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**Rules of**  
**Department of Revenue**  
**Division 10—Director of Revenue**  
**Chapter 113—Sales/Use Tax—Use Tax**

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## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue Chapter 113—Sales/Use Tax—Use Tax

#### 12 CSR 10-113.300 Temporary Storage

*PURPOSE: section 144.610, RSMo imposes use tax on the sale of tangible personal property that is purchased for use, storage or consumption in this state. Section 144.620, RSMo creates a presumption that tangible personal property sold for delivery in or transportation to Missouri is for use, storage or consumption in Missouri unless otherwise excluded. Sections 144.605(10) and (13), RSMo define the incidence of “storage” and “use.” These sections provide an exclusion from use tax for property that is purchased for temporary storage in Missouri with the intent to subsequently use the property outside Missouri. This rule interprets this exclusion.*

(1) In general, the temporary storage of property in this state with the intent to subsequently use the property outside the state is not subject to use tax.

#### (2) Definition of Terms.

(A) Storage—Any keeping or retention in this state of tangible personal property purchased from an out-of-state vendor, except property for sale or property that is temporarily kept or retained in this state for subsequent use outside the state. To be “for subsequent use outside the state” the purchaser must intend at the time the property is delivered to a Missouri location to subsequently use the property outside the state.

(B) Temporary—Generally, property kept or retained for less than a year may be considered temporary.

(C) Use—The exercise of any right or power over tangible personal property incident to the ownership or control of that property, except temporary storage of property in this state for subsequent use outside the state, or for sale of the property in the regular course of business.

#### (3) Basic Application of Exclusion.

(A) The purchase of tangible personal property from an out-of-state vendor that is temporarily kept or retained in this state for subsequent use outside the state is not subject to use tax. Any use of the property involving the exercise of any right, dominion, control or power over the tangible personal property, other than temporarily keeping or retaining the property in this state for subsequent use outside the state, constitutes a taxable use.

(B) Keeping or retaining tangible personal property in this state for longer than a temporary period subjects the purchase of the property to use tax, even if the property will be used subsequently outside the state.

(C) The purchaser need not designate at the time of purchase which specific property is for subsequent use outside the state, provided the purchaser can otherwise establish that some of the property is intended for subsequent use out-of-state. Intent can be shown by demonstrating the normal practices of the business or specific circumstances of the transaction. The commingling of property on which tax has already been paid with property on which tax has not already been paid, does not disqualify the property from the exclusion, but makes it difficult for the taxpayer to document which property was intended for use outside the state.

(D) The exclusion will not apply if any further processing, fabrication or other modifications are performed on or to the property while in this state.

#### (4) Examples.

(A) A Missouri contractor purchases from an out-of-state vendor materials and supplies for an out-of-state job. The items purchased are specifically ordered for the out-of-state job, are earmarked as such on the purchase orders and are delivered to the contractor temporarily in Missouri. No further processing, fabricating or other modifications are performed on the items. The materials and supplies purchased are not stock items that may be used in other ongoing jobs either within or without the state. The purchase of the materials and supplies would not be subject to use tax in Missouri.

(B) Same facts as in Example A, however the Missouri contractor performs fabrication labor on the materials in preparation for the out-of-state job at its location in Missouri. The purchase of the materials would then be subject to Missouri use tax.

(C) A Missouri law firm that has an office in Kansas orders ten computers from an out-of-state vendor for use in its Kansas office. The purchase orders are specifically earmarked accordingly. The computers will only be in Missouri for a few days in order to load the firm’s network software. The purchase of the computers would be subject to Missouri use tax because loading the firm’s software constitutes a taxable use.

(D) A taxpayer purchases equipment from an out-of-state vendor for storage in Missouri that it intends at the time of purchase to transfer the equipment to an out-of-state facility in eighteen months. The purchase is subject to use tax.

(E) Taxpayer is a wholesaler of goods. It purchased samples from an out-of-state vendor, which were delivered directly to its Missouri warehouse. The taxpayer at the time of purchase intended that twenty percent (20%) of the samples would go to its Missouri sales force and the other eighty percent (80%) would go to its out-of-state salespersons. All the samples were commingled and were only in Missouri for three (3) months. Because the wholesaler intended to send eighty percent (80%) of the samples out-of-state, the purchase of the eighty percent (80%) is exempt from use tax. However, the wholesaler should pay state and local use tax on any portion of the eighty percent (80%) used in Missouri at the time the samples are removed from the warehouse. Local use tax applies based on the location of the warehouse.

(F) A Missouri wholesaler purchases brochures from non-Missouri suppliers. The brochures are shipped to the wholesaler’s warehouse in Missouri for later shipment to facilities both in-state and out-of-state. The wholesaler does not know at the time of purchase exactly when and where the brochures will be shipped. On average the brochures are stored for six (6) months. As brochures are needed for in-state and out-of-state customers, they are removed from storage and shipped to customers free of charge. Because the wholesaler intended to send some of the brochures out-of-state, the purchase is exempt from use tax. However, the wholesaler should pay state and local use tax on all items used in Missouri at the time the brochures are removed from the warehouse. Local use tax applies based on the location of the warehouse.

(G) Same facts as in Example F except all of the brochures are intended for use in Missouri. The wholesaler should pay tax on the entire purchase price at the time of purchase. Because the intent was for the brochures to be used in Missouri, any occasional out-of-state use does not qualify for the temporary storage exemption.

(H) Same facts as in Example F except some brochures are purchased from an in-state vendor and sales tax is paid at the time of purchase. The wholesaler commingles the taxed brochures purchased in state with the untaxed brochures purchased from out-of-state. Unless the wholesaler maintains specific documentation of which brochures will be used in-state and out-of-state the use tax is due on the commingling of the brochures.

*AUTHORITY: section 144.705, RSMo 1994.\* Original rule filed June 8, 2000, effective Dec. 30, 2000.*

*\*Original authority: 144.705, RSMo 1959.*