

# SENATE BILL NO. 671

## 103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

2572S.01H

KRISTINA MARTIN, Secretary

### AN ACT

To repeal sections 135.621 and 144.030, RSMo, and to enact in lieu thereof two new sections relating to tax incentives for certain hygiene products.

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

Section A. Sections 135.621 and 144.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.621 and 144.030, to read as follows:

135.621. 1. As used in this section, the following terms mean:

(1) "Contribution", a donation of cash, stock, bonds, other marketable securities, or real property;

(2) "Department", the department of social services;

(3) "Diaper bank", a nonprofit entity located in this state [established and operating primarily for the purpose of collecting or purchasing] **that meets the following**

**criteria:**

(a) **Collects, purchases, warehouses, and manages a community inventory of** disposable diapers or other hygiene products for infants, children, or incontinent adults [and that];

(b) Regularly distributes **a consistent and reliable supply of** such diapers or other hygiene products through two or more schools, health care facilities, governmental agencies, or other nonprofit entities for eventual

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 distribution to individuals free of charge, **with the**  
19 **intention of reducing diaper need; and**

20 (c) **Is a member of a national network organization**  
21 **serving all fifty states through which certification**  
22 **demonstrates nonprofit best practices, data-driven program**  
23 **design, and equitable distribution focused on best serving**  
24 **infants, children, and incontinent adults;**

25 (4) "Tax credit", a credit against the tax otherwise  
26 due under chapter 143, excluding withholding tax imposed  
27 under sections 143.191 to 143.265, or otherwise due under  
28 chapter 148 or 153;

29 (5) "Taxpayer", a person, firm, partner in a firm,  
30 corporation, or shareholder in an S corporation doing  
31 business in the state of Missouri and subject to the state  
32 income tax imposed under chapter 143; an insurance company  
33 paying an annual tax on its gross premium receipts in this  
34 state; any other financial institution paying taxes to the  
35 state of Missouri or any political subdivision of this state  
36 under chapter 148; an express company that pays an annual  
37 tax on its gross receipts in this state under chapter 153;  
38 an individual subject to the state income tax under chapter  
39 143; or any charitable organization that is exempt from  
40 federal income tax and whose Missouri unrelated business  
41 taxable income, if any, would be subject to the state income  
42 tax imposed under chapter 143.

43 2. For all fiscal years beginning on or after July 1,  
44 2019, a taxpayer shall be allowed to claim a tax credit  
45 against the taxpayer's state tax liability in an amount  
46 equal to fifty percent of the amount of such taxpayer's  
47 contributions to a diaper bank.

48 3. The amount of the tax credit claimed shall not  
49 exceed the amount of the taxpayer's state tax liability for

50 the tax year for which the credit is claimed, and such  
51 taxpayer shall not be allowed to claim a tax credit in  
52 excess of fifty thousand dollars per tax year. However, any  
53 tax credit that cannot be claimed in the tax year the  
54 contribution was made may be carried over only to the next  
55 subsequent tax year. No tax credit issued under this  
56 section shall be assigned, transferred, or sold.

57 4. Except for any excess credit that is carried over  
58 under subsection 3 of this section, no taxpayer shall be  
59 allowed to claim a tax credit unless the taxpayer  
60 contributes at least one hundred dollars to one or more  
61 diaper banks during the tax year for which the credit is  
62 claimed.

63 5. The department shall determine, at least annually,  
64 which entities in this state qualify as diaper banks. The  
65 department may require of an entity seeking to be classified  
66 as a diaper bank any information which is reasonably  
67 necessary to make such a determination. The department  
68 shall classify an entity as a diaper bank if such entity  
69 satisfies the definition under subsection 1 of this section.

70 6. The department shall establish a procedure by which  
71 a taxpayer can determine if an entity has been classified as  
72 a diaper bank.

73 7. Diaper banks may decline a contribution from a  
74 taxpayer.

75 8. The cumulative amount of tax credits that may be  
76 claimed by all the taxpayers contributing to diaper banks in  
77 any one fiscal year shall not exceed five hundred thousand  
78 dollars. Tax credits shall be issued in the order  
79 contributions are received. If the amount of tax credits  
80 redeemed in a tax year is less than five hundred thousand  
81 dollars, the difference shall be added to the cumulative

82 limit created under this subsection for the next fiscal year  
83 and carried over to subsequent fiscal years until claimed.

84 9. The department shall establish a procedure by  
85 which, from the beginning of the fiscal year until some  
86 point in time later in the fiscal year to be determined by  
87 the department, the cumulative amount of tax credits are  
88 equally apportioned among all entities classified as diaper  
89 banks. If a diaper bank fails to use all, or some  
90 percentage to be determined by the department, of its  
91 apportioned tax credits during this predetermined period of  
92 time, the department may reapportion such unused tax credits  
93 to diaper banks that have used all, or some percentage to be  
94 determined by the department, of their apportioned tax  
95 credits during this predetermined period of time. The  
96 department may establish multiple periods each fiscal year  
97 and reapportion accordingly. To the maximum extent  
98 possible, the department shall establish the procedure  
99 described under this subsection in such a manner as to  
100 ensure that taxpayers can claim as many of the tax credits  
101 as possible, up to the cumulative limit created under  
102 subsection 8 of this section.

103 10. Each diaper bank shall provide information to the  
104 department concerning the identity of each taxpayer making a  
105 contribution and the amount of the contribution. The  
106 department shall provide the information to the department  
107 of revenue. The department shall be subject to the  
108 confidentiality and penalty provisions of section 32.057  
109 relating to the disclosure of tax information.

110 [11. Under section 23.253 of the Missouri sunset act:

111 (1) The provisions of the program authorized under  
112 this section shall automatically sunset on December thirty-

113 first six years after August 28, 2018, unless reauthorized  
114 by an act of the general assembly;

115 (2) If such program is reauthorized, the program  
116 authorized under this section shall automatically sunset on  
117 December thirty-first six years after the effective date of  
118 the reauthorization of this section;

119 (3) This section shall terminate on September first of  
120 the calendar year immediately following the calendar year in  
121 which the program authorized under this section is sunset;  
122 and

123 (4) The provisions of this subsection shall not be  
124 construed to limit or in any way impair the department's  
125 ability to issue tax credits authorized on or before the  
126 date the program authorized under this section expires or a  
127 taxpayer's ability to redeem such tax credits.]

144.030. 1. There is hereby specifically exempted  
2 from the provisions of sections 144.010 to 144.525 and from  
3 the computation of the tax levied, assessed or payable  
4 pursuant to sections 144.010 to 144.525 such retail sales as  
5 may be made in commerce between this state and any other  
6 state of the United States, or between this state and any  
7 foreign country, and any retail sale which the state of  
8 Missouri is prohibited from taxing pursuant to the  
9 Constitution or laws of the United States of America, and  
10 such retail sales of tangible personal property which the  
11 general assembly of the state of Missouri is prohibited from  
12 taxing or further taxing by the constitution of this state.

13 2. There are also specifically exempted from the  
14 provisions of the local sales tax law as defined in section  
15 32.085, section 238.235, and sections 144.010 to 144.525 and  
16 144.600 to 144.761 and from the computation of the tax  
17 levied, assessed or payable pursuant to the local sales tax

18 law as defined in section 32.085, section 238.235, and  
19 sections 144.010 to 144.525 and 144.600 to 144.745:

20 (1) Motor fuel or special fuel subject to an excise  
21 tax of this state, unless all or part of such excise tax is  
22 refunded pursuant to section 142.824; or upon the sale at  
23 retail of fuel to be consumed in manufacturing or creating  
24 gas, power, steam, electrical current or in furnishing water  
25 to be sold ultimately at retail; or feed for livestock or  
26 poultry; or grain to be converted into foodstuffs which are  
27 to be sold ultimately in processed form at retail; or seed,  
28 limestone or fertilizer which is to be used for seeding,  
29 liming or fertilizing crops which when harvested will be  
30 sold at retail or will be fed to livestock or poultry to be  
31 sold ultimately in processed form at retail; economic  
32 poisons registered pursuant to the provisions of the  
33 Missouri pesticide registration **[law] act**, sections  
34 **[281.220] 281.210** to 281.310, which are to be used in  
35 connection with the growth or production of crops, fruit  
36 trees or orchards applied before, during, or after planting,  
37 the crop of which when harvested will be sold at retail or  
38 will be converted into foodstuffs which are to be sold  
39 ultimately in processed form at retail;

40 (2) Materials, manufactured goods, machinery and parts  
41 which when used in manufacturing, processing, compounding,  
42 mining, producing or fabricating become a component part or  
43 ingredient of the new personal property resulting from such  
44 manufacturing, processing, compounding, mining, producing or  
45 fabricating and which new personal property is intended to  
46 be sold ultimately for final use or consumption; and  
47 materials, including without limitation, gases and  
48 manufactured goods, including without limitation slagging  
49 materials and firebrick, which are ultimately consumed in

50 the manufacturing process by blending, reacting or  
51 interacting with or by becoming, in whole or in part,  
52 component parts or ingredients of steel products intended to  
53 be sold ultimately for final use or consumption;

54 (3) Materials, replacement parts and equipment  
55 purchased for use directly upon, and for the repair and  
56 maintenance or manufacture of, motor vehicles, watercraft,  
57 railroad rolling stock or aircraft engaged as common  
58 carriers of persons or property;

59 (4) Replacement machinery, equipment, and parts and  
60 the materials and supplies solely required for the  
61 installation or construction of such replacement machinery,  
62 equipment, and parts, used directly in manufacturing,  
63 mining, fabricating or producing a product which is intended  
64 to be sold ultimately for final use or consumption; and  
65 machinery and equipment, and the materials and supplies  
66 required solely for the operation, installation or  
67 construction of such machinery and equipment, purchased and  
68 used to establish new, or to replace or expand existing,  
69 material recovery processing plants in this state. For the  
70 purposes of this subdivision, a "material recovery  
71 processing plant" means a facility that has as its primary  
72 purpose the recovery of materials into a usable product or a  
73 different form which is used in producing a new product and  
74 shall include a facility or equipment which are used  
75 exclusively for the collection of recovered materials for  
76 delivery to a material recovery processing plant but shall  
77 not include motor vehicles used on highways. For purposes  
78 of this section, the terms motor vehicle and highway shall  
79 have the same meaning pursuant to section 301.010. For the  
80 purposes of this subdivision, subdivision (5) of this  
81 subsection, and section 144.054, as well as the definition

82 in subdivision (9) of subsection 1 of section 144.010, the  
83 term "product" includes telecommunications services and the  
84 term "manufacturing" shall include the production, or  
85 production and transmission, of telecommunications  
86 services. The preceding sentence does not make a  
87 substantive change in the law and is intended to clarify  
88 that the term "manufacturing" has included and continues to  
89 include the production and transmission of  
90 "telecommunications services", as enacted in this  
91 subdivision and subdivision (5) of this subsection, as well  
92 as the definition in subdivision (9) of subsection 1 of  
93 section 144.010. The preceding two sentences reaffirm  
94 legislative intent consistent with the interpretation of  
95 this subdivision and subdivision (5) of this subsection in  
96 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d  
97 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*  
98 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and  
99 accordingly abrogates the Missouri supreme court's  
100 interpretation of those exemptions in *IBM Corporation v.*  
101 *Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the  
102 extent inconsistent with this section and *Southwestern Bell*  
103 *Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc  
104 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*,  
105 182 S.W.3d 226 (Mo. banc 2005). The construction and  
106 application of this subdivision as expressed by the Missouri  
107 supreme court in *DST Systems, Inc. v. Director of Revenue*,  
108 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*  
109 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and  
110 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182  
111 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material  
112 recovery is not the reuse of materials within a  
113 manufacturing process or the use of a product previously



114 recovered. The material recovery processing plant shall  
115 qualify under the provisions of this section regardless of  
116 ownership of the material being recovered;

117 (5) Machinery and equipment, and parts and the  
118 materials and supplies solely required for the installation  
119 or construction of such machinery and equipment, purchased  
120 and used to establish new or to expand existing  
121 manufacturing, mining or fabricating plants in the state if  
122 such machinery and equipment is used directly in  
123 manufacturing, mining or fabricating a product which is  
124 intended to be sold ultimately for final use or  
125 consumption. The construction and application of this  
126 subdivision as expressed by the Missouri supreme court in  
127 *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo.  
128 banc 2001); *Southwestern Bell Tel. Co. v. Director of*  
129 *Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*  
130 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.  
131 banc 2005), is hereby affirmed;

132 (6) Tangible personal property which is used  
133 exclusively in the manufacturing, processing, modification  
134 or assembling of products sold to the United States  
135 government or to any agency of the United States government;

136 (7) Animals or poultry used for breeding or feeding  
137 purposes, or captive wildlife;

138 (8) Newsprint, ink, computers, photosensitive paper  
139 and film, toner, printing plates and other machinery,  
140 equipment, replacement parts and supplies used in producing  
141 newspapers published for dissemination of news to the  
142 general public;

143 (9) The rentals of films, records or any type of sound  
144 or picture transcriptions for public commercial display;

145           (10) Pumping machinery and equipment used to propel  
146 products delivered by pipelines engaged as common carriers;

147           (11) Railroad rolling stock for use in transporting  
148 persons or property in interstate commerce and motor  
149 vehicles licensed for a gross weight of twenty-four thousand  
150 pounds or more or trailers used by common carriers, as  
151 defined in section 390.020, in the transportation of persons  
152 or property;

153           (12) Electrical energy used in the actual primary  
154 manufacture, processing, compounding, mining or producing of  
155 a product, or electrical energy used in the actual secondary  
156 processing or fabricating of the product, or a material  
157 recovery processing plant as defined in subdivision (4) of  
158 this subsection, in facilities owned or leased by the  
159 taxpayer, if the total cost of electrical energy so used  
160 exceeds ten percent of the total cost of production, either  
161 primary or secondary, exclusive of the cost of electrical  
162 energy so used or if the raw materials used in such  
163 processing contain at least twenty-five percent recovered  
164 materials as defined in section 260.200. There shall be a  
165 rebuttable presumption that the raw materials used in the  
166 primary manufacture of automobiles contain at least twenty-  
167 five percent recovered materials. For purposes of this  
168 subdivision, "processing" means any mode of treatment, act  
169 or series of acts performed upon materials to transform and  
170 reduce them to a different state or thing, including  
171 treatment necessary to maintain or preserve such processing  
172 by the producer at the production facility;

173           (13) Anodes which are used or consumed in  
174 manufacturing, processing, compounding, mining, producing or  
175 fabricating and which have a useful life of less than one  
176 year;

177           (14) Machinery, equipment, appliances and devices  
178 purchased or leased and used solely for the purpose of  
179 preventing, abating or monitoring air pollution, and  
180 materials and supplies solely required for the installation,  
181 construction or reconstruction of such machinery, equipment,  
182 appliances and devices;

183           (15) Machinery, equipment, appliances and devices  
184 purchased or leased and used solely for the purpose of  
185 preventing, abating or monitoring water pollution, and  
186 materials and supplies solely required for the installation,  
187 construction or reconstruction of such machinery, equipment,  
188 appliances and devices;

189           (16) Tangible personal property purchased by a rural  
190 water district;

191           (17) All amounts paid or charged for admission or  
192 participation or other fees paid by or other charges to  
193 individuals in or for any place of amusement, entertainment  
194 or recreation, games or athletic events, including museums,  
195 fairs, zoos and planetariums, owned or operated by a  
196 municipality or other political subdivision where all the  
197 proceeds derived therefrom benefit the municipality or other  
198 political subdivision and do not inure to any private  
199 person, firm, or corporation, provided, however, that a  
200 municipality or other political subdivision may enter into  
201 revenue-sharing agreements with private persons, firms, or  
202 corporations providing goods or services, including  
203 management services, in or for the place of amusement,  
204 entertainment or recreation, games or athletic events, and  
205 provided further that nothing in this subdivision shall  
206 exempt from tax any amounts retained by any private person,  
207 firm, or corporation under such revenue-sharing agreement;

208           (18) All sales of insulin, and all sales, rentals,  
209 repairs, and parts of durable medical equipment, prosthetic  
210 devices, and orthopedic devices as defined on January 1,  
211 1980, by the federal Medicare program pursuant to Title  
212 XVIII of the Social Security Act of 1965, including the  
213 items specified in Section 1862(a)(12) of that act **(42**  
214 **U.S.C. Section 1395y, as amended)**, and also specifically  
215 including hearing aids and hearing aid supplies and all  
216 sales of drugs which may be legally dispensed by a licensed  
217 pharmacist only upon a lawful prescription of a practitioner  
218 licensed to administer those items, including samples and  
219 materials used to manufacture samples which may be dispensed  
220 by a practitioner authorized to dispense such samples and  
221 all sales or rental of medical oxygen, home respiratory  
222 equipment and accessories including parts, and hospital beds  
223 and accessories and ambulatory aids including parts, and all  
224 sales or rental of manual and powered wheelchairs including  
225 parts, and stairway lifts, Braille writers, electronic  
226 Braille equipment and, if purchased or rented by or on  
227 behalf of a person with one or more physical or mental  
228 disabilities to enable them to function more independently,  
229 all sales or rental of scooters including parts, and reading  
230 machines, electronic print enlargers and magnifiers,  
231 electronic alternative and augmentative communication  
232 devices, and items used solely to modify motor vehicles to  
233 permit the use of such motor vehicles by individuals with  
234 disabilities or sales of over-the-counter or nonprescription  
235 drugs to individuals with disabilities, and drugs required  
236 by the Food and Drug Administration to meet the over-the-  
237 counter drug product labeling requirements in 21 CFR 201.66,  
238 or its successor, as prescribed by a health care  
239 practitioner licensed to prescribe;

240           (19) All sales made by or to religious and charitable  
241 organizations and institutions in their religious,  
242 charitable or educational functions and activities and all  
243 sales made by or to all elementary and secondary schools  
244 operated at public expense in their educational functions  
245 and activities;

246           (20) All sales of aircraft to common carriers for  
247 storage or for use in interstate commerce and all sales made  
248 by or to not-for-profit civic, social, service or fraternal  
249 organizations, including fraternal organizations which have  
250 been declared tax-exempt organizations pursuant to Section  
251 501(c) (8) or (10) of the 1986 Internal Revenue Code, as  
252 amended, in their civic or charitable functions and  
253 activities and all sales made to eleemosynary and penal  
254 institutions and industries of the state, and all sales made  
255 to any private not-for-profit institution of higher  
256 education not otherwise excluded pursuant to subdivision  
257 (19) of this subsection or any institution of higher  
258 education supported by public funds, and all sales made to a  
259 state relief agency in the exercise of relief functions and  
260 activities;

261           (21) All ticket sales made by benevolent, scientific  
262 and educational associations which are formed to foster,  
263 encourage, and promote progress and improvement in the  
264 science of agriculture and in the raising and breeding of  
265 animals, and by nonprofit summer theater organizations if  
266 such organizations are exempt from federal tax pursuant to  
267 the provisions of the Internal Revenue Code and all  
268 admission charges and entry fees to the Missouri state fair  
269 or any fair conducted by a county agricultural and  
270 mechanical society organized and operated pursuant to  
271 sections 262.290 to 262.530;

272           (22) All sales made to any private not-for-profit  
273 elementary or secondary school, all sales of feed additives,  
274 medications or vaccines administered to livestock or poultry  
275 in the production of food or fiber, all sales of pesticides  
276 used in the production of crops, livestock or poultry for  
277 food or fiber, all sales of bedding used in the production  
278 of livestock or poultry for food or fiber, all sales of  
279 propane or natural gas, electricity or diesel fuel used  
280 exclusively for drying agricultural crops, natural gas used  
281 in the primary manufacture or processing of fuel ethanol as  
282 defined in section 142.028, natural gas, propane, and  
283 electricity used by an eligible new generation cooperative  
284 or an eligible new generation processing entity as defined  
285 in section 348.432, and all sales of farm machinery and  
286 equipment, other than airplanes, motor vehicles and  
287 trailers, and any freight charges on any exempt item. As  
288 used in this subdivision, the term "feed additives" means  
289 tangible personal property which, when mixed with feed for  
290 livestock or poultry, is to be used in the feeding of  
291 livestock or poultry. As used in this subdivision, the term  
292 "pesticides" includes adjuvants such as crop oils,  
293 surfactants, wetting agents and other assorted pesticide  
294 carriers used to improve or enhance the effect of a  
295 pesticide and the foam used to mark the application of  
296 pesticides and herbicides for the production of crops,  
297 livestock or poultry. As used in this subdivision, the term  
298 "farm machinery and equipment" shall mean:

299           (a) New or used farm tractors and such other new or  
300 used farm machinery and equipment, including utility  
301 vehicles used for any agricultural use, and repair or  
302 replacement parts thereon and any accessories for and  
303 upgrades to such farm machinery and equipment and rotary

304 mowers used for any agricultural purposes. For the purposes  
305 of this subdivision, "utility vehicle" shall mean any  
306 motorized vehicle manufactured and used exclusively for off-  
307 highway use which is more than fifty inches but no more than  
308 eighty inches in width, measured from outside of tire rim to  
309 outside of tire rim, with an unladen dry weight of three  
310 thousand five hundred pounds or less, traveling on four or  
311 six wheels;

312 (b) Supplies and lubricants used exclusively, solely,  
313 and directly for producing crops, raising and feeding  
314 livestock, fish, poultry, pheasants, chukar, quail, or for  
315 producing milk for ultimate sale at retail, including field  
316 drain tile; and

317 (c) One-half of each purchaser's purchase of diesel  
318 fuel therefor which is:

319 a. Used exclusively for agricultural purposes;

320 b. Used on land owned or leased for the purpose of  
321 producing farm products; and

322 c. Used directly in producing farm products to be sold  
323 ultimately in processed form or otherwise at retail or in  
324 producing farm products to be fed to livestock or poultry to  
325 be sold ultimately in processed form at retail;

326 (23) Except as otherwise provided in section 144.032,  
327 all sales of metered water service, electricity, electrical  
328 current, natural, artificial or propane gas, wood, coal or  
329 home heating oil for domestic use and in any city not within  
330 a county, all sales of metered or unmetered water service  
331 for domestic use:

332 (a) "Domestic use" means that portion of metered water  
333 service, electricity, electrical current, natural,  
334 artificial or propane gas, wood, coal or home heating oil,  
335 and in any city not within a county, metered or unmetered

336 water service, which an individual occupant of a residential  
337 premises uses for nonbusiness, noncommercial or  
338 nonindustrial purposes. Utility service through a single or  
339 master meter for residential apartments or condominiums,  
340 including service for common areas and facilities and vacant  
341 units, shall be deemed to be for domestic use. Each seller  
342 shall establish and maintain a system whereby individual  
343 purchases are determined as exempt or nonexempt;

344 (b) Regulated utility sellers shall determine whether  
345 individual purchases are exempt or nonexempt based upon the  
346 seller's utility service rate classifications as contained  
347 in tariffs on file with and approved by the Missouri public  
348 service commission. Sales and purchases made pursuant to  
349 the rate classification "residential" and sales to and  
350 purchases made by or on behalf of the occupants of  
351 residential apartments or condominiums through a single or  
352 master meter, including service for common areas and  
353 facilities and vacant units, shall be considered as sales  
354 made for domestic use and such sales shall be exempt from  
355 sales tax. Sellers shall charge sales tax upon the entire  
356 amount of purchases classified as nondomestic use. The  
357 seller's utility service rate classification and the  
358 provision of service thereunder shall be conclusive as to  
359 whether or not the utility must charge sales tax;

360 (c) Each person making domestic use purchases of  
361 services or property and who uses any portion of the  
362 services or property so purchased for a nondomestic use  
363 shall, by the fifteenth day of the fourth month following  
364 the year of purchase, and without assessment, notice or  
365 demand, file a return and pay sales tax on that portion of  
366 nondomestic purchases. Each person making nondomestic  
367 purchases of services or property and who uses any portion



368 of the services or property so purchased for domestic use,  
369 and each person making domestic purchases on behalf of  
370 occupants of residential apartments or condominiums through  
371 a single or master meter, including service for common areas  
372 and facilities and vacant units, under a nonresidential  
373 utility service rate classification may, between the first  
374 day of the first month and the fifteenth day of the fourth  
375 month following the year of purchase, apply for credit or  
376 refund to the director of revenue and the director shall  
377 give credit or make refund for taxes paid on the domestic  
378 use portion of the purchase. The person making such  
379 purchases on behalf of occupants of residential apartments  
380 or condominiums shall have standing to apply to the director  
381 of revenue for such credit or refund;

382 (24) All sales of handicraft items made by the seller  
383 or the seller's spouse if the seller or the seller's spouse  
384 is at least sixty-five years of age, and if the total gross  
385 proceeds from such sales do not constitute a majority of the  
386 annual gross income of the seller;

387 (25) Excise taxes, collected on sales at retail,  
388 imposed by Sections 4041, 4071, 4081, [4091,] 4161, 4181,  
389 4251, 4261 and 4271 of Title 26, United States Code. The  
390 director of revenue shall promulgate rules pursuant to  
391 chapter 536 to eliminate all state and local sales taxes on  
392 such excise taxes;

393 (26) Sales of fuel consumed or used in the operation  
394 of ships, barges, or waterborne vessels which are used  
395 primarily in or for the transportation of property or cargo,  
396 or the conveyance of persons for hire, on navigable rivers  
397 bordering on or located in part in this state, if such fuel  
398 is delivered by the seller to the purchaser's barge, ship,  
399 or waterborne vessel while it is afloat upon such river;

400           (27) All sales made to an interstate compact agency  
401 created pursuant to sections 70.370 to 70.441 or sections  
402 238.010 to 238.100 in the exercise of the functions and  
403 activities of such agency as provided pursuant to the  
404 compact;

405           (28) Computers, computer software and computer  
406 security systems purchased for use by architectural or  
407 engineering firms headquartered in this state. For the  
408 purposes of this subdivision, "headquartered in this state"  
409 means the office for the administrative management of at  
410 least four integrated facilities operated by the taxpayer is  
411 located in the state of Missouri;

412           (29) All livestock sales when either the seller is  
413 engaged in the growing, producing or feeding of such  
414 livestock, or the seller is engaged in the business of  
415 buying and selling, bartering or leasing of such livestock;

416           (30) All sales of barges which are to be used  
417 primarily in the transportation of property or cargo on  
418 interstate waterways;

419           (31) Electrical energy or gas, whether natural,  
420 artificial or propane, water, or other utilities which are  
421 ultimately consumed in connection with the manufacturing of  
422 cellular glass products or in any material recovery  
423 processing plant as defined in subdivision (4) of this  
424 subsection;

425           (32) Notwithstanding other provisions of law to the  
426 contrary, all sales of pesticides or herbicides used in the  
427 production of crops, aquaculture, livestock or poultry;

428           (33) Tangible personal property and utilities  
429 purchased for use or consumption directly or exclusively in  
430 the research and development of agricultural/biotechnology

431 and plant genomics products and prescription pharmaceuticals  
432 consumed by humans or animals;

433 (34) All sales of grain bins for storage of grain for  
434 resale;

435 (35) All sales of feed which are developed for and  
436 used in the feeding of pets owned by a commercial breeder  
437 when such sales are made to a commercial breeder, as defined  
438 in section 273.325, and licensed pursuant to sections  
439 273.325 to 273.357;

440 (36) All purchases by a contractor on behalf of an  
441 entity located in another state, provided that the entity is  
442 authorized to issue a certificate of exemption for purchases  
443 to a contractor under the provisions of that state's laws.  
444 For purposes of this subdivision, the term "certificate of  
445 exemption" shall mean any document evidencing that the  
446 entity is exempt from sales and use taxes on purchases  
447 pursuant to the laws of the state in which the entity is  
448 located. Any contractor making purchases on behalf of such  
449 entity shall maintain a copy of the entity's exemption  
450 certificate as evidence of the exemption. If the exemption  
451 certificate issued by the exempt entity to the contractor is  
452 later determined by the director of revenue to be invalid  
453 for any reason and the contractor has accepted the  
454 certificate in good faith, neither the contractor or the  
455 exempt entity shall be liable for the payment of any taxes,  
456 interest and penalty due as the result of use of the invalid  
457 exemption certificate. Materials shall be exempt from all  
458 state and local sales and use taxes when purchased by a  
459 contractor for the purpose of fabricating tangible personal  
460 property which is used in fulfilling a contract for the  
461 purpose of constructing, repairing or remodeling facilities  
462 for the following:

463           (a) An exempt entity located in this state, if the  
464 entity is one of those entities able to issue project  
465 exemption certificates in accordance with the provisions of  
466 section 144.062; or

467           (b) An exempt entity located outside the state if the  
468 exempt entity is authorized to issue an exemption  
469 certificate to contractors in accordance with the provisions  
470 of that state's law and the applicable provisions of this  
471 section;

472           (37) All sales or other transfers of tangible personal  
473 property to a lessor who leases the property under a lease  
474 of one year or longer executed or in effect at the time of  
475 the sale or other transfer to an interstate compact agency  
476 created pursuant to sections 70.370 to 70.441 or sections  
477 238.010 to 238.100;

478           (38) Sales of tickets to any collegiate athletic  
479 championship event that is held in a facility owned or  
480 operated by a governmental authority or commission, a quasi-  
481 governmental agency, a state university or college or by the  
482 state or any political subdivision thereof, including a  
483 municipality, and that is played on a neutral site and may  
484 reasonably be played at a site located outside the state of  
485 Missouri. For purposes of this subdivision, "neutral site"  
486 means any site that is not located on the campus of a  
487 conference member institution participating in the event;

488           (39) All purchases by a sports complex authority  
489 created under section 64.920, and all sales of utilities by  
490 such authority at the authority's cost that are consumed in  
491 connection with the operation of a sports complex leased to  
492 a professional sports team;

493           (40) All materials, replacement parts, and equipment  
494 purchased for use directly upon, and for the modification,

495 replacement, repair, and maintenance of aircraft, aircraft  
496 power plants, and aircraft accessories;

497 (41) Sales of sporting clays, wobble, skeet, and trap  
498 targets to any shooting range or similar places of business  
499 for use in the normal course of business and money received  
500 by a shooting range or similar places of business from  
501 patrons and held by a shooting range or similar place of  
502 business for redistribution to patrons at the conclusion of  
503 a shooting event;

504 (42) All sales of motor fuel, as defined in section  
505 142.800, used in any watercraft, as defined in section  
506 306.010;

507 (43) Any new or used aircraft sold or delivered in  
508 this state to a person who is not a resident of this state  
509 or a corporation that is not incorporated in this state, and  
510 such aircraft is not to be based in this state and shall not  
511 remain in this state more than ten business days subsequent  
512 to the last to occur of:

513 (a) The transfer of title to the aircraft to a person  
514 who is not a resident of this state or a corporation that is  
515 not incorporated in this state; or

516 (b) The date of the return to service of the aircraft  
517 in accordance with 14 CFR 91.407 for any maintenance,  
518 preventive maintenance, rebuilding, alterations, repairs, or  
519 installations that are completed contemporaneously with the  
520 transfer of title to the aircraft to a person who is not a  
521 resident of this state or a corporation that is not  
522 incorporated in this state;

523 (44) Motor vehicles registered in excess of fifty-four  
524 thousand pounds, and the trailers pulled by such motor  
525 vehicles, that are actually used in the normal course of  
526 business to haul property on the public highways of the

527 state, and that are capable of hauling loads commensurate  
528 with the motor vehicle's registered weight; and the  
529 materials, replacement parts, and equipment purchased for  
530 use directly upon, and for the repair and maintenance or  
531 manufacture of such vehicles. For purposes of this  
532 subdivision, "motor vehicle" and "public highway" shall have  
533 the meaning as ascribed in section 390.020;

534 (45) All internet access or the use of internet access  
535 regardless of whether the tax is imposed on a provider of  
536 internet access or a buyer of internet access. For purposes  
537 of this subdivision, the following terms shall mean:

538 (a) "Direct costs", costs incurred by a governmental  
539 authority solely because of an internet service provider's  
540 use of the public right-of-way. The term shall not include  
541 costs that the governmental authority would have incurred if  
542 the internet service provider did not make such use of the  
543 public right-of-way. Direct costs shall be determined in a  
544 manner consistent with generally accepted accounting  
545 principles;

546 (b) "Internet", computer and telecommunications  
547 facilities, including equipment and operating software, that  
548 comprises the interconnected worldwide network that employ  
549 the transmission control protocol or internet protocol, or  
550 any predecessor or successor protocols to that protocol, to  
551 communicate information of all kinds by wire or radio;

552 (c) "Internet access", a service that enables users to  
553 connect to the internet to access content, information, or  
554 other services without regard to whether the service is  
555 referred to as telecommunications, communications,  
556 transmission, or similar services, and without regard to  
557 whether a provider of the service is subject to regulation  
558 by the Federal Communications Commission as a common carrier

559 under 47 U.S.C. Section 201, et seq. For purposes of this  
560 subdivision, internet access also includes: the purchase,  
561 use, or sale of communications services, including  
562 telecommunications services as defined in section 144.010,  
563 to the extent the communications services are purchased,  
564 used, or sold to provide the service described in this  
565 subdivision or to otherwise enable users to access content,  
566 information, or other services offered over the internet;  
567 services that are incidental to the provision of a service  
568 described in this subdivision, when furnished to users as  
569 part of such service, including a home page, electronic  
570 mail, and instant messaging, including voice-capable and  
571 video-capable electronic mail and instant messaging, video  
572 clips, and personal electronic storage capacity; a home page  
573 electronic mail and instant messaging, including voice-  
574 capable and video-capable electronic mail and instant  
575 messaging, video clips, and personal electronic storage  
576 capacity that are provided independently or that are not  
577 packed with internet access. As used in this subdivision,  
578 internet access does not include voice, audio, and video  
579 programming or other products and services, except services  
580 described in this paragraph or this subdivision, that use  
581 internet protocol or any successor protocol and for which  
582 there is a charge, regardless of whether the charge is  
583 separately stated or aggregated with the charge for services  
584 described in this paragraph or this subdivision;

585 (d) "Tax", any charge imposed by the state or a  
586 political subdivision of the state for the purpose of  
587 generating revenues for governmental purposes and that is  
588 not a fee imposed for a specific privilege, service, or  
589 benefit conferred, except as described as otherwise under  
590 this subdivision, or any obligation imposed on a seller to

591 collect and to remit to the state or a political subdivision  
592 of the state any gross retail tax, sales tax, or use tax  
593 imposed on a buyer by such a governmental entity. The term  
594 tax shall not include any franchise fee or similar fee  
595 imposed or authorized under sections 67.1830 to 67.1846 or  
596 section 67.2689; Section 622 or 653 of the Communications  
597 Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section  
598 573; or any other fee related to obligations of  
599 telecommunications carriers under the Communications Act of  
600 1934, 47 U.S.C. Section 151, et seq., except to the extent  
601 that:

602       a. The fee is not imposed for the purpose of  
603 recovering direct costs incurred by the franchising or other  
604 governmental authority from providing the specific  
605 privilege, service, or benefit conferred to the payer of the  
606 fee; or

607       b. The fee is imposed for the use of a public right-of-  
608 way based on a percentage of the service revenue, and the  
609 fee exceeds the incremental direct costs incurred by the  
610 governmental authority associated with the provision of that  
611 right-of-way to the provider of internet access service.

612 Nothing in this subdivision shall be interpreted as an  
613 exemption from taxes due on goods or services that were  
614 subject to tax on January 1, 2016;

615       (46) All purchases by a company of solar photovoltaic  
616 energy systems, components used to construct a solar  
617 photovoltaic energy system, and all purchases of materials  
618 and supplies used directly to construct or make improvements  
619 to such systems, provided that such systems:

620       (a) Are sold or leased to an end user; or



621 (b) Are used to produce, collect and transmit  
622 electricity for resale or retail;

623 (47) All sales of diapers, incontinence products, and  
624 feminine hygiene products. The exemptions in this  
625 subdivision shall apply only to the provisions of and the  
626 computation of the tax levied, assessed, or payable pursuant  
627 to this chapter. For the purposes of this subdivision, the  
628 following terms mean:

629 (a) "Diapers", absorbent garments worn by infants or  
630 toddlers who are not toilet-trained or by individuals who  
631 are incapable of controlling their bladder or bowel  
632 movements;

633 (b) "Feminine hygiene products", personal care  
634 products used to manage menstrual flow including, but not  
635 limited to, tampons, pads, liners, and cups;

636 (c) "Incontinence products", products designed  
637 specifically for hygiene matters related to urinary  
638 incontinence.

639 3. Any ruling, agreement, or contract, whether written  
640 or oral, express or implied, between a person and this  
641 state's executive branch, or any other state agency or  
642 department, stating, agreeing, or ruling that such person is  
643 not required to collect sales and use tax in this state  
644 despite the presence of a warehouse, distribution center, or  
645 fulfillment center in this state that is owned or operated  
646 by the person or an affiliated person shall be null and void  
647 unless it is specifically approved by a majority vote of  
648 each of the houses of the general assembly. For purposes of  
649 this subsection, an "affiliated person" means any person  
650 that is a member of the same controlled group of  
651 corporations as defined in Section 1563(a) of the Internal  
652 Revenue Code of 1986, as amended, as the vendor or any other

653 entity that, notwithstanding its form of organization, bears  
654 the same ownership relationship to the vendor as a  
655 corporation that is a member of the same controlled group of  
656 corporations as defined in Section 1563(a) of the Internal  
657 Revenue Code, as amended.

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