

**PRELIMINARY REPORT
OF THE
STUDY COMMISSION
ON
STATE TAX POLICY**



December 2016
Prepared by:
Senate Research

December 31, 2016

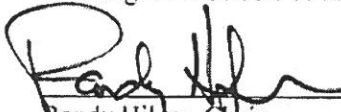
The Honorable Jay Nixon, Governor of the State of Missouri
State Capitol Building, Room 216
Jefferson City, MO 65101

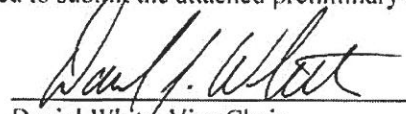
The Honorable Ron Richard, President Pro Tem of the Senate
State Capitol Building, Room 326
Jefferson City, MO 65101

The Honorable Todd Richardson, Speaker of the House of Representatives
State Capitol Building, Room 308
Jefferson City, MO 65101

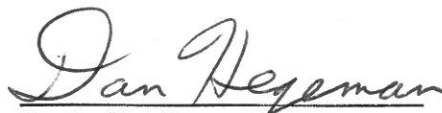
Dear Mr. Governor, Mr. President, and Mr. Speaker:

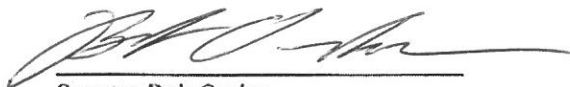
The Study Commission on State Tax Policy has met, taken testimony, and discussed various facets of Missouri's tax structure. In this preliminary report, we present the information received from various sources, and some of our observations, but make no formal recommendations. During 2017, Commission members will continue to receive additional information, deliberate tax policy issues, and finish the Commission's work with a final report and formal recommendations. The undersigned members of the Commission are pleased to submit the attached preliminary report.

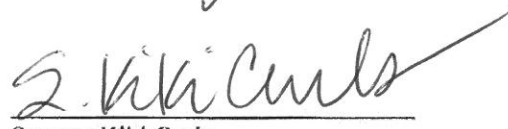

Randy Hilger, Chair

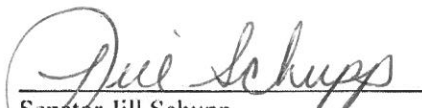

Daniel White, Vice Chair

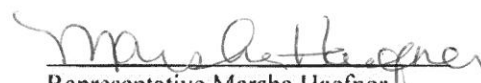

Senator Will Kraus

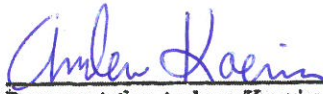

Senator Dan Hegeman


Senator Bob Onder

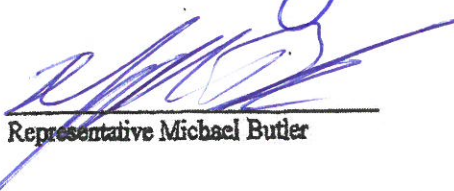

Senator Kiki Curls



Senator Jill Schupp


Representative Marsha Haefner


Representative Andrew Koetig

Representative Caleb Jones

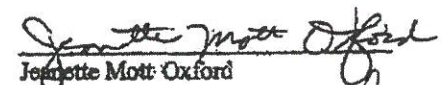

Representative Michael Butler

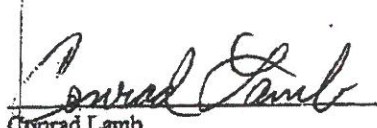

Representative Tracy McCreery

Treasurer Clint Zwiefel

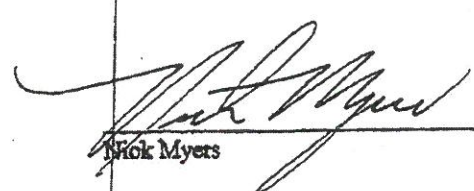

Dan Haug


Amy Blouin


Jeanette Mott Oxford


Conrad Lamb


Sara Neill


Nick Myers


Jim Strubberg

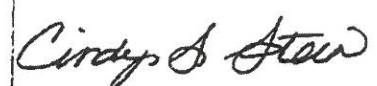

Cindy Stein

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I. Charge of the Study Commission

The Study Commission on State Tax Policy was formed by SS/HB 384 in 2015 and is composed of twenty-two members representing both the public and private sectors. The Commission is charged with:

1. Making a complete, detailed review and study of the tax structure of the state and its political subdivisions including tax sources, the impact of taxes, collection procedures, administrative regulations, and all other factors pertinent to the fiscal operation of the state;
2. Identifying the strengths and weaknesses of state tax laws, and developing a broad range of improvements that could be made to modernize the tax system, maximize economic development and growth, and maintain necessary government services at an appropriate level;
3. Investigating measures and methods to simplify state tax law, improve tax compliance, and reduce administrative costs; and
4. Examining and studying any other aspects of state and local government which may be related to the tax structure of the state.

Section 136.450.3 requires the commission to establish at least five hearing dates held in different geographic regions of the state and open to the public.

Over the course of 2016, the Study Commission on State Tax Policy held public hearings and solicited public testimony in three different geographic regions throughout the state. Hearings were held on the following dates:

- | | |
|---------------------|--|
| • February 25, 2016 | State Capitol, Jefferson City |
| • June 8, 2016 | State Capitol, Jefferson City |
| • August 17, 2016 | Springfield Chamber of Commerce, Springfield |
| • October 19, 2016 | Wainwright Building, St. Louis |
| • November 15, 2016 | H&R Block World Headquarters, Kansas City |

II. Commission Activities

A. Summary of the February 25th meeting

The Commission elected Randy Hilger as Chairman and Daniel White as Vice-Chairman.

The Commission split into 3 smaller Work Groups – one dealing with income taxes, another dealing with sales and use taxes, and one focused on tax administration. Work Groups were charged with identifying baseline information, comparing that information with other entities and providing information to the Commission on how to move forward.

B. Summary of the June 8th meeting

The Commission met as a whole to discuss organizational and administrative issues. In the afternoon, the commission heard public testimony and conducted open discussion.

Richard Moore – CenturyLink

Mr. Moore asked the Commission to address state tax law issues for telephone companies. Specifically, he recommended changing the way business property is assessed, imposing 911 taxes on wireless customers and preventing government-owned competitors from receiving tax revenue.

Todd Iveson – Missouri Department of Revenue

Mr. Iveson discussed delays with the 2015 Missouri personal income tax refunds, citing increased fraud detection/prevention measures and cash flow issues as the causes of the delays. Specifically, increased fraud and increased protections against fraud have increased the workload for the Department in processing returns and disbursing refunds. Additionally, during April and May 2016, cash available in the General Revenue Fund for making tax refunds was impacted by required school distributions and repayment of short term borrowing from the Rainy Day Fund.

C. Summary of the August 17th meeting

Cindy Stein, chairperson of the Sales and Use Tax Work Group, reported on that group's morning meeting. She discussed several areas of concentration including comparing rates in various jurisdictions, state and local use taxes, consolidation and simplification of exemptions, use tax enforcement and compliance, vendor discounts for timely payment, reviewing sales tax holidays, and the Streamlined Sales Tax Agreement.

Daniel White, chairperson of the Income Tax Work Group, reported on that group's morning meeting. Topics discussed included potential changes to the federal income tax deduction, modernizing the income tax table, apportionment elections, clarifications to the "nexus" requirement, combined individual returns, and income tax elimination combined with sales tax expansion as policy issues and obtaining a better understanding of the Department of Revenue's interpretation of federal law, removing or revising statutes and regulations that were previously invalidated, and updating filing requirements as technical issues for consideration.

Sen. Dan Hegeman, chairperson of the Tax Administration Work Group, reported on that group's morning meeting. The group discussed modernizing and improving technology at the Department of Revenue, taxpayer engagement through taxpayer assistance offices or online resources, formal processes for notification of tax changes, improved guidance from the Department of Revenue through less reliance on letter rulings and increased rulemaking, and better data availability.

The Commission outlined the following criteria for evaluating state tax policy:

- Reliability
- Equity (progressive or regressive)

- Compliance and administration
- Responsiveness to competition
- Economic neutrality
- Accountability
- Transparency
- Level of services desired

The Commission heard public testimony.

Ray McCarty – Associated Industries of Missouri

Mr. McCarty testified on the response of the Department of Revenue to *Alberici Constructors, Inc. v. Dir. of Revenue* (Mo. 2015). He suggested that the Department use the formal rule promulgation procedures more to create clarity for business owners. Mr. McCarty also discussed the timely filing allowances for the remittance of withholding and sales and use taxes. He stated that these allowances compensate businesses for the costs of complying with tax laws.

David Overfelt – Missouri Retailers Association, NFIB, Missouri Grocers' Association, Ozark Empire Grocers, Mid-American Grocers, Retail-Grocers-K.C., the Missouri Tire Industry Association, Western Retail Implements and Hardware Association, and the Missouri Hotel and Motel Association

Mr. Overfelt argued that timely filing allowances compensate businesses with high costs of sales tax compliance. Brick and mortar retailers and consumers love the sales tax holiday and it helps retailers compete with online sellers. He supports adopting the Streamlined Sales Tax Agreement.

Mike Sutherland – Missouri Budget Project

Mr. Sutherland argued that the complexity of the current system is a problem and discussed implementing the Streamlined Sales Tax Agreement and a potential Earned Income Tax Credit.

Todd Iveson – Missouri Department of Revenue

Mr. Iveson discussed a recent Missouri Supreme Court decision (*Alberici Constructors, Inc. v. Dir. of Revenue* (Mo. 2015)). He explained that a Department of Revenue regulation regarding the taxability of delivery charges had been an attempt to simplify the issue, but the Missouri Supreme Court disagreed with the regulation and reiterated its previously stated criteria. In late July 2016, the Department of Revenue sent letters notifying businesses of the Court's decision and the criteria for determining whether delivery charges are taxable.

Chuck Pierce – Missouri Society of CPAs

Mr. Pierce emphasized the need for private letter rulings for tax planning situations, but stated that more often clients come for advice after a transaction has already taken place. Increased rulemaking would be helpful, but letter rulings are still important as well.

D. Summary of the October 19th meeting

Sen. Dan Hegeman, chairperson of the Tax Administration Work Group, reported on that group's morning meeting. The group discussed modernizing computer systems at the Department of Revenue, taxpayer engagement, accuracy and availability of tax data for practitioners, personnel turnover at the Department of Revenue, letter rulings (frequency and application), and accessibility of Department policies for taxpayers and tax practitioners.

Daniel White, chairperson of the Income Tax Work Group, reported on that group's morning meeting. The group discussed modernizing the individual income tax rate table, reviewing the effectiveness of exemptions, and modernizing the corporate income tax base as priorities.

Cindy Stein, chairperson of the Sales and Use Tax Work Group, reported on that group's morning meeting. The group reviewed recent updates and changes, discussed implementing the Streamlined Sales Tax Agreement, and discussed recent Missouri Supreme Court decisions involving manufacturing exemptions.

The Commission heard public testimony.

Dylan Grundman – Senior Policy Analyst with the Institute on Taxation and Economic Policy (ITEP)

Mr. Grundman discussed principles used by ITEP in guiding tax policy. He also made several recommendations including a refundable Earned Income Tax Credit (based on the federal credit or entirely new), repealing the federal income tax deduction, reforming itemized deductions, revisiting SB 509 to address pass-through income, modernizing the income tax brackets, enacting combined reporting, and modernizing the sales tax. Finally, he outlined three paths to avoid: shifting from income to sales taxes, cutting income taxes to grow the economy, and engaging in a "race to the bottom" with nearby states.

Dr. Howard J. Wall – Professor of Economics at Lindenwood University

Dr. Wall argued that taxes create distortions in the market and lead to less economic activity. He testified that the problem with low-income individuals is not that their taxes are too high, but that their income is too low. He favors broadening the tax base and lowering the rates to increase economic efficiency.

Colleen Mulligan – Vision for Children at Risk

Ms. Mulligan argued that the current tax structure does not provide appropriate support for families and children. She made three recommendations to the Commission: modernizing

income tax rates, adopting the Streamlined Sales Tax Agreement to capture taxes on internet purchases, and enacting a refundable Earned Income Tax Credit.

E. Summary of the November 15th meeting

Cindy Stein, chairperson of the Sales and Use Tax Work Group, reported that the group had not met since the October meeting and had no new findings to report.

Daniel White, chairperson of the Income Tax Work Group, reported that the group had been working on three specific areas: modernizing the income tax rate table, reviewing the effectiveness of the various tax exemptions, and modernizing the corporate income tax base.

Sen. Dan Hegeman, chairperson of the Tax Administration Work Group, reported that the group has narrowed their focus to six areas: modernizing the computer systems of the Department of Revenue; increasing taxpayer engagement; obtaining better tax data for practitioners, especially from political subdivisions; personnel turnover at the Department of Revenue; the frequency and use of letter rulings compared to the use of full rules and regulations; and accessibility of Department of Revenue policies.

Randy Hilger, chairperson of the Commission, stated that the Commission received information from the Department of Revenue relating to comparative tax collection information from other states, and that the information would be posted on the Commission website. Mr. Hilger also asked the Commission whether it thought that the passage of Amendment 4 in November 2016 (the prohibition on new sales taxes) would affect Missouri's participation in the Streamlined Sales Tax Agreement. A representative from the Department of Revenue stated that it is still possible to participate but that it might be more complicated and would have to be reviewed further.

The Commission heard public testimony.

Roberta Broeker, Missouri Department of Transportation

Ms. Broeker testified on the state of transportation funding in Missouri. She discussed the current levels of funding for MoDOT and how that money is spent, where Missouri ranks in investment in transportation, what the average taxpayer pays for access to the transportation network, what the current deficiencies are costing the average taxpayer, and how much it would cost to fix the transportation system.

Ms. Broeker stated that the budget for MoDOT is approximately \$2.5 billion. She stated that most of the revenue comes from user fees, such as the fuel tax and motor vehicle and driver license fees, and from federal revenue. The remainder of the revenue comes from the state General Revenue fund. Ms. Broeker stated that a portion of MoDOT outlays are distributed to cities, counties and other state agencies, while the majority of outlays go toward the construction and maintenance of roads and bridges, fleet and facilities, administration, and highway safety.

Ms. Broeker stated that, while Missouri has the seventh largest transportation network in the nation, it is forty-seventh in revenue spent per mile. Missouri also has the lowest fuel tax rate of all states in the surrounding region, and is forty-second in per capita highway spending.

Ms. Broeker stated that MoDOT would need approximately \$170 million to improve road and bridge conditions statewide, \$275 million to invest in projects that increase economic growth and safety, \$300 million for major interstate reconstruction, and \$80 million to improve multimodal transportation options.

Jeanette Mott-Oxford, Empower Missouri

Ms. Mott-Oxford made a presentation on the Tax Justice for a Healthy Missouri bill sponsored by Rep. Judy Morgan in 2016. Ms. Mott-Oxford stated that the Missouri income tax system is outdated and needs changes to ensure that Missouri's financial situation is sound for the future. She stated that the Tax Justice for a Healthy Missouri bill would address three principles: adequacy, fairness, and modernization. She stated that the bill would provide adequate revenue for the short and long term by adding \$921 million dollars in new tax revenue. The bill would also ensure fairness by balancing regressive sales taxes with progressive income taxes. Finally, she stated that the bill would allow modernization by ensuring that tax rates are able to change over time with inflation.

Ms. Mott-Oxford stated that the bill would accomplish these goals by broadening the tax brackets and adding new top rates, by introducing a \$200 refundable credit that is phased out for higher incomes, by removing the deduction for federal income taxes, and by creating a tax cut for all income levels.

Council on State Taxation

Mr. Hilger stated that the Council on State Taxation submitted a document regarding Missouri corporate income taxes, and that the document would be available on the Commission website.

III. Preliminary Information and Observations

A. Income Tax Work Group

Throughout 2016 the Income Tax Work Group of the Study Commission on State Tax Policy commenced its duties outlined in Section 136.450 RSMo. Specifically, the Income Tax Work Group, through participation from members of the Work Group and from members of the general public from throughout the State of Missouri, began to identify strengths and weaknesses of existing income tax laws,¹ opportunities to modernize the income tax system,² ways to enhance economic development and growth,³ methods to improve the reliability and efficacy of tax revenue collections to fund necessary government services,⁴ opportunities to simplify the tax

¹ Mo. Rev. Stat. § 136.450.4(2).

² *Id.*

³ *Id.*

⁴ *Id.*

laws,⁵ ways to improve tax return compliance,⁶ and ways to reduce administrative costs.⁷ These duties of the Study Commission on State Tax Policy are explicitly outlined within the law.

The bi-partisan Income Tax Work Group solicited input from many sources aimed at fulfilling its duties under the law specific to improving Missouri's system of taxing incomes of individuals and businesses to ensure the income tax laws are transparent, stable, fair, attractive, efficient, and adequate. A summary of these guiding principles is outlined below:

- Transparent: The income tax laws shall be administered by the Department of Revenue in a manner that entirely comports with the Missouri legislature's intended purpose and in a manner that eliminates ambiguities that require interpretation. Transparent tax laws are easy to understand and do not rely on another party (e.g., Missouri Department of Revenue, Missouri courts, or Missouri taxpayers) to unreasonably bear the burden of interpreting the laws. Laws that lack transparency impede tax return compliance, initiate taxpayer disputes, limit revenue collections, and increase costs of tax administration.
- Stable: The income tax structure shall be designed in a manner that facilitates reliable revenue collections and is free from volatility. Stable income tax laws often disperse revenue collections across many industries, demographics, geographies, and activities.
- Fair: Fair laws distribute the assignment of tax to demographics, geographies, industries, and activities in the proportion to the consumers of the government services to which they relate, coupled with the social desires of the legislature that are expressed within the fiscal budget process. Fair laws do not impose a significant portion of tax on one segment (or limited segments) of the population.
- Attractive: Attractive laws are designed to collect tax revenue in a manner that also promotes economic development within Missouri (i.e., more jobs, larger investment, and new businesses growth and expansion). Attractive laws directly and indirectly provide incentives to individuals and businesses to make Missouri an economically-feasible state to live, work, maintain a place of business, and expand. Attractive Missouri laws entice individuals and businesses to stay in and/or relocate to Missouri and expand operations within the State of Missouri.
- Efficient: The desired actions of the legislature are carried out in a cost-efficient manner. Efficient laws are limited in complexity and do not require significant changes to tax return compliance and costly tax administration, once enacted. Efficient laws also limit tax deductions, exemptions, and incentives to only the population of taxpayers whose decisions are influenced by the legislature's actions.

⁵ Mo. Rev. Stat. § 136.450.4(3).

⁶ *Id.*

⁷ *Id.*

- Adequate: The income tax laws generate sufficient amounts of revenue to fund desired amounts of government services. An adequate tax system limits changes to the funding of desired government services due to the unexpected revenue collections.

With the aforementioned objectives in mind, the Income Tax Work Group compiled a list of “focus areas” after testimony was provided by the general public, subject matter experts, and members of the Commission. All testimony was received and was discussed by members of the Income Tax Work Group and presented to the Commission. For purposes of this preliminary report, a partial list of the “focus areas” is outlined below. The list below represents a partial list of the topics addressed by the Income Tax Work Group and does not represent final recommendations of the Study Commission on State Tax Policy or the Income Tax Work Group. Rather, this list exemplifies the topics that will continue to be evaluated by the Study Commission on State Tax Policy and the Income Tax Work Group during 2017. The final report issued to the governor and general assembly on December 31, 2017, will include the Commission’s formal findings, recommendations for legal and administrative changes, and proposed legislation the Commission recommends for adoption by the general assembly.

Preliminary Focus Areas and Observations

- I. *Amend existing statutes that conflict with judicial decisions and enact new statutes that improve the transparency of Missouri’s income tax laws.*

Aligning tax statutes with resolved jurisprudence will improve tax compliance and reduce administrative costs by eliminating conflicting authority that often leads to tax return errors and easily-preventable disputes between taxpayers and the Department of Revenue. An example of such circumstances that requires legislative action is listed immediately below.

Section 143.431.3(1) RSMo. currently provides that “[i]f an affiliated group of corporations files a consolidated income tax return for the taxable year for federal income tax purposes and fifty percent or more of its income is derived from sources within this state as determined in accordance with section 143.451, then it may elect to file a Missouri consolidated income tax return...” This statutory language was effective January 1, 1973. Since 1973, the underlined phrase triggered much controversy and in 1998, the Missouri Supreme Court held that the underlined phrase violated the Commerce Clause of the U.S. Constitution in that it discriminated against interstate commerce by favoring in-state (Missouri) businesses.⁸ As a result of the Missouri Supreme Court’s severance of the offending provision, the only requirement for electing a consolidated return remains to be that the taxpayer’s affiliated group file a federal consolidated return. The Missouri Supreme Court instructed taxpayers to ignore the underlined phrase that placed a “fifty percent test” as a qualification to the consolidated return election.

Within current statutes, and because the legislature has not yet amended Section 143.431.3(1) RSMo. to formally eliminate the fifty percent test, many taxpayers believe they are precluded from electing to file a consolidated return because of the explicit statutory language that remains

⁸ See *General Motors Corp. v. Dir. Of Revenue*, 981 S.W.2d 561 (Mo. banc 1998).

– statutory language that should be removed from Section 143.431.3(1) RSMo. to harmonize the statutes with precedential case law.

A tentative recommendation of the Income Tax Work Group is for the Missouri Legislature to amend Section 143.431.3(1) RSMo. such that it reads:

If an affiliated group of corporations files a consolidated income tax return for the taxable year for federal income tax purposes ~~and fifty percent or more of its income is derived from sources within this state as determined in accordance with section 143.451,~~ then it may elect to file a Missouri consolidated income tax return. The federal consolidated taxable income of the electing affiliated group for the taxable year shall be its federal taxable income.

Amending this statute would simplify the tax law by making more transparent the eligibility requirements for electing the consolidated income tax return and therefore reducing costs of administration (i.e., Department of Revenue costs of resolving hundreds of disputes that continue to be generated by the existing statute) and resolution (i.e., the Missouri judiciary's costs of resolving disputes that do not get resolved administratively by the Department of Revenue).

II. Modernizing Missouri's income tax structure through a combination of statutory, regulatory, and administrative changes.

One common theme throughout the Income Tax Work Group's review of Missouri's income tax structure is that existing statutes contain several antiquated concepts that have lost relevance, and, more importantly, continue to create (i) complexities that have led to unstable tax revenue collections; (ii) uncertainty in how to apply the law to modern business practices, which has led to decreased revenue collections from individuals and businesses that reside, travel, conduct business, and otherwise earn income in multiple jurisdictions; (iii) financial disincentives to live and work in Missouri, and, among others, (iv) unfair disparities between taxpayers working in different industries, for different employers, and in different jurisdictions within the State of Missouri. Each of the foregoing implications of an antiquated income tax code directly and indirectly hinders each of the indicia of sound tax policy (i.e., a system that is transparent, stable, fair, attractive, efficient, and adequate).

Examples of "focus areas" and tentative recommendations that were presented during public hearings or otherwise communicated to the Income Tax Work Group are listed below. As stated previously, this list does not represent the collective thoughts or recommendations of the Study Commission on State Tax Policy or the Income Tax Work Group. Rather, this list is a depiction of the topics presented to and discussed among the Income Tax Work Group throughout 2016.

- A redesign of the graduated individual income tax rate table through consolidation of tax brackets and/or increases and decreases to income thresholds and tax rates;
- A redesign of certain deductions, exemptions, and regulatory provisions that, in their current forms, are perceived to be ineffective, complex, and/or unfair (e.g., the federal income tax deduction; the individual income tax combined return filing method; and,

among others, the treatment of related party transactions between members of an affiliated group that properly elected to file a consolidated Missouri corporate income tax return).

- Elimination of certain corporate income tax elections that were designed nearly a century ago;
- Clarification of income tax nexus (filing requirements) for individuals and businesses;
- Adherence to the desires of previous legislatures to conform to the Internal Revenue Code for all items other than items upon which legislative action explicitly decoupled from provisions of the Internal Revenue Code;
- Mandatory unitary combined reporting for corporations; and
- Enactment of state-specific earned income tax credit (EITC) or similar subsidy for certain residents.

Each of the above observations and recommendations will be further explored and analyzed during 2017.

III. Amend existing statutes and enact new statutes that improve transparency of Missouri's income tax laws and eliminate unnecessary complexities.

Improving transparency of Missouri's income tax laws will enable taxpayers to more easily comply with tax laws and the Department of Revenue to more easily administer the laws. The Income Tax Work Group began developing a list of (i) perceived inconsistencies between regulations promulgated by the Department of Revenue and statutes enacted by the Missouri legislature; (ii) Missouri statutes that require technical corrections or additional clarification; (iii) Department of Revenue regulations that reportedly place an undue burden on taxpayers; (iv) Department of Revenue policy interpretations that have not been promulgated within regulations or administrative publications; and (v) tax forms that subject the Department of Revenue to costly administration of certain filing statuses, deductions, and elections. Enacting statutes to remedy these issues will greatly enhance the transparency, stability, and efficiency of Missouri's income tax structure.

Summary

The preliminary focus areas and recommendations presented to and analyzed by the Income Tax Work Group of the Study Commission on State Tax Policy have the potential to substantially improve the structure of Missouri's income tax laws. During 2017, the Income Tax Work Group looks forward to fulfilling its duties outlined within Mo. Rev. Stat. § 136.450 and working with all Missourians as it develops and finalizes its review and recommendations to the governor and the general assembly.

B. Sales and Use Tax Work Group

Preliminary Focus Areas and Observations

The Sales and Use Tax Work Group identified six areas to focus on in this Interim Report. They include:

- I. Growing Complexity of Missouri's Sales and Use Tax System
- II. Sales Tax Holidays
- III. Sales Tax & State Withholding Tax Timely Filing Discounts
- IV. Sales and Use Tax Exemptions
- V. Changing Judicial View of Missouri's Sales and Use Tax Exemptions for Manufacturing Machinery and Equipment
- VI. Current Status - Limitations on State Taxation of "Remote Sellers"

Sales and use tax is a key revenue source for the state, counties, municipalities and a growing number of other political subdivisions. In Fiscal Year 2015 the Missouri Department of Revenue collected \$6,564,466,000 in sales and use taxes, \$3,430,315,000 in state sales and use taxes and \$3,134,151,000 in local sales taxes. The state sales tax rate is 4.225%.

I. Growing Complexity of Missouri's Sales and Use Tax System

One of the sources of complexity in Missouri's sales and use tax is the large (and growing) number of political subdivisions authorized to levy sale and use taxes. Per the Department of Revenue's Fiscal Year 2015 Annual Report, the Department collected and distributed the following local taxes:

Type of Levying Entity	Number of Entities	Reported Amount of Tax Distributed
County Sales/Use Taxes	114	\$1,364,029,317
City Sales/Use Taxes	665	\$1,550,329,818
Ambulance District Sales Taxes	53	\$ 49,247,153
Emergency Service District Sales Taxes	5	\$ 13,184,536
Fire Protection District Sales Taxes	16	\$ 16,945,905
Hospital District Sales Taxes	1	\$ 394,732
Public Library District Sales Taxes	1	\$ 1,202,701
Regional Jail District Sales Taxes	1	\$ 1,035,556
Regional Recreational District Sales Taxes	1	\$ 5,383

Tourism Community District Sales Taxes	1	\$ 7,936,743
Zoological District Sales Tax	1	\$ 16,515,801
Transportation Development District Sales Tax (1)	172	\$ 71,639,918
Community Improvement Dist. Sales and Use Tax (1)	135	\$ 37,294,833
Community Development District Sales Tax (1)	<u>16</u>	\$ <u>3,600,215</u>
Total (1)	<u>1,182</u>	<u>\$3,132,416,611</u>

(1) Collections for some small districts (less than 6 registered sellers) are not reported to preserve confidentiality. Therefore, this number is slightly less than the actual amount collected and distributed.

A second source of complexity is that some of these local taxes are a sales tax only (tax applies to retail sales within the political subdivision), and while others are both a sales tax and a use tax (a use tax applies to the storage, use or consumption of the property, typically purchased from an out-of-state seller). While political subdivisions may not impose a use tax higher than the sales tax rate, there is no requirement that all local sales taxes have a corresponding use tax. Therefore, sellers - and purchasers - must make a determination of whether the transaction is a “Missouri retail sale” subject to any local sales tax, or not a Missouri retail sale, in which case the transaction may be subject to a local use tax. A little over half – 59 of the 114 counties impose a use tax. At the municipal level, 111 of the 665 cities with a sales tax impose a use tax.

A third source of complexity is “sourcing” – i.e. where the sale is taxed. Ignoring a number of exceptions, such as metered utilities and drop-shipment transactions, Missouri retail sales (in-state) are sourced to the seller’s location, whereas use tax transactions are subject to tax where the purchaser first receives the goods. So, which tax – the sales tax or the use tax – the transaction is subject to, impacts not only the tax rate, but also which local jurisdictions’ tax applies.

And a fourth level of complexity is special tax rates or exemptions that apply to one type of good or service, or one type of tax but not the other (also known as “base differences”). Base differences require sellers (and purchasers) to be cognizant that certain items may be subject to one tax, and require more complex coding of products in point-of-sale systems. Rate differences also require more complex system coding and special reporting on tax returns. Examples of current Missouri base or rate differences include (but are not limited to):

- Certain food products are subject to a lower rate of tax.
- Domestic utilities are exempt from the state sales tax, but may be subject to local sales taxes.
- Utilities, chemicals, materials and machinery/equipment used in certain manufacturing and mining operations may be exempt from state sales tax, state use tax, and local use tax, but subject to local sales taxes.

- Both the Transportation Development District Taxes and the Community Improvement District taxes have base differences with the statewide sales tax.

Layering each type of complexity onto the prior results in myriad of taxes and tax rates that create compliance hurdles for both sellers and purchasers. Using the city of Lee's Summit as an example, below are all the different tax rates that may apply to sales or purchases in the city:

CITY NAME	COUNTY NAME	GENERAL SALES TAX RATE	GENERAL USE TAX RATE	FOOD SALES TAX RATE	FOOD USE TAX RATE	DOMESTIC UTILITY TAX RATE	MANUFACTURING EXEMPT RATE
LEE'S SUMMIT	CASS COUNTY	8.225%	5.975%	5.225%	2.975%	2.750%	4.000%
LEE'S SUMMIT	JACKSON COUNTY	7.725%	4.225%	4.725%	1.225%	1.500%	3.500%
LEE'S SUMMIT I-470 CID	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMITBLUE PARKWAY & COLBERN ROAD CID	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT DOUGLAS SQUARE TDD	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT DOUGLAS STATION TDD	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT DOWNTOWN LEE'S SUMMIT CID	JACKSON COUNTY	8.725%	5.225%	5.725%	2.225%	1.500%	4.500%
LEE'S SUMMIT HIGHWAY 50 AND TODD GEORGE CID	JACKSON COUNTY	8.225%	4.725%	5.225%	1.725%	1.500%	4.000%
LEE'S SUMMIT I-470 & 350 TDD	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT LANGSFORD PLAZA CID	JACKSON COUNTY	8.725%	5.225%	5.725%	2.225%	1.500%	4.500%
LEE'S SUMMITNEW LONGVIEW TDD	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT RAINTREE 150 CENTER CID	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT RAINTREE LAKE VILLAGE TDD	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%
LEE'S SUMMIT RAINTREE NORTH TDD	JACKSON COUNTY	8.225%	4.225%	5.225%	1.225%	1.500%	4.000%
LEE'S SUMMIT RITTER PLAZA CID	JACKSON COUNTY	8.725%	5.225%	5.725%	2.225%	1.500%	4.500%
LEE'S SUMMIT STROTHER INTERCHANGE TDD	JACKSON COUNTY	8.225%	4.225%	5.225%	1.225%	1.500%	4.000%
LEE'S SUMMIT SUMMIT FAIR CID	JACKSON COUNTY	8.725%	4.225%	5.725%	1.225%	1.500%	4.500%

As a result, there are 102 possible tax rates for transactions occurring in just the city of Lee's Summit, a city of only 93,000 residents. The Missouri Department of Revenue's 1st Quarter 2017 rate chart indicates 2,281 different taxing jurisdictions levying sales or use taxes, resulting in a potential for 13,686 different local tax rates statewide.

The Sales and Use Tax Work Group has not deliberated potential solutions for the growing complexity, but note the complexity trend is accelerating, rather than diminishing. Legislation was introduced in 2016, and has already been prefiled for the 2017 legislative session, which would allow additional political subdivisions the authority to impose sales or use taxes or which would exempt certain types of purchases from state sales or use taxes but not local taxes. The Streamlined Sales Tax Agreement is discussed later in this preliminary report. While this Commission has not yet deliberated whether Missouri should modify our sales tax laws to conform to the Streamlined Agreement, we do recognize that each additional complexity that is enacted into the Missouri sales tax law runs contrary to the “simplification” goal of Streamlined, and creates additional potential barriers to Missouri’s adoption of the Streamlined Agreement.

II. Sales Tax Holidays

The State of Missouri has two separate sales tax holidays, the “Back to School” holiday and the “Show Me Green Sales Tax Holiday”. Section 144.049, RSMo establishes a three-day “Back to School” sales tax holiday each August. Certain back-to-school purchases, such as clothing, school supplies, computers, and other items as defined by the statute, are exempt from sales tax for this time period only. The sales tax holiday applies to state and local sales taxes when a local jurisdiction chooses to participate in the holiday. However, local jurisdictions can choose to not participate in the holiday if they enact an ordinance to not participate and notify the Department of revenue.

Section 144.526.1 RSMo creates the "Show-Me Green Sales Tax Holiday." This tax holiday is for one week each April, and exempts the state sales tax on retail sales of qualifying energy star certified new appliances, up to one thousand five hundred dollars per appliance. The following energy star certified appliances qualify for the holiday:

Clothes washers	Clothes dryers
Water heaters	Trash compactors*
Dishwashers	Conventional ovens*
Ranges*	Stoves*
Air conditioners	Furnaces
Refrigerators	Freezers
Heat Pumps	

**According to the energy star website, trash compactors, conventional ovens, ranges and stoves currently do not receive an energy star rating. Therefore, although the statute anticipates that one day they may receive the energy star rating, tax will continue to apply to purchases of these items during the Show-Me Green Sales Tax Holiday.*

Cities, counties and districts may also participate in this sales tax holiday by enacting an ordinance exempting their locally imposed sales tax during the Show-Me Green Sales Tax Holiday period.

Advocates for the sales tax holidays argue that the exemptions are a highly visible way of assisting low-income consumers and spurring consumption. However, according to a recent report from the nonpartisan Tax Foundation, sales tax holidays miss the mark in their intended

effect and can actually do more harm than good. The report details the history of the holidays and explains why they are misleading, lead to unstable revenue, increase tax code complexity, and distract policymakers from real tax reform. It has been noted that some common retail discounts have been reduced or eliminated during these time periods now that the sales tax holidays have been implemented.

The Work Group has not yet deliberated the pros and cons of the current sales tax holidays. As such we do not have a formal recommendation at this time.

III. Sales Tax & State Withholding Tax Discounts

Any retailer who collects Missouri sales or vendors use tax and remits those taxes to the Department of Revenue on or before the date they are due is allowed to keep what is known as a “Timely Filing Discount”, which is calculated at 2% of the taxes they have collected. In 2015, these Timely Filing Discounts amounted to over \$110,000,000 in taxes paid by consumers but not collected by the state. When comparing this policy with other states, Missouri has one of the most generous “Timely Filing Discounts” in the nation. Seventeen states do not allow any discounts or collection allowance. Most states that provide a “Timely Filing Discount” or collection allowance cap or limit the annual amount vendors can keep. Only four states, including Missouri, have no limit on the amount a vendor can keep.

Vendors will argue Missouri has one of the most complicated sales and use tax structures in the nation, therefore their discount is needed as compensation for collecting taxes. Many of these same vendors have multiple retail locations in states that do not allow them to keep 2% of taxes collected, or even take any discount at all. When considering the largest vendors doing business in Missouri who have corporate headquarters in other states or countries, tens of millions of tax dollars paid by Missouri consumers are leaving the state benefiting these large corporations. Most retailers keep less than \$1,500 annually with the 2% Timely Filing Discount, but for very large retailers, the 2% Timely Filing Discount can result in significant collection compensation.

Withholding Tax:

When Missouri employers file state income tax withholdings for their employees, they also receive a “Timely Filing Discount” if these taxes are remitted on or before the due date. These discounts are calculated at different rates, depending on the amount of annual withholdings: 2% up to \$5,000, 1% from \$5,001 to \$10,000, and ½% over \$10,000. After employers withhold \$10,000, they are entitled to one-half percent compensation for the balance of the year. In 2015 this amounted to about \$25,000,000 of state income taxes withheld from Missouri workers but not paid into the state treasury.

The Work Group has not yet deliberated the pros and cons of the current sales/use tax and withholding Timely Filing Discounts. As such we do not have a formal recommendation at this time.

IV. Sales and Use Tax Exemptions

Missouri sales tax laws provide a wide range of exemptions from the sales and use tax. While most of these exemptions are codified into a primary exemption statute (Sec. 144.030.2 RSMo), many exemptions are codified outside of that exemption statute. Some exemptions are codified in statutes outside of the “Sales Tax Law” (Chapter 144 RSMo), making it more difficult for taxpayers to locate the exemption.

In addition to inconsistent placement in Missouri statutes, the exemptions have been revised and/or expanded over the last 70 years, without the benefit of reorganization or consolidation. As a result, there are multiple exemptions addressing related subject matter, and in some situations, exemptions which may overlap other exemptions. Appendix A is a schedule of the 211 Missouri sales and use tax exemptions as of January 1, 2016. As an example, there are 28 separately identified agricultural exemptions. There are more than a dozen exemptions applicable to transportation – trucking, railroads and air carriers. Consolidating and organizing exemptions within the statutes may reduce complexity, making compliance easier for taxpayers and reducing the Department of Revenue’s administration efforts. The Study Commission will continue to evaluate this opportunity in 2017.

V. Changing Judicial View of Missouri’s Sales and Use Tax Exemptions for Manufacturing Machinery and Equipment

Historically the Missouri Supreme Court recognized that Missouri’s sales and use tax exemptions for manufacturing machinery and equipment (currently codified as subsections 144.030.2 (5) and (6) RSMo) were intended as economic development tools. There are numerous examples of this over the last quarter of a century of Missouri sales tax case law. Beginning in 1970, in the West Lake Quarry case (West Lake Quarry & Material Co., Inc. et al. v. Schaffner, Supreme Court of Missouri, 451 S.W.2d 140, 1970), the Court stated, “*Obviously, the purpose of exempting machinery and equipment used in manufacturing or mining products to be sold for final use or consumption is to encourage the development of such enterprises to produce products in this state which are subject to sales tax when sold and thus build up the economy of this state.*”

In the 46 years since the West Lake Quarry decision, the Court has considered the purpose of these exemptions in deciding controversies between taxpayers and the Department of Revenue:

- In the 1981 Ozark Lead Company case (State ex rel. Ozark Lead Company, Supreme Court of Missouri, 610 S.W.2d 954, 1981), the Court stated, “*Although the exemption is construed strictly against the taxpayer, that requirement should not nullify the legislative purpose in making the exemption available. As pointed out in West Lake, one object of the exemption is to stimulate the economy by encouraging the production of products which are subject to the sales tax. An equally important object of such exemption is the furtherance of industrial development in the state, regardless of whether the products involved might become subject to the Missouri sales tax. Floyd Charcoal Co. v. Director of Revenue, 599 S.W.2d 173, 177 (Mo. 1980).*”

- In the 1996 Concord Publishing House case (Concord Publishing House, Inc., fka Cape Mississippi Development, Inc., dba Southeast Missourian v. Director of Revenue, State of Missouri, Supreme Court of Missouri, 916 S.W.2d 186, 1996), when considering the application of the plant expansion exemption, the Court stated, *“We have previously allowed the exemption for items purchased without evidence of physical expansion. Noranda, 599 S.W.2d at 4 (laboratory equipment); Bridge Data, 794 S.W.2d at 206 (computer hardware). Furthermore, such a limited interpretation would unduly restrict the legislature's purpose in passing the exemption. The legislature did not intend to fill the Missouri landscape with towering industrial plants, but to increase the number of products on which sales tax could be assessed.”*
- In its 2001 decision in Lincoln Industrial (Lincoln Industrial, Inc. v. Director of Revenue, Supreme Court of Missouri, 51 S.W.3d 462, 2001), the Court stated, *“In construing an ambiguous statute, the ultimate guide is the intent of the legislature.” “In this particular case, the exemption and others were enacted by the legislature to encourage the production of items ultimately subject to sales tax and to encourage the location and expansion of industry in Missouri.”*
- In its 2002 Southwestern Bell decision (Southwestern Bell Telephone Co. v. Director of Revenue, Supreme Court of Missouri 78 S.W.3d 763, 2002) (frequently referred to as “Bell I”), the Court stated, *“... even though the term “manufacturing” ordinarily evokes images of a factory producing some physical product, the court has recognized that the sales tax statutes must be interpreted in light of the modern technology of the “information age.” In Bridge Data Co. v. Director of Revenue, 794 S.W.2d 204 (Mo. banc 1990), the taxpayer supplied detailed securities information, primarily to institutional investors. It claimed the replacement exemption and plant expansion exemption on computer hardware used to process the financial information. The court concluded that Bridge performed manufacturing, as what came out of the system was clearly different from what went into it, and the statutes contained no “explicit requirement that the product be ‘tangible’” in order for the manufacturing exemptions to apply.”*

When the Legislature fails to act in the face of the Court’s or Commission’s decision it “must be presumed to have accepted the judicial or administrative construction” of the statute. *State ex rel. Howard Electric Cooperative v. Riney*, 490 S.W.2d 1, 9 (Mo. 1973); *see also William A. Straub, Inc., v. City of St. Louis*, 506 S.W.2d 377, 380 (Mo. 1974); *Jacoby v. Missouri Valley Drainage Dist. of Holt County*, 163 S.W.2d 930, 939 (Mo. 1942); *cf. Medicine Shoppe International, Inc. v. Director of Revenue*, 156 S.W.3d 333, 334 (Mo. banc 2005). Far from rejecting the above decisions of the Missouri Supreme Court, the General Assembly accepted those decisions and even expanded the manufacturing exemptions. For instance, in 1996, it removed the “product or design change” condition to qualify for the replacement machinery and equipment exemption. L. 1996, H.B. No. 1237. In 1998, it exempted parts of machinery and equipment. L. 1998, S.B. No. 936. Also in 1998, the General Assembly provided a definition of manufactured product, which is tangible personal property or a taxable service. L. 1998, S.B. No. 627.

In 2007 the Missouri legislature enacted Senate Bill 30 (codified as Section 144.054 RSMo), which provided expanded exemptions for machinery and equipment, and new exemptions for chemicals, materials and utilities consumed in manufacturing or processing. In addition, Senate Bill 30 broadly applied the expanded exemption to the manufacturing or processing of “any product”, not just tangible personal property or services subject to sales tax.

Despite the legislature’s implicit acceptance of the Court’s interpretations of the manufacturing exemptions from 1970 through 2005, the legislature’s 1996 and 1998 expansions of the exemptions, and the 2007 expansion of the manufacturing exemptions through Senate Bill 30, in 2010 the Court began to view the manufacturing exemptions through a “different and more restrictive lens”. In his dissenting opinion in the *Brinker Missouri* case (*Brinker Missouri, Inc. v. Director of Revenue*, Supreme Court of Missouri, 319 S.W.3d 433, 2010), Justice Price noted, in response to the majority’s interpretation that production activities must be performed at a “plant”, “*Prior decisions of this Court repeatedly have allowed a broad interpretation of manufacturing plants and processes for purposes of this exemption. Southwestern Bell Tele. Co. v. Dir. of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) (telephone company performing telecommunications services); *DST Sys., Inc. v. Dir. of Revenue*, 43 S.W.3d 799 (Mo. banc 2001) (newspaper publishing); *Bridge Data Co. v. Dir. of Revenue*, 958 S.W.2d 204 (Mo. banc 1990) (financial company that supplied information about securities traded on public markets), abrogated on other grounds by *International Bus. Mach. Corp. v. Dir. of Revenue*, 958 S.W.2d 554 (Mo. banc 1997).” “*Again, this Court repeatedly has allowed a broad interpretation of what output is sufficient to be considered manufacturing. See Concord Publ’g House, Inc. v. Dir. of Revenue*, 916 S.W.2d 186, 191 (Mo. banc 1996) (manipulating and affixing words onto a page to create a newspaper); *Jackson Excavating v. Administrative Hearing Comm’n*, 646 S.W.2d 46, 51 (Mo. 1983) (treating and purifying water);” “*The legislature enacted sections 144.030.2(4) and (5) to “encourage the production of items ultimately subject to sales tax and to encourage the location and expansion of industry in Missouri.” Concord Publ’g House*, 916 S.W.2d at 190. *By applying an unduly narrow construction to this exemption, the majority frustrates the legislative intent of creating jobs and nurturing small business in Missouri.*”

Since the 2010 *Brinker* decision, the Court has continued to apply a narrow “strictly construed against the taxpayer” standard in applying these exemptions. In a series of 2012 through 2015 cases (*Aquila*, *AAA Laundry*, *Union Electric*, *Ben Hur*, and *Fred Weber*) – the Court espoused and applied a new, but undefined “Industrial Connotation” criterion, in ruling against taxpayers seeking to qualify for the manufacturing exemptions. In the latest decision on this issue (*IBM Corp. v. Dept. of Revenue*, Missouri Supreme Court, SC94999) decided April 15, 2016, the Court overturned an Administrative Hearing Commission decision that had concluded, based on precedents from several of the 1970 through 2005 cases cited above, that IBM’s customer MasterCard used computers it purchased from IBM for “manufacturing and “processing”, and thus qualified for the manufacturing exemption.

The Court’s decision in *IBM* not only impacted MasterCard by denying it an exemption that other Missouri companies using computer hardware in similar capacities had qualified for, but the Court used the decision to forcefully communicate its new “narrower” view of these exemptions. The Court stated, “*Greater familiarity with computer and other electronic technology and greater experience with the application of the word “manufacturing” in cases*

such as Brinker, Ben Hur, Fred Weber and Union Electric, have demonstrated that expanding the statutory definition of “manufacturing” in the Bell cases put the Court too far down a slippery slope. To the extent cases such as Bell I and Bell II suggest that an expansive interpretation of the word “manufacturing” is authorized by the “manufacturing” exemption, and to the extent that they hold that the electronic transfer of voices is itself manufacturing as that term is used in the exemption, they are no longer to be followed.” In Footnote 5 of the IBM decision, the Court further stated, *“In addition, to the extent that the Commission and IBM read this Court’s cases prior to Bell I and II to permit a broad rather than a narrow reading of exemptions, they are in error. The Commission should have read the exemption narrowly and held that the mere transmission and analysis of computer information is not the manufacturing of a product.”*

We identified two criteria relevant to this condition:

- Taxpayers should be provided clear and consistent guidance on the purpose and breadth of statutory exemptions.
- Tax policy of the state should be promulgated by the elected General Assembly, not the Court. While it is the Court’s responsibility to interpret the statutes, it should not be within the Court’s purview to overturn long-standing exemption interpretations which the General Assembly has implicitly accepted.

The Court’s decision and footnote in IBM, and the recent cases (*Aquila, AAA Laundry, Union Electric, Ben Hur, and Fred Weber*) invoking a new “Industrial Connotation” requirement, undermine almost a half a century of precedents interpreting these manufacturing exemptions. As a result, taxpayers, tax practitioners, and the Department’s auditors reviewing taxpayer’s records, become uncertain as to how to apply these exemptions. Such uncertainty can have a significant detrimental effect on taxpayer investments in the state, and thwart the state’s efforts to attract new businesses to locate or expand in Missouri.

The Study Commission received information regarding this condition in 2016, but has not yet deliberated the matter or come to a specific recommendation. We do note that the General Assembly passed “stop gap” legislation during the short time frame from when the Court issued the IBM decision (April 5, 2016) and the end of the 2016 session, which prohibits the Department from issuing notices based on the IBM decision until August 28, 2017. This legislation provides an opportunity for the General Assembly to consider the matter more fully before the Department takes action based on the Court’s IBM decision.

VI. *Current Status –Limitations on State Taxation of “Remote Sellers”*

The following background information may help readers understand the significance of this section. As indicated in section B. I. (*Growing Complexity of Missouri’s Sales and Use Tax System*) above, the Missouri sales tax applies to “Missouri retail sales” – i.e. sales by in-state sellers to in-state purchasers. Like all of the states with a sales tax, Missouri also levies a complimentary “use tax”, a tax on the “storage, use or consumption” of tangible personal property in the state. Sales which are “Missouri retail sales” are exempt from the use tax, so the

use tax essentially is a tax on sales by out-of-state sellers (“referred to as “remote sellers”) to in-state purchasers. The use tax is designed to “compliment” the sales tax, by taxing goods purchased from out-of-state, eliminating the incentive for purchasers to buy out-of-state to avoid the sales tax.

While Missouri has levied its use tax for 57 years, it is widely misunderstood - and ignored - by individual taxpayers, and many businesses. When consumers make a catalog purchase, or buy on-line, they frequently see information indicating the seller only collects tax in a couple of states – states where they have a “physical presence”. And to most Missourians that is interpreted as “No Tax!” In reality, their purchase is subject to a tax - the use tax. And it has been since 1959. Unique to Missouri, Missouri statutes do not require the filing of a Consumers Use Tax Return until the consumer has purchased more than \$2,000 of goods subject to the tax each calendar year. This is not an “exemption” - the entire amount of all purchases are still subject to the tax - but there is no reporting requirement until the cumulative purchase amount exceeds \$2,000 each year. With this background, the Sales and Use Tax Work Group is reviewing what Missouri has done to enforce the use tax, and what it is allowed to do under current federal limitations.

Enforcement of the use tax may be viewed as a “three-legged stool”:

- Enforcement efforts directed at in-state business purchasers
- Enforcement efforts directed at in-state individual consumers
- Enforcement efforts directed at out-of-state sellers

In-State Business Purchasers - In general, the Missouri Department of Revenue appears to focus its use tax enforcement efforts largely on in-state businesses. The Department registers in-state businesses to file Consumer’s Use Tax returns when the business obtains its tax identification number for sales and withholding taxes. Businesses registered to file Consumers Use Tax Returns that fail to file returns receive Nonfiler Notices and are subject to collection efforts. And the Department conducts use tax compliance audits on businesses at the same time as it performs sales tax audits.

In-State Individual Consumers – The Missouri Department of Revenue has not taken the same level of effort to enforce use tax collection efforts with individual consumers. While 27 states have a line on their individual income tax returns for individuals to report untaxed purchases and calculate/remit the use tax, Missouri eliminated this from the Missouri individual income tax return several years ago. There is a section on the Department’s website which explains the applicability of the use to individuals and provides instructions on how to prepare and file an individual Consumers Use Tax Return, but in reality, almost no one does. (In 2011 only 168 Missourians filed Consumers Use Tax Returns, remitting \$205,087 in use tax payments). The Department also provides instruction regarding the Consumers Use Tax in the Individual Income Tax Instruction Booklet, but with the advent of electronic filing, that booklet receives little use. As on-line shopping has become more and more popular, the number of Missourians purchasing more than \$2,000 of goods annually from out-of-state sellers and required to pay consumers use tax should – but has not – risen each year.

Out-of-State Sellers – Since enforcement of the use tax with individual consumers is “challenging” to say the least, more and more states are focusing their laws, and use tax enforcement efforts, on “remote” (out-of-state) sellers. Management of the Missouri Department of Revenue indicates they have not focused significant efforts on identifying out-of-state sellers that should be collecting Missouri use tax on their sales into the state, but rather have focused resources on enforcement with business consumers.

While the above describes how the use tax operates and Missouri’s enforcement efforts, any discussion of use tax collection and enforcement must consider the limitations states face in imposing use tax collection responsibilities on remote sellers.

The U.S. Constitution prohibits states from imposing laws that would burden interstate commerce. The U.S. Supreme Court's 1992 ruling in *Quill Corp. v. North Dakota* limits (“Quill”) states to collecting use taxes from remote retailers who have a substantial nexus with the taxing state, and affords Congress the authority to permit states to impose tax obligations on a broader swath of online retail transactions. In *Quill*, the Court adopted the *Complete Auto Transit Inc. v. Brady* test, which evaluates burdens on interstate commerce according to two inquiries: one, whether a fair share of taxation between intrastate and interstate commerce is maintained; and two, whether, the state’s levy of a tax disadvantages a remote (out-of-state) seller. Under *Quill*, a state may tax and impose tax collection duties on a remote seller only if the remote seller has a substantial nexus (physical presence) in that state. Since the Constitution grants Congress the power to regulate interstate commerce, it is within Congress’ power to pass federal legislation granting states broader authority to tax remote sellers.

Across the U.S. brick-and-mortar retailers have been vocal about their disadvantage under *Quill*, which allows online retailers without a physical presence in a state to effectively make tax-free sales. In addition to placing Missouri retailers at a competitive disadvantage, the inability to effectively collect use tax on consumer purchases impacts both Missouri and the local tax jurisdictions which impose a local use tax. A University of Tennessee study estimated a national aggregate \$11.4 billion annual tax revenue loss from states' inability to collect tax on sales from non-nexus online retail transactions in 2012. More recently, a University of Missouri analysis estimated if both state and federal legislation had been in place in 2014 to allow Missouri to tax remote sellers, Missouri would have captured an additional \$358 million in state and local sales and use tax revenue. Combined, the average rate for state and local sales and use taxes in Missouri is 7.805 percent, which includes a 3 percent state general revenue sales tax, 1.225 percent in earmarked state sales taxes, and an average local tax of 3.58 percent. Based on the portions of the total that each comprise, in 2014, collections would have resulted in the following increased revenues:

- State General Revenue: \$137.6 million
- State Education (Proposition C): \$45.868 million
- State Conservation: \$5.73 million
- State Parks/Soil: \$4.586
- Localities: \$164.207 million

(https://ipp.missouri.edu/wp-content/uploads/sites/2/2014/06/internet_sales_and_use_tax.pdf)

Since the Quill decision almost 25 years ago, there have been three types of efforts to resolve the prohibition on taxing remote sellers:

- Streamlined Sales Tax
- Attempts at Federal Legislation
- State Legislation / Litigation

Streamlined Sales Tax - responding to the Quill court's concern that the uncoordinated patchwork of state tax laws poses undue administrative burdens on interstate commerce, some states have undertaken efforts to harmonize their tax laws. The Streamlined Sales Tax Project began in 2000 to "simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance." The project focused on a few main areas of simplification, including streamlining administration of sales/use taxes to a single state-level agency; establishing a uniform tax base, at least within the boundaries of the state, such that the same goods would be taxed or exempted; and simplifying tax rates so that one rate applies statewide. The result of the Streamlined Project is the Streamlined Sales and Use Tax Agreement ("SSUTA"). To date, 24 states have adopted the SSUTA, and conformed their sales tax laws and regulations to the Agreement's requirements. It should be noted that while the SSUTA as it exists today is a significant step forward in simplifying sales and use taxes, several of the original simplification tenets of the Streamlined Project were abandoned or modified to make the Agreement acceptable to states.

Attempts at Federal Legislation - the Marketplace Fairness Act is the most well-known federal attempt to reform Quill. The bill's most recent iteration was introduced in 2015 and awaits passage in the U.S. Senate. While previous versions of the marketplace Fairness Act stalled in Congress, the 2015 version was introduced soon after Justice Anthony M. Kennedy indicated that at least one member of the U.S. Supreme Court is willing to revisit the Quill rule. In his concurrence in *Direct Marketing Association v. Brohl*, Justice Kennedy indicated, "*dramatic technological and social changes that have taken place in our increasingly interconnected economy*" are "*now inflicting extreme harm and unfairness on the states*" as a result of the Quill decision.

The Marketplace Fairness Act of 2015 builds directly on top of the SSUTA by authorizing its member states to require remote retailers to collect and remit use taxes, regardless of whether the remote seller has a physical presence in the state. States that are not voluntary member states of the SSUTA could receive federal authorization to tax remote sellers by enacting sales and use tax laws that conform to specified "minimum simplification requirements". The law would exempt small remote sellers with gross remote receipts of \$1 million or less from the use tax collection requirements. Other federal legislative proposals to address the taxation of remote sellers include the Remote Transactions Parity Act of 2015 and the Online Sales Simplification Act. While there are multiple proposed solutions, none of them appear to be gaining momentum in Congress.

State Legislation / Litigation - absent a federal solution, many states have been implementing a number of alternative solutions. Several states, including Missouri (via Senate Bill 23 in 2013), have passed what is commonly referred to as "click-thru" legislation, which imposes a use tax

collection responsibility on out-of-state sellers who enter into agreements with in-state residents or businesses for internet sales referrals or “click-thru” sales. As currently defined in Section 144.602 RSMo, an out-of-state seller is presumed to “engage in business activities within this state” and have substantial nexus with Missouri if it:

- a. Sells a similar line of products as the vendor and does so under the same or a similar business name;
- b. Maintains an office, distribution facility, warehouse, or storage place, or similar place of business in the state to facilitate the delivery of property or services sold by the vendor to the vendor's customers;
- c. Delivers, installs, assembles, or performs maintenance services for the vendor's customers within the state;
- d. Facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the state; or
- e. Conducts any other activities in the state that are significantly associated with the vendor's ability to establish and maintain a market in the state for the sales;
- f. An out-of-state seller shall be presumed to engage in business activities within Missouri if the vendor enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet website, an in-person oral presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross receipts from sales by the vendor to customers in the state who are referred to the vendor by all residents with this type of an agreement with the vendor is in excess of ten thousand dollars during the preceding twelve months.

As expanded in 2013, Missouri’s out-of-state seller nexus standards are similar to many states, but not as aggressive as some other states. For example, Colorado passed legislation requiring remote sellers to notify their Colorado customers of their Colorado use tax liabilities and established an annual requirement for remote sellers that do not collect Colorado use taxes to report all untaxed transactions to the Colorado Department of Revenue. The Colorado law imposes significant penalties on out-of-state sellers that do not comply with the reporting requirements, and as a result, out-of-Colorado sellers may elect to voluntarily collect and remit the Colorado use tax rather than comply with the reporting requirements or face significant penalties. This Colorado reporting law was challenged, and recently survived judicial scrutiny.

In an effort to challenge the Quill precedent, South Dakota implemented legislation effective May 1, 2016, requiring remote sellers, without any physical presence in the state of South Dakota, to register and collect and remit the South Dakota tax if the remote seller's gross revenue of sales of tangible property, any products transferred electronically, or services delivered into

South Dakota exceeds \$100,000 per year, or if the remote seller has 200 or more separate sales transactions in the state per year. The legislation's sponsor told the press that the law, which has provisions directly contrary to the Quill rule, was designed at least in part to draw a legal challenge in the hope of overturning Quill. The law provides that once litigation has been filed, enforcement is stayed until the matter is finally adjudicated. And the law has provisions to expedite the matter through the courts. Lawsuits were filed, even before the effective date of the legislation, so now the matter is in the Courts. Quoting from Justice Kennedy in the Brohl case, *"The Internet has caused far-reaching systemic and structural changes in the economy, and, indeed, in many other societal dimensions. Although online businesses may not have a physical presence in some states, the Web has, in many ways, brought the average American closer to most major retailers. A connection to a shopper's favorite store is a click away - regardless of how close or far the nearest storefront. Today buyers have almost instant access to most retailers via cell phones, tablets, and laptops. As a result, a business may be present in a state in a meaningful way without that presence being physical in the traditional sense of the term."* *"Given these changes in technology and consumer sophistication, it is unwise to delay any longer a reconsideration of the Court's holding in Quill. A case questionable even when decided, Quill now harms States to a degree far greater than could have been anticipated earlier. The instant case does not raise this issue in a manner appropriate for the Court to address it. It does provide, however, the means to note the importance of reconsidering doubtful authority. The legal system should find an appropriate case for this Court to reexamine Quill and Bellas Hess."*

The Sales and Use Tax Work Group will continue to study and evaluate this issue before issuing its final report and formal recommendations. Legislation to modify Missouri's sales and use tax laws to conform to the Streamlined Agreement was introduced in each of the last several legislative sessions, and has been pre-filed again for the 2017 session. It is important to understand that Missouri's ability to require remote sellers to collect and remit our use tax, while essential to effective enforcement of the tax, will ultimately be decided by the federal courts, or Congress, or both. Passage of legislation to conform Missouri's sales and use tax laws with the SSUTA, will not immediately give Missouri the authority to tax all remote sellers, but it may position Missouri to more effectively enforce our use tax laws if, and when Congress or the courts eliminate or modify the current nexus limitations. However, regardless of whether the ultimate resolution comes from the courts or from Congress, it appears likely that in order to avail themselves of additional taxing authority, states will have to meet some minimum simplification requirements. To the extent Missouri can take steps to simplify the tax, whether by adoption of the SSUTA or simply avoiding measures which add further complexity, it may benefit both current taxpayers and potentially position Missouri for the future.

C. Tax Administration Work Group

Preliminary Focus Areas and Observations

The Tax Administration Work Group has focused its efforts on understanding the current administration of tax policy by the Department of Revenue and identifying areas of deficiency or need for improvement. The Work Group was particularly focused on the experiences and interactions between taxpayers or tax preparers and the Department of Revenue in identifying these areas of deficiency or need for improvement. Through public testimony, Tax

Administration Work Group meetings and the experiences of the Tax Administration Work Group members, the following key focus areas were identified:

- I. Technology and Modernization at Department of Revenue
- II. Department of Revenue /Taxpayer Engagement and Communication
- III. Turnover of Frontline Department of Revenue Personnel
- IV. The Use of Letter Rulings in Tax Administration
- V. Public Accessibility to Department of Revenue Policies
- VI. Accuracy of Data Used by Department of Revenue for Sales and Use Tax Application

I. Technology and Modernization at Department of Revenue

Technological deficiencies and need for modernization at Department of Revenue has been a long-held complaint by taxpayers and tax preparers. The mainframe/COBOL based system used by the Department of Revenue has long passed its usefulness and limited the ability of Department of Revenue to effectively and efficiently meet the needs of taxpayers and tax preparers in filing their taxes or resolving deficiencies and ensuring accuracy in filing.

As these problems have long since been identified, Department of Revenue staff informed the Tax Administration Work Group that the Department of Revenue is currently in the process of fully transitioning from the mainframe/COBOL based system to an integrated system. This system will allow Department of Revenue personnel to greatly improve their ability to meet the needs of taxpayers and tax preparers, improve the tax filing experience, improve the ability of the different divisions of the Department of Revenue to communicate with one another and to improve the ability of the Department of Revenue to gather information to resolve disputes and work with taxpayers and preparers to ensure accurate filing.

According to Department of Revenue staff, the transition from the COBOL system to the new integrated system began with the Sales and Use Tax System in the fall of 2016. The Income Tax System is scheduled to be completed and online in the fall of 2017 and by January 2018, the integrated system should process electronically filed employers' withholding returns in a common format.

The Tax Administration Work Group was pleased with the effort by the Department of Revenue to resolve these technological deficiencies and modernize its systems. The Work Group will continue to monitor this progress as these additional systems are scheduled to be online. Additionally, the Tax Administration Work Group is interested in gathering a further understanding of the full capabilities of the system as it is utilized by taxpayers, tax preparers and the Department of Revenue.

II. Department of Revenue Taxpayer Engagement and Communication

In public testimony and through the experiences of Tax Administration Work Group members, there has been an expressed frustration on behalf of taxpayers and tax preparers in communicating with or seeking information from the Department of Revenue. As taxpayers or

tax preparers are putting together filings or have questions regarding tax issues, they have expressed difficulties in obtaining sufficient answers or not being able to easily access an individual at the Department of Revenue that can assist them. In evaluating these issues, the Tax Administration Work Group focused on the closing of Department of Revenue Taxpayer Assistance Offices, the establishment of the Office of Taxpayer Advocate, and the notification process for changes in sales and use tax interpretations.

Department of Revenue Taxpayer Assistance Offices

The primary change that has occurred and been identified as the source of this breakdown in communication has been the permanent closing of Department of Revenue Taxpayer Assistance Offices. These offices were previously located throughout the state in St. Louis, Kansas City, Springfield, St. Joseph, Joplin, Cape Girardeau, and Jefferson City. Taxpayers and tax preparers expressed that these offices were invaluable in quickly answering questions and assisting in tax compliance. The locations of these offices were generally convenient for taxpayers and tax preparers.

The functions of the Taxpayer Assistance Offices were transitioned to a Jefferson City call center. Accordingly, call center volume has increased significantly and legislators have received numerous complaints from taxpayers unable to have their questions or issues resolved in a timely manner by the Department of Revenue.

It is the understanding of the Tax Administration Work Group that the closure of these offices was a cost savings measure and the cost to begin reinstating the Taxpayer Assistance Offices has been estimated at \$2-3 million, though more detailed figures are unknown at this time.

Office of Taxpayer Advocate

The Office of the Taxpayer Advocate was established in Missouri statute with the passage of HB 384 in 2015. According to Section 37.650 RSMo., the authority of the Office of the Taxpayer Advocate is to:

- Communicate with any taxpayer regarding any tax issues that the taxpayer is experiencing;
- Communicate with any employees of the Department of Revenue regarding a taxpayer's tax issues; and
- To have access to any records held by any department or agency regarding a taxpayer's tax issues.

Though this position has been created in statute in order to better assist taxpayers in their interactions with the Department of Revenue, the position has yet to be appointed by the governor and the office has yet to receive funding.

Notification Process for Changes in Sales and Use Tax Interpretations

For several years, sellers of taxable tangible personal property or services in Missouri who were responsible for collecting sales or use taxes complained that the Department of Revenue was changing sales and use tax interpretations without notifying the impacted sellers of those changes. Additionally, sellers reported that the Department of Revenue was enforcing changes

instituted by an Administrative Hearing Commission decision or a decision of a court of competent jurisdiction that a reasonable person would not be aware of without notification. This enforcement came through the application of these interpretations during a Department of Revenue audit of the seller, a process that commonly became known as “notification by audit”.

In order to address these concerns and improve compliance with changes in sales and use tax interpretations a notification process was established with the passage of Senate Bill 18 in 2015. This bill amended Section 144.012 RSMo. in order to ensure that sellers affected by a change in sales and use tax interpretations are notified by the Department of Revenue of those changes before those taxes are required to be collected.

In actual practice, this notification process is only initiated once a change in interpretation occurs or has been established. A decision by the director of the Department of Revenue, the Administrative Hearing Commission or a court is not a certainty and can occur at any time. Therefore, the unknown timing of a decision and the relative newness of the notification requirement has resulted in a current lack of a standardized notification process and the Department of Revenue is still determining how to best identify the affected taxpayers that are in need of notification.

III. Turnover of Frontline Department of Revenue Personnel

In addition to the closure of the Department of Revenue Taxpayer Assistance Offices, it was reported to the Tax Administration Work Group that a contribution to the frustration of taxpayers and tax preparers in their interactions with the Department of Revenue may be the result of high turnover of personnel. Department of Revenue staff reported to the Tax Administration Work Group that there is approximately a 30% turnover of personnel in the Department of Revenue Audit Division and a 50% turnover in the call center, where most of those employees move to other state agencies. According to analysis by Department of Revenue staff, a move to another position within the Department of Revenue is generally “job stress” driven, while a move outside the Department is usually driven by compensation.

IV. Frequency and Use of Letter Rulings

The Tax Administration Work Group received testimony from business groups and tax preparers regarding the Department of Revenue’s increased use of letter rulings process in administering changes in tax law or interpretation rather than the use of the administrative rulemaking process. The administrative rules process is a detailed process for the establishment of an administrative rule requiring the relevant department or agency issuing the rule to engage with the public in drafting the rule.

According to the information provided by the Department of Revenue (see Appendix B), the issuance of letter rulings by the Department of Revenue has grown exponentially, while use of administrative rule process has rarely been utilized. Since FY 2009 – there have been 1,038 letter rulings and just 16 administrative rules.

According to the Department of Revenue's website:

“A letter ruling is the Department of Revenue's response to a taxpayer's request for specific information about the tax treatment of a particular facet of the taxpayers' business or personal situation. The letter ruling is confidential, specific to the facts of the situation, and is binding on the Department of Revenue with respect to the taxpayer requesting the ruling for three years from the issue date of the letter. Letter rulings are not binding on the Department of Revenue with respect to any *other* taxpayers.”

However, the experience of taxpayers and tax preparers has been that the individual letter rulings are ultimately broadly applied and potentially used as department policy. This occurs most often during an audit. Additionally, as a matter of practice, when a letter ruling and an administrative rule are in conflict, the letter ruling prevails only for the taxpayer to whom the ruling was issued.

The increased use of letter rulings, lack of utilization of the administrative rule making process and the increased conflict between letter rulings, administrative rules and other relevant Department of Revenue or judicial decisions has resulted in significant confusion amongst taxpayers and tax preparers.

V. Department of Revenue Policies and Accessibility

According to tax preparers that provided information to the Tax Administration Work Group, the Department of Revenue does not maintain a policy or audit manual for public use. Conversely, the Internal Revenue Service currently makes a policy and audit manual available to the public and practitioners frequently use it as a resource to quickly answer questions and improve compliance with the law. The tax preparers indicated that the availability of a Department of Revenue policy or audit manual would be mutually beneficial to the taxpayers, tax preparers and the state.

VI. Accuracy of Data Used by Department of Revenue for Sales and Use Tax Application

In determining the applicable sales and use tax rates, the Department of Revenue relies on data submitted by county clerks, municipalities and special taxing districts. However, during discussions amongst the Tax Administration Work Group it was expressed that there is a concern that the data submitted to the Department of Revenue can often be outdated or incomplete. Obtaining data from local entities or special taxing districts has been challenging as a result of the data available in that entity's Geographic Information System (GIS). Finally, according to Department of Revenue staff, the current license held by the Department of Revenue with the state's GIS contractor does not allow for full functionality of the GIS overlays. The cost of obtaining a license to achieve full functionality is not known at this time.

The Department of Revenue currently maintains a portal on its website for a taxpayer or seller to look up their applicable jurisdictions in calculating a rate: [https://Department of Revenues.mo.gov/tax/strgis/input.jsp](https://Department_of_Revenues.mo.gov/tax/strgis/input.jsp). However, as previously indicated, the system relies on the accurate compliance of taxing entities and the GIS system does not have full functionality.

As a result of these limitations, it was expressed to the Tax Administration Work Group that most businesses in Missouri do not rely on the state for this data and they instead develop their own systems, maps and overlays.

Summary

The Tax Administration Work Group has identified these key focus areas as essential areas to understand and address in order to improve the administration of tax policies in the State of Missouri. The Tax Administration Work Group looks forward to developing recommendations in the upcoming meetings ahead and further working to improve the experiences and interactions between taxpayers and tax preparers with the Department of Revenue.

Appendix A

Listing of Missouri Sales and Use Tax Exemptions and Exclusions

Generally, Missouri taxes all retail sales of tangible personal property and certain taxable services. However, there are a number of exemptions and exclusions from Missouri's sales and use tax laws. Although exemptions and exclusions both result in an item not being taxed, they operate differently.

Reference #	Classification	Year Enacted	Bill	Statute	Description
1	Agricultural	1939	HB 91	144.030.2(1)	Feed for livestock and poultry which is to be used in the feeding of livestock to be sold ultimately in processed form or otherwise at retail. [Changed to remove limitation. See 1998 SB 936.]
2	Agricultural	1939	HB 91	144.030.2(1)	Grain to be converted into foodstuffs which are to be sold ultimately in process form at retail.
3	Agricultural	1943	HB 251	144.030.2(1)	Limestone or fertilizer which is to be used for liming or fertilizing crops and seed which is to be used for seeding crops, which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail.
4	Agricultural	1949	HB 303	144.030.2(1)	Spray materials which are to be used for spraying growing crops, fruit trees or orchards, the crop of which when harvested will be sold ultimately in processed form at retail. [1969 HB 34 changed spray materials to poisons registered under the provisions of the Missouri Economic Poisons Law and added clarifying language.]
5	Agricultural	1961	SB 360	144.030.2(8)	Animals and poultry used for breeding or feeding purposes.
6	Agricultural	1979	SB 218	144.030.2(23)	All sales of feed additives mixed with feed for livestock or poultry.
7	Agricultural	1979	SB 218	144.030.2(23)	All sales of propane or natural gas, electricity, and diesel fuel used exclusively for drying agricultural crops.

8	Agricultural	1979	SB 218	144.030.2(23)	All sales of new and used farm machinery and equipment, and repair or replacement parts for new and used farm machinery and equipment, other than airplanes, motor vehicles and trailers, which is: (a) manufactured exclusively for agricultural purposes [1980 HB 1812 changed 'manufactured' to 'used']; (b) used on land owned or leased for the purpose of producing farm products; and (c) used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail.
9	Agricultural	1979	SB 218	144.030.2(23)	One-half of each purchaser's purchase of diesel fuel which is: (a) manufactured exclusively for agricultural purposes [1980 HB 1812 changed 'manufactured' to 'used']; (b) used on land owned or leased for the purpose of producing farm products; and (c) used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail.
10	Agricultural	1994	SB 477	144.030.2(23)	All sales of medications or vaccines administered to livestock or poultry in the production of food or fiber.
11	Agricultural	1994	SB 477	144.030.2(23)	All sales of pesticides used in the production of crops, livestock or poultry for food or fiber.
12	Agricultural	1994	SB 477	144.030.2(23)	All sales of bedding used in the production of livestock or poultry for food or fiber.
13	Agricultural	1995	SB 374	144.045	The definition of "farm machinery" under section 144.030.2(22) is expanded to include machinery or equipment whether or not attached to a vehicle or real property.
14	Agricultural	1995	SB 374	144.047	All sales of aircraft used solely for aerial application of agricultural chemicals shall be considered farm machinery and exempt as other farm machinery under section 144.030.2(22).

15	Agricultural	1996	HB 1466	144.010.1(4)	Definition of "Livestock" added to sales tax law to include cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption. [2005 SB 355 added "llamas, alpaca, buffalo"] (Expands common definition of livestock to allow farm exemptions found in sections 144.030.2(1), (22), (29), and (32) and 144.063 for these animals, birds and aquatic products.)
16	Agricultural	1996	HB 1466	144.030.2(30)	All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock.
17	Agricultural	1998	SB 936	144.030.2(23)	Lubricants used exclusively for farm machinery and equipment.
18	Agricultural	1998	SB 936	144.030.2(33)	Pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry. [Overlaps with section 144.030.2(22).]
19	Agricultural	1998	SB 936	144.030.2(35)	Grain bins for storage of grain for resale.
20	Agricultural	2003	HB 600	144.030.2(23)	All supplies solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail.
21	Agricultural	2005	SB 355	144.030.2(23)	Field drain tile for agricultural use.
22	Agricultural	2007	SB 30	144.030.2(34)	Utilities purchased for research and development of agricultural/biotechnology and plant genomics products.
23	Agricultural	2007	SB 30	144.030.2(34)	Tangible personal property purchased for research and development of agricultural/biotechnology and plant genomics products.

24	Agricultural	2008	SB 931	144.053.1	All new or used farm tractors, repair or replacement parts for new or used farm tractors, supplies and lubricants and such other new or used machinery and equipment used exclusively, solely, and directly for the planting, harvesting, processing, or transporting of a forestry product.
25	Agricultural	2008	SB 931	144.063	All fencing materials used for agricultural purposes.
26	Agricultural	2008	SB 931	144.063	All purchases of motor fuel which are used for agricultural purposes.
27	Agricultural	2008	SB 931	144.063	All purchases of motor fuel for planting, harvesting, processing, or transporting of a forestry product.
28	Agricultural	2014	SB 727	144.527	Provides a sales and use tax exemption for farm products sold at farmers markets. The exemption does not apply to farm products sold by persons or entities with sales of at least \$25,000 from participating in farmers markets.
29	Air Pollution	1967	SB 19	144.030.2(15)	Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution.
30	Aircraft	1975	SB 3	144.030.2(21)	All sales of aircraft to common carriers for storage or for use in interstate commerce.
31	Aircraft	1994	HB 1578	144.043	New light aircraft, light aircraft kits, parts or components manufactured or substantially completed within this state, when such new light aircraft, light aircraft kits, parts or components are sold by manufacturer to a purchaser who is nonresident of this state, who will transport the light aircraft, light aircraft kit, parts or components outside this state within ten days after the date of purchase, and who will register any light aircraft so purchased in another state or country.
32	Aircraft	1996	HB 1466	144.030.2(19)	Samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples.
33	Aircraft	2008	SB 930	144.030.2(41)	All materials and replacement parts purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

34	Aircraft	2008	SB 930	144.030.2(41)	All equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.
35	Business Transfers	1979	SB 218	144.011.1(1)	The transfer by one corporation of substantially all of its tangible personal property to another corporation pursuant to a merger or consolidation effected under the laws of the state of Missouri or any other jurisdiction.
36	Business Transfers	1979	SB 218	144.011.1(2)	The transfer of tangible personal property incident to the liquidation or cessation of a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except to the extent any transfer is made in the ordinary course of the taxpayer's trade or business.
37	Business Transfers	1979	SB 218	144.011.1(3)	The transfer of tangible personal property to a corporation solely in exchange for its stock or securities.
38	Business Transfers	1979	SB 218	144.011.1(4)	The transfer of tangible personal property to a corporation by a shareholder as a contribution to the capital of the transferee corporation.
39	Business Transfers	1979	SB 218	144.011.1(5)	The transfer of tangible personal property to a partnership solely in exchange for a partnership interest therein.
40	Business Transfers	1979	SB 218	144.011.1(6)	The transfer of tangible personal property by a partner as a contribution to the capital of the transferee partnership.
41	Business Transfers	1979	SB 218	144.011.1(7)	The transfer of tangible personal property by a corporation to one or more of its shareholders as a dividend, return of capital, distribution in the partial or complete liquidation of the corporation or distribution in redemption of the shareholder's interest therein.
42	Business Transfers	1979	SB 218	144.011.1(8)	The transfer of tangible personal property by a partnership to one or more of its partners as a current distribution, return of capital or distribution in the partial or complete liquidation of the partnership or of the partner's interest therein.

43	Business Transfers	1979	SB 218	144.011.2	The assumption of liabilities of the transferor by the transferee incident to any of the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not disqualify the transfer from the exclusion described in this section, where such liability assumption is related to the property transferred and where the assumption does not have as its principal purpose the avoidance of Missouri sales or use tax.
44	Common Carrier	1967	SB 19	144.030.2(12)	Railroad rolling stock for use in transporting persons or property in interstate commerce.
45	Common Carrier	1982	SB 471	144.030.2(27)	Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river.
46	Common Carrier	1985	SB 363	144.030.2(12)	All sales of motor vehicles licensed for a gross weight of 24,000 thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce.
47	Common Carrier	1993	HB 913	144.805.1	All sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

48	Common Carrier	1993	HB 913	144.807.1	Purchase or storage by any common carrier engaged in the interstate air transportation of persons and cargo of tangible personal property, other than catered food and beverage products purchased for in-flight consumption and aviation jet fuel, within the state of Missouri, which tangible personal property is purchased or stored in the state of Missouri and is subsequently transported out of state by the common carrier and is used by the common carrier in the conduct of its business as a common carrier.
49	Common Carrier	2007	SB 22	144.030.2(12)	Expanded exemption for common carriers purchasing motor vehicles to include common carriers not operating solely in interstate commerce.
50	Exemption & Exclusions	1939	HB 91	144.010	Creation of the sales tax exemption laws.
51	Exemption & Exclusions	1939	HB 91	144.010.1(2)	Isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business does not constitute engaging in business, within the meaning of this article. [1977 SB 367 limits to annual sales of \$3,000 or less.]
52	Exemption & Exclusions	1939	HB 91	144.010.1(6)	Sales by the Missouri Department of Transportation. [State Highway Department excluded from the definition of "person" for purposes of sales tax law.]
53	Exemption & Exclusions	1939	HB 91	144.030	Creation of the sales tax exemption laws.
54	Exemption & Exclusions	1939	HB 91	144.030.1	Sales in commerce between Missouri and any other state or foreign country.
55	Exemption & Exclusions	1939	HB 91	144.030.1	Sales prohibited from taxing under the Constitution or laws of the United States of America or Missouri Constitution.
56	Exemption & Exclusions	1939	HB 91	144.030.2(1)	Motor fuel subject to an excise or sales tax under another law of Missouri.
57	Exemption & Exclusions	1939	p. 1457	262.250	All state fair entry fees.

58	Exemption & Exclusions	1961	SB 360	144.030.2(10)	The rental of films, records, or any type of sound or picture transcriptions [1988 SB 709 limited exemption by adding "for public commercial display" after "transcriptions."]
59	Exemption & Exclusions	1961	SB 360	144.030.2(11)	Pumping machinery and equipment used to propel products delivered by pipelines, engaged as common carriers.
60	Exemption & Exclusions	1967	SB 19	144.030.2(17)	Tangible personal property purchased by a rural water district.
61	Exemption & Exclusions	1973	HB 46	144.011.1(9)	Reusable containers used in connection with the sale of tangible personal property contained therein for which a deposit is required and refunded on return.
62	Exemption & Exclusions	1977	SB 367	144.010.1(10)	Excludes sales of computer printouts, computer output on microfilm or microfiche to a purchaser to enable the purchaser to obtain for his or her own use the desired information contained in such computer printouts.
63	Exemption & Exclusions	1977	SB 367	144.010.1(10)	Excludes sales of computer-assisted photo compositions.
64	Exemption & Exclusions	1977	SB 367	144.010.1(2)	Added exclusion to definition of business that sales of tangible personal property in the course of a partial or complete liquidation of a household, farm, or nonbusiness enterprise are excluded from sales tax.
65	Exemption & Exclusions	1979	SB 218	144.011.1(10)	The purchase by persons operating eating or food service establishments, of items of a nonreusable nature which are furnished to the customers of such establishments with or in conjunction with the retail sales of their food or beverage. Such items shall include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and toothpicks.
66	Exemption & Exclusions	1979	SB 218	144.011.1(9)	The transfer of reusable containers used in connection with the sale of tangible personal property contained therein for which a deposit is required and refunded on return.

67	Exemption & Exclusions	1979	SB 218	144.030.2(24)	All sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use. Local sales tax can be reimposed under section 144.032.
68	Exemption & Exclusions	1979	SB 218	144.030.2(25)	All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller.
69	Exemption & Exclusions	1979	SB 218	144.030.2(26)	All excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code.
70	Exemption & Exclusions	1982	SB 475	144.034	All sales of advertising by legal newspapers, advertising agencies, broadcast stations, and standardized outdoor billboard advertising are sales of nontaxable services.
71	Exemption & Exclusions	1985	SB 152	144.011.1(12)	Excludes from sale tax: The transfer of a manufactured home other than: (a) A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section 700.010, RSMo, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state; (b) A transfer which involves the delivery of a "Reposessed Title" to a resident of this state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision.
72	Exemption & Exclusions	1986	SB 437	144.030.2(18)	All amounts paid for admission to museums, zoos and planetariums owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation.

73	Exemption & Exclusions	1986	HB 957	144.037	All sales at retail made through the use of federal food stamp coupons.
74	Exemption & Exclusions	1986	HB 957	144.038	All sales at retail for which federal government coupons or vouchers under the supplemental feeding for women, infants and children program are used as payment.
75	Exemption & Exclusions	1986	SB 461	313.085	All sales of bingo supplies, equipment or cards, including pull-tab cards, to any organization duly licensed to conduct bingo pursuant to sections 313.005 to 313.085.
76	Exemption & Exclusions	1988	HB 1400	144.012	Reduces the amount subject to sales tax on vending machine sales to 135% of the net cost of the property vended during the reporting period.
77	Exemption & Exclusions	1988	HB 957	144.039	All purchases of all tangible personal property made by, or on behalf of, a state senator or state representative if such purchases are made from funds in such state senator's or state representative's state expense account.
78	Exemption & Exclusions	1988	HB 957	144.062	All sales of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for: (1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; (2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; (3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or (4) Any private not-for-profit elementary or secondary school exempt from taxation under subdivision (22) of subsection 2 of section 144.030.
79	Exemption & Exclusions	1990	HB 1315	209.255	Telephone surcharges imposed to recoup the costs of deaf relay services and distribution programs.

80	Exemption & Exclusions	1991	HB 39	144.030.2(28)	All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, (Bi-State Development Agency) and sections 238.010 to 238.100, RSMo, (Kansas City Area Transportations Authority) in the exercise of the functions and activities of such agencies as provided pursuant to compacts.
81	Exemption & Exclusions	1994	SB 477	144.030.2(24)	Adds to domestic use utility exemption all purchases of utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units.
82	Exemption & Exclusions	1994	SB 477	144.044	Exempts 40 percent of the purchase price of a new manufactured home.
83	Exemption & Exclusions	1994	SB 477	144.062.2	Adds to exemption all sales of tangible personal property and materials used or consumed in constructing, repairing or remodeling facilities for: (1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; (2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; (3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or (4) Any private not-for-profit elementary or secondary school exempt from taxation under subdivision (22) of subsection 2 of section 144.030.
84	Exemption & Exclusions	1994	SB 692	262.250	Exempts from tax any entry fee or charge authorized by the State Fair Commission.
85	Exemption & Exclusions	1994	SB 740	313.821	Exempts from tax any state or local admission fees imposed upon excursion gambling boat operators that are collected from each passenger boarding such excursion gambling boat.

86	Exemption & Exclusions	1995	HB 414	144.030.2(28)	Computers, computer software, and computer security systems purchased for use by architectural, engineering or accounting firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri. [1997 HB 491 removed accounting firms.]
87	Exemption & Exclusions	1995	SB 374	144.045	Exempts as nontaxable services charges for court transcripts, depositions, compressed transcripts, exhibits, computer disks containing any such item, or copies of any such item which are prepared by a court reporter.
88	Exemption & Exclusions	1996	HB 1466	144.030.2(18)	Admission charges to "fairs" added to exemption.
89	Exemption & Exclusions	1996	HB 1237	144.030.2(22)	All admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo.
90	Exemption & Exclusions	1996	HB 1466	144.030.2(31)	Barges which are to be used primarily in the transportation of property or cargo on interstate waterways.
91	Exemption & Exclusions	1998	SB 627	144.020.1(4)	Excluded any amounts paid for access to the Internet or interactive computer services. [SB 627 added definition of telecommunications service under Section 144.010.]
92	Exemption & Exclusions	1998	SB 936	144.030.2(36)	Feed which is developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo.
93	Exemption & Exclusions	1999	HB 516	144.518	Machines or parts for vending machines used in a commercial, coin operated amusement business and vending machines used in a commercial vending business where sales tax is paid on the gross receipts derived from the use of commercial, coin-operated amusement machines. [2007 SB 30 exempts from tax all gross receipts for the temporary use of coin operated amusement devices.]

94	Exemption & Exclusions	1999	HB 139	144.811	Any equipment purchased by a federally licensed commercial or public broadcast station when such equipment purchase is made as a result of federal mandate and the technological change that results.
95	Exemption & Exclusions	2000	SB 896	144.815	Bullion and investment coins.
96	Exemption & Exclusions	2003	SB 11	144.817	Tangible personal property that is donated to the State of Missouri without charge within one year of purchase.
97	Exemption & Exclusions	2005	SB 68	144.030.2(39)	Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri
98	Exemption & Exclusions	2007	SB 22	144.030.2(40)	All purchases made by a sports complex authority created under section 64.920, RSMo.
99	Exemption & Exclusions	2007	SB 30	144.054.3	All sales and purchases of tangible personal property, utilities, services, or any other transaction when such sales are made to or purchases are made by a contractor for use in fulfillment of any obligation under a defense contract with the United States government.
100	Exemption & Exclusions	2007	SB 30	144.054.3	All sales and leases of tangible personal property by any county, city, incorporated town, or village, provided such sale or lease is authorized under chapter 100, RSMo, and such transaction is certified for sales tax exemption by the department of economic development.
101	Exemption & Exclusions	2007	SB 22	144.062	Added any authority exempt from taxation under section 144.030.2(39) and the department of transportation or the state highways and transportation commission to the pass-through exemption.
102	Exemption & Exclusions	2007	SB 30	144.518	All gross receipts for the temporary use of coin operated amusement devices.

103	Exemption & Exclusions	2008	HB 2058	144.057	All tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.
104	Exemption & Exclusions	2009	HB 683	144.054.4	All sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local sales or use tax when such sales are made to or purchases are made by a private partner for use in completing a project under sections 227.600 to 227.669, RSMo. (Missouri Public Private Partnerships Transportation Act)
105	Exemption & Exclusions	2010	HB 1442	144.030.2(40)	All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team.
106	Exemption & Exclusions	2010	SB 928	144.030.2(42)	Exempts sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar place of business for use in normal course of business.
107	Exemption & Exclusions	2010	SB 928	144.030.2(42)	Exempts money received by a shooting range or similar place of business from patrons held by a shooting range or similar place of business for redistribution as the conclusion of the shooting event.
108	Exemption & Exclusions	2010	SB 0795	274.180	Cooperative Marketing Associations organized under Chapter 274 pays an annual fee of ten dollars only, in lieu of all franchise or license or corporation or other taxes, including state sales taxes, or taxes or charges upon reserves held by it for members.

109	Exemption & Exclusions	2013	SB 23	144.030.2(18)	All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation, provided, however, that a municipality or other political subdivision may enter into revenue-sharing agreements with private persons, firms, or corporations providing goods or services, including management services, in or for the place of amusement, entertainment or recreation, games or athletic events, and provided further that nothing in this subdivision shall exempt from tax any amounts retained by any private person, firm, or corporation under such revenue-sharing agreement;
110	Exemption & Exclusions	2015	SB 149	144.8101(11)	Creates state and local sales and use tax exemptions for data storage centers and allows municipalities to enter into loan agreements, or sell, lease, or mortgage municipal property for a technology business facility project.
111	Manufacturing Full Rate	1939	HB 91	144.030.2(1)	Fuel consumed in manufacturing or creating gas, power, steam, and electrical current to be sold ultimately at retail.
112	Manufacturing Full Rate	1939	HB 91	144.030.2(1)	Fuel consumed in furnishing water to be sold ultimately at retail.
113	Manufacturing Full Rate	1961	SB 360	144.030.2(2)	Machinery, machinery parts, and materials and manufactured goods which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing, or fabricating and which new personal property is intended to be sold ultimately for final use or consumption.

114	Manufacturing Full Rate	1961	SB 360	144.030.2(3)	Equipment, replacement parts, and materials purchased for use directly upon, and for the repair and maintenance or manufacture or motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property.
115	Manufacturing Full Rate	1961	SB 360	144.030.2(5)	Machinery and equipment, replacing and used for the same purposes as the machinery and equipment replaced by reason of design or product changes, which is purchased for and used directly for manufacturing or fabricating a product which is intended to be sold ultimately for final use or consumption.
116	Manufacturing Full Rate	1961	SB 360	144.030.2(6)	Machinery and equipment purchased and used to establish new or to expand existing manufacturing mining or fabricating plants in the state if such machinery is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption.
117	Manufacturing Full Rate	1961	SB 360	144.030.2(7)	Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government.
118	Manufacturing Full Rate	1961	SB 360	144.030.2(9)	News print used in newspapers published for dissemination of news to the general public.
119	Manufacturing Full Rate	1965	HB 626	144.030.2(2)	Materials and manufactured goods which are ultimately consumed in the manufacturing process by becoming, in whole or in part, a component part or ingredient of steel products intended to be sold ultimately for final use or consumption.
120	Manufacturing Full Rate	1967	SB 19	144.030.2(13)	Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, exclusive of the cost of electrical energy so used.

121	Manufacturing Full Rate	1967	SB 19	144.030.2(14)	Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year.
122	Manufacturing Full Rate	1979	SB 218,	144.030.2(5)	The materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product.
123			HB 726		
124	Manufacturing Full Rate	1979	SB 218,	144.030.2(6)	The materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants.
125			HB 726		
126	Manufacturing Full Rate	1995	HB 414	144.030.2(5)	Machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state.
127	Manufacturing Full Rate	1995	HB 414	144.030.2(5)	Materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state.
128	Manufacturing Full Rate	1995	HB 414	144.046	All sales of separately measured electrical current to manufacturers of batteries in this state for conversion to stored chemical energy in new lead-acid storage batteries solely for the purpose of providing an initial charge in such batteries during the manufacturing process but not for the purpose of recharging any previously manufactured batteries. The sale at retail of such separately measured electrical current described in this section shall not be exempted from any local sales tax imposed under a local sales tax law, as defined in section 32.085, RSMo.
129	Manufacturing Full Rate	1996	HB 1466	144.030.2(2)	Adds to meaning of materials as including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick which are ultimately consumed in the manufacturing process of steel products intended to be sold ultimately for final use or consumption.

130	Manufacturing Full Rate	1998	SB 936	144.030.2(13)	Exempts electricity purchased for use in a material recovery processing plant if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.
131	Manufacturing Full Rate	1998	SB 936	144.030.2(32)	Electrical energy, gas, whether natural, artificial or propane, water, and other utilities which is ultimately consumed in connection with the manufacturing of cellular glass products.
132	Manufacturing Full Rate	1998	SB 936	144.030.2(32)	Electrical energy, gas, whether natural, artificial or propane, water, and other utilities which is ultimately consumed in any material recovery processing plant.
133	Manufacturing Full Rate	1998	SB 936	144.030.2(34)	Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals.
134	Manufacturing Full Rate	1998	SB 936	144.030.2(5)	Adds parts to the manufacturing exemption and clarifies replacement machinery and equipment.
135	Manufacturing Full Rate	1998	SB 936	144.030.2(6)	Adds parts to the manufacturing exemption.
136	Manufacturing Full Rate	1998	SB 936	144.030.2(9)	Exempts ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public.
137	Manufacturing Full Rate	2003	SB 11	144.030.2(23)	Natural gas used in the primary manufacture or processing of fuel ethanol.
138	Manufacturing Full Rate	2004	HB 1182	144.030.2(38)	All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo.
139	Manufacturing Full Rate	2005	SB 355	144.030.2(23)	Natural gas, propane, and electricity used by an eligible new generation cooperative as defined in section 348.432, RSMo

140	Manufacturing Full Rate	2005	SB 355	144.030.2(23)	Natural gas, propane, and electricity used by an eligible new generation processing entity as defined in section 348.432, RSMo.
141	Manufacturing Full Rate	2007	SB 30	144.030.2(34)	Utilities purchased for research and development of prescription pharmaceuticals.
142	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax electrical energy, gas, whether natural, artificial, or propane, water, coal, and other energy sources used or consumed in the manufacturing, processing, compounding, mining, or producing of any product.
143	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax chemicals and materials used or consumed in the manufacturing, processing, compounding, mining, or producing of any product.
144	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax machinery and equipment used or consumed in the manufacturing, processing, compounding, mining, or producing of any product.
145	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax electrical energy, gas, whether natural, artificial or propane, water, coal, and other energy sources used or consumed in the processing of recovered materials.
146	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax chemicals and materials used or consumed in the processing of recovered materials.
147	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax machinery and equipment used or consumed in the processing of recovered materials.
148	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax electrical energy, gas, whether natural, artificial, or propane, water, coal, and other emery sources used or consumed in research and development related to manufacturing, processing, compounding, mining, or producing any product.

149	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax chemicals and materials used or consumed in research and development related to manufacturing, processing, compounding, mining, or producing any product.
150	Manufacturing Partial Rate	2007	SB 30	144.054.2	Exempts from state tax and local use tax machinery and equipment used or consumed in research and development related to manufacturing, processing, compounding, mining, or producing any product.
151	Manufacturing Partial Rate	2007	SB 30	144.054.3	All utilities used or consumed directly in television or radio broadcasting.
152	Manufacturing Partial Rate	2007	SB 30	144.054.3	All machinery, and equipment used or consumed directly in television or radio broadcasting.
153	Manufacturing Partial Rate	2007	SB 30	144.054.3	All tangible personal property used for railroad infrastructure brought into this state for processing, fabrication, or other modification for use outside the state in the regular course of business.
154	Manufacturing Partial Rate	2008	SB 1181	144.054.4	All sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local sales or use tax when such sales are made to or purchases are made by a private partner for use in completing a project under sections 227.600 to 227.669, RSMo.

155	Manufacturing Partial Rate	2015	SB 231	144.054.5	In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, all materials, manufactured goods, machinery and parts, electrical energy and gas, whether natural, artificial or propane, water, coal and other energy sources, chemicals, soaps, detergents, cleaning and sanitizing agents, and other ingredients and materials inserted by commercial or industrial laundries to treat, clean, and sanitize textiles in facilities which process at least five hundred pounds of textiles per hour and at least sixty thousand pounds per week.
156	Medical	1978	HB 893	144.030.2(19)	Exempts all sales of insulin.
157	Medical	1978	HB 893	144.030.2(19)	Exempts all sales of prosthetic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act.
158	Medical	1978	HB 893	144.030.2(19)	Exempts all sales of orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act.
159	Medical	1978	HB 893	144.030.2(19)	Exempts all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items.
160	Medical	1979	SB 218,	144.030.2(19)	All sales of hearing aids and hearing aid supplies.
161			HB 726		
162	Medical	1997	HB 491	144.030.2(19)	Medical oxygen added to exemption.

163	Medical	1998	SB 936	144.030.2(19)	Home respiratory equipment and accessories added to exemption.
164	Medical	1998	SB 936	144.030.2(19)	Hospital beds and accessories added to exemption.
165	Medical	1998	SB 936	144.030.2(19)	Ambulatory aids, manual and powered wheelchairs, stairway lifts added to exemption.
166	Medical	1998	SB 936	144.030.2(19)	Braille writers, electronic Braille equipment added to exemption.
167	Medical	1998	SB 936	144.030.2(19)	All sales of scooters if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently.
168	Medical	1998	SB 936	144.030.2(19)	All sales of reading machines, electronic print enlargers and magnifiers if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently.
169	Medical	1998	SB 936	144.030.2(19)	Electronic alternative and augmentative communication devices.
170	Medical	1998	SB 936	144.030.2(19)	Over-the-counter or nonprescription drugs to individuals with disabilities.
171	Motor Fuel	2015	SB 231	144.030.2(43)	Motor fuel delivered to any marina within this state that sells such fuel solely for use in any watercraft, as such term is defined in section 306.010, and not accessible to other motor vehicles, is exempt from the fuel tax imposed by this chapter.
172	Motor Vehicles, Boats, Trailers	1963	SB 4	144.025.1	Trade-in allowance if the difference between the trade-in allowance and the purchase price of an article exceeds \$500, then tax is only imposed on the portion of the purchase price of the article in excess of the actual allowance made for the article traded in or exchanged. [1977 SB 367 reduced to \$250; 1979 SB 218 reduced to \$0.]

173	Motor Vehicles, Boats, Trailers	1975	SB 92	144.07	Motor vehicle leasing company eligible to purchase motor vehicles and trailers without payment of sales or highway use tax providing tax is paid on the amounts charged for each rental or lease agreement while the motor vehicle or trailer is domiciled in Missouri.
174	Motor Vehicles, Boats, Trailers	1977	SB 367	144.025.1	Added motor vehicles to the trade-in exemption and added the 30 day trade-in provision that if a motor vehicle is sold within 30 days of the purchase of a replacement motor vehicle, no tax is imposed on the purchase of the motor vehicle to the extent of the value of the motor vehicle that was sold. [1986 HB 957 increased to 90 days; 1998 SB 936 increased to 180 days.]
175	Motor Vehicles, Boats, Trailers	1977	SB 367	144.071	Refunds the sales tax on the purchase of a motor vehicle when the sale is rescinded within 60 days of the date of sale.
176	Motor Vehicles, Boats, Trailers	1983	HB 10	144.027	The amount of the insurance proceeds for theft or casualty of a vehicle, as certified by the insurance company, which is a credit against the purchase price of another vehicle which is purchased within 30 days of the date of payment by the insurance company for the replacement vehicle. [1986 HB 957 increased to 90 days; 1998 SB 936 increased to 180 days.] [1990 SB 494 extended theft and casualty loss replacement credit for losses that are not insured.]
177	Motor Vehicles, Boats, Trailers	1985	HB 280	144.020.1(8)	Added exclusion: In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers.
178	Motor Vehicles, Boats, Trailers	1985	HB 280	144.025	Expands trade-in exemption for motor vehicles to include trailer, boats, and outboard motors purchased within 30 days. [1986 HB 957 increased to 90 days; 1998 SB 936 increased to 180 days.]

179	Motor Vehicles, Boats, Trailers	1985	HB 280	144.070.7	Expands motor vehicle leasing companies for motor vehicles and trailers to include boats and outboard motors.
180	Motor Vehicles, Boats, Trailers	1987	HB 605	301.684	Transfers of motor vehicles and trailers authorized by sections 301.675 to 301.682 and sections 306.455 to 306.465, RSMo.
181	Motor Vehicles, Boats, Trailers	1990	SB 494	144.027.1	Adds trailer, boats, and outboard motors to the theft and casualty credit for motor vehicles and increase replacement period from within 30 days to 90 days. [1998 SB 936 increased to 180 days.]
182	Motor Vehicles, Boats, Trailers	1990	SB 494	144.071	Refunds of the sales tax on purchases that are rescinded within 60 days of the date of sale for motor vehicles is expanded to include trailers, boats and outboard motors.
183	Motor Vehicles, Boats, Trailers	1990	HB 960	306.016	Boats or vessels documented by the United States Coast Guard or other agency of the federal government and operated on the waters of this state that pay the in lieu watercraft tax in place of all state and local sales taxes. The "in lieu" tax imposed is based upon the price of the boat or vessel, as follows: \$50,000 or less -- \$300; \$50,001 to \$100,000 -- \$600; \$100,001 to \$150,000 -- \$900; \$150,001 to \$200,000 -- \$1,200; \$200,001 and above -- \$1,500. [1994 SB 477 and 2003 HB 600 raised in lieu rates, which remain less than sales tax rates.]
184	Motor Vehicles, Boats, Trailers	1994	SB 477	144.025.1	Exempts from tax seller or manufacturer rebates on purchases motor vehicles, trailers, boats and outboard motors.
185	Motor Vehicles, Boats, Trailers	1998	SB 936	144.025	Adds trailers, boats, and outboard motors to trade-in exemption for motor vehicles and increased eligible purchase from within 90 days to within 180 days.
186	Motor Vehicles, Boats, Trailers	1998	SB 936	144.030.2(18)	Items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities.

187	Motor Vehicles, Boats, Trailers	2003	HB 600	144.025.5	Any purchaser of a motor vehicle or trailer used for agricultural use by the purchaser shall be allowed to use as an allowance to offset the sales and use tax liability towards the purchase of the motor vehicle or trailer any grain or livestock produced or raised by the purchaser. The director of revenue may prescribe forms for compliance with this subsection.
188	Motor Vehicles, Boats, Trailers	2012	HB 1402	144.030.2(4)	Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled by such motor vehicles, that are actually used in the normal course of business to haul property on the public highways of the state, and that are capable of hauling loads commensurate with the motor vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of such vehicles.
189	Not for Profit	1939	HB 91	144.030.2(20)	All sales made by or to religious and charitable institutions or by religious organizations, in the conduct of the regular religious, charitable or educational functions and activities. [1974 HB 1593 updated to current language.]
190	Not for Profit	1939	HB 91	144.030.2(21)	All sales made by or to eleemosynary institutions and penal institutions and industries operated by the department of penal institutions, in the conduct of the regular penal functions and activities. All sales made by or to educational institutions supported by public funds, in the conduct of regular educational functions and activities. All sales made by or to a state relief agency in the exercise of relief functions and activities. [1974 HB 1593 updated to current language.]
191	Not for Profit	1974	HB 1593	144.030.2(21)	All sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection.
192	Not for Profit	1974	SB 607	144.030.2(22)	All ticket sales made by benevolent, scientific, and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals.

193	Not for Profit	1974	SB 607	144.030.2(22)	All ticket sales made by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code.
194	Not for Profit	1975	SB 3	144.030.2(21)	All sales made by or to not-for-profit civic, social, service, or fraternal organizations solely in their civic or charitable functions and activities. [1989 SB 709 added fraternal organizations which have been declared tax exempt organizations under section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended.]
195	Not for Profit	1979	SB 218,	144.030.2(23)	All sales made to any private not for profit elementary and secondary school.
196			HB 726		
197	Not for Profit	1988	HB 1400	144.012	All vending machine sales of tangible personal property by all vendors from vending machines located on the premises of any organization, institution or school whose sales are exempt under section 144.030.2(19).
198	Not for Profit	1992	HB 1155	144.011.1(13)	Charges for initiation fees or dues to fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to religious, charitable, scientific, literary, educational or fraternal purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
199	Not for Profit	1992	HB 1155	144.011.1(13)	Charges for initiation fees or dues to posts or organizations of past or present members of the armed forces of the United States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization substantially all of the members of which are past or present members of the armed forces of the United States or who are cadets, spouses, widows, or widowers of past or present members of the armed forces of the United States, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

200	Not for Profit	1998	SB 936	144.030.2(37)	Materials purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for an exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section.
201	Resale	1963	SB 4	144.020.1(8)	Sales of tangible personal property if a sales tax is imposed on the amount paid or charged for the rental or lease of tangible personal property.
202	Resale	1996	HB 1237	144.011.1(11)	The purchase by persons operating hotels, motels or other transient accommodation establishments, of items of a nonreusable nature which are furnished to the guests in the guests' rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge.
203	Resale	1998	SB 936	144.010.1(14)	Added definition of the term "Product which is intended to be sold ultimately for final use or consumption" as meaning tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state ("or any other state" expanded the meaning of the term which expands the associated exemptions).

204	Resale	2010	SB 928	144.018.1	When a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is: (1) Subject to a tax in this or any other state; (2) For resale; (3) Excluded from tax under this chapter; (4) Subject to tax but exempt under this chapter; or (5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer is not for resale if it is used or consumed by the taxpayer in providing a service on which tax is not imposed by section 144.020.1, except purchases made in fulfillment of any obligation under a defense contract with the United States government.
205	Specialty	1996	SB 640	144.809	Any new or increase in any state or local sales or use tax rate, which tax or increase was not in effect on December 30, 1987, on the sale, storage, use or consumption of aviation jet fuel at or upon airports within the state of Missouri, which airports are recipients of federal grant funds, have submitted applications for or have been approved for federal grant funds, or which are otherwise eligible to apply for federal grant funds.
206	Specialty	1997	HB 491	144.014	Separate sales tax imposed on food at the rate of one percent (plus constitutional taxes of .225%). (Regular tax rate of four percent was previously imposed.) [Modified by 1999 HB 548.]
207	Specialty	1998	SB 936	144.517	Textbooks, as defined by section 170.051, RSMo, when such textbook is purchased by a student who possesses proof of current enrollment at any public or private university, college or other postsecondary institution of higher learning offering a course of study leading to a degree in the liberal arts, humanities or sciences or in a professional, vocational or technical field. This exemption shall not apply to any locally imposed sales or use tax. [1999 SB 33 narrowed exemption to apply only to Missouri schools and only books required or recommended for a class.]

208	Specialty	2003	SB 11	144.049	Clothing, school supplies, computer software and personal computers or computer peripheral devices during a three day period beginning at 12:01 a.m. on the first Friday in August. Certain dollar limits apply. (Back to School Holiday)
209	Specialty	2005	HB 186	144.044	Exempts 40 percent of the purchase price of a new modular unit as defined in section 700.010.
210	Specialty	2008	SB 1181	144.526	Energy star certified new appliances with a retail value of up to \$1,500 per appliance. (April 19 to April 25 each year) (Show Me Green Holiday)
211	Water Pollution	1967	SB 19	144.030.2(16)	Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution.

Source: Prepared by Missouri Department of Revenue. List current as of 1/1/16.

Appendix B

Department of Revenue Letter Rulings

Number of Letter Rulings Issued Since 7/1/2006

FY 2006:	115	FY 2012:	127
FY 2007:	102	FY 2013:	122
FY 2008:	191	FY 2014:	91
FY 2009:	188	FY 2015:	109
FY 2010:	181	FY 2016:	77
FY 2011:	143		

Number of Regulations Filed by the Department Since 7/1/2006

FY 2006:	21	FY 2012:	1
FY 2007:	5	FY 2013:	2
FY 2008:	21	FY 2014:	2
FY 2009:	1	FY 2015:	2
FY 2010:	3	FY 2016:	1
FY 2011:	4		

Note: Each year the Department files an amendment to 12 CSR 10-41.010 to update the Annual Adjusted Rate of Interest. These totals include all proposed amendments and new regulations.

New Tax Jurisdictions Created Since 7/1/2006

CY 2006:	33	CY 2012:	37
CY 2007:	49	CY 2013:	41
CY 2008:	32	CY 2014:	33
CY 2009:	40	CY 2015:	41
CY 2010:	179	CY 2016:	41
CY 2011:	29		