
18 obtaining a permit from the director of revenue to operate as a  
19 motor vehicle leasing company. Not all persons renting or  
20 leasing trailers or motor vehicles need to obtain such a permit;  
21 however, no person failing to obtain such a permit may avail  
22 itself of the optional tax provisions of subsection 5 of section  
23 144.070, as hereinafter provided;

24 (7) "Person" includes any individual, firm, copartnership,  
25 joint adventure, association, corporation, municipal or private,  
26 and whether organized for profit or not, state, county, political  
27 subdivision, state department, commission, board, bureau or  
28 agency, except the state transportation department, estate,

1 trust, business trust, receiver or trustee appointed by the state  
2 or federal court, syndicate, or any other group or combination  
3 acting as a unit, and the plural as well as the singular number;

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

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

15 (10) "Sale" or "sales" includes installment and credit  
16 sales, and the exchange of properties as well as the sale thereof  
17 for money, every closed transaction constituting a sale, and  
18 means any transfer, exchange or barter, conditional or otherwise,  
19 in any manner or by any means whatsoever, of tangible personal  
20 property for valuable consideration and the rendering, furnishing  
21 or selling for a valuable consideration any of the substances,  
22 things and services herein designated and defined as taxable  
23 under the terms of sections 144.010 to 144.525;

24 (11) "Sale at retail" means any transfer made by any person  
25 engaged in business as defined herein of the ownership of, or  
26 title to, tangible personal property to the purchaser, for use or  
27 consumption and not for resale in any form as tangible personal  
28 property, for a valuable consideration; except that, for the

1 purposes of sections 144.010 to 144.525 and the tax imposed  
2 thereby: (i) purchases of tangible personal property made by  
3 duly licensed physicians, dentists, optometrists and  
4 veterinarians and used in the practice of their professions shall  
5 be deemed to be purchases for use or consumption and not for  
6 resale; and (ii) the selling of computer printouts, computer  
7 output or microfilm or microfiche and computer-assisted photo  
8 compositions to a purchaser to enable the purchaser to obtain for  
9 his or her own use the desired information contained in such  
10 computer printouts, computer output on microfilm or microfiche  
11 and computer-assisted photo compositions shall be considered as  
12 the sale of a service and not as the sale of tangible personal  
13 property. Where necessary to conform to the context of sections  
14 144.010 to 144.525 and the tax imposed thereby, the term "sale at  
15 retail" shall be construed to embrace:

16 (a) Sales of admission tickets[, cash admissions,] and  
17 charges and fees for admission to [or in places of amusement,  
18 entertainment and recreation, games and athletic events] view  
19 sporting events, dance performances, theater performances,  
20 orchestra, concerts, and other performing arts productions, and  
21 amounts paid for admission to racetracks, arcades, theme and  
22 amusement parks, water parks, circuses, carnivals, festivals, air  
23 shows, museums, marinas, motion picture theaters, and other  
24 commercial attractions. Such tax shall not include any sales  
25 regardless of how offered and sold as a right of first refusal,  
26 right to purchase, single admission ticket, bundled package or  
27 season pass for admission and seating accommodations, or fees  
28 paid to, or in any place having an exemption under subdivision

1 (20), (21), or (22) of subsection 2 of section 144.030. Such  
2 sales shall not include the amount paid that results in the first  
3 opportunity to purchase or decline tickets for admission to  
4 events, but does not itself result in admission;

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

8 (c) Sales of local and long distance telecommunications  
9 service to telecommunications subscribers and to others through  
10 equipment of telecommunications subscribers for the transmission  
11 of messages and conversations, and the sale, rental or leasing of  
12 all equipment or services pertaining or incidental thereto;

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

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

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

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

28 (13) The noun "tax" means either the tax payable by the

1 purchaser of a commodity or service subject to tax, or the  
2 aggregate amount of taxes due from the vendor of such commodities  
3 or services during the period for which he or she is required to  
4 report his or her collections, as the context may require;

5 (14) "Telecommunications service", for the purpose of this  
6 chapter, the transmission of information by wire, radio, optical  
7 cable, coaxial cable, electronic impulses, or other similar  
8 means. As used in this definition, "information" means knowledge  
9 or intelligence represented by any form of writing, signs,  
10 signals, pictures, sounds, or any other symbols.

11 Telecommunications service does not include the following if such  
12 services are separately stated on the customer's bill or on  
13 records of the seller maintained in the ordinary course of  
14 business:

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

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

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

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

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

1 state or any other state.

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

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

9 144.018. 1. Notwithstanding any other provision of law to  
10 the contrary, except as provided under subsection 2 or 3 of this  
11 section, when a purchase of tangible personal property or service  
12 subject to tax is made for the purpose of resale, such purchase  
13 shall be either exempt or excluded under this chapter if the  
14 subsequent sale is:

- 15 (1) Subject to a tax in this or any other state;
- 16 (2) For resale;
- 17 (3) Excluded from tax under this chapter;
- 18 (4) Subject to tax but exempt under this chapter; or
- 19 (5) Exempt from the sales tax laws of another state, if the  
20 subsequent sale is in such other state.

21  
22 The purchase of tangible personal property by a taxpayer shall  
23 not be deemed to be for resale if such property is used or  
24 consumed by the taxpayer in providing a service on which tax is  
25 not imposed by subsection 1 of section 144.020, except purchases  
26 made in fulfillment of any obligation under a defense contract  
27 with the United States government.

28 2. For purposes of subdivision (2) of subsection 1 of

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

1           3. For purposes of subdivision (6) of subsection 1 of  
2 section 144.020, a hotel, motel, tavern, inn, restaurant, eating  
3 house, drugstore, dining car, tourist cabin, tourist camp, or  
4 other place in which rooms, meals, or drinks are regularly served  
5 to the public shall remit tax on the amount of sales or charges  
6 for all rooms, meals, and drinks furnished at such hotel, motel,  
7 tavern, inn, restaurant, eating house, drugstore, dining car,  
8 tourist cabin, tourist camp, or other place in which rooms,  
9 meals, or drinks are regularly served to the public. Any  
10 subsequent sale of such rooms, meals, or drinks shall not be  
11 subject to tax if the initial sale was an arms length transaction  
12 for fair market value with an unaffiliated entity. If the sale  
13 of such rooms, meals, or drinks is exempt or excluded from  
14 payment of sales and use taxes, the provisions of this subsection  
15 shall not require the hotel, motel, tavern, inn, restaurant,  
16 eating house, drugstore, dining car, tourist cabin, tourist camp,  
17 or other place in which rooms, meals, or drinks are regularly  
18 served to the public to remit tax on that sale.

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

28           144.020. 1. A tax is hereby levied and imposed for the

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

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

20 (2) A tax equivalent to four percent of the amount paid for  
21 admission tickets and [seating accommodations, or] charges and  
22 fees [paid] to[, or in any place of amusement, entertainment or  
23 recreation, games and athletic events] view sporting events,  
24 dance performances, theater performances, orchestra, concerts and  
25 other performing arts productions, and amounts paid for admission  
26 to racetracks, arcades, theme and amusement parks, water parks,  
27 circuses, carnivals, festivals, air shows, museums, marinas,  
28 motion picture theaters, and other commercial attractions. Such

1 tax shall not include any sales regardless of how offered and  
2 sold as a right of first refusal, right to purchase, single  
3 admission ticket, bundled package or season pass for admission  
4 and seating accommodations, or fees paid to, or in any place  
5 having an exemption under subdivision (20), (21), or (22) of  
6 subsection 2 of section 144.030. Such sales shall not include  
7 the amount paid that results in the first opportunity to purchase  
8 or decline tickets for admission to events, but does not itself  
9 result in admission;

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

14 (4) A tax equivalent to four percent on the basic rate paid  
15 or charged on all sales of local and long distance  
16 telecommunications service to telecommunications subscribers and  
17 to others through equipment of telecommunications subscribers for  
18 the transmission of messages and conversations and upon the sale,  
19 rental or leasing of all equipment or services pertaining or  
20 incidental thereto; except that, the payment made by  
21 telecommunications subscribers or others, pursuant to section  
22 144.060, and any amounts paid for access to the internet or  
23 interactive computer services shall not be considered as amounts  
24 paid for telecommunications services;

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

28 (6) A tax equivalent to four percent on the amount of sales

1 or charges for all rooms, meals and drinks furnished at any  
2 hotel, motel, tavern, inn, restaurant, eating house, drugstore,  
3 dining car, tourist cabin, tourist camp or other place in which  
4 rooms, meals or drinks are regularly served to the public;

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

12 (8) A tax equivalent to four percent of the amount paid or  
13 charged for rental or lease of tangible personal property,  
14 provided that if the lessor or renter of any tangible personal  
15 property had previously purchased the property under the  
16 conditions of "sale at retail" or leased or rented the property  
17 and the tax was paid at the time of purchase, lease or rental,  
18 the lessor, sublessor, renter or subrenter shall not apply or  
19 collect the tax on the subsequent lease, sublease, rental or  
20 subrental receipts from that property. The purchase, rental or  
21 lease of motor vehicles, trailers, motorcycles, mopeds,  
22 motortricycles, boats, and outboard motors shall be taxed and the  
23 tax paid as provided in this section and section 144.070. In no  
24 event shall the rental or lease of boats and outboard motors be  
25 considered a sale, charge, or fee to, for or in places of  
26 amusement, entertainment or recreation nor shall any such rental  
27 or lease be subject to any tax imposed to, for, or in such places  
28 of amusement, entertainment or recreation. Rental and leased

1 boats or outboard motors shall be taxed under the provisions of  
2 the sales tax laws as provided under such laws for motor vehicles  
3 and trailers. Tangible personal property which is exempt from  
4 the sales or use tax under section 144.030 upon a sale thereof is  
5 likewise exempt from the sales or use tax upon the lease or  
6 rental thereof;

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

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

18 144.030. 1. There is hereby specifically exempted from the  
19 provisions of sections 144.010 to 144.525 and from the  
20 computation of the tax levied, assessed or payable pursuant to  
21 sections 144.010 to 144.525 such retail sales as may be made in  
22 commerce between this state and any other state of the United  
23 States, or between this state and any foreign country, and any  
24 retail sale which the state of Missouri is prohibited from taxing  
25 pursuant to the Constitution or laws of the United States of  
26 America, and such retail sales of tangible personal property  
27 which the general assembly of the state of Missouri is prohibited  
28 from taxing or further taxing by the constitution of this state.

1           2. There are also specifically exempted from the provisions  
2 of the local sales tax law as defined in section 32.085, section  
3 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761  
4 and from the computation of the tax levied, assessed or payable  
5 pursuant to the local sales tax law as defined in section 32.085,  
6 section 238.235, and sections 144.010 to 144.525 and 144.600 to  
7 144.745:

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

26           (2) Materials, manufactured goods, machinery and parts  
27 which when used in manufacturing, processing, compounding,  
28 mining, producing or fabricating become a component part or

1 ingredient of the new personal property resulting from such  
2 manufacturing, processing, compounding, mining, producing or  
3 fabricating and which new personal property is intended to be  
4 sold ultimately for final use or consumption; and materials,  
5 including without limitation, gases and manufactured goods,  
6 including without limitation slagging materials and firebrick,  
7 which are ultimately consumed in the manufacturing process by  
8 blending, reacting or interacting with or by becoming, in whole  
9 or in part, component parts or ingredients of steel products  
10 intended to be sold ultimately for final use or consumption;

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

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

26 (5) Replacement machinery, equipment, and parts and the  
27 materials and supplies solely required for the installation or  
28 construction of such replacement machinery, equipment, and parts,

1 used directly in manufacturing, mining, fabricating or producing  
2 a product which is intended to be sold ultimately for final use  
3 or consumption; and machinery and equipment, and the materials  
4 and supplies required solely for the operation, installation or  
5 construction of such machinery and equipment, purchased and used  
6 to establish new, or to replace or expand existing, material  
7 recovery processing plants in this state. For the purposes of  
8 this subdivision, a "material recovery processing plant" means a  
9 facility that has as its primary purpose the recovery of  
10 materials into a useable product or a different form which is  
11 used in producing a new product and shall include a facility or  
12 equipment which are used exclusively for the collection of  
13 recovered materials for delivery to a material recovery  
14 processing plant but shall not include motor vehicles used on  
15 highways. For purposes of this section, the terms motor vehicle  
16 and highway shall have the same meaning pursuant to section  
17 301.010. Material recovery is not the reuse of materials within  
18 a manufacturing process or the use of a product previously  
19 recovered. The material recovery processing plant shall qualify  
20 under the provisions of this section regardless of ownership of  
21 the material being recovered;

22 (6) Machinery and equipment, and parts and the materials  
23 and supplies solely required for the installation or construction  
24 of such machinery and equipment, purchased and used to establish  
25 new or to expand existing manufacturing, mining or fabricating  
26 plants in the state if such machinery and equipment is used  
27 directly in manufacturing, mining or fabricating a product which  
28 is intended to be sold ultimately for final use or consumption;

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

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

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

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

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

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

20           (13) Electrical energy used in the actual primary  
21 manufacture, processing, compounding, mining or producing of a  
22 product, or electrical energy used in the actual secondary  
23 processing or fabricating of the product, or a material recovery  
24 processing plant as defined in subdivision (5) of this  
25 subsection, in facilities owned or leased by the taxpayer, if the  
26 total cost of electrical energy so used exceeds ten percent of  
27 the total cost of production, either primary or secondary,  
28 exclusive of the cost of electrical energy so used or if the raw

1 materials used in such processing contain at least twenty-five  
2 percent recovered materials as defined in section 260.200. There  
3 shall be a rebuttable presumption that the raw materials used in  
4 the primary manufacture of automobiles contain at least twenty-  
5 five percent recovered materials. For purposes of this  
6 subdivision, "processing" means any mode of treatment, act or  
7 series of acts performed upon materials to transform and reduce  
8 them to a different state or thing, including treatment necessary  
9 to maintain or preserve such processing by the producer at the  
10 production facility;

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

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

19 (16) Machinery, equipment, appliances and devices purchased  
20 or leased and used solely for the purpose of preventing, abating  
21 or monitoring water pollution, and materials and supplies solely  
22 required for the installation, construction or reconstruction of  
23 such machinery, equipment, appliances and devices;

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

26 (18) All amounts paid or charged for admission or  
27 participation or other fees paid by or other charges to  
28 individuals in or for any place of amusement, entertainment or

1 recreation, games or athletic events, including museums, fairs,  
2 zoos and planetariums, owned or operated by a municipality or  
3 other political subdivision where all the proceeds derived  
4 therefrom benefit the municipality or other political subdivision  
5 and do not inure to any private person, firm, or corporation,  
6 provided, however, that a municipality or other political  
7 subdivision may enter into revenue-sharing agreements with  
8 private persons, firms, or corporations providing goods or  
9 services, including management services, in or for the place of  
10 amusement, entertainment or recreation, games or athletic events,  
11 and provided further that nothing in this subdivision shall  
12 exempt from tax any amounts retained by any private person, firm,  
13 or corporation under such revenue-sharing agreement;

14 (19) All sales of insulin and prosthetic or orthopedic  
15 devices as defined on January 1, 1980, by the federal Medicare  
16 program pursuant to Title XVIII of the Social Security Act of  
17 1965, including the items specified in Section 1862(a)(12) of  
18 that act, and also specifically including hearing aids and  
19 hearing aid supplies and all sales of drugs which may be legally  
20 dispensed by a licensed pharmacist only upon a lawful  
21 prescription of a practitioner licensed to administer those  
22 items, including samples and materials used to manufacture  
23 samples which may be dispensed by a practitioner authorized to  
24 dispense such samples and all sales or rental of medical oxygen,  
25 home respiratory equipment and accessories, hospital beds and  
26 accessories and ambulatory aids, all sales or rental of manual  
27 and powered wheelchairs, stairway lifts, Braille writers,  
28 electronic Braille equipment and, if purchased or rented by or on

1 behalf of a person with one or more physical or mental  
2 disabilities to enable them to function more independently, all  
3 sales or rental of scooters, reading machines, electronic print  
4 enlargers and magnifiers, electronic alternative and augmentative  
5 communication devices, and items used solely to modify motor  
6 vehicles to permit the use of such motor vehicles by individuals  
7 with disabilities or sales of over-the-counter or nonprescription  
8 drugs to individuals with disabilities, and drugs required by the  
9 Food and Drug Administration to meet the over-the-counter drug  
10 product labeling requirements in 21 CFR 201.66, or its successor,  
11 as prescribed by a health care practitioner licensed to  
12 prescribe;

13 (20) All sales made by or to religious and charitable  
14 organizations and institutions in their religious, charitable or  
15 educational functions and activities and all sales made by or to  
16 all elementary and secondary schools operated at public expense  
17 in their educational functions and activities;

18 (21) All sales of aircraft to common carriers for storage  
19 or for use in interstate commerce and all sales made by or to  
20 not-for-profit civic, social, service or fraternal organizations,  
21 including fraternal organizations which have been declared tax-  
22 exempt organizations pursuant to Section 501(c)(8) or (10) of the  
23 1986 Internal Revenue Code, as amended, in their civic or  
24 charitable functions and activities and all sales made to  
25 eleemosynary and penal institutions and industries of the state,  
26 and all sales made to any private not-for-profit institution of  
27 higher education not otherwise excluded pursuant to subdivision  
28 (20) of this subsection or any institution of higher education

1 supported by public funds, and all sales made to a state relief  
2 agency in the exercise of relief functions and activities;

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

13 (23) All sales made to any private not-for-profit  
14 elementary or secondary school, all sales of feed additives,  
15 medications or vaccines administered to livestock or poultry in  
16 the production of food or fiber, all sales of pesticides used in  
17 the production of crops, livestock or poultry for food or fiber,  
18 all sales of bedding used in the production of livestock or  
19 poultry for food or fiber, all sales of propane or natural gas,  
20 electricity or diesel fuel used exclusively for drying  
21 agricultural crops, natural gas used in the primary manufacture  
22 or processing of fuel ethanol as defined in section 142.028,  
23 natural gas, propane, and electricity used by an eligible new  
24 generation cooperative or an eligible new generation processing  
25 entity as defined in section 348.432, and all sales of farm  
26 machinery and equipment, other than airplanes, motor vehicles and  
27 trailers, and any freight charges on any exempt item. As used in  
28 this subdivision, the term "feed additives" means tangible

1 personal property which, when mixed with feed for livestock or  
2 poultry, is to be used in the feeding of livestock or poultry.  
3 As used in this subdivision, the term "pesticides" includes  
4 adjuvants such as crop oils, surfactants, wetting agents and  
5 other assorted pesticide carriers used to improve or enhance the  
6 effect of a pesticide and the foam used to mark the application  
7 of pesticides and herbicides for the production of crops,  
8 livestock or poultry. As used in this subdivision, the term  
9 "farm machinery and equipment" means new or used farm tractors  
10 and such other new or used farm machinery and equipment and  
11 repair or replacement parts thereon and any accessories for and  
12 upgrades to such farm machinery and equipment, rotary mowers used  
13 exclusively for agricultural purposes, and supplies and  
14 lubricants used exclusively, solely, and directly for producing  
15 crops, raising and feeding livestock, fish, poultry, pheasants,  
16 chukar, quail, or for producing milk for ultimate sale at retail,  
17 including field drain tile, and one-half of each purchaser's  
18 purchase of diesel fuel therefor which is:

19 (a) Used exclusively for agricultural purposes;

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

22 (c) Used directly in producing farm products to be sold  
23 ultimately in processed form or otherwise at retail or in  
24 producing farm products to be fed to livestock or poultry to be  
25 sold ultimately in processed form at retail;

26 (24) Except as otherwise provided in section 144.032, all  
27 sales of metered water service, electricity, electrical current,  
28 natural, artificial or propane gas, wood, coal or home heating

1 oil for domestic use and in any city not within a county, all  
2 sales of metered or unmetered water service for domestic use:

3 (a) "Domestic use" means that portion of metered water  
4 service, electricity, electrical current, natural, artificial or  
5 propane gas, wood, coal or home heating oil, and in any city not  
6 within a county, metered or unmetered water service, which an  
7 individual occupant of a residential premises uses for  
8 nonbusiness, noncommercial or nonindustrial purposes. Utility  
9 service through a single or master meter for residential  
10 apartments or condominiums, including service for common areas  
11 and facilities and vacant units, shall be deemed to be for  
12 domestic use. Each seller shall establish and maintain a system  
13 whereby individual purchases are determined as exempt or  
14 nonexempt;

15 (b) Regulated utility sellers shall determine whether  
16 individual purchases are exempt or nonexempt based upon the  
17 seller's utility service rate classifications as contained in  
18 tariffs on file with and approved by the Missouri public service  
19 commission. Sales and purchases made pursuant to the rate  
20 classification "residential" and sales to and purchases made by  
21 or on behalf of the occupants of residential apartments or  
22 condominiums through a single or master meter, including service  
23 for common areas and facilities and vacant units, shall be  
24 considered as sales made for domestic use and such sales shall be  
25 exempt from sales tax. Sellers shall charge sales tax upon the  
26 entire amount of purchases classified as nondomestic use. The  
27 seller's utility service rate classification and the provision of  
28 service thereunder shall be conclusive as to whether or not the

1 utility must charge sales tax;

2 (c) Each person making domestic use purchases of services  
3 or property and who uses any portion of the services or property  
4 so purchased for a nondomestic use shall, by the fifteenth day of  
5 the fourth month following the year of purchase, and without  
6 assessment, notice or demand, file a return and pay sales tax on  
7 that portion of nondomestic purchases. Each person making  
8 nondomestic purchases of services or property and who uses any  
9 portion of the services or property so purchased for domestic  
10 use, and each person making domestic purchases on behalf of  
11 occupants of residential apartments or condominiums through a  
12 single or master meter, including service for common areas and  
13 facilities and vacant units, under a nonresidential utility  
14 service rate classification may, between the first day of the  
15 first month and the fifteenth day of the fourth month following  
16 the year of purchase, apply for credit or refund to the director  
17 of revenue and the director shall give credit or make refund for  
18 taxes paid on the domestic use portion of the purchase. The  
19 person making such purchases on behalf of occupants of  
20 residential apartments or condominiums shall have standing to  
21 apply to the director of revenue for such credit or refund;

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

27 (26) Excise taxes, collected on sales at retail, imposed by  
28 Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and

1 4271 of Title 26, United States Code. The director of revenue  
2 shall promulgate rules pursuant to chapter 536 to eliminate all  
3 state and local sales taxes on such excise taxes;

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

11 (28) All sales made to an interstate compact agency created  
12 pursuant to sections 70.370 to 70.441 or sections 238.010 to  
13 238.100 in the exercise of the functions and activities of such  
14 agency as provided pursuant to the compact;

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

22 (30) All livestock sales when either the seller is engaged  
23 in the growing, producing or feeding of such livestock, or the  
24 seller is engaged in the business of buying and selling,  
25 bartering or leasing of such livestock;

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

28 (32) Electrical energy or gas, whether natural, artificial

1 or propane, water, or other utilities which are ultimately  
2 consumed in connection with the manufacturing of cellular glass  
3 products or in any material recovery processing plant as defined  
4 in subdivision (5) of this subsection;

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

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

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

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

19 (37) All purchases by a contractor on behalf of an entity  
20 located in another state, provided that the entity is authorized  
21 to issue a certificate of exemption for purchases to a contractor  
22 under the provisions of that state's laws. For purposes of this  
23 subdivision, the term "certificate of exemption" shall mean any  
24 document evidencing that the entity is exempt from sales and use  
25 taxes on purchases pursuant to the laws of the state in which the  
26 entity is located. Any contractor making purchases on behalf of  
27 such entity shall maintain a copy of the entity's exemption  
28 certificate as evidence of the exemption. If the exemption

1 certificate issued by the exempt entity to the contractor is  
2 later determined by the director of revenue to be invalid for any  
3 reason and the contractor has accepted the certificate in good  
4 faith, neither the contractor or the exempt entity shall be  
5 liable for the payment of any taxes, interest and penalty due as  
6 the result of use of the invalid exemption certificate.

7 Materials shall be exempt from all state and local sales and use  
8 taxes when purchased by a contractor for the purpose of  
9 fabricating tangible personal property which is used in  
10 fulfilling a contract for the purpose of constructing, repairing  
11 or remodeling facilities for the following:

12 (a) An exempt entity located in this state, if the entity  
13 is one of those entities able to issue project exemption  
14 certificates in accordance with the provisions of section  
15 144.062; or

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

20 (38) All sales or other transfers of tangible personal  
21 property to a lessor who leases the property under a lease of one  
22 year or longer executed or in effect at the time of the sale or  
23 other transfer to an interstate compact agency created pursuant  
24 to sections 70.370 to 70.441 or sections 238.010 to 238.100;

25 (39) Sales of tickets to any collegiate athletic  
26 championship event that is held in a facility owned or operated  
27 by a governmental authority or commission, a quasi-governmental  
28 agency, a state university or college or by the state or any

1 political subdivision thereof, including a municipality, and that  
2 is played on a neutral site and may reasonably be played at a  
3 site located outside the state of Missouri. For purposes of this  
4 subdivision, "neutral site" means any site that is not located on  
5 the campus of a conference member institution participating in  
6 the event;

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

12 (41) Beginning January 1, 2009, but not after January 1,  
13 2015, materials, replacement parts, and equipment purchased for  
14 use directly upon, and for the modification, replacement, repair,  
15 and maintenance of aircraft, aircraft power plants, and aircraft  
16 accessories;

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

23 (43) All sales of motor fuel, as defined in section  
24 142.800, used in any watercraft, as defined in section 306.010.

25 3. Any ruling, agreement, or contract, whether written or  
26 oral, express or implied, between a person and this state's  
27 executive branch, or any other state agency or department,  
28 stating, agreeing, or ruling that such person is not required to

1 collect sales and use tax in this state despite the presence of a  
2 warehouse, distribution center, or fulfillment center in this  
3 state that is owned or operated by the person or an affiliated  
4 person shall be null and void unless it is specifically approved  
5 by a majority vote of each of the houses of the general assembly.  
6 For purposes of this subsection, an "affiliated person" means any  
7 person that is a member of the same controlled group of  
8 corporations as defined in Section 1563(a) of the Internal  
9 Revenue Code of 1986, as amended, as the vendor or any other  
10 entity that, notwithstanding its form of organization, bears the  
11 same ownership relationship to the vendor as a corporation that  
12 is a member of the same controlled group of corporations as  
13 defined in Section 1563(a) of the Internal Revenue Code, as  
14 amended.

15 144.044. 1. As used in this section, the following terms  
16 mean:

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

19 (2) "Sale of a new manufactured home", a transfer of a  
20 manufactured home, as defined in section 700.010, which involves  
21 the delivery of the document known as the manufacturer's  
22 statement of origin to a person other than a manufactured home  
23 dealer, as dealer is defined in section 700.010, for purposes of  
24 allowing such person to obtain a title to the manufactured home  
25 from the department of revenue of this state or the appropriate  
26 agency or officer of any other state;

27 (3) "Sale of a used manufactured home", any subsequent sale  
28 of a manufactured home as defined in section 700.010, which does

1 not qualify as "new" as defined in subdivision (9) of section  
2 700.010.

3         2. In the event of the sale of a new manufactured home,  
4 forty percent of the purchase price, as defined in section  
5 700.320, shall be considered the sale of a service and not the  
6 sale of tangible personal property. In addition to the  
7 exemptions granted under the provisions of section 144.030, the  
8 sale of services as defined in this section shall be specifically  
9 exempted from the provisions of sections 238.235 and 238.410, the  
10 local sales tax law as defined in section 32.085, sections  
11 144.010 to 144.525 and 144.600 to 144.745, and from the  
12 computation of the tax levied, assessed or payable under sections  
13 238.235 and 238.410, the local sales tax law as defined in  
14 section 32.085, sections 144.010 to 144.525 and 144.600 to  
15 144.745, and section 238.235.

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

1 local sales tax law as defined in section 32.085, sections  
2 144.010 to 144.525 and 144.600 to 144.745, and section 238.235.

3 4. In addition to the exemptions granted under the  
4 provisions of section 144.030, the sale of a used manufactured  
5 home as defined in this section shall be specifically exempted  
6 from the provisions of sections 238.235 and 238.410, the local  
7 sales tax law as defined in section 32.085, sections 144.010 to  
8 144.525 and 144.600 to 144.745, and from the computation of the  
9 tax levied, assessed, or payable under sections 238.235 and  
10 238.410, the local sales tax law as defined in section 32.085,  
11 sections 144.010 to 144.525 and 144.600 to 144.745, and section  
12 238.235.

13 144.052. 1. In addition to all other exemptions granted  
14 under this chapter, there is hereby specifically exempted from  
15 the provisions of sections 144.010 to 144.525, 144.600 to  
16 144.761, and 238.235, and the local sales tax law as defined in  
17 section 32.085, from the computation of the tax levied, assessed,  
18 or payable under sections 144.010 to 144.525, 144.600 to 144.761,  
19 238.235, and the local sales tax law as defined in section  
20 32.085, all sales of prescription drugs, biological products, and  
21 devices approved by the United States Food and Drug  
22 Administration and all drugs, biological products, and devices  
23 that have successfully completed phase one of a clinical trial,  
24 but have not been approved for general use by the United States  
25 Food and Drug Administration and remain under investigation in a  
26 clinical trial, used for the treatment of terminal illnesses,  
27 including components and repair parts, and the disposable or  
28 single patient use supplies required for the use of such devices.

1           2. For purposes of this section the term "terminal illness"  
2 shall mean a disease that without life-sustaining procedures will  
3 result in death in the near future or a state of permanent  
4 unconsciousness from which recovery is unlikely.

5           144.058. 1. In addition to all other exemptions granted  
6 under this chapter, there is hereby specifically exempted from  
7 the provisions of sections 144.010 to 144.525, 144.600 to  
8 144.761, and from the computation of the tax levied, assessed, or  
9 payable under sections 144.010 to 144.525, 144.600 to 144.761,  
10 electrical energy and gas, whether natural, artificial, or  
11 propane; water, coal, and energy sources; chemicals, machinery,  
12 equipment, parts, and materials used or consumed in connection  
13 with or to facilitate the generation, transmission, distribution,  
14 sale, or furnishing of electricity for light, heat, or power; and  
15 any conduits, ducts, or other devices, materials, apparatus, or  
16 property for containing, holding, or carrying conductors used or  
17 to be used for the transmission of electricity for light, heat,  
18 or power service to customers.

19           2. In addition to all other exemptions granted under this  
20 chapter, there is hereby specifically exempted from the  
21 provisions of sections 144.010 to 144.525, 144.600 to 144.761,  
22 238.235, and the local sales tax law as defined in section  
23 32.085, and from the computation of the tax levied, assessed, or  
24 payable under sections 144.010 to 144.525, 144.600 to 144.761,  
25 238.235, and the local sales tax law as defined in section  
26 32.085, electrical energy, machinery, equipment, parts, and  
27 materials used or consumed in connection with or to facilitate  
28 the storage or processing of data in any facility or part of a

1 facility that is used primarily for such data storage or  
2 processing. "Processing", as used in this section, shall mean  
3 any action or process performed upon or using data in any form.

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

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

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

7           4. The seller of any property or person rendering any  
8 service, subject to the tax imposed by sections 144.010 to  
9 144.525, shall collect the tax from the purchaser of such  
10 property or the recipient of the service to the extent possible  
11 under the provisions of section 144.285, but the seller's  
12 inability to collect any part or all of the tax does not relieve  
13 the seller of the obligation to pay to the state the tax imposed  
14 by section 144.020; except that the collection of the tax imposed  
15 by sections 144.010 to 144.525 on motor vehicles and trailers  
16 shall be made as provided in sections 144.070 and 144.440.

17           5. ~~It shall be unlawful for~~ Any person ~~to~~ may advertise  
18 or hold out or state to the public or to any customer directly  
19 ~~or indirectly~~ that the tax or any part thereof imposed by  
20 sections 144.010 to 144.525, and required to be collected by the  
21 person, will be assumed or absorbed by the person, ~~or that it~~  
22 will not be separately stated and added to the selling price of  
23 ~~the~~ provided that the amount of tax assumed or absorbed shall be  
24 stated on any invoice or receipt for the property sold or service  
25 rendered~~[, or if added, that it or any part thereof will be~~  
26 ~~refunded]~~. Any person violating any of the provisions of this  
27 section shall be guilty of a misdemeanor. This subsection shall  
28 not apply to any retailer prohibited from collecting and

1 remitting sales tax under section 66.630.

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

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

21 3. Every claim for refund must be in writing and signed by  
22 the applicant, and must state the specific grounds upon which the  
23 claim is founded. Any refund or any portion thereof which is  
24 erroneously made, and any credit or any portion thereof which is  
25 erroneously allowed, may be recovered in any action brought by  
26 the director of revenue against the person legally obligated to  
27 remit the tax. In the event that a tax has been illegally  
28 imposed against a person legally obligated to remit the tax, the

1 director of revenue shall authorize the cancellation of the tax  
2 upon the [director's] director of revenue's record.

3 4. Notwithstanding the provisions of section 32.057, a  
4 purchaser that originally paid sales or use tax to a vendor or  
5 seller may submit a refund claim directly to the director of  
6 revenue for such sales or use taxes paid to such vendor or seller  
7 and remitted to the director of revenue, provided no sum shall be  
8 refunded more than once, any such claim shall be subject to any  
9 offset, defense, or other claim the director of revenue otherwise  
10 would have against either the purchaser or vendor or seller if  
11 such offset or claim has been assessed under section 144.240 or  
12 144.670 and such assessment is no longer subject to appeal, and  
13 such claim for refund is accompanied by either:

14 (1) A notarized assignment of rights statement by the  
15 vendor or seller to the purchaser allowing the purchaser to seek  
16 the refund on behalf of the vendor or seller. An assignment of  
17 rights statement shall contain the Missouri sales or use tax  
18 registration number of the vendor or seller, a list of the  
19 transactions covered by the assignment, the tax periods and  
20 location for which the original sale was reported to the director  
21 of revenue by the vendor or seller, and a notarized statement  
22 signed by the vendor or seller affirming that the vendor or  
23 seller has not received a refund or credit, will not apply for a  
24 refund or credit of the tax collected on any transactions covered  
25 by the assignment, and authorizes the director of revenue to  
26 amend the seller's return to reflect the refund; or

27 (2) In the event the vendor or seller fails or refuses to  
28 provide an assignment of rights statement within sixty days from

1 the date of such purchaser's written request to the vendor or  
2 seller, or the purchaser is not able to locate the vendor or  
3 seller or the vendor or seller is no longer in business, the  
4 purchaser may provide the director of revenue a notarized  
5 statement confirming the efforts that have been made to obtain an  
6 assignment of rights from the vendor or seller. Such statement  
7 shall contain a list of the transactions covered by the  
8 assignment, the tax periods and location for which the original  
9 sale was reported to the director of revenue by the vendor or  
10 seller.

11  
12 The director of revenue shall not require such vendor, seller, or  
13 purchaser to submit amended returns for refund claims submitted  
14 under the provisions of this subsection. Notwithstanding the  
15 provisions of section 32.057, if the seller is registered with  
16 the director of revenue for collection and remittance of sales  
17 tax, the director of revenue shall notify the seller at the  
18 seller's last known address of the claim for refund. If the  
19 seller objects to the refund within thirty days of the date of  
20 the notice, the director of revenue shall not pay the refund. If  
21 the seller agrees that the refund is warranted or fails to  
22 respond within thirty days, the director of revenue may issue the  
23 refund and amend the seller's return to reflect the refund. For  
24 purposes of section 32.069, the refund claim shall not be  
25 considered to have been filed until the seller agrees that the  
26 refund is warranted or thirty days after the date the director of  
27 revenue notified the seller and the seller failed to respond.

28 5. Notwithstanding the provisions of section 32.057, when a

1 vendor files a refund claim on behalf of a purchaser and such  
2 refund claim is denied by the director of revenue, notice of such  
3 denial and the reason for the denial shall be sent by the  
4 director of revenue to the vendor and each purchaser whose name  
5 and address is submitted with the refund claim form filed by the  
6 vendor. A purchaser shall be entitled to appeal the denial of  
7 the refund claim within sixty days of the date such notice of  
8 denial is mailed by the director of revenue as provided in  
9 section 144.261. The provisions of this subsection shall apply  
10 to all refund claims filed after August 28, 2012. The provisions  
11 of this subsection allowing a purchaser to appeal the  
12 **[director's]** director of revenue's decision to deny a refund  
13 claim shall also apply to any refund claim denied by the director  
14 of revenue on or after January 1, 2007, if an appeal of the  
15 denial of the refund claim is filed by the purchaser no later  
16 than September 28, 2012, and if such claim is based solely on the  
17 issue of the exemption of the electronic transmission or delivery  
18 of computer software.

19 6. Notwithstanding the provisions of this section, the  
20 director of revenue shall authorize direct-pay agreements to  
21 purchasers which have annual purchases in excess of seven hundred  
22 fifty thousand dollars pursuant to rules and regulations adopted  
23 by the director of revenue. For the purposes of such direct-pay  
24 agreements, the taxes authorized pursuant to chapters 66, 67, 70,  
25 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon  
26 the location of the place of business of the purchaser.

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

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

6           (2) Notwithstanding the provisions of this section, if a  
7 customer of mobile telecommunications services believes that the  
8 amount of tax, the assignment of place of primary use or the  
9 taxing jurisdiction included on a billing is erroneous, the  
10 customer shall notify the home service provider, in writing,  
11 within three years from the date of the billing statement. The  
12 customer shall include in such written notification the street  
13 address for the customer's place of primary use, the account name  
14 and number for which the customer seeks a correction of the tax  
15 assignment, a description of the error asserted by the customer  
16 and any other information the home service provider reasonably  
17 requires to process the request;

18           (3) Within sixty days of receiving the customer's notice,  
19 the home service provider shall review its records and the  
20 electronic database or enhanced zip code to determine the  
21 customer's correct taxing jurisdiction. If the home service  
22 provider determines that the review shows that the amount of tax,  
23 assignment of place of primary use or taxing jurisdiction is in  
24 error, the home service provider shall correct the error and, at  
25 its election, either refund or credit the amount of tax  
26 erroneously collected to the customer for a period of up to three  
27 years from the last day of the home service provider's sixty-day  
28 review period. If the home service provider determines that the

1 review shows that the amount of tax, the assignment of place of  
2 primary use or the taxing jurisdiction is correct, the home  
3 service provider shall provide a written explanation of its  
4 determination to the customer.

5 8. For all refund claims submitted to the department of  
6 revenue on or after September 1, 2003, notwithstanding any  
7 provision of this section to the contrary, if a person legally  
8 obligated to remit the tax levied pursuant to sections 144.010 to  
9 144.525 has received a refund of such taxes for a specific issue  
10 and submits a subsequent claim for refund of such taxes on the  
11 same issue for a tax period beginning on or after the date the  
12 original refund check issued to such person, no refund shall be  
13 allowed. This subsection shall not apply and a refund shall be  
14 allowed if the refund claim is filed by a purchaser under the  
15 provisions of subsection 4 of this section, the refund claim is  
16 for use tax remitted by the purchaser, or an additional refund  
17 claim is filed by a person legally obligated to remit the tax due  
18 to any of the following:

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

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

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

25 9. Notwithstanding any provision of law to the contrary,  
26 the director of revenue shall respond to a request for a binding  
27 letter ruling filed in accordance with section 536.021 within  
28 sixty days of receipt of such request. If the director of

1 revenue fails to respond to such letter ruling request within  
2 sixty days of receipt by the director of revenue, the director of  
3 revenue shall be barred from pursuing collection of any  
4 assessment of sales or use tax with respect to the issue which is  
5 the subject of the letter ruling request. For purposes of this  
6 subsection, the term "letter ruling" means a written  
7 interpretation of law by the director of revenue to a specific  
8 set of facts provided by a specific taxpayer or his or her agent.

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

16 11. The provisions of this section are intended to clarify  
17 the limitations on refund claims as originally enacted in this  
18 chapter.

19 221.407. 1. The commission of any regional jail district  
20 may impose, by order, a sales tax in the amount of one-eighth of  
21 one percent, one-fourth of one percent, three-eighths of one  
22 percent, or one-half of one percent on all retail sales made in  
23 such region which are subject to taxation pursuant to the  
24 provisions of sections 144.010 to 144.525 for the purpose of  
25 providing jail services and court facilities and equipment for  
26 such region. The tax authorized by this section shall be in  
27 addition to any and all other sales taxes allowed by law, except  
28 that no order imposing a sales tax pursuant to this section shall

1 be effective unless the commission submits to the voters of the  
2 district, on any election date authorized in chapter 115, a  
3 proposal to authorize the commission to impose a tax.

4 2. The ballot of submission shall contain, but need not be  
5 limited to, the following language:

6 Shall the regional jail district of .....  
7 (counties' names) impose a region-wide sales tax of  
8 ..... (insert amount) for the purpose of providing  
9 jail services and court facilities and equipment for the region?

10  YES  NO

11 If you are in favor of the question, place an "X" in the box  
12 opposite "Yes". If you are opposed to the question, place an "X"  
13 in the box opposite "No".

14  
15 If a majority of the votes cast on the proposal by the qualified  
16 voters of the district voting thereon are in favor of the  
17 proposal, then the order and any amendment to such order shall be  
18 in effect on the first day of the second quarter immediately  
19 following the election approving the proposal. If the proposal  
20 receives less than the required majority, the commission shall  
21 have no power to impose the sales tax authorized pursuant to this  
22 section unless and until the commission shall again have  
23 submitted another proposal to authorize the commission to impose  
24 the sales tax authorized by this section and such proposal is  
25 approved by the required majority of the qualified voters of the  
26 district voting on such proposal; however, in no event shall a  
27 proposal pursuant to this section be submitted to the voters  
28 sooner than twelve months from the date of the last submission of

1 a proposal pursuant to this section.

2 3. All revenue received by a district from the tax  
3 authorized pursuant to this section shall be deposited in a  
4 special trust fund and shall be used solely for providing jail  
5 services and court facilities and equipment for such district for  
6 so long as the tax shall remain in effect.

7 4. Once the tax authorized by this section is abolished or  
8 terminated by any means, all funds remaining in the special trust  
9 fund shall be used solely for providing jail services and court  
10 facilities and equipment for the district. Any funds in such  
11 special trust fund which are not needed for current expenditures  
12 may be invested by the commission in accordance with applicable  
13 laws relating to the investment of other county funds.

14 5. All sales taxes collected by the director of revenue  
15 pursuant to this section on behalf of any district, less one  
16 percent for cost of collection which shall be deposited in the  
17 state's general revenue fund after payment of premiums for surety  
18 bonds as provided in section 32.087, shall be deposited in a  
19 special trust fund, which is hereby created, to be known as the  
20 "Regional Jail District Sales Tax Trust Fund". The moneys in the  
21 regional jail district sales tax trust fund shall not be deemed  
22 to be state funds and shall not be commingled with any funds of  
23 the state. The director of revenue shall keep accurate records  
24 of the amount of money in the trust fund which was collected in  
25 each district imposing a sales tax pursuant to this section, and  
26 the records shall be open to the inspection of officers of each  
27 member county and the public. Not later than the tenth day of  
28 each month the director of revenue shall distribute all moneys

1 deposited in the trust fund during the preceding month to the  
2 district which levied the tax. Such funds shall be deposited  
3 with the treasurer of each such district, and all expenditures of  
4 funds arising from the regional jail district sales tax trust  
5 fund shall be paid pursuant to an appropriation adopted by the  
6 commission and shall be approved by the commission. Expenditures  
7 may be made from the fund for any function authorized in the  
8 order adopted by the commission submitting the regional jail  
9 district tax to the voters.

10 6. The director of revenue may authorize the state  
11 treasurer to make refunds from the amounts in the trust fund and  
12 credited to any district for erroneous payments and overpayments  
13 made, and may redeem dishonored checks and drafts deposited to  
14 the credit of such districts. If any district abolishes the tax,  
15 the commission shall notify the director of revenue of the action  
16 at least ninety days prior to the effective date of the repeal,  
17 and the director of revenue may order retention in the trust  
18 fund, for a period of one year, of two percent of the amount  
19 collected after receipt of such notice to cover possible refunds  
20 or overpayment of the tax and to redeem dishonored checks and  
21 drafts deposited to the credit of such accounts. After one year  
22 has elapsed after the effective date of abolition of the tax in  
23 such district, the director of revenue shall remit the balance in  
24 the account to the district and close the account of that  
25 district. The director of revenue shall notify each district in  
26 each instance of any amount refunded or any check redeemed from  
27 receipts due the district.

28 7. Except as provided in this section, all provisions of

1 sections 32.085 and 32.087 shall apply to the tax imposed  
2 pursuant to this section.

3 8. The provisions of this section shall expire September  
4 30, ~~[2015]~~ 2027.

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12 Bob Dixon

Eric Burlison