

# APPENDIX V

## Sales and Use Tax Expenditures

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### A. Missouri Exclusions from Gross Receipts

Exclusions from gross receipts consist of broad categories of goods and services that are not subject to the Missouri sales or use tax laws. By far, the largest portion of these are consumer expenditures for services.

#### A.01 Isolated or Occasional Sales

Missouri Statutes, Sections 144.010 and 144.011; Regulations 12 CSR 10-3.004, 3.005, and 3.006

##### Definition

Persons engaged in selling tangible personal property on an isolated or occasional basis is not considered to constitute “engaging in business” and therefore no sales tax is due. If a person, even on an isolated or occasional basis, sells in excess of \$3,000 in a year, the entire gross receipts are taxable.

Other exclusions include the following even if the \$3,000 receipts limitation is exceeded:

1. Partial or complete liquidation of a household, farm, or nonbusiness.
2. Transfer of tangible personal property to a corporation solely in exchange for its stock or securities.
3. Transfer of tangible personal property to a corporation by a shareholder as a contribution to capital.
4. Transfer of tangible personal property to a partnership solely in exchange for a partnership.
5. Transfer of tangible personal property by a partner as a contribution to capital.
6. Transfer by one corporation of all its tangible personal property to another corporation pursuant to a merger or consolidation.
7. Transfer of tangible personal property by a corporation or a partnership to one or more of its shareholders, or partners as a dividend, current distribution, return of capital, distribution in partial or complete liquidation of the corporation, the partnership, a partner’s interest, or in redemption of a shareholder’s interest.
8. The transfer of tangible personal property incident to the liquidation or cessation of a taxpayer’s trade or business.

#### A.02 Manufactured Homes

Missouri Statutes, Sections 144.011.(11)(a)(b)(c) and 700.110; Regulation 12 CSR 10-3.034

##### Definition

Prior to Dec. 31, 1985, all new and used manufactured homes were subject to sales tax. Beginning in 1986, the purchase of used manufactured homes is exempt from sales tax. If the mobile home was repossessed and no tax was paid on the original purchase, then sales tax is due on the sale of the repossessed home.

#### A.03 Labor Charges or Services Rendered

Missouri Statutes, Sections 144.010 and 140.020; Regulation 12 CSR 10-3.044

##### Definition

Labor charges or service charges are not taxable if they are separately stated on the billing invoice.

Included in this category are the following:

##### A.03a Household Maintenance and Repair Services

(examples: Carpentry, electrical services and furnace repair)

##### A.03b Housekeeping Services

(example: Appliance and furniture repair)

##### A.03c Apparel Services

(examples: Laundry, dry cleaning and shoe repair)

##### A.03d Vehicle Maintenance and Repair Services

(example: Body work)

##### A.03e Medical Care Services

(examples: Hospital, physician and dental services)

##### A.03f Personal Care Services

(examples: Beauty parlor or tonsorial services)

**A.03g Other Personal and Educational Services**

(examples: Legal services and tuition payment)

**A.03h Maintenance or Service Contracts Without Parts**

Missouri Statutes, Sections 144.010 and 144.021; Regulation 12 CSR 10-3.062

Definition

Maintenance or service contracts in which only maintenance and service or repair is provided are not subject to sales tax.

**A.03i Maintenance or Service Contracts With Parts**

Missouri Statutes, Sections 144.010 and 144.021; Regulation 12 CSR 10-3.064

Definition

Maintenance or service contracts with parts offered with the sale of merchandise, are not subject to sales tax if the contracts are separately stated from the price of the merchandise. If no segregation is made, sales tax is due on the entire amount.

**A.04 Delivery, Freight and Transportation Charges**

Missouri Statutes, Sections 144.010 and 144.021; Regulation 12 CSR 10-3.066

Definition

Delivery costs, including postage and transportation incurred by the buyer and paid to persons other than the seller are not subject to sales tax. Freight or transportation charges imposed by a common carrier or contract carrier are considered to be taxable transportation charges incurred by the seller if title passes to the purchaser after or upon delivery. If title passes before the transportation cost is incurred, no sales tax is due on such charges.

**A.05 Trade-Ins**

Missouri Statutes, Section 144.025; Regulation 12 CSR 10-3.244

Definition

If an article is taken in trade as a credit towards the purchase price of the article being sold at retail, tax is only on the purchase price in excess of the trade-in allowance. Mobile homes are not eligible for a trade-in allowance after Dec. 31, 1985.

**A.06 Custom Design Software Programs**

Regulation 12 CSR 10-3.588

Definition

Custom computer programs designed to a special order of a customer are not subject to sales tax. Pre-written (canned) programs (programs prepared, held, or existing for general or repeated use) are subject to sales tax.

**A.07 Advertising**

Missouri Statutes, Section 144.034; Regulation 12 CSR 10-3.590

Definition

Certain entities are exempt from paying sales tax on their sales of advertising, space or time. These include broadcast stations, advertising agencies, standardized outdoor billboard advertisers and legal newspapers. Finally, nontaxable services may also include those that are not primarily related to the sale or production of tangible personal property. Examples of such services include writing original manuscripts, providing time and space for advertising, or conducting research and compiling statistical data. Other entities are not exempt. Preliminary art, film or tape prepared by production houses are subject to tax. Preliminary art prepared by exempt agencies in their exempt capacity, however, are not subject to tax if separately stated from finished art on the billing invoice.

## **B. Specific Exemptions**

This group consists of particular commodities and services that are specifically exempted from the state sales and use tax laws.

### **B.01 Drugs and Medical Commodities**

#### **Prescription Drugs Dispensed by Licensed Pharmacist**

Missouri Statutes, Section 144.030.2(18); Regulation 12 CSR 10-3.098

##### **Definition**

Sales of drugs prescribed by a doctor and dispensed by a prescribed pharmacist are exempt from sales tax. Drugs that may also be sold over-the-counter are not exempt, unless sold to individuals with disabilities.

#### **Insulin**

Missouri Statutes, Section 144.030.2(18); Regulation 12 CSR 10-3.098; Federal Medicare Program, Title XVIII of Social Security Act of 1965

##### **Definition**

Sales of insulin are exempt from sales tax.

#### **Prosthetic or Orthopedic Devices**

Missouri Statutes, Section 144.030.2(18); Federal Medicare Program, Title XVIII of Social Security Act of 1965

##### **Definition**

Prosthetic or orthopedic devices are exempt from sales tax.

#### **Hearing Aids and Supplies**

Missouri Statutes, Section 144.030.2(18); Regulation 12 CSR 10-3.098

##### **Definition**

Sales of hearing aids and hearing aid supplies are exempt from sales tax.

#### **Home Respiratory Equipment, Hospital Beds and Ambulatory Aides**

Missouri Statutes, Section 144.030.2(18)

##### **Definition**

Sales of home respiratory equipment, hospital beds, ambulatory aides, manual or powered wheelchairs, stairway lifts, braille writers and electronic braille equipment are exempt from sales tax.

#### **Assistive Devices**

Missouri Statutes, Section 144.030.2(18)

##### **Definition**

Sales of scooters, reading machines, electronic print enlarger and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles if these items are purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently are exempt from sales tax.

#### **Nonprescription Drugs for Individuals with Disabilities**

Missouri Statutes, Section 144.030.2(18)

##### **Definition**

Sales of nonprescription drugs to individuals with disabilities are exempt from sales tax.

### **B.02 Newspapers**

Regulation 12 CSR 10-3.110 and 12 CSR 10-3.112

##### **Definition**

Newspapers, sold on a subscription basis, newsstand or otherwise, are exempt from sales tax. In order to constitute a newspaper, the publication must contain the following elements: published at stated short intervals, usually daily or weekly; it must not, when its successive issues are put together, constitute a book; it must be intended for dissemination of news to the general public; it must contain matters of general interest and reports of current events; and it must generally be in sheet form. This exemption was repealed effective Jan. 1, 1990 pursuant to the Missouri Supreme Court Decision of Nov. 14, 1989.

### **B.03 Food Stamps**

Missouri Statutes, Section 144.037

##### **Definition**

Purchases made with food stamps are exempt from sales tax. This law became effective Oct. 1, 1987.

**B.04 Domestic Utilities**

Missouri Statutes, Section 144.030.2(23); Regulations 12 CSR 10-3.184 and 12 CSR 10-3.273.272(7)

Definition

All sales of electricity, electrical current, natural, artificial or propane gas, metered water service, unmetered water service in St. Louis City, wood, coal and home heating oil used for domestic purposes are exempt from state sales tax. The definition of domestic use is that portion of a purchaser's utilities that the Public Service Commission defines as residential.

**B.05 Transportation Fares (Intrastate Air Fare, Taxi Cabs, Limousine and Local Buses)**

Missouri Statutes, Sections 144.010 and 144.030; Regulation 12 CSR 10-3.222

Definition

Receipts derived from intrastate transportation by air are not subject to tax. Charges for taxi cabs, limousine service and local buses are also exempt from taxation. Purchases by persons on state or federal expense accounts where each respective government is directly responsible for the payment of the tickets are not subject to the sales tax when paid by a governmental draft.

**B.06 Government Suppliers and Contractors**

Missouri Statutes, Section 144.030.2(6); Regulations 12 CSR 10-3.262 and 12 CSR 10-3.332

Definition

Sales of tangible personal property used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States Government or any of its agencies are exempt.

**B.07 Motor Fuel**

Missouri Statutes, Section 144.030.2(1); Regulation 12 CSR 10-3.272(1)

Definition

Sales of motor fuel or special fuel which are subject to a motor fuel or special fuel tax are not subject to sales tax even if the fuel tax is later refunded to the purchaser.

**B.08 Propane, Natural Gas, Electricity or Diesel Fuel Used for Drying Agricultural Crops**

Missouri Statutes, Section 144.030.2(22); Regulation 12 CSR 10-3.272(5)

Definition

Sales of propane, natural gas, electricity or diesel fuel used exclusively for the purpose of drying agricultural crops are exempt from the sales tax law. A separate meter and/or tank must be used if fuels are used for additional purposes other than the drying of agricultural crops unless the only other purpose for which the fuel or electricity is used is a nonbusiness domestic use.

**B.09 One-Half of Diesel Fuel Used to Operate Farm Machinery**

Missouri Statutes, Section 144.030.2(22); Regulation 12 CSR 10-3.272(6)

Definition

One-half of diesel fuel used exclusively for operating farm tractors and farm machinery is exempt from sales tax. These tractors and machinery must be considered tax exempt machinery as defined in item B.10.

**B.10 Farm Machinery and Equipment**

Missouri Statutes, Section 144.030.2(22)(34); Regulation 12 CSR 10-3.274

Definition

Grain bins used for the storage of grain for resale, machinery and equipment used exclusively and directly for the production of crops as a business or for the raising and feeding of livestock or poultry or of producing milk for sale are exempt from the sales tax. Examples of several items which generally qualify for exemption are: irrigation systems, milking machines, brooders, incubators, and portable feeding equipment.

**B.11 Repair and Replacement Parts (for Farm Machinery)**

Missouri Statutes, Section 144.030.2(22); Regulation 12 CSR 10-3.274(7)

Definition

Repair and replacement parts purchased for use on farm machinery, as defined in item B.10, are exempt from sales tax. Examples of parts that fall into this category are: batteries, tires, fan belts, mufflers, spark plugs, plow points, standard type motors, and cutting parts.

**B.12 Baling Wire, Baling Twine and Binder Twine**

Missouri Statutes, Section 144.030.2(22); June 28, 1986, Regulation 12 CSR 10-3.274(1)

Definition

Baling wire, baling twine, and binder twine used exclusively for agricultural purposes are exempt from the sales tax. These items are exempted under the same provisions used in item B.10.

**B.13 Agricultural Feed and Feed Additives**

Missouri Statutes, Section 144.030.2(22)(35); Regulation 12 CSR 10-3.278

Definition

Sales of feed and feed additives for livestock and poultry are not subject to sales tax. Sales of feed to licensed cat and dog breeders are also exempt.

**B.14 Seed, Pesticides and Fertilizers**

Missouri Statutes, Section 144.030.2(22)(32); Regulation 12 CSR 10-3.282

Definition

Sales of seed, pesticides, including adjuvants and foam markers, herbicides and fertilizers used in the production of crops, aquaculture, livestock or poultry are exempt from sales tax.

**B.15 Common Carriers—Replacement Parts**

Missouri Statutes, Sections 144.030.2(3) and 144.080; Regulation 12 CSR 10-3.300

Definition

Purchases of materials, replacement parts and equipment for motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers will qualify for an exemption. An exemption does not apply when the carriers are engaged as contract or private carriers. Trailers and semitrailers do not qualify for the exemption.

**B.16 Replacement Machinery and Equipment**

Missouri Statutes, Section 144.030.2(4); Regulation 12 CSR 10-3.316

Definition

The purchases of machinery and equipment replaced due to a change in design or product are exempt, even though it does the same work.

**B.17 New or Expanded Plant**

Missouri Statutes, Section 144.030.2(5); Regulation 12 CSR 10-3.320

Definition

New plants established for the manufacturing of a product which is intended to be sold for final use or consumption may qualify for an exemption for the machinery initially purchased for equipping the plant. If the plant is later expanded, the purchase of additional machinery may be exempt. The machinery must be used directly in manufacturing, mining or fabricating a product. Materials and supplies required for the installation or construction of the tax exempt machinery may also be exempt.

**B.18 Newspaper Production Equipment and Supplies**

Missouri Statutes, Section 144.030.2(8); Regulation 12 CSR 10-3.340

Definition

Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies sold to publishers of newspapers are exempt from sales tax.

**B.19 Pipeline Plumbing Equipment**

Missouri Statutes, Section 144.030.2(10); Regulation 12 CSR 10-3.354

Definition

Sales of machinery and equipment used to propel products by pipelines engaged as common carriers are exempt. Contract carriers and private carriers are not exempt.

**B.20 Railroad Rolling Stock**

Missouri Statutes, Section 144.030.2(11); Regulation 12 CSR 10-3.356

Definition

Purchases of railroad rolling stock used in transporting persons or property in interstate commerce are exempt. Railroad rolling stock for use in intrastate commerce is not exempt.

Motor vehicles licensed for a gross weight of 24,000 pounds or more, or trailers used by common carriers solely in the transportation of persons or property in interstate commerce, are exempt from sales tax.

**B.21 Electrical Energy**

Missouri Statutes, Section 144.030.2(12); Regulation 12 CSR 10-3.358

Definition

Sales tax applies to the sale of electrical energy for all commercial or industrial consumption unless the use qualifies for exemption. An exemption would be applicable if the use was in the primary manufacturing, processing, compounding, mining, or producing of a product, or was electrical energy used in the secondary processing or fabricating of the product, if the total cost of the electrical energy so used exceeds 10 percent of the total cost of production, either primary or secondary, exclusive of the cost of the electrical energy so used.

**B.22 Air and Water Pollution Equipment**

Missouri Statutes, Section 144.030.2(14)(15); Regulations 12 CSR 10-3.368, 12 CSR 10-3.370 and 12 CSR 10-3.372

**Definition**

Water or air pollution items are exempt if approved by the Department of Natural Resources. Purchases of materials and supplies solely required for the installation, construction or reconstruction of water or air pollution items are exempt even if a different contractor sells, assembles or installs the exempt machinery.

**B.23 Handicraft Items Made by Senior Citizens**

Missouri Statutes, Section 144.030.2(24); Regulation 12 CSR 10-3.431

**Definition**

Handicraft items made by a seller or his spouse who is at least 65 years of age are tax exempt on the gross receipts from sales, provided the total gross proceeds from sales do not constitute a majority of the annual gross income of the seller.

**B.24 Anodes**

Missouri Statutes, Section 144.030.2(13)

**Definition**

Anodes, that is, storage batteries or electron tubes, used or consumed in the manufacturing process are exempt from sales tax if they have a useful life of less than one year.

**B.25 Admissions or Fees Paid to a Municipality**

Missouri Statutes, Section 144.030.2(17); Regulation 12 CSR 10-3.176(12)

**Definition**

Fees paid by participants in or for admission to any place of amusement, entertainment, recreation, or athletic event owned by a municipality or other political subdivision are exempt from sales tax. In 1986, fees paid to zoos and museums owned by municipalities or political subdivisions were exempted.

**B.26 Electrical Energy and Gas Used for Steelmaking and Cellular Glass Products**

Missouri Statutes, Section 144.036, Section 144.030(31)

**Definition**

No sales tax is due on electrical energy or gas (natural, artificial or propane) which is ultimately consumed in the basic manufacturing, processing, or fabrication of steel produced by an integrated steelmaking plant. This exemption became effective Sept. 28, 1985 and is scheduled to expire Dec. 31, 2003. Effective Aug. 28, 1998, a similar exemption applies to the manufacture of cellular glass products.

**B.27 Barge Fuel**

Missouri Statutes, Section 144.030.2(26)

**Definition**

The sale of fuel to ships, barges, or waterborne vessels is exempt from sales tax if two conditions are satisfied:

1. The vessels are used primarily for the transportation of property or cargo or the conveyance of persons for hire, on navigable rivers bordering on or located in Missouri; and
2. The fuel is delivered by the seller to the purchaser's barge, ship, or vessel while on such river.

**B.28 Lottery Tickets**

Missouri Statutes, Section 313.370.3

**Definition**

No sales tax is due on the sale of lottery tickets or shares of the state lottery or on any prize awarded by the state lottery. This law took effect in June 1985.

**B.29 Bingo Equipment**

Senate Bill 461, 83rd General Assembly, 2nd Regular Session

**Definition**

The sale or lease of bingo equipment to organizations who qualify for a bingo license is exempt from sales tax. This law became effective on Aug. 13, 1986.

**B.30 Tax Exempt Institutions**

**Definition**

Exempt sales fall into three broad categories: (1) those made by or to tax exempt organizations, (2) sales for further resale and (3) selected services and commodities. The first group consists of a variety of nonprofit organizations including religious, charitable, educational and fraternal organizations. These organizations are also exempt from the corporation income tax (except for unrelated income). Their favorable treatment dates from the time that governments played a minor role in welfare activities.

For a list of exempt organizations, see Exhibit 8.

**B.31 Food for Home Consumption**

Missouri Statutes, Section 144.014

Definition

Beginning October 1, 1997, all retail sales of food shall be exempt from the 3 percent general fund sales tax. Food covered by this exemption includes the products and types of food for which food stamps may be redeemed and food sold in vending machines. Food shall not include food or drink sold by any establishment where the gross receipts derived from the sale of food prepared by such establishment for immediate consumption on or off the premises of the establishment constitutes more than eighty percent of the total gross receipts of that establishment.

**B.32 Textbooks**

Missouri Statutes, Section 144.517

Definition

Sales of textbooks purchased by a student at a bookstore located on the campus of certain institutions of higher learning are exempt from state sales tax.

**B.33 Drug Research and Development**

Missouri Statutes, Section 144.030(33)

Definition

Items purchased for use in the research and development of prescription drugs for humans or animals are exempt from sales tax.

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**C. Credits**

**C.01 Timely Payment Discount**

Missouri Statutes, Section 144.140; Regulation 12 CSR 10-3.496

**Definition**

A seller may retain 2 percent of every remittance of sales tax made to the Department of Revenue on or before the due date required for timely payment.

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