

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 936**  
**89TH GENERAL ASSEMBLY**

Reported from the Committee on Ways & Means, April 22, 1998, with recommendation that the House Committee Substitute for Senate Bill No. 936 Do Pass.

ANNE C. WALKER, Chief Clerk  
L3936.03C

**AN ACT**

To repeal sections 144.034, 144.080 and 144.655, RSMo 1994, and sections 67.1300, 144.010, 144.014 and 144.030, RSMo Supp. 1997, relating to sales and use taxation, and to enact in lieu thereof eight new sections relating to the same subject.

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

Section A. Sections 144.034, 144.080 and 144.655, RSMo 1994, and sections 67.1300, 144.010, 144.014 and 144.030, RSMo Supp. 1997, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.1300, 144.010, 144.014, 144.030, 144.034, 144.080, 144.655 and 1, to read as follows:

67.1300. 1. The governing body of any of the contiguous counties of the third classification without a township form of government enumerated in subdivisions (1) to (5) of this subsection or in any county of the fourth classification acting as a county of the second classification, having a population of at least forty thousand but less than forty-five thousand with a state university, and adjoining a county of the first classification with part of a city with a population of three hundred fifty thousand or more inhabitants or a county of the third classification with more than fifteen townships having a population of at least twenty-one thousand inhabitants or a county of the third classification without a township form of government and with a population of at least seven thousand four hundred but less than eight thousand inhabitants or any county of the third classification with a population greater than three thousand but less than four thousand or any county of the third classification with a population greater than six thousand one hundred but less than six thousand four hundred or any county of the third classification with a population greater than six thousand eight hundred but less than seven thousand or any county of the third classification with a population greater than seven thousand eight hundred but less than seven thousand nine hundred or any county of the third classification with a population greater than eight thousand four hundred sixty but less than eight thousand five hundred or any county of the third classification with a population greater than nine thousand but less than nine thousand two hundred or any county of the third classification with a population greater than ten thousand five hundred but less than ten thousand six hundred or any county of the third classification with a population greater than twenty-three thousand five hundred but less than twenty-three thousand seven hundred or a county of the third classification with a population greater than thirty-three thousand but less than thirty-four thousand or a county of the

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

third classification with a population greater than twenty thousand eight hundred but less than twenty-one thousand or a county of the third classification with a population greater than fourteen thousand one hundred but less than fourteen thousand five hundred or a county of the third classification with a population greater than twenty thousand eight hundred fifty but less than twenty-two thousand or a county of the third classification with a population greater than thirty-nine thousand but less than forty thousand or a county of the third classification with a township form of organization and a population greater than twenty-eight thousand but less than twenty-nine thousand or a county of the third classification with a population greater than fifteen thousand but less than fifteen thousand five hundred or a county of the third classification with a population greater than eighteen thousand but less than nineteen thousand seventy or a county of the third classification with a population greater than thirteen thousand nine hundred but less than fourteen thousand four hundred or a county of the third classification with a population greater than twenty-seven thousand but less than twenty-seven thousand five hundred or a county of the first classification without a charter form of government and a population of at least eighty thousand but not greater than eighty-three thousand **or a county of the third classification with a population greater than fifteen thousand but less than sixteen thousand without a township form of government which does not adjoin any county of the first, second or fourth classification or a county of the third classification with a population greater than twenty-three thousand but less than twenty-five thousand without a township form of government which does not adjoin any county of the second or fourth classification and does adjoin a county of the first classification with a population greater than one hundred twenty thousand but less than one hundred fifty thousand** or any governing body of a municipality located in any of such counties may impose, by ordinance or order, a sales tax on all retail sales made in such county or municipality which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo:

(1) A county with a population of at least four thousand two hundred inhabitants but not more than four thousand five hundred inhabitants;

(2) A county with a population of at least four thousand seven hundred inhabitants but not more than four thousand nine hundred inhabitants;

(3) A county with a population of at least seven thousand three hundred inhabitants but not more than seven thousand six hundred inhabitants;

(4) A county with a population of at least ten thousand one hundred inhabitants but not more than ten thousand three hundred inhabitants; and

(5) A county with a population of at least four thousand three hundred inhabitants but not more than four thousand five hundred inhabitants.

2. The maximum rate for a sales tax pursuant to this section shall be one percent for municipalities and one-half of one percent for counties.

3. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county or municipality submits to the voters of the county or municipality, at a regularly scheduled county, municipal or state general or primary election, a proposal to authorize the governing body of the county or municipality to impose a tax. Any sales tax imposed pursuant to this section shall not be authorized for a period of more than five years.

4. Such proposal shall be submitted in substantially the following form:

Shall the (city, town, village or county) of ..... impose a sales tax of ..... (insert

amount) for the purpose of economic development in the (city, town, village or county)?

G YES

G NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall not impose the sales tax authorized in this section until the governing body of the county or municipality resubmits another proposal to authorize the governing body of the county or municipality to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon; however no such proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last such proposal.

5. All revenue received by a county or municipality from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for economic development purposes within such county or municipality for so long as the tax shall remain in effect.

6. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for economic development purposes within the county or municipality. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county or municipal funds.

7. All sales taxes collected by the director of revenue pursuant to this section on behalf of any county or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Economic Development Sales Tax Trust Fund".

8. The moneys in the local economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each county or municipality imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the county or municipality and the public.

9. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county or municipality which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising from the local economic development sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or municipality. Expenditures may be made from the fund for any economic development purposes authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

10. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties and municipalities.

11. If any county or municipality abolishes the tax, the county or municipality shall notify the

director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

12. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

13. For purposes of this section, the term "economic development" is limited to the following:

- (1) Operations of economic development or community development offices, including the salaries of employees;
- (2) Provision of training for job creation or retention;
- (3) Provision of infrastructure and sites for industrial development or for public infrastructure projects; and
- (4) Refurbishing of existing structures and property relating to community development.

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.510 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.510;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.510. The 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 sections 144.010 to 144.510 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to 144.510 on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to 144.510 the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the

right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

(4) "Livestock", 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;

(5) "Motor vehicle leasing company" shall be a company obtaining a permit from the director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as hereinafter provided;

(6) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state highways and transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(7) "Purchaser" means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under sections 144.010 to 144.510;

(8) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale, and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things and services herein designated and defined as taxable under the terms of sections 144.010 to 144.510;

(9) "Sale at retail" means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration; except that, for the purposes of sections 144.010 to 144.510 and the tax imposed thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists, optometrists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts, computer output or microfilm or microfiche and computer assisted photo compositions to a purchaser to enable the purchaser to obtain for his own use the desired information contained in such computer printouts, computer output on microfilm or microfiche and computer assisted photo compositions shall be considered as the sale of a service and not as the sale of tangible personal property. Where necessary to conform to the context of sections 144.010 to 144.510 and the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;

(b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(c) Sales of service to telephone subscribers and to others through equipment of telephone

subscribers for the transmission of messages and conversations, both local or long distance, and the sale, rental or leasing of all equipment or services pertaining or incidental thereto;

(d) Sales of service for transmission of messages by telegraph companies;

(e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or drinks are regularly served to the public;

(f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane, and such buses and trucks as are licensed by the transportation division of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(10) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed under section 144.020;

(11) The noun "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he is required to report his collections, as the context may require[.]; **and**

**(12) "Product which is intended to be sold ultimately for final use or consumption" means 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.**

2. For purposes of the taxes imposed under sections 144.010 to 144.510, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to 144.510 by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010, RSMo.

3. Sections 144.010 to 144.510 may be known and quoted as the "Sales Tax Law".

144.014. 1. Notwithstanding other provisions of law to the contrary, beginning October 1, 1997, the tax levied and imposed pursuant to sections 144.010 to 144.525 and sections 144.600 to 144.746 on all retail sales of food shall be at the rate of one percent. The revenue derived from the one percent rate pursuant to this section shall be deposited by the state treasurer in the school district trust fund and shall be distributed as provided in section 144.701.

2. For the purposes of this section, the term "food" shall include only those products and types of food for which food stamps may be redeemed pursuant to the provisions of the Federal Food Stamp Program as contained in 7 U.S.C. section 2012, as that section now reads or as it may be amended hereafter, and shall include food dispensed by or through vending machines. **For the purposes of this section, except for vending machine sales, the term "food" shall not include food or drink sold by any establishment where the gross receipts derived from the sale of food prepared by such establishment for immediate consumption on or off the premises of the establishment constitutes more than fifty percent of the total gross receipts of that establishment, regardless of whether such prepared food is consumed on the premises of that establishment, including, but not limited to, sales of food by any restaurant, fast food restaurant, delicatessen, eating house, or café.**

3. Any person required to collect and remit the sales or use tax on food pursuant to the provisions of this section shall be entitled to a refund from the general revenue fund equal to three percent of all state and local sales and use taxes collected by such person on or after October 1, 1997, and prior to September 30, 1998, and remitted by such person on or before the date when the same becomes due in accordance with the provisions of sections 144.080, 144.081, 144.090 and 144.655, on the retail sale of food as defined in this section. This refund shall be in addition to the amount allowed in section 144.140 and shall be made without interest. Such refund shall be made only if such

person files a correctly completed claim for refund on or before September 30, 1999, accompanied by such information as the director may require. The director of revenue shall promulgate such rules and regulations pursuant to the provisions of section 144.270 as are necessary to facilitate efficient administration of the refund authorized in this section. For the purposes of this subsection, "local sales taxes" shall mean any tax levied, assessed, or payable pursuant to the provisions of the "local sales tax law" as defined in section 32.085, RSMo, "local use taxes" shall mean any tax levied, assessed, or payable pursuant to the provisions of sections 144.757 to 144.761, and "state sales and use taxes" shall mean any tax levied pursuant to the provisions of sections 144.010 to 144.525 and sections 144.600 to 144.746.

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

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, 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 142.584, RSMo; 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 [which is to be used in the feeding of livestock or poultry to be sold ultimately in processed form or otherwise at retail]; 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, RSMo) 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 the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft

engaged as common carriers of persons or property;

(4) **Replacement** machinery [and], equipment, **and parts** and the materials and supplies solely required for the installation or construction of such **replacement** machinery [and], equipment, [replacing and used for the same purposes or to produce a substantially similar product as the machinery and equipment, which is purchased for] and **parts**, used directly [for manufacturing or fabricating] **in manufacturing, mining, fabricating or producing** a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the 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. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product, and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(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;

(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;

(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;

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

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four 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;

(12) 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, **or a material recovery processing plant as defined in subdivision (4) of this subsection**, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used **or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo**. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;



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

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

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

(17) 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, including museums, fairs, 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;

(18) All sales of insulin and prosthetic or 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, and also specifically including hearing aids and hearing aid supplies and 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, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, **all sales of manual and powered wheelchairs, stairway lifts, braille writers, electronic braille equipment and, if purchased by a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities;**

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

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

(21) 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, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and 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;

(22) All sales made to any private not for profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, and all sales of farm machinery, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. **As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry.** As used in this subdivision, the term "farm machinery" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon **and lubricants used exclusively for such farm machinery and equipment** and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (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;

(23) Except as otherwise provided in section 144.032, 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;

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

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the

provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) 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;

(25) 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. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) 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;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to [70.440] **70.430**, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering 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;

(29) 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;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways[.];

**(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;**

**(32) All sales of retreading or recapping equipment, supplies or materials; tire carcasses; uncured rubber; or retreaded or recapped tires to any business which retreads or recaps or resells at retail any retreaded or recapped tires;**

**(33) Notwithstanding other provisions of law to the contrary, all sales of pesticides or**

herbicides used in the production of crops, livestock or poultry;

(34) All sales of feed which are 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;

(35) Machines or parts for machines used in a commercial, coin-operated amusement and vending business where sales tax is paid on the gross receipts derived from the use of commercial, coin-operated amusement and vending machines or as provided in section 144.012;

(36) Admission charged for the all hunting or taking of domestically raised pheasant, partridge, quail and ungulates on licensed shooting areas permitted by the Missouri department of conservation and on all sales of feed and equipment used in the domestic production of pheasant, partridge, quail and ungulates by holders of a class I wildlife breeders permit issued by the Missouri department of conservation;

(37) Any equipment purchased by a federally licensed commercial or public broadcast station when such equipment purchase is made as a result of a federal mandate or technological change. This exemption does not apply to replacement of equipment necessitated as a result of use or equipment replaced due to damage or theft. As used in this subdivision, the following terms shall mean:

(a) "Equipment", such equipment as may be necessary for the broadcast station to fulfill those obligations as set forth under federal guidelines;

(b) "Federally licensed commercial or public broadcast station", any enterprise, either commercial or noncommercial, which operates under a license granted by the Federal Communications Commission for the purpose of the free distribution of audio or video services when such distribution occurs by means of transmission over the public airwaves; and

(c) "Federal mandate", any action of the Congress of the United States or any federal regulatory agency having jurisdiction with regard to broadcast stations when such action requires broadcasters to alter methods of operation.

(38) All sales to political subdivisions of Missouri or of any other state;

(39) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sale and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when 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 the following:

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

**(b) 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;**

**(40) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;**

**(41) All sales of grain bins for storage of grain for resale.**

144.034. The sales of advertising by legal newspapers pursuant to chapter 493, RSMo, advertising agencies, broadcast stations, and standardized outdoor billboard advertising **and the sale of the first copy of a customized film or video production produced in Missouri under contract with a film or video production company** shall be considered the sale of a service and not the sale of tangible personal property. Purchases of tangible personal property which are for use in producing advertising by the businesses **or purchases of tangible personal property incorporated into the first copy of a customized film video production** listed in the preceding sentence shall be deemed to be purchases for use or consumption and not for resale. **Sales of subsequent copies of a customized film video production described in this section shall be subject to sales or use tax.** In addition to the exemptions granted under the provisions of section 144.030, the sale of services as defined in this section shall be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, RSMo, sections 94.600 to 94.655, RSMo, sections 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, **and the local sales tax law as defined in section 32.085, RSMo,** and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, RSMo, sections 94.600 to 94.655, RSMo, sections 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, **and the local sales tax law as defined in section 32.085, RSMo.**

144.080. 1. Every person receiving any payment or consideration upon the sale of property or rendering of service, subject to the tax imposed by the provisions of sections 144.010 to 144.525, is exercising the taxable privilege of selling the property or rendering the service at retail and is subject to the tax levied in section 144.020. [He] **The person** shall be responsible not only for the collection of the amount of the tax imposed on the sale or service to the extent possible under the provisions of section 144.285, but shall, on or before the last day of the month following each calendar quarterly period of three months, file a return with the director of revenue showing [his] **the person's** gross receipts and the amount of tax levied in section 144.020 for the preceding quarter, and shall remit to the director of revenue, with the return, the taxes levied in section 144.020, except as provided in subsections 2 and 3 of this section. **The director of revenue may promulgate rules or regulations pursuant to chapter 536, RSMo, changing the filing and payment requirements of sellers, but shall not require any seller to file and pay more frequently than required in this section.**

2. Where the aggregate amount levied and imposed upon a seller by section 144.020 is in excess of two hundred and fifty dollars for either the first or second month of a calendar quarter, the seller shall file a return and pay such aggregate amount for such months to the director of revenue by the twentieth day of the succeeding month.

3. Where the aggregate amount levied and imposed upon a seller by section 144.020 is less than forty-five dollars in a calendar quarter, the director of revenue shall by regulation permit the

seller to file a return for a calendar year. The return shall be filed and the taxes paid on or before January thirty-first of the succeeding year.

4. The seller of any property or person rendering any service, subject to the tax imposed by sections 144.010 to 144.525, shall collect the tax from the purchaser of such property or the recipient of the service to the extent possible under the provisions of section 144.285, but [his] **the seller's** inability to collect any part or all of the tax does not relieve [him] **the seller** of the obligation to pay to the state the tax imposed by section 144.020; except that the collection of the tax imposed by sections 144.010 to 144.525 on motor vehicles and trailers shall be made as provided in sections 144.070 and 144.440.

5. It shall be unlawful for any person to advertise or hold out or state to the public or to any customer directly or indirectly that the tax or any part thereof imposed by sections 144.010 to 144.525, and required to be collected by [him] **the person**, will be assumed or absorbed by the person, or that it will not be separately stated and added to the selling price of the property sold or service rendered, or if added, that it or any part thereof will be refunded. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

144.655. 1. Every vendor, on or before the last day of the month following each calendar quarterly period of three months, shall file with the director of revenue a return of all taxes collected for the preceding quarter in the form prescribed by the director of revenue, showing the total sales price of the tangible personal property sold by the vendor, the storage, use or consumption of which is subject to the tax levied by this law, and other information the director of revenue deems necessary. The return shall be accompanied by a remittance of the amount of the tax required to be collected by the vendor during the period covered by the return. Returns shall be signed by the vendor or his authorized agent. **The director of revenue may promulgate rules or regulations pursuant to chapter 536, RSMo, changing the filing and payment requirements of vendors, but shall not require any vendor to file and pay more frequently than required in this section.**

2. Where the aggregate amount of tax required to be collected by a vendor is in excess of two hundred and fifty dollars for either the first or second month of a calendar quarter, the vendor shall pay such aggregate amount for such months to the director of revenue by the twentieth day of the succeeding month. The amount so paid shall be allowed as a credit against the liability shown on the vendor's quarterly return required by this section.

3. Where the aggregate amount of tax required to be collected by a vendor is less than forty-five dollars in a calendar quarter, the director of revenue shall by regulation permit the vendor to file a return for a calendar year. The return shall be filed and the taxes paid on or before January thirty-first of the succeeding year.

4. Except as provided in subsection 5 of this section, every person purchasing tangible personal property, the storage, use or consumption of which is subject to the tax levied by sections 144.600 to 144.748, who has not paid the tax due to a vendor registered in accordance with the provisions of section 144.650, shall[, on or before the last day of the month following each calendar quarterly period of three months,] file with the director of revenue a return for the preceding [quarter] **reporting period** in the form **and manner** that the director of revenue prescribes, showing the total sales price of the tangible property purchased during the preceding [quarter] **reporting period** and any other information that the director of revenue deems necessary for the proper administration of sections 144.600 to 144.748. The return shall be accompanied by a remittance of the amount of the tax required by sections 144.600 to 144.748 to be paid by the person. Returns shall be signed by the person liable for the tax or his duly authorized agent. **For the purposes of this subsection, the**

reporting period shall be determined by the director of revenue and may be a calendar quarter or a calendar year. For purposes of this subsection only, annual returns and payments shall be due on or before April fifteenth of the year for the preceding calendar year. Upon request by the taxpayer, the director may allow taxpayers to file such returns and payments on a monthly basis. If a taxpayer elects to file a monthly return and payment, such return and payment shall be filed on or before the twentieth day of the succeeding month.

5. Any person purchasing tangible personal property subject to the taxes imposed by sections 144.600 to 144.748 shall not be required to file a use tax return with the director of revenue if such purchases on which such taxes were not paid do not exceed in the aggregate two thousand dollars in any calendar year.

6. Nothing in subsection 5 of this section shall relieve a vendor of liability to collect the tax imposed under sections 144.600 to 144.748 on the total gross receipts of all sales of tangible personal property used, stored or consumed in this state and to remit all taxes collected to the director of revenue in accordance with the provisions of this section nor shall it relieve a purchaser from paying such taxes to a vendor registered in accordance with the provisions of section 144.650.

**Section 1.** In addition to the exemptions granted pursuant to section 144.030, RSMo, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, RSMo, sections 94.600 to 94.655, RSMo, sections 94.700 to 94.755, RSMo, and sections 144.010 to 144.510, RSMo, and sections 144.600 to 144.745, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, RSMo, sections 94.600 to 94.655, RSMo, sections 94.700 to 94.755, RSMo, and sections 144.010 to 144.510, RSMo, and sections 144.600 to 144.745, RSMo, tangible personal property purchased or leased by a qualified film production company doing business in this state. For purposes of this subdivision, "qualified film production company" shall mean any film production company with an expected in-state expenditure budget in excess of three hundred thousand dollars, and so certified as such by the Missouri film commission within the department of economic development.

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