

# HOUSE BILL NO. 464

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCCREERY.

0394H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 143.091, 143.121, 143.225, 143.261, 143.431, 143.451, 143.461, 143.471, 144.010, 144.030, and 144.190, RSMo, and to enact in lieu thereof nine new sections relating to taxation, with a delayed effective date.

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

Section A. Sections 143.091, 143.121, 143.225, 143.261, 143.431, 143.451, 143.461, 2 143.471, 144.010, 144.030, and 144.190, RSMo, are repealed and nine new sections enacted in 3 lieu thereof, to be known as sections 143.091, 143.121, 143.225, 143.431, 143.434, 143.471, 4 144.010, 144.030, and 144.190, to read as follows:

143.091. **1.** Any term used in sections 143.011 to 143.996 shall have the same meaning 2 as when used in a comparable context in the laws of the United States relating to federal income 3 taxes, unless a different meaning is clearly required by the provisions of sections 143.011 to 4 143.996. Any reference in sections 143.011 to 143.996 to the laws of the United States shall 5 mean the provisions of the Internal Revenue Code of 1986, and amendments thereto **enacted on** 6 **or before January 1, 2004**, and other provisions of the laws of the United States relating to 7 federal income taxes, as the same may be or become effective [~~at any time or from time to time~~]  
8 **on or before January 1, 2004**, for the [~~taxable~~] tax year.

9 **2. Within sixty days after an amendment of the Internal Revenue Code of 1986, as**  
10 **amended, is enacted, the director of revenue shall prepare and submit to the governor, the**  
11 **speaker of the house of representatives, and the president pro tempore of the senate a**  
12 **report that outlines:**

- 13 **(1) The changes of the Internal Revenue Code of 1986;**  
14 **(2) The impact of those changes on state revenues; and**

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.

15           **(3) The impact of those changes on the various classes and types of taxpayers.**

16           143.121. 1. The Missouri adjusted gross income of a resident individual shall be the  
17 taxpayer's federal adjusted gross income subject to the modifications in this section.

18           2. There shall be added to the taxpayer's federal adjusted gross income:

19           (1) The amount of any federal income tax refund received for a prior year which resulted  
20 in a Missouri income tax benefit;

21           (2) Interest on certain governmental obligations excluded from federal gross income by  
22 Section 103 of the Internal Revenue Code, **26 U.S.C. Section 103, as amended.** The previous  
23 sentence shall not apply to interest on obligations of the state of Missouri or any of its political  
24 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of  
25 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced by  
26 the amounts applicable to such interest that would have been deductible in computing the taxable  
27 income of the taxpayer except only for the application of Section 265 of the Internal Revenue  
28 Code, **26 U.S.C. Section 265, as amended.** The reduction shall only be made if it is at least five  
29 hundred dollars;

30           (3) The amount of any deduction that is included in the computation of federal taxable  
31 income pursuant to Section 168 of the Internal Revenue Code, **26 U.S.C. Section 168,** as  
32 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount  
33 deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to  
34 the extent the amount deducted exceeds the amount that would have been deductible pursuant  
35 to Section 168 of the Internal Revenue Code of 1986, **26 U.S.C. Section 168,** as in effect on  
January 1, 2002;

          (4) **The amount of any deduction that is included in the computation of federal  
taxable income under Section 168 of the Internal Revenue Code, 26 U.S.C. Section 168, as  
amended by the Job Creation and Worker Assistance Act of 2002, and the Jobs and  
Growth Tax Relief Reconciliation Act of 2003, to the extent the amount deducted relates  
to property purchased in any tax year beginning after August 31, 2004, and to the extent  
the amount deducted exceeds the amount that would have been deductible under Section  
168 of the Internal Revenue Code of 1986, 26 U.S.C. Section 168, as in effect on January  
1, 2002; and**

          (5) The amount of any deduction that is included in the computation of federal taxable  
income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, **26  
U.S.C. Section 172,** as amended, other than the deduction allowed by Section [~~172(b)(1)(G)]  
**172(b)(1)(F)** and Section [~~172(i)] **172(h)** of the Internal Revenue Code of 1986, **26 U.S.C.  
Section 172,** as amended, for a net operating loss the taxpayer claims in the tax year in which  
the net operating loss occurred or carries forward for a period of more than twenty years and~~~~

36 carries backward for more than two years. Any amount of net operating loss taken against  
37 federal taxable income but disallowed for Missouri income tax purposes pursuant to this  
38 subdivision after June 18, 2002, may be carried forward and taken against any income on the  
39 Missouri income tax return for a period of not more than twenty years from the year of the initial  
40 loss; and

41 ~~[(5)]~~ (6) For nonresident individuals in all ~~[taxable]~~ tax years ending on or after  
42 December 31, 2006, the amount of any property taxes paid to another state or a political  
43 subdivision of another state for which a deduction was allowed on such nonresident's federal  
44 return in the ~~[taxable]~~ tax year unless such state, political subdivision of a state, or the District  
45 of Columbia allows a subtraction from income for property taxes paid to this state for purposes  
46 of calculating income for the income tax for such state, political subdivision of a state, or the  
47 District of Columbia.

48 3. There shall be subtracted from the taxpayer's federal adjusted gross income the  
49 following amounts to the extent included in federal adjusted gross income:

50 (1) Interest or dividends on obligations of the United States and its territories and  
51 possessions or of any authority, commission or instrumentality of the United States to the extent  
52 exempt from Missouri income taxes pursuant to the laws of the United States. The amount  
53 subtracted pursuant to this subdivision shall be reduced by any interest on indebtedness incurred  
54 to carry the described obligations or securities and by any expenses incurred in the production  
55 of interest or dividend income described in this subdivision. The reduction in the previous  
56 sentence shall only apply to the extent that such expenses including amortizable bond premiums  
57 are deducted in determining the taxpayer's federal adjusted gross income or included in the  
58 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total  
59 at least five hundred dollars;

60 (2) The portion of any gain, from the sale or other disposition of property having a higher  
61 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax  
62 purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is  
63 considered a long-term capital gain for federal income tax purposes, the modification shall be  
64 limited to one-half of such portion of the gain;

65 (3) The amount necessary to prevent the taxation pursuant to this chapter of any annuity  
66 or other amount of income or gain which was properly included in income or gain and was taxed  
67 pursuant to the laws of Missouri for a ~~[taxable]~~ tax year prior to January 1, 1973, to the taxpayer,  
68 or to a decedent by reason of whose death the taxpayer acquired the right to receive the income  
69 or gain, or to a trust or estate from which the taxpayer received the income or gain;

70 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the  
71 extent that the same are included in federal adjusted gross income;

72 (5) The amount of any state income tax refund for a prior year which was included in the  
73 federal adjusted gross income;

74 (6) The portion of capital gain specified in section 135.357 that would otherwise be  
75 included in federal adjusted gross income;

76 (7) The amount that would have been deducted in the computation of federal taxable  
77 income pursuant to Section 168 of the Internal Revenue Code, **26 U.S.C. Section 168**, as in  
78 effect on January 1, 2002, to the extent that amount relates to property purchased on or after July  
79 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually  
80 deducted pursuant to Section 168 of the Internal Revenue Code, **26 U.S.C. Section 168**, as  
81 amended by the Job Creation and Worker Assistance Act of 2002;

82 (8) For all tax years beginning on or after January 1, 2005, the amount of any income  
83 received for military service while the taxpayer serves in a combat zone which is included in  
84 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,  
85 "combat zone" means any area which the President of the United States by Executive Order  
86 designates as an area in which Armed Forces of the United States are or have engaged in combat.  
87 Service is performed in a combat zone only if performed on or after the date designated by the  
88 President by Executive Order as the date of the commencing of combat activities in such zone,  
89 and on or before the date designated by the President by Executive Order as the date of the  
90 termination of combatant activities in such zone;

91 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property  
92 that is sold or otherwise disposed of during a ~~taxable~~ tax year by a taxpayer and for which an  
93 additional modification was made under subdivision (3) of subsection 2 of this section, the  
94 amount by which additional modification made under subdivision (3) of subsection 2 of this  
95 section on qualified property has not been recovered through the additional subtractions provided  
96 in subdivision (7) of this subsection; ~~and~~

97 (10) For all tax years beginning on or after January 1, 2014, the amount of any income  
98 received as payment from any program which provides compensation to agricultural producers  
99 who have suffered a loss as the result of a disaster or emergency, including the:

- 100 (a) Livestock Forage Disaster Program;
- 101 (b) Livestock Indemnity Program;
- 102 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 103 (d) Emergency Conservation Program;
- 104 (e) Noninsured Crop Disaster Assistance Program;
- 105 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 106 (g) Annual Forage Pilot Program;
- 107 (h) Livestock Risk Protection Insurance Plan; and

- 108 (i) Livestock Gross Margin insurance plan; and
- 109 **(11) The amount that would have been deducted in the computation of federal**
- 110 **taxable income under Section 168 of the Internal Revenue Code as in effect on January 1,**
- 111 **2002, to the extent that amount relates to property purchased in any tax year beginning**
- 112 **after August 31, 2004, and to the extent that amount exceeds the amount actually deducted**
- 113 **under Section 168 of the Internal Revenue Code as amended by the Job Creation and**
- 114 **Worker Assistance Act of 2002, and the Jobs and Growth Tax Relief Reconciliation Act**
- 115 **of 2003.**
- 116 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross
- 117 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.
- 118 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross
- 119 income the modifications provided in section 143.411.
- 120 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
- 121 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
- 122 federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal
- 123 Revenue Code of 1986, **26 U.S.C. Section 1033**, as amended, arising from compulsory or
- 124 involuntary conversion of property as a result of condemnation or the imminence thereof.
- 125 7. (1) As used in this subsection, "qualified health insurance premium" means the
- 126 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
- 127 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.
- 128 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
- 129 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
- 130 federal adjusted gross income to the extent the amount paid for such premiums is included in
- 131 federal taxable income. The taxpayer shall provide the department of revenue with proof of the
- 132 amount of qualified health insurance premiums paid.
- 133 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section,
- 134 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
- 135 entity certified by the department of natural resources under section 640.153 or the
- 136 implementation of any energy efficiency recommendations made in such an audit shall be
- 137 subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for
- 138 any such activity is included in federal taxable income. The taxpayer shall provide the
- 139 department of revenue with a summary of any recommendations made in a qualified home
- 140 energy audit, the name and certification number of the qualified home energy auditor who
- 141 conducted the audit, and proof of the amount paid for any activities under this subsection for
- 142 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
- 143 recommendations made in a qualified home energy audit to the department of natural resources.

144 (2) At no time shall a deduction claimed under this subsection by an individual taxpayer  
145 or taxpayers filing combined returns exceed one thousand dollars per year for individual  
146 taxpayers or cumulatively exceed two thousand dollars per year for taxpayers filing combined  
147 returns.

148 (3) Any deduction claimed under this subsection shall be claimed for the tax year in  
149 which the qualified home energy audit was conducted or in which the implementation of the  
150 energy efficiency recommendations occurred. If implementation of the energy efficiency  
151 recommendations occurred during more than one year, the deduction may be claimed in more  
152 than one year, subject to the limitations provided under subdivision (2) of this subsection.

153 (4) A deduction shall not be claimed for any otherwise eligible activity under this  
154 subsection if such activity qualified for and received any rebate or other incentive through a  
155 state-sponsored energy program or through an electric corporation, gas corporation, electric  
156 cooperative, or municipally owned utility.

157 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

143.225. 1. The director of revenue, by regulation, may require an employer to timely  
2 remit the unpaid amount required to be deducted and withheld by section 143.191 at the end of  
3 any quarter-monthly period, only if the employer was required to deduct and withhold six  
4 thousand dollars or more in each of at least two months during the prior twelve months.

5 2. The director may increase the monthly requirement to more than six thousand dollars  
6 or otherwise narrow the application of the quarter-monthly remittance system authorized by this  
7 section. The director may not require the remittance of withheld taxes more often than monthly  
8 unless authorized by this section.

9 3. A remittance shall be timely if mailed as provided in section 143.851 within three  
10 banking days after the end of the quarter-monthly period or if received by the director or  
11 deposited in a depository designated by the director within four banking days after the end of the  
12 quarter-monthly period.

13 4. ~~[The unpaid amount shall be after a reduction for the compensation provided by~~  
14 ~~section 143.261.]~~ The unpaid amount at the end of a quarter-monthly period shall not include  
15 unpaid amounts for any prior quarter-monthly period.

16 5. For purposes of this section, "quarter-monthly period" means:

17 (1) The first seven days of a calendar month;

18 (2) The eighth to fifteenth day of a calendar month;

19 (3) The sixteenth to twenty-second day of a calendar month; and

20 (4) The portion following the twenty-second day of a calendar month.

21 6. (1) In the case of an underpayment of any amount required to be paid pursuant to this  
22 section, an employer shall be liable for a penalty in lieu of all other penalties, interest or

23 additions to tax imposed by this chapter for violating this section. The penalty shall be five  
24 percent of the amount of the underpayment determined under subdivision (2) of this subsection.

25 (2) The amount of the underpayment shall be the excess of:

26 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly period; over

27 (b) The amount, if any, of the timely remittance for the quarter-monthly period.

28 7. (1) The penalty with respect to any quarter-monthly period shall not be imposed if  
29 the employer's timely remittance for the quarter-monthly period equals or exceeds one-fourth of  
30 the average monthly withholding tax liability of the employer for the preceding calendar year.  
31 The month of highest liability and the month of lowest liability shall be excluded in computing  
32 the average. This subdivision shall apply only to an employer who had a withholding tax  
33 liability for at least six months of the previous calendar year.

34 (2) The penalty shall not be imposed if the employer establishes that the failure to make  
35 a timely remittance of at least ninety percent was due to reasonable cause, and not due to willful  
36 neglect.

37 (3) The penalty shall not be imposed against any employer for the first two months the  
38 employer is obligated to make quarter-monthly remittance of withholding taxes.

39 8. Tax amounts remitted under this section shall be treated as payments on the  
40 employer's monthly return required by subsection 2 of section 143.221. Tax amounts remitted  
41 under this section shall be deemed to have been paid on the last day prescribed for filing the  
42 return. The preceding sentence shall apply in computing [~~compensation under section 143.261,~~]  
43 interest, penalties and additions to tax and for purposes of all sections of chapter 143, except this  
44 section.

45 9. The director of revenue may prescribe the use of an electronic funds payment system  
46 for the payment of withholding taxes by any employer subject to the requirement of  
47 quarter-monthly remittance as provided in this section.

143.431. 1. The Missouri taxable income of a corporation taxable under sections  
2 143.011 to 143.996 shall be so much of its federal taxable income for the ~~taxable~~ tax year, with  
3 the modifications specified in subsections 2 to 4 of this section, as is derived from sources within  
4 Missouri as provided in section [~~143.451~~] **32.200**. The tax of a corporation shall be computed  
5 on its Missouri taxable income at the rates provided in section 143.071.

6 2. There shall be added to or subtracted from federal taxable income the modifications  
7 to adjusted gross income provided in section 143.121, with the exception of subdivision [~~(5)~~] **(6)**  
8 of subsection 2 of section 143.121, and the applicable modifications to itemized deductions  
9 provided in section 143.141. There shall be subtracted the federal income tax deduction  
10 provided in section 143.171. There shall be subtracted, to the extent included in federal taxable  
11 income, corporate dividends from sources within Missouri.

12           3. (1) If an affiliated group of corporations files a consolidated income tax return for the  
13 ~~taxable~~ tax year for federal income tax purposes and fifty percent or more of its income is  
14 derived from sources within this state as determined in accordance with section ~~[143.451]~~  
15 **32.200**, then it may elect to file a Missouri consolidated income tax return. The federal  
16 consolidated taxable income of the electing affiliated group for the ~~taxable~~ tax year shall be  
17 its federal taxable income.

18           (2) So long as a federal consolidated income tax return is filed, an election made by an  
19 affiliated group of corporations to file a Missouri consolidated income tax return may be  
20 withdrawn or revoked only upon substantial change in the law or regulations adversely changing  
21 tax liability under this chapter, or with permission of the director of revenue upon the showing  
22 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated  
23 group, it may not file a Missouri consolidated income tax return for five years thereafter, except  
24 with the approval of the director of revenue, and subject to such terms and conditions as he may  
25 prescribe.

26           (3) No corporation which is part of an affiliated group of corporations filing a Missouri  
27 consolidated income tax return shall be required to file a separate Missouri corporate income tax  
28 return for the ~~taxable~~ tax year.

29           (4) For each ~~taxable~~ tax year an affiliated group of corporations filing a federal  
30 consolidated income tax return does not file a Missouri consolidated income tax return, for  
31 purposes of computing the Missouri income tax, the federal taxable income of each member of  
32 the affiliated group shall be determined as if a separate federal income tax return had been filed  
33 by each such member.

34           (5) The director of revenue may prescribe such regulations not inconsistent with the  
35 provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated  
36 group of corporations making a Missouri consolidated income tax return, and of each corporation  
37 in the group, before, during, and after the period of affiliation, may be returned, determined,  
38 computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri  
39 taxable income derived from sources within this state and in order to prevent avoidance of such  
40 tax liability.

41           4. (1) If a net operating loss deduction is allowed for the ~~taxable~~ tax year, there shall  
42 be added to federal taxable income the amount of the net operating loss modification for each  
43 loss year as to which a portion of the net operating loss deduction is attributable.

44           (2) As used in this subsection, the following terms mean:

45           ~~(1)~~ (a) "Loss year", the ~~taxable~~ tax year in which there occurs a federal net operating  
46 loss that is carried back or carried forward in whole or in part to another ~~taxable~~ tax year;

47           ~~[(2)]~~ (b) "Net addition modification", for any ~~[taxable]~~ tax year, the amount by which  
 48 the sum of all required additions to federal taxable income provided in this chapter, except for  
 49 the net operating loss modification, exceeds the combined sum of the amount of all required  
 50 subtractions from federal taxable income provided in this chapter;

51           ~~[(3)]~~ (c) "Net operating loss deduction", a net operating loss deduction allowed for  
 52 federal income tax purposes under Section 172 of the Internal Revenue Code of 1986, as  
 53 amended, or a net operating loss deduction allowed for Missouri income tax purposes under  
 54 ~~[paragraph (d)]~~ **subdivision (5)** of subsection 2 of section 143.121, but not including any net  
 55 operating loss deduction that is allowed for federal income tax purposes but disallowed for  
 56 Missouri income tax purposes under ~~[paragraph (d)]~~ **subdivision (5)** of subsection 2 of section  
 57 143.121;

58           ~~[(4)]~~ (d) "Net operating loss modification", an amount equal to the lesser of the amount  
 59 of the net operating loss deduction attributable to that loss year or the amount by which the total  
 60 net operating loss in the loss year is less than the sum of:

61           ~~[(a)]~~ a. The net addition modification for that loss year; and

62           ~~[(b)]~~ b. The cumulative net operating loss deductions attributable to that loss year  
 63 allowed for the ~~[taxable]~~ tax year and all prior ~~[taxable]~~ tax years.

64           5. For all tax years ending on or after July 1, 2002, federal taxable income may be a  
 65 positive or negative amount. Subsection 4 of this section shall be effective for all tax years with  
 66 a net operating loss deduction attributable to a loss year ending on or after July 1, 2002, and the  
 67 net operating loss modification shall only apply to loss years ending on or after July 1, 2002.

**143.434. 1. As used in this chapter, the following terms mean:**

2           **(1) "Affiliated group", one or more chains of corporations that are connected**  
 3 **through stock ownership with a common parent corporation that meet the following**  
 4 **requirements:**

5           **(a) At least eighty percent of the stock of each of the corporations in the group,**  
 6 **excluding the common parent corporation, is owned by one or more of the other**  
 7 **corporations in the group; and**

8           **(b) The common parent directly owns at least eighty percent of the stock of at least**  
 9 **one of the corporations in the group.**

10

11 **"Affiliated group" does not include corporations that are qualified to do business but are**  
 12 **not otherwise doing business in this state. For purposes of this section, "stock" does not**  
 13 **include nonvoting stock which is limited and preferred as to dividends;**

14           **(2) "Common ownership", the direct or indirect control or ownership of more than**  
 15 **fifty percent of the outstanding voting stock of:**

16 (a) A parent-subsidiary controlled group as defined in Section 1563 of the United  
17 States Internal Revenue Code of 1986, as amended, except that the amount of fifty percent  
18 shall be substituted for all references of "80 percent" in such definition;

19 (b) A brother-sister controlled group as defined under Section 1563 of the United  
20 States Internal Revenue Code of 1986, as amended, except that the amount of fifty percent  
21 shall be substituted for all references of "80 percent" in such definition; or

22 (c) Three or more corporations, each of which is a member of a group of  
23 corporations described in subdivision (1) of this subsection, and one of which is:

24 a. A common parent corporation included in a group of corporations described in  
25 paragraph (a) of subdivision (1) of this subsection; and

26 b. Included in a group of corporations described in paragraph (b) of subdivision  
27 (1) of this subsection. Ownership of outstanding voting stock shall be determined in  
28 accordance with Section 1563 of the United States Internal Revenue Code of 1986, 26  
29 U.S.C.S. Section 1563, as amended;

30 (3) "Corporate return" or "return", includes a combined report;

31 (4) "Doing business", any transaction in the course of business by a domestic  
32 corporation, or by a foreign corporation qualified to do or doing intrastate business in this  
33 state. "Doing business" includes:

34 (a) The right to do business through incorporation or qualification;

35 (b) The owning, renting, or leasing of real or personal property within this state;  
36 and

37 (c) The participation in joint ventures, working and operating agreements, the  
38 performance of which takes place in this state;

39 (5) "Foreign corporation", a corporation that is not incorporated or organized  
40 under the laws of this state;

41 (6) "Foreign operating company", a corporation that:

42 (a) Is incorporated in the United States; and

43 (b) Eighty percent or more of whose business activity is conducted outside of the  
44 United States.

45

46 "Foreign operating company" shall not include a corporation that qualifies for the Puerto  
47 Rico and Possession Tax Credit provided under Section 936 of the United States Internal  
48 Revenue Code of 1986, as amended;

49 (7) "Unitary group", a group of corporations that:

50 (a) Are related through common ownership; and

51 (b) By a preponderance of the evidence as determined by a court of competent  
52 jurisdiction or the director, are economically interdependent with one another as  
53 demonstrated by the following factors:

- 54 a. Centralized management;
- 55 b. Functional integration; and
- 56 c. Economies of scale;

57 (8) "Water's edge combined report", a report combining the income and activities  
58 of:

59 (a) All members of a unitary group that are:

60 a. Corporations organized or incorporated in the United States, including those  
61 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided under  
62 Section 936 of the United States Internal Revenue Code of 1986, as amended; and

63 b. Corporations organized or incorporated outside of the United States that meet  
64 the threshold level of business activity; and

65 (b) An affiliated group electing to file a water's edge combined report under  
66 subdivision (1) of subsection 2 of this section.

67 2. (1) If any corporation is doing business in Missouri and is a member of a unitary  
68 group, the unitary group shall file a water's edge combined report. A group of  
69 corporations that are not otherwise a unitary group may elect to file a water's edge  
70 combined report if each member of the group is:

71 (a) Doing business in Missouri;

72 (b) Part of the same affiliate group; and

73 (c) Qualified under Section 1501 of the United States Internal Revenue Code of  
74 1986, 26 U.S.C.S. Section 1501, as amended, to file a federal consolidated return.

75 (2) Each corporation within the affiliated group that is doing business in Missouri  
76 shall file a combined report. If an affiliated group elects to file a combined report, each  
77 corporation within the affiliated group that is doing business in Missouri shall file a  
78 combined report.

79 (3) A corporation that elects to file a water's edge combined report under this  
80 section shall not thereafter elect to file a separate return without the consent of the  
81 director.

82 3. If two or more corporations, whether or not organized or doing business in this  
83 state, and whether affiliated, are owned or controlled directly or indirectly by the same  
84 interests, the director shall be authorized to distribute, apportion, or allocate gross income  
85 or deductions between or among such corporations if the director determines that such

86 **distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes**  
87 **or clearly to reflect the income of any such corporations.**

88 **4. The director shall, by rule, prescribe for adjustments to Missouri taxable income**  
89 **if, solely by reason of the enactment of this section, a taxpayer would otherwise receive or**  
90 **have received a double tax benefit or suffer or have suffered a double tax detriment.**  
91 **However, the director shall not make any adjustment under this section that will result in**  
92 **an increase or decrease of tax liability that is less than twenty-five dollars.**

93 **5. A group filing a combined report shall calculate federal taxable income of the**  
94 **combined group by:**

95 **(1) Computing federal taxable income on a separate return basis;**

96 **(2) Combining income or loss of the members included in the combined report; and**

97 **(3) Making appropriate eliminations and adjustments between members included**  
98 **in the combined report.**

99

100 **For purposes of this subsection, if an entity does not calculate federal taxable income, then**  
101 **the federal taxable income shall be calculated based on the applicable federal tax laws.**

102 **6. For purposes of the apportionment provisions within section 32.200, corporations**  
103 **filing a combined report shall not include intercompany sales or other transactions**  
104 **between the corporations included in the combined report when determining the sales**  
105 **factor. Intercompany rents between members of a combined report shall not be considered**  
106 **in the computation of the property factor.**

107 **7. The director of revenue may prescribe such regulations not inconsistent with the**  
108 **provisions of this chapter as the director may deem necessary in order that the tax liability**  
109 **of any affiliated group of corporations making a Missouri consolidated income tax return,**  
110 **and of each corporation in the group, before, during, and after the period of affiliation,**  
111 **may be returned, determined, computed, assessed, collected, and adjusted, in such manner**  
112 **as clearly to reflect the Missouri taxable income derived from sources within the state and**  
113 **in order to prevent avoidance of such tax liability.**

114 **8. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
115 **created under the authority delegated in this section shall become effective only if it**  
116 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
117 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
118 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
119 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
120 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,**  
121 **shall be invalid and void.**

143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue Code, shall not be subject to the taxes imposed by section 143.071, or other sections imposing income tax on corporations.

2. A shareholder of an S corporation shall determine such shareholder's S corporation modification and pro rata share, including its character, by applying the following:

(1) Any modification described in sections 143.121 and 143.141 which relates to an item of S corporation income, gain, loss, or deduction shall be made in accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates. Where a shareholder's pro rata share of any such item is not required to be taken into account separately for federal income tax purposes, the shareholder's pro rata share of such item shall be determined in accordance with his pro rata share, for federal income tax purposes, of S corporation taxable income or loss generally;

(2) Each item of S corporation income, gain, loss, or deduction shall have the same character for a shareholder pursuant to sections 143.005 to 143.998 as it has for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a shareholder as if realized directly from the source from which realized by the S corporation or incurred in the same manner as incurred by the S corporation.

3. A nonresident shareholder of an S corporation shall determine such shareholder's Missouri nonresident adjusted gross income and his or her nonresident shareholder modification by applying the provisions of this subsection. Items shall be determined to be from sources within this state pursuant to regulations of the director of revenue in a manner consistent with the division of income provisions of ~~section 143.451, section 143.461, or~~ **the Multistate Tax Compact as provided under** section 32.200 ~~[(Multistate Tax Compact)]~~. In determining the adjusted gross income of a nonresident shareholder of any S corporation, there shall be included only that part derived from or connected with sources in this state of the shareholder's pro rata share of items of S corporation income, gain, loss or deduction entering into shareholder's federal adjusted gross income, as such part is determined pursuant to regulations prescribed by the director of revenue in accordance with the general rules in section 143.181. Any modification described in subsections 2 and 3 of section 143.121 and in section 143.141, which relates to an item of S corporation income, gain, loss, or deduction shall be made in accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates, but limited to the portion of such item derived from or connected with sources in this state.

4. The director of revenue shall permit S corporations to file composite returns and to make composite payments of tax on behalf of its nonresident shareholders not otherwise required to file a return. If the nonresident shareholder's filing requirements result solely from one or

37 more interests in any other partnerships or subchapter S corporations, that nonresident  
38 shareholder may be included in the composite return.

39         5. If an S corporation pays or credits amounts to any of its nonresident individual  
40 shareholders as dividends or as their share of the S corporation's undistributed taxable income  
41 for the ~~[taxable]~~ tax year, the S corporation shall either timely file with the department of  
42 revenue an agreement as provided in subsection 6 of this section or withhold Missouri income  
43 tax as provided in subsection 7 of this section. An S corporation that timely files an agreement  
44 as provided in subsection 6 of this section with respect to a nonresident shareholder for a  
45 ~~[taxable]~~ tax year shall be considered to have timely filed such an agreement for each subsequent  
46 ~~[taxable]~~ tax year. An S corporation that does not timely file such an agreement for a ~~[taxable]~~  
47 tax year shall not be precluded from timely filing such an agreement for subsequent ~~[taxable]~~ tax  
48 years. An S corporation is not required to deduct and withhold Missouri income tax for a  
49 nonresident shareholder if:

50         (1) The nonresident shareholder not otherwise required to file a return agrees to have the  
51 Missouri income tax due paid as part of the S corporation's composite return;

52         (2) The nonresident shareholder not otherwise required to file a return had Missouri  
53 assignable federal adjusted gross income from the S corporation of less than twelve hundred  
54 dollars;

55         (3) The S corporation is liquidated or terminated;

56         (4) Income was generated by a transaction related to termination or liquidation; or

57         (5) No cash or other property was distributed in the current and prior ~~[taxable]~~ tax year.

58         6. The agreement referred to in subdivision (1) of subsection 5 of this section is an  
59 agreement of a nonresident shareholder of the S corporation to:

60         (1) File a return in accordance with the provisions of section 143.481 and to make timely  
61 payment of all taxes imposed on the shareholder by this state with respect to income of the S  
62 corporation; and

63         (2) Be subject to personal jurisdiction in this state for purposes of the collection of  
64 income taxes, together with related interest and penalties, imposed on the shareholder by this  
65 state with respect to the income of the S corporation. The agreement will be considered timely  
66 filed for a ~~[taxable]~~ tax year, and for all subsequent ~~[taxable]~~ tax years, if it is filed at or before  
67 the time the annual return for such ~~[taxable]~~ tax year is required to be filed pursuant to section  
68 143.511.

69         7. The amount of Missouri income tax to be withheld is determined by multiplying the  
70 amount of dividends or undistributed income allocable to Missouri that is paid or credited to a  
71 nonresident shareholder during the ~~[taxable]~~ tax year by the highest rate used to determine a  
72 Missouri income tax liability for an individual, except that the amount of the tax withheld may

73 be determined based on withholding tables provided by the director of revenue if the shareholder  
74 submits a Missouri withholding allowance certificate.

75           8. An S corporation shall be entitled to recover for a shareholder on whose behalf a tax  
76 payment was made pursuant to this section, if such shareholder has no tax liability.

77           9. With respect to S corporations that are banks or bank holding companies, a pro rata  
78 share of the tax credit for the tax payable pursuant to chapter 148 shall be allowed against each  
79 S corporation shareholders' state income tax as follows, provided the bank otherwise complies  
80 with section 148.112:

81           (1) The credit allowed by this subsection shall be equal to the bank tax calculated  
82 pursuant to chapter 148 based on bank income in 1999 and after, on a bank that makes an  
83 election pursuant to 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying  
84 shareholder according to stock ownership, determined by multiplying a fraction, where the  
85 numerator is the shareholder's stock, and the denominator is the total stock issued by such bank  
86 or bank holding company;

87           (2) The tax credit authorized in this subsection shall be permitted only to the  
88 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
89 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
90 stock is held by the shareholder during the taxable period. The credit created by this section on  
91 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
92 returns. A bank holding company is not allowed this credit, except that, such credit shall flow  
93 through to such bank holding company's qualified shareholders, and be allocated to such  
94 shareholders under the same conditions; and

95           (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
96 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
97 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
98 taxable income.

99           10. With respect to S corporations that are associations, a pro rata share of the tax credit  
100 for the tax payable under chapter 148 shall be allowed against each S corporation shareholders'  
101 state income tax as follows, provided the association otherwise complies with section 148.655:

102           (1) The credit allowed by this subsection shall be equal to the savings and loan  
103 association tax calculated under chapter 148 based on the computations provided in section  
104 148.630 on an association that makes an election under 26 U.S.C. Section 1362, and such credit  
105 shall be allocated to the qualifying shareholder according to stock ownership, determined by  
106 multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is  
107 the total stock issued by the association;

108           (2) The tax credit authorized in this subsection shall be permitted only to the  
109 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
110 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
111 stock is held by the shareholder during the taxable period. The credit created by this section on  
112 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
113 returns. A savings and loan association holding company is not allowed this credit, except that,  
114 such credit shall flow through to such savings and loan association holding company's qualified  
115 shareholders, and be allocated to such shareholders under the same conditions; and

116           (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
117 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
118 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
119 taxable income.

120           11. With respect to S corporations that are credit institutions, a pro rata share of the tax  
121 credit for the tax payable under chapter 148 shall be allowed against each S corporation  
122 shareholders' state income tax as follows, provided the credit institution otherwise complies with  
123 section 148.657:

124           (1) The credit allowed by this subsection shall be equal to the credit institution tax  
125 calculated under chapter 148 based on the computations provided in section 148.150 on a credit  
126 institution that makes an election under 26 U.S.C. Section 1362, and such credit shall be  
127 allocated to the qualifying shareholder according to stock ownership, determined by multiplying  
128 a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock  
129 issued by such credit institution;

130           (2) The tax credit authorized in this subsection shall be permitted only to the  
131 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
132 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
133 stock is held by the shareholder during the taxable period. The credit created by this section on  
134 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
135 returns. A credit institution holding company is not allowed this credit, except that, such credit  
136 shall flow through to such credit institution holding company's qualified shareholders, and be  
137 allocated to such shareholders under the same conditions; and

138           (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
139 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
140 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
141 taxable income.

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. A person is "engaging in business" in this state for purposes of sections 144.010 to 144.525 if such person "engages in business in this state" or "maintains a place of business in this state" under section 144.605. 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 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) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer, captive elk, and captive furbearers held under permit issued by the Missouri department of conservation for hunting purposes. The provisions of this subdivision shall not apply to sales tax on a harvested animal;

(4) **"Common carriers", persons that receive more than fifty percent of their annual revenues from fees charged to carry passengers or goods for unrelated persons. A person is unrelated to a carrier if the person is not directly or indirectly controlling, controlled by, or under common control with the carrier;**

(5) "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 144.525 on the gross receipts, charges incident to the extension of credit shall be

37 specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the  
38 sale price above mentioned shall be deemed to be the amount received. It shall also include the  
39 lease or rental consideration where the right to continuous possession or use of any article of  
40 tangible personal property is granted under a lease or contract and such transfer of possession  
41 would be taxable if outright sale were made and, in such cases, the same shall be taxable as if  
42 outright sale were made and considered as a sale of such article, and the tax shall be computed  
43 and paid by the lessee upon the rentals paid;

44 ~~[(5)]~~ (6) "Instructional class", includes any class, lesson, or instruction intended or used  
45 for teaching;

46 ~~[(6)]~~ (7) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited  
47 to, ostrich and emu, aquatic products as ~~[defined]~~ **described** in section 277.024, llamas, alpaca,  
48 buffalo, elk documented as obtained from a legal source and not from the wild, goats, horses,  
49 other equine, or rabbits raised in confinement for human consumption;

50 ~~[(7)]~~ (8) "Motor vehicle leasing company" shall be a company obtaining a permit from  
51 the director of revenue to operate as a motor vehicle leasing company. Not all persons renting  
52 or leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to  
53 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section  
54 144.070, as hereinafter provided;

55 ~~[(8)]~~ (9) "Person" includes any individual, firm, copartnership, joint adventure,  
56 association, corporation, municipal or private, and whether organized for profit or not, state,  
57 county, political subdivision, state department, commission, board, bureau or agency, except the  
58 state transportation department, estate, trust, business trust, receiver or trustee appointed by the  
59 state or federal court, syndicate, or any other group or combination acting as a unit, and the plural  
60 as well as the singular number;

61 ~~[(9)]~~ (10) "Product which is intended to be sold ultimately for final use or consumption"  
62 ~~[means]~~, tangible personal property, or any service that is subject to state or local sales or use  
63 taxes, or any tax that is substantially equivalent thereto, in this state or any other state;

64 ~~[(10)]~~ (11) "Purchaser" ~~[means]~~, a person who purchases tangible personal property or  
65 to whom are rendered services, receipts from which are taxable under sections 144.010 to  
66 144.525;

67 ~~[(11)]~~ (12) "Research or experimentation activities" ~~[are]~~, the development of an  
68 experimental or pilot model, plant process, formula, invention or similar property, and the  
69 improvement of existing property of such type. Research or experimentation activities do not  
70 include activities such as ordinary testing or inspection of materials or products for quality  
71 control, efficiency surveys, advertising promotions or research in connection with literary,  
72 historical or similar projects;

73            [~~(12)~~] (13) "Sale" or "sales" includes installment and credit sales, and the exchange of  
74 properties as well as the sale thereof for money, every closed transaction constituting a sale, and  
75 means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means  
76 whatsoever, of tangible personal property for valuable consideration and the rendering,  
77 furnishing or selling for a valuable consideration any of the substances, things and services  
78 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

79            [~~(13)~~] (14) "Sale at retail" [~~means~~] , any transfer made by any person engaged in business  
80 as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for  
81 use or consumption and not for resale in any form as tangible personal property, for a valuable  
82 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed  
83 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,  
84 optometrists and veterinarians and used in the practice of their professions shall be deemed to  
85 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,  
86 computer output or microfilm or microfiche and computer-assisted photo compositions to a  
87 purchaser to enable the purchaser to obtain for his or her own use the desired information  
88 contained in such computer printouts, computer output on microfilm or microfiche and  
89 computer-assisted photo compositions shall be considered as the sale of a service and not as the  
90 sale of tangible personal property. Where necessary to conform to the context of sections  
91 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to  
92 embrace:

93            (a) Sales of admission tickets, cash admissions, charges and fees to or in places of  
94 amusement, entertainment and recreation, games and athletic events, except amounts paid for  
95 any instructional class;

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

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

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

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

106            (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express  
107 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and

108 railroad safety of the department of economic development of Missouri, engaged in the  
109 transportation of persons for hire;

110 ~~[(14)]~~ **(15)** "Seller" ~~[means]~~, a person selling or furnishing tangible personal property  
111 or rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

112 ~~[(15)]~~ **(16)** The noun "tax" ~~[means]~~, either the tax payable by the purchaser of a  
113 commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of  
114 such commodities or services during the period for which he or she is required to report his or  
115 her collections, as the context may require; and

116 ~~[(16)]~~ **(17)** "Telecommunications service", for the purpose of this chapter, the  
117 transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or  
118 other similar means. As used in this definition, "information" means knowledge or intelligence  
119 represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.  
120 Telecommunications service does not include the following if such services are separately stated  
121 on the customer's bill or on records of the seller maintained in the ordinary course of business:

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

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

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

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

129 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other  
130 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections  
131 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning  
132 given it in section 700.010.

133 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 and  
4 any other state of the United States, or between this state and any foreign country, and any retail  
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws  
6 of the United States of America, and such retail sales of tangible personal property which the  
7 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] 281.210 to 281.310~~], which are to be used in  
23 connection with the growth or production of crops, fruit trees or orchards applied before, during,  
24 or after planting, the crop of which when harvested will be sold at retail or will be converted into  
25 foodstuffs which 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) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers  
39 pulled by such motor vehicles, that are actually used in the normal course of business to haul  
40 property on the public highways of the state, and that are capable of hauling loads commensurate  
41 with the motor vehicle's registered weight; and the materials, replacement parts, and equipment  
42 purchased for use directly upon, and for the repair and maintenance or manufacture of such  
43 vehicles. For purposes of this subdivision, "motor vehicle" and "public highway" shall have  
44 the meaning as ascribed in section 390.020;

45 (5) Replacement machinery, equipment, and parts and the materials and supplies solely  
46 required for the installation or construction of such replacement machinery, equipment, and

47 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
48 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
49 the materials and supplies required solely for the operation, installation or construction of such  
50 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
51 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
52 recovery processing plant" means a facility that has as its primary purpose the recovery of  
53 materials into a usable product or a different form which is used in producing a new product and  
54 shall include a facility or equipment which are used exclusively for the collection of recovered  
55 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
56 used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall  
57 have the same meaning pursuant to section 301.010. Material recovery is not the reuse of  
58 materials within a manufacturing process or the use of a product previously recovered. The  
59 material recovery processing plant shall qualify under the provisions of this section regardless  
60 of ownership of the material being recovered;

61 (6) Machinery and equipment, and parts and the materials and supplies solely required  
62 for the installation or construction of such machinery and equipment, purchased and used to  
63 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
64 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
65 which is intended to be sold ultimately for final use or consumption;

66 (7) Tangible personal property which is used exclusively in the manufacturing,  
67 processing, modification or assembling of products sold to the United States government or to  
68 any agency of the United States government;

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

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

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

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

77 (12) Railroad rolling stock for use in transporting persons or property in interstate  
78 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or  
79 more or trailers used by common carriers~~[, as defined in section 390.020,]~~ in the transportation  
80 of persons or property;

81 (13) Electrical energy used in the actual primary manufacture, processing, compounding,  
82 mining or producing of a product, or electrical energy used in the actual secondary processing

83 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
84 (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
85 energy so used exceeds ten percent of the total cost of production, either primary or secondary,  
86 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
87 contain at least twenty-five percent recovered materials as defined in section 260.200. There  
88 shall be a rebuttable presumption that the raw materials used in the primary manufacture of  
89 automobiles contain at least twenty-five percent recovered materials. For purposes of this  
90 subdivision, "processing" means any mode of treatment, act or series of acts performed upon  
91 materials to transform and reduce them to a different state or thing, including treatment necessary  
92 to maintain or preserve such processing by the producer at the production facility;

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

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

99 (16) Machinery, equipment, appliances and devices purchased or leased and used solely  
100 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
101 solely required for the installation, construction or reconstruction of such machinery, equipment,  
102 appliances and devices;

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

104 (18) All amounts paid or charged for admission or participation or other fees paid by or  
105 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
106 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
107 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
108 municipality or other political subdivision and do not inure to any private person, firm, or  
109 corporation, provided, however, that a municipality or other political subdivision may enter into  
110 revenue-sharing agreements with private persons, firms, or corporations providing goods or  
111 services, including management services, in or for the place of amusement, entertainment or  
112 recreation, games or athletic events, and provided further that nothing in this subdivision shall  
113 exempt from tax any amounts retained by any private person, firm, or corporation under such  
114 revenue-sharing agreement;

115 (19) All sales of insulin, and all sales, rentals, repairs, and parts of durable medical  
116 equipment, prosthetic devices, and orthopedic devices as defined on January 1, 1980, by the  
117 federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including  
118 the items specified in Section 1862(a)(12) of that act, **42 U.S.C. Section 1395y, as amended,**

119 and also specifically including hearing aids and hearing aid supplies and all sales of drugs which  
120 may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a  
121 practitioner licensed to administer those items, including samples and materials used to  
122 manufacture samples which may be dispensed by a practitioner authorized to dispense such  
123 samples and all sales or rental of medical oxygen, home respiratory equipment and accessories  
124 including parts, and hospital beds and accessories and ambulatory aids including parts, and all  
125 sales or rental of manual and powered wheelchairs including parts, and stairway lifts, Braille  
126 writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with  
127 one or more physical or mental disabilities to enable them to function more independently, all  
128 sales or rental of scooters including parts, and reading machines, electronic print enlargers and  
129 magnifiers, electronic alternative and augmentative communication devices, and items used  
130 solely to modify motor vehicles to permit the use of such motor vehicles by individuals with  
131 disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities,  
132 and drugs required by the Food and Drug Administration to meet the over-the-counter drug  
133 product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care  
134 practitioner licensed to prescribe;

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

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

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

155 (23) All sales made to any private not-for-profit elementary or secondary school, all sales  
156 of feed additives, medications or vaccines administered to livestock or poultry in the production  
157 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
158 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
159 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
160 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as  
161 defined in section 142.028, natural gas, propane, and electricity used by an eligible new  
162 generation cooperative or an eligible new generation processing entity as defined in section  
163 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and  
164 trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed  
165 additives" means tangible personal property which, when mixed with feed for livestock or  
166 poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term  
167 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted  
168 pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark  
169 the application of pesticides and herbicides for the production of crops, livestock or poultry. As  
170 used in this subdivision, the term "farm machinery and equipment" means new or used farm  
171 tractors and such other new or used farm machinery and equipment and repair or replacement  
172 parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary  
173 mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively,  
174 solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants,  
175 chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and  
176 one-half of each purchaser's purchase of diesel fuel therefor which is:

- 177 (a) Used exclusively for agricultural purposes;  
178 (b) Used on land owned or leased for the purpose of producing farm products; and  
179 (c) Used directly in producing farm products to be sold ultimately in processed form or  
180 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
181 ultimately in processed form at retail;

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

- 186 (a) "Domestic use" means that portion of metered water service, electricity, electrical  
187 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not  
188 within a county, metered or unmetered water service, which an individual occupant of a  
189 residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility  
190 service through a single or master meter for residential apartments or condominiums, including

191 service for common areas and facilities and vacant units, shall be deemed to be for domestic use.  
192 Each seller shall establish and maintain a system whereby individual purchases are determined  
193 as exempt or nonexempt;

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

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

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

221 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, [4061,] 4071,  
222 4081, [4091,] 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director  
223 of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales  
224 taxes on such excise taxes;

225 (27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne  
226 vessels which are used primarily in or for the transportation of property or cargo, or the

227 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,  
228 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while  
229 it is afloat upon such river;

230 (28) All sales made to an interstate compact agency created pursuant to sections 70.370  
231 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such  
232 agency as provided pursuant to the compact;

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

237 (30) All livestock sales when either the seller is engaged in the growing, producing or  
238 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering  
239 or leasing of such livestock;

240 (31) All sales of barges which are to be used primarily in the transportation of property  
241 or cargo on interstate waterways;

242 (32) Electrical energy or gas, whether natural, artificial or propane, water, or other  
243 utilities which are ultimately consumed in connection with the manufacturing of cellular glass  
244 products or in any material recovery processing plant as defined in subdivision (5) of this  
245 subsection;

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

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

251 (35) All sales of grain bins for storage of grain for resale;

252 (36) All sales of feed which are developed for and used in the feeding of pets owned by  
253 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
254 273.325, and licensed pursuant to sections 273.325 to 273.357;

255 (37) All purchases by a contractor on behalf of an entity located in another state,  
256 provided that the entity is authorized to issue a certificate of exemption for purchases to a  
257 contractor under the provisions of that state's laws. For purposes of this subdivision, the term  
258 "certificate of exemption" shall mean any document evidencing that the entity is exempt from  
259 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.  
260 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's  
261 exemption certificate as evidence of the exemption. If the exemption certificate issued by the  
262 exempt entity to the contractor is later determined by the director of revenue to be invalid for any

263 reason and the contractor has accepted the certificate in good faith, neither the contractor or the  
264 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result  
265 of use of the invalid exemption certificate. Materials shall be exempt from all state and local  
266 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible  
267 personal property which is used in fulfilling a contract for the purpose of constructing, repairing  
268 or remodeling facilities for the following:

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

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

274 (38) All sales or other transfers of tangible personal property to a lessor who leases the  
275 property under a lease of one year or longer executed or in effect at the time of the sale or other  
276 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections  
277 238.010 to 238.100;

278 (39) Sales of tickets to any collegiate athletic championship event that is held in a facility  
279 owned or operated by a governmental authority or commission, a quasi-governmental agency,  
280 a state university or college or by the state or any political subdivision thereof, including a  
281 municipality, and that is played on a neutral site and may reasonably be played at a site located  
282 outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that  
283 is not located on the campus of a conference member institution participating in the event;

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

287 (41) All materials, replacement parts, and equipment purchased for use directly upon,  
288 and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants,  
289 and aircraft accessories;

290 (42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or  
291 similar places of business for use in the normal course of business and money received by a  
292 shooting range or similar places of business from patrons and held by a shooting range or similar  
293 place of business for redistribution to patrons at the conclusion of a shooting event;

294 (43) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as  
295 defined in section 306.010;

296 (44) Any new or used aircraft sold or delivered in this state to a person who is not a  
297 resident of this state or a corporation that is not incorporated in this state, and such aircraft is not

298 to be based in this state and shall not remain in this state more than ten business days subsequent  
299 to the last to occur of:

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

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

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

309 (a) "Direct costs", costs incurred by a governmental authority solely because of an  
310 internet service provider's use of the public right-of-way. The term shall not include costs that  
311 the governmental authority would have incurred if the internet service provider did not make  
312 such use of the public right-of-way. Direct costs shall be determined in a manner consistent with  
313 generally accepted accounting principles;

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

318 (c) "Internet access", a service that enables users to connect to the internet to access  
319 content, information, or other services without regard to whether the service is referred to as  
320 telecommunications, communications, transmission, or similar services, and without regard to  
321 whether a provider of the service is subject to regulation by the Federal Communications  
322 Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this  
323 subdivision, internet access also includes: the purchase, use, or sale of communications services,  
324 including telecommunications services as defined in section 144.010, to the extent the  
325 communications services are purchased, used, or sold to provide the service described in this  
326 subdivision or to otherwise enable users to access content, information, or other services offered  
327 over the internet; services that are incidental to the provision of a service described in this  
328 subdivision, when furnished to users as part of such service, including a home page, electronic  
329 mail, and instant messaging, including voice-capable and video-capable electronic mail and  
330 instant messaging, video clips, and personal electronic storage capacity; a home page electronic  
331 mail and instant messaging, including voice-capable and video-capable electronic mail and  
332 instant messaging, video clips, and personal electronic storage capacity that are provided  
333 independently or that are not packed with internet access. As used in this subdivision, internet

334 access does not include voice, audio, and video programming or other products and services,  
335 except services described in this paragraph or this subdivision, that use internet protocol or any  
336 successor protocol and for which there is a charge, regardless of whether the charge is separately  
337 stated or aggregated with the charge for services described in this paragraph or this subdivision;

338 (d) "Tax", any charge imposed by the state or a political subdivision of the state for the  
339 purpose of generating revenues for governmental purposes and that is not a fee imposed for a  
340 specific privilege, service, or benefit conferred, except as described as otherwise under this  
341 subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political  
342 subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a  
343 governmental entity. The term tax shall not include any franchise fee or similar fee imposed or  
344 authorized under ~~section~~ **sections 67.1830 to 67.1846** or **section 67.2689**; Section 622 or 653  
345 of the Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any  
346 other fee related to obligations of telecommunications carriers under the Communications Act  
347 of 1934, 47 U.S.C. Section 151, et seq., except to the extent that:

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

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

355

356 Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or  
357 services that were subject to tax on January 1, 2016.

358 3. Any ruling, agreement, or contract, whether written or oral, express or implied,  
359 between a person and this state's executive branch, or any other state agency or department,  
360 stating, agreeing, or ruling that such person is not required to collect sales and use tax in this  
361 state despite the presence of a warehouse, distribution center, or fulfillment center in this state  
362 that is owned or operated by the person or an affiliated person shall be null and void unless it is  
363 specifically approved by a majority vote of each of the houses of the general assembly. For  
364 purposes of this subsection, an "affiliated person" means any person that is a member of the same  
365 controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of  
366 1986, as amended, as the vendor or any other entity that, notwithstanding its form of  
367 organization, bears the same ownership relationship to the vendor as a corporation that is a  
368 member of the same controlled group of corporations as defined in Section 1563(a) of the  
369 Internal Revenue Code, as amended.

144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or  
2 mistake on the part of the director of revenue, such fact shall be set forth in the records of the  
3 director of revenue, and the amount of the overpayment shall be credited on any taxes then due  
4 from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and  
5 the balance shall be refunded to the person legally obligated to remit the tax, such person's  
6 administrators or executors, as provided for in section 144.200.

7 2. If any tax, penalty or interest has been paid more than once, or has been erroneously  
8 or illegally collected, or has been erroneously or illegally computed, such sum shall be credited  
9 on any taxes then due from the person legally obligated to remit the tax pursuant to sections  
10 144.010 to 144.525, and the balance, with interest as determined by ~~section 32.065~~ **sections**  
11 **32.068 and 32.069**, shall be refunded to the person legally obligated to remit the tax, but no such  
12 credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within  
13 three years from date of overpayment.

14 3. Every claim for refund must be in writing and signed by the applicant, and must state  
15 the specific grounds upon which the claim is founded. Any refund or any portion thereof which  
16 is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be  
17 recovered in any action brought by the director of revenue against the person legally obligated  
18 to remit the tax. In the event that a tax has been illegally imposed against a person legally  
19 obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon  
20 the ~~director's~~ **director of revenue's** record.

21 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid  
22 sales or use tax to a vendor or seller may submit a refund claim directly to the director of revenue  
23 for such sales or use taxes paid to such vendor or seller and remitted to the director **of revenue**,  
24 provided no sum shall be refunded more than once, any such claim shall be subject to any offset,  
25 defense, or other claim the director **of revenue** otherwise would have against either the purchaser  
26 or vendor or seller, and such claim for refund is accompanied by either:

27 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser  
28 allowing the purchaser to seek the refund on behalf of the vendor or seller. An assignment of  
29 rights statement shall contain the Missouri sales or use tax registration number of the vendor or  
30 seller, a list of the transactions covered by the assignment, the tax periods and location for which  
31 the original sale was reported to the director of revenue by the vendor or seller, and a notarized  
32 statement signed by the vendor or seller affirming that the vendor or seller has not received a  
33 refund or credit, will not apply for a refund or credit of the tax collected on any transactions  
34 covered by the assignment, and **that** authorizes the director **of revenue** to amend the seller's  
35 return to reflect the refund; or

36           (2) In the event the vendor or seller fails or refuses to provide an assignment of rights  
37 statement within sixty days from the date of such purchaser's written request to the vendor or  
38 seller, or the purchaser is not able to locate the vendor or seller or the vendor or seller is no  
39 longer in business, the purchaser may provide the director **of revenue** a notarized statement  
40 confirming the efforts that have been made to obtain an assignment of rights from the vendor or  
41 seller. Such statement shall contain a list of the transactions covered by the assignment, the tax  
42 periods and location for which the original sale was reported to the director of revenue by the  
43 vendor or seller.

44

45 The director **of revenue** shall not require such vendor, seller, or purchaser to submit amended  
46 returns for refund claims submitted under the provisions of this subsection. Notwithstanding the  
47 provisions of section 32.057, if the seller is registered with the director **of revenue** for collection  
48 and remittance of sales tax, the director **of revenue** shall notify the seller at the seller's last  
49 known address of the claim for refund. If the seller objects to the refund within thirty days of  
50 the date of the notice, the director **of revenue** shall not pay the refund. If the seller agrees that  
51 the refund is warranted or fails to respond within thirty days, the director **of revenue** may issue  
52 the refund and amend the seller's return to reflect the refund. For purposes of section 32.069, the  
53 refund claim shall not be considered to have been filed until the seller agrees that the refund is  
54 warranted or thirty days after the date the director **of revenue** notified the seller and the seller  
55 failed to respond.

56           5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim  
57 on behalf of a purchaser and such refund claim is denied by the director **of revenue**, notice of  
58 such denial and the reason for the denial shall be sent by the director **of revenue** to the vendor  
59 and each purchaser whose name and address is submitted with the refund claim form filed by the  
60 vendor. A purchaser shall be entitled to appeal the denial of the refund claim within sixty days  
61 of the date such notice of denial is mailed by the director **of revenue** as provided in section  
62 144.261. The provisions of this subsection shall apply to all refund claims filed after August 28,  
63 2012. The provisions of this subsection allowing a purchaser to appeal the ~~[director's]~~ **director**  
64 **of revenue's** decision to deny a refund claim shall also apply to any refund claim denied by the  
65 director **of revenue** on or after January 1, 2007, if an appeal of the denial of the refund claim is  
66 filed by the purchaser no later than September 28, 2012, and if such claim is based solely on the  
67 issue of the exemption of the electronic transmission or delivery of computer software.

68           6. Notwithstanding the provisions of this section, the director of revenue shall authorize  
69 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred  
70 fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For  
71 the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70,

72 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of  
73 business of the purchaser.

74 7. Special rules applicable to error corrections requested by customers of mobile  
75 telecommunications service are as follows:

76 (1) For purposes of this subsection, the terms "customer", "home service provider",  
77 "place of primary use", "electronic database", and "enhanced zip code" shall have the same  
78 meanings as defined in the Mobile Telecommunications Sourcing Act incorporated by reference  
79 in section 144.013;

80 (2) Notwithstanding the provisions of this section, if a customer of mobile  
81 telecommunications services believes that the amount of tax, the assignment of place of primary  
82 use or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the  
83 home service provider, in writing, within three years from the date of the billing statement. The  
84 customer shall include in such written notification the street address for the customer's place of  
85 primary use, the account name and number for which the customer seeks a correction of the tax  
86 assignment, a description of the error asserted by the customer and any other information the  
87 home service provider reasonably requires to process the request;

88 (3) Within sixty days of receiving the customer's notice, the home service provider shall  
89 review its records and the electronic database or enhanced zip code to determine the customer's  
90 correct taxing jurisdiction. If the home service provider determines that the review shows that  
91 the amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home  
92 service provider shall correct the error and, at its election, either refund or credit the amount of  
93 tax erroneously collected to the customer for a period of up to three years from the last day of  
94 the home service provider's sixty-day review period. If the home service provider determines  
95 that the review shows that the amount of tax, the assignment of place of primary use or the taxing  
96 jurisdiction is correct, the home service provider shall provide a written explanation of its  
97 determination to the customer.

98 8. ~~For all refund claims submitted to the department of revenue on or after September~~  
99 ~~1, 2003, notwithstanding any provision of this section to the contrary, if a person legally~~  
100 ~~obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund~~  
101 ~~of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the~~  
102 ~~same issue for a tax period beginning on or after the date the original refund check issued to such~~  
103 ~~person, no refund shall be allowed. This subsection shall not apply and a refund shall be allowed~~  
104 ~~if the refund claim is filed by a purchaser under the provisions of subsection 4 of this section, the~~  
105 ~~refund claim is for use tax remitted by the purchaser, or an additional refund claim is filed by a~~  
106 ~~person legally obligated to remit the tax due to any of the following:~~

107 ~~—— (1) Receipt of additional information or an exemption certificate from the purchaser of~~  
 108 ~~the item at issue;~~

109 ~~—— (2) A decision of a court of competent jurisdiction or the administrative hearing~~  
 110 ~~commission; or~~

111 ~~—— (3) Changes in regulations or policy by the department of revenue.]~~ **Except as provided**  
 112 **under subsection 10 of this section, if any tax was paid more than once, was incorrectly**  
 113 **collected, or was incorrectly computed, such sum shall be credited on any taxes then due**  
 114 **from the person legally obligated to remit the tax under sections 144.010 to 144.510 and the**  
 115 **remainder refunded, with interest as determined under chapter 32, to the person legally**  
 116 **obligated to remit the tax, provided that duplicate copies of a claim for refund are filed**  
 117 **within three years from date of overpayment and:**

118 **(1) Where the total claim for refund is over one thousand dollars for any five-year**  
 119 **period, the person legally obligated to remit the tax demonstrates to the satisfaction of the**  
 120 **director of revenue that all incorrectly collected or incorrectly computed amounts were or**  
 121 **will be refunded or credited to every purchaser that originally paid the tax; or**

122 **(2) The person legally obligated to remit the tax submits to the director of revenue**  
 123 **duplicate copies of a claim for refund and amended tax returns showing the correct**  
 124 **amount of gross receipts for each reporting period originally filed and proves to the**  
 125 **director's satisfaction that the tax originally reported and remitted to the director was paid**  
 126 **by such person claiming the refund or credit and was not collected from purchasers.**

127 9. Notwithstanding any provision of law to the contrary, the director of revenue shall  
 128 respond to a request for a binding letter ruling filed in accordance with section 536.021 within  
 129 sixty days of receipt of such request. If the director of revenue fails to respond to such letter  
 130 ruling request within sixty days of receipt by the director, the director of revenue shall be barred  
 131 from pursuing collection of any assessment of sales or use tax with respect to the issue which is  
 132 the subject of the letter ruling request. For purposes of this subsection, the term "letter ruling"  
 133 means a written interpretation of law by the director to a specific set of facts provided by a  
 134 specific taxpayer or his or her agent.

135 10. **In lieu of subsection 8 of this section,** if any tax was paid more than once, was  
 136 incorrectly collected, or was incorrectly computed, such sum shall be credited ~~[on any taxes then~~  
 137 ~~due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.510~~  
 138 ~~against any deficiency or tax due discovered through an audit of the person by the department~~  
 139 ~~of revenue through adjustment during the same tax filing period for which the audit applied] or~~  
 140 **refunded, with interest as determined under sections 32.068 and 32.069, to the person**  
 141 **legally obligated to remit the tax only if duplicate copies of a claim for a refund and**  
 142 **amended tax returns are filed within three years from the date of overpayment and the**

143 person legally obligated to remit the tax submits a plan acceptable to the director of  
 144 revenue to generally refund the amount of overpayment to future customers of the person  
 145 by mutually agreed to distribution of a fixed value coupon to such customers.

146

~~[143.261. For every remittance to the director of revenue made on or  
 2 before the date the remittance becomes due, the employer, other than the United  
 3 States and its agencies, the state of Missouri and political subdivisions thereof,  
 4 may deduct and retain the following percentages of the total amount of tax  
 5 withheld and paid in each calendar year:~~

~~6 (1) Two percent of five thousand dollars or less;~~

~~7 (2) One percent of amount collected in excess of five thousand dollars  
 8 and up to and including ten thousand dollars;~~

~~9 (3) One-half percent of amount collected in excess of ten thousand  
 10 dollars.]~~

11

~~[143.451. 1. Missouri taxable income of a corporation shall  
 2 include all income derived from sources within this state.]~~

~~3 2. A corporation described in subdivision (1) of subsection 1 of section  
 4 143.441 shall include in its Missouri taxable income all income from sources  
 5 within this state, including that from the transaction of business in this state and  
 6 that from the transaction of business partly done in this state and partly done in  
 7 another state or states. However:~~

~~8 (1) Where income results from a transaction partially in this state and  
 9 partially in another state or states, and income and deductions of the portion in  
 10 the state cannot be segregated, then such portions of income and deductions shall  
 11 be allocated in this state and the other state or states as will distribute to this state  
 12 a portion based upon the portion of the transaction in this state and the portion in  
 13 such other state or states.]~~

~~14 (2) The taxpayer may elect to compute the portion of income from all  
 15 sources in this state in the following manner, or the manner set forth in  
 16 subdivision (3) of this subsection:~~

~~17 (a) The income from all sources shall be determined as provided,  
 18 excluding therefrom the figures for the operation of any bridge connecting this  
 19 state with another state.]~~

~~20 (b) The amount of sales which are transactions wholly in this state shall  
 21 be added to one-half of the amount of sales which are transactions partly within  
 22 this state and partly without this state, and the amount thus obtained shall be  
 23 divided by the total sales or in cases where sales do not express the volume of  
 24 business, the amount of business transacted wholly in this state shall be added to  
 25 one-half of the amount of business transacted partly in this state and partly  
 26 outside this state and the amount thus obtained shall be divided by the total  
 27 amount of business transacted, and the net income shall be multiplied by the  
 28 fraction thus obtained, to determine the proportion of income to be used to arrive~~

29 ~~at the amount of Missouri taxable income. The investment or reinvestment of its~~  
 30 ~~own funds, or sale of any such investment or reinvestment, shall not be~~  
 31 ~~considered as sales or other business transacted for the determination of said~~  
 32 ~~fraction.~~

33 ~~(c) For the purposes of this subdivision, a transaction involving the sale~~  
 34 ~~of tangible property is:~~

35 ~~a. "Wholly in this state" if both the seller's shipping point and the~~  
 36 ~~purchaser's destination point are in this state;~~

37 ~~b. "Partly within this state and partly without this state" if the seller's~~  
 38 ~~shipping point is in this state and the purchaser's destination point is outside this~~  
 39 ~~state, or the seller's shipping point is outside this state and the purchaser's~~  
 40 ~~destination point is in this state;~~

41 ~~c. Not "wholly in this state" or not "partly within this state and partly~~  
 42 ~~without this state" only if both the seller's shipping point and the purchaser's~~  
 43 ~~destination point are outside this state.~~

44 ~~(d) For purposes of this subdivision:~~

45 ~~a. The purchaser's destination point shall be determined without regard~~  
 46 ~~to the FOB point or other conditions of the sale; and~~

47 ~~b. The seller's shipping point is determined without regard to the location~~  
 48 ~~of the seller's principle office or place of business.~~

49 ~~(3) The taxpayer may elect to compute the portion of income from all~~  
 50 ~~sources in this state in the following manner:~~

51 ~~(a) The income from all sources shall be determined as provided;~~  
 52 ~~excluding therefrom the figures for the operation of any bridge connecting this~~  
 53 ~~state with another state;~~

54 ~~(b) The amount of sales which are transactions in this state shall be~~  
 55 ~~divided by the total sales, and the net income shall be multiplied by the fraction~~  
 56 ~~thus obtained, to determine the proportion of income to be used to arrive at the~~  
 57 ~~amount of Missouri taxable income. The investment or reinvestment of its own~~  
 58 ~~funds, or sale of any such investment or reinvestment, shall not be considered as~~  
 59 ~~sales or other business transacted for the determination of said fraction;~~

60 ~~(c) For the purposes of this subdivision, a transaction involving the sale~~  
 61 ~~of tangible property is:~~

62 ~~a. "In this state" if the purchaser's destination point is in this state;~~

63 ~~b. Not "in this state" if the purchaser's destination point is outside this~~  
 64 ~~state;~~

65 ~~(d) For purposes of this subdivision, the purchaser's destination point~~  
 66 ~~shall be determined without regard to the FOB point or other conditions of the~~  
 67 ~~sale and shall not be in this state if the purchaser received the tangible personal~~  
 68 ~~property from the seller in this state for delivery to the purchaser's location~~  
 69 ~~outside this state;~~

70 ~~\_\_\_\_\_ (c) For the purposes of this subdivision, a transaction involving the sale~~  
71 ~~other than the sale of tangible property is "in this state" if the taxpayer's market~~  
72 ~~for the sales is in this state. The taxpayer's market for sales is in this state.~~  
73 ~~\_\_\_\_\_ a. In the case of sale, rental, lease, or license of real property, if and to the~~  
74 ~~extent the property is located in this state;~~  
75 ~~\_\_\_\_\_ b. In the case of rental, lease, or license of tangible personal property, if~~  
76 ~~and to the extent the property is located in this state;~~  
77 ~~\_\_\_\_\_ c. In the case of sale of a service, if and to the extent the ultimate~~  
78 ~~beneficiary of the service is located in this state and shall not be in this state if the~~  
79 ~~ultimate beneficiary of the service rendered by the taxpayer or the taxpayer's~~  
80 ~~designee is located outside this state; and~~  
81 ~~\_\_\_\_\_ d. In the case of intangible property:~~  
82 ~~\_\_\_\_\_ (i) That is rented, leased, or licensed, if and to the extent the property is~~  
83 ~~used in this state by the rentee, lessee, or licensee, provided that intangible~~  
84 ~~property utilized in marketing a good or service to a consumer is "used in this~~  
85 ~~state" if that good or service is purchased by a consumer who is in this state.~~  
86 ~~Franchise fees or royalties received for the rent, lease, license, or use of a trade~~  
87 ~~name, trademark, service mark, or franchise system or provides a right to conduct~~  
88 ~~business activity in a specific geographic area are "used in this state" to the extent~~  
89 ~~the franchise location is in this state; and~~  
90 ~~\_\_\_\_\_ (ii) That is sold, if and to the extent the property is used in this state;~~  
91 ~~provided that:~~  
92 ~~\_\_\_\_\_ i. A contract right, government license, or similar intangible property that~~  
93 ~~authorizes the holder to conduct a business activity in a specific geographic area~~  
94 ~~is "used in this state" if the geographic area includes all or part of this state;~~  
95 ~~\_\_\_\_\_ ii. Receipts from intangible property sales that are contingent on the~~  
96 ~~productivity, use, or disposition of the intangible property shall be treated as~~  
97 ~~receipts from the rental, lease, or licensing of such intangible property under item~~  
98 ~~(i) of this subparagraph; and~~  
99 ~~\_\_\_\_\_ iii. All other receipts from a sales of intangible property shall be~~  
100 ~~excluded from the numerator and denominator of the sales factor;~~  
101 ~~\_\_\_\_\_ (f) If the state or states of assignment under paragraph (c) of this~~  
102 ~~subdivision cannot be determined, the state or states of assignment shall be~~  
103 ~~reasonably approximated;~~  
104 ~~\_\_\_\_\_ (g) If the state of assignment cannot be determined under paragraph (c)~~  
105 ~~of this subdivision or reasonably approximated under paragraph (f) of this~~  
106 ~~subdivision, such sales shall be excluded from the denominator of the sales~~  
107 ~~factor;~~  
108 ~~\_\_\_\_\_ (h) The director may prescribe such rules and regulations as necessary or~~  
109 ~~appropriate to carry out the purposes of this section.~~  
110 ~~\_\_\_\_\_ (4) For purposes of this subsection, the following words shall, unless the~~  
111 ~~context otherwise requires, have the following meaning:~~

- 112 ~~\_\_\_\_\_ (a) "Administration services" include, but are not limited to, clerical;~~  
113 ~~fund or shareholder accounting, participant record keeping, transfer agency;~~  
114 ~~bookkeeping, data processing, custodial, internal auditing, legal and tax services~~  
115 ~~performed for an investment company;~~
- 116 ~~\_\_\_\_\_ (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section~~  
117 ~~80a-2(a)(3)(C), as may be amended from time to time;~~
- 118 ~~\_\_\_\_\_ (c) "Distribution services" include, but are not limited to, the services of~~  
119 ~~advertising, servicing, marketing, underwriting or selling shares of an investment~~  
120 ~~company, but, in the case of advertising, servicing or marketing shares, only~~  
121 ~~where such service is performed by a person who is, or in the case of a closed end~~  
122 ~~company, was, either engaged in the services of underwriting or selling~~  
123 ~~investment company shares or affiliated with a person that is engaged in the~~  
124 ~~service of underwriting or selling investment company shares. In the case of an~~  
125 ~~open end company, such service of underwriting or selling shares must be~~  
126 ~~performed pursuant to a contract entered into pursuant to 15 U.S.C. Section~~  
127 ~~80a-15(b), as from time to time amended;~~
- 128 ~~\_\_\_\_\_ (d) "Investment company", any person registered under the federal~~  
129 ~~Investment Company Act of 1940, as amended from time to time, (the act) or a~~  
130 ~~company which would be required to register as an investment company under~~  
131 ~~the act except that such person is exempt to such registration pursuant to Section~~  
132 ~~80a-3(c)(1) of the act;~~
- 133 ~~\_\_\_\_\_ (e) "Investment funds service corporation" includes any corporation or~~  
134 ~~S corporation doing business in the state which derives more than fifty percent~~  
135 ~~of its gross income in the ordinary course of business from the provision directly~~  
136 ~~or indirectly of management, distribution or administration services to or on~~  
137 ~~behalf of an investment company or from trustees, sponsors and participants of~~  
138 ~~employee benefit plans which have accounts in an investment company. An~~  
139 ~~investment funds service corporation shall include any corporation or S~~  
140 ~~corporation providing management services as an investment advisory firm~~  
141 ~~registered under Section 203 of the Investment Advisors Act of 1940, as amended~~  
142 ~~from time to time, regardless of the percentage of gross revenues consisting of~~  
143 ~~fees from management services provided to or on behalf of an investment~~  
144 ~~company;~~
- 145 ~~\_\_\_\_\_ (f) "Management services" include but are not limited to, the rendering~~  
146 ~~of investment advice directly or indirectly to an investment company making~~  
147 ~~determinations as to when sales and purchases of securities are to be made on~~  
148 ~~behalf of the investment company, or the selling or purchasing of securities~~  
149 ~~constituting assets of an investment company, and related activities, but only~~  
150 ~~where such activity or activities are performed:~~
- 151 ~~\_\_\_\_\_ a. Pursuant to a contract with the investment company entered into~~  
152 ~~pursuant to 15 U.S.C. Section 80a-15(a), as from time to time amended;~~
- 153 ~~\_\_\_\_\_ b. For a person that has entered into such contract with the investment~~  
154 ~~company; or~~

155 ~~\_\_\_\_\_ c. For a person that is affiliated with a person that has entered into such~~  
156 ~~contract with an investment company;~~

157 ~~\_\_\_\_\_ (g) "Qualifying sales", gross income derived from the provision directly~~  
158 ~~or indirectly of management, distribution or administration services to or on~~  
159 ~~behalf of an investment company or from trustees, sponsors and participants of~~  
160 ~~employee benefit plans which have accounts in an investment company. For~~  
161 ~~purposes of this section, "gross income" is defined as that amount of income~~  
162 ~~earned from qualifying sources without deduction of expenses related to the~~  
163 ~~generation of such income;~~

164 ~~\_\_\_\_\_ (h) "Residence", presumptively the fund shareholder's mailing address~~  
165 ~~on the records of the investment company. If, however, the investment company~~  
166 ~~or the investment funds service corporation has actual knowledge that the fund~~  
167 ~~shareholder's primary residence or principal place of business is different than the~~  
168 ~~fund shareholder's mailing address such presumption shall not control. To the~~  
169 ~~extent an investment funds service corporation does not have access to the~~  
170 ~~records of the investment company, the investment funds service corporation may~~  
171 ~~employ reasonable methods to determine the investment company fund~~  
172 ~~shareholder's residence.~~

173 ~~\_\_\_\_\_ (5) Notwithstanding other provisions of law to the contrary, qualifying~~  
174 ~~sales of an investment funds service corporation, or S corporation, shall be~~  
175 ~~considered wholly in this state only to the extent that the fund shareholders of the~~  
176 ~~investment companies, to which the investment funds service corporation, or S~~  
177 ~~corporation, provide services, are resided in this state. Wholly in this state~~  
178 ~~qualifying sales of an investment funds service corporation, or S corporation,~~  
179 ~~shall be determined as follows:~~

180 ~~\_\_\_\_\_ (a) By multiplying the investment funds service corporation's total dollar~~  
181 ~~amount of qualifying sales from services provided to each investment company~~  
182 ~~by a fraction, the numerator of which shall be the average of the number of shares~~  
183 ~~owned by the investment company's fund shareholders resided in this state at~~  
184 ~~the beginning of and at the end of the investment company's taxable year that~~  
185 ~~ends with or within the investment funds service corporation's taxable year, and~~  
186 ~~the denominator of which shall be the average of the number of shares owned by~~  
187 ~~the investment company's fund shareholders everywhere at the beginning of and~~  
188 ~~at the end of the investment company's taxable year that ends with or within the~~  
189 ~~investment funds service corporation's taxable year;~~

190 ~~\_\_\_\_\_ (b) A separate computation shall be made to determine the wholly in this~~  
191 ~~state qualifying sales from each investment company. The qualifying sales for~~  
192 ~~each investment company shall be multiplied by the respective percentage of each~~  
193 ~~fund, as calculated pursuant to paragraph (a) of this subdivision. The product of~~  
194 ~~this equation shall result in the wholly in this state qualifying sales. The~~  
195 ~~qualifying sales for each investment company which are not wholly in this state~~  
196 ~~will be considered wholly without this state;~~

197 ~~\_\_\_\_\_ (c) To the extent an investment funds service corporation has sales which~~  
198 ~~are not qualifying sales, those nonqualified sales shall be apportioned to this state~~  
199 ~~based on the methodology utilized by the investment funds service corporation~~  
200 ~~without regard to this subdivision.~~

201 ~~\_\_\_\_\_ 3. Any corporation described in subdivision (1) of subsection 1 of section~~  
202 ~~143.441 organized in this state or granted a permit to operate in this state for the~~  
203 ~~transportation or care of passengers shall report its gross earnings within the state~~  
204 ~~on intrastate business and shall also report its gross earnings on all interstate~~  
205 ~~business done in this state which report shall be subject to inquiry for the purpose~~  
206 ~~of determining the amount of income to be included in Missouri taxable income.~~  
207 ~~The previous sentence shall not apply to a railroad.~~

208 ~~\_\_\_\_\_ 4. A corporation described in subdivision (2) of subsection 1 of section~~  
209 ~~143.441 shall include in its Missouri taxable income all income arising from all~~  
210 ~~sources in this state and all income from each transportation service wholly~~  
211 ~~within this state, from each service where the only lines of such corporation used~~  
212 ~~are those in this state, and such proportion of revenue from each service where~~  
213 ~~the facilities of such corporation in this state and in another state or states are~~  
214 ~~used, as the mileage used over the lines of such corporation in the state shall bear~~  
215 ~~to the total mileage used over the lines of such corporation. The taxpayer may~~  
216 ~~elect to compute the portion of income from all sources within this state in the~~  
217 ~~following manner:~~

218 ~~\_\_\_\_\_ (1) The income from all sources shall be determined as provided;~~

219 ~~\_\_\_\_\_ (2) The amount of investment of such corporation on December~~  
220 ~~thirty-first of each year in this state in fixed transportation facilities, real estate~~  
221 ~~and improvements, plus the value on December thirty-first of each year of any~~  
222 ~~fixed transportation facilities, real estate and improvements in this state leased~~  
223 ~~from any other railroad shall be divided by the sum of the total amount of~~  
224 ~~investment of such corporation on December thirty-first of each year in fixed~~  
225 ~~transportation facilities, real estate and improvements, plus the value on~~  
226 ~~December thirty-first of each year, of any fixed transportation facilities, real~~  
227 ~~estate and improvements leased from any other railroad. Where any fixed~~  
228 ~~transportation facilities, real estate or improvements are leased by more than one~~  
229 ~~railroad, such portion of the value shall be used by each railroad as the rental paid~~  
230 ~~by each shall bear to the rental paid by all lessees. The income shall be~~  
231 ~~multiplied by the fraction thus obtained to determine the proportion to be used~~  
232 ~~to arrive at the amount of Missouri taxable income.~~

233 ~~\_\_\_\_\_ 5. A corporation described in subdivision (3) of subsection 1 of section~~  
234 ~~143.441 shall include in its Missouri taxable income one-half of the net income~~  
235 ~~from the operation of a bridge between this and another state. If any such bridge~~  
236 ~~is owned or operated by a railroad corporation or corporations, or by a~~  
237 ~~corporation owning a railroad corporation using such bridge, then the figures for~~  
238 ~~operation of such bridge may be included in the return of such railroad or~~  
239 ~~railroads; or if such bridge is owned or operated by any other corporation which~~

240 ~~may now or hereafter be required to file an income tax return, one-half of the~~  
241 ~~income or loss to such corporation from such bridge may be included in such~~  
242 ~~return by adding or subtracting same to or from another net income or loss shown~~  
243 ~~by the return.~~

244 ~~6. A corporation described in subdivision (4) of subsection 1 of section~~  
245 ~~143.441 shall include in its Missouri taxable income all income arising from all~~  
246 ~~sources within this state. Income shall include revenue from each telephonic or~~  
247 ~~telegraphic service rendered wholly within this state; from each service rendered~~  
248 ~~for which the only facilities of such corporation used are those in this state; and~~  
249 ~~from each service rendered over the facilities of such corporation in this state and~~  
250 ~~in other state or states, such proportion of such revenue as the mileage involved~~  
251 ~~in this state shall bear to the total mileage involved over the lines of said~~  
252 ~~company in all states. The taxpayer may elect to compute the portion of income~~  
253 ~~from all sources within this state in the following manner:~~

254 ~~(1) The income from all sources shall be determined as provided;~~

255 ~~(2) The amount of investment of such corporation on December~~  
256 ~~thirty-first of each year in this state in telephonic or telegraphic facilities, real~~  
257 ~~estate and improvements thereon, shall be divided by the amount of the total~~  
258 ~~investment of such corporation on December thirty-first of each year in~~  
259 ~~telephonic or telegraphic facilities, real estate and improvements. The income~~  
260 ~~of the taxpayer shall be multiplied by fraction thus obtained to determine the~~  
261 ~~proportion to be used to arrive at the amount of Missouri taxable income.~~

262 ~~7. From the income determined in subsections 2, 3, 4, 5 and 6 of this~~  
263 ~~section to be from all sources within this state shall be deducted such of the~~  
264 ~~deductions for expenses in determining Missouri taxable income as were incurred~~  
265 ~~in this state to produce such income and all losses actually sustained in this state~~  
266 ~~in the business of the corporation.~~

267 ~~8. If a corporation derives only part of its income from sources within~~  
268 ~~Missouri, its Missouri taxable income shall only reflect the effect of the~~  
269 ~~following listed deductions to the extent applicable to Missouri. The deductions~~  
270 ~~are: (a) its deduction for federal income taxes pursuant to section 143.171, and~~  
271 ~~(b) the effect on Missouri taxable income of the deduction for net operating loss~~  
272 ~~allowed by Section 172 of the Internal Revenue Code. The extent applicable to~~  
273 ~~Missouri shall be determined by multiplying the amount that would otherwise~~  
274 ~~affect Missouri taxable income by the ratio for the year of the Missouri taxable~~  
275 ~~income of the corporation for the year divided by the Missouri taxable income for~~  
276 ~~the year as though the corporation had derived all of its income from sources~~  
277 ~~within Missouri. For the purpose of the preceding sentence, Missouri taxable~~  
278 ~~income shall not reflect the listed deductions.~~

279 ~~9. Any investment funds service corporation organized as a corporation~~  
280 ~~or S corporation which has any shareholders resided in this state shall be~~  
281 ~~subject to Missouri income tax as provided in this chapter.~~

282 ~~10. The provisions of this section do not impact any other apportionment~~  
283 ~~election available to a taxpayer under Missouri statutes.]~~  
284

~~[143.461. 1. A corporation shall elect to determine income applicable to  
2 this state by multiplying the total income from all sources by the fraction  
3 determined in the manner in section 143.451; first, by filing written notice with  
4 the director of revenue on or before the due date of the return (including  
5 extensions of time) of the taxpayer's election, or, second, by failing to keep its  
6 books and records in such manner as to show the income applicable to this state;  
7 including gross income and deductions applicable thereto.]~~

~~8 2. If the corporation shall keep its books and records so as to show by any  
9 other method of allocation between this state and other states involved of income  
10 from transactions partially within and partially without this state, including gross  
11 income and deductions applicable thereto, and such method shows the income  
12 applicable to this state, including gross income and deductions applicable thereto,  
13 then it may, on or before sixty days before the end of any taxable year, petition  
14 the director of revenue, in writing, to be permitted in its return required to be  
15 filed to apportion to this state according to the method shown by such books or  
16 records. If the director of revenue finds that such method does show the income  
17 applicable to this state including gross income and the deductions applicable  
18 thereto, he shall notify the corporation, at least thirty days prior to the last day on  
19 which such corporation's return for that taxable year is to be filed, that it may use  
20 that method as long as such method shows the income applicable to this state,  
21 including gross income and deductions applicable thereto.]~~

~~22 3. The corporation shall cease using such method whenever the director  
23 of revenue finds and notifies such corporation on or before ninety days before the  
24 end of the taxable year, that such method does not so show. Upon and after such  
25 revocation the corporation shall be permitted to petition to use another method  
26 of allocation that will show such income including gross income and deductions  
27 applicable thereto as though no petition had ever been filed.]~~

~~28 4. Failure, after a method has been revoked by the director of revenue,  
29 to submit a method which the director of revenue finds will show such income  
30 applicable to this state including gross income and deductions applicable thereto,  
31 on or before sixty days before the end of any taxable year, or failure to make a  
32 return on the basis, which has been approved by the director of revenue on  
33 petition of the corporation and which stands unrevoked, shall constitute an  
34 election to accept the determination of income applicable to this state by  
35 multiplying the total income from all sources by the fraction determined in the  
36 manner set forth in section 143.451.]~~

37

Section B. This act shall become effective September 1, 2017.

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