

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 245
99TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 13, 2017, with recommendation that the Senate Committee Substitute do pass.

0088S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 144.011 and 144.025, RSMo, and to enact in lieu thereof two new sections relating to sales tax relief.

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

Section A. Sections 144.011 and 144.025, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 144.011 and 144.025, to
3 read as follows:

144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to
2 144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at
3 retail" shall not be construed to include any of the following:

4 (1) The transfer by one corporation of substantially all of its tangible
5 personal property to another corporation pursuant to a merger or consolidation
6 effected under the laws of the state of Missouri or any other jurisdiction;

7 (2) The transfer of tangible personal property incident to the liquidation
8 or cessation of a taxpayer's trade or business, conducted in proprietorship,
9 partnership or corporate form, except to the extent any transfer is made in the
10 ordinary course of the taxpayer's trade or business;

11 (3) The transfer of tangible personal property to a corporation solely in
12 exchange for its stock or securities;

13 (4) The transfer of tangible personal property to a corporation by a
14 shareholder as a contribution to the capital of the transferee corporation;

15 (5) The transfer of tangible personal property to a partnership solely in
16 exchange for a partnership interest therein;

17 (6) The transfer of tangible personal property by a partner as a

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

18 contribution to the capital of the transferee partnership;

19 (7) The transfer of tangible personal property by a corporation to one or
20 more of its shareholders as a dividend, return of capital, distribution in the
21 partial or complete liquidation of the corporation or distribution in redemption
22 of the shareholder's interest therein;

23 (8) The transfer of tangible personal property by a partnership to one or
24 more of its partners as a current distribution, return of capital or distribution in
25 the partial or complete liquidation of the partnership or of the partner's interest
26 therein;

27 (9) The transfer of reusable containers used in connection with the sale
28 of tangible personal property contained therein for which a deposit is required
29 and refunded on return;

30 (10) The purchase by persons operating eating or food service
31 establishments, of items of a nonreusable nature which are furnished to the
32 customers of such establishments with or in conjunction with the retail sales of
33 their food or beverage. Such items shall include, but not be limited to, wrapping
34 or packaging materials and nonreusable paper, wood, plastic and aluminum
35 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes,
36 straws, sticks and toothpicks;

37 (11) The purchase by persons operating hotels, motels or other transient
38 accommodation establishments, of items of a nonreusable nature which are
39 furnished to the guests in the guests' rooms of such establishments and such
40 items are included in the charge made for such accommodations. Such items
41 shall include, but not be limited to, soap, shampoo, tissue and other toiletries and
42 food or confectionery items offered to the guests without charge;

43 (12) The transfer of a manufactured home other than:

44 (a) A transfer which involves the delivery of the document known as the
45 "Manufacturer's Statement of Origin" to a person other than a manufactured
46 home dealer, as defined in section 700.010, for purposes of allowing such person
47 to obtain a title to the manufactured home from the department of revenue of this
48 state or the appropriate agency or officer of any other state;

49 (b) A transfer which involves the delivery of a "Reposessed Title" to a
50 resident of this state if the tax imposed by sections 144.010 to 144.525 was not
51 paid on the transfer of the manufactured home described in paragraph (a) of this
52 subdivision;

53 (c) The first transfer which occurs after December 31, 1985, if the tax

54 imposed by sections 144.010 to 144.525 was not paid on any transfer of the same
55 manufactured home which occurred before December 31, 1985; or

56 (13) Charges for initiation fees or dues to:

57 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders
58 or associations operating under the lodge system a substantial part of the
59 activities of which are devoted to religious, charitable, scientific, literary,
60 educational or fraternal purposes; [or]

61 (b) Posts or organizations of past or present members of the Armed Forces
62 of the United States or an auxiliary unit or society of, or a trust or foundation for,
63 any such post or organization substantially all of the members of which are past
64 or present members of the Armed Forces of the United States or who are cadets,
65 spouses, widows, or widowers of past or present members of the Armed Forces of
66 the United States, no part of the net earnings of which inures to the benefit of
67 any private shareholder or individual; or

68 (c) **Nonprofit organizations exempt from taxation under Section**
69 **501(c)(7) of the Internal Revenue Code of 1986, as amended.**

70 2. The assumption of liabilities of the transferor by the transferee incident
71 to any of the transactions enumerated in the above subdivisions (1) to (8) of
72 subsection 1 of this section shall not disqualify the transfer from the exclusion
73 described in this section, where such liability assumption is related to the
74 property transferred and where the assumption does not have as its principal
75 purpose the avoidance of Missouri sales or use tax.

144.025. 1. Notwithstanding any other provisions of law to the contrary,
2 in any retail sale other than retail sales governed by subsections 4 and 5 of this
3 section, where any article on which sales or use tax has been paid, credited, or
4 otherwise satisfied or which was exempted or excluded from sales or use tax is
5 taken in trade as a credit or part payment on the purchase price of the article
6 being sold, the tax imposed by sections 144.020 and 144.440 shall be computed
7 only on that portion of the purchase price which exceeds the actual allowance
8 made for the article traded in or exchanged, if there is a bill of sale or other
9 record showing the actual allowance made for the article traded in or
10 exchanged. Where the purchaser of a motor vehicle, trailer, boat or outboard
11 motor receives a rebate from the seller or manufacturer, the tax imposed by
12 sections 144.020 and 144.440 shall be computed only on that portion of the
13 purchase price which exceeds the amount of the rebate, if there is a bill of sale
14 or other record showing the actual rebate given by the seller or

15 manufacturer. Where the trade-in or exchange allowance plus any applicable
16 rebate exceeds the purchase price of the purchased article there shall be no sales
17 or use tax owed. This section shall also apply to **any number of** motor vehicles,
18 trailers, boats, [and] **or** outboard motors sold by the owner or holder of the
19 properly assigned certificate of ownership if the seller purchases or contracts to
20 purchase [a] **one** subsequent motor vehicle, trailer, boat, or outboard motor
21 within one hundred eighty days before or after the date of the sale of the original
22 article and a bill of sale showing the paid sale price is presented to the
23 department of revenue at the time of licensing. A copy of the bill of sale shall be
24 left with the licensing office. Where the subsequent motor vehicle, trailer, boat,
25 or outboard motor is titled more than one hundred eighty days after the sale of
26 the original motor vehicle, trailer, boat, or outboard motor, the allowance
27 pursuant to this section shall be made if the person titling such article
28 establishes that the purchase or contract to purchase was finalized prior to the
29 expiration of the one hundred eighty-day period.

30 2. As used in this section, the term "boat" includes all motorboats and
31 vessels, as the terms "motorboat" and "vessel" are defined in section 306.010.

32 3. As used in this section, the term "motor vehicle" includes motor
33 vehicles as defined in section 301.010, recreational vehicles as defined in section
34 700.010, or a combination of a truck as defined in section 301.010, and a trailer
35 as defined in section 301.010.

36 4. The provisions of subsection 1 of this section shall not apply to retail
37 sales of manufactured homes in which the purchaser receives a document known
38 as the "Manufacturer's Statement of Origin" for purposes of obtaining a title to
39 the manufactured home from the department of revenue of this state or from the
40 appropriate agency or officer of any other state.

41 5. Any purchaser of a motor vehicle or trailer used for agricultural use by
42 the purchaser shall be allowed to use as an allowance to offset the sales and use
43 tax liability towards the purchase of the motor vehicle or trailer any grain or
44 livestock produced or raised by the purchaser. The director of revenue may
45 prescribe forms for compliance with this subsection.

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