

SENATE BILL NO. 858

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

3397S.01I

KRISTINA MARTIN, 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 certain 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Section A. Section 144.030, RSMo, is repealed and one new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

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

20 (1) Motor fuel or special fuel subject to an excise
21 tax of this state, unless all or part of such excise tax is
22 refunded pursuant to section 142.824; or upon the sale at
23 retail of fuel to be consumed in manufacturing or creating
24 gas, power, steam, electrical current or in furnishing water
25 to be sold ultimately at retail; or feed for livestock or
26 poultry; or grain to be converted into foodstuffs which are
27 to be sold ultimately in processed form at retail; or seed,
28 limestone or fertilizer which is to be used for seeding,
29 liming or fertilizing crops which when harvested will be
30 sold at retail or will be fed to livestock or poultry to be
31 sold ultimately in processed form at retail; economic
32 poisons registered pursuant to the provisions of the
33 Missouri pesticide registration law, sections 281.220 to
34 281.310, which are to be used in connection with the growth
35 or production of crops, fruit trees or orchards applied
36 before, during, or after planting, the crop of which when
37 harvested will be sold at retail or will be converted into
38 foodstuffs which are to be sold ultimately in processed form
39 at retail;

40 (2) Materials, manufactured goods, machinery and parts
41 which when used in manufacturing, processing, compounding,
42 mining, producing or fabricating become a component part or
43 ingredient of the new personal property resulting from such
44 manufacturing, processing, compounding, mining, producing or
45 fabricating and which new personal property is intended to
46 be sold ultimately for final use or consumption; and
47 materials, including without limitation, gases and
48 manufactured goods, including without limitation slagging
49 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

82 in subdivision (9) of subsection 1 of section 144.010, the
83 term "product" includes telecommunications services and the
84 term "manufacturing" shall include the production, or
85 production and transmission, of telecommunications
86 services. The preceding sentence does not make a
87 substantive change in the law and is intended to clarify
88 that the term "manufacturing" has included and continues to
89 include the production and transmission of
90 "telecommunications services", as enacted in this
91 subdivision and subdivision (5) of this subsection, as well
92 as the definition in subdivision (9) of subsection 1 of
93 section 144.010. The preceding two sentences reaffirm
94 legislative intent consistent with the interpretation of
95 this subdivision and subdivision (5) of this subsection in
96 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d
97 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*
98 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and
99 accordingly abrogates the Missouri supreme court's
100 interpretation of those exemptions in *IBM Corporation v.*
101 *Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the
102 extent inconsistent with this section and *Southwestern Bell*
103 *Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc
104 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*,
105 182 S.W.3d 226 (Mo. banc 2005). The construction and
106 application of this subdivision as expressed by the Missouri
107 supreme court in *DST Systems, Inc. v. Director of Revenue*,
108 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*
109 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and
110 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182
111 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material
112 recovery is not the reuse of materials within a
113 manufacturing process or the use of a product previously

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

117 (5) Machinery and equipment, and parts and the
118 materials and supplies solely required for the installation
119 or construction of such machinery and equipment, purchased
120 and used to establish new or to expand existing
121 manufacturing, mining or fabricating plants in the state if
122 such machinery and equipment is used directly in
123 manufacturing, mining or fabricating a product which is
124 intended to be sold ultimately for final use or
125 consumption. The construction and application of this
126 subdivision as expressed by the Missouri supreme court in
127 *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo.
128 banc 2001); *Southwestern Bell Tel. Co. v. Director of*
129 *Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*
130 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.
131 banc 2005), is hereby affirmed;

132 (6) Tangible personal property which is used
133 exclusively in the manufacturing, processing, modification
134 or assembling of products sold to the United States
135 government or to any agency of the United States government;

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

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

143 (9) The rentals of films, records or any type of sound
144 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" shall mean:

298 (a) New or used farm tractors and such other new or
299 used farm machinery and equipment, including utility
300 vehicles used for any agricultural use, and repair or
301 replacement parts thereon and any accessories for and
302 upgrades to such farm machinery and equipment and rotary

303 mowers used for any agricultural purposes. For the purposes
304 of this subdivision, "utility vehicle" shall mean any
305 motorized vehicle manufactured and used exclusively for off-
306 highway use which is more than fifty inches but no more than
307 eighty inches in width, measured from outside of tire rim to
308 outside of tire rim, with an unladen dry weight of three
309 thousand five hundred pounds or less, traveling on four or
310 six wheels;

311 (b) Supplies and lubricants used exclusively, solely,
312 and directly for producing crops, raising and feeding
313 livestock, fish, poultry, pheasants, chukar, quail, or for
314 producing milk for ultimate sale at retail, including field
315 drain tile; and

316 (c) One-half of each purchaser's purchase of diesel
317 fuel therefor which is:

318 a. Used exclusively for agricultural purposes;

319 b. Used on land owned or leased for the purpose of
320 producing farm products; and

321 c. Used directly in producing farm products to be sold
322 ultimately in processed form or otherwise at retail or in
323 producing farm products to be fed to livestock or poultry to
324 be sold ultimately in processed form at retail;

325 (23) Except as otherwise provided in section 144.032,
326 all sales of metered water service, electricity, electrical
327 current, natural, artificial or propane gas, wood, coal or
328 home heating oil for domestic use and in any city not within
329 a county, all sales of metered or unmetered water service
330 for domestic use:

331 (a) "Domestic use" means that portion of metered water
332 service, electricity, electrical current, natural,
333 artificial or propane gas, wood, coal or home heating oil,
334 and in any city not within a county, metered or unmetered

335 water service, which an individual occupant of a residential
336 premises uses for nonbusiness, noncommercial or
337 nonindustrial purposes. Utility service through a single or
338 master meter for residential apartments or condominiums,
339 including service for common areas and facilities and vacant
340 units, shall be deemed to be for domestic use. Each seller
341 shall establish and maintain a system whereby individual
342 purchases are determined as exempt or nonexempt;

343 (b) Regulated utility sellers shall determine whether
344 individual purchases are exempt or nonexempt based upon the
345 seller's utility service rate classifications as contained
346 in tariffs on file with and approved by the Missouri public
347 service commission. Sales and purchases made pursuant to
348 the rate classification "residential" and sales to and
349 purchases made by or on behalf of the occupants of
350 residential apartments or condominiums through a single or
351 master meter, including service for common areas and
352 facilities and vacant units, shall be considered as sales
353 made for domestic use and such sales shall be exempt from
354 sales tax. Sellers shall charge sales tax upon the entire
355 amount of purchases classified as nondomestic use. The
356 seller's utility service rate classification and the
357 provision of service thereunder shall be conclusive as to
358 whether or not the utility must charge sales tax;

359 (c) Each person making domestic use purchases of
360 services or property and who uses any portion of the
361 services or property so purchased for a nondomestic use
362 shall, by the fifteenth day of the fourth month following
363 the year of purchase, and without assessment, notice or
364 demand, file a return and pay sales tax on that portion of
365 nondomestic purchases. Each person making nondomestic
366 purchases of services or property and who uses any portion

367 of the services or property so purchased for domestic use,
368 and each person making domestic purchases on behalf of
369 occupants of residential apartments or condominiums through
370 a single or master meter, including service for common areas
371 and facilities and vacant units, under a nonresidential
372 utility service rate classification may, between the first
373 day of the first month and the fifteenth day of the fourth
374 month following the year of purchase, apply for credit or
375 refund to the director of revenue and the director shall
376 give credit or make refund for taxes paid on the domestic
377 use portion of the purchase. The person making such
378 purchases on behalf of occupants of residential apartments
379 or condominiums shall have standing to apply to the director
380 of revenue for such credit or refund;

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

386 (25) Excise taxes, collected on sales at retail,
387 imposed by Sections 4041, 4071, 4081, 4091, 4161, 4181,
388 4251, 4261 and 4271 of Title 26, United States Code. The
389 director of revenue shall promulgate rules pursuant to
390 chapter 536 to eliminate all state and local sales taxes on
391 such excise taxes;

392 (26) Sales of fuel consumed or used in the operation
393 of ships, barges, or waterborne vessels which are used
394 primarily in or for the transportation of property or cargo,
395 or the conveyance of persons for hire, on navigable rivers
396 bordering on or located in part in this state, if such fuel
397 is delivered by the seller to the purchaser's barge, ship,
398 or waterborne vessel while it is afloat upon such river;

399 (27) All sales made to an interstate compact agency
400 created pursuant to sections 70.370 to 70.441 or sections
401 238.010 to 238.100 in the exercise of the functions and
402 activities of such agency as provided pursuant to the
403 compact;

404 (28) Computers, computer software and computer
405 security systems purchased for use by architectural or
406 engineering firms headquartered in this state. For the
407 purposes of this subdivision, "headquartered in this state"
408 means the office for the administrative management of at
409 least four integrated facilities operated by the taxpayer is
410 located in the state of Missouri;

411 (29) All livestock sales when either the seller is
412 engaged in the growing, producing or feeding of such
413 livestock, or the seller is engaged in the business of
414 buying and selling, bartering or leasing of such livestock;

415 (30) All sales of barges which are to be used
416 primarily in the transportation of property or cargo on
417 interstate waterways;

418 (31) Electrical energy or gas, whether natural,
419 artificial or propane, water, or other utilities which are
420 ultimately consumed in connection with the manufacturing of
421 cellular glass products or in any material recovery
422 processing plant as defined in subdivision (4) of this
423 subsection;

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

427 (33) Tangible personal property and utilities
428 purchased for use or consumption directly or exclusively in
429 the research and development of agricultural/biotechnology

430 and plant genomics products and prescription pharmaceuticals
431 consumed by humans or animals;

432 (34) All sales of grain bins for storage of grain for
433 resale;

434 (35) All sales of feed which are developed for and
435 used in the feeding of pets owned by a commercial breeder
436 when such sales are made to a commercial breeder, as defined
437 in section 273.325, and licensed pursuant to sections
438 273.325 to 273.357;

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

462 (a) An exempt entity located in this state, if the
463 entity is one of those entities able to issue project
464 exemption certificates in accordance with the provisions of
465 section 144.062; or

466 (b) An exempt entity located outside the state if the
467 exempt entity is authorized to issue an exemption
468 certificate to contractors in accordance with the provisions
469 of that state's law and the applicable provisions of this
470 section;

471 (37) All sales or other transfers of tangible personal
472 property to a lessor who leases the property under a lease
473 of one year or longer executed or in effect at the time of
474 the sale or other transfer to an interstate compact agency
475 created pursuant to sections 70.370 to 70.441 or sections
476 238.010 to 238.100;

477 (38) Sales of tickets to any collegiate athletic
478 championship event that is held in a facility owned or
479 operated by a governmental authority or commission, a quasi-
480 governmental agency, a state university or college or by the
481 state or any political subdivision thereof, including a
482 municipality, and that is played on a neutral site and may
483 reasonably be played at a site located outside the state of
484 Missouri. For purposes of this subdivision, "neutral site"
485 means any site that is not located on the campus of a
486 conference member institution participating in the event;

487 (39) All purchases by a sports complex authority
488 created under section 64.920, and all sales of utilities by
489 such authority at the authority's cost that are consumed in
490 connection with the operation of a sports complex leased to
491 a professional sports team;

492 (40) All materials, replacement parts, and equipment
493 purchased for use directly upon, and for the modification,

494 replacement, repair, and maintenance of aircraft, aircraft
495 power plants, and aircraft accessories;

496 (41) Sales of sporting clays, wobble, skeet, and trap
497 targets to any shooting range or similar places of business
498 for use in the normal course of business and money received
499 by a shooting range or similar places of business from
500 patrons and held by a shooting range or similar place of
501 business for redistribution to patrons at the conclusion of
502 a shooting event;

503 (42) All sales of motor fuel, as defined in section
504 142.800, used in any watercraft, as defined in section
505 306.010;

506 (43) Any new or used aircraft sold or delivered in
507 this state to a person who is not a resident of this state
508 or a corporation that is not incorporated in this state, and
509 such aircraft is not to be based in this state and shall not
510 remain in this state more than ten business days subsequent
511 to the last to occur of:

512 (a) The transfer of title to the aircraft to a person
513 who is not a resident of this state or a corporation that is
514 not incorporated in this state; or

515 (b) The date of the return to service of the aircraft
516 in accordance with 14 CFR 91.407 for any maintenance,
517 preventive maintenance, rebuilding, alterations, repairs, or
518 installations that are completed contemporaneously with the
519 transfer of title to the aircraft to a person who is not a
520 resident of this state or a corporation that is not
521 incorporated in this state;

522 (44) Motor vehicles registered in excess of fifty-four
523 thousand pounds, and the trailers pulled by such motor
524 vehicles, that are actually used in the normal course of
525 business to haul property on the public highways of the

526 state, and that are capable of hauling loads commensurate
527 with the motor vehicle's registered weight; and the
528 materials, replacement parts, and equipment purchased for
529 use directly upon, and for the repair and maintenance or
530 manufacture of such vehicles. For purposes of this
531 subdivision, "motor vehicle" and "public highway" shall have
532 the meaning as ascribed in section 390.020;

533 (45) All internet access or the use of internet access
534 regardless of whether the tax is imposed on a provider of
535 internet access or a buyer of internet access. For purposes
536 of this subdivision, the following terms shall mean:

537 (a) "Direct costs", costs incurred by a governmental
538 authority solely because of an internet service provider's
539 use of the public right-of-way. The term shall not include
540 costs that the governmental authority would have incurred if
541 the internet service provider did not make such use of the
542 public right-of-way. Direct costs shall be determined in a
543 manner consistent with generally accepted accounting
544 principles;

545 (b) "Internet", computer and telecommunications
546 facilities, including equipment and operating software, that
547 comprises the interconnected worldwide network that employ
548 the transmission control protocol or internet protocol, or
549 any predecessor or successor protocols to that protocol, to
550 communicate information of all kinds by wire or radio;

551 (c) "Internet access", a service that enables users to
552 connect to the internet to access content, information, or
553 other services without regard to whether the service is
554 referred to as telecommunications, communications,
555 transmission, or similar services, and without regard to
556 whether a provider of the service is subject to regulation
557 by the Federal Communications Commission as a common carrier

558 under 47 U.S.C. Section 201, et seq. For purposes of this
559 subdivision, internet access also includes: the purchase,
560 use, or sale of communications services, including
561 telecommunications services as defined in section 144.010,
562 to the extent the communications services are purchased,
563 used, or sold to provide the service described in this
564 subdivision or to otherwise enable users to access content,
565 information, or other services offered over the internet;
566 services that are incidental to the provision of a service
567 described in this subdivision, when furnished to users as
568 part of such service, including a home page, electronic
569 mail, and instant messaging, including voice-capable and
570 video-capable electronic mail and instant messaging, video
571 clips, and personal electronic storage capacity; a home page
572 electronic mail and instant messaging, including voice-
573 capable and video-capable electronic mail and instant
574 messaging, video clips, and personal electronic storage
575 capacity that are provided independently or that are not
576 packed with internet access. As used in this subdivision,
577 internet access does not include voice, audio, and video
578 programming or other products and services, except services
579 described in this paragraph or this subdivision, that use
580 internet protocol or any successor protocol and for which
581 there is a charge, regardless of whether the charge is
582 separately stated or aggregated with the charge for services
583 described in this paragraph or this subdivision;

584 (d) "Tax", any charge imposed by the state or a
585 political subdivision of the state for the purpose of
586 generating revenues for governmental purposes and that is
587 not a fee imposed for a specific privilege, service, or
588 benefit conferred, except as described as otherwise under
589 this subdivision, or any obligation imposed on a seller to

590 collect and to remit to the state or a political subdivision
591 of the state any gross retail tax, sales tax, or use tax
592 imposed on a buyer by such a governmental entity. The term
593 tax shall not include any franchise fee or similar fee
594 imposed or authorized under sections 67.1830 to 67.1846 or
595 section 67.2689; Section 622 or 653 of the Communications
596 Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section
597 573; or any other fee related to obligations of
598 telecommunications carriers under the Communications Act of
599 1934, 47 U.S.C. Section 151, et seq., except to the extent
600 that:

601 a. The fee is not imposed for the purpose of
602 recovering direct costs incurred by the franchising or other
603 governmental authority from providing the specific
604 privilege, service, or benefit conferred to the payer of the
605 fee; or

606 b. The fee is imposed for the use of a public right-of-
607 way based on a percentage of the service revenue, and the
608 fee exceeds the incremental direct costs incurred by the
609 governmental authority associated with the provision of that
610 right-of-way to the provider of internet access service.

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

614 (46) All purchases by a company of solar photovoltaic
615 energy systems, components used to construct a solar
616 photovoltaic energy system, and all purchases of materials
617 and supplies used directly to construct or make improvements
618 to such systems, provided that such systems:

619 (a) Are sold or leased to an end user; or

620 (b) Are used to produce, collect and transmit
621 electricity for resale or retail;

622 (47) All sales of diapers, incontinence products, and
623 feminine hygiene products. For the purposes of this
624 subdivision, the following terms shall mean:

625 (a) "Diapers", absorbent garments worn by infants or
626 toddlers who are not toilet-trained or by individuals who
627 are incapable of controlling their bladder or bowel
628 movements;

629 (b) "Feminine hygiene products", tampons, pads,
630 liners, and cups;

631 (c) "Incontinence products", products designed
632 specifically for hygiene matters related to urinary
633 incontinence.

634 3. Any ruling, agreement, or contract, whether written
635 or oral, express or implied, between a person and this
636 state's executive branch, or any other state agency or
637 department, stating, agreeing, or ruling that such person is
638 not required to collect sales and use tax in this state
639 despite the presence of a warehouse, distribution center, or
640 fulfillment center in this state that is owned or operated
641 by the person or an affiliated person shall be null and void
642 unless it is specifically approved by a majority vote of
643 each of the houses of the general assembly. For purposes of
644 this subsection, an "affiliated person" means any person
645 that is a member of the same controlled group of
646 corporations as defined in Section 1563(a) of the Internal
647 Revenue Code of 1986, as amended, as the vendor or any other
648 entity that, notwithstanding its form of organization, bears
649 the same ownership relationship to the vendor as a
650 corporation that is a member of the same controlled group of

651 corporations as defined in Section 1563(a) of the Internal
652 Revenue Code, as amended.

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