

SECOND REGULAR SESSION

SENATE BILL NO. 897

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

4007S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to a sales tax exemption for feminine hygiene products.

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

Section A. Section 144.030, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 144.030,
3 to read as follows:

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

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

law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

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

(2) Materials, manufactured goods, machinery and parts 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; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in

50 the manufacturing process by blending, reacting or
51 interacting with or by becoming, in whole or in part,
52 component parts or ingredients of steel products intended to
53 be sold ultimately for final use or consumption;

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

59 (4) Replacement machinery, equipment, and parts and
60 the materials and supplies solely required for the
61 installation or construction of such replacement machinery,
62 equipment, and parts, used directly in manufacturing,
63 mining, fabricating or producing a product which is intended
64 to be sold ultimately for final use or consumption; and
65 machinery and equipment, and the materials and supplies
66 required solely for the operation, installation or
67 construction of such machinery and equipment, purchased and
68 used to establish new, or to replace or expand existing,
69 material recovery processing plants in this state. For the
70 purposes of this subdivision, a "material recovery
71 processing plant" means a facility that has as its primary
72 purpose the recovery of materials into a usable product or a
73 different form which is used in producing a new product and
74 shall include a facility or equipment which are used
75 exclusively for the collection of recovered materials for
76 delivery to a material recovery processing plant but shall
77 not include motor vehicles used on highways. For purposes
78 of this section, the terms motor vehicle and highway shall
79 have the same meaning pursuant to section 301.010. For the
80 purposes of this subdivision, subdivision (5) of this
81 subsection, and section 144.054, as well as the definition

in subdivision (9) of subsection 1 of section 144.010, the term "product" includes telecommunications services and the term "manufacturing" shall include the production, or production and transmission, of telecommunications services. The preceding sentence does not make a substantive change in the law and is intended to clarify that the term "manufacturing" has included and continues to include the production and transmission of "telecommunications services", as enacted in this subdivision and subdivision (5) of this subsection, as well as the definition in subdivision (9) of subsection 1 of section 144.010. The preceding two sentences reaffirm legislative intent consistent with the interpretation of this subdivision and subdivision (5) of this subsection in *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and accordingly abrogates the Missouri supreme court's interpretation of those exemptions in *IBM Corporation v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent inconsistent with this section and *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005). The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously

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

(5) Machinery and equipment, and parts and 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 in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption. The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed;

(6) 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;

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

(8) Newsprint, 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;

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

145 (10) Pumping machinery and equipment used to propel
146 products delivered by pipelines engaged as common carriers;

147 (11) Railroad rolling stock for use in transporting
148 persons or property in interstate commerce and motor
149 vehicles licensed for a gross weight of twenty-four thousand
150 pounds or more or trailers used by common carriers, as
151 defined in section 390.020, in the transportation of persons
152 or property;

153 (12) Electrical energy used in the actual primary
154 manufacture, processing, compounding, mining or producing of
155 a product, or electrical energy used in the actual secondary
156 processing or fabricating of the product, or a material
157 recovery processing plant as defined in subdivision (4) of
158 this subsection, in facilities owned or leased by the
159 taxpayer, if the total cost of electrical energy so used
160 exceeds ten percent of the total cost of production, either
161 primary or secondary, exclusive of the cost of electrical
162 energy so used or if the raw materials used in such
163 processing contain at least twenty-five percent recovered
164 materials as defined in section 260.200. There shall be a
165 rebuttable presumption that the raw materials used in the
166 primary manufacture of automobiles contain at least twenty-
167 five percent recovered materials. For purposes of this
168 subdivision, "processing" means any mode of treatment, act
169 or series of acts performed upon materials to transform and
170 reduce them to a different state or thing, including
171 treatment necessary to maintain or preserve such processing
172 by the producer at the production facility;

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

177 (14) Machinery, equipment, appliances and devices
178 purchased or leased and used solely for the purpose of
179 preventing, abating or monitoring air pollution, and
180 materials and supplies solely required for the installation,
181 construction or reconstruction of such machinery, equipment,
182 appliances and devices;

183 (15) Machinery, equipment, appliances and devices
184 purchased or leased and used solely for the purpose of
185 preventing, abating or monitoring water pollution, and
186 materials and supplies solely required for the installation,
187 construction or reconstruction of such machinery, equipment,
188 appliances and devices;

189 (16) Tangible personal property purchased by a rural
190 water district;

191 (17) All amounts paid or charged for admission or
192 participation or other fees paid by or other charges to
193 individuals in or for any place of amusement, entertainment
194 or recreation, games or athletic events, including museums,
195 fairs, zoos and planetariums, owned or operated by a
196 municipality or other political subdivision where all the
197 proceeds derived therefrom benefit the municipality or other
198 political subdivision and do not inure to any private
199 person, firm, or corporation, provided, however, that a
200 municipality or other political subdivision may enter into
201 revenue-sharing agreements with private persons, firms, or
202 corporations providing goods or services, including
203 management services, in or for the place of amusement,
204 entertainment or recreation, games or athletic events, and
205 provided further that nothing in this subdivision shall
206 exempt from tax any amounts retained by any private person,
207 firm, or corporation under such revenue-sharing agreement;

208 (18) All sales of insulin, and all sales, rentals,
209 repairs, and parts of durable medical equipment, prosthetic
210 devices, and orthopedic devices as defined on January 1,
211 1980, by the federal Medicare program pursuant to Title
212 XVIII of the Social Security Act of 1965, including the
213 items specified in Section 1862(a)(12) of that act, and also
214 specifically including hearing aids and hearing aid supplies
215 and all sales of drugs which may be legally dispensed by a
216 licensed pharmacist only upon a lawful prescription of a
217 practitioner licensed to administer those items, including
218 samples and materials used to manufacture samples which may
219 be dispensed by a practitioner authorized to dispense such
220 samples and all sales or rental of medical oxygen, home
221 respiratory equipment and accessories including parts, and
222 hospital beds and accessories and ambulatory aids including
223 parts, and all sales or rental of manual and powered
224 wheelchairs including parts, and stairway lifts, Braille
225 writers, electronic Braille equipment and, if purchased or
226 rented by or on behalf of a person with one or more physical
227 or mental disabilities to enable them to function more
228 independently, all sales or rental of scooters including
229 parts, and reading machines, electronic print enlargers and
230 magnifiers, electronic alternative and augmentative
231 communication devices, and items used solely to modify motor
232 vehicles to permit the use of such motor vehicles by
233 individuals with disabilities or sales of over-the-counter
234 or nonprescription drugs to individuals with disabilities,
235 and drugs required by the Food and Drug Administration to
236 meet the over-the-counter drug product labeling requirements
237 in 21 CFR 201.66, or its successor, as prescribed by a
238 health care practitioner licensed to prescribe;

239 (19) All sales made by or to religious and charitable
240 organizations and institutions in their religious,
241 charitable or educational functions and activities and all
242 sales made by or to all elementary and secondary schools
243 operated at public expense in their educational functions
244 and activities;

245 (20) All sales of aircraft to common carriers for
246 storage or for use in interstate commerce and all sales made
247 by or to not-for-profit civic, social, service or fraternal
248 organizations, including fraternal organizations which have
249 been declared tax-exempt organizations pursuant to Section
250 501(c)(8) or (10) of the 1986 Internal Revenue Code, as
251 amended, in their civic or charitable functions and
252 activities and all sales made to eleemosynary and penal
253 institutions and industries of the state, and all sales made
254 to any private not-for-profit institution of higher
255 education not otherwise excluded pursuant to subdivision
256 (19) of this subsection or any institution of higher
257 education supported by public funds, and all sales made to a
258 state relief agency in the exercise of relief functions and
259 activities;

260 (21) All ticket sales made by benevolent, scientific
261 and educational associations which are formed to foster,
262 encourage, and promote progress and improvement in the
263 science of agriculture and in the raising and breeding of
264 animals, and by nonprofit summer theater organizations if
265 such organizations are exempt from federal tax pursuant to
266 the provisions of the Internal Revenue Code and all
267 admission charges and entry fees to the Missouri state fair
268 or any fair conducted by a county agricultural and
269 mechanical society organized and operated pursuant to
270 sections 262.290 to 262.530;

271 (22) All sales made to any private not-for-profit
272 elementary or secondary school, all sales of feed additives,
273 medications or vaccines administered to livestock or poultry
274 in the production of food or fiber, all sales of pesticides
275 used in the production of crops, livestock or poultry for
276 food or fiber, all sales of bedding used in the production
277 of livestock or poultry for food or fiber, all sales of
278 propane or natural gas, electricity or diesel fuel used
279 exclusively for drying agricultural crops, natural gas used
280 in the primary manufacture or processing of fuel ethanol as
281 defined in section 142.028, natural gas, propane, and
282 electricity used by an eligible new generation cooperative
283 or an eligible new generation processing entity as defined
284 in section 348.432, and all sales of farm machinery and
285 equipment, other than airplanes, motor vehicles and
286 trailers, and any freight charges on any exempt item. As
287 used in this subdivision, the term "feed additives" means
288 tangible personal property which, when mixed with feed for
289 livestock or poultry, is to be used in the feeding of
290 livestock or poultry. As used in this subdivision, the term
291 "pesticides" includes adjuvants such as crop oils,
292 surfactants, wetting agents and other assorted pesticide
293 carriers used to improve or enhance the effect of a
294 pesticide and the foam used to mark the application of
295 pesticides and herbicides for the production of crops,
296 livestock or poultry. As used in this subdivision, the term
297 "farm machinery and equipment" means new or used farm
298 tractors and such other new or used farm machinery and
299 equipment and repair or replacement parts thereon and any
300 accessories for and upgrades to such farm machinery and
301 equipment, rotary mowers used exclusively for agricultural
302 purposes, and supplies and lubricants used exclusively,

303 solely, and directly for producing crops, raising and
304 feeding livestock, fish, poultry, pheasants, chukar, quail,
305 or for producing milk for ultimate sale at retail, including
306 field drain tile, and one-half of each purchaser's purchase
307 of diesel fuel therefor which is:

308 (a) Used exclusively for agricultural purposes;

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

311 (c) Used directly in producing farm products to be
312 sold ultimately in processed form or otherwise at retail or
313 in producing farm products to be fed to livestock or poultry
314 to be sold ultimately in processed form at retail;

315 (23) Except as otherwise provided in section 144.032,
316 all sales of metered water service, electricity, electrical
317 current, natural, artificial or propane gas, wood, coal or
318 home heating oil for domestic use and in any city not within
319 a county, all sales of metered or unmetered water service
320 for domestic use:

321 (a) "Domestic use" means that portion of metered water
322 service, electricity, electrical current, natural,
323 artificial or propane gas, wood, coal or home heating oil,
324 and in any city not within a county, metered or unmetered
325 water service, which an individual occupant of a residential
326 premises uses for nonbusiness, noncommercial or
327 nonindustrial purposes. Utility service through a single or
328 master meter for residential apartments or condominiums,
329 including service for common areas and facilities and vacant
330 units, shall be deemed to be for domestic use. Each seller
331 shall establish and maintain a system whereby individual
332 purchases are determined as exempt or nonexempt;

333 (b) Regulated utility sellers shall determine whether
334 individual purchases are exempt or nonexempt based upon the

335 seller's utility service rate classifications as contained
336 in tariffs on file with and approved by the Missouri public
337 service commission. Sales and purchases made pursuant to
338 the rate classification "residential" and sales to and
339 purchases made by or on behalf of the occupants of
340 residential apartments or condominiums through a single or
341 master meter, including service for common areas and
342 facilities and vacant units, shall be considered as sales
343 made for domestic use and such sales shall be exempt from
344 sales tax. Sellers shall charge sales tax upon the entire
345 amount of purchases classified as nondomestic use. The
346 seller's utility service rate classification and the
347 provision of service thereunder shall be conclusive as to
348 whether or not the utility must charge sales tax;

349 (c) Each person making domestic use purchases of
350 services or property and who uses any portion of the
351 services or property so purchased for a nondomestic use
352 shall, by the fifteenth day of the fourth month following
353 the year of purchase, and without assessment, notice or
354 demand, file a return and pay sales tax on that portion of
355 nondomestic purchases. Each person making nondomestic
356 purchases of services or property and who uses any portion
357 of the services or property so purchased for domestic use,
358 and each person making domestic purchases on behalf of
359 occupants of residential apartments or condominiums through
360 a single or master meter, including service for common areas
361 and facilities and vacant units, under a nonresidential
362 utility service rate classification may, between the first
363 day of the first month and the fifteenth day of the fourth
364 month following the year of purchase, apply for credit or
365 refund to the director of revenue and the director shall
366 give credit or make refund for taxes paid on the domestic

367 use portion of the purchase. The person making such
368 purchases on behalf of occupants of residential apartments
369 or condominiums shall have standing to apply to the director
370 of revenue for such credit or refund;

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

376 (25) Excise taxes, collected on sales at retail,
377 imposed by Sections 4041, 4071, 4081, 4091, 4161, 4181,
378 4251, 4261 and 4271 of Title 26, United States Code. The
379 director of revenue shall promulgate rules pursuant to
380 chapter 536 to eliminate all state and local sales taxes on
381 such excise taxes;

382 (26) Sales of fuel consumed or used in the operation
383 of ships, barges, or waterborne vessels which are used
384 primarily in or for the transportation of property or cargo,
385 or the conveyance of persons for hire, on navigable rivers
386 bordering on or located in part in this state, if such fuel
387 is delivered by the seller to the purchaser's barge, ship,
388 or waterborne vessel while it is afloat upon such river;

389 (27) All sales made to an interstate compact agency
390 created pursuant to sections 70.370 to 70.441 or sections
391 238.010 to 238.100 in the exercise of the functions and
392 activities of such agency as provided pursuant to the
393 compact;

394 (28) Computers, computer software and computer
395 security systems purchased for use by architectural or
396 engineering firms headquartered in this state. For the
397 purposes of this subdivision, "headquartered in this state"
398 means the office for the administrative management of at

399 least four integrated facilities operated by the taxpayer is
400 located in the state of Missouri;

401 (29) All livestock sales when either the seller is
402 engaged in the growing, producing or feeding of such
403 livestock, or the seller is engaged in the business of
404 buying and selling, bartering or leasing of such livestock;

405 (30) All sales of barges which are to be used
406 primarily in the transportation of property or cargo on
407 interstate waterways;

408 (31) Electrical energy or gas, whether natural,
409 artificial or propane, water, or other utilities which are
410 ultimately consumed in connection with the manufacturing of
411 cellular glass products or in any material recovery
412 processing plant as defined in subdivision (4) of this
413 subsection;

414 (32) Notwithstanding other provisions of law to the
415 contrary, all sales of pesticides or herbicides used in the
416 production of crops, aquaculture, livestock or poultry;

417 (33) Tangible personal property and utilities
418 purchased for use or consumption directly or exclusively in
419 the research and development of agricultural/biotechnology
420 and plant genomics products and prescription pharmaceuticals
421 consumed by humans or animals;

422 (34) All sales of grain bins for storage of grain for
423 resale;

424 (35) All sales of feed which are developed for and
425 used in the feeding of pets owned by a commercial breeder
426 when such sales are made to a commercial breeder, as defined
427 in section 273.325, and licensed pursuant to sections
428 273.325 to 273.357;

429 (36) All purchases by a contractor on behalf of an
430 entity located in another state, provided that the entity is

431 authorized to issue a certificate of exemption for purchases
432 to a contractor under the provisions of that state's laws.
433 For purposes of this subdivision, the term "certificate of
434 exemption" shall mean any document evidencing that the
435 entity is exempt from sales and use taxes on purchases
436 pursuant to the laws of the state in which the entity is
437 located. Any contractor making purchases on behalf of such
438 entity shall maintain a copy of the entity's exemption
439 certificate as evidence of the exemption. If the exemption
440 certificate issued by the exempt entity to the contractor is
441 later determined by the director of revenue to be invalid
442 for any reason and the contractor has accepted the
443 certificate in good faith, neither the contractor or the
444 exempt entity shall be liable for the payment of any taxes,
445 interest and penalty due as the result of use of the invalid
446 exemption certificate. Materials shall be exempt from all
447 state and local sales and use taxes when purchased by a
448 contractor for the purpose of fabricating tangible personal
449 property which is used in fulfilling a contract for the
450 purpose of constructing, repairing or remodeling facilities
451 for the following:

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

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

461 (37) All sales or other transfers of tangible personal
462 property to a lessor who leases the property under a lease

463 of one year or longer executed or in effect at the time of
464 the sale or other transfer to an interstate compact agency
465 created pursuant to sections 70.370 to 70.441 or sections
466 238.010 to 238.100;

467 (38) Sales of tickets to any collegiate athletic
468 championship event that is held in a facility owned or
469 operated by a governmental authority or commission, a quasi-
470 governmental agency, a state university or college or by the
471 state or any political subdivision thereof, including a
472 municipality, and that is played on a neutral site and may
473 reasonably be played at a site located outside the state of
474 Missouri. For purposes of this subdivision, "neutral site"
475 means any site that is not located on the campus of a
476 conference member institution participating in the event;

477 (39) All purchases by a sports complex authority
478 created under section 64.920, and all sales of utilities by
479 such authority at the authority's cost that are consumed in
480 connection with the operation of a sports complex leased to
481 a professional sports team;

482 (40) All materials, replacement parts, and equipment
483 purchased for use directly upon, and for the modification,
484 replacement, repair, and maintenance of aircraft, aircraft
485 power plants, and aircraft accessories;

486 (41) Sales of sporting clays, wobble, skeet, and trap
487 targets to any shooting range or similar places of business
488 for use in the normal course of business and money received
489 by a shooting range or similar places of business from
490 patrons and held by a shooting range or similar place of
491 business for redistribution to patrons at the conclusion of
492 a shooting event;

493 (42) All sales of motor fuel, as defined in section
494 142.800, used in any watercraft, as defined in section
495 306.010;

496 (43) Any new or used aircraft sold or delivered in
497 this state to a person who is not a resident of this state
498 or a corporation that is not incorporated in this state, and
499 such aircraft is not to be based in this state and shall not
500 remain in this state more than ten business days subsequent
501 to the last to occur of:

502 (a) The transfer of title to the aircraft to a person
503 who is not a resident of this state or a corporation that is
504 not incorporated in this state; or

505 (b) The date of the return to service of the aircraft
506 in accordance with 14 CFR 91.407 for any maintenance,
507 preventive maintenance, rebuilding, alterations, repairs, or
508 installations that are completed contemporaneously with the
509 transfer of title to the aircraft to a person who is not a
510 resident of this state or a corporation that is not
511 incorporated in this state;

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

523 (45) All internet access or the use of internet access
524 regardless of whether the tax is imposed on a provider of

525 internet access or a buyer of internet access. For purposes
526 of this subdivision, the following terms shall mean:

527 (a) "Direct costs", costs incurred by a governmental
528 authority solely because of an internet service provider's
529 use of the public right-of-way. The term shall not include
530 costs that the governmental authority would have incurred if
531 the internet service provider did not make such use of the
532 public right-of-way. Direct costs shall be determined in a
533 manner consistent with generally accepted accounting
534 principles;

535 (b) "Internet", computer and telecommunications
536 facilities, including equipment and operating software, that
537 comprises the interconnected worldwide network that employ
538 the transmission control protocol or internet protocol, or
539 any predecessor or successor protocols to that protocol, to
540 communicate information of all kinds by wire or radio;

541 (c) "Internet access", a service that enables users to
542 connect to the internet to access content, information, or
543 other services without regard to whether the service is
544 referred to as telecommunications, communications,
545 transmission, or similar services, and without regard to
546 whether a provider of the service is subject to regulation
547 by the Federal Communications Commission as a common carrier
548 under 47 U.S.C. Section 201, et seq. For purposes of this
549 subdivision, internet access also includes: the purchase,
550 use, or sale of communications services, including
551 telecommunications services as defined in section 144.010,
552 to the extent the communications services are purchased,
553 used, or sold to provide the service described in this
554 subdivision or to otherwise enable users to access content,
555 information, or other services offered over the internet;
556 services that are incidental to the provision of a service

described in this subdivision, when furnished to users as part of such service, including a home page, electronic mail, and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity; a home page electronic mail and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity that are provided independently or that are not packed with internet access. As used in this subdivision, internet access does not include voice, audio, and video programming or other products and services, except services described in this paragraph or this subdivision, that use internet protocol or any successor protocol and for which there is a charge, regardless of whether the charge is separately stated or aggregated with the charge for services described in this paragraph or this subdivision;

(d) "Tax", any charge imposed by the state or a political subdivision of the state for the purpose of generating revenues for governmental purposes and that is not a fee imposed for a specific privilege, service, or benefit conferred, except as described as otherwise under this subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental entity. The term tax shall not include any franchise fee or similar fee imposed or authorized under section 67.1830 or 67.2689; Section 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other fee related to obligations of telecommunications carriers

588 under the Communications Act of 1934, 47 U.S.C. Section 151,
589 et seq., except to the extent that:

590 a. The fee is not imposed for the purpose of
591 recovering direct costs incurred by the franchising or other
592 governmental authority from providing the specific
593 privilege, service, or benefit conferred to the payer of the
594 fee; or

595 b. The fee is imposed for the use of a public right-of-
596 way based on a percentage of the service revenue, and the
597 fee exceeds the incremental direct costs incurred by the
598 governmental authority associated with the provision of that
599 right-of-way to the provider of internet access service.

600 Nothing in this subdivision shall be interpreted as an
601 exemption from taxes due on goods or services that were
602 subject to tax on January 1, 2016;

603 **(46) All sales of feminine hygiene products. For the**
604 **purposes of this subdivision, "feminine hygiene products"**
605 **shall mean tampons, pads, liners, and cups.**

606 3. Any ruling, agreement, or contract, whether written
607 or oral, express or implied, between a person and this
608 state's executive branch, or any other state agency or
609 department, stating, agreeing, or ruling that such person is
610 not required to collect sales and use tax in this state
611 despite the presence of a warehouse, distribution center, or
612 fulfillment center in this state that is owned or operated
613 by the person or an affiliated person shall be null and void
614 unless it is specifically approved by a majority vote of
615 each of the houses of the general assembly. For purposes of
616 this subsection, an "affiliated person" means any person
617 that is a member of the same controlled group of
618 corporations as defined in Section 1563(a) of the Internal

619 Revenue Code of 1986, as amended, as the vendor or any other
620 entity that, notwithstanding its form of organization, bears
621 the same ownership relationship to the vendor as a
622 corporation that is a member of the same controlled group of
623 corporations as defined in Section 1563(a) of the Internal
624 Revenue Code, as amended.

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