# Rules of Department of Revenue
## Division 10—Director of Revenue
### Chapter 4–State Use Tax

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PURPOSE: This rule aids in determining who is a purchaser and interprets and applies sections 144.605(5) and 144.610, RSMo.

(1) A person who is a purchaser of tangible personal property for use, storage or consumption includes not only persons who acquire title to or ownership of the property but also persons who acquire the right to use, consume or store the property to which title, ownership or right was acquired through a sale. Therefore, a bailee, lessee or borrower or person having the right to use, store or consume is subject to the use tax.

AUTHORITY: section 144.705, RSMo 1994.

12 CSR 10-4.010 Purchaser’s Responsibilities

PURPOSE: This rule is intended to aid in determining a purchaser’s responsibilities for state use taxes and interprets and applies sections 144.610 and 144.620, RSMo.

(1) When a person has delivered an exemption certificate to an out-of-state vendor and the person delivering the exemption certificate uses the tangible personal property in a manner other than that indicated on the exemption certificate, then the person delivering the exemption certificate is subject to the use tax on the value of the tangible personal property at the time it is converted to use.

(2) When a person purchases tangible personal property outside Missouri upon which the Missouri use tax has not been imposed, that person is subject to the use tax on the purchase price of the tangible personal property, unless the tangible personal property is purchased for resale.

A (A) Example: A veterinarian, Dr. Horse, located in Jefferson City, Missouri, purchases chemicals and supplies from two (2) companies, “C” and “D”. Companies “C” and “D” are both located in Chicago, Illinois and do all their business strictly by mail order. During calendar year 1973, Dr. Horse purchased one thousand dollars ($1000) worth of merchandise from each company. Company “C” is registered with the Missouri Department of Revenue for the payment of use tax and should collect and remit the use tax on Dr. Horse’s purchases. Company “D” does not file a return with Missouri and Dr. Horse must file a return showing the amount of purchase from Company “D” and pay the use tax on those purchases.

AUTHORITY: section 144.705, RSMo 1994.

12 CSR 10-4.015 Sale Consummation

PURPOSE: This rule aids in determining when a sale takes place and interprets and applies section 144.605(5), RSMo.

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

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

AUTHORITY: section 144.705, RSMo 1994.
and interprets and applies sections 144.605(5) and 144.615(5), RSMo.

(1) If a purchaser takes possession of property in another state him/herself, Missouri use tax would not apply provided similar taxes were imposed on the sale by another state equal to or in excess of the taxable rate imposed under the Missouri Use Tax Act. For the purposes of this Act, the date and place of the sale is determined by the delivery of the property into the purchaser’s possession.

(2) All types of sales, bailments, loans, conditional sales, installment and credit sales will make the purchaser subject to the use tax where there is an acquisition of title to, or ownership of, tangible personal property or a right gained by consideration paid or to be paid to use, consume or store the property.

(3) The provisions as to the time and place of conditional sales are the same as those applicable to other types of sales, except bailments. The vendor, where conditional sales transactions are involved, must report and pay the full amount of the use tax as determined by the full amount of the sales price of the property sold under the conditional sale transaction.

(4) Example: The Tiny Construction Company located in St. Louis, Missouri purchases a basic earthmover tractor for one hundred ninety thousand dollars ($190,000) in East St. Louis, Illinois from the Big Tractor Company. Big Tractor Company delivers the tractor to St. Louis, Missouri. Big Tractor Company is to collect Missouri use tax in the amount of five thousand seven hundred dollars ($5700).


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


12 CSR 10-4.045 Cancelled Sales

PURPOSE: This rule indicates what a taxpayer may do when a sale is subsequently cancelled and interprets and applies sections 136.035 and 144.130, RSMo.

(1) Where a contract for sale has been cancelled within ninety (90) days of the date of delivery to the purchaser, a vendor of tangible personal property or services may exclude those receipts or charges from his/her return if the sale has not been reported.

(2) Where the use tax has been reported and paid, an application for refund/credit for the tax paid upon such receipt or charge shall be filed within two (2) years from the date the tax was paid.

12 CSR 10-4.050 Cost of Doing Business

PURPOSE: This rule interprets and applies section 144.605(6), RSMo. Deductions are not allowed for costs of doing business.

(1) The factor for determining whether labor charges are taxable is, if they become a part of or are incorporated into the agreed purchase or selling price of the property. No deductions are allowed the vendor for labor which is part of the production cost of any property which is to be sold at retail. The costs of doing business, such as raw materials consumed and labor to assemble, under no circumstances are deductible.


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

12 CSR 10-4.055 Regulations Under Section 144.020, RSMo

PURPOSE: This rule indicates where Missouri state sales tax regulations apply and interprets and applies section 144.610(1), RSMo.

(1) All rules under subdivisions (1) and (3) of section 144.020, RSMo also apply to subdivision (8) of section 144.605, RSMo.


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

12 CSR 10-4.060 Vendor Includes

PURPOSE: This rule indicates what the definition of vendor also includes and interprets and applies section 144.605(11), RSMo.

(1) A vendor also includes bailors, lenders and other persons who sell for a consideration the right to use, store or consume tangible personal property through a sale.


12 CSR 10-4.070 Use Tax License Necessary

(Rescinded March 30, 2001)


12 CSR 10-4.075 Sales to Contractors

(Rescinded March 30, 2001)


12 CSR 10-4.080 Sales to National Banks and Other Financial Institutions

PURPOSE: This rule indicates the liability of sellers of tangible personal property to national banks and other financial institutions for Missouri state use tax and interprets and applies section 144.615(1), RSMo.

(1) Persons selling tangible personal property or taxable services to national banks, other banks, credit unions or credit institutions, and savings and loan associations, whether state or otherwise, are subject to and liable for the use tax. Federal Reserve Banks and federal Land Banks are not subject to the use tax.


12 CSR 10-4.085 Liability of Out-of-State Vendors

PURPOSE: This rule indicates the duties and responsibilities of out-of-state vendors for Missouri state use taxes and interprets and applies sections 144.620 and 144.635, RSMo.

(1) Out-of-state vendors who have sufficient contact with Missouri must register with the Department of Revenue and submit returns. The extent of the contact with the state and the nature of business of the vendor will determine what tax the vendor is subject to.

(2) The Department of Revenue has established criteria to be used, but not exclusively, in determining if an out-of-state vendor is subject to the sales tax. If the out-of-state vendor is not subject to the sales tax, s/he is subject to the use tax. A vendor is required to pay or collect and remit the tax imposed if, within this state, s/he directly or by any agent or other representatives—

(A) Has or utilized an office, distribution house, sales house, warehouse, service enterprise or other place of business;
(B) Maintains a stock of goods;
(C) Regularly solicits orders whether or not the orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail;
(D) Regularly engages in the delivery of property in this state other than by common carrier or United States mail; or
(E) Regularly engages in any activity in connection with the leasing or servicing of property located within this state.

(3) Out-of-state vendors who solicit sales in Missouri by television broadcast or other advertising media are subject to Missouri use tax on sales of goods delivered to the purchaser in Missouri, if one (1) of the following conditions is met:

(A) The out-of-state vendor has an office, distribution house, sales house, warehouse, service enterprise or other place of business in Missouri; or
(B) The out-of-state vendor makes the sales through the local television station(s), cable companies or other advertising media agents(s) for the out-of-state vendor. This section shall not include any sales which Missouri is prohibited from taxing under the constitution or laws of the United States of America.

(4) This state does not seek to impose use tax collection requirements on any retailer over
whom the previously mentioned standard does not confer jurisdiction in this state.

**AUTHORITY:** section 144.705, RSMo 1994.*


*Original authority: 144.705, RSMo 1959.

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

**12 CSR 10-4.090 Regulations Under Subdivisions (2) and (3) of Sections 144.030 and 144.040, RSMo**

**PURPOSE:** This rule prescribes where Missouri state sales tax regulations apply and interprets section 144.615(3), RSMo.

(1) All rules under subdivisions (2) and (3) of sections 144.030 and 144.040, RSMo apply to subdivision (3) of section 144.615, RSMo.

**AUTHORITY:** section 144.705, RSMo 1994.*


*Original authority: 144.705, RSMo 1959.

**12 CSR 10-4.095 Motor Vehicle Purchased**

**PURPOSE:** This rule prescribes that a motor vehicle purchase is not subject to the Missouri compensating use tax law and interprets and applies section 144.615(1), RSMo.

(1) A motor vehicle purchased out of the state of Missouri and brought into Missouri is subject to Missouri’s motor vehicle use tax laws and not the compensating use tax law as imposed under sections 144.600–144.745, RSMo. Any questions regarding this should be directed to the Motor Vehicle Bureau, P.O. Box 100, Jefferson City, MO 65102.

**AUTHORITY:** section 144.705 RSMo 1994.*


*Original authority: 144.705, RSMo 1959.

**12 CSR 10-4.100 Tax Paid to Another State**

**PURPOSE:** This rule indicates the liability of a person who makes a taxable purchase and takes delivery in another state and interprets and applies section 144.615(1), RSMo.

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

**AUTHORITY:** section 144.705, RSMo 1994.*


*Original authority: 144.705, RSMo 1959.

**12 CSR 10-4.105 Resale**

**PURPOSE:** This rule indicates when tangible personal property is not subject to Missouri use tax and interprets and applies section 144.615(6), RSMo.

(1) Tangible personal property held solely for resale in the regular course of business to other persons is not subject to the use tax. The test is what is to be done with the property purchased and held by the purchaser. Terminology is not determinative. The purchaser and holder of the property can be called a wholesaler, but wholesalers are also, at times, consumers themselves.

**AUTHORITY:** section 144.705, RSMo 1994.*


*Original authority: 144.705, RSMo 1959.

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

Paper bags transferred to customers by retail grocer were purchased by grocer for resale (see **King v. National Super Markets, Inc.**, 653 SW2d 220 (Mo. banc 1983)). Wooden shipping pallets were not purchased for resale by shipper (see **Floyd Charcoal Co., Inc. v. Director of Revenue**, 599 SW2d 173 (Mo. banc 1980)); fact that soft drink bottles could be returned for deposit did not make jobbers liable for use tax on theory that they had purchased at retail (see **Smith Beverage Co. of Columbia, Inc. v. Reiss**, 568 SW2d 61 (Mo. En banc 1978)).

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

**12 CSR 10-4.110 Personal Effects**

**PURPOSE:** This rule indicates when personal effects which are brought into Missouri are...
not subject to the Missouri use tax and interprets and applies section 144.615(7), RSMo.

(1) Property, brought into Missouri by a bona fide resident of another state for use, storage or consumption, which is classified as personal effects, is not subject to the use tax. Examples of personal and household effects include, but are not limited to, personal clothing and jewelry, appliances and furniture. Examples of farm machinery which may be classified as personal effects include, but are not limited to, tractors, combines and balers.

(2) The property when purchased must have been intended for use, storage or consumption outside Missouri. Initial use of the property must be outside this state. If the property is brought into this state for use, storage or consumption by a nonresident of Missouri who intends to remain in this state on a temporary basis, it is not subject to the Missouri use tax.

(3) Example: Bob, an out-of-state resident, becomes a resident of Missouri and moves his household goods and furniture into this state. Bob is not subject to the Missouri use tax regardless of whether or not sales or use tax was paid at the time he purchased his household goods.

**AUTHORITY:** section 144.705, RSMo 1994.

**PURPOSE:** This rule indicates that documentation is necessary for deductions and interprets and applies section 144.640, RSMo.

(1) Transactions which are deductible under the compensating use tax law under section 144.615, RSMo, can be deducted only if the transaction is documented so as to be capable of verification on audit.

**AUTHORITY:** section 144.705, RSMo 1994.

**PURPOSE:** This rule interprets and applies section 144.620, RSMo and there is a presumption that items sold by out-of-state vendors which are brought into Missouri are for storage, use or consumption.

(1) When any out-of-state vendors sell tangible personal property for delivery to this state, the property is presumed brought into Missouri for the purpose of storage, use or consumption and the receipts from all such sales are subject to the use tax. When out-of-state vendors sell tangible personal property for delivery to this state which will be stored and which will later be resold, the vendors are not subject to the use tax on the receipts from such sales when the purchaser furnishes a resale exemption certificate.

**AUTHORITY:** section 144.705, RSMo 1994.

**PURPOSE:** This rule interprets and applies sections 144.620 and 144.635, RSMo.

(1) A seller located outside Missouri selling tangible personal property to Missouri consumers where the property is shipped or delivered to the customer who stores, uses or consumes the property in Missouri is required to collect the tax and remit consumer use tax to the Department of Revenue on his purchases for the calendar year from a vendor located outside the state of Missouri. The Oklahoma vendor does not charge or collect sales tax from Mr. Brown. Mr. Brown is required to report and remit consumer use tax to the Department of Revenue on his purchases for the calendar year from a vendor located outside the state of Missouri. The Oklahoma vendor does not charge or collect sales tax from Mr. Green. Mr. Green is not required to report and remit consumer use tax to the Department of Revenue on his purchases for the calendar year because they did not exceed two thousand dollars ($2,000).

**AUTHORITY:** section 144.705, RSMo 1994.

**PURPOSE:** This rule interprets the state use tax law as it applies to vendors use tax vs. consumers use tax and interprets and applies sections 144.620 and 144.635, RSMo.

(1) A vendor collecting sales tax from a Missouri customer who has purchased tangible personal property from an out-of-state vendor and who uses, consumes or stores the property in Missouri is required to report and remit consumer use tax. A Missouri customer will not be required to report and remit consumer use tax until his/her untaxed purchases exceed two thousand dollars ($2,000) in a calendar year. Once the Missouri customer’s untaxed purchases exceed two thousand dollars ($2,000) in a calendar year, the customer must report and remit consumer use tax on all untaxed purchases for the entire calendar year. The Missouri customer is relieved from liability if s/he receives a receipt showing the tax was paid from the out-of-state vendor authorized by the director of revenue to collect the tax.

(A) Example: Mr. Brown, a Missouri contractor, purchases a truck load of materials for two thousand five hundred dollars ($2,500) from a supplier in Kansas. The Kansas supplier does not charge or collect sales tax from Mr. Brown. Mr. Brown is required to report and remit consumer use tax to the Department of Revenue on his purchase price of two thousand five hundred dollars ($2,500) for the materials.

(B) Example: Mr. Green, a Missouri resident, purchases a necklace for one thousand five hundred dollars ($1,500) from a vendor located in Oklahoma. Mr. Green does not purchase anything else during the calendar year from a vendor located outside the state of Missouri. The Oklahoma vendor does not charge or collect sales tax from Mr. Green. Mr. Green is not required to report and remit consumer use tax to the Department of Revenue on his purchases for the calendar year because they did not exceed two thousand dollars ($2,000).

**AUTHORITY:** section 144.705, RSMo 1994.

**PURPOSE:** This rule indicates the requirements that a vendor collect the tax and separately state the tax.

(1) The vendor is required to collect the tax on the selling price of the commodity sold or services rendered. The vendor is also required, when billing customers, to set out separately on the billing the appropriate amount of tax collected on the purchase.
12 CSR 10-4.135 Vendor to File Collection Suit

PURPOSE: This rule provides that the vendor is responsible for filing any suit to collect use taxes from a purchaser and interprets and applies section 144.635, RSMo.

1. When a purchaser refuses to pay the use tax, the vendor shall be responsible for filing any suit to collect the amount due.

AUTHORITY: section 144.705, RSMo 1994.*

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.140 Exemption Certificates

PURPOSE: This rule indicates the record-keeping and other requirements necessary for a vendor in order to substantiate deductions and interprets and applies sections 144.620 and 144.640, RSMo.

1. All vendors making sales of tangible personal property or services subject to the Missouri use tax are liable for determining whether the purchase is for storage, use or consumption or for resale. All vendors are required to keep adequate records of sales and transactions, where the use tax is applicable, to support reports filed with the director of revenue. The director will not recognize any deductions on a vendor’s tax return unless the vendor has adequate supporting evidence in his/her records to verify the deductions. Vendors must also keep in their records signed resale exemption certificates supporting deductions taken as sales for resale. Those certificates are to be kept in the taxpayer’s files and must be made available for inspection by the director of revenue or his/her agents, during all business hours of the day. Those resale exemption certificates shall be only prima facie evidence that the property or services described were sold for the purpose of resale and the director has the right to examine all facts relative to the purchase and sale before the resale exemption certificates will be honored.

2. The resale exemption certificate should state that all of the purchases made by the purchaser for a certain definite period or for a certain transaction will be purchased from the seller for resale and that the purchaser assumes liability for the tax from the ultimate user or consumer. A complete detailed record of such purchases must be kept by the taxpayer. Where the goods purchased are for use or consumption, and not for resale by the purchaser, the vendor shall also be held responsible for the use tax on the goods.

AUTHORITY: section 144.705, RSMo 1994.*

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.145 Audit, No Credit

(Rescinded November 30, 2000)

PURPOSE: This rule clarifies the statute of limitations on assessments and interprets and applies section 144.670, RSMo.

1. The limitation on assessment for a taxpayer who is registered and files a return with or without payment is three (3) years from the date the return was filed. There is no limitation on assessment for the taxpayer who fails to file a return.

AUTHORITY: section 144.705, RSMo 1994.*

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.155 Vendor’s Responsibility

PURPOSE: This rule aids in determining the responsibilities of a vendor regarding Missouri use tax and interprets and applies sections 144.615(6) and 144.635, RSMo.

1. The burden of proving a sale of tangible personal property was made for resale and not at retail shall be upon the vendor. The vendor is required to secure and retain a signed exemption certificate from the purchaser as evidence that the sale is made for resale and, therefore, exempted from the use tax.

2. When the director of revenue has reason to believe the vendor acted not in good faith in the acceptance of an exemption certificate, s/he is empowered to make an additional assessment of tax due from the vendor. When the vendor has been determined to have acted not in good faith, both vendor and purchaser will be held liable until all liabilities have been satisfied.

3. The vendor must indicate on each invoice or bill of sale the name of each purchaser from whom an exemption certificate has been secured or be subject to the use tax upon the sale. Exemption certificates must be available at the establishment of the vendor for ready inspection and comparison with the deductions claimed.

4. Exemption certificates may not be used to obtain tangible personal property or taxable services to be used by the purchaser and not for resale. It is a crime to misuse the use tax identification number and exemption certificate for the purpose of obtaining tangible personal property or taxable services without the payment of the sales or use tax when it is due.

5. If a vendor sells tangible personal property or taxable services free of the use tax on an exemption certificate when s/he knows or should know in the use of ordinary care, that the property or service which s/he is selling is not for resale by the purchaser, but is for the purchaser’s own use or consumption in business or otherwise, the vendor shall be liable for the use tax.

AUTHORITY: section 144.705, RSMo 1994.*

*Original authority: 144.705, RSMo 1959.

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

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

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


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.165 Bad Debts Credit

PURPOSE: This rule establishes when a taxpayer is entitled to request a credit for charged-off items and interprets and applies section 144.660, RSMo.

(1) A person filing on the basis of gross sales is entitled to request a credit of charged-off items upon which the tax has already been paid to the director of revenue. Charge-off items are not allowable deductions when returns are made on a gross receipts basis.

(2) The two (2) tests as to whether or not that request will be granted are, first, whether or not the tax has been remitted on the items and, second, whether or not the charge-off credit would be deductible in making state or federal income tax returns. The application for credit on charged-off items should be made immediately after discovery that the debt must be charged-off if within the two (2)-year statute of limitations as prescribed by section 136.035, RSMo.


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.175 Amended Returns

PURPOSE: This rule prescribes the requirements for an amended return of any vendor.

(1) If any vendor subject to the Missouri use tax determines s/he has not filed a correct return for any given period, s/he is required to immediately file an amended return identifying additions, supplements, deletions or any other corrections or alterations. The director, upon review, may demand an amended return if it is determined that the vendor has erroneously filed the original return.


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.180 Filing Final Return

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

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

(2) Should an obligation exist, the purchaser shall withhold a sufficient amount from the purchase price of the business to defray any liability until the former owner provides the director of revenue with satisfactory evidence that the liability has been satisfied and no further liability exists or until the former owner obtains a certificate of no tax due from the director of revenue. If the person acquiring the business fails to accomplish the previously mentioned, s/he shall become liable for any taxes, interest or penalty charges made against the former owner.


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.190 Payment of Tax

PURPOSE: This rule prescribes the place for paying the tax, the provisions regarding returned checks and cash payments, and interprets and applies sections 144.655 and 144.660, RSMo.

(1) Vendors are to make remittance at the time the return is filed with the director of revenue. Checks, drafts or money orders should be made payable to and forwarded to the Sales Tax Bureau, P.O. Box 840, Jefferson City, MO 65105.

(2) Checks returned from the bank for any reason will be charged against the vendor’s account, at which time, notification of the change will be given to the vendor. Upon receipt of a returned check, the vendor relinquishes his/her claim for a two percent (2%)
discount for a timely payment and subjects him/herself to the provisions regarding delinquency.

(3) In the event payment is made by cash, a receipt should be obtained identifying the name and address of the taxpayer, code number and the period for which the payment is intended. The receipt should be retained by the vendor as proof of payment.

**AUTHORITY:** section 144.705, RSMo 1994.

**12 CSR 10-4.200 Filing of Returns and Payment of Tax**

**PURPOSE:** This rule provides that upon proper application the time for filing a return and paying the tax may be extended, and interprets and applies section 144.660, RSMo.

(1) The time for filing the tax may be extended for good cause for up to sixty (60) days upon proper application to the department prior to the due date. The postmark date is **prima facie** evidence of timely request.

(2) An approved extension does allow a person to take the two percent (2%) timely payment discount and does stop the interest charges for the time of the extension.

**AUTHORITY:** section 144.705, RSMo 1994.

**12 CSR 10-4.210 Assignments and Bankruptcies**

**PURPOSE:** This rule prescribes the preferential treatment required for outstanding taxes and the liability of trustees, assignees, receivers, and the title and interprets and applies section 144.610, RSMo in conjunction with Chapter 11 U.S.C.A., Bankruptcy Codes.

**Editor’s Note:** The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) All outstanding use tax, interest and penalties due the state from a bankrupt debtor making an assignment for creditors are to be given preference and the liabilities satisfied to the state before all general creditors.

(2) The trustee in bankruptcy or the assignee, in the case where an assignment has been made for and in behalf of creditors, should immediately remit any outstanding taxes, interest charges or penalties to the director before a general distribution of funds is made and will be held liable for the taxes if they are not paid prior to the distribution. When the courts appoint any person, whether trustee, assignee, receiver, to take over any business and operate or liquidate it, those persons are required to collect and remit the use tax and will be held personally liable. Every person should immediately notify the director when appointed by the court to take over said business or to liquidate the business.

**AUTHORITY:** section 144.705, RSMo 1994.

**12 CSR 10-4.215 Estimated Assessment**

**PURPOSE:** This rule relates to interest imposed on late payment of taxes and interprets and applies section 144.665, RSMo.

(1) All taxes not paid to the director of revenue on the date these taxes become due and payable shall bear interest at the rate of one percent (1%) per calendar month or fraction, a calendar month from and after the date due until paid, if paid prior to January 1, 1983. All taxes remaining unpaid as of January 1, 1983 and all taxes not paid to the director of revenue which become due and payable after January 1, 1983 shall bear interest at the same rate as established by the director of revenue in 12 CSR 10-41.010 Annual Adjusted Rate of Interest, published under the authority of section 32.065, RSMo.

**AUTHORITY:** section 144.705, RSMo 1994.

**12 CSR 10-4.220 Calendar Month Defined**

**PURPOSE:** This rule clarifies the definition of calendar month and interprets and applies section 144.655, RSMo.

(1) Calendar month, for the purposes of sections 144.600–144.745, RSMo, means the time from any day of any month as adjudged in the calendar to a corresponding day of the next month. Since a taxpayer is required to make returns and remittances on varying days, the month is to be an approximate thirty (30)-day interval.

(A) Example: “C”, a retail business, is required by section 144.655, RSMo to file a monthly return for the period ending January thirty-first. The return and payment are due on the twentieth day of February, the succeeding month.

(B) Example: “C” is also required by section 144.655, RSMo to file a monthly return for the period of December which is due on
the thirty-first day of January, the succeeding month.

AUTHORITY: section 144.705, RSMo 1994.*
March 30, 1976. Amended: Filed Dec. 3,

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.225 Fifteen Days Defined—
Personal Service
(Rescinded January 12, 1985)

AUTHORITY: section 144.705, RSMo 1978.
28, 1975, effective Nov. 7, 1975. Rescinded:

12 CSR 10-4.230 Protest Payment
PURPOSE: This rule clarifies the procedure
and requirements where a taxpayer desires to
protest the payment of tax assessed against
the taxpayer and interprets and applies section
144.700, RSMo.

(1) Overpayments resulting from clerical,
mathematical or similar errors should be
recovered by following the refund procedures
outlined in section 144.695, RSMo. If any
taxpayer, in good faith and for just cause,
feels the imposition of Missouri use tax has
been improperly charged against him/her,
s/he, when making his/her payment, may
denote the payment as a protest payment and
execute a protest payment affidavit specifically
stating the grounds upon which the protest
is being made. The claim must be made
under oath within thirty (30) days after pay-
ment. If this procedure is not followed, all
payments will be accepted by the director as
proper payments. Protest payment claims are
available through the director upon request
(see section 144.700, RSMo and 12 CSR 10-
4.280).

AUTHORITY: section 144.705, RSMo 1994.*
28, 1975, effective Nov. 7, 1975. Refiled
March 30, 1976. Amended: Filed Sept. 7,

12 CSR 10-4.235 Acknowledgement of
Informal Hearing
(Rescinded January 12, 1985)

AUTHORITY: section 144.705, RSMo 1978.
28, 1975, effective Nov. 7, 1975. Rescinded:

12 CSR 10-4.240 Administrative and
Judicial Review
PURPOSE: This rule indicates the time peri-
od a taxpayer has to file a written complaint
with the Administrative Hearing Commission
concerning a final decision by the director of
revenue and interprets and applies section 621.050, RSMo.

(1) A taxpayer affected by a final decision of
the director of revenue may request a hearing
by the Administrative Hearing Commission
by filing a written complaint with the com-
mision within sixty (60) of the date of the
director of revenue’s final decision (see section
621.050, RSMo).

(A) The sixty (60)-day period begins on the
date when the director of revenue’s final
decision is mailed or delivered to the taxpay-
er, whichever is later.

(B) A complaint is considered to be filed at
the time it is date stamped as received and
filed by the Administrative Hearing Commiss-
ion, unless sent by registered or certified
mail. A complaint filed by registered or cer-
tified mail is considered to be filed with the
commission on the date it is mailed by the
 taxpayer.

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

*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.245 Interest Payment
PURPOSE: This rule indicates when interest
will or will not be credited or paid to the tax-
payer and interprets and applies section 144.695, RSMo.

(1) Only in the case where the taxpayer is
granted a judgment after judicial review is
any interest to be credited or paid to the tax-
payer for the overpayment of the Missouri use
tax.

AUTHORITY: section 144.705, RSMo 1994.*
28, 1975, effective Nov. 7, 1975. Refiled
March 30, 1976.

*Original authority: 144.705, RSMo 1959.

International Business Machines v. State
Tax Commission, 362 SW2d 635 (Mo. 1962).
As to sales tax improperly collected, there is
a provision for refund, but there is no provi-
son that refunds bear interest.

12 CSR 10-4.250 Liens
PURPOSE: This rule indicates the procedure
followed by the director of revenue in filing
liens for use taxes and interprets and applies
sections 144.380 and 144.690, RSMo.

(1) In any case in which any tax, interest or
penalty imposed under the use tax statutes is
not paid when due, the director of revenue
may file or record with the recorder’s office
of the county in which the person owing use
tax, interest or penalty resides or has the
place of business, a Notice of Lien specifying
the amount of tax, interest or penalty due and
the name of the person liable for the same.

(2) A lien may be released by filing for record
in the office of the county recorder a release
executed by the director of revenue.

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

*Original authority: 144.705, RSMo 1959.

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

12 CSR 10-4.255 Who Should Request
Refund
(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994.
U.T. regulation 695-1 originally filed Oct.
28, 1975, effective Nov. 7, 1975. Refiled
12 CSR 10-4.260 Claim Form
(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994.

12 CSR 10-4.265 Refund Rather Than Credit
(Rescinded October 30, 2000)

AUTHORITY: section 144.705, RSMo 1994.

12 CSR 10-4.270 Allowance for Defective Merchandise
PURPOSE: This rule indicates what extent an allowance for defective merchandise will affect state use taxes and interprets and applies section 144.610, RSMo.

(1) Where an allowance is made for defective merchandise, the vendor is subject to the use tax upon the amount due after subtracting the allowances from the sales price. When the tax has been paid on the full selling price by the vendor, a credit or refund of the tax attributable to the allowance must be requested on an application for refund/credit (see 12 CSR 10-4.275).

(2) If a purchaser returns defective merchandise to the vendor and, in connection with the return, new merchandise is furnished, the vendor is subject to the use tax only on the cost of the new article less the allowance for merchandise returned.


*Original authority: 144.705, RSMo 1959.

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

AUTHORITY: section 144.705, RSMo 1994.

12 CSR 10-4.280 Filing Protest Payment Returns
PURPOSE: This rule prescribes the requirements of a protest payment return and interprets and applies section 144.700, RSMo.

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


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.290 Intent of Rules
PURPOSE: This rule clarifies the intent of rules issued with respect to the Missouri compensating use tax law.

(1) Rules are to interpret and exemplify, for administration and enforcement, the compensating use tax laws. If a particular taxpayer’s question or problem is considered and covered by these rules, it is not necessary that the taxpayer be issued a ruling on that question or problem after January 10, 1976 (see 12 CSR 10-3.002).

(2) All rules issued by the Department of Revenue are intended only to be general guidelines. Particular facts and circumstances surrounding any given taxpayer’s business transactions may vary greatly from the facts and circumstances intended to be described in the published rules (see 12 CSR 10-4.295).


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.305 Collection Allowance
PURPOSE: This rule indicates that late remitters do not receive the two percent collection fee and interprets and applies section 144.710, RSMo.

(1) All vendors required to remit Missouri use tax to the director of revenue, who shall fail to do so on or before the due date, will not be entitled to the two percent (2%) collection fee.


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.310 Timely Filing
PURPOSE: This rule refers to the postmark being prima facie evidence in determining the date a return is filed and interprets and applies section 144.655, RSMo.

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


*Original authority: 144.705, RSMo 1959.

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


12 CSR 10-4.320 Sales Tax Rules Apply

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

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


*Original authority: 144.705, RSMo 1959.

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


12 CSR 10-4.340 Dual Operators

**PURPOSE:** This rule indicates when a contractor is considered a dual operator and sets forth the procedures to be used by the dual operator to determine when purchases become subject to use tax. Examples are given for clarification purposes.

(1) A Missouri contractor who purchases materials and supplies from an out-of-state vendor for both consumption and resale is operating as a dual operator. For use tax purposes, a dual operator shall adopt the following procedures:

(A) For items which the Missouri contractor purchases from an out-of-state vendor and for which s/he has not been charged tax equal to or greater than the Missouri state tax and which the contractor uses in his/her operation, the contractor is subject to use tax;

(B) For items which the Missouri contractor purchases for both consumption and resale, the contractor should present an exemption certificate to the out-of-state vendor for items purchased. Subsequently, when an item is removed from the contractor’s inventory, for personal use by the contractor or in fulfillment of a contract, at that point, the contractor should remit use tax on that transaction. If an item is removed from inventory as part of a sale at retail, the contractor should charge sales tax on the gross receipts of the sales; and

(C) For items which the Missouri contractor purchases from an out-of-state vendor for a contract job which is out-of-state and where the item never enters Missouri, no Missouri use tax is due.

(2) Example: Handy Contracting, a Missouri contractor, purchases a stairway lift elevator from Hi-Flite Corporation, an out-of-state company. This purchase by Handy Contracting is solely for use in the operation as a contractor and will be installed in Missouri. If Hi-Flite Corporation has not collected Missouri use tax on this lift, Handy Contracting must pay use tax.

(3) Example: Handy Contracting, a Missouri contractor, purchases five (5) stairway lift elevators from Hi-Flite Corporation, an out-of-state company. Handy Contracting maintains these lifts in inventory. Handy Contracting should give Hi-Flite Corporation a resale exemption certificate. As part of the contract, Handy Contracting removes a lift from the inventory and installs it in a building. Handy Contracting should self-assess use tax on the lift. The next day Handy Contracting sells a lift to Alex Contracting, also a Missouri contractor. Handy Contracting is subject to sales tax upon the gross receipts from the sale.

(4) Example: Handy Contracting, a Missouri contractor, purchases a stairway lift elevator from Hi-Flite Corporation, an out-of-state company, with delivery to an out-of-state construction site. Handy Contracting does not owe Missouri use tax on this purchase, however, it may owe use tax to the state in which the contract is being performed.


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.600 Return Required

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

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

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


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.610 Annual Filing

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

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


*Original authority: 144.705, RSMo 1959.

12 CSR 10-4.620 Aircraft

**PURPOSE:** This rule clarifies the use tax law as it applies to purchases of aircraft.
2 CSR 10-4.622 Marketing Organizations Soliciting Sales Through Exempt Entity Fund-Raising Activities

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

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

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

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

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

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

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

AUTHORITY: section 144.705, RSMo 1994.*


12 CSR 10-4.626 Direct Pay Agreement

PURPOSE: This rule lists the requirements a business or corporation must satisfy to enter into a use tax direct pay agreement with the Department of Revenue.

(1) A business or corporation may apply to the department for a use tax direct pay agreement. The application must be submitted in writing. The direct pay agreement is an agreement by which the department allows a business or corporation to pay consumer’s use tax on its purchases directly to the department rather than vendor’s use tax to the seller.

(2) The following requirements must be satisfied before the department will consider a business or corporation for a direct pay agreement:

(A) Submission of an application signed by the applicant business owner or an officer of the applicant corporation;

(B) The applicant business or corporation agrees to accrue and pay all taxes imposed under sections 144.600–144.745, RSMo and Article IV, Sections 43A and 47A of the Missouri Constitution on the purchases of all taxable items made by the applicant business or corporation which are stored, used or consumed by the applicant, excluding items which are exempted under section 144.617, RSMo;

(C) The accrued taxes will be paid in accordance with the applicant business’ or corporation’s filing status as determined by the Revised Statutes of Missouri. The applicant business or corporation will be assessed penalties and interest in accordance with sections 144.665 and 144.720, RSMo for failure to file and to pay the accrued taxes in accordance with their filing status;

(D) The applicant business or corporation will not qualify for the timely filing discount provided in section 144.710, RSMo; and

(E) Records to support that the business or corporation annually purchases taxable items in excess of seven hundred fifty thousand dollars ($750,000), excluding the value of taxable items for which exemption certificates were given.

(3) The department has sole authority to decide whether the applicant qualifies for a direct pay agreement.

(4) An applicant who has been denied a direct pay agreement may reapply. The applicant will be required to meet the qualifications for a direct pay agreement.
(5) The holder of a direct pay agreement must furnish a copy of the direct pay certificate to all sellers from whom they make purchases of taxable items. The direct pay certificate relieves the seller of any obligation to collect vendor’s use tax imposed by Chapter 144, RSMo and Article IV, Sections 43A and 47A of the Missouri Constitution from the holder. This certificate will apply to all purchases of taxable items from the date of the certificate.

(6) A direct pay agreement and direct pay certificate will remain valid and enforceable until the department issues a cancellation notice. The department may cancel a direct pay agreement at any time.

(7) The department will send notice of cancellation to the holder of the direct pay certificate by certified or registered mail.

(8) The holder of a direct pay certificate may notify the department that the direct pay certificate will be voluntarily relinquished.

(9) Upon receipt of a notice of cancellation from the department, the business or corporation, within ten (10) days from the date of the cancellation letter, shall notify each seller in writing that the direct pay certificate is no longer valid.

(10) The holder of a direct payment certificate will be required to provide proof of qualification every two (2) years from the date of the original authorization.

(11) Any seller who accepts a direct payment certificate in good faith from a purchaser can rely on the certificate until s/he receives written notice of cancellation from the purchaser.

**AUTHORITY:** sections 144.190.4 and 144.705, RSMo 1994.* Original rule filed July 2, 1990, effective Dec. 31, 1990.


**12 CSR 10-4.628 Accrual Basis Reporting**

**PURPOSE:** This rule defines gross receipts and clarifies how vendors are to report use tax when their accounting method approximates gross receipts.

(1) Section 144.655, RSMo requires vendors to file returns with the director of revenue showing the amount of gross receipts from taxable sales and services. Gross receipts, as defined in section 144.010.1(3), RSMo, is the total amount received by the vendor for the sale or lease of property or taxable services, less refunds for returned property.

(2) In order to conform with generally accepted accounting principles, many businesses recognize and account for sales on an accrual basis for financial reporting and federal income tax purposes. Under the accrual basis of accounting, sales are recognized in the period in which the transaction is completed, rather than the period in which payment is actually received.

(3) Vendors may report sales on an accrual basis for the vendors’ administrative convenience, if that method materially equals gross receipts over several reporting periods. Accrual basis reporting must meet the following criteria:

(A) The difference between accrual and gross receipts basis reporting shall be limited to changes in accounts receivable balances and refunds to purchasers during the reporting period;

(B) Periodic adjustments for bad debts must be reasonable and verifiable, must not exceed the bad debts expense claimed on the federal income tax return and may not exceed the taxable sales reported for the period in which the adjustment is taken; and

(C) The taxpayer must use a consistent basis of reporting. Any taxpayer changing the basis of reporting shall notify the director of revenue of the change and its effective date.

(4) The director of revenue reserves the right, upon written notification, to require any taxpayer to report future periods on a gross receipts basis with no accrual provision.


*Original authority: 144.705, RSMo 1959.*

**12 CSR 10-4.630 Basic Steelmaking Exemption—Use Tax**

**PURPOSE:** This rule explains the circumstances under which the purchases of electricity and gas by basic steel-makers are exempt from use tax and the procedure for obtaining a basic steelmaking exemption.

(1) The sale of electricity or gas, whether natural, artificial or propane, which is ultimately consumed in connection with basic steelmaking in Missouri is exempt from use tax (see section 144.036, RSMo). The exemption includes sales of electricity and gas consumed in the processing and fabricating of steel in addition to basic steelmaking if the processing or fabricating are part of the taxpayer’s integrated plant that performs basic steelmaking.

(2) Basic steelmaking refers to smelting and refining molten pig iron or other metals to produce steel or steel products by rolling, drawing, casting and alloying metals. It does not include the mere melting of scrap steel which is cast into a new steel product. In order for the melting of scrap steel to qualify as basic steelmaking, the molten metal must be altered to meet customer specifications by adding additional raw material or alloys and thus changing the composition of the steel.

(3) Example: Purchases of electricity or gas used in smelting and refining molten pig iron to produce steel products by casting are exempt. However, purchases of electricity or gas used in secondary processing of steel, which is not performed at the taxpayer’s integrated plant that performs basic steelmaking are not exempt under section 144.036, RSMo. For example, if a taxpayer engages in basic steelmaking at location A and operates a stamping plant at location B which is not physically connected with, or part of, the basic steelmaking facility, the taxpayer’s purchases of electricity and gas for the sampling plant at location B would not be exempt under section 144.036, RSMo.

(4) All consumers of electrical energy or gas who desire to qualify for this exemption must request a steelmaking exemption authorization from the director of revenue. After authorization is issued by the director of revenue, the recipient shall file, on or before the due date, a return with the director, identifying the amount of electrical energy purchased tax exempt and remit the appropriate tax on electrical energy or gas consumed which is not covered by this exemption. An example of electrical energy or gas that would not qualify for the exemption would include energy used in office, storage or warehousing operations.

(5) Sellers making sales of electricity or gas to purchasers claiming the steelmaking exemption are required to obtain letters of exemption from the purchasers as evidence of the exempt sales claimed (see section 144.210, RSMo). Purchasers may purchase all electricity and gas exempt and then self-accrue tax on the portion not covered by the exemption as provided in section (4).
12 CSR 10-4.632 Certificate of Deposit—Use Tax
(Rescinded March 30, 2001)


12 CSR 10-4.634 Delivery, Freight and Transportation Charges—Use Tax

PURPOSE: This rule interprets the use tax law as it applies to delivery, freight and transportation charges and interprets and applies section 144.605(6), RSMo.

(1) Delivery costs, including postage and transportation costs, are subject to sales tax if the parties intend for delivery to be part of the sale.

(2) Delivery costs, including postage and transportation costs, are not subject to use tax if the parties do not intend for delivery to be part of the sale.

(3) Some factors relevant to the determination of the parties’ intent are—
   (A) When title passes to the purchaser;
   (B) Whether delivery charges are separately stated on sales invoices;
   (C) Whether the method of delivery is entirely up to the purchaser;
   (D) Whether the purchaser has the option to take the tangible personal property, hire a carrier or use a carrier selected by the seller;
   (E) Whether the seller derives any financial benefit from the delivery and undertakes any risk for damage or loss during delivery; and
   (F) Whether there is a written agreement between the parties.

AUTHORITY: section 144.705, RSMo 1994.*

*Original authority: 144.705, RSMo 1959.