
Rules of
Department of Revenue
Division 10—Director of Revenue
Chapter 5—City Sales Tax, Transportation Sales Tax
and Public Mass Transportation Tax

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**Title 12—DEPARTMENT OF
REVENUE**

**Division 10—Director of Revenue
Chapter 5—City Sales Tax,
Transportation Sales Tax and
Public Mass Transportation Tax**

**12 CSR 10-5.005 Date of Delivery Deter-
mines Applicability**

PURPOSE: This rule indicates the delivery date is controlling in determining applicability of city sales tax.

(1) In determining whether a sale is subject to a recently enacted city sales tax, the date of delivery is the determining factor. If the tangible personal property sold is delivered after the effective date of the tax, it is subject to the city sales tax even though the contract, purchase order or sales slip may have been executed prior to the effective date of the city sales tax.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 510-1 originally filed Oct. 8, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.010 Layaways

PURPOSE: This rule indicates the date of delivery of layaways is controlling in determining applicability of city sales tax.

(1) When a person purchases tangible personal property to be held under a layaway plan and the property is held by the seller until complete payment is received, the seller of the property is subject to city sales tax if the date of delivery is after the effective date of a city sales tax.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 510-1A originally filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.015 Effective Date
(Rescinded May 30, 2000)

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 510-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.

Op. Atty. Gen. No. 359, Phelps, 9-10-69. A city cannot, before October 13, 1969 the effective date of the city sales tax act (House Bill No. 243 of the 75th General Assembly), pass an ordinance levying a sales tax in accordance with the provisions of the act and

call a special election thereon to be held subsequent to the effective date of the act.

12 CSR 10-5.020 Tax Imposed
(Rescinded May 30, 2000)

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 520-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.

**12 CSR 10-5.025 Location of Machine
Determines**

PURPOSE: This rule provides that the location of vending machines determines the applicability of city sales tax.

(1) The location of a vending machine, not the location of the owner of the vending machine, determines the applicability of city sales tax. All vending machines located within the corporate city limits of a city imposing a city sales tax are subject to the city sales tax of the city in which they are located.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 520-1A originally filed Dec. 31, 1975, effective Jan. 10, 1976.

**12 CSR 10-5.030 State Sales Tax Rule
Apply**

PURPOSE: This rule indicates the applicability of state sales tax rules and interprets and applies section 94.540.1., RSMo (1986).

(1) All sales tax rules pertaining to sections 144.010–144.510, RSMo (1986) apply to the city sales tax sections 94.500 to 94.570, RSMo (1986) unless specifically stated otherwise.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 520-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975.

12 CSR 10-5.035 Deductions
(Rescinded May 30, 2000)

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.

12 CSR 10-5.040 Seller Not Entitled
(Rescinded January 12, 1985)

AUTHORITY: section 94.530, RSMo 1978. C.S.T. regulation 540-2 originally filed Oct. 28, 1975, effective Nov. 7, 1995. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Sept. 7, 1984, effective Jan. 12, 1985.

12 CSR 10-5.045 Seller Entitled

PURPOSE: This rule indicates that the timely payment of taxes entitles the seller to a deduction and interprets and applies section 144.140, RSMo (1986).

(1) For every remittance of tax made on or before the due date as required, the seller is entitled to deduct and retain an amount equal to two percent (2%) for timely payment. Note: A purchaser is not entitled to this deduction.

(A) Example: Mr. C operates a retail store and the amount of tax levied and imposed is between fifteen dollars (\$15) and two hundred fifty dollars (\$250) per month. Therefore, Mr. C files a quarterly return due on or before the thirtieth day of the month following each quarter. If the return is paid and mailed on or before the thirtieth, Mr. C is entitled to the two percent (2%) discount. The postmark date is prima facie evidence of timely payment.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-3 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

Farm and Home Savings Assn. v. Spradling, 538 SW2d 313 (Mo. 1976). Purpose of allowing retention of two percent (2%) tax due was to compensate seller who was required, as part of his regular course of business, to collect sales tax from buyer, keep records and make remittance to director, all of which could increase seller's cost of doing business; it was not primary purpose of statute to give tax reduction simply because tax was paid when due, although deductions may very well encourage prompt payment.

12 CSR 10-5.050 When City Tax Applies

PURPOSE: This rule aids in the determination of when city sales tax applies and interprets and applies section 94.540.5., RSMo (1986).

(1) For the purposes of the city sales tax law, all retail sales are conclusively presumed to have been consummated at the place of business of the seller/retailer without regard to the location or point of passage of title. The

privilege of engaging in the business of selling tangible personal property or rendering taxable services within taxing cities subject the seller to the city sales tax law.

(2) The sale is subject to city sales tax when a seller makes a taxable sale to a purchaser at the seller's place of business or when the order is taken by mail, telephone or by a salesman, even though the property is to be delivered from the seller's place of business located within such taxing jurisdiction to the customer at a point in Missouri outside the limits of the taxing jurisdiction. The sale is consummated at the seller's location, not at the point of delivery.

(3) Example. Mr. Mars is a customer of the Orange Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Mr. Mars orders merchandise from Orange Company for delivery to his place of business outside the corporate city limits of Sun City. Orange Company delivers the merchandise from the stock of goods on hand to Mr. Mars. Orange Company is subject to Sun City's city sales tax on the merchandise sold to Mr. Mars.

(4) Example. The Mighty Milk Company is located in Sun City, a local taxing jurisdiction. Mighty Milk has route salesmen and independent salesmen who sell milk in Sun City and in neighboring cities. Some of the neighboring cities have their own local tax and some do not. All sales of Mighty Milk's route salesmen and the independent salesmen are subject to Sun City's city sales tax since the sales are considered to be consummated at the place of business from which the salesman works.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-4 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (Mo. 1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Due to similarity with rule, see also section 94.540.5., RSMo.

12 CSR 10-5.055 Determining Which Tax Applies

PURPOSE: This rule aids in determining the place of business where the sale is consummated for city sales tax purposes and interprets and applies section 94.540.5, RSMo (1986).

(1) If a seller has more than one (1) place of business in Missouri which participates in a sale, the local tax of the location where the initial order was taken shall apply. For the purposes of this rule, place of business shall include, but not be limited to, sales offices, administrative offices, catalog stores, retail stores, warehouses and factories. Where the seller has no recognizable physical facility, the place of business of the seller shall be where the purchaser actually obtains possession.

(A) Example. The Story Company has a sales office in Tall City and a combination sales office and warehouse in Short City. Both Tall City and Short City have a city sales tax. The Story Company takes an order at its Tall City location from a customer located in Long City which also has a city sales tax. The Story Company ships the order from its warehouse in Short City to the customer in Long City. Tall City's city sales tax would apply as the initial order was taken in Tall City.

AUTHORITY: section 94.530, RSMo 1978. C.S.T. regulation 540-4A originally filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985.

Fabick and Co. v. Schaffner, 492 SW2d 737 (Mo. 1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer;" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like to state sales tax, is a gross receipts tax, not a transactions tax.

Due to similarity with rule, see also section 94.540.5., RSMo.

12 CSR 10-5.060 City Tax Applies—Delivery Outside Jurisdiction

PURPOSE: This rule provides that delivery from a seller located within a taxing city to a purchaser outside the taxing city still makes the sale subject to the city sales tax and interprets and applies section 94.530, RSMo (1986).

(1) When a seller, located within a taxing city, makes a taxable sale to a purchaser and the property is to be delivered from a point in Missouri but outside the limits of the taxing city to another point in Missouri the sale is subject to the city sales tax.

(A) Example. Ms. Venus is a customer of the Orange Company a Missouri seller located in Sun City, a local taxing jurisdiction. Ms. Venus orders merchandise from Orange Company for delivery at her home located outside the corporate city limits of Sun City. Orange Company delivers the merchandise to Ms. Venus from its warehouse located in Round City. Orange Company is subject to Sun City's city sales tax on the merchandise sold to Ms. Venus.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. Regulation 540-5 originally filed Oct. 28, 1975, effective Nov. 7, 1975.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like to state sales tax, is a gross receipts tax, not a transactions tax.

See also *Mobil-Teria Catering Co., Inc. v. Spradling*, 576 SW2d 282 (Mo. en banc 1978). For purposes of public mass transportation tax and transportation sales, "place of business" of mobile food service business referred to place where trucks were parked, wares displayed, initial orders taken and filed, payments made and sales consummated. Thus, the public mass transportation tax or transportation sales tax could not be imposed by municipal corporation on gross receipts from places of business outside the geographical limits of the city of municipality.

Due to similarity with rule, see also section 94.540.5., RSMo.

12 CSR 10-5.065 Items Taken from Inventory

PURPOSE: This rule provides that the taxpayer is liable for city sales tax where items purchased under a resale exemption are subsequently withdrawn from inventory.

(1) When a person who purchases items under a resale exemption certificate withdraws items from inventory for personal use, the items are subject to city sales tax if they were purchased within a city imposing a city sales tax regardless of where the items are used. The taxpayer must report the city sales tax due on his next return.

(A) Example. Mr. Rusty operates an antique store in Gold City, a city which does not have a city sales tax. Mr. Rusty purchases three (3) antique rockers from a dealer located in Mountain City and issues the dealer a resale exemption certificate. Mr. Rusty decides to withdraw one (1) rocker from his inventory and use it in his home. Mountain City has a city sales tax. Therefore, since the rocker was purchased in Mountain City, Mr. Rusty must remit both state and city sales tax based on the cost of the rocker on his next return.

(B) Example. Mr. Kold operates an appliance store in White City, a city which has a city sales tax. Mr. Kold purchases all of his appliances from a company located in Heavy City which also has a city sales tax. Mr. Kold issues a resale exemption certificate to his supplier for all of his purchases. Mr. Kold decides to take a refrigerator out of inventory for use in his home. Mr. Kold must remit state and local sales tax based on the cost of the refrigerator on his next return. Heavy City's city sales tax would apply as the refrigerator was purchased in Heavy City. Should Mr. Kold use the refrigerator for one (1) year in his home and subsequently return the used refrigerator to his stock of goods, sales tax would be due on the selling price of the refrigerator when resold to a subsequent purchaser. In this situation, White City's city sales tax would apply.

(C) Example. Mr. Lowd operates a radio store in Ham City, which has a city sales tax. Mr. Lowd purchases all of his radios from an out-of-state supplier and issues a resale exemption certificate for all of his purchases. If Mr. Lowd decides to remove a radio from inventory to use himself, city sales tax would not be due as the radio was purchased from out-of-state.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-5A originally filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.070 City Tax Applies—Delivery from Outside the State

PURPOSE: This rule indicates that delivery from outside Missouri does not remove the seller's liability for city sales tax and interprets and applies section 94.540.5, RSMo (1986).

(1) When a Missouri seller makes a taxable sale to a Missouri purchaser and the property is to be delivered from a point outside Missouri to a point either within or beyond the limits of a taxing city, the sale is subject to the city sales tax.

(A) Example. Mr. Strong is a customer of the Barbell Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Mr. Strong orders merchandise from the Barbell Company for delivery at his place of business and home located outside the corporate city limits of Sun City. Barbell Company orders the merchandise for Mr. Strong from a manufacturing company located outside Missouri. The manufacturing company ships the merchandise by common carrier directly to Mr. Strong's place of business. Barbell Company is subject to Sun City's city sales tax on the merchandise sold to Mr. Strong.

(B) Example. Ms. Stone, a Missouri purchaser, located in Sun City, has a mail-order catalog from Rock Company, a vendor located outside Missouri, with no office, property or salesmen in Missouri. Ms. Stone sends an order in the mail to Rock Company for merchandise to be delivered to her place of business by common carrier. Ms. Stone is subject to the Missouri use tax if the merchandise is for storage, use or consumption. The sale is not subject to city sales tax.

(C) Example. Mr. Mudd, a Missouri purchaser, lives outside the corporate city limits of Sun City. He places an order with Mr. Kleen, a salesman for the Dazzle Company, a vendor located outside of Missouri. Mr. Kleen works from his office in his home in Sun City. The Dazzle Company does not have any other office or property in Missouri. The Dazzle Company fills the order from its warehouse located outside Missouri and ships the merchandise directly to Mr. Mudd's home. The Dazzle Company is subject to Sun City's city sales tax on the merchandise sold to Mr. Mudd.

(D) Example. Mr. LeBeau, a Missouri purchaser, located in Sun City, contacts Mr. Dudley, a salesman for the Kam Company, a

vendor located outside Missouri without an office in the state of Missouri. Mr. Dudley calls on Mr. LeBeau at Mr. LeBeau's place of business. Mr. Dudley takes the order for merchandise and returns to his out-of-state location from which the merchandise is then shipped to Mr. LeBeau's place of business. The Kam Company is not subject to Sun City's sales tax on the merchandise sold to Mr. LeBeau because the Kam Company has no place of business within Sun City.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-6 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

See also, Mobil-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of public mass transportation tax and transportation sales, "place of business" of mobil food service business referred to place where trucks were parked, wares displayed, initial orders taken and filed, payments made and sales consummated. Thus, the public mass transportation tax or transportation sales tax could not be imposed by municipal corporation on gross receipts from places of business outside the geographical limits of the city of municipality.

Due to similarity with rule, see also section 94.540.5, RSMo.

12 CSR 10-5.072 Metered and Non-metered Natural Gas Sales

PURPOSE: The purpose of this rule is to clarify the incidence of local tax on the sale of natural and propane gas.

(1) For purposes of local sales tax on metered pipeline sales of natural gas, the meter located at the residence of the purchaser shall constitute the place of business of the retailer. The local sales tax rate in effect at the location of the meter shall apply to the metered pipeline sale.

(2) Where bulk deliveries of propane or natural gas are made by the seller by service truck and where the fuel is dispensed into either a customer- or retailer-owned tank which does not have a metering device and the customer purchases and owns the contents, the sale shall be deemed to be consummated at the seller's principal place of business. The local sales tax rate in effect at the seller's principal place of business shall apply to the sale.

(3) Where bulk deliveries of natural or propane gas are made by the seller by service truck to a storage tank which has a metering device used to measure the consumption of fuel used by the consumer for billing purposes, and where the seller maintains control of the fuel in the tank, the sale shall be deemed to be consummated where the tank is located. The local sales tax rate in effect at the location of the tank shall apply to the sale.

AUTHORITY: section 94.530, RSMo 1986. Original rule filed Oct. 15, 1985, effective Jan. 26, 1986.

12 CSR 10-5.075 Application of City Sales Tax to Rental or Leasing Receipts

PURPOSE: This rule indicates that city sales tax applies to rental or leasing receipts where tax was not paid at the time of purchase and interprets and applies section 94.540.5, RSMo (1986).

(1) Persons renting and leasing tangible personal property on which Missouri state sales tax was not paid at the time of purchase are subject to the city sales tax on rental and leasing receipts if the rented or leased properties are used or installed within a city imposing a city sales tax for a period of over thirty (30) calendar days, regardless as to where the renter or lessor is located. Persons renting and leasing items for periods of thirty (30) calendar days or less are subject to the city sales tax on the lease or rental receipts imposed by the city in which the renter or lessor is located when it cannot readily be determined where items will be used.

(2) If, at a later date, the renter or lessee decides to purchase the property which s/he

previously had been renting or leasing, the seller, renting or leasing, is subject to the city sales tax based on the seller's location since the sale is consummated at his/her location. If the seller has more than one (1) location, the taxable situs will be the location where the initial order was taken. No deduction or allowance of any kind is to be allowed for any city sales tax previously paid on rent or lease receipts.

(3) When a customer within a taxing city in Missouri rents or leases tangible personal property from an out-of-state seller, the seller is subject to the appropriate city sales tax imposed by the city in which the renter or lessee will use or install the property. These transactions are not sales at retail but constitute taxable services.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 540-7 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985.

12 CSR 10-5.080 Refund Procedures
(Rescinded October 30, 2000)

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 550-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed April 19, 2000, effective Oct. 30, 2000.

12 CSR 10-5.085 Motor Vehicles

PURPOSE: This rule provides that sellers engaged in selling motor vehicles are not liable for and should not collect the tax and interprets and applies section 94.560, RSMo (1986).

(1) Sellers engaged in selling motor vehicles should not collect the state sales tax since the purchaser of the property is required by law to remit state sales tax to the Bureau of Motor Vehicle Registration, Missouri Department of Revenue, at the time the property is titled and registered or show sufficient evidence that state sales tax is not due. The same holds true for city sales tax in that the tax is payable at the time of titling provided the purchaser's address is within the corporate limits of a city imposing city sales tax.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-1 originally filed Oct.

28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.090 Mobile Homes

PURPOSE: This rule indicates sellers of mobile homes are subject to tax.

(1) Sellers will be subject to both state and city sales tax on the sales of mobile homes.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-2 originally filed Oct. 28, 1975, effective Nov. 7, 1975.

12 CSR 10-5.095 Over-the-Road Trailers

PURPOSE: This rule indicates that purchasers of over-the-road trailers are subject to the city sales tax of the city in which they reside and interprets and applies sections 94.560 and 144.070, RSMo (1986).

(1) City sales taxes which are imposed on the purchase and sale of over-the-road trailers shall not be collected and remitted by the seller but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a city imposing a city sales tax.

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 560-3 was originally filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Sept. 8, 1976, effective Dec. 11, 1976.

Wiethop Truck Sales, Inc. v. James R. Spradling, 538 SW2d 585 (Mo. 1976). Held that the provision of the City Sales Tax Act imposing a duty of collecting city sales tax on the seller of new or used cars does not modify the statute requiring the Director of Revenue to collect Missouri sales tax and thus, the burden of collecting city sales tax on trailers does not shift from the Director of Revenue to the sellers of trailers.

12 CSR 10-5.100 Delinquent Tax

PURPOSE: This rule provides that delinquent city sales tax shall be collected in the same manner as state sales tax.

(1) The collection of delinquent city sales tax will be conducted in the same manner as provided for in sections 144.010-144.510, RSMo (1986) and more specifically, in sections 144.210, 144.220, 144.230, 144.240, 144.250 and 144.261, RSMo (1986).

AUTHORITY: section 94.530, RSMo 1986. C.S.T. regulation 570-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975.

12 CSR 10-5.105 Erroneous Business Locations Transfers from City-to-City
(Rescinded May 30, 2000)

AUTHORITY: section 94.530, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed July 2, 1986, effective Dec. 11, 1986. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.

12 CSR 10-5.500 Other Entity Defined

PURPOSE: This rule defines the term other entity as used in the transportation sales tax act.

(1) For the purposes of this act, other entity includes firm, copartnership, joint venture, association, municipal corporation and private corporation, whether organized for profit or not.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 600-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.505 Date of Delivery Determines Applicability

PURPOSE: This rule indicates that date of delivery is the determining factor in the applicability of the transportation sales tax.

(1) In determining whether a sale is subject to a recently enacted transportation sales tax, the date of delivery is the determining factor. If the tangible personal property sold is delivered after the effective date of the tax, it is subject to the transportation sales tax even though the contract, purchase order or sales slip may have been executed prior to the effective date of the transportation sales tax.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 605-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.510 Sales Tax Rules Apply

PURPOSE: This rule provides that state sales tax and city sales tax rules also apply to transportation sales tax and interprets and applies section 94.605.7 and 94.605.8, RSMo (1986).

(1) All sale tax rules pertaining to the state sales tax sections 144.010–144.510, RSMo (1986), and to the city sales tax sections 94.500–94.570, RSMo (1986), apply to the transportation sales tax unless specifically stated otherwise.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 615-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.515 Layaways

PURPOSE: This rule indicates the date of delivery of layaways is controlling in determining applicability of transportation sales tax and interprets and applies section 94.615, RSMo (1986).

(1) When a person purchases tangible personal property to be held under a layaway plan and the property is held by the seller until complete payment is received, the seller of the property is subject to transportation sales tax if the date of delivery is after the effective date of a transportation sales tax.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 605-2 filed as C.S.T. regulation 510-1A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.520 Effective Date
(Rescinded May 30, 2000)

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 605-3 originally filed as C.S.T. regulation 510-2 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.

12 CSR 10-5.525 Tax Imposed

PURPOSE: This rule prescribes that the transportation sales tax is imposed on sellers and interprets and applies section 94.610, RSMo (1986).

(1) The transportation sales tax is imposed on sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services. When reporting and remitting transportation sales tax to the director, the seller is required to send one (1) check for and will be held liable for com-

puting, his/her liability on the basis of a combined rate of tax by adding the appropriate local tax and the current state tax.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 610-1 originally filed as C.S.T. regulation 520-1 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.530 Seller Not Entitled

PURPOSE: This rule provides that untimely filing precludes taking the timely filing discount and interprets and applies section 144.140, RSMo (1986).

(1) A seller who fails to pay timely or pays after obtaining an extension of time for filing his/her return is not entitled to deduct or retain the two percent (2%) timely payment discount.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 615-2 originally filed as C.S.T. regulation 540-2 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Farm and Home Savings Assn. v. Spradling, 538 SW2d 313 (Mo. 1976). The two percent deduction is allowable only when the person required to remit the taxes does so on or before the date the taxes are due.

12 CSR 10-5.535 Seller Entitled

PURPOSE: This rule indicates that the timely payment of taxes entitles the seller to a deduction and interprets and applies section 144.140, RSMo (1986).

(1) For every remittance of tax made on or before the due date as required, the seller is entitled to deduct and retain an amount equal to two percent (2%) for timely payment. Note: A purchaser is not entitled to this deduction.

(A) Example. Mr. C operates a retail store and the amount of tax levied and imposed is between fifteen dollars (\$15) and two hundred fifty dollars (\$250) per month. Mr. C files a quarterly return due on or before the thirtieth day of the month following each quarter. If the return is paid and mailed on or before the thirtieth, Mr. C is entitled to the two percent (2%) discount. The postmark date is prima facie evidence of timely payment.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 615-3 originally filed as C.S.T. regulation 540-3 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Farm and Home Savings Assn. v. Spradling, 538 SW2d 313 (Mo. 1976). Phrase “person required to remit the same” in statute providing that from every remittance to director of revenue made on or before date when same becomes due, person required to remit same should be entitled to deduct and retain amount equal to two percent (2%) thereof, means seller, not buyer, because it is seller who is required by other provisions of sales tax law to remit taxes due director.

12 CSR 10-5.540 Deductions

PURPOSE: This rule indicates that the deductions contained in certain sections of the state sales tax law also apply to transportation sales tax.

(1) The deductions, as they apply to the state sales tax law, contained in sections 144.030, 144.040 and 144.042, RSMo (1986) also apply to the transportation sales tax law. Specific reference should be made to these sections for further particulars.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-1 originally filed as C.S.T. regulation 540-1 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.545 When Transportation Tax Applies

PURPOSE: This rule aids in the determination of when transportation sales tax applies.

(1) For the purposes of the transportation sales tax law, all retail sales are conclusively presumed to have been consummated at the place of business of the seller/retailer without regard to the location or point of passage of title. The privilege of engaging in the business of selling tangible personal property or rendering taxable services within taxing jurisdictions subjects the seller to the transportation sales tax law.

(2) The sale is subject to transportation sales tax when a seller makes a taxable sale to a purchaser at the seller’s place of business or when the order is taken by mail, telephone or

by a salesman, even though the property is to be delivered from the seller’s place of business located within the taxing jurisdictions to the customer at a point in Missouri outside the limits of the taxing jurisdiction. The sale is consummated at the seller’s location, not at the point of delivery.

(3) Example 1. Mr. Mars is a customer of the Orange Company, a Missouri seller located in Sun County, a local taxing jurisdiction. Mr. Mars orders merchandise from Orange Company for delivery to his place of business outside the limits of Sun County. Orange Company delivers the merchandise from the stock of goods on hand to Mr. Mars. Orange Company is subject to Sun County’s transportation sales tax on the merchandise sold to Mr. Mars.

(4) Example 2. The Mighty Milk Company is located in Sun City, a local taxing jurisdiction. Mighty Milk has route salesmen and independent salesmen who sell milk in Sun City and in neighboring cities. Some of the neighboring cities have their own local tax and some do not. All sales of Mighty Milk’s route salesmen and the independent salesmen are subject to Sun City’s transportation sales tax since the sales are considered to be consummated at the place of business from which the salesman works.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-2 originally filed as C.S.T. regulation 540-4 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.550 Place of Business

PURPOSE: This rule aids in determining the place of business where the sale is consummated for transportation sales tax purposes and interprets and applies section 94.620.5, RSMo (1986).

(1) If a seller has more than one (1) place of business in Missouri which participates in a sale, the sale is deemed to be consummated at the place of business of the seller where the initial order is taken and the transportation tax of this location would apply. If a seller has only one (1) place of business in Missouri which participates in a sale, the local tax of this location would apply. For the purposes of this rule, place of business shall include, but not be limited to, sales offices, administrative offices, catalog stores, retail stores, warehouses and factories.

(A) Example. The Story Company has a sales office in Tall City and a combination sales office and warehouse in Short City. Both Tall City and Short City have a transportation sales tax. The Story Company takes an order at its Tall City location from a customer located in Long City which also has a transportation sales tax. The Story Company ships the order from its warehouse in Short City to the customer in Long City. Tall City’s transportation sales tax would apply as the initial order was taken in Tall City.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-3 originally filed as C.S.T. regulation 540-4A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase “shall be deemed to be consummated at the place of business of the retailer” was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales tax, “place of business” of mobile food service business referred to place where initial orders were taken and filled.

12 CSR 10-5.555 Transportation Tax Applies—Delivery Outside Jurisdiction

PURPOSE: This rule provides that delivery from a seller located within a taxing jurisdiction to a purchaser outside the taxing jurisdiction still makes the sale subject to the transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).

(1) When a seller, located within a taxing jurisdiction, makes a taxable sale to a purchaser and the property is to be delivered from a point in Missouri but outside the limits of the taxing jurisdiction to such point in Missouri, the sale is subject to the transportation sales tax.

(A) Example. Ms. Venus is a customer of the Orange Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Ms. Venus orders merchandise from Orange Company for delivery at her home located outside the corporate city limits of Sun City. Orange Company delivers the merchandise to Ms. Venus from its warehouse located in Round City. Orange Company is subject to Sun City's transportation sales tax on the merchandise sold to Ms. Venus.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-4 originally filed as C.S.T. regulation 540-5 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales, "place of business" of mobile food service business referred to place where payments were made and sales consummated.

12 CSR 10-5.560 Transportation Tax Applies—Delivery from Outside the State

PURPOSE: This rule indicates that delivery from outside Missouri does not remove the seller's liability for transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).

(1) When a Missouri seller makes a taxable sale to a Missouri purchaser and the property is to be delivered from a point outside Missouri to a point either within or beyond the limits of a local taxing jurisdiction, the sale is subject to the transportation sales tax.

(A) Example 1. Mr. Strong is a customer of the Barbell Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Mr. Strong orders merchandise from the

Barbell Company for delivery at his place of business and home located outside the corporate city limits of Sun City. Barbell Company orders the merchandise for Mr. Strong from a manufacturing company located outside the state of Missouri. The manufacturing company ships the merchandise by common carrier directly to Mr. Strong's place of business. Barbell Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. Strong.

(B) Example 2. Ms. Stone, a Missouri purchaser located in Sun City, has a mail-order catalog from Rock Company, a vendor located outside Missouri, with no office, property or salesmen in Missouri. Ms. Stone sends an order in the mail to Rock Company for merchandise to be delivered to her place of business by common carrier. Ms. Stone is subject to the Missouri use tax if the merchandise is for storage, use or consumption. The sale is not subject to transportation sales tax.

(C) Example 3. Mr. Mudd, a Missouri purchaser, lives outside the corporate city limits of Sun City. He places an order with Mr. Kleen, a salesman for the Dazzle Company, a vendor located outside of Missouri. Mr. Kleen works from his office in his home in Sun City. The Dazzle Company does not have any other office or property in Missouri. The Dazzle Company fills the order from its warehouse located outside Missouri and ships the merchandise directly to Mr. Mudd's home. The Dazzle Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. Mudd.

(D) Example 4. Mr. LeBeau, a Missouri purchaser located in Sun City, contacts Mr. Dudley, a salesman for the Kam Company, a vendor located outside Missouri without an office in Missouri. Mr. Dudley calls on Mr. LeBeau at Mr. LeBeau's place of business. Mr. Dudley takes the order for merchandise and returns to his out-of-state location from which the merchandise is then shipped to Mr. LeBeau's place of business. The Kam Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. LeBeau since the Kam Company is in the business of selling tangible personal property within Sun City.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-5 originally filed as C.S.T. regulation 540-6 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law

are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales tax, "place of business" of mobile food service business referred to places where trucks were parked, wares displayed, initial orders filled, payments made and sales consummated.

12 CSR 10-5.565 Application of Transportation Sales Tax to Rental or Leasing Receipts

PURPOSE: This rule indicates that transportation sales tax applies to rental or leasing receipts where tax was not paid at the time of purchase and interprets and applies section 94.620.5, RSMo (1986).

(1) Persons renting and leasing tangible personal property on which Missouri state sales tax was not paid at the time of purchase are subject to the transportation sales tax on the rental and leasing receipts if the rented or leased properties are generally nonmovable and are used or installed within a local taxing jurisdiction imposing a transportation sales tax for a period of over thirty (30) calendar days, regardless as to where the renter or lessor is located. Persons renting and leasing generally movable items for periods of thirty (30) calendar days or less are subject to the transportation sales tax on the lease or rental receipts imposed by the local taxing jurisdiction in which the renter or lessor is located when it cannot readily be determined where the items will be used.

(2) If, at a later date, the renter or lessee decides to purchase the property which s/he previously had been renting or leasing, the seller, renting or leasing, is subject to the transportation sales tax based on the seller's location since the sale is consummated at his/her location. If the seller has more than one (1) location, the taxable situs will be the

location where the initial order was taken. No deduction or allowance of any kind is to be allowed for any transportation sales tax previously paid on rent or lease receipts.

(3) When a customer within a local taxing jurisdiction in Missouri rents or leases tangible personal property from an out-of-state seller, the seller is subject to the appropriate transportation sales tax imposed by the local taxing jurisdiction in which the renter or lessee will use or install the property. These transactions are not sales at retail but constitute taxable services.

(4) Persons leasing or renting tangible personal property to religious, civic and charitable organizations or institutions and elementary and secondary schools operated at public expense are subject to the transportation sales tax on the lease or rental receipts.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-6 originally filed as C.S.T. regulation 540-7 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.570 Location of Machine Determines

PURPOSE: This rule provides that the location of vending machines determines the applicability of transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).

(1) The location of a vending machine, not the location of the owner of the vending machine, determines the applicability of the transportation sales tax. All vending machines located within the limits of a local taxing jurisdiction imposing a transportation sales tax are subject to the transportation sales tax of the local taxing jurisdiction in which they are located.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-7 originally filed as C.S.T. regulation 520-1A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.575 Items Taken from Inventory

PURPOSE: This rule provides that the taxpayer is liable for transportation sales tax where items purchased under a resale exemp-

tion are subsequently withdrawn from inventory and interprets and applies section 94.620.5, RSMo (1986).

(1) When a person who purchases items under a resale exemption certificate withdraws items from inventory for personal use, such items are subject to transportation sales tax if they were purchased within a local taxing jurisdiction imposing a transportation sales tax regardless of where the items are used. The taxpayer must report the transportation sales tax due on his next return.

(A) Example 1. Mr. Rusty operates an antique store in Gold City, a city which does not have a transportation sales tax. Mr. Rusty purchases three (3) antique rockers from a dealer located in Mountain City and issues the dealer a resale exemption certificate. Mr. Rusty decides to withdraw one (1) rocker from his inventory and use it in his home. Mountain City has a transportation sales tax. Since the rocker was purchased in Mountain City, on his next return Mr. Rusty must remit both state and transportation sales tax, based on the cost of the rocker.

(B) Example 2. Mr. Kold operates an appliance store in White City, a city which has a transportation sales tax. Mr. Kold purchases all of his appliances from a company located in Heavy City which also has a transportation sales tax. Mr. Kold issues a resale exemption certificate to his supplier for all of his purchases. Mr. Kold decides to take a refrigerator out of inventory for use in his home. Mr. Kold must remit state and local sales tax based on the cost of the refrigerator on his next return. Heavy City's transportation sales tax would apply as the refrigerator was purchased in Heavy City. Should Mr. Kold use the refrigerator for one (1) year in his home and subsequently return the used refrigerator to his stock of goods, sales tax would be due on the selling price of the refrigerator when resold to a subsequent purchaser. In this situation, White City's transportation sales tax would apply.

(C) Example 3. Mr. Lowd operates a radio store in Ham City, which has a transportation sales tax. Mr. Lowd purchases all of his radios from an out-of-state supplier and issues a resale exemption certificate for all of his purchases. If Mr. Lowd decides to remove a radio from inventory to use himself, transportation sales tax would not be due as the radio was purchased from out-of-state.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 620-8 originally filed as C.S.T. regulation 540-5A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by

statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.585 Motor Vehicles

PURPOSE: This rule provides that sellers engaged in selling motor vehicles are not liable for and should not collect the tax and interprets and applies section 94.635, RSMo (1986).

(1) Sellers engaged in selling motor vehicles should not collect the state sales tax since the purchaser of the property is required by law to remit state sales tax to the Bureau of Motor Vehicle Registration, Missouri Department of Revenue, at the time the property is titled and registered or show sufficient evidence that state sales tax is not due. The same holds true for transportation sales tax in that the tax is payable at the time of titling, provided the purchaser's address is within the limits of a local taxing jurisdiction imposing a transportation sales tax.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 635-1 filed as C.S.T. regulation 560-1 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.590 Over-the-Road Trailers

PURPOSE: This rule indicates that purchasers of over-the-road trailers are subject to the transportation sales tax of the city in which they reside and interprets and applies sections 94.560 and 144.070, RSMo (1986).

(1) Transportation sales taxes which are imposed on the purchase and sale of over-the-road trailers shall not be collected and remitted by the seller but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a city imposing a transportation sales tax.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 635-2 originally filed as C.S.T. regulation 560-3 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

Wiethop Truck Sales, Inc. et al. v. James R. Spradling, 538 SW2d 585 (Mo. 1976). Provision of the City Sales Tax Act imposing on the seller the duty of collection of a city sales tax on the sale of any new or used car

does not, either expressly or by plain implication, modify statute requiring the director of revenue to collect the Missouri sales tax and, thus, does not shift the burden of collecting city sales taxes on trailers from the director of revenue to sellers of trailers.

12 CSR 10-5.595 Mobile Homes

PURPOSE: This rule indicates sellers of mobile homes are subject to tax.

(1) Sellers will be subject to both state and local sales tax on the sales of mobile homes.

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 635-3 originally filed as C.S.T. regulation 560-2 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.605 Delinquent Tax

PURPOSE: This rule provides that delinquent transportation sales tax shall be collected in the same manner as state sales tax and interprets and applies section 94.640, RSMo (1986).

(1) The collection of delinquent transportation sales tax will be conducted in the same manner as provided for in sections 144.010–144.510, RSMo (1986) and more specifically, in sections 144.210, 144.220, 144.230, 144.240, 144.250 and 144.261, RSMo (1986).

AUTHORITY: section 94.615, RSMo 1986. T.T. regulation 640-1 originally filed as C.S.T. regulation 570-1 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.