



Rules of Department of Revenue

Division 10—Director of Revenue

Chapter 4—State Use Tax

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**Title 12—DEPARTMENT OF
REVENUE**

**Division 10—Director of Revenue
Chapter 4—State Use Tax**

12 CSR 10-4.005 Purchaser Includes
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.010 Purchaser's Responsibilities
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Nov. 8, 1988, effective Jan. 27, 1989. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Southwestern Bell Telephone Co. v. Morris, 345 SW2d 62 (1961). A compensating use tax such as the one now under scrutiny has been aptly characterized as a levy on the privilege of using, within the taxing state, property purchased outside the state, if the property would have been subject to the sales tax had it been purchased at home. It seems to be universally considered that the use tax and sales tax laws are complimentary and supplementary to each other.

Pryor Executive Planes, Inc. v. Director of Revenue, Case No. RS-82-0463, (A.H.C. 8/6/87). The Administrative Hearing Commission examined the case under 144.615(6), RSMo which limits the resale exemption to goods held by 1) retailers, 2) solely for resale, and 3) in the regular course of business. As a retailer whose regular business was the sale of aircraft, petitioner met two prongs of the test. Petitioner failed to meet the second requirement because petitioner chartered the aircraft, rented the aircraft to its shareholders and depreciated the aircraft for income tax purposes. The commission stated these uses were inconsistent with petitioner's holding of aircraft solely for resale, and instead constituted use or consumption sufficient to subject the acquisition of the aircraft to use tax.

12 CSR 10-4.015 Sale Consummation

PURPOSE: This rule aids in determining

when a sale takes place and interprets and applies section 144.605(5), RSMo.

(1) A sale takes place at the time the tangible personal property is delivered to the Missouri purchaser for the purpose of consuming, storing or using, when the property has finally come to rest in this state or when commingled with general mass of properties of this state. The place of sale is the place of delivery of the property to the purchaser, user, storer or consumer, whether the delivery be made by the vendor, the United States mail or common carrier.

(2) In addition to the delivery requirement, a sale is considered consummated when the ownership of or title to tangible personal property is transferred from the vendor to the purchaser or buyer. In transactions where the purchaser acquires possession of property but the title is retained by the vendor, the sale takes place when the possession of the goods transfers to the purchaser.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.*

**Original authority: 144.705, RSMo 1959.*

Director of Revenue v. Superior Aircraft Leasing Co., Inc., No. 68857 (Mo. banc 7/14/87). The Missouri Supreme Court overruled the line of cases applying the old taxable moment doctrine in L & L Marine Service and Management Services and adopted the four-part test of Complete Auto Transit, 430 U.S. 274, 97 S. Ct. 1076 (1977).

The state's right to tax interstate commerce is limited, however, and no state tax may be sustained unless the tax: 1) has a substantial nexus with the state; 2) is fairly apportioned; 3) does not discriminate against interstate commerce; and 4) is fairly related to the services provided by the state.

Here, even though the plane was hangared and repairs, if needed, were made in Dayton, Ohio, there were contacts with Missouri sufficient to create a substantial nexus. The taxpayer could use Missouri courts to enforce resolutions arising from its board meetings. The court concluded also that the use tax imposed was also fairly apportioned. Missouri statutes allow credits for taxes paid to another state; however, Superior Aircraft had not paid sales or use tax to any other state and even if it had done so Missouri has a system of tax credit for taxes paid in other states.

Finally, the court concluded that there was no discrimination since interstate and intrastate commerce are equally burdened.

12 CSR 10-4.020 Delivery
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-4 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Director of Revenue v. Superior Aircraft Leasing Co., Inc., No. 68857 (Mo. banc 7/14/87). The Missouri Supreme Court overruled the line of cases applying the old taxable moment doctrine in L & L Marine Service and Management Services and adopted the four-part test of Complete Auto Transit, 430 U.S. 274, 97 S. Ct. 1076 (1977).

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Finally, the court concluded that there was no discrimination since interstate and intrastate commerce are equally burdened.

Therefore, under the test prescribed in Complete Auto Transit, the court held that the imposition of Missouri use tax was permissible under the Commerce Clause of the United States Constitution.

12 CSR 10-4.025 Guideline for When Title Passes

(Rescinded January 12, 1987)

AUTHORITY: section 144.705, RSMo 1969, U.T. Regulation 605-5 filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Sept. 23, 1986, effective Jan. 12, 1987.

12 CSR 10-4.030 Delivery Charges
(Rescinded May 9, 1994)

AUTHORITY: section 144.705, RSMo 1986.



U.T. regulation 605-6 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Amended: Filed Sept. 23, 1986, effective Jan. 12, 1987. Amended: Filed Sept. 11, 1990, effective Feb. 14, 1991. Rescinded: Filed Oct. 1, 1993, effective May 9, 1994.

12 CSR 10-4.035 Consideration Other Than Money
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-7 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Weather Guard, Inc. v. Director of Revenue, 746 SW2d 657 (Mo. App. 1988). The court cited *King v. National Super Markets, Inc.*, 653 SW2d 220 (Mo. banc 1983), which held that when the cost of paper sacks was factored into the price for which goods were sold, that constituted a resale under section 144.615(6), RSMo. The court opined that because the customers paid sales tax on the increased cost of insulation, there was no loss of revenue, and to impose a use tax on the insulation blowing machines to the wholesaler of the insulation would amount to double taxation.

12 CSR 10-4.040 Delivery Expenses to Purchaser
(Rescinded April 9, 1994)

AUTHORITY: section 144.705, RSMo 1986. U.T. regulation 605-8 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Oct. 1, 1993, effective April 9, 1994.

12 CSR 10-4.045 Cancelled Sales
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-9 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.050 Cost of Doing Business
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-10 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Management Services, Inc. v. Spradling, 547 SW2d 466 (Mo. banc 1977). Changes for out-of-state laboratory services were not incidental to film production and were therefore not subject to use tax.

12 CSR 10-4.055 Regulations Under Section 144.020, RSMo
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-11 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

King v. L & L Marine Service, Inc., 647 SW2d 524 (Mo. banc 1983). Use tax is a levy on the privilege of using within the taxing state, property purchased outside the state, if the property would have been taxable if purchased at home.

12 CSR 10-4.060 Vendor Includes
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 605-12 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.070 Use Tax License Necessary
(Rescinded March 30, 2001)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 610-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000, effective March 30, 2001.

12 CSR 10-4.075 Sales to Contractors
(Rescinded March 30, 2001)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 610-2 filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000, effective March 20, 2001.

12 CSR 10-4.080 Sales to National Banks and Other Financial Institutions
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled

March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.085 Liability of Out-of-State Vendors
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed May 16, 1989, effective Sept. 11, 1989. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Primary Steel, Inc. v. Director of Revenue, Case No. RS-82-0059 (A.H.C. 9/7/83). The issue in this case was whether there was sufficient nexus between the state of Missouri and the taxpayer to justify imposing upon the taxpayer the duty of collecting vendor use tax for sales made to Missouri customers. The court looked to the decision in *Miller Bros. Co. v. Maryland*, 347 U.S. 340 (1954) which seemed to establish a standard of a continuous local solicitation versus no solicitation other than the incidental acts of general advertising. The commission found that there must be continuous, or at least regular local solicitation, and that the occasional trips made to the state of Missouri by taxpayer's salesmen did not constitute regular solicitation. For that reason it was found that there was no nexus in the state of Missouri.

12 CSR 10-4.090 Regulations Under Subdivisions (2) and (3) of Sections 144.030 and 144.040, RSMo
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.095 Motor Vehicle Purchased
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-4 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.100 Tax Paid to Another State

PURPOSE: This rule indicates the liability of



a person who makes a taxable purchase and takes delivery in another state and interprets and applies section 144.615(1), RSMo.

(1) A person who makes a taxable purchase and takes delivery in any state other than Missouri where a sales or use tax is imposed and paid to that state in an amount equal to or greater than the four percent (4%) Missouri use tax is not subject to the Missouri use tax. If, however, the rate of tax paid is less than the four percent (4%) Missouri use tax law, the purchaser is subject to use tax on the difference. If no tax was paid to another state, the purchaser is subject to the use tax on the full amount. Only the person who has paid the prior sales or use tax on the item can claim the credit. Adequate proof that the tax had been paid, in the form of receipts or invoices, must be maintained by the purchaser.

AUTHORITY: section 144.705, RSMo 1994.* U.T. regulation 615-5 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Oct. 15, 1984, effective Feb. 11, 1985.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.105 Resale (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-6 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Wendy's of Mid-America, Inc. v. Department of Revenue, Case No. RS-79-0222 (A.H.C. 7/22/82). Machinery and equipment used in fast food restaurants are not entitled to section 144.030(4), RSMo exemption because fast food restaurants clearly do not constitute manufacturing plants. Section 144.615(6), RSMo exemption from use tax is applicable to foil, wax paper and bags used in fast food restaurants because they are held solely to be incorporated into products which are resold in the regular course of taxpayer's business.

Paper bags transferred to customers by retail grocer were purchased by grocer for resale (see *King v. National Super Markets, Inc.*, 653 SW2d 220 (Mo. banc 1983)). Wooden shipping pallets were not purchased for resale by shipper (see *Floyd Charcoal Co., Inc. v. Director of Revenue*, 599 SW2d 173 (Mo. banc 1980)); fact that soft drink bottles could be returned for deposit did not make

jobbers liable for use tax on theory that they had purchased at retail (see *Smith Beverage Co. of Columbia, Inc. v. Reiss*, 568 SW2d 61 (Mo. En banc 1978)).

Pryor Executive Planes, Inc. v. Director of Revenue, Case No. RS-82-0463 (A.H.C. 8/6/87). The Administrative Hearing Commission examined the case under 144.615(6), RSMo which limits the resale exemption to goods held by 1) retailers, 2) solely for resale, 3) in the regular course of business. As a retailer whose regular business was the sale of aircraft, petitioner met two prongs of the test. Petitioner failed to meet the second requirement because petitioner chartered the aircraft, rented the aircraft to its shareholders and depreciated the aircraft for income tax purposes. The commission stated these uses were inconsistent with petitioner's holding of aircraft solely for resale, and instead constituted use or consumption sufficient to subject the acquisition of the aircraft to use tax.

12 CSR 10-4.110 Personal Effects (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-7 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.115 Documentation Required (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 615-8 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.120 Presumption (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 620-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.125 Gross Sales Reporting Method (Rescinded March 14, 1991)

AUTHORITY: section 144.705, RSMo 1986. U.T. regulation 635-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded:

Filed Oct. 24, 1990, effective March 14, 1991.

12 CSR 10-4.127 Vendors Use Tax vs. Consumers Use Tax (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Emergency amendment filed Aug. 18, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Emergency amendment filed Dec. 9, 1994, effective Dec. 26, 1994, expired April 24, 1995. Amended: Filed Aug. 18, 1994, effective Feb. 26, 1995. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.130 Separately Stating (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 635-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.135 Vendor to File Collection Suit (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 635-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.140 Exemption Certificates (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 640-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

Op. Atty. Gen. No. 149, Murray (10-6-76). The director of revenue does not have the right or duty to grant a use tax exemption in the case in which an individual transfers motor vehicles to a corporation in which s/he owns 100% of the stock and the corporation assumes the outstanding liability on said motor vehicle.

12 CSR 10-4.145 Audit, No Credit (Rescinded November 30, 2000)



AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 640-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed May 24, 2000, effective Nov. 30, 2000.

12 CSR 10-4.150 Limitation on Assessment
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 645-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Dec. 3, 1985, effective Feb. 24, 1986. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.155 Vendor’s Responsibility
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 650-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.160 Effect of Saturday, Sunday or Holiday on Payment Due

PURPOSE: This rule establishes the due date for payment of taxes where the original due date falls on certain days and interprets and applies section 144.655, RSMo.

(1) If the last day for payment of the taxes falls on a Saturday, Sunday or legal holiday, the payment shall be considered timely if it is postmarked or filed in person the next succeeding day, which is not a Saturday, Sunday or legal Missouri or national holiday.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-1 filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-4.165 Bad Debts Credit
(Rescinded May 30, 2001)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Nov. 9, 2000, effective May 30, 2001.

12 CSR 10-4.170 Aggregate Amount Defined

PURPOSE: This rule defines the term aggregate

amount for Missouri use tax purposes and interprets and applies section 144.660, RSMo.

(1) For the purpose of the compensating use tax law, aggregate amount is defined as only the amount of state compensating use tax due.

(2) When a vendor is unable to file a return by the due date, the vendor may estimate the amount of tax due for the first two (2) months of a quarter based on the best information available such as the same month the previous year with a modifier for business or economic conditions.

(3) A return must be filed and completed in its entirety even if a taxpayer is filing an estimated return (see section 144.660, RSMo and 12 CSR 10-3.458).

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-4.175 Amended Returns
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-4 filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.180 Filing Final Return

PURPOSE: This rule establishes the due date for a final return and sets forth the assumed liability of a purchaser of a business.

(1) Any vendor terminating or selling his/her business, stock, furnishings or fixtures is required to file, within fifteen (15) days after terminating, a final return to be furnished by the director upon specific request. The return should be forwarded to the director of revenue with an accompanying remittance for taxes, interest and penalty if applicable, to the date of termination.

(2) Should an obligation exist, the purchaser shall withhold a sufficient amount from the purchase price of the business to defray any liability until the former owner provides the director of revenue with satisfactory evidence that the liability has been satisfied and no further liability exists or until the former owner

obtains a certificate of no tax due from the director of revenue. If the person acquiring the business fails to accomplish the previously mentioned, s/he shall become liable for any taxes, interest or penalty charges made against the former owner.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-5 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-4.185 Filing Returns When No Liability Exists

PURPOSE: This rule prescribes that a return shall be filed even though no liability exists.

(1) Every business, making sales of tangible personal property or rendering a taxable service, is required to file a combined sales/use tax return even though no (zero) (0) sales were made during the period covered by the return.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-6 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-4.190 Payment of Tax
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-7 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Dec. 3, 1985, effective Feb. 24, 1986. Rescinded: Filed Jan. 18, 2018, effective July 30, 2018.

12 CSR 10-4.200 Filing of Returns and Payment of Tax
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 660-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Dec. 3, 1985, effective March 24, 1986. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.205 Jeopardy Assessment
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 660-2 originally filed Oct.



28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.210 Assignments and Bankruptcies

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 660-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.215 Estimated Assessment

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Sept. 2, 1983, effective Jan. 1, 1984. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.220 Calendar Month Defined

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 655-2 originally filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Dec. 3, 1985, effective April 25, 1986. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.225 Fifteen Days Defined—Personal Service

(Rescinded January 12, 1985)

AUTHORITY: section 144.705, RSMo 1978. U.T. regulation 680-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Sept. 7, 1984, effective Jan. 12, 1985.

12 CSR 10-4.230 Protest Payment

PURPOSE: This rule clarifies the procedure and requirements where a taxpayer desires to protest the payment of tax assessed against the taxpayer and interprets and applies section 144.700, RSMo.

(1) Overpayments resulting from clerical, mathematical or similar errors should be recovered by following the refund procedures outlined in section 144.695, RSMo. If any taxpayer, in good faith and for just cause,

feels the imposition of Missouri use tax has been improperly charged against him/her, s/he, when making his/her payment, may denote the payment as a protest payment and execute a protest payment affidavit specifically stating the grounds upon which the protest is being made. The claim must be made under oath within thirty (30) days after payment. If this procedure is not followed, all payments will be accepted by the director as proper payments. Protest payment claims are available through the director upon request (see section 144.700, RSMo and 12 CSR 10-4.280).

AUTHORITY: section 144.705, RSMo 1994.* U.T. regulation 680-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.235 Acknowledgement of Informal Hearing

(Rescinded January 12, 1985)

AUTHORITY: section 144.705, RSMo 1978. U.T. regulation 680-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Sept. 7, 1984, effective Jan. 12, 1985.

12 CSR 10-4.240 Administrative and Judicial Review

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 685-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed Jan. 3, 1996, effective July 30, 1996. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

State ex rel. Thompson-Stearns-Roger v. Schaffner, 489 SW2d 207 (1973). The legislature's repeal of old section 144.261 and enactment of new section 144.261 abolished the need for review by the tax commission before judicial review could be sought. Act can only properly be held to have intended to restore the prior system of direct judicial review, without intervening administrative review, of the director's (of revenue) decision in sales tax matters. Therefore, after the director had rejected claimant's request for refund of sales and use tax, claimant was entitled to direct judicial review by mandamus, without need to seek review of decision by State Tax Commission.

12 CSR 10-4.245 Interest Payment

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 685-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

International Business Machines v. State Tax Commission, 362 SW2d 635 (Mo. 1962).

As to sales tax improperly collected, there is a provision for refund, but there is no provision that refunds bear interest.

12 CSR 10-4.250 Liens

(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 690-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.255 Who Should Request Refund

(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 695-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-4.260 Claim Form

(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 695-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-4.265 Refund Rather Than Credit

(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 695-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-4.270 Allowance for Defective Merchandise

(Rescinded September 30, 2001)



AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 695-4 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed March 28, 2001, effective Sept. 30, 2001.

12 CSR 10-4.275 Application Required
(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 695-5 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-4.280 Filing Protest Payment Returns

PURPOSE: This rule prescribes the requirements of a protest payment return and interprets and applies section 144.700, RSMo.

(1) A taxpayer filing a protest payment return must submit a notarized protest payment affidavit with the return reflecting the specific amount of tax being paid under protest (see 12 CSR 10-3.552). The tax must be broken down as state tax, city tax and transportation tax. Three (3) checks must also be remitted: one (1) for the amount of state sales tax being paid under protest; another for the amount of local tax being paid under protest; and a third check for any amount of state and local tax not being protested.

AUTHORITY: section 144.705, RSMo 1994. * U.T. regulation 700-1 originally filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.290 Intent of Rules
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 705-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.295 Rulings
(Rescinded January 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 705-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed July 14, 1999, effective Jan. 30, 2000.

12 CSR 10-4.300 No Waiver of Tax
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 705-4 originally filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

State ex rel. St. Louis Shipbuilding & Steel Co. v. Smith, 201 SW2d 153 (Mo. 1947). The director may not extinguish a lawful indebtedness to the state.

12 CSR 10-4.305 Collection Allowance
(Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 710-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.310 Timely Filing

PURPOSE: This rule refers to the postmark being prima facie evidence in determining the date a return is filed and interprets and applies section 144.655, RSMo.

(1) Returns must be filed as stated in section 144.655, RSMo. The postmark date of the envelope will be prima facie evidence of the date of filing the return.

AUTHORITY: section 144.705, RSMo 1994. * U.T. regulation 710-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.315 Fifteen Days—Defined Personal Service
(Rescinded December 11, 1976)

AUTHORITY: section 144.705 RSMo 1969. Rule filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Aug. 17, 1976, effective Dec. 11, 1976.

12 CSR 10-4.320 Sales Tax Rules Apply

PURPOSE: This rule provides that rules issued under certain sections of the sales tax law apply to use taxes and interprets and applies section 144.720, RSMo.

(1) All sales tax rules pertaining to the state sales tax sections 144.170, 144.220 and 144.230, RSMo apply to the use tax.

AUTHORITY: section 144.705, RSMo 1994. * U.T. regulation 720-1 originally filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.330 Application for Refund/Credit-Amended Returns
(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-4.340 Dual Operators
(Rescinded October 30, 2004)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Oct. 15, 1985, effective March 24, 1986. Rescinded: Filed April 14, 2004, effective Oct. 30, 2004.

12 CSR 10-4.600 Return Required

PURPOSE: This rule interprets the use tax law as it applies to use tax return filing requirements and interprets and applies sections 144.655, and 144.660, RSMo.

(1) A use tax return must be filed and completed in its entirety.

(2) If the state use tax collections exceed two hundred fifty dollars (\$250) in any one (1) calendar month, the business is required to report and remit tax for this month by the twentieth of the following month. Each month stands on its own and the two hundred fifty dollars (\$250) is not a cumulative total. In completing the return for a calendar quarter in which a monthly return has been filed, tax should be computed and shown only for the months not previously filed. The months covered by the return and the month previously filed must be clearly stated on the return.

AUTHORITY: section 144.705, RSMo 1994. * Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.610 Annual Filing

PURPOSE: This rule interprets the use tax



law as it applies to the annual filing of use tax returns and interprets and applies sections 144.655 and 144.660, RSMo.

(1) Any person whose state use tax liability is less than forty-five dollars (\$45) in each calendar quarter may file an annual return for that calendar year on or before January 31 of the succeeding year.

AUTHORITY: section 144.705, RSMo 1994.* Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.620 Aircraft (Rescinded July 30, 2018)

AUTHORITY: section 144.610, RSMo 1994. Original rule filed June 14, 1988, effective Oct. 27, 1988. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.622 Marketing Organizations Soliciting Sales Through Exempt Entity Fund-Raising Activities

PURPOSE: This rule interprets the use tax law applicable to marketing organizations soliciting sales through exempt entity fund-raising activities.

(1) Sales by marketing organizations through representatives or members of elementary and secondary schools, religious and charitable organizations and other not-for-profit entities exempt from sales or use tax are subject to Missouri use tax on the marketing organizations' net receipts from those sales. Use tax is not due or required to be collected on the amount retained by the exempt organization or that portion of the sales proceeds which will be returned to the exempt organization.

(2) Use tax shall be collected on each item sold in accordance with sections 144.610.2. and 144.635, RSMo and the tax may be collected by exempt organizations' members by a separate statement of the tax due on each sales slip or other evidence of sale.

(3) The marketing organization should instruct the exempt organization that use tax must be collected on the portion of gross receipts returned to the marketing organization.

(4) The tax due may be calculated on the proceeds to be returned to the marketing organi-

zation and then added to the original selling price (Example 1) or calculated on the proceeds to be returned to the marketing organization and included as part of the selling price (Example 2).

(5) Example 1: Marketing organization "A" agrees to provide widgets to the band at school "B" to be sold by band members to raise funds for a band trip. The widgets are to be sold for ten dollars (\$10) each, with "A" to receive six dollars (\$6) and "B" four dollars (\$4) per widget. School "B" should collect twenty-five cents (25¢) use tax in addition to the ten dollar (\$10) sales price. The twenty-five cents (25¢) represents use tax at the hypothetical rate of 4.225% on the six-dollar (\$6) taxable receipts and should be remitted by school "B" to organization "A". The four dollars (\$4) received by school "B" is exempt from tax. "A" is required to remit twenty-five cents (25¢) to the Department of Revenue for use tax on its six dollar (\$6) net receipts. It makes no difference whether school "B" (which collects ten dollars and twenty-five cents (\$10.25) from each customer) sends the ten dollars and twenty-five cents (\$10.25) to marketing organization "A" which then returns four dollars (\$4) to band "B" or sends only six dollars and twenty-five cents (\$6.25) to marketing organization "A".

(6) Example 2: Using the same facts as Example 1 in section (5), school "B" could charge ten dollars (\$10) for the widget with the express understanding that the ten dollars (\$10) charged includes the use tax. The tax would be computed on the six dollars (\$6) received by "A". The tax would still be twenty-five cents (25¢) ($\$6 \times 4.225\%$). "A" would be required to remit twenty-five cents (25¢) per widget to the Department of Revenue. School "B" would receive three dollars and seventy-five cents (\$3.75) per widget sold which would not be subject to tax.

AUTHORITY: section 144.705, RSMo 1994.* Original rule filed Feb. 23, 1989, effective Aug. 10, 1989.

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.624 Change of State Use Tax Rate (Rescinded February 28, 2001)

AUTHORITY: section 144.705, RSMo 1994. Emergency rule filed Sept. 29, 1989, effective Oct. 9, 1989, expired Feb. 5, 1990. Original rule filed Sept. 29, 1989, effective Jan. 26, 1990. Rescinded: Filed Aug. 24, 2000, effec-

tive Feb. 28, 2001.

12 CSR 10-4.626 Direct Pay Agreement (Rescinded July 30, 2018)

AUTHORITY: sections 144.190.4 and 144.705, RSMo 1994. Original rule filed July 2, 1990, effective Dec. 31, 1990. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.628 Accrual Basis Reporting (Rescinded January 30, 2012)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Oct. 24, 1990, effective March 14, 1991. Rescinded: Filed July 26, 2011, effective Jan. 30, 2012.

12 CSR 10-4.630 Basic Steelmaking Exemption—Use Tax (Rescinded July 30, 2018)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Nov. 15, 1990, effective June 10, 1991. Rescinded: Filed Jan. 26, 2018, effective July 30, 2018.

12 CSR 10-4.632 Certificate of Deposit—Use Tax (Rescinded March 30, 2001)

AUTHORITY: sections 144.625 and 144.705, RSMo 1994. Original rule filed Dec. 4, 1990, effective April 29, 1991. Amended: Filed Feb. 4, 1991, effective June 10, 1991. Rescinded: Filed Sept. 27, 2000, effective March 30, 2001.

12 CSR 10-4.634 Delivery, Freight and Transportation Charges—Use Tax (Rescinded April 30, 2001)

AUTHORITY: section 144.705, RSMo 1994. Original rule filed Oct. 1, 1993, effective April 9, 1994. Rescinded: Filed Oct. 6, 2000, effective April 30, 2001.