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# Rules of Department of Revenue

## Division 10—Director of Revenue

### Chapter 11—County Sales Tax

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## Title 12—DEPARTMENT OF REVENUE

### Division 10—Director of Revenue Chapter 11—County Sales Tax

#### 12 CSR 10-11.030 Effective Date

(Rescinded May 30, 2000)

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

#### 12 CSR 10-11.040 Tax Imposed

(Rescinded May 30, 2000)

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

#### 12 CSR 10-11.050 Location of Machine Determines

*PURPOSE: This rule specifies that the location of vending machines determines the applicability of county sales tax.*

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

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### 12 CSR 10-11.060 State Sales Tax Rules Apply

*PURPOSE: This rule specifies that all rules pertaining to state sales tax shall also apply to the county sales tax unless stated otherwise.*

(1) All sales tax rules pertaining to section 144.010–144.510, RSMo shall also apply to the county sales tax sections 67.500–67.580 and 67.700–67.727, RSMo unless specifically stated otherwise.

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### 12 CSR 10-11.080 Seller Entitled

*PURPOSE: This rule indicates the seller is entitled to a deduction for the timely payment of taxes.*

(1) For every remittance of tax made on or before the due date 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.

(2) 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: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### 12 CSR 10-11.090 When County Tax Applies

(Rescinded May 30, 2000)

*AUTHORITY: sections 67.515 and 67.706, RSMo (1986). Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

*In Fabick and Company v. Schaffner, 492 SW2d 737 (1973) the court held that because the taxpayer had a “place of business” within the city limits all sales were subject to local tax including equipment delivered from seller’s place of business in Jefferson City to a customer outside the city; deliveries from a point outside the city to another point outside the city but within the state, and sales delivered from outside the state to a customer inside the state either within or without Jefferson City.*

#### 12 CSR 10-11.100 Determining Which Tax Applies

*PURPOSE: This rule specifies the applicability of the county sales tax when a seller has more than one (1) place of business and when the seller does not have a recognizable physical facility from which s/he is operating the business.*

(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.

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

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### 12 CSR 10-11.120 Items Taken from Inventory

*PURPOSE: This rule specifies that the taxpayer is liable for county sales tax where items purchased under an exemption certificate are subsequently withdrawn from inventory.*

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

(A) Example. Mr. Law operates an antique store in Blue County, a county which does not have a county sales tax. Mr. Law purchases three (3) antique chairs from a dealer located in Hill County and issues the dealer an exemption certificate. Mr. Law decides to withdraw one (1) chair from his inventory and uses it in his home. Hill County has a county sales tax. Since the chair was purchased in Hill County, Mr. Law must remit both state and county sales tax based on the cost of the chair, on his next return.

(B) Example. Mr. Brown operates an appliance store in Straw County, a county

which has a county sales tax. Mr. Brown purchases all of his appliances from a company located in Light County which also has a county sales tax. Mr. Brown issues an exemption certificate to his supplier for all of his purchases. Mr. Brown decides to take a stove out of inventory for use in his home. Mr. Brown must remit state and county sales tax based on the cost of the stove on his next return. Light County's county sales tax would apply as the stove was purchased in Light County. Should Mr. Brown use the stove for one (1) year in his home and subsequently return the used stove to his stock of goods, sales tax would be due on the selling price of the stove when resold to a subsequent purchaser. In this situation, Straw County's county sales tax would apply.

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.130 County Tax Applies—Delivery from Outside the State**

*PURPOSE: This rule indicates that delivery from outside Missouri does not remove the seller's liability for county sales tax unless the sale is made by an out-of-state vendor without an office in Missouri.*

(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 county, the sale is subject to the county sales tax.

(A) Example. Mr. Strong is a customer of the Barbell Company, a Missouri seller located in Sun County, 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 county limits of Sun County. 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 County's county sales tax on the merchandise sold to Mr. Strong.

(B) Example. Mr. Mudd, a Missouri purchaser, lives outside the corporate county limits of Sun County. 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 County. 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 County's sales tax on the merchandise sold to Mr. Mudd.

(C) Example. Ms. Stone, a Missouri purchaser located in Sun County, 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 county sales tax.

(D) Example. Mr. LeBeau, a Missouri purchaser, located in Sun County, 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 County's sales tax on the merchandise sold to Mr. LeBeau because the Kam Company has no place of business within Sun County.

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.140 Application of County Sales Tax to Rental or Leasing Receipts**

*PURPOSE: This rule indicates the county sales tax law as it applies to rental or leasing receipts when the tax was not paid at the time of purchase.*

(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 county sales tax on the rental and leasing receipts if the rented or leased properties are used or installed within a county imposing a county sales tax for a period of over thirty (30) days, regardless as to where the renter or lessee is located. Persons renting and leasing items for periods of thirty (30) calendar days or less are subject to the county sales tax on the lease or rental receipts imposed by the county 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 county 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 county sales tax previously paid on rent or leased receipts.

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

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.150 Refund Procedure**

*PURPOSE: This rule sets forth the requirements of a claim for overpayment and whether a refund or credit is appropriate.*

(1) Where a taxpayer claims an overpayment as a result of clerical error or mistake, s/he must file a written claim in a manner as prescribed by the director of revenue within two (2) years of overpayment. No claim will be considered unless filed within that time.

(2) Before any claim for refund is approved, it must be shown, where applicable, that the seller has returned to the purchaser the amount claimed if the purchaser was charged this amount.

(3) In cases where a claim for credit is approved, the director of revenue will issue a credit memorandum in the amount of the overpayment. The credit may then be applied by the taxpayer to any existing tax liability or to his/her subsequent tax liability. Note: In no case should the taxpayer take credit for any overpayment unless prior approval has been obtained from the director of revenue.

(4) Where there is not subsequent liability, as where a person has paid a tax and it is later discovered that there was no liability and the person is no longer in business, the person should make a claim for refund as provided in sections (1)–(3). The refund, if allowed, will be paid out of funds deposited in the county trust fund.

(5) See 12 CSR 10-3.516–12 CSR 10-3.528.

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.160 Motor Vehicles**

*PURPOSE: This rule specifies that sellers engaged in selling motor vehicles are not liable for and should not collect the tax.*

(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 county sales tax in that the tax is payable at the time of titling, provided the purchaser's address is within the county boundaries of a county imposing a county sales tax.

*AUTHORITY: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.180 Delinquent Tax**

*PURPOSE: This rule specifies that the delinquent county sales tax shall be collected in the same manner as state sales tax.*

(1) The collection of delinquent county 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: sections 67.515 and 67.706, RSMo 1986. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985.*

#### **12 CSR 10-11.190 Erroneous Business Locations—Transfers from County-to-County**

(Rescinded May 30, 2000)

*AUTHORITY: sections 67.515 and 67.706, 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 10-11.200 Adjustment to Decennial Census by St. Louis County Area**

(Rescinded May 30, 2000)

*AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

#### **12 CSR 10-11.210 Distribution of Delinquent Sales Taxes (St. Louis County Area)**

(Rescinded May 30, 2000)

*AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

#### **12 CSR 10-11.220 Requirements for Filing the Incorporation of a New Political Subdivision (St. Louis County)**

(Rescinded May 30, 2000)

*AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*

#### **12 CSR 10-11.230 Adjustments Based Upon Annexation by Political Subdivisions (St. Louis County)**

(Rescinded May 30, 2000)

*AUTHORITY: section 66.620, RSMo 1986. Original rule filed Oct. 8, 1986, effective Jan. 30, 1987. Rescinded: Filed Nov. 2, 1999, effective May 30, 2000.*