

FIRST REGULAR SESSION

# HOUSE BILL NO. 970

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FUNDERBURK.

2109L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 144.010, 144.030, and 144.605, RSMo, and to enact in lieu thereof three new sections relating to sales and use taxes.

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

Section A. Sections 144.010, 144.030, and 144.605, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 144.010, 144.030, and 144.605, to read as follows:

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 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 144.525;

(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 144.525. 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 144.525 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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 provisions of this subdivision shall not be construed to make any sale of property which is  
17 exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

18 (3) "Gross receipts", except as provided in section 144.012, means the total amount of  
19 the sale price of the sales at retail including any services other than charges incident to the  
20 extension of credit that are a part of such sales made by the businesses herein referred to, capable  
21 of being valued in money, whether received in money or otherwise; except that, the term "gross  
22 receipts" shall not include the sale price of property returned by customers when the full sale  
23 price thereof is refunded either in cash or by credit. In determining any tax due under sections  
24 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be  
25 specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the  
26 sale price above mentioned shall be deemed to be the amount received. It shall also include the  
27 lease or rental consideration where the right to continuous possession or use of any article of  
28 tangible personal property is granted under a lease or contract and such transfer of possession  
29 would be taxable if outright sale were made and, in such cases, the same shall be taxable as if  
30 outright sale were made and considered as a sale of such article, and the tax shall be computed  
31 and paid by the lessee upon the rentals paid;

32 (4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,  
33 ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk  
34 documented as obtained from a legal source and not from the wild, goats, horses, other equine,  
35 or rabbits raised in confinement for human consumption;

36 (5) "Motor vehicle leasing company" shall be a company obtaining a permit from the  
37 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or  
38 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to  
39 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section  
40 144.070, as hereinafter provided;

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

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

49 (8) "Research or experimentation activities" are the development of an experimental or  
50 pilot model, plant process, formula, invention or similar property, and the improvement of  
51 existing property of such type. Research or experimentation activities do not include activities

52 such as ordinary testing or inspection of materials or products for quality control, efficiency  
53 surveys, advertising promotions or research in connection with literary, historical or similar  
54 projects;

55 (9) "Sale" or "sales" includes installment and credit sales, and the exchange of properties  
56 as well as the sale thereof for money, every closed transaction constituting a sale, and means any  
57 transfer, exchange or barter, conditional or otherwise, in any manner or by any means  
58 whatsoever, of tangible personal property for valuable consideration and the rendering,  
59 furnishing or selling for a valuable consideration any of the substances, things and services  
60 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

61 (10) "Sale at retail" means any transfer made by any person engaged in business as  
62 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use  
63 or consumption and not for resale in any form as tangible personal property, for a valuable  
64 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed  
65 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,  
66 optometrists and veterinarians and used in the practice of their professions shall be deemed to  
67 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,  
68 computer output or microfilm or microfiche and computer-assisted photo compositions to a  
69 purchaser to enable the purchaser to obtain for his or her own use the desired information  
70 contained in such computer printouts, computer output on microfilm or microfiche and  
71 computer-assisted photo compositions shall be considered as the sale of a service and not as the  
72 sale of tangible personal property. Where necessary to conform to the context of sections  
73 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to  
74 embrace:

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

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

79 (c) Sales of local and long distance telecommunications service to telecommunications  
80 subscribers and to others through equipment of telecommunications subscribers for the  
81 transmission of messages and conversations, and the sale, rental or leasing of all equipment or  
82 services pertaining or incidental thereto;

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

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

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

91 (11) "Seller" means a person selling or furnishing tangible personal property or rendering  
92 services, on the receipts from which a tax is imposed pursuant to section 144.020. **A seller shall**  
93 **include any business regularly or systematically soliciting business in this state, or soliciting**  
94 **business in this state through an independent contractor or other representative. For**  
95 **purposes of the sales tax law, the following shall apply:**

96 (a) **A person shall be presumed to be regularly or systematically soliciting business**  
97 **in this state if, for the immediately preceding four quarterly periods ending on the last day**  
98 **of March, June, September, and December, the cumulative total of such person's gross**  
99 **receipts from sales of property delivered in this state exceeds three hundred thousand**  
100 **dollars and such person made more than one hundred sales of property delivered in this**  
101 **state, unless such person can demonstrate, to the satisfaction of the director, that the**  
102 **person cannot reasonably be expected to have gross receipts in excess of three hundred**  
103 **thousand dollars or more than one hundred sales of property delivered in this state for the**  
104 **next succeeding four quarterly periods ending on the last day of March, June, September,**  
105 **and December;**

106 (b) **A person making sales of tangible personal property or taxable services shall**  
107 **be presumed to be soliciting business through an independent contractor or other**  
108 **representative if the seller enters into an agreement with a resident of this state under**  
109 **which the resident, for a commission or other consideration, directly or indirectly refers**  
110 **potential customers, whether by a link on an internet website or otherwise, to the seller, if**  
111 **the cumulative gross receipts from sales by the seller to customers in the state who are**  
112 **referred to the seller by all residents with such agreements with the seller is in excess of ten**  
113 **thousand dollars during the preceding four quarterly periods ending on the last day of**  
114 **March, June, September, and December. This presumption may be rebutted by proof that**  
115 **the resident with whom the seller has an agreement did not engage in any solicitation in the**  
116 **state on behalf of the seller that would satisfy the nexus requirement of the United States**  
117 **Constitution during the four quarterly periods in question. Nothing in this paragraph**  
118 **shall be construed to narrow the scope of the term "independent contractor or other**  
119 **representative" for purposes of this section;**

120 (12) The noun "tax" means either the tax payable by the purchaser of a commodity or  
121 service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities

122 or services during the period for which he or she is required to report his or her collections, as  
123 the context may require;

124 (13) "Telecommunications service", for the purpose of this chapter, the transmission of  
125 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar  
126 means. As used in this definition, "information" means knowledge or intelligence represented  
127 by any form of writing, signs, signals, pictures, sounds, or any other symbols.  
128 Telecommunications service does not include the following if such services are separately stated  
129 on the customer's bill or on records of the seller maintained in the ordinary course of business:

130 (a) Access to the Internet, access to interactive computer services or electronic  
131 publishing services, except the amount paid for the telecommunications service used to provide  
132 such access;

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

134 (c) Private mobile radio services which are not two-way commercial mobile radio  
135 services such as wireless telephone, personal communications services or enhanced specialized  
136 mobile radio services as defined pursuant to federal law; or

137 (d) Cable or satellite television or music services; and

138 (14) "Product which is intended to be sold ultimately for final use or consumption"  
139 means tangible personal property, or any service that is subject to state or local sales or use taxes,  
140 or any tax that is substantially equivalent thereto, in this state or any other state.

141 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other  
142 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections  
143 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning  
144 given it in section 700.010.

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

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

9 2. There are also specifically exempted from the provisions of the local sales tax law as  
10 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to  
11 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local

12 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and  
13 144.600 to 144.745:

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

26 (2) Materials, manufactured goods, machinery and parts which when used in  
27 manufacturing, processing, compounding, mining, producing or fabricating become a component  
28 part or ingredient of the new personal property resulting from such manufacturing, processing,  
29 compounding, mining, producing or fabricating and which new personal property is intended to  
30 be sold ultimately for final use or consumption; and materials, including without limitation,  
31 gases and manufactured goods, including without limitation slagging materials and firebrick,  
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting  
33 with or by becoming, in whole or in part, component parts or ingredients of steel products  
34 intended to be sold ultimately for final use or consumption;

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

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely  
39 required for the installation or construction of such replacement machinery, equipment, and  
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
42 the materials and supplies required solely for the operation, installation or construction of such  
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
45 recovery processing plant" means a facility that has as its primary purpose the recovery of  
46 materials into a useable product or a different form which is used in producing a new product and  
47 shall include a facility or equipment which are used exclusively for the collection of recovered

48 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have  
50 the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials  
51 within a manufacturing process or the use of a product previously recovered. The material  
52 recovery processing plant shall qualify under the provisions of this section regardless of  
53 ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required  
55 for the installation or construction of such machinery and equipment, purchased and used to  
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
58 which is intended to be sold ultimately for final use or consumption;

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

62 (7) Animals or poultry used for breeding or feeding purposes;

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

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

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

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

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,  
75 mining or producing of a product, or electrical energy used in the actual secondary processing  
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,  
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
80 contain at least twenty-five percent recovered materials as defined in section 260.200. There  
81 shall be a rebuttable presumption that the raw materials used in the primary manufacture of  
82 automobiles contain at least twenty-five percent recovered materials. For purposes of this  
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon

84 materials to transform and reduce them to a different state or thing, including treatment necessary  
85 to maintain or preserve such processing by the producer at the production facility;

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

88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely  
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies  
90 solely required for the installation, construction or reconstruction of such machinery, equipment,  
91 appliances and devices;

92 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
93 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
94 solely required for the installation, construction or reconstruction of such machinery, equipment,  
95 appliances and devices;

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

97 (17) All amounts paid or charged for admission or participation or other fees paid by or  
98 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
99 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
100 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
101 municipality or other political subdivision and do not inure to any private person, firm, or  
102 corporation;

103 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,  
104 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of  
105 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically  
106 including hearing aids and hearing aid supplies and all sales of drugs which may be legally  
107 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to  
108 administer those items, including samples and materials used to manufacture samples which may  
109 be dispensed by a practitioner authorized to dispense such samples and all sales of medical  
110 oxygen, home respiratory equipment and accessories, hospital beds and accessories and  
111 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,  
112 electronic Braille equipment and, if purchased by or on behalf of a person with one or more  
113 physical or mental disabilities to enable them to function more independently, all sales of  
114 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and  
115 augmentative communication devices, and items used solely to modify motor vehicles to permit  
116 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or  
117 nonprescription drugs to individuals with disabilities;

118 (19) All sales made by or to religious and charitable organizations and institutions in  
119 their religious, charitable or educational functions and activities and all sales made by or to all



120 elementary and secondary schools operated at public expense in their educational functions and  
121 activities;

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

131 (21) All ticket sales made by benevolent, scientific and educational associations which  
132 are formed to foster, encourage, and promote progress and improvement in the science of  
133 agriculture and in the raising and breeding of animals, and by nonprofit summer theater  
134 organizations if such organizations are exempt from federal tax pursuant to the provisions of the  
135 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any  
136 fair conducted by a county agricultural and mechanical society organized and operated pursuant  
137 to sections 262.290 to 262.530;

138 (22) All sales made to any private not-for-profit elementary or secondary school, all sales  
139 of feed additives, medications or vaccines administered to livestock or poultry in the production  
140 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
141 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
142 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
143 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as  
144 defined in section 142.028, natural gas, propane, and electricity used by an eligible new  
145 generation cooperative or an eligible new generation processing entity as defined in section  
146 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and  
147 trailers. As used in this subdivision, the term "feed additives" means tangible personal property  
148 which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock  
149 or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop  
150 oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance  
151 the effect of a pesticide and the foam used to mark the application of pesticides and herbicides  
152 for the production of crops, livestock or poultry. As used in this subdivision, the term "farm  
153 machinery and equipment" means new or used farm tractors and such other new or used farm  
154 machinery and equipment and repair or replacement parts thereon, and supplies and lubricants  
155 used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish,

156 poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field  
157 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

158 (a) Used exclusively for agricultural purposes;

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

160 (c) Used directly in producing farm products to be sold ultimately in processed form or  
161 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
162 ultimately in processed form at retail;

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

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

175 (b) Regulated utility sellers shall determine whether individual purchases are exempt or  
176 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file  
177 with and approved by the Missouri public service commission. Sales and purchases made  
178 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf  
179 of the occupants of residential apartments or condominiums through a single or master meter,  
180 including service for common areas and facilities and vacant units, shall be considered as sales  
181 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales  
182 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility  
183 service rate classification and the provision of service thereunder shall be conclusive as to  
184 whether or not the utility must charge sales tax;

185 (c) Each person making domestic use purchases of services or property and who uses any  
186 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day  
187 of the fourth month following the year of purchase, and without assessment, notice or demand,  
188 file a return and pay sales tax on that portion of nondomestic purchases. Each person making  
189 nondomestic purchases of services or property and who uses any portion of the services or  
190 property so purchased for domestic use, and each person making domestic purchases on behalf  
191 of occupants of residential apartments or condominiums through a single or master meter,

192 including service for common areas and facilities and vacant units, under a nonresidential utility  
193 service rate classification may, between the first day of the first month and the fifteenth day of  
194 the fourth month following the year of purchase, apply for credit or refund to the director of  
195 revenue and the director shall give credit or make refund for taxes paid on the domestic use  
196 portion of the purchase. The person making such purchases on behalf of occupants of residential  
197 apartments or condominiums shall have standing to apply to the director of revenue for such  
198 credit or refund;

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

202 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,  
203 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of  
204 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes  
205 on such excise taxes;

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

211 (27) All sales made to an interstate compact agency created pursuant to sections 70.370  
212 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such  
213 agency as provided pursuant to the compact;

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

218 (29) All livestock sales when either the seller is engaged in the growing, producing or  
219 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering  
220 or leasing of such livestock;

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

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

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

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

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

233 (35) All sales of feed which are developed for and used in the feeding of pets owned by  
234 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
235 273.325, and licensed pursuant to sections 273.325 to 273.357;

236 (36) All purchases by a contractor on behalf of an entity located in another state,  
237 provided that the entity is authorized to issue a certificate of exemption for purchases to a  
238 contractor under the provisions of that state's laws. For purposes of this subdivision, the term  
239 "certificate of exemption" shall mean any document evidencing that the entity is exempt from  
240 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.  
241 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's  
242 exemption certificate as evidence of the exemption. If the exemption certificate issued by the  
243 exempt entity to the contractor is later determined by the director of revenue to be invalid for any  
244 reason and the contractor has accepted the certificate in good faith, neither the contractor or the  
245 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result  
246 of use of the invalid exemption certificate. Materials shall be exempt from all state and local  
247 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible  
248 personal property which is used in fulfilling a contract for the purpose of constructing, repairing  
249 or remodeling facilities for the following:

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

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

255 (37) All sales or other transfers of tangible personal property to a lessor who leases the  
256 property under a lease of one year or longer executed or in effect at the time of the sale or other  
257 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections  
258 238.010 to 238.100;

259 (38) Sales of tickets to any collegiate athletic championship event that is held in a facility  
260 owned or operated by a governmental authority or commission, a quasi-governmental agency,  
261 a state university or college or by the state or any political subdivision thereof, including a  
262 municipality, and that is played on a neutral site and may reasonably be played at a site located

263 outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that  
264 is not located on the campus of a conference member institution participating in the event;

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

268 (40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement  
269 parts, and equipment purchased for use directly upon, and for the modification, replacement,  
270 repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

271 (41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or  
272 similar places of business for use in the normal course of business and money received by a  
273 shooting range or similar places of business from patrons and held by a shooting range or similar  
274 place of business for redistribution to patrons at the conclusion of a shooting event.

144.605. The following words and phrases as used in sections 144.600 to 144.745 mean  
2 and include:

3 (1) "Calendar quarter", the period of three consecutive calendar months ending on March  
4 thirty-first, June thirtieth, September thirtieth or December thirty-first;

5 (2) "Engages in business activities within this state" includes:

6 (a) Purposefully or systematically exploiting the market provided by this state by any  
7 media-assisted, media-facilitated, or media-solicited means, including, but not limited to, direct  
8 mail advertising, distribution of catalogs, computer-assisted shopping, telephone, television,  
9 radio, or other electronic media, or magazine or newspaper advertisements, or other media,  
10 **including the internet. A person shall be presumed to be engaging in business activities in**  
11 **this state if, for the immediately preceding four quarterly periods ending on the last day**  
12 **of March, June, September, and December, the cumulative total of such person's gross**  
13 **receipts from sales of property delivered in this state exceeds three hundred thousand**  
14 **dollars and such person made more than one hundred sales of property delivered in this**  
15 **state, unless such person can demonstrate, to the satisfaction of the director, that such**  
16 **person cannot reasonably be expected to have gross receipts in excess of three hundred**  
17 **thousand dollars or more than one hundred sales of property delivered in this state for the**  
18 **next succeeding four quarterly periods ending on the last day of March, June, September,**  
19 **and December; or**

20 (b) Being owned or controlled by the same interests which own or control any seller  
21 engaged in the same or similar line of business in this state; or

22 (c) Maintaining or having a franchisee or licensee operating under the seller's trade name  
23 in this state if the franchisee or licensee is required to collect sales tax pursuant to sections  
24 144.010 to 144.525; or

25 (d) Soliciting [sales or taking orders] **business by an independent contractor or other**  
26 **representative**, sales agents, or traveling representatives. **A person making sales of tangible**  
27 **personal property or taxable services shall be presumed to be soliciting business through**  
28 **an independent contractor or other representative if the seller enters into an agreement**  
29 **with a resident of this state under which the resident, for a commission or other**  
30 **consideration, directly or indirectly refers potential customers, whether by a link on an**  
31 **internet website or otherwise, to the seller, if the cumulative gross receipts from sales by**  
32 **the seller to customers in the state who are referred to the seller by all residents with such**  
33 **agreements with the seller is in excess of ten thousand dollars during the preceding four**  
34 **quarterly periods ending on the last day of March, June, September, and December. This**  
35 **presumption may be rebutted by proof that the resident with whom the seller has an**  
36 **agreement did not engage in any solicitation in the state on behalf of the seller that would**  
37 **satisfy the nexus requirement of the United States Constitution during the four quarterly**  
38 **periods in question. Nothing in this paragraph shall be construed to narrow the scope of**  
39 **the term "independent contractor or other representative" for purposes of this section;**

40 (3) "Maintains a place of business in this state" includes maintaining, occupying, or  
41 using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by  
42 whatever name called, an office, place of distribution, sales or sample room or place, warehouse  
43 or storage place, or other place of business;

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

50 (5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property,  
51 through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

52 (6) "Purchaser", any person who is the recipient for a valuable consideration of any sale  
53 of tangible personal property acquired for use, storage or consumption in this state;

54 (7) "Sale", **for purposes of the use tax law**, any transfer, barter or exchange of the title  
55 or ownership of tangible personal property, or the right to use, store or consume the same, for  
56 a consideration paid or to be paid, and any transaction whether called leases, rentals, bailments,  
57 loans, conditional sales or otherwise, and notwithstanding that the title or possession of the  
58 property or both is retained for security. For the purpose of this law the place of delivery of the  
59 property to the purchaser, user, storer or consumer is deemed to be the place of sale, whether the

60 delivery be by the vendor or by common carriers, private contractors, mails, express, agents,  
61 salesmen, solicitors, hawkers, representatives, consignors, peddlers, canvassers or otherwise;

62 (8) "Sales price", the consideration including the charges for services, except charges  
63 incident to the extension of credit, paid or given, or contracted to be paid or given, by the  
64 purchaser to the vendor for the tangible personal property, including any services that are a part  
65 of the sale, valued in money, whether paid in money or otherwise, and any amount for which  
66 credit is given to the purchaser by the vendor, without any deduction therefrom on account of the  
67 cost of the property sold, the cost of materials used, labor or service cost, losses or any other  
68 expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included  
69 and "sales price" shall not include the amount charged for property returned by customers upon  
70 rescission of the contract of sales when the entire amount charged therefor is refunded either in  
71 cash or credit or the amount charged for labor or services rendered in installing or applying the  
72 property sold, the use, storage or consumption of which is taxable pursuant to sections 144.600  
73 to 144.745. In determining the amount of tax due pursuant to sections 144.600 to 144.745, any  
74 charge incident to the extension of credit shall be specifically exempted;

75 (9) "Selling agent", every person acting as a representative of a principal, when such  
76 principal is not registered with the director of revenue of the state of Missouri for the collection  
77 of the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and  
78 who receives compensation by reason of the sale of tangible personal property of the principal,  
79 if such property is to be stored, used, or consumed in this state;

80 (10) "Storage", any keeping or retention in this state of tangible personal property  
81 purchased from a vendor, except property for sale or property that is temporarily kept or retained  
82 in this state for subsequent use outside the state;

83 (11) "Tangible personal property", all items subject to the Missouri sales tax as provided  
84 in subdivisions (1) and (3) of section 144.020;

85 (12) "Taxpayer", any person remitting the tax or who should remit the tax levied by  
86 sections 144.600 to 144.745;

87 (13) "Use", **for purposes of the use tax law**, the exercise of any right or power over  
88 tangible personal property incident to the ownership or control of that property, except that it  
89 does not include the temporary storage of property in this state for subsequent use outside the  
90 state, or the sale of the property in the regular course of business;

91 (14) "Vendor", every person engaged in **business, including but not limited to** making  
92 sales of tangible personal property by mail order, by advertising, by agent, **by any other means**  
93 **of solicitation of business including through the internet**, or peddling tangible personal  
94 property, soliciting or taking orders for sales of tangible personal property, for storage, use or  
95 consumption in this state, all salesmen, solicitors, hawkers, representatives, consignees, peddlers

96 or canvassers, as agents of the dealers, distributors, consignors, supervisors, principals or  
97 employers under whom they operate or from whom they obtain the tangible personal property  
98 sold by them, and every person who maintains a place of business in this state, maintains a stock  
99 of goods in this state, or engages in business activities within this state and every person who  
100 engages in this state in the business of acting as a selling agent for persons not otherwise vendors  
101 as defined in this subdivision. Irrespective of whether they are making sales on their own behalf  
102 or on behalf of the dealers, distributors, consignors, supervisors, principals or employers, they  
103 must be regarded as vendors and the dealers, distributors, consignors, supervisors, principals or  
104 employers must be regarded as vendors for the purposes of sections 144.600 to 144.745. [A  
105 person shall not be considered a vendor for the purposes of sections 144.600 to 144.745 if all of  
106 the following apply:

- 107       (a) The person's total gross receipts did not exceed five hundred thousand dollars in this  
108 state, or twelve and one-half million dollars in the entire United States, in the immediately  
109 preceding calendar year;
- 110       (b) The person maintains no place of business in this state; and
- 111       (c) The person has no selling agents in this state.]

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