RULES OF

Department of Revenue

Division 10—Director of Revenue

Chapter 103—Sales/Use Tax—Imposition of Tax

Title		Page
12 CSR 10-103.017	Ticket Sales	3
12 CSR 10-103.050	Drinks and Beverages	3
12 CSR 10-103.170	Aggregate Amount Defined	4
12 CSR 10-103.180	Filing Final Return	4
12 CSR 10-103.185	Filing Returns When No Liability Exists	4
12 CSR 10-103.200	Isolated or Occasional Sale	4
12 CSR 10-103.210	Auctioneers and Other Agents Selling Tangible Personal Property	5
12 CSR 10-103.220	Resale	6
12 CSR 10-103.250	Purchaser's Responsibility for Paying Use Tax	7
12 CSR 10-103.310	Timely Filing	8
12 CSR 10-103.350	Sales Tax on Motor Vehicles	8
12 CSR 10-103.360	Titling and Sales Tax Treatment of Boats and Outboard Motors	10
12 CSR 10-103.370	Manufactured Homes	11
12 CSR 10-103.380	Photographers, Photofinishers and Photoengravers, as Defined in Section 144.030 RSMo (Rescinded April 30, 2009)	12
12 CSR 10-103.381	Items Used or Consumed by Photographers, Photofinishers and Photoengravers, as Defined in Section 144.054, RSMo (Rescinded April 30, 2026)	12
12 CSR 10-103.390	Veterinary Transactions	12
12 CSR 10-103.395	Physicians, Dentists, and Optometrists	13
12 CSR 10-103.400	Sales Tax on Vending Machine Sales	13
12 CSR 10-103.500	Sales of Food and Beverages to and by Public Carriers	15

12 CSR 10-103.555 Determining Taxable Gross Receipts 15
12 CSR 10-103.560 Accrual vs. Cash Basis of Accounting 17
12 CSR 10-103.600 Sales of Tangible Personal Property and Services 17
12 CSR 10-103.610 Sales of Advertising 19
12 CSR 10-103.620 Florists. 20
12 CSR 10-103.630 Return Required 21
12 CSR 10-103.640 Annual Filing. 21
12 CSR 10-103.700 Packaging and Shipping Materials 21
12 CSR 10-103.800 Tax Computation. 22
12 CSR 10-103.876 Taxation of Sod Businesses 22

TITLE 12 — DEPARTMENT OF REVENUE
Division 10 — Director of Revenue
Chapter 103 — Sales/Use Tax — Imposition of Tax

12 CSR 10-103.017 Ticket Sales

PURPOSE: This rule clarifies what sales tax is required to be paid and collected on the sale of tickets. Applicable sales taxes are enumerated and the method of determining the tax due is specified. This rule interprets and applies sections 144.010.1(4) and 144.020, RSMo.

(1) In general, all tickets sold to permit admission to any theater, sporting event, exhibit, or any other event are subject to sales tax that should be collected by the seller. This includes all paper and digital tickets.

(2) Basic Application of Tax.

(A) All tickets sold to permit admission to any theater, sporting event, exhibit, or any other event where sales tax is required to be paid and collected must contain a statement on the face of the ticket "This ticket is subject to a sales tax," as provided in section 144.020.2., RSMo.

(B) All tickets stating a single amount as the price for the ticket and containing the statement set forth in section (1) shall be subject to the sales tax on the single amount so stated and the tax rate shall be applied against that amount.

(C) If the total selling price of a ticket is intended to include sales tax, the vendor must advise the purchaser of the cost of admission and the amount of tax by printing these amounts on the ticket, by posting a prominently displayed sign stating that amount, by breaking those figures out in the digital ticket, or by giving other written notice.

1. The ticket or notice must contain the following language:

Cost of admission	$(amount)
Sales tax	$(amount)
Ticket price	$(amount)

2. Otherwise, the vendor shall be subject to sales tax on all receipts and the total price of the tickets shall be considered receipts.

(D) All ticket sales are also subject to all applicable local sales taxes and all special purpose state sales taxes, which may now be or become applicable to these sales. The seller may include an additional statement that the ticket is subject to all applicable sales taxes, both state and local. Any local license fees must be included in the gross receipts of the sale of the ticket and sales tax must be collected and remitted on that amount.

(E) If the cost of admission and the applicable sales tax is not separately stated to the purchaser, as set out in section (3), the vendor shall be subject to sales tax on all receipts and the total price of the tickets shall be considered taxable receipts.

AUTHORITY: section 144.270, RSMo 2016. This rule originally filed as 12 CSR 10-3.017. Original rule filed Dec. 5, 1983, effective March 11, 1984. Amended: Filed Oct. 15, 1984, effective Feb. 11, 1985. Moved to 12 CSR 10-103.017 and amended: Filed Oct. 2, 2018, effective April 30, 2019. Amended: Filed Aug. 28, 2025, effective Feb. 28, 2026.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*

***The St. Louis Rams LLC, f/k/a The St. Louis Rams Partnership v. Director of Revenue**, 526 S.W.3d 124 (Mo. banc 2017). The Court held that entertainment license tax (ELT), which the franchise was obligated to pay to city based upon the gross receipts derived from admission charges and that professional sports franchise passed directly onto ticket buyers, was included in "the amount paid for admission," for purposes of sales tax statute. Thus the total amount franchise received from ticket buyers, including the ELT, was subject to sales tax and did not constitute a tax upon a tax.*

12 CSR 10-103.050 Drinks and Beverages

PURPOSE: This rule interprets the sales tax law as it applies to the sale of drinks and beverages, and interprets and applies sections 144.010 and 144.088, RSMo.

(1) Sales tax applies to the total selling price of drinks and beverages, whether intoxicating or otherwise, unless the business or person selling the drink has a prominently displayed sign separately stating the price of the drink as well as the amount of the applicable sales tax or has an express written notice stating the price of the drink as well as the amount of the applicable sales tax on the menu, ticket, bill or cash register receipt which is supplied to each and every patron.

(2) Example 1: A bar sells mixed drinks for two dollars ($2). There are neither signs in the establishment nor any other written notification supplied to each patron that separately states the price of the drink and the applicable sales tax. The business is subject to sales tax on the two dollars ($2).

(3) Example 2: A bar sells mixed drinks for one dollar and seventy-five cents ($1.75) plus twenty-five cents (25¢) sales tax for a total price of two dollars ($2). The bar has a prominently displayed sign that reads: Mixed drinks one dollar and seventy-five cents ($1.75). The business is subject to sales tax on the one dollar and seventy-five cents ($1.75).

(4) Example 3: A bar sells mixed drinks for two dollars ($2). The bar supplies the patron, simultaneously with the drink, a cash register receipt that reads: Mixed drinks one dollar and seventy-five cents ($1.75) plus twenty-five cents (25¢) sales tax, total two dollars ($2). The business is subject to sales tax on the one dollar and seventy-five cents ($1.75).

(5) Example 4: A restaurant sells mixed drinks for one dollar and seventy-five cents ($1.75) plus twenty-five cents (25¢) sales tax for a total price of two dollars ($2). The restaurant provides to each patron a menu which states: Mixed drinks one dollar and seventy-five cents ($1.75). The restaurant is subject to sales tax on the one dollar and seventy-five cents ($1.75).

(6) Example 5: A restaurant has an attached lounge that sells mixed drinks for two dollars ($2). While the patrons sitting in the restaurant are supplied with a menu which complies with section (5), the lounge patrons are not supplied with any written notification, such as a sign or otherwise, therefore, the restaurant lounge is subject to sales tax on the two dollars ($2).

AUTHORITY: section 144.270, RSMo 2016. This rule was previously filed as rule no. 66 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-21 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed April 11, 1984, effective Oct. 11, 1984. This rule was previously filed as 12 CSR 10-3.050. Moved to 12 CSR 10-103.050, effective Aug. 31, 2023. Amended: Filed Aug. 28, 2025, effective Feb. 28, 2026.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*

***Carousel, Inc. v. Director of Revenue**, (A.H.C. 2016). The Administrative Hearing Commission found that Carousel did not correctly calculate and remit sales tax on its room rentals. The commission agreed with the director's assessment that Carousel should have collected and remitted sales tax on the full room rate, as there was no indication to customers that sales tax was included in the room charge. Carousel's method of backing out sales tax from the room rate was not supported by law, as the sales tax was not separately stated or charged. Consequently, Carousel is also liable for the additions to tax and interest as a matter of law.*

12 CSR 10-103.170 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).

AUTHORITY: section 144.705, RSMo 2016. U.T. regulation 655-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. This rule was previously filed as 12 CSR 10-4.170. Moved to 12 CSR 10-103.170 and amended: Filed July 25, 2023, effective March 30, 2024.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.180 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. This rule was previously filed as 12 CSR 10-4.180. Moved to 12 CSR 10-103.180, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.185 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. This rule was previously filed as 12 CSR 10-4.185. Moved to 12 CSR 10-103.185, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.200 Isolated or Occasional Sale

PURPOSE: Section 144.020.1(1), RSMo, imposes a tax on sellers engaged in the business of selling tangible personal property or rendering taxable service at retail. Section 144.010.1(2), RSMo, excludes certain isolated or occasional sales from tax. This rule explains when a sale is a nontaxable, isolated or occasional sale.

(1) In general, sales of tangible personal property are subject to tax only if the taxpayer is engaged in the business of making such sales. Isolated or occasional sales by a person not engaged in the business generally are not taxable. There are exceptions to this rule based on the frequency of such sales and total dollars of annual sales.

(2) Definition of Terms.

(A) Business — any activity engaged in by a person, or caused to be engaged in by the person, with the object of direct or indirect gain, benefit, or advantage.

(B) Nonbusiness enterprise — any activity engaged in by a person that is not part of the person's business.

(C) Person — any individual or group acting as a unit.

(3) Basic Application.

(A) Isolated or occasional sales of tangible personal property made by persons not engaged in the business of selling such property are not subject to tax if the gross receipts from all such sales are less than three thousand dollars ($3,000) in a calendar year.

(B) Factors which are considered in deciding if a taxpayer is engaged in business include, but are not limited to, the following criteria:

1. Holding out as being engaged in business by the seller, such as advertising in telephone books, media advertising, solicitation, etc.;
2. Frequency and duration of sales; and
3. The nature of the market for the service or property sold

or leased.

(C) If annual sales exceed three thousand dollars ($3,000) in a calendar year, such sales will not be considered isolated or occasional, even though the taxpayer is not regularly engaged in the business of selling such products.

(D) Sales made in the partial or complete liquidation of a household, farm, or nonbusiness enterprise are not included in the three thousand dollars ($3,000) threshold. These sales are not taxable.

(4) Examples.

(A) A grocery store sells a used cash register for $1,000. No other non-inventory items are sold during the year. This would qualify as an isolated or occasional sale, and would not be subject to tax.

(B) Same facts as in (A), except that the taxpayer sells used cash registers and fixtures that total $4,000 during the calendar year. The taxpayer replaces these cash registers and fixtures by purchasing new models. The total $4,000 of these sales is subject to tax.

(C) Same facts as in (B), except that the taxpayer does not replace the cash registers or fixtures. This would qualify as a partial liquidation of a nonbusiness enterprise. Therefore, the sales are not subject to tax even though the gross receipts exceed $3,000 in a calendar year.

(D) A barbershop sells tangible personal property (shampoo, combs, etc.) as a regular part of its ongoing business. These sales are subject to sales tax even if the gross receipts are less than $3,000 in a calendar year.

(E) A construction company buys new equipment every few years, and sells its used equipment to other construction businesses. Gross receipts from these sales exceed $3,000 in a calendar year. The construction company is required to collect tax on the sale of the used equipment.

(F) A homeowner holds a weekend garage sale once a year. As long as the property was not created with the intent to sell or purchased for resale, the sale of the merchandise is not subject to tax because the garage sale qualifies as a partial liquidation of a household.

(G) A person regularly attends garage sales. He buys merchandise that he intends to sell at his monthly garage sales. The gross receipts from his garage sales are taxable even if they do not exceed $3,000 because he is in the business of operating garage sales.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000, effective July 30, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

*In **Staley v. Missouri Director of Revenue**, 623 SW2d 246 (Mo. Banc 1981) a partnership contracted to sell all furnishings in a one time liquidation sale. The court found that since Section 144.020 provided that "business" and "isolated and occasional sale" are separate terms, no tax is due on isolated or occasional liquidation sales by parties not engaged in the business of selling such items.*

12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property

PURPOSE: This rule interprets the sales and use tax law as it applies to sales of tangible personal property when an auctioneer or other agent is involved in the sale.

(1) In general, an auctioneer who does not disclose the principal will be considered the seller of the tangible personal property and will be required to collect and remit sales tax on the gross receipts of the property sold. The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An organization exempt from tax on its sales (see 12 CSR 10-110.955) acting as an agent to sell tangible personal property to raise funds for the exempt organization is not required to collect and remit tax; the principal must collect and remit the tax. All other agents selling tangible personal property, by consignment or otherwise, must collect and remit tax even if the principal is disclosed.

(2) Definition of Terms.

(A) Agent — a person who acts on behalf of a principal.

(B) Auctioneer — an agent licensed as an auctioneer who sells tangible personal property belonging to another at public or private auction and who receives compensation for conducting the sale.

(C) Principal — a person who empowers another to act on his/her behalf.

(3) Basic Application of Tax.

(A) The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An auctioneer may disclose the principal by written or oral communication to the purchasers.

(B) Tangible personal property sold at public or private auction in the course of the partial or complete liquidation of a household, farm or non-business enterprise is not subject to tax. See 12 CSR 10-103.200.

(C) Tangible personal property, except inventory of the seller, sold at public or private auction in the course of a liquidation of a business is not subject to tax. The sale of inventory is subject to tax.

(4) Examples.

(A) An auctioneer conducts a weekly auction in which the auctioneer sells various items obtained from numerous undisclosed principals. The auctioneer must collect and remit sales tax on these sales.

(B) An auctioneer conducts an auction on behalf of a disclosed principal. The principal is responsible for collecting and remitting the sales tax on the sales.

(C) A retired farmer contracts with an auctioneer to sell the assets of the family farm. The receipts from these sales are not subject to tax because the assets are sold in the course of a partial or complete liquidation of a household, farm or non-business enterprise.

(D) A grocery store is going out of business and contracts with an auctioneer to sell the fixtures and inventory of the store. The sales of the cash registers, display counters and refrigeration equipment are not subject to sales tax as a liquidation of a business. The sales of inventory items such as groceries are subject to sales tax.

(E) An antique store sells some goods on consignment from the owners. The store agrees with the owners to split the proceeds of the sale, 60% to the owner and 40% to the store. The store must collect and remit tax on the entire sale price even if it discloses the owners of the consigned goods.

(F) An art gallery sells works by artists for a commission. The gallery must collect and remit tax on the entire sale price even though the artists are disclosed.

(G) A parent teacher organization (PTO) agrees with a candy

company to sell candy as a fundraiser for a public elementary school. The PTO buys the candy from the company and has the right to return any unsold candy over the minimum agreed amount. The sale is not subject to tax because the PTO is the seller of the candy and its sales are exempt from tax as sales by a public elementary school.

(H) A parent teacher organization agrees with a wrapping paper company to sell wrapping paper as a fundraiser for a public elementary school. The PTO takes orders for the wrapping paper and forwards the orders to the company. The PTO never takes title to the wrapping paper – it merely takes the orders and delivers the paper. The company must collect and remit tax because the company is the seller of the wrapping paper.

AUTHORITY: section 144.270, RSMo 2000. Original rule filed Sept. 9, 2004, effective March 30, 2005.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

12 CSR 10-103.220 Resale

PURPOSE: This rule interprets the resale exemption in section 144.615(6), RSMo, and the resale exclusion in section 144.010.1(9), RSMo.

(1) In general, purchases of tangible personal property or taxable services are not subject to sales or use tax if purchased for ultimate sale at retail.

(2) Definition of Terms.

(A) Purchase for resale – a purchase for ultimate sale at retail.

(B) Sale – any transfer of title or ownership to tangible personal property or rendering of taxable service for consideration.

(C) Sale at retail – a sale of tangible personal property or services for use or consumption by the purchaser that is taxable under section 144.020, RSMo.

(3) Basic Application of Tax.

(A) A taxpayer may purchase tangible personal property or taxable services for resale if the purchase is for subsequent sale at retail. Purchases of tangible personal property or taxable services that are not subsequently transferred in transactions that constitute sales at retail are taxable at the time of purchase.

(B) When tangible personal property is given away, tax must be paid at the time of purchase, unless there is a bargained for exchange between the seller and buyer and a direct quantitative connection between the giveaway and actual sales at retail.

(C) The purchase of tangible personal property resold as real property or incidental to the rendering of a nontaxable service is taxable.

(D) If a purchaser makes more than a nominal use of the tangible personal property before the resale takes place, the purchase is subject to tax.

(4) Examples.

(A) A grocery store purchases bread and other food items from a wholesaler. Because the food items will be resold, the grocery store may purchase them without paying tax.

(B) A grocery store purchases grocery bags. The grocery bags are provided only to customers who purchase merchandise. The grocery bags can be purchased exempt from tax because they are transferred to the customer as part of the sale of the merchandise.

(C) An appliance store purchases a refrigerator for its own use. Tax is due on the purchase of the refrigerator even if the refrigerator is ultimately sold at retail after its use.

(D) A taxpayer selling building materials purchases boxes and other packaging materials. These purchases are used to ship its products to its customers. The boxes and other packaging materials can be purchased exempt from tax as a purchase for resale.

(E) A taxpayer sells custom software. The taxpayer's purchases of compact discs and related packaging materials are subject to tax because custom software is the sale of a nontaxable service. Consequently, the compact discs and packing materials do not qualify as purchases for resale.

(F) A taxpayer purchases boxes to store merchandise within the taxpayer's warehouse. The boxes are not shipped to a customer. The purchase of the boxes is subject to tax.

(G) A business advertises a buy one, get one free sale. The business does not have to pay tax at the time of purchase of the "free" item because it is subsequently resold as part of the sales transaction.

(H) A professional baseball team gives promotional baseballs to the first 10,000 customers. The team should not pay tax on the purchase of the baseballs because tax is collected and remitted on the sale of the tickets.

AUTHORITY: sections 144.010(9) and 144.615(6), RSMo Supp. 2004 and 144.150, 144.270 and 144.705, RSMo 2000. Original rule filed Sept. 27, 2000, effective March 30, 2001. Amended: Filed Aug. 26, 2005, effective Feb. 28, 2006.*

**Original authority: 144.010, RSMo 1939, amended 1941, 1943, 1945, 1947, 1974, 1975, 1977, 1978, 1979, 1981, 1985, 1988, 1993, 1996, 1998, 1999, 2001; 144.150, RSMo 1939, 1941, 1943, 1945, 1961, 1987, 1990, 1994; 144.270, RSMo 1939, amended 1941, 1943, 1947, 1955, 1961; 144.615, RSMo 1959, amended 1961, 1985, 1986, 2003, 2004; and 144.705, RSMo 1959.*

Kansas City Power & Light Co. v. Director of Revenue, *83 S.W.3d 548 (Mo. banc 2002). The taxpayer claimed a resale exemption for electricity purchased by hotels for use in guest rooms. The Court held that the hotels transferred the right to control the electricity when the guest was able to adjust the temperature. The guests pay consideration for that right when they pay for the hotel room because the cost of the electricity is "factored into" the cost of the room. Therefore, the sales of electricity to the hotels for use in the guest rooms were not subject to tax. The Court also affirmed the Administrative Hearing Commission's calculation of the refund due based on a square footage analysis as "the best method available on the record before it." The Court recognized, however, that there were substantial questions regarding whether such a measure would withstand scrutiny on a more complete record "in a future case."*

Kansas City Royals Baseball Corp. v. Director of Revenue, *32 S.W.3d 560 (Mo. banc 2000). The taxpayer claimed a resale exemption for promotional items distributed to its paying customers at its baseball games. The promotional items were also given away to attendees who had complimentary tickets and if items were left after a game, people received them without paying any admission at all. The Court found that consideration was paid for the promotional items because the cost of the items was "factored into" the price of the tickets to see the game. The Court stated: "there is a direct connection between the ticket price charged the paid attendees who received the promotional items and the promotional items themselves."*

***Westwood Country Club v. Director of Revenue**, 6 S.W.3d 885 (Mo. banc 1999), determined that meals and beverages served by Westwood, a private club not open to the public, were not sales at retail. Westwood could not claim a resale exemption on its purchases of food and beverages. The Court also found that Westwood did not owe sales tax on fees that it charged for use of its golf carts because it paid sales tax on its purchases of the golf carts.*

***Aladdin's Castle, Inc. v. Director of Revenue**, 916 S.W.2d 196 (Mo. banc 1996), dealt with the taxation of prizes awarded to customers playing arcade games. Aladdin collected and remitted sales tax on tokens purchased by customers to play the arcade games. Aladdin purchased the prizes for resale and did not pay a tax. The Court found that Aladdin met the three factors set forth in **Sipco, Inc. v. Director of Revenue** and did not have to show that the cost of the prizes was specifically factored into the price of the sale of tokens to each customer to take advantage of the resale exemption.*

*In **Sipco, Inc. v. Director of Revenue**, 875 S.W.2d 539 (Mo. banc 1994), the issue was whether dry ice used to package fresh pork products for transport to customers was exempt as a purchase for resale. The court held that the seller need not show the cost is specifically factored into the price of the goods in order to claim a resale exemption. The Court stated that "one need not be an accountant to understand that the value of the dry ice was factored into the total consideration paid for the pork."*

*In **Spudich v. Director of Revenue**, 745 S.W.2d 677 (Mo. banc 1988), a taxpayer purchased billiard tables for display and possible resale. The Supreme Court held that the exemption for resale was available only for items purchased solely for resale. The billiard tables in question were purchased primarily as display items to solicit orders. Any resale of the tables was incidental to their primary purpose. Resale only occurred if that particular table was the last of its kind in inventory or a customer wanted that specific table. The Court held the taxpayer's purchases subject to use tax.*

***R & M Enterprises v. Director of Revenue**, 748 S.W.2d 171 (Mo. banc 1988), dealt with the taxation of samples. The Court noted that there was no quantitative connection between the furnishing of sample books to retailers and the purchase of fabric by retailers for their customers. Therefore, R & M was required to pay sales/use tax on their purchases of sample books.*

12 CSR 10-103.250 Purchaser's Responsibility for Paying Use Tax

PURPOSE: This rule explains when a purchaser is required to pay use tax pursuant to sections 144.610 and 144.655, RSMo.

(1) In general, when a taxpayer purchases tangible personal property from outside the state for use, storage or consumption in this state the taxpayer must pay use tax. Any Missouri tax due is reduced by any sales or use tax properly paid to another state.

(2) Basic Application of Tax.

(A) Generally, if a taxpayer does not pay use tax to a seller on out-of-state purchases of tangible personal property for use, storage or consumption in this state, the taxpayer must file a use tax return and remit the tax.

(B) If a taxpayer's out-of-state taxable purchases on which tax has not been paid are less than two thousand dollars ($2,000) in a calendar year, the taxpayer is not required to file a use tax return. This is an exclusion from filing, but not a two thousand dollar ($2,000) use tax exemption. Therefore, if the annual taxable purchases on which tax has not been paid equal or exceed two thousand dollars ($2,000) the taxpayer must report and pay on the total taxable purchases (including the first two thousand dollars ($2,000) of taxable purchases). Any amount of tax reported by the taxpayer must be remitted with the return.

(C) An out-of-state seller with nexus must collect tax even if the buyer expects to have less than two thousand dollars ($2,000) in out-of-state purchases for the year.

(D) The buyer is liable for the tax on its purchases unless the buyer has proof of paying Missouri tax to the seller. When an out-of-state seller has nexus, the seller is also liable for the tax.

(3) Examples.

(A) A grocery store purchases a freezer for $5,000 from an out-of-state seller. The out-of-state seller did not collect any use tax. The grocery store is required to report and pay tax on this purchase on its next use tax return.

(B) Same facts as in (3)(A), except the out-of-state seller invoiced the grocery store and collected Missouri use tax. The grocery store is not required to report this purchase on a use tax return.

(C) During the first quarter of the calendar year, a taxpayer registered to pay use tax purchased $1,800 of tangible personal property from an out-of-state seller. The seller did not collect tax and there is no exemption covering these purchases. Because the year-to-date total of out-of-state taxable purchases is less than $2,000, the taxpayer is not required to report the $1,800 on that quarter's use tax return or pay any tax, even though the department may require a registered taxpayer to file a return. The taxpayer should check the box on the return marked "I do not have cumulative taxable purchases totaling more than $2,000 this calendar year and do not owe Consumer's Use Tax at this time." The taxpayer should not enter figures on the consumer's use tax line on the return. If figures are entered on the return, the tax is due.

(D) A taxpayer purchases $1,500 of items during each of the first and second quarters. No purchases were reported for the first quarter. Because the year-to-date total of out-of-state taxable purchases now exceeds $2,000, the taxpayer must report the entire $3,000 ($1,500 from the first quarter plus $1,500 from the second quarter) on the second quarter use tax return and pay the tax.

(E) A Missouri business purchases goods from a Kansas distributor and picks up the goods in Kansas. The Kansas distributor properly collects Kansas tax on the transaction. The business brings the goods to Missouri for use. Use tax is due on the goods, but a credit is allowed for the amount of Kansas tax paid on the goods. If the Kansas tax was not properly due under Kansas law on the transaction, no credit is allowed against the Missouri use tax.

AUTHORITY: section 144.705, RSMo 2000. Original rule filed Nov. 9, 2000, effective May 30, 2001.*

**Original authority: 144.705, RSMo 1959.*

***Rembrandt Restaurant, Inc. v. Director of Revenue** (AHC 1995). The fact that an out-of-state seller has nexus with Missouri does not relieve the Missouri purchaser from liability for use tax.*

***Witt & Juckette v. Director of Revenue** (AHC 1981). A construction company was charged Iowa tax on materials. The tax was improperly imposed. The commission held no credit was allowed*

against Missouri tax because the tax was not properly imposed.

12 CSR 10-103.310 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. This rule was previously filed as 12 CSR 10-4.310. Moved to 12 CSR 10-103.310, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.350 Sales Tax on Motor Vehicles

PURPOSE: This rule explains the application of sales tax on the sale of motor vehicles as it relates to sections 144.010.1(5), 144.020.1(1), 144.025.1, 144.069 and 144.070, RSMo.

(1) In general, the sale of motor vehicles and trailers are subject to tax.

(2) Definition of Terms.

(A) Agricultural use — used in cultivating or raising agricultural products.

(B) All-terrain vehicle — any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches (50") or less in width, with an unladen dry weight of six hundred (600) pounds or less, traveling on three (3), four (4) or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

(C) Grain or livestock produced or raised by the purchaser — means the purchaser of the motor vehicle or trailer has either cultivated the grain or has cared for the livestock.

(D) Highway — any public thoroughfare for vehicles.

(E) Motor vehicle — any self-propelled vehicle not operated exclusively upon tracks, except farm tractors. Off-road utility vehicles are not motor vehicles, but all-terrain vehicles are treated as motor vehicles for purposes of this rule.

(F) Off-road utility vehicle — any motorized vehicle manufactured and used exclusively for off-highway use with a seat that is not designed to be straddled by the operator, and with a steering mechanism other than handlebars.

(G) Trailer — any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle, except those running exclusively on tracks, cotton trailers and manufactured homes.

(H) Vehicle — any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.

(3) Basic Application.

(A) Sales tax on motor vehicles and trailers is remitted to the Department of Revenue when submitting the application for title to the department. The applicable tax rate is the rate in effect at the address of the purchaser at the time the application is submitted to the department.

(B) If a person purchases a motor vehicle or trailer, and, before titling and registering it in Missouri, moves and titles it out-of-state within thirty (30) days of the purchase, no Missouri tax is due. If a person registers a motor vehicle or trailer in another state and regularly operates it in such state for at least ninety (90) days prior to registering it in Missouri, no Missouri tax is due. If the vehicle is brought to Missouri within ninety (90) days of registering the motor vehicle or trailer, Missouri tax is due but is reduced by any tax paid to the other state.

(C) A person registered with the department as a motor vehicle leasing company may elect to pay tax on its purchase of a motor vehicle or trailer or may purchase the motor vehicle or trailer without paying tax on the purchase and collect and remit tax on the lease receipts. If the motor vehicle leasing company chooses to pay tax on its purchase rather than the lease receipts, the tax rate it remits is based on the location of the motor vehicle leasing company. If the motor vehicle leasing company elects to collect and remit tax on the lease receipts and the lease is for more than sixty (60) days, tax is due on any down payment and lease receipts based on the address of the lessee. If the lease is for sixty (60) days or less, tax is due based on the location of the motor vehicle leasing company. Once a motor vehicle leasing company makes an election to pay tax on its purchases or to collect and remit tax on its subsequent lease receipts, the election must be the same for all vehicles it purchases for lease. To qualify as a motor vehicle leasing company that will remit tax on lease receipts, the company must first obtain a permit to operate as a motor vehicle leasing company from the department.

(D) When a person trades tangible personal property to a motor vehicle dealer for a motor vehicle or trailer, tax is due on the difference between the price of the motor vehicle or trailer purchased and the amount allowed for the trade-in. If the amount allowed for the trade-in is greater than the purchase price of the motor vehicle or trailer, no tax is due. When a manufacturer's rebate is offered, the tax due is based on the purchase price of the motor vehicle or trailer less the rebate. A trade-in allowance applies only to transactions between a purchaser and a motor vehicle dealer.

(E) Except as provided in subsection (3)(F), if an article is traded for a motor vehicle or trailer, the person trading the article must have paid or otherwise satisfied the tax on the purchase of the article unless the purchase was exempt or excluded from tax.

(F) Grain or livestock raised or produced by a purchaser may be traded for a motor vehicle or trailer, if the motor vehicle or trailer is purchased from a motor vehicle dealer for agricultural use.

(G) If a person purchases or contracts to purchase a motor vehicle or trailer and sells one (1) or more motor vehicles or trailers within one hundred eighty (180) days before or after the purchase or contract to purchase, the person owes tax on the difference between the purchase price and the sale price of the respective motor vehicles or trailers. If the person paid the full amount of the tax on the purchase, the person may obtain a refund of the excess tax paid.

(H) If a person suffers a total insurance loss and subsequently purchases or contracts to purchase a replacement vehicle after the date of loss but no later than one hundred eighty (180) days after the date of the total loss payment, the person can offset the insurance payoff amount plus any deductible against the purchase price and remit tax on the difference. If the vehicle

is not covered by insurance, the person must purchase the replacement vehicle within one hundred eighty (180) days of the loss. The person can only offset the loss against the purchase of one (1) replacement vehicle.

(I) If a person who has previously titled and paid tax on a vehicle gives the vehicle to another person, the person must complete a gift statement for the person to whom the vehicle was given to present when titling with the department. No tax is due.

(J) A sale of an all-terrain vehicle by a non-dealer is subject to sales tax if the purchase price is more than three thousand dollars ($3,000). A sale of an all-terrain vehicle by a non-dealer is not subject to sales tax if the purchase price is three thousand dollars ($3,000) or less. See 12 CSR 10-103.200.

(4) Examples.

(A) A person purchases a vehicle for $18,000 at the local car dealership. As a part of the transaction, the dealer offers a $500 rebate and the person trades a vehicle for another $3,000. The purchaser must pay tax to the Department of Revenue when titling the vehicle on $14,500 ($18,000 – $3,500 = $14,500). The applicable rate is the rate in effect at the purchaser's address at the time of titling.

(B) A person purchases a vehicle from a dealer for $25,000 in May. That person pays tax on $25,000. In June, the person sells a different vehicle for $15,000 and an outboard motor for $500. Because the sales took place within 180 days of the purchase of the vehicle, the person can obtain a refund of tax paid on the purchase transaction based upon the $15,500 received on the sale.

(C) A person is in an accident that results in a total loss of the vehicle. After the loss of this vehicle, the person buys a new vehicle for $15,000 and pays tax on the full amount when titling the vehicle with the department. Two weeks after purchasing the vehicle, the insurance company pays $5,000 on the loss of the vehicle. The policy included a $500 deductible. The person can obtain a refund of tax based upon $5,500, which includes the $5,000 paid by the insurance company and the $500 deductible.

(D) A person owns a motor vehicle. The person buys a second motor vehicle and puts the first motor vehicle on the market. Before the first vehicle is sold, it is in an accident that results in a total loss of the vehicle. Two weeks after the accident, the insurance company pays $5,000 on the loss of the first vehicle. The person cannot obtain a refund of tax because the person did not purchase a replacement vehicle after the first vehicle was destroyed.

(E) A person is in an accident that results in a total loss of the vehicle. The vehicle was not insured. After the loss of this vehicle, the person buys a new vehicle for $15,000. The Kelly Blue Book value for the lost vehicle is $5,000. When titling the vehicle with the department, the person pays tax on $10,000, which is the $15,000 cost of the new vehicle less the value of the loss.

(F) A person purchases an all-terrain vehicle from a local dealer. The purchaser must obtain a title and remit tax to the department based on the rate in effect at the purchaser's location at the time of titling.

(G) A business sells an off-road utility vehicle. The utility vehicle is not a motor vehicle and does not need to be titled. The business must collect and remit tax on the sale.

(H) A person trades in grain valued at $5,000 to a dealer on the purchase of a cattle trailer valued at $10,000. The purchaser grew the grain and will use the cattle trailer in its business of raising cattle. The purchaser receives a trade-in credit of $5,000 on the purchase of the trailer because the purchaser produced the grain and the trailer is used by the purchaser in agriculture.

(I) Same situation as subsection (4)(H), except the purchaser's son produced the grain. The purchaser receives no trade-in credit because the purchaser did not produce the grain that was traded.

(J) A landowner agrees with a local farmer that the farmer can farm some of landowner's land in exchange for 50% of the crops produced on the land. The landowner trades in grain grown by the farmer on the land on the purchase of a horse trailer used in the landowner's breeding operations. The landowner receives a trade-in credit on the purchase of the trailer. The landowner shares the risk of a successful harvest and therefore, is cultivating the grain.

(K) A landowner agrees with a local farmer that the farmer can farm some of landowner's land in exchange for $1,000. The farmer delivers grain grown on the land valued at $1,000 in payment of the rent. The landowner trades in the grain on the purchase of a horse trailer used in the landowner's breeding operations. The landowner does not receive a trade-in credit on the purchase of the trailer because the landowner is merely renting land, not cultivating grain.

(L) A farmer sells grain raised by the farmer to an elevator and directs the elevator to pay the farmer for the grain by delivering a check payable to a local motor vehicle dealer. The farmer uses the check to purchase a pickup truck that will be used to haul and carry necessary supplies and materials to and from the farm. The transaction does not qualify for the trade-in allowance because the grain was not traded to the dealer for the truck. Instead, it was sold to the elevator and the proceeds were used to purchase the truck.

(M) An out-of-state motor vehicle leasing company purchases a motor vehicle out of state and leases it to a Missouri resident. The leasing company has elected to pay tax on lease receipts rather than on the purchase. The lease payments are subject to sales tax at the rate in effect at the location of the Missouri resident.

(N) An out-of-state motor vehicle leasing company purchases a motor vehicle out-of-state and leases it to an out-of-state resident. The resident's state requires the leasing company to pay tax on all proceeds under the lease at the time of the lease. During the term of the lease, the lessee moves to Missouri. Under section 144.440, RSMo, the lease payments are subject to highway use tax at the rate in effect at the location of the Missouri resident. The lessor receives credit for any tax paid to another state on the lease receipts.

(O) An individual purchases a used motor vehicle by making a down payment, trading in another vehicle, and using dealer financing for the balance of the purchase price. Prior to titling the vehicle, the dealer repossesses the vehicle for failure to make payments under the financing agreement. The individual still owes sales tax on the purchase of the vehicle unless the dealer agrees in writing to void the sale and return all payments and the trade-in to the purchaser.

AUTHORITY: sections 144.010.1(5), 144.020.1(1) and 144.025.1, RSMo Supp. 2005 and 144.069, 144.070 and 144.270, RSMo 2000. Original rule filed Sept. 12, 2005, effective March 30, 2006.*

**Original authority: 144.010, RSMo 1939, amended 1941, 1943, 1945, 1947, 1974, 1975, 1977, 1978, 1979, 1981, 1985, 1988, 1993, 1996, 1998, 1999, 2001, 2005; 144.020, RSMo 1939, amended 1941, 1943, 1945, 1947, 1963, 1965, 1972, 1975, 1979, 1982, 1985, 1996, 1998, 2001; 144.025, RSMo 1963, amended 1977, 1979, 1985, 1986, 1994, 1998, 2003, 2004, 2005; 144.069, RSMo 1986, amended 1996; 144.070, RSMo 1939, amended 1941, 1943, 1945, 1947, 1951, 1961, 1974, 1975, 1977, 1985, 1997; and 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

12 CSR 10-103.360 Titling and Sales Tax Treatment of Boats and Outboard Motors

PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale and lease of watercraft and outboard motors pursuant to sections 144.020.1(8), 144.069 and 144.070, RSMo. Chapter 306 requires the owner to obtain a certificate of title for certain watercraft and outboard motors from the Department of Revenue.

(1) In general, the purchaser must pay directly to the Department of Revenue the sales tax due on the sale of watercraft and outboard motors required to be titled. The sales tax due on the sale of all other watercraft must be collected from the purchaser by the seller and remitted to the Department of Revenue.

(2) Definition of Terms.

(A) Boat/outboard motor leasing company — A company obtaining a permit from the Department of Revenue to operate as a boat or outboard motor leasing company.

(B) Documented vessel — A vessel documented by the United States Coast Guard or other agency of the federal government. Such vessels are not subject to any state or local sales or use tax but are instead subject to an in-lieu watercraft tax. See section 306.016, RSMo, for information regarding the in-lieu tax.

(C) Motorboat — Any watercraft propelled by machinery, whether or not such machinery is the principal source of propulsion.

(D) Outboard motor — an internal combustion engine with an integrally attached propeller or waterjet propulsion unit temporarily secured to the stern of a boat.

(E) Personal watercraft — A class of inboard vessel, which uses an internal combustion engine powering a jet pump as its primary source of propulsion.

(F) Vessel — Any motorboat or motorized watercraft; also, any watercraft more than twelve feet (12') in length which is powered by sail or a combination of sail and machinery. The term vessel does not include any watercraft solely propelled by a paddle or oars. A vessel kept within this state must be registered and titled.

(G) Watercraft — Any boat or craft used or capable of being used as a means of transport on waters. Watercraft may or may not be required to be titled.

(3) Basic Application of Tax.

(A) The sales tax due on the sale of a vessel or outboard motor required to be titled must be paid by the purchaser directly to the department at the time the vessel or motor is titled. The rate of sales tax paid is based on the address of the purchaser and the rate in effect on the date the purchaser submits the application for title to the department.

(B) The seller must collect the sales tax due on the sale of all watercraft not covered by section (1) above from the purchaser in accordance with the general sales tax collection methods under Chapter 144, RSMo.

(C) Persons engaged in the lease or rental of watercraft or outboard motors have the option of —

1. Paying taxes on the full purchase price of the watercraft or outboard motor at the time of purchase or titling, depending on the type of craft; or

2. Collecting and remitting the sales tax on the gross receipts derived from the lease or rental of the watercraft or outboard motor.

(D) A person engaged in the lease or rental of watercraft or outboard motors must choose one of the methods listed in (3)(A) or (3)(B) and must treat all watercraft and outboard motors the same for sales tax purposes.

(E) If the lessor chooses the option to collect and remit sales tax based on the lease or rental of the watercraft or outboard motor, the lessor must register with the Department of Revenue as a leasing company pursuant to section 144.070, RSMo. If this option is chosen, the lessor should not pay sales tax on the purchase of the watercraft or outboard motor at the time of purchase or titling.

(F) The rental or lease of watercraft or outboard motors is not considered a fee paid in or to a place of amusement, entertainment or recreation and is therefore not subject to tax as such. This provision avoids double taxation on the purchase and subsequent lease or rental of watercraft or outboard motors.

(G) Examples.

1. Mr. Justin purchases a motorboat and a personal watercraft (jet ski) to be kept in this state. Because the motorboat and jet ski are types of vessels, they are required to be titled. Mr. Justin must title the motorboat and jet ski with the Department of Revenue and pay sales tax on the purchase price of these items directly to the department upon titling. The local sales tax is based upon Mr. Justin's address.

2. Ms. Lindsey purchases a canoe from a boat dealer. A canoe is not a vessel, therefore a title is not required. The seller should charge sales tax on the purchase price of the canoe at the time of sale. The local sales tax is based upon the place of business of the boat dealer.

3. Mr. Biggs rents motorboats, canoes and paddleboats. Mr. Biggs has chosen to pay sales tax at the time of purchase or titling and not to collect sales tax on the rental receipts of the watercraft. Mr. Biggs must pay sales tax on the purchase price of the motorboats directly to the Department of Revenue at the time the boats are titled because the motorboats are vessels required to be titled. Mr. Biggs must pay sales tax to the seller of the canoes and paddleboats at the time of purchase; the canoes and paddleboats are not required to be titled because they do not meet the definition of vessel. Mr. Biggs has chosen to pay sales tax at the time of purchase or titling and should therefore use this same method for all watercraft and outboard motors that will be rented.

4. Mr. Kev also rents motorboats, canoes and paddleboats. However, Mr. Kev has chosen to collect and remit sales tax on the rental receipts rather than to pay sales tax on the purchase price of the watercraft. In order to choose this option, Mr. Kev must first register with the Department of Revenue as a leasing company. Mr. Kev should then provide his lease/rental number to the Department of Revenue at the time of titling of the motorboats. Mr. Kev should also present a resale exemption certificate to the vendor of the canoes and paddleboats at the time of purchase. Mr. Kev has chosen to collect and remit sales tax on the rental receipts and should therefore use this same method for all watercraft and outboard motors that will be rented.

5. JJ's Resort operates a place of amusement at which motorboats and canoes may also be rented. JJ has the option of paying tax on the motorboats and canoes at the time of purchase or titling or to collect and remit sales tax on the rental receipts. Should JJ choose to pay tax at the time of purchase or titling, the gross receipts from the rental of the motorboats and canoes are not subject to sales tax notwithstanding the

fact that JJ operates a place of amusement, entertainment or recreation.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999, effective May 30, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961; 144.705, RSMo 1959.*

12 CSR 10-103.370 Manufactured Homes

PURPOSE: Sections 144.044 and 700.010, RSMo create a partial tax exemption for new manufactured homes and an exclusion for qualifying used manufactured homes. This rule interprets the tax law as it applies to the sale of manufactured homes. This rule also identifies charges included as part of the retail sale price of the manufactured home.

(1) In general, the retail sale of a new manufactured home is considered to be a sale of sixty percent (60%) tangible personal property and forty percent (40%) service. The sixty percent (60%) portion of the sale price is subject to tax. The sale of a used manufactured home upon which Missouri tax has already been paid is not subject to tax. The sale of a used manufactured home on which Missouri tax has not already been paid is subject to tax on one hundred percent (100%) of the sale price.

(2) Definition of Terms.

(A) Dealer – any person, other than a manufacturer, who sells or offers for sale four (4) or more manufactured homes, recreational vehicles or modular units in any twelve (12)-month period.

(B) Manufactured home – a factory built structure designed as a dwelling unit with or without permanent foundation, equipped with the necessary service connections and made to be readily moveable on its own running gear. A modular unit is not a manufactured home and is subject to the same tax rules that apply to a building constructed by a contractor.

(C) Setup – the services performed and the materials used to perform the service for the purchaser at the occupancy site including but not limited to, moving, blocking, leveling, anchoring, supporting and assembling multiple or expandable units.

(3) Basic Application of Tax.

(A) Dealers selling new manufactured homes must collect and remit tax on sixty percent (60%) of the gross receipts from these sales. The dealer must provide the buyer of a new manufactured home a signed receipt confirming that tax has been paid.

(B) The owner of a new manufactured home must produce a signed receipt for the tax on the purchase price of the new manufactured home when applying for title. If the owner fails to present a signed receipt, the owner must remit the tax due on the new manufactured home prior to title being issued.

(C) The sale of a used manufactured home upon which Missouri tax has already been paid is not subject to Missouri tax. The sale of a used manufactured home upon which Missouri tax has not been previously paid is subject to tax on one hundred percent (100%) of the purchase price unless the used manufactured home meets the requirements of section 700.111, RSMo.

(D) The transfer of the ownership of or title to a manufactured home involving the assumption of the obligation to pay for the home is considered a sale at retail of the manufactured home subject to tax unless Missouri tax has been previously paid.

(E) The new manufactured home dealer is responsible for collecting tax on sixty percent (60%) of the retail sale price. The retail sale price includes additional tangible personal property installed by the manufacturer and the installed price of the following items of tangible personal property if installed by the dealer:

1. Central air conditioning;
2. Dishwasher;
3. Range or cook top;
4. Oven;
5. Microwave oven;
6. Refrigerator;
7. Washer and dryer;
8. Skirting;
9. Anchors and other stabilizing devices;
10. Blocks;
11. Shims;
12. Steps;
13. Gutters;
14. Decks;
15. Awnings; and
16. Plumbing and electrical parts and supplies necessary for installation and hookup of plumbing and electrical apparatus.

Any other tangible personal property added by a dealer should be separately stated and taxed at one hundred percent (100%) of the sale price.

(F) A dealer may elect to separately state charges for delivery, setup and installation. These charges would not be subject to tax because the dealer is performing a service. The dealer should pay tax, at the time of purchase, on any materials used in performing these services. Setup and installation can include but are not limited to adding a deck to the home or pouring concrete slabs as a foundation for the home.

(G) The dealer should pay tax, at the time of purchase, on items that are attached to a used manufactured home on which Missouri tax was previously paid. The dealer should purchase items attached to a used manufactured home on which Missouri sales tax has not been paid under a sale for resale exclusion.

(4) Examples.

(A) A customer purchases a new manufactured home from a dealer for $40,000, including delivery, setup and installation. The manufacturer includes an installed stove, refrigerator, and washer/dryer. The cost of delivery, setup and installation is $5,000. If the dealer includes delivery, setup and installation in the retail sales price, tax is due on 60% of $40,000. If the dealer separately states delivery, setup and installation charges from the retail sales price, tax is due on 60% of $35,000. If the dealer separately states these charges, the dealer should pay tax on its purchase of any materials used for the delivery, setup and installation of the manufactured home. The customer should retain his paid receipt to verify tax paid when making application for license/title/registration of the manufactured home.

(B) A dealer took a manufactured home in trade from a customer. The original owner paid Missouri tax. The dealer sells the used manufactured home. No tax is due on the used manufactured home because tax was paid on the original purchase of the home.

(C) A dealer sold a new manufactured home including a stove and refrigerator added by the dealer. As an incentive, the dealer included a personal computer. The computer should be separately stated from the manufactured home sale price and

taxed at 100%. The installed price of the stove and refrigerator can be included in the manufactured home sale price and tax is due on 60% of that price. The dealer may issue a resale exemption certificate when purchasing these items.

(D) A dealer hires a contractor to add patios and garages to the site for customers who purchase new manufactured homes. These charges can be separately stated from the manufactured home sale price without being taxed. The contractor should pay tax on any supplies used to build the patios and garages because the contractor is the final user and consumer of these supplies.

AUTHORITY: section 144.270, RSMo 2000. Original rule filed Jan. 24, 2001, effective July 30, 2001.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

***Benton Homes, Inc. v. Director of Revenue**, (AHC 1992). Benton Homes purchased various items such as carpet, drapes, appliances and water heaters for the repair and refurbishment of used mobile homes to upgrade the home for future sale to the public. Benton Homes avoided paying sales and use tax by purchasing these items under the resale exemption; however, the items were never "resold," because the definition of "retail sale" excludes the transfer of used mobile homes. Items such as concrete blocks and furniture that did not lose their individual character when included in a used mobile home sale, were exempt from tax as they were purchased for resale in the regular course of business.*

12 CSR 10-103.380 Photographers, Photofinishers and Photoengravers, as Defined in Section 144.030, RSMo
(Rescinded April 30, 2009)

AUTHORITY: section 144.270, RSMo 2000. Original rule filed June 29, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Amended: Filed Aug. 14, 2007, effective Feb. 29, 2008. Rescinded: Filed Sept. 19, 2008, effective April 30, 2009.

12 CSR 10-103.381 Items Used or Consumed by Photographers, Photofinishers and Photoengravers, as Defined in Section 144.054, RSMo
(Rescinded April 30, 2026)

AUTHORITY: sections 144.270, RSMo 2000, and 144.054, RSMo Supp. 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Original rule filed Aug. 14, 2007, effective Feb. 29, 2008. Rescinded: Filed Oct. 9, 2025, effective April 30, 2026.

12 CSR 10-103.390 Veterinary Transactions

PURPOSE: Sections 144.010.1 and 144.020.1, RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax laws as they apply to veterinarians. This rule also interprets sales tax exemptions that apply to veterinarians including section 144.030.2(22), RSMo.

(1) In general, veterinarians are rendering services not subject to sales tax. However, veterinarians making retail sales of tangible personal property are responsible for collecting and remitting sales tax on the gross receipts derived from these sales.

(2) Definition of Terms.

(A) Livestock — cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, llamas, alpaca, buffalo, bison, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, honey bees, or rabbits raised in confinement for human consumption.

(B) Prescription drug — a drug administered, prescribed, or dispensed only by or upon a lawful written or oral prescription or order of a licensed veterinarian. A prescription must exhibit one (1) of the following legends:

1. "Rx Only"; or
2. "Caution: Federal law restricts this drug to be used by or on order by a licensed veterinarian."

(C) Veterinarian — a person licensed to treat animals medically.

(3) Basic Application of Tax.

(A) Veterinarians pay tax on their purchases of items consumed in their veterinarian service. Such items may include, but are not limited to, instruments, bandages, splints, syringes, furniture, and equipment.

(B) Veterinarians that sell items including but not limited to, leashes, shampoos, collars, nonprescription drugs, and food for animals (except livestock or poultry) for nonfood producing animals are responsible for collecting and remitting tax on the gross receipts derived from these sales. Veterinarians should provide an exemption certificate to the vendor when purchasing items for resale.

(C) Purchases for resale subsequently used or consumed by the veterinarian are subject to the applicable tax. The veterinarian should accrue and remit this tax to the Missouri Department of Revenue. Veterinarians have used or consumed items purchased for resale if they dispense these items to clients for no charge at the same time they provide a nontaxable service. Medications and vaccines administered to livestock or poultry in the production of food or fiber are exempt from tax.

(D) Prescription drugs are exempt. Products bearing labels, such as, "Available through veterinarians," "For sales to licensed veterinarians" or "Available through licensed veterinarians exclusively," are not prescription drugs and are subject to tax.

(4) Examples.

(A) A veterinarian purchased an examining table and operating supplies for the veterinary practice. The purchase is subject to tax.

(B) A veterinarian sells dog food at retail and also operates a kennel. The veterinarian feeds the dogs in the kennel the same dog food the veterinarian purchases exempt for resale. When the veterinarian removes the food from inventory to use in the kennel, tax is due.

(C) A veterinarian sells a poultry farmer nonprescription vaccines for use on turkeys raised for the production of food. The farmer also purchases vaccines for the farmer's pets. The vaccines for the poultry are exempt; however, the vaccines for the pets are subject to sales tax.

(D) A veterinarian purchases surgical tools bearing the label "For sale to licensed veterinarians" to use in the practice. This purchase is subject to tax.

(E) A customer takes a sick cat to the veterinarian. The veterinarian examines the cat and gives the cat an antibiotic shot, administers nonprescription eye drops, and gives the customer a bottle of nonprescription eye drops to administer twice a day for two weeks, starting tomorrow. The bill reads as follows: Office visit $25; Antibiotic shot $15; Eye drops $5;

Bottle of eye drops $12; Total $57. There is no tax due from the customer on the shot or eye drops administered by the veterinarian because the veterinarian uses them in providing the service. There is no tax due from the veterinarian on the purchase of the antibiotic shot because it is an exempt prescription drug. The veterinarian must pay tax on the purchase of the nonprescription eye drops administered in the office. The customer must pay tax on the purchase of the separate bottle of nonprescription eye drops.

(F) A veterinarian has items for sale in the waiting room area including pet food, flea collars, and shampoos. A customer purchases a flea collar for his/her dog. The veterinarian must collect tax on the sale of the flea collar.

AUTHORITY: sections 144.270 and 144.705, RSMo 2016. Original rule filed Nov. 10, 1999, effective May 30, 2000. Amended: Filed March 23, 2010, effective Oct. 30, 2010. Amended: Filed Aug. 18, 2025, effective Feb. 28, 2026.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008, and 144.705, RSMo 1959.*

***Exotic Animal Paradise, Inc. v. Director of Revenue**, (A.H.C. 1989). Purchases of feed and hay for animals in an amusement park were not tax-exempt under section 144.030.2(1), RSMo, even though some animals qualified as livestock, because the exemption applies only to feed and hay for animals that will be ultimately resold. The park was also denied an exemption under section 144.030.2(18), RSMo, for purchases of prescription drugs because it failed to show that any of the items claimed required a prescription.*

12 CSR 10-103.395 Physicians, Dentists, and Optometrists

PURPOSE: Sections 144.010.1(13) and 144.020.1(1), RSMo, tax the retail sale of tangible personal property. This rule interprets the tax laws as they apply to physicians, dentists, and optometrists.

(1) In general, physicians, dentists and optometrists are rendering services not subject to tax. Tangible personal property purchased by physicians, dentists, and optometrists and used or consumed in the practice of their professions is subject to tax when purchased. Tangible personal property purchased by physicians, dentists, and optometrists and not used or consumed in the practice of their professions is subject to tax when resold by them.

(2) Definition of Terms.

(A) Dentist — a person licensed to practice dentistry.

(B) Optometrist — a person licensed to practice optometry.

(C) Physician — a person licensed to practice medicine,which includes an ophthalmologist.

(D) Used in the practice of the profession — employed in providing, directly or indirectly, professional care.

(3) Basic Application of Tax.

(A) Physicians, dentists, and optometrists must pay tax on the purchase of items used or consumed in the practice of their profession. Such items include, but are not limited to, medical instruments, bandages, splints, x-ray film, medical equipment, toothpaste, floss, eyeglasses, frames, and lenses.

(B) Physicians, dentists, and optometrists that sell items that are not used in the practice of their profession are responsible for collecting and remitting the tax on the gross receipts derived from these sales.

(C) Sales by persons other than physicians or optometrists of eyeglasses, frames, and lenses are subject to tax. The person must collect and remit tax on their gross receipts from these sales.

(D) See also 12 CSR 10-110.013 Drugs and Medical Equipment, which contains an explanation of other exemptions that may apply to these transactions.

(4) Examples.

(A) A physician purchases diagnostic equipment, surgical tools, and supplies for use in providing care to his/her patients. These purchases are subject to tax.

(B) A dentist purchases dental chairs from an out-of-state supplier. The chairs are shipped to the dentist's location in Missouri. The supplier does not charge tax on the invoice for the chairs. The dentist must accrue and remit use tax on this purchase.

(C) An optometrist purchases eyeglasses, frames, and lenses and uses these items in the diagnosis, treatment, and correction of conditions of the human eye. The optometrist charges the patient a separate amount for the frame and lenses. The optometrist should pay tax on these items because they are consumed in the practice of his/her profession. The amount charged the patient for the frame and lenses is not a sale at retail and is not subject to tax.

(D) A retailer of prescription eyeglasses, lenses, and frames advertises that an optometrist is available to examine customers. The optometrist performs eye examinations for customers of the retailer, but the retailer owns the inventory held for sale. Sales of the eyeglasses, lenses, and frames are subject to tax because they are not sales by the optometrist.

(E) An optician makes and sells eyeglasses to fill a patient's prescription. These sales are subject to tax.

(F) A dentist sells accessories such as travel kits, mirrors, and other items not related to the practice of the profession. These sales are subject to tax.

(G) A dentist provides small tubes of toothpaste, floss, and mouthwash to each patient following a visit. Providing the items is not a sale at retail and are not subject to tax. The dentist should pay tax on these items because they are consumed in the practice.

AUTHORITY: section 144.020, RSMo 2016, and section 144.010, RSMo Supp. 2018. Original rule filed April 1, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 2, 2018, effective April 30, 2019.*

**Original authority: 144.010, RSMo 1939, amended 1941, 1943, 1945, 1947, 1974, 1975, 1977, 1978, 1979, 1981, 1985, 1988, 1993, 1996, 1998, 1999, 2001, 2005, 2011, 2013, 2016, 2017, 2018; and 144.020, RSMo 1939, amended 1941, 1943, 1945, 1947, 1963, 1965, 1972, 1975, 1979, 1982, 1985, 1996, 1998, 2001, 2011, 2013, 2015, 2016.*

***William H. Grant III, O.D. v. Director of Revenue** (AHC 1995). An optometrist operated a business composed of two elements, a professional practice and the sale of articles of tangible personal property associated with eye care and eyeglass repair. The Commission found that sales of frames, eyeglass cases, and other item's reasonable related to providing the professional service were not subject to tax.*

12 CSR 10-103.400 Sales Tax on Vending Machine Sales

PURPOSE: Section 144.021, RSMo, imposes a tax on a seller's gross receipts. Section 144.012, RSMo, provides the method for determining gross receipts and the applicable local tax for sales

of tangible personal property through vending machines. This rule also addresses the purchase of vending machines under section 144.518, RSMo. This rule does not address receipts from amusement devices.

(1) In general, sales of tangible personal property, other than photocopies and tobacco products, through vending machines are subject to tax based on one hundred thirty-five percent (135%) of the net invoice price of the tangible personal property. The applicable tax rate is the rate in effect at the location of the vending machine. Sales of photocopies and tobacco products are subject to tax on their retail sales price. Purchases of machines or parts for machines used in a commercial vending machine business are not subject to tax if tax is paid on the gross receipts derived from the sale of the tangible personal property through the vending machines.

(2) Definition of Terms.

(A) Net invoice price — the cost of the product, including freight, less any quantity or timely payment discounts allowed by the supplier, with no allowance for spoilage or loss.

(B) Vending machine — a coin or currency operated device that is used to sell tangible personal property without requiring the vendor's physical attention at the time of the sale. The term vending machine is not limited to mechanically operated devices and includes honor boxes.

(C) Vendor — the person who owns the property sold through a vending machine.

(3) Basic Application of Tax.

(A) The vendor must report and remit sales tax on one hundred thirty-five percent (135%) of the net invoice price of the tangible personal property purchased for sale through vending machines. The vendor must report and remit sales tax for the period in which the items are sold or in which the items are removed from inventory due to spoilage or loss.

(B) Sales of tangible personal property through vending machines located outside Missouri are not subject to tax.

(C) Sales of tangible personal property through vending machines located on the premises of religious organizations, charitable organizations and public elementary and secondary schools are not subject to tax.

(D) A vendor with multiple machines or locations may compute taxable sales for each machine or location either by specifically identifying the net invoice price of the items sold through each machine or by using an apportionment method. An apportionment method calculates taxable sales for each individual location by first determining the percentage of gross sales attributed to each location. This percentage is then applied to the net invoice price of the tangible personal property vended and allocates the same percentage to the location(s).

(E) A manufacturer that sells its manufactured product at retail through vending machines and wholesale to other vendors must self-assess tax on its vending machine sales at one hundred thirty-five percent (135%) of the average price at which the product is sold to other vendors. A manufacturer who sells its manufactured products to the public through vending machines and does not make any sales to other purchasers or vendors must self-assess tax on its vending machine sales at one hundred thirty-five percent (135%) of the total cost of the manufactured products, including materials, labor and manufacturing overhead.

(F) No allowance, credit or refund of sales tax is allowed for spoilage or loss, such as from breakage or theft.

(G) The taxable receipts from a vending machine are subject to the sales tax at the rate in effect at the location of the machine.

(H) Sales of qualifying food through vending machines are subject to the reduced food tax rate. See 12 CSR 10-110.990.

(I) Purchases of machines or parts for machines used in a commercial vending machine business are not subject to tax if tax is paid on the gross receipts derived from the sale of the tangible personal property through the vending machines.

(4) Examples.

(A) A vendor purchases tangible personal property for a gross price of $10,000 to sell in its vending machines. The vendor's supplier allows the vendor a 2% timely payment discount of $200 as well as a 5% quantity discount of $500. The net invoice price of the tangible personal property is $9,300 ($10,000 minus $700 total discounts). The amount subject to sales tax is $12,555 ($9,300 net invoice price multiplied by 135%). The vendor sold all the products for $20,000. The vendor has vending machines located at a retail store and at an exempt public elementary school. The sales at the school were $5,000 (25% of gross sales) and the sales at the retail store were $15,000 (75% of gross sales). The gross receipts for the exempt location are $3,138.75 ($12,555 multiplied by 25%) and for the taxable location are $9,416.25 ($12,555 multiplied by 75%).

(B) A vendor has vending machines located on the premises of taxable organizations. The machines are located both in the city of Columbia and rural Boone County. The Columbia machines provided 60% of the vendor's gross sales and the rural Boone County machines provided 40% of gross sales. The vendor must report and remit tax on 60% of his gross receipts at the sales tax rate in effect for Columbia and on 40% at the sales tax rate in effect for Boone County.

(C) A commercial vending business purchases a vending machine and places the machine in an exempt church. The business must pay tax on the purchase price of the machine because it will not pay tax on the receipts from the machine. The machine is later moved to a gas station and tax is paid on 135% of the net invoice price of the goods sold from the machine. The subsequent purchases of repair parts for the machine are exempt.

(D) A commercial vending business purchases ten new vending machines. Six of the machines are placed in grocery stores and other commercial enterprises open to the general public. Four are placed in schools and churches. The purchase of the six machines is not subject to tax because the business will pay tax on the receipts from the machines. The purchase of the four machines is subject to tax because the business will not pay tax on the receipts from the machines.

(E) A commercial vending business purchases a vending machine and places the machine in a gas station. The purchase of the machine is not subject to tax because the business will pay tax on the receipts from the machine. The machine is later moved to a church. The subsequent purchases of repair parts for the machine are subject to tax.

(F) A newspaper sold through a vending machine is subject to tax at 135% of the average price charged to retail sellers.

AUTHORITY: section 144.270, RSMo 2000, and 144.518, RSMo Supp. 2007. Original rule filed May 1, 2006, effective Nov. 30, 2006. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Amended: Filed Aug. 14, 2007, effective Feb. 29, 2008.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961 and 144.518, RSMo 1999, amended 2005, 2007.*

12 CSR 10-103.500 Sales of Food and Beverages to and by Public Carriers

PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale of food and beverages to and by public carriers.

(1) In general, the sales of food and beverages to public carriers are subject to tax unless the carrier charges a separate amount for the sale of these items to its passengers or crew.

(2) Definition of Terms.

(A) Airline — a person engaged in the carriage of persons or cargo for hire by commercial aircraft pursuant to the authority of the federal Civil Aeronautics Board, or successor thereof.

(B) Missouri passenger miles — miles from airline flights that either land in or take off from locations in Missouri.

(C) Public carrier — a person engaged in the business of transporting persons or cargo for hire for the use or benefit of all.

(3) Basic Application of Tax.

(A) Public carriers that purchase food and beverages in this state to be used in serving passengers and crew should pay tax on these items at the time of purchase, unless the public carrier separately charges for the sales of these items.

(B) A public carrier may issue a resale exemption certificate to a seller of food and beverages if the public carrier sells the food and beverages to its passengers or crew and charges them a separately stated amount for these items. If a public carrier chooses this option, it is subject to tax on the gross receipts from all sales in this state of food or beverages to passengers or crew.

(C) Federal statutes exempt Amtrak from state sales tax on the gross receipts from sales in this state to passengers or crew.

(D) Airlines which purchase alcoholic beverages from wholesale distributors must remit tax of those beverages on the following basis:

1. On all sales made on the ground in this state, tax should be collected on the sales price of the drink;

2. The tax due on sales made in flight should be determined by multiplying the tax rate times the Missouri gross liquor revenues; and

3. The Missouri gross liquor revenues are the airline's total gross liquor revenue times the percentage of Missouri passenger miles to total passenger miles.

(E) Federal law, 49 U.S.C. 40116 (c), prohibits a state from taxing activities on flights that merely fly over a state without taking off or landing from an airport in the state.

(4) Examples.

(A) Cool Crowd Airlines is engaged in the business of transporting persons and cargo for hire and has operating facilities in this state where aircraft are furnished with food and beverages. Cool Crowd does not separately charge for sales of food and beverages to its passengers or crew and therefore must pay tax on the purchase of these items when they are delivered in this state.

(B) Assume the same facts as in example one except that Cool Crowd does separately charge for sales of food and drink to passengers or crew. In this instance, Cool Crowd should issue a resale exemption certificate to its food and beverage vendors and purchase these items tax free. Cool Crowd should then collect and remit tax on all sales of food and beverages that occur in this state.

(C) Cool Crowd Airlines purchases alcoholic beverages tax free for resale both in clubs located in this state and in flight. Cool Crowd should remit sales tax on the total gross receipts resulting from all sales made on the ground in this state. For sales occurring in flight, Cool Crowd should remit use tax on the Missouri gross liquor revenues. The Missouri gross liquor revenues are computed by multiplying the airline's total gross liquor revenue times a fraction, the numerator of which is Missouri passenger miles and the denominator of which is total passenger miles.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Nov. 10, 1999, effective May 30, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961; 144.705, RSMo 1959.*

***Republic Airlines Inc. v. Wisconsin Department of Revenue**, 159 Wis. 2d 247; 464 N.W. 2d 62: (Wisc. App. 1990). Republic reported tax on the gross receipts of food, beverages and peanuts based on a ratio of revenue passenger miles flown in Wisconsin (the numerator), to its revenue passenger miles everywhere (the denominator). The numerator included flights that landed in or took off from Wisconsin but did not include overflights. The Wisconsin Department of Revenue adjusted the numerator of this fraction upward to include overflights. The Wisconsin Court of Appeals ruled that the Wisconsin statute did not authorize the inclusion of flyover miles in the sales tax apportionment factor, even though such inclusion was authorized by the applicable regulation. The court determined that the Legislature's use of the word "in" in the statute did not authorize the Revenue Department's promulgation of a regulation including miles merely "over" the State in the apportionment factor.*

12 CSR 10-103.555 Determining Taxable Gross Receipts

PURPOSE: Section 144.021, RSMo, imposes a tax on a seller's gross receipts. Section 144.083, RSMo, addresses the application of tax involving third party payments. This rule provides guidance for reporting gross receipts.

(1) In general, all gross receipts resulting from the sale of tangible personal property and taxable services should be reported to the department. When filing a return, the taxpayer should deduct nontaxable receipts from gross receipts to arrive at taxable sales.

(2) Definitions.

(A) Buydown payments — payments received by a seller under an agreement with a manufacturer or wholesaler to lower the cost of inventory sold to consumers for a stated sales price.

(B) Gross receipts — the total amount of the sale price of taxable services and tangible personal property including any services, other than charges incident to the extension of credit, that are a part of such sale and are capable of being valued in money, whether received in money or otherwise.

(C) Rebate — a return of part of an amount given in payment.

(D) Store coupons — coupons issued by the seller to reduce the stated price of a product to the purchaser.

(E) Taxable sales — the total amount of gross receipts plus or minus any adjustments permitted or required by law.

(F) Third party coupons — coupons issued by a manufacturer or other third party to apply to the purchase of the product.

(3) Basic Application of Tax.

(A) Tax is imposed on the total amount of the sale price received for the sale of tangible personal property and taxable services. The total amount of each sale should be reported as gross receipts even if the seller separately states to the customer the various components of the sale. Exempt sales should be deducted from gross receipts to arrive at taxable sales. Tax collected as a part of a sale should not be included in gross receipts.

(B) When a taxpayer receives consideration other than money, the full market value of the item exchanged should be included in gross receipts.

(C) When the seller accepts third party coupons, only the price paid by the purchaser is included in the gross receipts subject to tax.

(D) The value of a store coupon issued and redeemed by a seller is not subject to tax. Store coupons are not included in gross receipts.

(E) When the seller accepts federal food stamp coupons, the value of the federal food stamp coupons is not included in gross receipts.

(F) Rebates from sellers or manufacturers do not reduce taxable sales unless they are offered instantly at the time of sale, except for rebates on motor vehicles, boats, trailers and outboard motors.

(G) A taxpayer accepting an article in trade as a credit or part payment on the purchase price should include the value of the article in gross receipts. The value of the article should be deducted from gross receipts when calculating taxable sales.

(H) Money received in advance, such as down payments, layaways or gift certificates, are not included in gross receipts until the sale has been consummated.

(I) Charges to customers for the extension of credit, such as late fees or financing charges are excluded from gross receipts.

(J) A seller's expenses associated with utilizing the service of credit card companies are not excluded from gross receipts.

(K) If the taxpayer's inventory is stolen or destroyed by fire or other casualty, the insurance receipts are not subject to tax and should not be included in gross receipts.

(L) When tangible personal property is subject to a federal manufacturer's excise tax imposed by sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261, or 4271 of Title 26, *United States Code*, the amount of the tax is not included in gross receipts if the retail seller collects the excise tax from the purchaser and remits it to the federal government.

(M) Gross receipts from the sale of cigarettes do not include the amount of the sale price that represents the state tax on the cigarettes under Chapter 149, RSMo. Gross receipts from the sale of other tobacco products include the amount of the sale price that represents the state tax on the other tobacco products under Chapter 149, RSMo. Local cigarette taxes authorized by law and imposed and paid in the manner of the state tax under Chapter 149, RSMo, are not included in gross receipts. All other local cigarette taxes are included in gross receipts.

(N) Buydown payments are not gross receipts subject to tax. Buydown payments serve to reduce the sales price to all purchasers by reducing inventory cost to the seller. Buydown payments are not payments for the retail price of the product.

(4) Examples.

(A) A grocery store accepts manufacturer's coupons from its customers on purchases of various goods. The store sells aluminum foil for $1.50. The customer presents to the store a $.50 manufacturer's coupon and pays the remaining balance of $1.00. The store submits the $.50 coupon to the manufacturer for payment of the $.50. The gross receipts from the sale of the aluminum foil are $1.00 and total taxable sales are $1.00. Tax should be charged on $1.00.

(B) On Tuesdays, the same grocery store in Example (A) doubles all manufacturers' coupons. The store then receives $.50 from the customer and $.50 from the manufacturer. Gross receipts are $.50, and total taxable sales are $.50. Tax should be charged on $.50.

(C) An appliance manufacturer offers a $100 cash rebate on an $800 refrigerator. Tax is due on $700, if the rebate is received by the customer at the time of purchase. If the customer must request the rebate from the manufacturer at a later date, tax is due on $800 because that is the sale price paid at the time of purchase.

(D) A furniture retailer allows customers to "layaway" their purchases until they have paid the full sale price. When the customer has paid the full sale price, the retailer completes the sale and transfers the furniture to the customer. The furniture dealer should not include the layaway amount in its gross receipts until the sale is complete. At that time the total sale price should be reported as gross receipts.

(E) A construction company purchases a new bulldozer. The equipment dealer agrees to sell it a new machine for $50,000 and give a trade-in allowance of $10,000 for the old one. The equipment dealer should report $50,000 in gross receipts. The equipment dealer should then deduct the $10,000 trade-in value to arrive at taxable sales.

(F) A retailer sells a chair for $100 to a customer who uses his credit card to pay for the purchase. The seller should charge tax on the full $100 sales price of the chair. The seller should report $100 in gross receipts, even though it must pay the credit card company a transaction fee.

(G) A retailer ordinarily sells a brand of cigarettes for $4 per pack. The manufacturer of that brand of cigarettes agrees to a "buydown" with the retailer. Under the buydown agreement, the manufacturer will reimburse the retailer $.50 per pack if the retailer sells the cigarettes for $3.50 for a month. The gross receipts and taxable sales from the sales of the cigarettes are $3.50 per pack, which includes the buydown, less any amount attributable to the state tax imposed pursuant to Chapter 149, RSMo.

(H) A retailer ordinarily sells a brand of cigarettes for $4 per pack. The manufacturer of that brand of cigarettes agrees with the retailer to reduce the purchase price to the retailer by $.50 per pack if the retailer sells the cigarettes for $3.50. The gross receipts from the sales of the cigarettes are $3.50 per pack, less any amount attributable to the state tax imposed pursuant to Chapter 149, RSMo.

AUTHORITY: section 144.270, RSMo 2000, and 144.083, RSMo Supp. 2007. Original rule filed Aug. 21, 2000, effective Feb. 28, 2001. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Amended: Filed Aug. 14, 2007, effective Feb. 29, 2008.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961 and 144.083, RSMo 1961, amended 1965, 1986, 2004, 2007.*

***Central Hardware Company, Inc. v. Director of Revenue**, 887 S.W.2d 593 (Mo. banc 1994). The taxpayers were not entitled to a refund of the sales tax paid on the percentage of their credit sales they paid as fees to credit card companies. The fees were not excludable from the sales price as charges incident to the extension of credit. The fees were an expense paid by the taxpayers to the credit card companies and were not a charge to*

their customers incident to the extension of credit. They charged their customers the same sales price irrespective of the mode of payment and there was no charge to a customer who paid by credit card. The taxpayers cannot alternatively claim that because they never actually received the fees, they were not part of the gross receipts. The transactions on which the gross receipts were based and on which the sales tax should be calculated were the retail sales that occurred between the taxpayers and their customers and not the transactions between the taxpayers and the credit card companies. The fact that the taxpayers chose to pay the fees out of the credit draft proceeds did not decrease the amount of their gross receipts.

***Oakland Park Inn v. Director of Revenue**, 822 S.W.2d 425 (Mo. banc 1992). Hotel was liable for sales tax on amounts paid as mandatory gratuities. Under the hotel's banquet contracts, customers were obligated to pay a 16% gratuity. The gratuities were part of the sale price of the food and drink because they were mandatory. The fact that the gratuities were separately stated and served to equalize employee wages does not affect taxability of the gratuity.*

***Golde's Department Stores, Inc. v. Director of Revenue**, 791 S.W.2d 478 (Mo. App. 1990). A department store that paid sales tax on gross sales was entitled to refund of sales tax that was overpaid. Under gross sales reporting method, it reported credit sales for which no payment was ever received. It was entitled to compute its liability under gross receipts reporting method because the law imposes the sales tax based on gross receipts, not gross sales.*

12 CSR 10-103.560 Accrual vs. Cash Basis of Accounting

PURPOSE: Section 144.021, RSMo, imposes tax on a taxpayer's gross receipts. This rule explains when a taxpayer reports its gross receipts depending upon whether the taxpayer is using the accrual or cash basis of reporting.

(1) In general, a taxpayer should report gross receipts in the period in which payment is actually received. A taxpayer using the accrual basis of accounting may report gross receipts in the period in which the transaction takes place.

(2) Application of Tax.

(A) A taxpayer should report the gross receipts from its sales in the period in which payment is received. When the taxpayer and purchaser enter into an installment agreement, the taxpayer should report each installment, less any finance charge, as a part of gross receipts in the period in which payment is received. Tax should be calculated at the tax rate in effect at the time of entering the installment agreement.

(B) A taxpayer using the accrual basis of accounting may report the gross receipts from its sales in the period in which the transaction is completed, rather than the period in which payment is actually received. When the taxpayer and purchaser enter into an installment agreement and the taxpayer uses the accrual basis of accounting, the taxpayer may report the sale price in gross receipts when the revenue is recognized pursuant to generally accepted accounting principles. Tax should be calculated at the tax rate in effect at the time of entering the installment agreement.

(3) Examples.

(A) A furniture retailer, a cash basis taxpayer, sells furniture to a customer and agrees to receive payments on the furniture over a period of 1 year with a 5% interest charge on the unpaid balance. Tax is computed only on the sale price of the furniture, not the finance charge. The amount of each payment, less the tax and finance charge, is included in gross receipts in the period each payment is received. An accrual basis taxpayer may include the entire sale price in the gross receipts at the time of the sale.

(B) A furniture retailer makes a charge sale to a customer in December 1999, with payment due in March. The local sales tax rate changes effective January 1, 2000. If the retailer is a cash basis taxpayer, it charges tax based on the rate in effect in December and reports the gross receipts when received in March. If the retailer elects to report gross receipts on an accrual basis, it charges tax based on the rate in effect in December and it should report the sale in its December gross receipts.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Aug. 1, 2000, effective Jan. 30, 2001.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1995, 1947, 1955, 1961.*

12 CSR 10-103.600 Sales of Tangible Personal Property and Services

PURPOSE: Section 144.020.1, RSMo provides that sales of tangible personal property and certain enumerated services are subject to tax. Section 144.010.1(3), RSMo defines which charges are subject to tax when included in the sale price of tangible personal property. This rule explains which charges are subject to tax when a transaction involves the sale of a service or both tangible personal property and a nontaxable service.

(1) In general, the sale of tangible personal property is subject to tax unless a specific statute exempts it. The sale of a service is not subject to tax unless a specific statute authorizes the taxation of the service. When a sale involves both tangible personal property and a nontaxable service, the sale of the tangible personal property will be subject to tax, and the service will not be subject to tax, if the sale of each is separate. When the sale of tangible personal property and a nontaxable service are not separable, the entire sale price is taxable if the true object of the transaction is the transfer of tangible personal property. None of the sale price is taxable if the true object of the transaction is the sale of the nontaxable service.

(2) Definition of Terms.

(A) Personal service – service involving either intellectual or manual personal labor of the server rather than a salable product of the server's skill.

(B) Sale price – the consideration paid to the seller for tangible personal property, including any service charges other than charges incident to the extension of credit.

(C) True object – the real object the buyer seeks in making the purchase. The essentials of the transaction determine the true object. The true object of the transaction is the tangible personal property if:

1. The purchaser desires and uses the tangible personal property;
2. The tangible medium is not merely a disposable conduit for the service or intangible personal property;
3. The tangible personal property is a finished product; or
4. The tangible personal property is not separable from the

service or intangible personal property.

(D) The true object of the transaction is the service or intangible personal property if the tangible personal property is merely the medium of transmission for an intangible product and can be discarded after the purchaser has obtained access to the intangible component.

(3) Basic Application.

(A) Shipping, Handling, Minimums, Gratuities and Similar Charges.

1. If the purchaser is required to pay for the service as part of the sale price of tangible personal property, the entire sale price is subject to tax.

2. If the purchaser is not required to pay the service charge as part of the sale price of tangible personal property, the amount paid for the service is not subject to tax if the charge for such service is separately stated. If the charge for the service is not separately stated, the entire sale price is subject to tax.

(B) Repair and Personal Services.

1. If the amount paid for the repair or personal service is separately stated from the tangible personal property used to perform the repair or personal service, the amount paid for the repair or personal service is not subject to tax.

2. If the amount paid for the repair or personal service is not separately stated, the entire sale price is taxable. However, if the retail price of the tangible personal property constitutes less than ten percent (10%) of the total sale price, the department will consider none of the sale price as taxable. The seller must pay tax on the purchase of the tangible personal property.

(C) All Other Transactions.

1. If the purchaser obtains a service as part of a transaction in which the true object is the purchase of tangible personal property, the entire sale price is taxable even if the charge for the service is separately stated.

2. If the purchaser obtains tangible personal property as part of a transaction in which the true object of the transaction is the purchase of a service, none of the sale price is taxable unless the charge for the tangible personal property is separately stated. If the charge for the tangible personal property is separately stated only the charge for the tangible personal property is taxable.

(D) A person selling tangible personal property to a retailer of a nontaxable service must collect and remit tax on such sales.

(E) When a service provider also sells tangible personal property in transactions separate from the provision of services, the sales of tangible personal property are subject to tax.

(4) Examples.

(A) A steel fabricator enters into an agreement to fabricate steel beams for a building. The fabricator makes a retail sale of the steel beams. Even though the fabrication labor is separately stated on the sales invoice, the total sale price including charges for the fabrication labor is subject to tax.

(B) A person purchases a compact disc (CD) through a mail order club. The seller charges a set amount for shipping and handling the CD. Because the buyer is required to pay the shipping and handling charge, the entire amount charged, including the shipping and handling, is subject to tax.

(C) A family purchases furniture from an out-of-state seller. The seller gives the buyer a choice of shipping the furniture or the buyer may arrange for the furniture to be delivered to their home. Because the shipping is optional, it is not subject to tax.

(D) A person purchases ten (10) yards of concrete from a concrete company. The concrete company separately states the optional delivery charge but has a mandatory minimum service charge of twenty-five dollars ($25) on all orders less than twelve (12) yards. Tax is due on the concrete price and the mandatory service charge, but not on the delivery charge.

(E) A car dealer sells an automobile to a buyer, which includes as part of the purchase price an initial warranty for services including parts. Tax is due on the entire sale price. The dealer does not owe tax on parts supplied pursuant to the initial warranty when the manufacturer provides the parts to the dealer free of charge. The car dealer also sells the buyer an optional extended warranty beyond the initial warranty for services only. The sale price for the optional warranty is separately stated. The extended warranty is not subject to tax. If the dealer bills the buyer additional charges for repair parts as needed, the dealer must charge the buyer tax on the repair parts. If the extended warranty includes parts, the dealer is liable for tax on the purchase of the parts used to fulfill the extended warranty contract.

(F) Taxpayer sells a typewriter for three hundred dollars ($300) and an optional one (1) year maintenance contract for an additional twenty-five dollars ($25). The maintenance contract is segregated on the billing from the cost of the typewriter. Tax is due on the three hundred dollars ($300) but is not due on the twenty-five dollars ($25) maintenance contract. If the maintenance contract states that the seller provides repair parts, the seller must pay tax on its purchases of repair parts to fulfill the agreement. If the maintenance contract states that the seller bills the customer an additional charge for repair parts, then the seller must collect and remit tax on the amount charged for the parts.

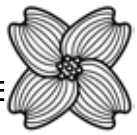
(G) An architect prepares original architectural plans for an addition to a home. Because the true object of this transaction is the architectural service, the original plans and copies prepared by the architect are not subject to tax, unless the architect separately states the charge for the copies. If the architect uses the services of another party to create the copies, the third party should charge the architect tax. Copies of the plans purchased by the homeowner from a third party are subject to tax.

(H) A tool and die manufacturer designs and builds a custom machine tool for a customer. The tool will be installed on the customer's existing equipment. The manufacturer purchases from an independent mechanical engineer shop drawings showing how to build the tool and showing precisely how and where the tool should be installed on the customer's equipment. The manufacturer's agreement with its customer requires that the drawings be provided to the customer along with the tool. The entire purchase price paid by the manufacturer's customer, including the cost of the shop drawings (even if separately stated) is subject to tax. The transfer of the drawings is a part of the sale of the tool.

(I) A monument seller separately states its charges for headstones and inscription of headstones. The entire sale price, including inscription, is taxable.

(J) A person takes her car to a mechanic for new brakes. The mechanic installs new brakes and charges sixty dollars ($60) for the parts and fifty dollars ($50) for labor, which is separately stated on the invoice. Tax is due on the sixty dollars ($60) charge for the brakes. If the mechanic does not separately state the labor, tax should be charged on the total invoice of one hundred ten dollars ($110), because the cost of new brakes exceeds ten percent (10%) of the sale price of the repair.

(K) A warehouse stores and ships materials in cardboard boxes. The charge for the boxes is included in the charge for the warehousing service and not separately stated. The charge



for the boxes is not subject to tax, and the warehouse must pay tax on its purchases of the boxes. If the charge for the boxes is separately stated, it is subject to tax.

(L) A binding company binds materials provided to it by customers and also binds books that it sells to the public. Materials and supplies used by the binding company in binding materials for customers are not subject to tax unless the charges for the materials and supplies are separately stated. The binding company must pay tax on its purchase of such materials and supplies. The binding company may purchase exempt from tax materials and supplies it incorporates in books made for sale to the public.

(M) A laundry or dry cleaner provides a nontaxable service and does not collect or remit tax. The laundry or dry cleaner should pay tax on tangible personal property used in performing the service including items such as hangers and plastic bags. If a laundry also sells laundry detergents, sales of the detergents are subject to tax.

(N) A man takes his suit to the dry cleaner with a request to clean and press the suit, replace a missing button and sew a split seam. Because the price of the button and thread is less than ten percent (10%) of the total cost the dry cleaner does not collect tax. The dry cleaner should purchase these materials subject to tax.

(O) A barbershop that also sells hair care products must collect and remit tax on all sales of such products.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed June 8, 2000, effective Jan. 30, 2001.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

12 CSR 10-103.610 Sales of Advertising

PURPOSE: This rule explains, pursuant to section 144.034, RSMo, when sales of advertising are sales of a service, which are not subject to tax, and when such sales of advertising are sales of tangible personal property, which are subject to tax.

(1) In general, if a sale of advertising involves the transfer of tangible personal property, it is a sale of tangible personal property subject to tax unless it is preliminary art or the sale is made by an exempt business. If the sale is made by an exempt business, the transaction is the sale of a service and is not subject to tax when the true object of the sale is the advertising. When the true object of a sale by an exempt business is tangible personal property, it is subject to tax.

(2) Definition of Terms.

(A) Advertising – the expression of an idea created and produced for reproduction and distribution in the media, such as television, radio, newspapers, newsletters, periodicals, trade journals, publications, books, other printed materials, magazines, standardized outdoor billboards, direct mail or point-of-sale (POS) displays, and which is designed to promote sales of a particular product or service or otherwise affect consumer behavior.

(B) Advertising agency – a business, not owned by an advertiser, which is directly responsible to an advertiser for and whose predominant functions as a business are the creation or supervision of the production and placement of advertising and advertising materials in the media.

(C) Broadcast station – a radio or television enterprise which engages in the collection, writing, production and dissemination of news, public affairs or entertainment by means of transmitting signals through space or wires intended for reception by the public on a receiving set.

(D) Exempt business – advertising agency, broadcast station, legal newspaper pursuant to Chapter 493, RSMo, or standardized outdoor billboard company exempt from the sales tax law pursuant to section 144.034, RSMo.

(E) Finished art – the final art used in print advertising for actual reproduction by photochemical or other process, or the master tape or film and duplicate prints used in broadcast advertising.

(F) Preliminary art – art, film or tape prepared by a person engaged in the advertising business for the purpose of conveying or demonstrating an idea or concept for acceptance by a buyer before the final approval is given by a buyer for finished art or finished film or tape. Examples of preliminary art include, but are not limited to: roughs; visualizations; comprehensives; layouts; sketches; drawings; paintings; designs; story boards; rough cuts of film and tape; initial audio and visual tracks; work prints; and music or sound effects.

(G) Specialty advertising – items of tangible personal property on which advertising is placed but which have a use and value separate from the advertising. Such items include, but are not limited to: tee shirts, key chains, glassware, frisbees, rulers, pens, calendars, matchbooks, calculators, clocks, notebooks and pocket protectors.

(3) Basic Application.

(A) Sales of advertising by exempt businesses are not subject to tax.

(B) Sales of preliminary art by nonexempt businesses are not taxable if separately stated.

(C) Sales of final art by nonexempt businesses are subject to tax.

(D) Required services included as part of the sale price for taxable advertising are also subject to tax.

(E) Optional services included as part of the sale price for taxable advertising are not subject to tax, if the charge for such services is separately stated. If the charge for such services is not separately stated, the entire sale price is subject to tax.

(F) Services provided in connection with the sale of nontaxable advertising are also not subject to tax.

(G) A person selling equipment, materials or supplies to a seller of nontaxable advertising must collect tax from the seller of such advertising.

(H) Sales of tangible personal property that are not advertising but may contain advertising, such as specialty advertising, are subject to tax, even if the sale is made by an exempt business.

(4) Examples.

(A) The following items are generally considered to be tangible personal property, not advertising, although they may have promotional value:

1. Specialty advertising;
2. Business cards;
3. Brochures and books not promoting sales of products or services;
4. Annual reports;
5. Informational pamphlets not promoting sales of products or services;
6. Training materials not promoting sales of products or services;
7. Banners (not POS);
8. Posters (not POS);
9. Signs (not POS);

10. Educational films not promoting sales of products or services;

11. Employee benefits material and plan descriptions not promoting sales of products or services;

12. Business signage, logos and stationery designs;

13. Business directories including yellow pages;

14. Warranty books and product instructions not promoting sales of products or services; and

15. Items mass produced or reproduced in quantities in excess of that reasonably anticipated to be necessary for an advertising campaign and sold for purposes other than promoting sales of a particular product or service.

(B) The following items are generally considered to be advertising:

1. Printed materials promoting sales of products and services, including fliers, handouts, brochures and sales promotion materials;

2. Direct mail and direct marketing materials (not distributed by mail), promoting sales of products and services;

3. POS materials, including displays, banners, posters and table tents and package designs, promoting sales of products and services;

4. Radio commercials, including film and video cassettes and tapes of them;

5. Television commercials, including film and video cassettes and tapes of them;

6. Audio or visual commercials for promotional or merchandising purposes, including audio and visual tapes, cassettes and films of them;

7. Print media advertising, including magazine ads, newspaper ads, periodical ads, trade journal ads, publication ads, book ads, other printed material, ads and newspaper inserts;

8. Billboards, signage, transit advertising (bus, rail, taxi and airport) and shopping mall and sports arena advertising and displays, promoting sales or products or service;

9. Product and service sales materials for dealers, distributors and other sales persons; and

10. Corporate advertising.

(C) The following services are generally considered not to be taxable if the charges for such services are separately stated:

1. Writing original manuscripts and news releases;

2. Composing music;

3. Conducting research and compiling statistical or other information;

4. Providing time and space for advertising;

5. Arranging for the placing of advertising in newspapers, magazines, television, radio, billboards, transportation facilities or other media;

6. Securing the services of actors, directors and artists; and

7. Delivering or causing the delivery of brochures, pamphlets, cards and similar items after passage of title.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000, effective July 30, 2000.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

***Gammaitoni v. Director of Revenue**, 786 S.W.2d 126 (Mo. banc 1990). The taxpayer produced commercials on videotape as well as instructional and other non-advertising videotapes. The court held that the true object of the sales of these videotapes was the finished videotapes themselves. The court also held that the taxpayer was not an exempt business under section 144.034, RSMo. The taxpayer did not meet the definition of a broadcast station because it did not transmit by radio or television nor was it a facility equipped for radio or television transmissions. It did not qualify as an advertising agency because it did not contract with advertisers to place the advertising in the media.*

***Travelhost v. Director of Revenue**, 785 S.W.2d 541 (Mo. banc 1990). The taxpayer sold advertising in a magazine it purchased but then distributed for free. The court held that the taxpayer was an advertising agency and therefore exempt pursuant to section 144.034, RSMo from tax on its sales. The court also held that the express terms of section 144.034, RSMo required the taxpayer to pay tax on its purchases of the magazines.*

***The Hearst Corp. v. Director of Revenue** (AHC 1992). The taxpayer, a video production house, produced commercials for advertisers. The taxpayer retained the master tape and provided duplicates for use by the advertisers. The commission held that the taxpayer was not an exempt business pursuant to section 144.034, RSMo. However, the commission found that the true object of these transactions was the production services provided by the taxpayer. The taxpayer retained the master and the advertisers had no need for the physical copy of the tape once the commercial was broadcast.*

***Neely v. Director of Revenue** (AHC 1990). The taxpayer, a broadcast station, purchased advertising to promote the station from a production house. The commission held that section 144.034, RSMo, was inapplicable because it relates only to sales of advertising by exempt businesses. The taxpayer, an exempt business, was purchasing, not selling, advertising. The production house was not an exempt business. The commission, however, also held that the true object of the transaction was the purchase of advertising services. Therefore, the taxpayer was liable for tax only on the separately stated charge for the finished master tape.*

12 CSR 10-103.620 Florists

PURPOSE: This rule explains when sales by Missouri florists are subject to Missouri sales tax.

(1) In general, sales of tangible personal property by florists are subject to Missouri sales tax on orders taken in Missouri even when the tangible personal property is delivered outside the state. Sales of tangible personal property by florists are not subject to Missouri sales tax on original orders taken outside Missouri even when a Missouri florist delivers the tangible personal property in the state.

(2) Basic Application.

(A) A Missouri florist who takes the original order and subsequently forwards that order either to another in-state florist or an out-of-state florist for delivery is subject to sales tax on the transaction. The sale is subject to the local sales tax in effect at the location where the florist takes the original order.

(B) When an out-of-state florist takes the original order and subsequently forwards the order to a Missouri florist, the Missouri florist is not subject to Missouri sales tax.

AUTHORITY: sections 144.020.1, RSMo Supp. 2005 and 144.270, RSMo 2000. Original rule filed Nov. 9, 2005, effective May 30, 2006.*

**Original authority: 144.020, RSMo 1939, amended 1941, 1943, 1945, 1947, 1963, 1965, 1972, 1975, 1979, 1982, 1985, 1996, 1998, 2001 and 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

12 CSR 10-103.630 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. This rule originally filed as 12 CSR 10-4.600. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Moved to 12 CSR 10-103.630, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.640 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. This rule originally filed as 12 CSR 10-4.610. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Moved to 12 CSR 10-103.640, effective Aug. 31, 2023.*

**Original authority: 144.705, RSMo 1959.*

12 CSR 10-103.700 Packaging and Shipping Materials

PURPOSE: Section 144.018.1, RSMo excludes from tax purchases intended to be resold as tangible personal property. Section 144.030.2(2), RSMo exempts materials that become a component part of new personal property. Section 144.011.1(10), RSMo excludes from tax certain items of a non-reusable nature purchased by eating or food service establishments. This rule explains when purchases of packaging and shipping materials are not subject to tax.

(1) In general, purchases of packaging and shipping materials included with, or used to deliver, a product for ultimate sale at retail are not subject to tax. Purchases of non-reusable items by eating or food service establishments are not subject to tax.

(2) Definition of Terms.

(A) Packaging and shipping materials – containers, pallets, drums, and other items used to ship merchandise to customers. It also includes supplies used in shipping, such as tape, strapping, plastic peanuts, foam, cardboard pads, packaging slips, etc. Finally, packaging encompasses integral parts of the finished product such as display cartons and packaging containing the product, e.g., cereal box, and shipping containers.

(3) Basic Application of Tax.

(A) The purchase of packaging and shipping materials are taxable if –

1. The packaging is used solely "in house" by the seller and is not subsequently transferred to a purchaser;

2. The packaging material must be returned to the seller and the customer does not acquire title to, ownership of, or the right to use the packaging material;

3. The packaging is transferred incidental to the rendering of a non-taxable service, such as with the sale of custom software or color separations; or

4. The packaging is used to ship items that are being transferred, such as gifts or free samples.

(B) Purchases of items of a non-reusable nature by persons operating eating or food service establishments making retail sales are not subject to tax if the item is furnished with or in conjunction with the retail sale. Such items include, but are not limited to, wrapping and packaging items, non-reusable paper, wood, plastic, and aluminum articles including containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, and toothpicks.

(4) Examples.

(A) A retailer packages its goods to be shipped to its customers. The packaging and shipping items include boxes, pallets, metal banding, cardboard pads, etc. The customer is not required to return any of these items. The retailer does not owe tax on its purchase of these items.

(B) A distributor separately purchases boxes to store its merchandise in its warehouse. These boxes are not subsequently used for shipments to its customers. The purchase of these boxes is subject to tax.

(C) A grocery store purchases bags that its customers use to carry out their groceries. The grocery store may purchase these bags exempt from tax.

(D) A taxpayer purchases or leases pallets that will be used to ship merchandise to its customers. The customer is required to return the pallet and never acquires title to, ownership of, or the right to use them. The purchase or lease of the pallets is taxable.

(E) A taxpayer purchases or leases pallets that will be used to ship merchandise to its customers. The customer is required to return the pallet, but does have the right to use the pallet until it is returned. If there is consideration paid for the use of the pallet, the purchase or lease of the pallets is not taxable.

(F) A dry cleaner purchases plastic bags used to protect clothes after cleaning. Because the dry cleaning is not a taxable service, the dry cleaner must pay tax on the purchase of the bags.

AUTHORITY: section 144.270, RSMo 2016. Original rule filed Aug. 21, 2000, effective March 30, 2001. Amended: Filed Oct. 2, 2018, effective April 30, 2019.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*

***Brambles Industries, Inc. v. Director of Revenue**, 981 S.W.2d 568 (Mo. banc 1998), the Court held that leases of packaging material are excluded from sales tax when the packaging material is leased*

for the purpose of transferring the right to use the packaging material to a subsequent purchaser for valuable consideration.

***House of Lloyd v. Director of Revenue**, 884 S.W.2d 271 (Mo. banc 1994) (House of Lloyd II), House of Lloyd (HOL) sold merchandise, such as Christmas gifts, through a hostess program. At issue was the packaging containing the individual boxes that were used to deliver the goods from HOL to its hostesses. DOR argued that HOL was the user and consumer of this packaging. The Court held that the incidental benefit received by the seller did not violate the resale claim of exemption.*

***Sipco, Inc. v. Director of Revenue**, 875 S.W.2d 539 (Mo. banc 1994), the purchase of dry ice that was used to package fresh pork products and to transport the products to customers was exempt from tax as a purchase for resale.*

12 CSR 10-103.800 Tax Computation

*PURPOSE: Section 144.020, RSMo imposes a four percent sales tax. Section 144.610, RSMo imposes the state's use tax at the same rate as the sales tax. The **Missouri Constitution**, Article IV, section 43(a) imposes a one-eighth of one percent tax for conservation purposes and Article IV, Section 47(a) imposes a one-tenth of one percent tax for soil and water conservation and for state parks. Missouri law also provides authority for counties, cities and other political subdivisions to enact local taxes. Sections 144.021, 144.080 and 144.285, RSMo require sellers to collect the correct amount of tax. This rule explains how to determine the correct rate of tax.*

(1) In general, the seller should charge the rate of state and local tax in effect on the date of the sale.

(2) Basic Application of Rule.

(A) The state tax rate is 4.225 percent. This is comprised of: Four percent state tax, one-eighth of one percent conservation tax, and one-tenth of one percent soil and water conservation tax.

(B) Local political subdivisions may impose local taxes in addition to the state tax rate. The local tax rate is available from the local jurisdiction or on the department's website.

(C) Tax is calculated at the rate in effect on the date of the sale.

(D) When a change in the tax rate becomes effective, all gross receipts from sales made by the retailer before the effective date of the rate change are subject to the old tax rate. A taxpayer reporting sales on a cash basis should report gross receipts from credit or time sales on a separate line on the return, showing the tax rate in effect when the sales were made. When following this procedure, the entry on the return should specifically state the rate in effect at the time of sale. All gross receipts from sales made on or after the effective date are subject to the new tax rate.

(E) Amounts charged to and received from purchasers as tax are not included in gross receipts.

(3) Examples.

(A) A retailer located in an area with city and county taxes totaling two percent must charge and collect a total sales tax of 6.225% on all sales.

(B) The same retailer as in (3)(A) incorrectly charges its customers 5.225% tax. The retailer is responsible for the additional tax.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Aug. 21, 2000, effective Feb. 28, 2001.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961.*

***Associated Industries of Missouri v. Lohman**, 114 S.Ct. 1815 (1994). The U.S. Supreme Court ruled that a local use tax rate greater than the local sales tax rate is unconstitutional.*

***May Department Stores Co. v. Director of Revenue** (AHC 1985). The issue was whether credit sales made in 1982 and reported as gross receipts in 1983 were subject to Proposition C, which increased the state sales tax rate from three percent to four percent, effective January 1, 1983. A cash basis taxpayer had filed its February 1983 sales tax return at the three percent rate on credit sales made to its customers from September 1, 1982 to December 31, 1982. The Commission concluded that the increased rate only applied to those gross receipts attributable to sales made on or after the effective date of the law change.*

12 CSR 10-103.876 Taxation of Sod Businesses

PURPOSE: This rule interprets the sales tax law as it applies to the production, installation and retail sale of sod.

(1) In general, the retail sale of sod is a taxable sale of tangible personal property.

(2) Definition of Terms.

(A) Harvester — any person who severs growing grass from the earth for resale or otherwise as sod.

(B) Installer — any person engaged in the business of purchasing sod from either a sod producer or harvester for resale or use in a contract to improve real property.

(C) Integrated sod producer — any person who grows, harvests, and installs sod under contracts for improvements to real property.

(D) Sod producer — any person engaged in the business of planting and cultivating grass for resale or otherwise as sod.

(3) Basic Application of Tax.

(A) Sod producers not acting as contractors are making sales at retail and must collect and remit sales tax unless the purchaser provides an exemption certificate for resale or otherwise.

(B) Harvesters who purchase sod for resale from sod producers are subject to sales tax on their sales of sod to any purchaser unless the purchaser provides an exemption certificate for resale or otherwise.

(C) Installers who purchase sod to improve real property in their capacity as contractors or subcontractors must pay sales or use tax on their purchases of sod. A contractor incorporating tangible personal property into real property as part of an improvement to real property is deemed to be the final user and consumer and must pay tax on its purchases.

(D) Installers who purchase sod for resale and not in their capacity as contractors, subcontractors, or the like are subject to sales tax on their sales of sod to consumers. Any separately stated charges by the installer for labor to install the sod are subject to tax if the installation charges are part of the sale of the sod. The installer should furnish a certificate of exemption for resale to his/her sod supplier for these transactions.

(4) Amounts Subject to Tax. Sales of sod by sod producers,

harvesters, or other retail sellers are subject to tax upon total gross receipts. If the sale of the sod includes delivery and handling charges, the delivery charges are not subject to tax if they are usual and customary. Charges for installation are subject to tax if the sod is being sold at retail and the installation is part of the sale of the sod.

(5) Related Exemptions to Sales Tax.

(A) Organizations exempt pursuant to section 144.030.2(19), (20) and (22), RSMo, including governmental agencies, are exempt from tax and the exempt entity may issue a project exemption certificate to its contractor pursuant to section 144.062, RSMo. If such a certificate is issued, the contractor may present this certificate upon purchase of the sod.

(B) Seed, lime, and fertilizer purchased by sod producers are exempt from sales tax if the sod is ultimately sold at retail.

(C) Purchases of machinery and equipment by sod producers are exempt if the sod is grown to be sold ultimately at retail and the machinery and equipment is exclusively used for agricultural purposes.

(D) Purchases of seed, fertilizer, and limestone are not exempt if the sod is grown for use by an integrated producer in its capacity as a contractor.

(6) Examples:

(A) The sod producer grows, harvests, and sells sod to installers. Terms are free on board (FOB) the farm and delivery charges to installers' worksites are separately stated. Producer invoices installer for two thousand (2000) yards of sod at fifty-five cents (55¢) per square yard and separately charges fifty dollars ($50) for delivery. Sales tax is due at the appropriate rate on receipts of one thousand one hundred dollars ($1,100) (2000 × 55¢);

(B) The sod producer sells sod to a harvester who harvests sod and resells the sod to installers. Harvester furnishes sod producer an Exemption for Resale Certificate. Sod producer does not collect sales tax from harvester. Harvester charges sales tax on gross amount of the sales price to this customer. If harvester purchases two thousand (2000) square yards of sod from sod producer at thirty cents (30¢) per square yard and sells it to installers for sixty cents (60¢) per square yard, sales tax is due on the one thousand two hundred dollars ($1,200) (2,000 × 60¢) of receipts. Delivery charges, if usual and customary, are not taxable;

(C) Installer purchases two thousand (2,000) square yards of sod for the farm from sod producer. Installer has agreed with its customer to sell customer sod for fifty-five cents (55¢) per square yard and, as part of the same transaction, agreed to install the sod for fifteen cents (15¢) per square yard. The title to the sod passes prior to installation. Installer should provide sod producer with a Certificate of Exemption for Resale and charge sales tax to its customer on one thousand four hundred dollars ($1,400) at the appropriate rate;

(D) Installer purchases two thousand (2,000) square yards of sod as personal property from producer for thirty cents (30¢) per square yard. Installer contracts separately with a harvester for cutting and delivery of sod for twenty cents (20¢) per square yard. Installer contracts with his/her customer for installation of sod at eighty cents (80¢) per square yard. Producer should collect sales tax from installer at the appropriate rate on six hundred dollars ($600) (2,000 × 30¢) of receipts;

(E) An integrated sod producer grows, harvests, and installs two thousand (2,000) square yards of sod as part of a contract to improve real property. The contract calls for a price of one dollar ($1) per square yard of sod installed. The sod grower needs only to pay tax on the seed, fertilizer, and limestone. The two thousand dollar ($2,000) receipts from the installation contract are not taxable;

(F) An integrated sod producer who normally acts as a contractor occasionally sells sod at retail to homeowners. In these retail sales cases, the integrated operator should charge tax on the gross receipts of the sale to the homeowner and purchase the seed, fertilizer, and limestone tax exempt pursuant to section 144.030.2(1), RSMo; and

(G) An integrated sod producer acting as a contractor is able to have two (2) cuttings of sod with each seeding. The first cutting results from the seeding and the second cutting results from regrowth. The integrated sod producer has no taxable event on those cuttings which are produced from regrowth.

AUTHORITY: section 144.270, RSMo 2016. This rule originally filed as 12 CSR 10-3.876. Original rule filed July 2, 1990, effective Dec. 31, 1990. Moved to 12 CSR 10-103.876 and amended: Filed Oct. 2, 2018, effective April 30, 2019.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008.*