

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1534
AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to the taxability of certain card processing fees.

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

Section A. Section 144.010, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 144.010,
3 to read as follows:

144.010. 1. The following words, terms, and phrases
2 when used in sections 144.010 to 144.525 have the meanings
3 ascribed to them in this section, except when the context
4 indicates a different meaning:

5 (1) "Admission" includes seats and tables, reserved or
6 otherwise, and other similar accommodations and charges made
7 therefor and amount paid for admission, exclusive of any
8 admission tax imposed by the federal government or by
9 sections 144.010 to 144.525;

10 (2) "Business" includes any activity engaged in by any
11 person, or caused to be engaged in by him, with the object
12 of gain, benefit or advantage, either direct or indirect,
13 and the classification of which business is of such
14 character as to be subject to the terms of sections 144.010
15 to 144.525. A person is "engaging in business" in this state
16 for purposes of sections 144.010 to 144.525 if such person
17 engages in business activities within this state or
18 maintains a place of business in this state under section
19 144.605. The isolated or occasional sale of tangible

20 personal property, service, substance, or thing, by a person
21 not engaged in such business, does not constitute engaging
22 in business within the meaning of sections 144.010 to
23 144.525 unless the total amount of the gross receipts from
24 such sales, exclusive of receipts from the sale of tangible
25 personal property by persons which property is sold in the
26 course of the partial or complete liquidation of a
27 household, farm or nonbusiness enterprise, exceeds three
28 thousand dollars in any calendar year. The provisions of
29 this subdivision shall not be construed to make any sale of
30 property which is exempt from sales tax or use tax on June
31 1, 1977, subject to that tax thereafter;

32 (3) "Captive wildlife", includes but is not limited to
33 exotic partridges, gray partridge, northern bobwhite quail,
34 ring-necked pheasant, captive waterfowl, captive white-
35 tailed deer, captive elk, and captive furbearers held under
36 permit issued by the Missouri department of conservation for
37 hunting purposes. The provisions of this subdivision shall
38 not apply to sales tax on a harvested animal;

39 (4) "Gross receipts", except as provided in section
40 144.012, means the total amount of the sale price of the
41 sales at retail including any services other than charges
42 incident to the extension of credit that are a part of such
43 sales made by the businesses herein referred to, capable of
44 being valued in money, whether received in money or
45 otherwise; except that, the term gross receipts shall not
46 include the sale price of property returned by customers
47 when the full sale price thereof is refunded either in cash
48 or by credit. In determining any tax due under sections
49 144.010 to 144.525 on the gross receipts, charges incident
50 to the extension of credit, including credit card and debit
51 card processing fees, shall be specifically exempted. For
52 the purposes of sections 144.010 to 144.525 the total amount

53 of the sale price above mentioned shall be deemed to be the
54 amount received. It shall also include the lease or rental
55 consideration where the right to continuous possession or
56 use of any article of tangible personal property is granted
57 under a lease or contract and such transfer of possession
58 would be taxable if outright sale were made and, in such
59 cases, the same shall be taxable as if outright sale were
60 made and considered as a sale of such article, and the tax
61 shall be computed and paid by the lessee upon the rentals
62 paid. The term gross receipts shall not include usual and
63 customary delivery charges that are stated separately from
64 the sale price;

65 (5) "Instructional class", includes any class, lesson,
66 or instruction intended or used for teaching;

67 (6) "Livestock", cattle, calves, sheep, swine, ratite
68 birds, including but not limited to, ostrich and emu,
69 aquatic products as described in section 277.024, llamas,
70 alpaca, buffalo, bison, elk documented as obtained from a
71 legal source and not from the wild, goats, horses, other
72 equine, honey bees, or rabbits raised in confinement for
73 human consumption;

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

81 (8) "Person" includes any individual, firm,
82 copartnership, joint adventure, association, corporation,
83 municipal or private, and whether organized for profit or
84 not, state, county, political subdivision, state department,
85 commission, board, bureau or agency, except the state

86 transportation department, estate, trust, business trust,
87 receiver or trustee appointed by the state or federal court,
88 syndicate, or any other group or combination acting as a
89 unit, and the plural as well as the singular number;

90 (9) "Product which is intended to be sold ultimately
91 for final use or consumption" means tangible personal
92 property, or any service that is subject to state or local
93 sales or use taxes, or any tax that is substantially
94 equivalent thereto, in this state or any other state;

95 (10) "Purchaser" means a person who purchases tangible
96 personal property or to whom are rendered services, receipts
97 from which are taxable under sections 144.010 to 144.525;

98 (11) "Research or experimentation activities" are the
99 development of an experimental or pilot model, plant
100 process, formula, invention or similar property, and the
101 improvement of existing property of such type. Research or
102 experimentation activities do not include activities such as
103 ordinary testing or inspection of materials or products for
104 quality control, efficiency surveys, advertising promotions
105 or research in connection with literary, historical or
106 similar projects;

107 (12) "Sale" or "sales" includes installment and credit
108 sales, and the exchange of properties as well as the sale
109 thereof for money, every closed transaction constituting a
110 sale, and means any transfer, exchange or barter,
111 conditional or otherwise, in any manner or by any means
112 whatsoever, of tangible personal property for valuable
113 consideration and the rendering, furnishing or selling for a
114 valuable consideration any of the substances, things and
115 services herein designated and defined as taxable under the
116 terms of sections 144.010 to 144.525;

117 (13) "Sale at retail" means any transfer made by any
118 person engaged in business as defined herein of the

119 ownership of, or title to, tangible personal property to the
120 purchaser, for use or consumption and not for resale in any
121 form as tangible personal property, for a valuable
122 consideration; except that, for the purposes of sections
123 144.010 to 144.525 and the tax imposed thereby: (i)
124 purchases of tangible personal property made by duly
125 licensed physicians, dentists, optometrists and
126 veterinarians and used in the practice of their professions
127 shall be deemed to be purchases for use or consumption and
128 not for resale; and (ii) the selling of computer printouts,
129 computer output or microfilm or microfiche and computer-
130 assisted photo compositions to a purchaser to enable the
131 purchaser to obtain for his or her own use the desired
132 information contained in such computer printouts, computer
133 output on microfilm or microfiche and computer-assisted
134 photo compositions shall be considered as the sale of a
135 service and not as the sale of tangible personal property.
136 Where necessary to conform to the context of sections
137 144.010 to 144.525 and the tax imposed thereby, the term
138 sale at retail shall be construed to embrace:

- 139 (a) Sales of admission tickets, cash admissions,
140 charges and fees to or in places of amusement, entertainment
141 and recreation, games and athletic events, except amounts
142 paid for any instructional class;
- 143 (b) Sales of electricity, electrical current, water
144 and gas, natural or artificial, to domestic, commercial or
145 industrial consumers, except as provided in subdivision (12)
146 of subsection 1 of section 144.011;
- 147 (c) Sales of local and long distance
148 telecommunications service to telecommunications subscribers
149 and to others through equipment of telecommunications
150 subscribers for the transmission of messages and

151 conversations, and the sale, rental or leasing of all
152 equipment or services pertaining or incidental thereto;

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

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

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

166 (14) "Seller" means a person selling or furnishing
167 tangible personal property or rendering services, on the
168 receipts from which a tax is imposed pursuant to section
169 144.020;

170 (15) The noun "tax" means either the tax payable by
171 the purchaser of a commodity or service subject to tax, or
172 the aggregate amount of taxes due from the vendor of such
173 commodities or services during the period for which he or
174 she is required to report his or her collections, as the
175 context may require; and

176 (16) "Telecommunications service", for the purpose of
177 this chapter, the transmission of information by wire,
178 radio, optical cable, coaxial cable, electronic impulses, or
179 other similar means. As used in this definition,
180 "information" means knowledge or intelligence represented by
181 any form of writing, signs, signals, pictures, sounds, or
182 any other symbols. Telecommunications service does not
183 include the following if such services are separately stated

184 on the customer's bill or on records of the seller
185 maintained in the ordinary course of business:

186 (a) Access to the internet, access to interactive
187 computer services or electronic publishing services, except
188 the amount paid for the telecommunications service used to
189 provide such access;

190 (b) Answering services and one-way paging services;

191 (c) Private mobile radio services which are not two-
192 way commercial mobile radio services such as wireless
193 telephone, personal communications services or enhanced
194 specialized mobile radio services as defined pursuant to
195 federal law; or

196 (d) Cable or satellite television or music services.

197 2. For purposes of the taxes imposed under sections
198 144.010 to 144.525, and any other provisions of law
199 pertaining to sales or use taxes which incorporate the
200 provisions of sections 144.010 to 144.525 by reference, the
201 term manufactured homes shall have the same meaning given it
202 in section 700.010.

203 3. Sections 144.010 to 144.525 may be known and quoted
204 as the "Sales Tax Law".