

FIRST REGULAR SESSION

HOUSE BILL NO. 593

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

1349H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 143.011 and 144.021, RSMo, and to enact in lieu thereof nine new sections relating to taxation, with a penalty provision.

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

Section A. Sections 143.011 and 144.021, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 143.011, 144.021, 144.530, 144.535, 144.540, 144.545, 144.555, 144.565, and 144.575, to read as follows:

143.011. 1. A tax is hereby imposed for every taxable year on the Missouri taxable income of every resident. The tax shall be determined by applying the tax table or the rate provided in section 143.021, which is based upon the following rates:

If the Missouri taxable income is:	The tax is:
Not over \$1,000.00	1 1/2% of the Missouri taxable income
Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over \$2,000
Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over \$4,000
Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess over \$6,000
Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
Over \$8,000 but not over \$9,000	\$260 plus 5 1/2% of excess over \$8,000
Over \$9,000	\$315 plus 6% of excess over \$9,000

2. (1) Beginning with the 2017 calendar year, the top rate of tax under subsection 1 of this section may be reduced over a period of years. Each reduction in the top rate of tax shall be

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.

17 by one-tenth of a percent and no more than one reduction shall occur in a calendar year. No
18 more than five reductions shall be made under this subsection. Reductions in the rate of tax shall
19 take effect on January first of a calendar year and such reduced rates shall continue in effect until
20 the next reduction occurs.

21 (2) A reduction in the rate of tax shall only occur if the amount of net general revenue
22 collected in the previous fiscal year exceeds the highest amount of net general revenue collected
23 in any of the three fiscal years prior to such fiscal year by at least one hundred fifty million
24 dollars.

25 (3) Any modification of tax rates under this subsection shall only apply to tax years that
26 begin on or after a modification takes effect.

27 (4) The director of the department of revenue shall, by rule, adjust the tax tables under
28 subsection 1 of this section to effectuate the provisions of this subsection. The bracket for
29 income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced
30 to five and one-half percent, and the top remaining rate of tax shall apply to all income in excess
31 of the income in the second highest remaining income bracket.

32 3. (1) In addition to the rate reductions under subsection 2 of this section, beginning
33 with the 2019 calendar year, the top rate of tax under subsection 1 of this section shall be reduced
34 by four-tenths of one percent. Such reduction in the rate of tax shall take effect on January first
35 of the 2019 calendar year.

36 (2) The modification of tax rates under this subsection shall only apply to tax years that
37 begin on or after the date the modification takes effect.

38 (3) The director of the department of revenue shall, by rule, adjust the tax tables under
39 subsection 1 of this section to effectuate the provisions of this subsection.

40 4. (1) **In addition to the rate reductions under subsections 2 and 3 of this section,**
41 **beginning with the 2020 calendar year, the top rate of tax under subsection 1 of this section**
42 **may be reduced over a period of years. Reductions in the top rate of tax shall be in**
43 **increments of twenty-five thousandths of one percent, as provided under subdivision (2)**
44 **of this subsection. Reductions in the rate of tax shall take effect on January first of a**
45 **calendar year and such reduced rates shall continue in effect until the next reduction**
46 **occurs.**

47 (2) **A reduction in the rate of tax shall only occur if the amount of net general**
48 **revenue collected under the provisions of sections 144.530 to 144.565 in the previous fiscal**
49 **year equals or exceeds forty million dollars. For every twenty million dollars of net general**
50 **revenue collected during the same fiscal year above the threshold established under this**
51 **subdivision, the top rate of tax under subsection 1 of this section shall be reduced by an**

52 **additional twenty-five thousandths of one percent. The aggregate amount of reductions**
53 **made under this subsection shall not exceed four-tenths of one percent.**

54 **(3) Any modification of tax rates under this subsection shall only apply to tax years**
55 **that begin on or after a modification takes effect.**

56 **(4) The director of the department of revenue shall, by rule, adjust the tax tables**
57 **under subsection 1 of this section to effectuate the provisions of this subsection.**

58 **5.** Beginning with the 2017 calendar year, the brackets of Missouri taxable income
59 identified in subsection 1 of this section shall be adjusted annually by the percent increase in
60 inflation. The director shall publish such brackets annually beginning on or after October 1,
61 2016. Modifications to the brackets shall take effect on January first of each calendar year and
62 shall apply to tax years beginning on or after the effective date of the new brackets.

63 ~~[5-]~~ **6.** As used in this section, the following terms mean:

64 (1) "CPI", the Consumer Price Index for All Urban Consumers for the United States as
65 reported by the Bureau of Labor Statistics, or its successor index;

66 (2) "CPI for the preceding calendar year", the average of the CPI as of the close of the
67 twelve month period ending on August thirty-first of such calendar year;

68 (3) "Net general revenue collected", all revenue deposited into the general revenue fund,
69 less refunds and revenues originally deposited into the general revenue fund but designated by
70 law for a specific distribution or transfer to another state fund;

71 (4) "Percent increase in inflation", the percentage, if any, by which the CPI for the
72 preceding calendar year exceeds the CPI for the year beginning September 1, 2014, and ending
73 August 31, 2015.

144.021. 1. The purpose and intent of sections 144.010 to 144.510 is to impose a tax
2 upon the privilege of engaging in the business, in this state, of selling tangible personal property
3 and those services listed in section 144.020 and for the privilege of titling new and used motor
4 vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or
5 waters of this state which are required to be registered under the laws of the state of Missouri.
6 Except as otherwise provided, the primary tax burden is placed upon the seller making the
7 taxable sales of property or service and is levied at the rate provided for in section 144.020.
8 Excluding subdivision (9) of subsection 1 of section 144.020 and sections 144.070, 144.440 and
9 144.450, the extent to which a seller is required to collect the tax from the purchaser of the
10 taxable property or service is governed by section 144.285 and in no way affects sections
11 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross
12 receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and
13 remit tax at four percent of their gross receipts.

14 2. If any item of tangible personal property or service determined to be taxable under the
15 sales tax law or the compensating use tax law is modified by a decision or order of:

- 16 (1) The director of revenue;
17 (2) The administrative hearing commission; or
18 (3) A court of competent jurisdiction;

19

20 which changes which items of tangible personal property or services are taxable, and a
21 reasonable person would not have expected the decision or order based solely on prior law or
22 regulation, all affected sellers shall be notified by the department of revenue before such
23 modification shall take effect for such sellers. Failure of the department of revenue to notify a
24 seller shall relieve such seller of liability for taxes that would be due under the modification until
25 the seller is notified. The waiver of liability for taxes under this subsection shall only apply to
26 sellers actively selling the type of tangible personal property or service affected by the decision
27 on the date the decision or order is made or handed down and shall not apply to any seller that
28 has previously remitted tax on the tangible personal property or taxable services subject to the
29 decision or order or to any seller that had prior notice that the seller must collect and remit the
30 tax.

31 3. The notification required by subsection 2 of this section shall be delivered by United
32 States mail, electronic mail, or other secure electronic means of direct communications. The
33 department of revenue shall update its website with information regarding modifications in sales
34 tax law but such updates shall not constitute a notification required by subsection 2 of this
35 section.

36 **4. Notwithstanding any other provision of law to the contrary, any seller, as defined**
37 **under section 144.010, selling tangible personal property or services designated and**
38 **defined as taxable under the provisions of sections 144.010 to 144.565 for delivery into**
39 **Missouri, who does not have a physical presence in the state, is subject to the provisions**
40 **of sections 144.010 to 144.565, shall remit the sales tax, and shall follow all applicable**
41 **procedures and requirements of law as if the seller had a physical presence in the state,**
42 **provided the seller meets either of the following criteria in the previous or current calendar**
43 **year:**

44 **(1) The seller's gross revenue from delivery of tangible personal property into this**
45 **state in the previous or current calendar year exceeds one hundred thousand dollars; or**

46 **(2) The seller sold tangible personal property into this state in two hundred or more**
47 **separate transactions in the previous or current calendar year.**

48

49 No obligation to collect and remit sales tax required by this subsection shall be applied
50 prior to January 1, 2020.

144.530. For the purposes of sections 144.530 to 144.565, the following terms shall
2 mean:

3 (1) "Department", the department of revenue;

4 (2) "Eligible seller", a seller as described under subsection 4 of section 144.021 that
5 does not have a physical presence in this state. The seller shall remain eligible for
6 participation in the simplified remote sales tax remittance program unless the seller
7 establishes a physical presence for the purpose of making retail sales as defined under
8 section 144.010;

9 (3) "Locality", a county, municipality, or other political subdivision authorized to
10 impose a local sales or use tax;

11 (4) "Simplified remote sales tax", the tax to be collected, reported, and remitted by
12 eligible sellers who are participating in the simplified remote sales tax remittance program
13 under sections 144.530 to 144.565;

14 (5) "Simplified remote sales tax remittance program" or "program", the program
15 established under sections 144.530 to 144.565 to provide a mechanism for eligible sellers
16 to collect, report, and remit the simplified remote sales tax.

144.535. 1. In lieu of the sales or use taxes otherwise due by or on behalf of
2 Missouri customers who have purchased items from an eligible seller that were shipped or
3 otherwise delivered into the state by the eligible seller, there is hereby established the
4 "Simplified Remote Sales Tax Remittance Program", designed to allow an eligible seller
5 who participates in the program to collect, report, and remit the simplified remote sales tax
6 authorized under the provisions of sections 144.530 to 144.565. Participation in the
7 program shall be by election of the eligible seller, and only those eligible sellers accepted
8 into the program shall collect and remit the simplified remote sales tax. Participation in
9 the program shall not be construed as subjecting an eligible seller to franchise, income,
10 occupation, or any other type of taxes or licensing requirements levied or imposed by the
11 state or any locality.

12 2. The program shall be administered by the department, which shall develop and
13 make available to eligible sellers an easily accessible, online system in which to collect,
14 report, and remit the simplified remote sales tax. Participants in the program are required
15 to collect, report, and remit the simplified remote sales tax for all sales delivered into the
16 state. Eligible sellers may continue in the program if they comply with all provisions of this
17 chapter and procedures adopted by the director of revenue for participation in the
18 program. The election made by an eligible seller to participate in the program may be

19 **withdrawn or revoked only upon permission of the director of revenue and subject to such**
20 **terms and conditions as he or she may prescribe.**

21 **3. In order to participate in the program, an eligible seller shall apply to the**
22 **department on a form designed by the department for that purpose. The application shall**
23 **require, at a minimum, that the eligible seller:**

24 **(1) Certifies that the seller is an eligible seller as defined under section 144.530;**

25 **(2) Agrees to collect, report, and remit the simplified remote sales tax for all sales**
26 **delivered into the state as long as the seller remains a participant in the program;**

27 **(3) Agrees to provide the director of revenue with information related to sales into**
28 **the state as required by this section or requested by the department; and**

29 **(4) Agrees to comply with all program reporting requirements.**
30

31 **Any applicant who falsely certifies on the application that the seller is an eligible seller with**
32 **the state is subject to the negligence or fraud penalties under sections 144.480 to 144.510.**

144.540. 1. The simplified remote sales tax due shall be equal to six and one-half
2 **percent of the sales price on any tangible personal property, excluding motor vehicles,**
3 **trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors required to be**
4 **titled under the laws of the state of Missouri and subject to tax under subdivision (9) of**
5 **subsection 1 of section 144.020, or three and one-half percent of the sales price on food, as**
6 **defined under section 144.014, sold or delivered into the state by an eligible seller.**

7 **2. The simplified remote sales tax collected by the eligible seller shall be reported**
8 **in the same manner as provided under sections 144.090 to 144.115. The required reporting**
9 **from the eligible seller shall only include statewide totals of the simplified remote sales**
10 **taxes collected and remitted, and shall not require information related to the location of**
11 **purchasers or amount of sales into a specific locality.**

12 **3. No eligible seller shall be required to collect the sales tax at a rate greater than**
13 **the rate provided under subsection 1 of this section, regardless of the combined actual tax**
14 **rates that may otherwise be applicable. Additionally, no sales for which the simplified**
15 **remote sales tax is collected shall be subject to any additional sales or use tax from any**
16 **locality levying a sales or use tax with respect to the purchase or use of the property,**
17 **regardless of the actual tax rate that might have otherwise been applicable.**

18 **4. The eligible seller shall collect the tax on all purchases delivered into the state**
19 **unless the purchaser furnishes the eligible seller with a valid exemption certificate or direct**
20 **pay agreement authorized by the department. The eligible seller shall retain all exemption**
21 **certificates or direct pay agreements in its files or in such other manner as directed by the**
22 **department.**

23 **5. The eligible seller shall provide the purchaser with a statement or invoice**
24 **showing that the simplified remote sales tax was collected and is to be remitted on the**
25 **purchaser's behalf.**

26 **6. The provisions of sections 144.071 to 144.510 are incorporated by reference to**
27 **the collection and remittance of the simplified remote sales tax.**

144.545. 1. Any purchaser who pays a simplified remote sales tax higher than the
2 **actual combined state and local sales tax levied in the locality where the sale was delivered**
3 **may file for a refund of the excess amount paid to the eligible seller, pursuant to**
4 **procedures established by the director. All other taxpayers may claim a refund in the**
5 **manner prescribed under section 144.190.**

6 **2. Any purchaser seeking a refund or credit of excess taxes paid to an eligible seller**
7 **shall maintain records documenting the amount of simplified remote sales tax paid.**
8 **Refund requests shall require proper documentation of amounts paid by the purchaser and**
9 **shall be submitted to the director with the claim for refund.**

144.555. 1. The proceeds of simplified remote sales tax paid under sections 144.530
2 **to 144.565 shall be distributed by a formula determined by the director of revenue by**
3 **regulation to be updated annually.**

4 **2. The manner of distribution of the proceeds from the simplified remote sales tax**
5 **paid to localities shall occur as determined by the department.**

144.565. For the purpose of more efficiently securing the payment and accounting
2 **for the simplified remote sales tax, the director of revenue shall make, promulgate, and**
3 **enforce reasonable rules and regulations for the administration and enforcement of the**
4 **provisions of sections 144.530 to 144.565. Any rule or portion of a rule, as that term is**
5 **defined in section 536.010 that is created under the authority delegated in this section shall**
6 **become effective only if it complies with and is subject to all of the provisions of chapter**
7 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**
8 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**
9 **to delay the effective date, or to disapprove and annul a rule are subsequently held**
10 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
11 **after August 28, 2019, shall be invalid and void.**

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

2 **(1) "Marketplace facilitator", a person that contracts with sellers to facilitate for**
3 **consideration, regardless of whether deducted as fees from the transaction, the sale of the**
4 **seller's products through an electronic marketplace operated by a person, and engages:**

5 **(a) Either directly or indirectly, through one or more affiliated persons in any of**
6 **the following:**

- 7 **a. Transmitting or otherwise communicating the offer or acceptance between the**
8 **purchaser and marketplace seller;**
- 9 **b. Owning or operating the infrastructure, electronic or physical, or technology**
10 **that brings purchasers and marketplace sellers together;**
- 11 **c. Providing a virtual currency that purchasers are allowed or required to use to**
12 **purchase products from the marketplace seller; or**
- 13 **d. Software development or research and development activities related to any of**
14 **the activities described under paragraph (b) of this subdivision if such activities are**
15 **directly related to an electronic marketplace operated by a person or an affiliated person;**
16 **and**
- 17 **(b) In any of the following activities with respect to the marketplace seller's**
18 **products:**
- 19 **a. Payment processing services;**
- 20 **b. Fulfillment or storage services;**
- 21 **c. Listing products for sale;**
- 22 **d. Setting prices;**
- 23 **e. Branding sales as those of the marketplace facilitator;**
- 24 **f. Order taking;**
- 25 **g. Advertising or promotion; or**
- 26 **h. Providing customer service or accepting or assisting with returns or exchanges.**
27
- 28 **A marketplace facilitator is a seller and shall comply with the provisions of this chapter;**
- 29 **(2) "Marketplace seller", a seller that makes sales through any electronic**
30 **marketplace operated by a marketplace facilitator;**
- 31 **(3) "Person", any individual, firm, copartnership, joint venture, association,**
32 **corporation, municipal or private, whether organized for profit or not, state, county,**
33 **political subdivision, state department, commission, board, bureau or agency, except the**
34 **department of transportation, estate, trust, business trust, receiver or trustee appointed by**
35 **the state or federal court, syndicate, or any other group or combination acting as a unit;**
- 36 **(4) "Purchaser", any person who is the recipient, for a valuable consideration, of**
37 **any sale of tangible personal property acquired for use, storage, or consumption in this**
38 **state;**
- 39 **(5) "Retail sale", the same meaning as defined under section 144.011, excluding**
40 **motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors**
41 **required to be titled under the laws of the state and subject to tax under subdivision (9) of**
42 **subsection 1 of section 144.020;**

43 **(6) "Seller", a person selling or furnishing tangible personal property or rendering**
44 **services on the receipts from which a tax is imposed under section 144.020.**

45 **2. By no later than January 1, 2020, marketplace facilitators that reach the**
46 **threshold provided under subsection 4 of section 144.021 shall register with the department**
47 **to collect and remit sales tax on sales made through the marketplace facilitator's**
48 **marketplace by or on behalf of a marketplace seller that are delivered in the state, whether**
49 **by the marketplace facilitator or another person. Such retail sales shall include those made**
50 **directly by the marketplace facilitator and shall also include those retail sales made by**
51 **marketplace sellers through the marketplace facilitator's marketplace. The collection and**
52 **reporting requirements of this subsection shall not apply to retail sales other than those**
53 **made through a marketplace facilitator's marketplace.**

54 **3. Marketplace facilitators that collect sales tax under this section may report and**
55 **remit the tax in accordance with the provisions of sections 144.530 to 144.565, and shall**
56 **maintain records of all sales delivered to a location in the state, including copies of invoices**
57 **showing the purchaser, address, purchase amount, and sales tax collected. Such records**
58 **shall be made available for review and inspection upon request by the department.**

59 **4. Marketplace facilitators who properly collect and remit to the department, in a**
60 **timely manner, sales tax on sales in accordance with the provisions of this section, by or on**
61 **behalf of marketplace sellers, shall be eligible for any discount provided under this**
62 **chapter.**

63 **5. The marketplace facilitator shall provide the purchaser with a statement or**
64 **invoice showing that the sales tax was collected and shall be remitted on the purchaser's**
65 **behalf.**

66 **6. Any taxpayer who remits sales tax under this section shall be entitled to refunds**
67 **or credits to the same extent and in the same manner provided under section 144.190 for**
68 **taxes collected and remitted under this section.**

69 **7. Marketplace facilitators shall be subject to the penalty provisions, procedures,**
70 **and reporting requirements of this chapter.**

71 **8. The distribution of the sales tax remitted by marketplace facilitators shall be**
72 **made in accordance with the provisions of section 144.555.**

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