

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1831

99TH GENERAL ASSEMBLY

5458H.01T

2018

AN ACT

To repeal sections 144.011 and 144.049, RSMo, and to enact in lieu thereof two new sections relating to sales taxes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 144.011 and 144.049, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 144.011 and 144.049, to read as follows:

144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and
2 the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed
3 to include any of the following:

4 (1) The transfer by one corporation of substantially all of its tangible personal property
5 to another corporation pursuant to a merger or consolidation effected under the laws of the state
6 of Missouri or any other jurisdiction;

7 (2) The transfer of tangible personal property incident to the liquidation or cessation of
8 a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except
9 to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

10 (3) The transfer of tangible personal property to a corporation solely in exchange for its
11 stock or securities;

12 (4) The transfer of tangible personal property to a corporation by a shareholder as a
13 contribution to the capital of the transferee corporation;

14 (5) The transfer of tangible personal property to a partnership solely in exchange for a
15 partnership interest therein;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (6) The transfer of tangible personal property by a partner as a contribution to the capital
17 of the transferee partnership;

18 (7) The transfer of tangible personal property by a corporation to one or more of its
19 shareholders as a dividend, return of capital, distribution in the partial or complete liquidation
20 of the corporation or distribution in redemption of the shareholder's interest therein;

21 (8) The transfer of tangible personal property by a partnership to one or more of its
22 partners as a current distribution, return of capital or distribution in the partial or complete
23 liquidation of the partnership or of the partner's interest therein;

24 (9) The transfer of reusable containers used in connection with the sale of tangible
25 personal property contained therein for which a deposit is required and refunded on return;

26 (10) The purchase by persons operating eating or food service establishments, of items
27 of a nonreusable nature which are furnished to the customers of such establishments with or in
28 conjunction with the retail sales of their food or beverage. Such items shall include, but not be
29 limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum
30 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks
31 and toothpicks;

32 (11) The purchase by persons operating hotels, motels or other transient accommodation
33 establishments, of items of a nonreusable nature which are furnished to the guests in the guests'
34 rooms of such establishments and such items are included in the charge made for such
35 accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and
36 other toiletries and food or confectionery items offered to the guests without charge;

37 (12) The transfer of a manufactured home other than:

38 (a) A transfer which involves the delivery of the document known as the "Manufacturer's
39 Statement of Origin" to a person other than a manufactured home dealer, as defined in section
40 700.010, for purposes of allowing such person to obtain a title to the manufactured home from
41 the department of revenue of this state or the appropriate agency or officer of any other state;

42 (b) A transfer which involves the delivery of a "Repossessed Title" to a resident of this
43 state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the
44 manufactured home described in paragraph (a) of this subdivision;

45 (c) The first transfer which occurs after December 31, 1985, if the tax imposed by
46 sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which
47 occurred before December 31, 1985; or

48 (13) Charges for initiation fees or dues to:

49 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations
50 operating under the lodge system a substantial part of the activities of which are devoted to
51 religious, charitable, scientific, literary, educational or fraternal purposes; ~~or~~

52 (b) Posts or organizations of past or present members of the Armed Forces of the United
53 States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization

54 substantially all of the members of which are past or present members of the Armed Forces of
55 the United States or who are cadets, spouses, widows, or widowers of past or present members
56 of the Armed Forces of the United States, no part of the net earnings of which inures to the
57 benefit of any private shareholder or individual; or

58 **(c) Nonprofit organizations exempt from taxation under Section 501(c)(7) of the**
59 **Internal Revenue Code of 1986, as amended.**

60 2. The assumption of liabilities of the transferor by the transferee incident to any of the
61 transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall
62 not disqualify the transfer from the exclusion described in this section, where such liability
63 assumption is related to the property transferred and where the assumption does not have as its
64 principal purpose the avoidance of Missouri sales or use tax.

144.049. 1. For purposes of this section, the following terms mean:

2 (1) "Clothing", any article of wearing apparel~~[, including footwear,]~~ intended to be worn
3 on or about the human body **including, but not limited to, disposable diapers for infants or**
4 **adults and footwear.** The term shall include, but not be limited to, cloth and other material used
5 to make school uniforms or other school clothing. Items normally sold in pairs shall not be
6 separated to qualify for the exemption. The term shall not include watches, watchbands, jewelry,
7 handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles; and

8 (2) "Personal computers", a laptop, desktop, or tower computer system which consists
9 of a central processing unit, random access memory, a storage drive, a display monitor, and a
10 keyboard and devices designed for use in conjunction with a personal computer, such as a disk
11 drive, memory module, compact disk drive, daughterboard, digitizer, microphone, modem,
12 motherboard, mouse, multimedia speaker, printer, scanner, single-user hardware, single-user
13 operating system, soundcard, or video card;

14 (3) "School supplies", any item normally used by students in a standard classroom for
15 educational purposes, including but not limited to textbooks, notebooks, paper, writing
16 instruments, crayons, art supplies, rulers, book bags, backpacks, handheld calculators, chalk,
17 maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting
18 equipment, portable or desktop telephones, copiers or other office equipment, furniture, or
19 fixtures. School supplies shall also include computer software having a taxable value of three
20 hundred fifty dollars or less and any graphing calculator having a taxable value of one hundred
21 fifty dollars or less.

22 2. In each year beginning on or after January 1, 2005, there is hereby specifically
23 exempted from state sales tax law all retail sales of any article of clothing having a taxable value
24 of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per
25 purchase, all computer software with a taxable value of three hundred fifty dollars or less, all
26 graphing calculators having a taxable value of one hundred fifty dollars or less, and all retail
27 sales of personal computers or computer peripheral devices not to exceed one thousand five

28 hundred dollars, during a three-day period beginning at 12:01 a.m. on the first Friday in August
29 and ending at midnight on the Sunday following.

30 3. If the governing body of any political subdivision adopted an ordinance that applied
31 to the 2004 sales tax holiday to prohibit the provisions of this section from allowing the sales tax
32 holiday to apply to such political subdivision's local sales tax, then, notwithstanding any
33 provision of a local ordinance to the contrary, the 2005 sales tax holiday shall not apply to such
34 political subdivision's local sales tax. However, any such political subdivision may enact an
35 ordinance to allow the 2005 sales tax holiday to apply to its local sales taxes. A political
36 subdivision must notify the department of revenue not less than forty-five calendar days prior
37 to the beginning date of the sales tax holiday occurring in that year of any ordinance or order
38 rescinding an ordinance or order to opt out.

39 4. This section shall not apply to any sales which take place within the Missouri state
40 fairgrounds.

41 5. This section applies to sales of items bought for personal use only.

42 6. After the 2005 sales tax holiday, any political subdivision may, by adopting an
43 ordinance or order, choose to prohibit future annual sales tax holidays from applying to its local
44 sales tax. After opting out, the political subdivision may rescind the ordinance or order. The
45 political subdivision must notify the department of revenue not less than forty-five calendar days
46 prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or
47 order rescinding an ordinance or order to opt out.

48 7. This section may not apply to any retailer when less than two percent of the retailer's
49 merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales
50 tax refund in lieu of the sales tax holiday.

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