

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 823

AN ACT

To repeal sections 137.016, 144.030, and 144.087, RSMo, and to enact in lieu thereof four new sections relating to taxation.

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

1 Section A. Sections 137.016, 144.030, and 144.087, RSMo, is
2 repealed and four new sections enacted in lieu thereof, to be
3 known as sections 137.016, 144.026, 144.030, and 144.087, to read
4 as follows:

5 137.016. 1. As used in section 4(b) of article X of the
6 Missouri Constitution, the following terms mean:

7 (1) "Residential property", all real property improved by a
8 structure which is used or intended to be used for residential
9 living by human occupants, vacant land in connection with an
10 airport, land used as a golf course, manufactured home parks, bed
11 and breakfast inns in which the owner resides and uses as a
12 primary residence with six or fewer rooms for rent, and time-
13 share units as defined in section 407.600, except to the extent
14 such units are actually rented and subject to sales tax under

1 subdivision (6) of subsection 1 of section 144.020, but
2 residential property shall not include other similar facilities
3 used primarily for transient housing. For the purposes of this
4 section, "transient housing" means all rooms available for rent
5 or lease for which the receipts from the rent or lease of such
6 rooms are subject to state sales tax pursuant to subdivision (6)
7 of subsection 1 of section 144.020;

8 (2) "Agricultural and horticultural property", all real
9 property used for agricultural purposes and devoted primarily to
10 the raising and harvesting of crops; to the feeding, breeding and
11 management of livestock which shall include breeding, showing,
12 and boarding of horses; to dairying, or to any other combination
13 thereof; and buildings and structures customarily associated with
14 farming, agricultural, and horticultural uses. Agricultural and
15 horticultural property shall also include land devoted to and
16 qualifying for payments or other compensation under a soil
17 conservation or agricultural assistance program under an
18 agreement with an agency of the federal government. Agricultural
19 and horticultural property shall further include land and
20 improvements, exclusive of structures, on privately owned
21 airports that qualify as reliever airports under the National
22 Plan of Integrated Airports System, to receive federal airport
23 improvement project funds through the Federal Aviation
24 Administration. Real property classified as forest croplands
25 shall not be agricultural or horticultural property so long as it
26 is classified as forest croplands and shall be taxed in
27 accordance with the laws enacted to implement section 7 of
28 article X of the Missouri Constitution. Agricultural and

1 horticultural property shall also include any sawmill or planing
2 mill defined in the U.S. Department of Labor's Standard
3 Industrial Classification (SIC) Manual under Industry Group 242
4 with the SIC number 2421;

5 (3) "Utility, industrial, commercial, railroad and other
6 real property", all real property used directly or indirectly for
7 any commercial, mining, industrial, manufacturing, trade,
8 professional, business, or similar purpose, including all
9 property centrally assessed by the state tax commission but shall
10 not include floating docks, portions of which are separately
11 owned and the remainder of which is designated for common
12 ownership and in which no one person or business entity owns more
13 than five individual units. All other real property not included
14 in the property listed in subclasses (1) and (2) of section 4(b)
15 of article X of the Missouri Constitution, as such property is
16 defined in this section, shall be deemed to be included in the
17 term "utility, industrial, commercial, railroad and other real
18 property".

19 2. Pursuant to article X of the state constitution, any
20 taxing district may adjust its operating levy to recoup any loss
21 of property tax revenue, except revenues from the surtax imposed
22 pursuant to article X, subsection 2 of section 6 of the
23 constitution, as the result of changing the classification of
24 structures intended to be used for residential living by human
25 occupants which contain five or more dwelling units if such
26 adjustment of the levy does not exceed the highest tax rate in
27 effect subsequent to the 1980 tax year. For purposes of this
28 section, loss in revenue shall include the difference between the

1 revenue that would have been collected on such property under its
2 classification prior to enactment of this section and the amount
3 to be collected under its classification under this section. The
4 county assessor of each county or city not within a county shall
5 provide information to each taxing district within its boundaries
6 regarding the difference in assessed valuation of such property
7 as the result of such change in classification.

8 3. All reclassification of property as the result of
9 changing the classification of structures intended to be used for
10 residential living by human occupants which contain five or more
11 dwelling units shall apply to assessments made after December 31,
12 1994.

13 4. Where real property is used or held for use for more
14 than one purpose and such uses result in different
15 classifications, the county assessor shall allocate to each
16 classification the percentage of the true value in money of the
17 property devoted to each use; except that, where agricultural and
18 horticultural property, as defined in this section, also contains
19 a dwelling unit or units, the farm dwelling, appurtenant
20 residential-related structures and up to five acres immediately
21 surrounding such farm dwelling shall be residential property, as
22 defined in this section.

23 5. All real property which is vacant, unused, or held for
24 future use; which is used for a private club, a not-for-profit or
25 other nonexempt lodge, club, business, trade, service
26 organization, or similar entity; or for which a determination as
27 to its classification cannot be made under the definitions set
28 out in subsection 1 of this section, shall be classified

1 according to its immediate most suitable economic use, which use
2 shall be determined after consideration of:

3 (1) Immediate prior use, if any, of such property;

4 (2) Location of such property;

5 (3) Zoning classification of such property; except that,
6 such zoning classification shall not be considered conclusive if,
7 upon consideration of all factors, it is determined that such
8 zoning classification does not reflect the immediate most
9 suitable economic use of the property;

10 (4) Other legal restrictions on the use of such property;

11 (5) Availability of water, electricity, gas, sewers, street
12 lighting, and other public services for such property;

13 (6) Size of such property;

14 (7) Access of such property to public thoroughfares; and

15 (8) Any other factors relevant to a determination of the
16 immediate most suitable economic use of such property.

17 6. All lands classified as forest croplands shall not, for
18 taxation purposes, be classified as subclass (1), subclass (2),
19 or subclass (3) real property, as such classes are prescribed in
20 section 4(b) of article X of the Missouri Constitution and
21 defined in this section, but shall be taxed in accordance with
22 the laws enacted to implement section 7 of article X of the
23 Missouri Constitution.

24 144.026. The director of revenue shall not send notice to
25 any taxpayer under subsection 2 of section 144.021 regarding the
26 decision in IBM Corporation v. Director of Revenue, Case No.
27 94999 (Mo. banc 2016) prior to August 28, 2017.

28 144.030. 1. There is hereby specifically exempted from the

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

11 2. There are also specifically exempted from the provisions
12 of the local sales tax law as defined in section 32.085, section
13 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761
14 and from the computation of the tax levied, assessed or payable
15 pursuant to the local sales tax law as defined in section 32.085,
16 section 238.235, and sections 144.010 to 144.525 and 144.600 to
17 144.745:

18 (1) Motor fuel or special fuel subject to an excise tax of
19 this state, unless all or part of such excise tax is refunded
20 pursuant to section 142.824; or upon the sale at retail of fuel
21 to be consumed in manufacturing or creating gas, power, steam,
22 electrical current or in furnishing water to be sold ultimately
23 at retail; or feed for livestock or poultry; or grain to be
24 converted into foodstuffs which are to be sold ultimately in
25 processed form at retail; or seed, limestone or fertilizer which
26 is to be used for seeding, liming or fertilizing crops which when
27 harvested will be sold at retail or will be fed to livestock or
28 poultry to be sold ultimately in processed form at retail;

1 economic poisons registered pursuant to the provisions of the
2 Missouri pesticide registration law (sections 281.220 to 281.310)
3 which are to be used in connection with the growth or production
4 of crops, fruit trees or orchards applied before, during, or
5 after planting, the crop of which when harvested will be sold at
6 retail or will be converted into foodstuffs which are to be sold
7 ultimately in processed form at retail;

8 (2) Materials, manufactured goods, machinery and parts
9 which when used in manufacturing, processing, compounding,
10 mining, producing or fabricating become a component part or
11 ingredient of the new personal property resulting from such
12 manufacturing, processing, compounding, mining, producing or
13 fabricating and which new personal property is intended to be
14 sold ultimately for final use or consumption; and materials,
15 including without limitation, gases and manufactured goods,
16 including without limitation slagging materials and firebrick,
17 which are ultimately consumed in the manufacturing process by
18 blending, reacting or interacting with or by becoming, in whole
19 or in part, component parts or ingredients of steel products
20 intended to be sold ultimately for final use or consumption;

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

26 (4) Motor vehicles registered in excess of fifty-four
27 thousand pounds, and the trailers pulled by such motor vehicles,
28 that are actually used in the normal course of business to haul

1 property on the public highways of the state, and that are
2 capable of hauling loads commensurate with the motor vehicle's
3 registered weight; and the materials, replacement parts, and
4 equipment purchased for use directly upon, and for the repair and
5 maintenance or manufacture of such vehicles. For purposes of
6 this subdivision, "motor vehicle" and "public highway" shall have
7 the meaning as ascribed in section 390.020;

8 (5) Replacement machinery, equipment, and parts and the
9 materials and supplies solely required for the installation or
10 construction of such replacement machinery, equipment, and parts,
11 used directly in manufacturing, mining, fabricating or producing
12 a product which is intended to be sold ultimately for final use
13 or consumption; and machinery and equipment, and the materials
14 and supplies required solely for the operation, installation or
15 construction of such machinery and equipment, purchased and used
16 to establish new, or to replace or expand existing, material
17 recovery processing plants in this state. For the purposes of
18 this subdivision, a "material recovery processing plant" means a
19 facility that has as its primary purpose the recovery of
20 materials into a usable product or a different form which is used
21 in producing a new product and shall include a facility or
22 equipment which are used exclusively for the collection of
23 recovered materials for delivery to a material recovery
24 processing plant but shall not include motor vehicles used on
25 highways. For purposes of this section, the terms motor vehicle
26 and highway shall have the same meaning pursuant to section
27 301.010. Material recovery is not the reuse of materials within
28 a manufacturing process or the use of a product previously

1 recovered. The material recovery processing plant shall qualify
2 under the provisions of this section regardless of ownership of
3 the material being recovered;

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

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

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

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

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

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

25 (12) Railroad rolling stock for use in transporting persons
26 or property in interstate commerce and motor vehicles licensed
27 for a gross weight of twenty-four thousand pounds or more or
28 trailers used by common carriers, as defined in section 390.020,

1 in the transportation of persons or property;

2 (13) Electrical energy used in the actual primary
3 manufacture, processing, compounding, mining or producing of a
4 product, or electrical energy used in the actual secondary
5 processing or fabricating of the product, or a material recovery
6 processing plant as defined in subdivision (5) of this
7 subsection, in facilities owned or leased by the taxpayer, if the
8 total cost of electrical energy so used exceeds ten percent of
9 the total cost of production, either primary or secondary,
10 exclusive of the cost of electrical energy so used or if the raw
11 materials used in such processing contain at least twenty-five
12 percent recovered materials as defined in section 260.200. There
13 shall be a rebuttable presumption that the raw materials used in
14 the primary manufacture of automobiles contain at least
15 twenty-five percent recovered materials. For purposes of this
16 subdivision, "processing" means any mode of treatment, act or
17 series of acts performed upon materials to transform and reduce
18 them to a different state or thing, including treatment necessary
19 to maintain or preserve such processing by the producer at the
20 production facility;

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

24 (15) Machinery, equipment, appliances and devices purchased
25 or leased and used solely for the purpose of preventing, abating
26 or monitoring air pollution, and materials and supplies solely
27 required for the installation, construction or reconstruction of
28 such machinery, equipment, appliances and devices;

1 (16) Machinery, equipment, appliances and devices purchased
2 or leased and used solely for the purpose of preventing, abating
3 or monitoring water pollution, and materials and supplies solely
4 required for the installation, construction or reconstruction of
5 such machinery, equipment, appliances and devices;

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

8 (18) All amounts paid or charged for admission or
9 participation or other fees paid by or other charges to
10 individuals in or for any place of amusement, entertainment or
11 recreation, games or athletic events, including museums, fairs,
12 zoos and planetariums, owned or operated by a municipality or
13 other political subdivision where all the proceeds derived
14 therefrom benefit the municipality or other political subdivision
15 and do not inure to any private person, firm, or corporation,
16 provided, however, that a municipality or other political
17 subdivision may enter into revenue-sharing agreements with
18 private persons, firms, or corporations providing goods or
19 services, including management services, in or for the place of
20 amusement, entertainment or recreation, games or athletic events,
21 and provided further that nothing in this subdivision shall
22 exempt from tax any amounts retained by any private person, firm,
23 or corporation under such revenue-sharing agreement;

24 (19) All sales of insulin and prosthetic or orthopedic
25 devices as defined on January 1, 1980, by the federal Medicare
26 program pursuant to Title XVIII of the Social Security Act of
27 1965, including the items specified in Section 1862(a)(12) of
28 that act, and also specifically including hearing aids and

1 hearing aid supplies and all sales of drugs which may be legally
2 dispensed by a licensed pharmacist only upon a lawful
3 prescription of a practitioner licensed to administer those
4 items, including samples and materials used to manufacture
5 samples which may be dispensed by a practitioner authorized to
6 dispense such samples and all sales or rental of medical oxygen,
7 home respiratory equipment and accessories, hospital beds and
8 accessories and ambulatory aids, all sales or rental of manual
9 and powered wheelchairs, stairway lifts, Braille writers,
10 electronic Braille equipment and, if purchased or rented by or on
11 behalf of a person with one or more physical or mental
12 disabilities to enable them to function more independently, all
13 sales or rental of scooters, reading machines, electronic print
14 enlargers and magnifiers, electronic alternative and augmentative
15 communication devices, and items used solely to modify motor
16 vehicles to permit the use of such motor vehicles by individuals
17 with disabilities or sales of over-the-counter or nonprescription
18 drugs to individuals with disabilities, and drugs required by the
19 Food and Drug Administration to meet the over-the-counter drug
20 product labeling requirements in 21 CFR 201.66, or its successor,
21 as prescribed by a health care practitioner licensed to
22 prescribe;

23 (20) All sales made by or to religious and charitable
24 organizations and institutions in their religious, charitable or
25 educational functions and activities and all sales made by or to
26 all elementary and secondary schools operated at public expense
27 in their educational functions and activities;

28 (21) All sales of aircraft to common carriers for storage

1 or for use in interstate commerce and all sales made by or to
2 not-for-profit civic, social, service or fraternal organizations,
3 including fraternal organizations which have been declared
4 tax-exempt organizations pursuant to Section 501(c)(8) or (10) of
5 the 1986 Internal Revenue Code, as amended, in their civic or
6 charitable functions and activities and all sales made to
7 eleemosynary and penal institutions and industries of the state,
8 and all sales made to any private not-for-profit institution of
9 higher education not otherwise excluded pursuant to subdivision
10 (20) of this subsection or any institution of higher education
11 supported by public funds, and all sales made to a state relief
12 agency in the exercise of relief functions and activities;

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

23 (23) All sales made to any private not-for-profit
24 elementary or secondary school, all sales of feed additives,
25 medications or vaccines administered to livestock or poultry in
26 the production of food or fiber, all sales of pesticides used in
27 the production of crops, livestock or poultry for food or fiber,
28 all sales of bedding used in the production of livestock or

1 poultry for food or fiber, all sales of propane or natural gas,
2 electricity or diesel fuel used exclusively for drying
3 agricultural crops, natural gas used in the primary manufacture
4 or processing of fuel ethanol as defined in section 142.028,
5 natural gas, propane, and electricity used by an eligible new
6 generation cooperative or an eligible new generation processing
7 entity as defined in section 348.432, and all sales of farm
8 machinery and equipment, other than airplanes, motor vehicles and
9 trailers, and any freight charges on any exempt item. As used in
10 this subdivision, the term "feed additives" means tangible
11 personal property which, when mixed with feed for livestock or
12 poultry, is to be used in the feeding of livestock or poultry.
13 As used in this subdivision, the term "pesticides" includes
14 adjuvants such as crop oils, surfactants, wetting agents and
15 other assorted pesticide carriers used to improve or enhance the
16 effect of a pesticide and the foam used to mark the application
17 of pesticides and herbicides for the production of crops,
18 livestock or poultry. As used in this subdivision, the term
19 "farm machinery and equipment" means new or used farm tractors
20 and such other new or used farm machinery and equipment and
21 repair or replacement parts thereon and any accessories for and
22 upgrades to such farm machinery and equipment, rotary mowers used
23 exclusively for agricultural purposes, and supplies and
24 lubricants used exclusively, solely, and directly for producing
25 crops, raising and feeding livestock, fish, poultry, pheasants,
26 chukar, quail, or for producing milk for ultimate sale at retail,
27 including field drain tile, and one-half of each purchaser's
28 purchase of diesel fuel therefor which is:

1 (a) Used exclusively for agricultural purposes;

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

4 (c) Used directly in producing farm products to be sold
5 ultimately in processed form or otherwise at retail or in
6 producing farm products to be fed to livestock or poultry to be
7 sold ultimately in processed form at retail;

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

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

25 (b) Regulated utility sellers shall determine whether
26 individual purchases are exempt or nonexempt based upon the
27 seller's utility service rate classifications as contained in
28 tariffs on file with and approved by the Missouri public service

1 commission. Sales and purchases made pursuant to the rate
2 classification "residential" and sales to and purchases made by
3 or on behalf of the occupants of residential apartments or
4 condominiums through a single or master meter, including service
5 for common areas and facilities and vacant units, shall be
6 considered as sales made for domestic use and such sales shall be
7 exempt from sales tax. Sellers shall charge sales tax upon the
8 entire amount of purchases classified as nondomestic use. The
9 seller's utility service rate classification and the provision of
10 service thereunder shall be conclusive as to whether or not the
11 utility must charge sales tax;

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

1 person making such purchases on behalf of occupants of
2 residential apartments or condominiums shall have standing to
3 apply to the director of revenue for such credit or refund;

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

9 (26) Excise taxes, collected on sales at retail, imposed by
10 Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and
11 4271 of Title 26, United States Code. The director of revenue
12 shall promulgate rules pursuant to chapter 536 to eliminate all
13 state and local sales taxes on such excise taxes;

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

21 (28) All sales made to an interstate compact agency created
22 pursuant to sections 70.370 to 70.441 or sections 238.010 to
23 238.100 in the exercise of the functions and activities of such
24 agency as provided pursuant to the compact;

25 (29) Computers, computer software and computer security
26 systems purchased for use by architectural or engineering firms
27 headquartered in this state. For the purposes of this
28 subdivision, "headquartered in this state" means the office for

1 the administrative management of at least four integrated
2 facilities operated by the taxpayer is located in the state of
3 Missouri;

4 (30) All livestock sales when either the seller is engaged
5 in the growing, producing or feeding of such livestock, or the
6 seller is engaged in the business of buying and selling,
7 bartering or leasing of such livestock;

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

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

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

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

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

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

1 (37) All purchases by a contractor on behalf of an entity
2 located in another state, provided that the entity is authorized
3 to issue a certificate of exemption for purchases to a contractor
4 under the provisions of that state's laws. For purposes of this
5 subdivision, the term "certificate of exemption" shall mean any
6 document evidencing that the entity is exempt from sales and use
7 taxes on purchases pursuant to the laws of the state in which the
8 entity is located. Any contractor making purchases on behalf of
9 such entity shall maintain a copy of the entity's exemption
10 certificate as evidence of the exemption. If the exemption
11 certificate issued by the exempt entity to the contractor is
12 later determined by the director of revenue to be invalid for any
13 reason and the contractor has accepted the certificate in good
14 faith, neither the contractor or the exempt entity shall be
15 liable for the payment of any taxes, interest and penalty due as
16 the result of use of the invalid exemption certificate.
17 Materials shall be exempt from all state and local sales and use
18 taxes when purchased by a contractor for the purpose of
19 fabricating tangible personal property which is used in
20 fulfilling a contract for the purpose of constructing, repairing
21 or remodeling facilities for the following:

22 (a) An exempt entity located in this state, if the entity
23 is one of those entities able to issue project exemption
24 certificates in accordance with the provisions of section
25 144.062; or

26 (b) An exempt entity located outside the state if the
27 exempt entity is authorized to issue an exemption certificate to
28 contractors in accordance with the provisions of that state's law

1 and the applicable provisions of this section;

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

7 (39) Sales of tickets to any collegiate athletic
8 championship event that is held in a facility owned or operated
9 by a governmental authority or commission, a quasi-governmental
10 agency, a state university or college or by the state or any
11 political subdivision thereof, including a municipality, and that
12 is played on a neutral site and may reasonably be played at a
13 site located outside the state of Missouri. For purposes of this
14 subdivision, "neutral site" means any site that is not located on
15 the campus of a conference member institution participating in
16 the event;

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

22 (41) All materials, replacement parts, and equipment
23 purchased for use directly upon, and for the modification,
24 replacement, repair, and maintenance of aircraft, aircraft power
25 plants, and aircraft accessories;

26 (42) Sales of sporting clays, wobble, skeet, and trap
27 targets to any shooting range or similar places of business for
28 use in the normal course of business and money received by a

1 shooting range or similar places of business from patrons and
2 held by a shooting range or similar place of business for
3 redistribution to patrons at the conclusion of a shooting event;

4 (43) All sales of motor fuel, as defined in section
5 142.800, used in any watercraft, as defined in section 306.010;

6 (44) Any new or used aircraft sold or delivered in this
7 state to a person who is not a resident of this state or a
8 corporation that is not incorporated in this state, and such
9 aircraft is not to be based in this state and shall not remain in
10 this state more than ten business days subsequent to the last to
11 occur of:

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

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

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

25 (a) "Direct costs", costs incurred by a governmental
26 authority solely because of an internet service provider's use of
27 the public right-of-way. The term shall not include costs that
28 the governmental authority would have incurred if the internet

1 service provider did not make such use of the public
2 right-of-way. Direct costs shall be determined in a manner
3 consistent with generally accepted accounting principles;

4 (b) "Internet", computer and telecommunications facilities,
5 including equipment and operating software, that comprises the
6 interconnected worldwide network that employ the Transmission
7 Control Protocol or Internet Protocol, or any predecessor or
8 successor protocols to that protocol, to communicate information
9 of all kinds by wire or radio;

10 (c) "Internet access", a service that enables users to
11 connect to the internet to access content, information, or other
12 services without regard to whether the service is referred to as
13 telecommunications, communications, transmission, or similar
14 services, and without regard to whether a provider of the service
15 is subject to regulation by the Federal Communications Commission
16 as a common carrier under 47 U.S.C. Section 201, et seq. For
17 purposes of this subdivision, "internet access" also includes:
18 the purchase, use, or sale of communications services, including
19 telecommunications services as defined in section 144.010, to the
20 extent the communications services are purchased, used, or sold
21 to provide the service described in this subdivision or to
22 otherwise enable users to access content, information, or other
23 services offered over the internet; services that are incidental
24 to the provision of a service described in this subdivision, when
25 furnished to users as part of such service, including a home
26 page, electronic mail, and instant messaging, including voice-
27 capable and video-capable electronic mail and instant messaging,
28 video clips, and personal electronic storage capacity; a home

1 page electronic mail and instant messaging, including voice-
2 capable and video-capable electronic mail and instant messaging,
3 video clips, and personal electronic storage capacity that are
4 provided independently or that are not packed with internet
5 access. As used in this subdivision, "internet access" does not
6 include voice, audio, and video programming or other products and
7 services, except services described in this paragraph or this
8 subdivision, that use internet protocol or any successor protocol
9 and for which there is a charge, regardless of whether the charge
10 is separately stated or aggregated with the charge for services
11 described in this paragraph or this subdivision;

12 (d) "Tax", any charge imposed by the state or a political
13 subdivision of the state for the purpose of generating revenues
14 for governmental purposes and that is not a fee imposed for a
15 specific privilege, service, or benefit conferred, except as
16 described as otherwise under this subdivision, or any obligation
17 imposed on a seller to collect and to remit to the state or a
18 political subdivision of the state any gross retail tax, sales
19 tax, or use tax imposed on a buyer by such a governmental entity.
20 The term "tax" shall not include any franchise fee or similar fee
21 imposed or authorized under sections 67.1830 or 67.2689; sections
22 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section
23 542 and 47 U.S.C. Section 573; or any other fee related to
24 obligations of telecommunications carriers under the
25 Communications Act of 1934, 47 U.S.C. Section 151 et seq., except
26 to the extent that:

27 a. The fee is not imposed for the purpose of recovering
28 direct costs incurred by the franchising or other governmental

1 authority from providing the specific privilege, service, or
2 benefit conferred to the payer of the fee; or

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

8 Nothing in this subdivision shall be interpreted as an exemption
9 from taxes due on goods or services that were subject to tax on
10 January 1, 2016.

11 3. Any ruling, agreement, or contract, whether written or
12 oral, express or implied, between a person and this state's
13 executive branch, or any other state agency or department,
14 stating, agreeing, or ruling that such person is not required to
15 collect sales and use tax in this state despite the presence of a
16 warehouse, distribution center, or fulfillment center in this
17 state that is owned or operated by the person or an affiliated
18 person shall be null and void unless it is specifically approved
19 by a majority vote of each of the houses of the general assembly.
20 For purposes of this subsection, an "affiliated person" means any
21 person that is a member of the same controlled group of
22 corporations as defined in Section 1563(a) of the Internal
23 Revenue Code of 1986, as amended, as the vendor or any other
24 entity that, notwithstanding its form of organization, bears the
25 same ownership relationship to the vendor as a corporation that
26 is a member of the same controlled group of corporations as
27 defined in Section 1563(a) of the Internal Revenue Code, as
28 amended.

1 144.087. 1. The director of revenue shall require all
2 applicants for retail sales licenses and all licensees in default
3 in filing a return and paying their taxes when due to file a bond
4 in an amount to be determined by the director, which may be a
5 corporate surety bond or a cash bond, but such bond shall not be
6 more than [~~three~~] two times the average monthly tax liability of
7 the taxpayer, estimated in the case of a new applicant, otherwise
8 based on the previous twelve months' experience. At such time as
9 the director of revenue shall deem the amount of a bond required
10 by this section to be insufficient to cover the average monthly
11 tax liability of a given taxpayer, he may require such taxpayer
12 to adjust the amount of the bond to the level satisfactory to the
13 director which will cover the amount of such liability. The
14 director shall, after a reasonable period of satisfactory tax
15 compliance for [~~two years~~] one year from the initial date of
16 bonding, release such taxpayer from the bonding requirement as
17 set forth in this section. All itinerant or temporary businesses
18 shall be required to procure the license and post the bond
19 required under the provisions of sections 144.083 and 144.087
20 prior to the selling of goods at retail, and in the event that
21 such business is to be conducted for less than one month, the
22 amount of the bond shall be determined by the director.

23 2. All cash bonds shall be deposited by the director of
24 revenue into the state general revenue fund, and shall be
25 released to the taxpayer pursuant to subsection 1 of this section
26 from funds appropriated by the general assembly for such purpose.
27 If appropriated funds are available, the commissioner of
28 administration and the state treasurer shall cause such refunds

1 to be paid within thirty days of the receipt of a warrant request
2 for such payment from the director of the department of revenue.

3 3. An applicant or licensee in default may, in lieu of
4 filing any bond required under this section, provide the director
5 of revenue with an irrevocable letter of credit, as defined in
6 section 400.5-103, issued by any state or federally chartered
7 financial institution, in an amount to be determined by the
8 director or may obtain a certificate of deposit issued by any
9 state or federally chartered financial institution, in an amount
10 to be determined by the director, where such certificate of
11 deposit is pledged to the department of revenue until released by
12 the director in the same manner as bonds are released pursuant to
13 subsection 1 of this section. As used in this subsection, the
14 term "certificate of deposit" means a certificate representing
15 any deposit of funds in a state or federally chartered financial
16 institution for a specified period of time which earns interest
17 at a fixed or variable rate, where such funds cannot be withdrawn
18 prior to a specified time without forfeiture of some or all of
19 the earned interest.

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27 Will Kraus

Anne Zerr