

of the motor fuel tax it paid on the motor fuel but did not collect from the operator.

(D) A public mass transportation service operator has vehicles that operate on diesel fuel and meet the exemption requirements under federal law. Its routes include states other than Missouri, and the other state does not allow the use of dyed diesel fuel on public roadways. Even though Missouri and the federal government would allow the use of dyed diesel fuel, the operator must purchase and use clear fuel in the vehicles that cross into the neighboring state.

**AUTHORITY:** sections 142.818 and 142.824, RSMo 2000, 136.035, RSMo Supp. 2006, and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**EMERGENCY RESCISSION**

**12 CSR 10-23.365 Issuance of Nonresident Salvage-Buyer's Identification Card.** This rule set forth the procedures for issuance of nonresident salvage-buyer's identification card.

**PURPOSE:** This rule is being rescinded due to legislation that repeals the requirement for out-of-state salvage-buyers to obtain a nonresident salvage-buyer's identification card in order to buy at Missouri salvage pools and disposal sales.

**EMERGENCY STATEMENT:** The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rescission. This emergency rescission is necessary to ensure public awareness and to preserve a compelling governmental interest in rescinding the rule effective August 28, 2007, since Senate Bill 82 repeals the nonresident ID card requirement effective that date. Rescinding the rule effective the same date the law eliminates the requirement will make it clear to all nonresident salvage buyers that Missouri has eliminated the ID card registration requirement effective August 28, 2007, and ensure the regulation creates no confusion about the need for a nonresident salvage buyer card. As a result, the director finds that there is an immediate danger to the public welfare which can only be addressed through this emergency rescission. The department believes this emergency rescission is fair to all interested persons under the circumstances and good stewardship of state resources. The director has followed procedures best calculated to assure fairness to all interested persons and parties and has complied with protections extended by the *Missouri* and *United States Constitutions*. The director has limited the scope of the emergency rescission to the circumstances creating the required emergency action. Emergency rescission filed August 8, 2007, effective August 28, 2007, expires February 23, 2008.

**AUTHORITY:** section 301.218, RSMo 1986. Original rule filed Nov. 18, 1986, effective March 12, 1987. Emergency rescission filed Aug. 8, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**EMERGENCY AMENDMENT**

**12 CSR 10-103.380 Photographers, Photofinishers and Photoengravers, as Defined in Section 144.030, RSMo.** The director proposes to amend the title, amend subsections (3)(C), (3)(E), (3)(F), and (4)(D) through (4)(F).

**PURPOSE:** This rule is being amended due to TAFP HCS SCS SB 196, enacted by the 93rd General Assembly, 2005 and TAFP CCS HCS SB30, enacted by the 94th General Assembly, 2007.

**EMERGENCY STATEMENT:** The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(3) Basic Application of Tax.

(C) The sale of negative development services only, where no prints, slides or other tangible personal property are received, is not subject to tax. The developer must pay tax on materials and supplies used in the development process **because developing is a service that is not subject to tax.**

(E) [Supplies such as film, chemicals and other materials purchased for the photographer's own use or consumption are taxable.] Chemicals that are intended to and do remain with the final product are considered an ingredient or component part of the final product for resale and are therefore not subject to tax.

(F) Equipment such as cameras and lenses, which is directly used to manufacture new **tangible** personal property intended to be sold ultimately at retail, is exempt from tax. Replacement parts for this exempt equipment are also exempt.

(4) Examples.

[(D)] A photographer purchases chemicals and other supplies used to develop photographs. These chemicals and supplies are not intended to remain with the photograph. These purchases are subject to tax because they are consumed in the developing process and do not become a component or ingredient part of the photograph.]

[(E)] (D) A photographer purchased new cameras and a new lens to replace a broken lens. The new cameras allow the photographer to photograph twice as many pictures. The photographer can purchase the cameras exempt because it increases productivity. The new lens would also be exempt as replacement equipment.

[(F)] (E) A photographer scans photographs into a computer for customers. If the photographer provides the customer a CD containing the images, the sale is taxable. However, if the photographer sends the images to customers via the Internet, the photographer has not sold tangible personal property and should not collect tax on this sale.

**AUTHORITY:** section 144.270, RSMo [1994] 2000. Original rule filed June 29, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**EMERGENCY RULE**

**12 CSR 10-103.381 Items Used or Consumed by Photographers, Photofinishers and Photoengravers, as Defined in Section 144.054, RSMo**

*PURPOSE:* Section 144.054.2, RSMo exempts from state sales tax and local use tax, but not local sales tax, machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing. This rule explains the exemption for photographers, photofinishers and photoengravers.

*EMERGENCY STATEMENT:* The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(1) In general, purchases of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing are exempt from state sales tax and local use tax, but not local sales tax.

(2) Definition of Terms: See the definition of terms in 12 CSR 10-111.010 Machinery and Equipment Exemptions.

(3) Basic Application of Tax.

(A) Supplies such as film, chemicals and other materials purchased for the photographer's use or consumption are exempt from state sales tax and local use tax, but not local sales tax.

(4) Examples.

(A) A photographer purchases chemicals and other supplies used to develop photographs. These chemicals and supplies are not intended to remain with the photograph. These purchases are exempt from state sales tax and local use tax, but not local sales tax, because they are consumed in the developing process.

*AUTHORITY:* section 144.270, RSMo 2000 and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**EMERGENCY AMENDMENT**

**12 CSR 10-103.400 Sales Tax on Vending Machine Sales, as Defined in Section 144.054, RSMo.** The director proposes to amend section (1), and subsection (3)(I).

*PURPOSE:* This rule is being amended due to TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007.

*EMERGENCY STATEMENT:* The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(1) In general, sales of tangible personal property, other than photocopies and tobacco products, through vending machines are subject to tax based on one hundred thirty-five percent (135%) of the net invoice price of the tangible personal property. The applicable tax rate is the rate in effect at the location of the vending machine. Sales of photocopies and tobacco products are subject to tax on their retail sales price. *[Purchases of machines or parts for machines used in a commercial vending machine business are subject to tax unless tax is paid on the gross receipts derived from the use of the machines.] Purchases of machines or parts for machines used in a commercial vending machine business are not subject to tax if tax is paid on the gross receipts derived from the sale of the tangible personal property through the vending machines.*

(3) Basic Application of Tax.

(I) *[Purchases of machines or parts for machines used in a commercial coin-operated vending business are subject to tax unless tax is paid on the gross receipts derived from the use of the machines.] Purchases of machines or parts for machines used in a commercial vending machine business are not subject to tax if tax is paid on the gross receipts derived from the sale of the tangible personal property through the vending machines.*

*AUTHORITY:* section [143.961] 144.270, RSMo 2000, and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Original rule filed May 1, 2006, effective Nov. 30, 2006. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**EMERGENCY AMENDMENT**

**12 CSR 10-103.555 Determining Taxable Gross Receipts.** The director proposes to amend the purpose, sections (2) through (4), and reletter existing subsections accordingly.



**PURPOSE:** *This rule is being amended due to TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007.*

**EMERGENCY STATEMENT:** *The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

**PURPOSE:** *Section 144.021, RSMo, imposes a tax on a seller's gross receipts. Section 144.083, RSMo, addresses the application of tax involving third party payments. This rule provides guidance for reporting gross receipts.*

## (2) Definitions.

**(A) Buydown payments**—payments received by a seller under an agreement with a manufacturer or wholesaler to lower the cost of inventory sold to consumers for a stated sales price.

**[(A)] (B) Gross receipts**—the total amount of the sale price of taxable services and tangible personal property including any services, other than charges incident to the extension of credit, that are a part of such sale and are capable of being valued in money, whether received in money or otherwise.

**[(B)] (C) Rebate**—a return of part of an amount given in payment.

**(D) Store coupons**—coupons issued by the seller to reduce the stated price of a product to the purchaser.

**[(C)] (E) Taxable sales**—the total amount of gross receipts plus or minus any adjustments permitted or required by law.

**(F) Third party coupons**—coupons issued by a manufacturer or other third party to apply to the purchase of the product.

## (3) Basic Application of Tax.

**(C)** When the *[taxpayer]* seller accepts third party coupons, **only** the *[total sale]* price *[includes the value of the coupon. When the taxpayer accepts third party coupons along with food stamps, the value of the food stamps is not included in taxable sales, but the value of the coupon is included in taxable sales.]* paid by the purchaser is included in the gross receipts subject to tax.

**(D)** The value of a store coupon issued and redeemed by *[the]* a seller is not *[included in taxable sales]* subject to tax. Store coupons are not included in gross receipts.

**(E)** When the seller accepts federal food stamp coupons, the value of the federal food stamp coupons is not included in gross receipts.

**[(E)] (F)** Rebates from sellers or manufacturers do not reduce taxable sales **unless they are offered instantly at the time of sale**, except for rebates on motor vehicles, boats, trailers and outboard motors.

**[(F)] (G)** A taxpayer accepting an article in trade as a credit or part payment on the purchase price should include the value of the article in gross receipts. The value of the article should be deducted from gross receipts when calculating taxable sales.

**[(G)] (H)** Money received in advance, such as down payments, lay-aways or gift certificates, are not included in gross receipts until the

sale has been consummated.

**[(H)] (I)** Charges to customers for the extension of credit, such as late fees or financing charges are excluded from gross receipts.

**[(I)] (J)** A seller's expenses associated with utilizing the service of credit card companies are not excluded from gross receipts.

**[(J)] (K)** If the taxpayer's inventory is stolen or destroyed by fire or other casualty, the insurance receipts are not subject to tax and should not be included in gross receipts.

**(L)** When tangible personal property is subject to a federal manufacturer's excise tax imposed by sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261, or 4271 of Title 26, *United States Code*, the amount of the tax is not included in gross receipts if the retail seller collects the excise tax from the purchaser and remits it to the federal government.

**(M)** Gross receipts from the sale of cigarettes do not include the amount of the sale price that represents the state tax on the cigarettes under Chapter 149, RSMo. Gross receipts from the sale of other tobacco products include the amount of the sale price that represents the state tax on the other tobacco products under Chapter 149, RSMo. Local cigarette taxes authorized by law and imposed and paid in the manner of the state tax under Chapter 149, RSMo, are not included in gross receipts. All other local cigarette taxes are included in gross receipts.

**(N)** Buydown payments are not gross receipts subject to tax. Buydown payments serve to reduce the sales price to all purchasers by reducing inventory cost to the seller. Buydown payments are not payments for the retail price of the product.

## (4) Examples.

**(A)** A grocery store accepts manufacturer's coupons from its customers on purchases of various goods. The store sells aluminum foil for \$1.50. The customer presents to the store a \$.50 manufacturer's coupon and pays the remaining balance of \$1.00. The store submits the \$.50 coupon to the manufacturer for payment of the \$.50. The gross receipts from the sale of the aluminum foil are *[\$1.50]* **\$1.00** and total taxable sales are *[\$1.50]* **\$1.00**. Tax should be charged on *[\$1.50]* **\$1.00**.

**(B)** On Tuesdays, the same grocery store in Example (A) doubles all manufacturers' coupons. The store then receives \$.50 from the customer and \$.50 from the manufacturer. Gross receipts are *[\$1.00]* **\$.50**, and total taxable sales are *[\$1.00]* **\$.50**. Tax should be charged on *[\$1.00]* **\$.50**.

**(C)** An appliance manufacturer offers a \$100 cash rebate on an \$800 refrigerator. *[The store selling the refrigerator should charge tax on \$800.]* Tax is due on *[\$800]* **\$700**, *[whether]* if the rebate is received by the customer at the time of purchase. **If the customer must request the rebate from the manufacturer at [or] a later date[,]**, tax is due on \$800 because that is the sale price paid at the time of purchase.

**(G)** A retailer ordinarily sells a brand of cigarettes for \$4 per pack. The manufacturer of that brand of cigarettes agrees to a "buydown" with the retailer. Under the buydown agreement, the manufacturer will reimburse the retailer \$.50 per pack if the retailer sells the cigarettes for \$3.50 for a month. The gross receipts and taxable sales from the sales of the cigarettes are \$3.50 per pack, which includes the buydown, less any amount attributable to the state tax imposed pursuant to Chapter 149, RSMo.

**(H)** A retailer ordinarily sells a brand of cigarettes for \$4 per pack. The manufacturer of that brand of cigarettes agrees with the retailer to reduce the purchase price to the retailer by \$.50 per pack if the retailer sells the cigarettes for \$3.50. The gross receipts from the sales of the cigarettes are \$3.50 per pack, less any amount attributable to the state tax imposed pursuant to Chapter 149, RSMo.

**AUTHORITY:** *section 144.270, RSMo [1994] 2000, and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Original*

rule filed Aug. 21, 2000, effective Feb. 28, 2001. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY AMENDMENT**

**12 CSR 10-110.200 Ingredient or Component Part Exemption, as Defined in Section 144.030, RSMo.** The director proposes to amend the title, and sections (1) and (4).

**PURPOSE:** This rule is being amended due to TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007.

**EMERGENCY STATEMENT:** The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(1) In general, purchases of ingredients or component parts are exempt from tax if they blend with the final product and are intended to and do become a part of the finished product. In addition, *[certain]* materials that are consumed in the manufacture/ing, processing, compounding, mining, producing or fabricating of *[steel]* products intended to be sold ultimately for final use or consumption are exempt from tax.

(4) Examples.

(A) A toy manufacturer purchases wood, glue, and paint *[and sandpaper]* to use in the manufacturing of wooden rocking horses. The purchases of wood, glue and paint are exempt from tax. *[The purchase of sandpaper is taxable.]*

(B) A restaurant purchases apple wood to use in the smoking of foods. The restaurant burns the wood in a closed chamber, called a smoker, in which it places the food. The burning wood releases compounds, and small but measurable quantities of the compounds enter and permeate the food. Because a part of the wood, in the form of smoke particles, blends with and remains as part of the finished product, the apple wood may be purchased tax exempt as an ingredient or component part.

(C) An automobile manufacturer purchases *[soap and]* wax to *[wash and]* wax all automobiles as they leave the manufacturing plant. *[Some soap residue remains with the automobiles when they leave the plant. The soap does not qualify as an ingredient or component part because it is not intended to remain with the product.]* The wax *[does qualify]* qualifies as a component part because it is intended to remain with the product.

(E) A steel fabricator purchases welding rods *[and gases]* for use in fabricating a product out of steel plates. The welding rods are

exempt because *[it]* they become/s/ a component part of new personal property. *[Even though the gases are consumed in the fabrication process, the gases are not exempt because the new personal property does not qualify as a steel product.]*

*[(F) A foundry creates a steel product by casting molten steel. After casting, a cleaning solution is poured over the product to remove impurities from the surface. The cleaning solution is not exempt because it does not blend, react or interact with a component part or ingredient of the steel product.]*

**AUTHORITY:** section 144.270, RSMo [1994] 2000. Original rule filed Aug. 30, 2000, effective March 30, 2001. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY RULE**

**12 CSR 10-110.201 Materials and Other Goods Used or Consumed in Manufacturing, as Defined in Section 144.054, RSMo**

**PURPOSE:** Section 144.054.2, RSMo exempts from taxation certain materials, goods, machinery and parts. This rule explains the requirements for this exemption.

**EMERGENCY STATEMENT:** The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(1) In general, purchases of gas (natural, artificial, or propane) water, coal, and energy sources, chemicals, machinery, equipment and materials that are used or consumed in the manufacturing, processing, compounding, mining or producing a product are exempt from state sales and use tax and local use tax, but not from local sales tax. Local sales tax applies to these transactions.

(2) Basic Application of Exemption.

(A) Gas (natural, artificial, or propane) water, coal, and energy sources, chemicals, machinery, equipment and materials that are used or consumed in manufacturing, processing, compounding, mining or producing a product are exempt from state sales and use tax and local use tax, but not local sales tax. It is not necessary for the item purchased to be used directly in manufacturing in order to qualify for the exemption.

## (3) Examples.

(A) A toy manufacturer purchases sandpaper to use in the manufacturing of wooden rocking horses. The purchase of sandpaper is exempt from state sales and use tax and local use tax, but not local sales tax because it is a material that is consumed in producing a product.

(B) An automobile manufacturer purchases soap to wash all automobiles as they leave the manufacturing plant. The soap qualifies as a material used or consumed in the manufacturing process and is exempt from state sales and use tax and local use tax, but not local sales tax.

(C) A steel fabricator purchases gases for use in fabricating a product out of steel plates. The gases that are consumed in the fabrication process are exempt from state sales and use tax and local use tax, but not local sales tax, because they are consumed in producing a product.

(D) A foundry creates a steel product by casting molten steel. After casting, a cleaning solution is poured over the product to remove impurities from the surface. The solution is used or consumed in the producing of a product and is exempt from state sales and use tax and local use tax, but not local sales tax.

*AUTHORITY: section 144.270, RSMo 2000. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY RULE**

**12 CSR 10-110.210 Television and Radio Broadcasters**

*PURPOSE: This rule explains the television and radio broadcasters sales tax exemption.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, radio and television broadcasters are exempt from sales and use tax, both state and local, on purchases of utilities, machinery, and equipment used or consumed directly in the broadcasting of their programs.

## (2) Definition of Terms.

(A) Broadcaster—An entity who transmits (a radio or television signal) over the airwaves for public or general use. A cable or satellite provider is not a broadcaster.

## (3) Basic Application.

(A) A Missouri radio or television station purchases utilities, machinery and equipment for use directly in the broadcasting of their programming. The purchase of the utilities, machinery and equipment are not subject to state or local tax.

*AUTHORITY: section 144.270, RSMo 2000, and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY AMENDMENT**

**12 CSR 10-110.300 Common Carriers.** The director proposes to amend sections (1) and (4), reletter existing subsections accordingly.

*PURPOSE: This rule is being amended as a result of statutory changes to section 144.030.2(11), RSMo.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property are not subject to tax. Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers are not subject to tax. Railroad rolling stock used in transporting persons or property in interstate commerce is not subject to tax. Motor vehicles licensed for a gross weight of twenty-four thousand (24,000) pounds or trailers used by common carriers [solely] in the transportation of persons or property [in interstate commerce] are not subject to tax.

## (4) Examples.

(C) A common carrier purchases a cab and chassis. The cab and chassis are licensed for a gross weight of 24,000 pounds and will be used only in intrastate commerce as a common carrier. The purchase of the cab and chassis is **not** taxable. The common carrier subsequently purchases a dump bed to add to the cab and chassis. The dump bed is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.

*[(E) A common carrier purchases a cab and chassis. The cab and chassis will be used only in intrastate commerce as*



*a common carrier. The purchase of the cab and chassis is taxable because the cab and chassis are not used in interstate commerce. The common carrier subsequently purchases a dump bed to add to the cab and chassis. The dump bed is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.]*

[(F)] (E) A common carrier purchases a trailer. The common carrier subsequently purchases a refrigeration unit to add to the trailer. The refrigeration unit is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.

[(G)] (F) The sale of a switch engine to be used to move railroad cars around a switching yard, if part of an interstate rail system, is not subject to tax.

[(H)] (G) An airline purchases equipment to test engine parts that have been removed from the plane and brought to their repair facility. The equipment purchased would be exempt from tax.

[(I)] (H) The owner of a Missouri furniture store is registered as a common carrier, but does not hold itself out to the general public as a common carrier. It uses its truck only to deliver furniture sold to customers residing in and outside Missouri. The owner installs new brakes on the truck. Even though the owner is registered as a common carrier, the brakes are taxable because the furniture store is operating as a private carrier.

[(J)] (I) A charter company *[only provides bus transportation by]* contracts with private groups for *[private groups]* exclusive use of its bus and driver for *[tours of]* transportation between Missouri and destinations in the Southeastern United States. The company provides no other transportation services. The charter company purchases new tires. The tires are taxable because the business is a contract carrier.

[(K)] (J) A railroad purchases a flanged wheel mechanized tie replacement machine for repairing broken rail segments on an interstate system. The purchase of the machine is exempt.

**AUTHORITY:** section 144.270, RSMo 2000, and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Original rule filed Jan. 24, 2001, effective Aug. 30, 2001. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY AMENDMENT**

**12 CSR 10-110.600 Electrical Energy, as Defined in Section 144.030, RSMo.** The director proposes to amend the title, the purpose, and sections (1) through (4).

**PURPOSE:** This rule is being amended due to TAFP HCS SCS SB 196, enacted by the 93rd General Assembly, 2005, and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007.

**EMERGENCY STATEMENT:** The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS Senate Bill 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes

impact them. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.

**PURPOSE:** Section 144.030.2(12), RSMo exempts from tax certain purchases of electrical energy used in primary or secondary manufacturing, processing, compounding, mining or producing a product, *[or used in material recovery processing]* or processing of raw materials that contain recovered materials. Section 144.030.2(31), RSMo, exempts from tax, electricity used in connection with the manufacturing of cellular glass products or in any material recovery processing plant. Section 144.030.2(33), RSMo, exempts from tax utilities used or consumed directly or exclusively in the research and development of agricultural biotechnology products and plant genomics products and prescription pharmaceuticals consumed by humans or animals. This rule explains when *[this]* these exemptions *[applies]* apply and how a taxpayer may claim the exemptions at the time of purchase of the electrical energy.

(1) In general, electrical energy used in facilities owned or leased by the taxpayer in the actual primary manufacturing, processing, compounding, mining or producing of a product is exempt from tax if the cost of the electrical energy used exceeds ten percent (10%) of the total cost of the primary manufacturing, processing, compounding, mining or producing, exclusive of the cost of electrical energy so used. Electrical energy used in facilities owned or leased by the taxpayer in the actual secondary manufacturing, processing, compounding, mining or producing of a product is exempt from tax if the cost of the electrical energy used exceeds ten percent (10%) of the total cost of the secondary manufacturing, processing, compounding, mining or producing, exclusive of the cost of electrical energy so used. Electrical energy used in a material recovery processing plant owned or leased by the taxpayer or in manufacturing cellular glass products is exempt from tax *[if the total cost of electric energy used in such processing exceeds ten percent (10%) of the total cost of the processing, exclusive of the cost of electrical energy so used]*. Utilities used or consumed directly or exclusively in the research and development of agricultural biotechnology products and plant genomics products and prescription pharmaceuticals consumed by humans or animals are exempt from tax. Electrical energy used in facilities owned or leased by the taxpayer in *[manufacturing,]* processing *l*, compounding, mining or producing a product or in a material recovery processing plant is exempt if the raw materials used in such processing raw materials that contain at least twenty-five percent (25%) recovered materials is exempt from tax.

(2) Definition of Terms.

(B) Fabrication—See 12 CSR 10-111.010/(2)/(C)].

(C) Manufacturing—See 12 CSR 10-111.010/(2)/(E)].

(D) Material recovery processing plant—*[A facility that converts recovered materials into a new product or into a different form that is used in producing a new product. It includes facilities or equipment used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but does not include motor vehicles used on highways.]* See 12 CSR 10-111.060.

(E) Mining—See 12 CSR 10-111.010/(2)/(F)].

(F) Primary processing—Manufacturing, processing, compounding, mining or producing that results in the first marketable product.

[(G) Processing—Any mode of treatment, act or series of acts performed upon materials to transform and reduce them into an article with a use, identity and market value different

from the use, identity and market value of the materials, and includes treatment necessary to maintain or preserve such processing by the producer at the production facility.]

[(H)] (G) Producing—See 12 CSR 10-111.010[(2)/(H)].

[(I)] (H) Product—An item with a new identity, use and market value produced by the taxpayer's efforts which is intended at the time of the production activity to be sold ultimately for final use or consumption. A product may be tangible personal property or a service, if the property or service is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

[(J)] (I) Production activity—Manufacturing, processing, compounding, mining, producing or fabricating.

(J) Raw material—any ingredient or component that becomes part of, or is made into a finished product.

(K) Recovered materials—[Materials that have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation or processing.] See 12 CSR 10-111.060. In order for an item to be a recovered material, a facility must recover it from the solid waste stream. An item used in processing for its original intended purpose is not a recovered material.

(L) Secondary processing—Further processing or fabricating of a marketable product that results in another marketable product.

(M) Solid waste—See 12 CSR 10-111.060.

[(M)] (N) Total cost—All allocated costs incurred in producing the product, including all elements of production cost in accordance with generally accepted accounting principles.

#### (3) Basic Application of Exemption.

(A) A taxpayer may claim this exemption at the time of purchase of the electrical energy by presenting the seller with a direct pay certificate issued by the department. In order to obtain a direct pay certificate, the taxpayer must submit [annually] an electrical energy direct pay authorization application. The application must demonstrate, by the use of the previous calendar year's data, a probable entitlement to the electrical energy exemption for the coming year. The taxpayer must file and remit the appropriate tax on energy purchases that do not qualify for this exemption on its sales tax return.

#### (4) Examples.

(A) A manufacturing firm produces extruded sheet plastic. The automated production line is a closed system connected together by use of vacuum feed-pipe. When an order is received, the computer controlled production line first blends the necessary raw materials. After blending, the mix is conveyed through vacuum pipe to be dried, and then to the extruder, where the mix is heated to meltdown and rolled into sheets by the extruder rollers. These sheets are the end product. The cost of raw materials is 95% of the total cost of producing the end product. The cost of electrical energy is 99% of the cost of drying and extruding the blended raw materials. The plastic sheet is the only marketable product produced by this continuous, indivisible operation. [None of the electrical energy is exempt because it does not exceed 10% of the total cost of producing the end product.] Because the cost of electricity does not exceed 10% of the total cost of producing the product, the purchase of the electricity does not qualify for the exemption.

(B) A manufacturer produces glass bottles to be used as packaging. The manufacturer combines raw materials, including recycled glass obtained from recyclers, which is then melted under extreme heat. The molten glass is then formed into bottles, which are the manufacturer's only product. The electrical energy costs exceed 10% of the total cost of production; therefore the manufacturer qualifies for the exemption. If the manufacturer's raw materials include at least 25% [recycled] recovered material, the manufacturer may avoid the time and cost involved in the calculations necessary to support the exemption under the 10% threshold and claim the exemption based on its use of [recycled] recovered materials.

(E) A paper manufacturer uses recycled paper [to produce] in its primary processing of producing rolls of newsprint. The newsprint includes [more than 25%] 50% recovered paper, [and qualifies] qualifying the manufacturer for the electrical energy exemption from state and local taxes. The newsprint is subsequently cut into sheets during secondary processing for sale to a book printer. The cost of electricity [to cut the sheets] used during the secondary processing does not exceed 10% of the total cost of producing the cut sheets. However, [T]he electrical energy used to produce the final product is also exempt because the [manufacturer] secondary process uses at least 25% recovered materials.

*AUTHORITY: section 144.270, RSMo 2000. Original rule filed July 25, 2001, effective Feb. 28, 2002. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

### Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 110—Sales/Use Tax—Exemptions

#### EMERGENCY RULE

#### 12 CSR 10-110.601 Electrical, Other Energy and Water as Defined in Section 144.054, RSMo

*PURPOSE: Section 144.054.2, RSMo exempts from state sales and use tax and local use tax, but not local sales tax, electricity, gas (natural, artificial, or propane) water, coal, and energy sources used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product or in the processing of recovered materials. This rule explains when this exemption applies and how a taxpayer may claim the exemption at the time of purchase of the utilities, energy and water.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS Senate Bill 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, electricity, gas (natural, artificial, or propane) water, coal, and energy sources used or consumed in manufacturing, processing, compounding, mining or producing any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

#### (2) Definition of Terms.

(A) Compounding—Producing a product by combining two (2) or



more ingredients or parts.

(B) Energy source—Those resources, such as petroleum, coal, gas, wind, steam, nuclear fuel and sunlight, from which energy is produced.

(C) Fabrication—See 12 CSR 10-111.010.

(D) Manufacturing—See 12 CSR 10-111.010.

(E) Material recovery processing plant—See 12 CSR 10-111.060.

(F) Mining—See 12 CSR 10-111.010.

(G) Producing—See 12 CSR 10-111.010.

(H) Recovered materials—See 12 CSR 10-111.060.

(3) Basic Application of Exemption.

(A) A taxpayer may claim the exemption for state sales and use tax and local use tax, but not local sales tax at the time of purchase. A taxpayer may not claim an exemption from local tax and then remit the tax directly to the department. It is the seller's responsibility to collect and remit the proper amount of local tax to the department.

(B) For purchases which are reported to the department under direct pay and Electrical Energy Direct Pay (EEDP) are exempt from the application of subsection (3)(A) of this rule.

(C) The electricity, other energy, and water source that is subject to this exemption is not required to be directly used in the process for which the exemption is being claimed. There is also no requirement that the electricity comprise ten percent (10%) of the cost of a primary or secondary production process in order to qualify for this exemption. There is also no requirement that twenty-five percent (25%) of the raw materials are recycled in order for the purchaser to claim this exemption.

(4) Method of Collection and Apportionment.

(A) Energy and water vendors are responsible for remitting tax to the department. Purchasers are responsible to inform energy vendors on the MO-149 (Sales/Use Tax Exemption Certificate) of the percentage of energy used for activities exempt under section 144.054, RSMo. The purchaser may use any reasonable method to calculate this percentage, such as square footage or reference to a use analysis. The exemption will be applied as follows:

Purchaser's Calculated Exempt Percentage	Percentage Exempt
76-100	100
51-75	75
26-50	50
1-25	25
0	0

(B) Beginning on August 28, 2007 and ending on October 28, 2007 any vendor who receives an exemption certificate exempting sales of electricity, gas (natural, artificial, or propane) water, coal, and energy sources used or consumed in manufacturing, processing, compounding, mining or producing any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining or producing any product after the bill was issued may take the correction as an adjustment on their sales tax return provided the net result is not a negative figure. In the event an exemption certificate is received after October 28, 2007 and an exemption was due and not properly applied by the vendor, the vendor may submit a refund request to the department.

(5) Exempt Examples.

(A) A manufacturer purchases propane to operate forklifts that move raw materials between production lines. The fuel is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) A manufacturer uses electricity to run its equipment, maintain a moderate temperature in its production facility and to light the plant. The purchase of all of its electricity is exempt from state sales and use tax and local use tax, but not local sales tax because it is used or consumed in producing a product.

(C) A manufacturer uses coal to fuel boilers to generate steam used to manufacture a product. The purchase of the coal is exempt from state sales and use tax and local use tax, but not local sales tax because it is used or consumed in producing a product.

(D) A manufacturer purchases compressed gas used for welding a product. The purchase of the compressed gas is exempt from state sales and use tax and local use tax, but not local sales tax because it is used or consumed in producing a product.

(E) A manufacturer uses water to cool a product during the manufacturing process. The water is exempt from state sales and use tax and local use tax, but not local sales tax.

(F) A manufacturer preserves its final product in a warehouse located at the production facility awaiting shipment. The purchase of energy to maintain the desired temperature and provide lighting is exempt from state sales and use tax and local use tax, but not local sales tax.

(G) A construction company, who has been deemed a manufacturer, purchases fuel to be used in a concrete ready-mix truck. The fuel is subject to motor fuel tax, however if a refund claim is made, the refund will be exempt from state sales tax, but not local sales tax, because it is used in producing a product.

(6) Taxable Examples.

(A) A restaurant preparing food for immediate consumption is not exempt as a manufacturer. Therefore, all state and local taxes apply.

*AUTHORITY: section 144.270, RSMo 2000 and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 111—Sales/Use Tax—Machinery and  
Equipment Exemptions**

**EMERGENCY RULE**

**12 CSR 10-111.011 Machinery, Equipment, Materials, and  
Chemicals Used or Consumed in Manufacturing, as Defined in  
Section 144.054, RSMo**

*PURPOSE: Section 144.054.2, RSMo exempts machinery, equipment, materials, and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product, or used in research and development related to manufacturing, processing, compounding, mining or producing any product from state sales and use tax and local use tax, but not local sales tax. This rule explains what elements must be met in order to qualify for these exemptions.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed*



August 14, 2007, effective August 28, 2007, expires February 23, 2008.

(1) In general, the purchase of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or is used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(2) Definition of Terms.

- (A) Equipment—See 12 CSR 10-111.010.
- (B) Fabrication—See 12 CSR 10-111.010.
- (C) Machinery—See 12 CSR 10-111.010.
- (D) Manufacturing—See 12 CSR 10-111.010.
- (E) Mining—See 12 CSR 10-111.010.
- (F) Producing—See 12 CSR 10-111.010.

(3) Basic Application of Exemption.

(A) Pursuant to section 144.054.2, RSMo purchases of machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing, processing, compounding, mining or producing any product is exempt from state sales and use tax and local use tax, but not local sales tax.

(B) The exemptions do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and materials in an exempt fashion. All that is required is that the machinery, equipment and materials are used in a tax-exempt manner.

(4) Exempt Examples.

(A) A manufacturing company purchases various pieces of testing equipment to perform research and development on potential future products. The testing equipment for research and development is exempt from state sales and use tax and local use tax, but not local sales tax, because it is used or consumed in research and development related to manufacturing a product.

(B) A commercial photo developer uses "crop cards" to hold individual negatives in the film developing process; they are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are exempt from state sales and use tax and local use tax, but not local sales tax, as materials used and consumed in producing a product.

(C) A manufacturer purchases materials to develop models for research and development for use in designing a new product. The manufacturer may purchase the materials exempt from state sales and use tax and local use tax, but not local sales tax, because they are used in research and development related to manufacturing.

(D) Workers in a manufacturing plant are required to wear safety equipment while producing a product. The safety equipment is exempt from state sales and use tax and local use tax, but not local sales tax, because it is used to produce a product.

(5) Nonexempt Examples.

(A) A taxpayer operates a concrete manufacturing plant. The taxpayer purchases dump trucks to haul, to customers, concrete slabs that had been manufactured in its plant. The dump trucks would not qualify for exemption because they are not used in the manufacturing process, but rather, in the shipping process.

(B) A taxpayer creates and sells a nontaxable information service. To develop its service, the taxpayer purchases computer hardware and software. The computer hardware and software do not qualify for the state tax exemption pursuant to section 144.054.2, RSMo, because they are machinery and equipment used in producing a service and not a product.

*AUTHORITY: section 144.270, RSMo 2000 and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 111—Sales/Use Tax—Machinery and  
Equipment Exemptions**

**EMERGENCY RULE**

**12 CSR 10-111.061 Exempt Items Used or Consumed in Material Recovery Processing as Defined in Section 144.054, RSMo**

*PURPOSE: Section 144.054.2, RSMo exempts machinery, equipment, materials, coal, energy sources and chemicals used or consumed in the processing of recovered materials from state sales and use tax and local use tax, but not local sales tax. This rule explains the elements that must be met in order to qualify for the exemption.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. Emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, the purchase of machinery, equipment, materials and chemicals used or consumed in the processing of recovered materials are exempt from state sales and use tax and local use tax, but not local sales tax.

(2) Basic Application of Exemption.

(A) Purchases of machinery, equipment and materials used or consumed in the processing of recovered materials are exempt from state sales and use tax and local use tax, but not local sales tax. Coal, energy sources and chemicals used or consumed in the processing of recovered materials are also exempt from state sales and use tax and local use tax, but not local sales tax.

(B) Electrical energy or gas (natural, artificial or propane) water, or other energy sources consumed in processing recovered materials is exempt from state and local tax (144.030.2.(31), RSMo).

(3) Examples.

(A) A metal recycler uses diesel fuel to operate its hydraulic cutter. The diesel fuel may be purchased exempt from state sales and use tax and local use tax, but not local sales tax, because it is used or consumed in the processing of recovered materials.

(B) A paper recycler mixes water with paper in its pulping equipment in order to separate the paper fibers from each other. The water may be purchased exempt from state sales and use tax and local use tax, but not local sales tax.

(C) An aluminum can recycler uses natural gas in its furnace to melt aluminum scraps into molten aluminum. The purchase of the

natural gas is exempt from state sales and use tax and local use tax, but not local sales tax because it is consumed in the processing of recovered materials.

*AUTHORITY: section 144.270, RSMo 2000 and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 111—Sales/Use Tax—Machinery and  
Equipment Exemptions**

**EMERGENCY AMENDMENT**

**12 CSR 10-111.100 Commercial Printers, as Defined in Section 144.030, RSMo.** The director proposes to amend the title and sections (1), (3), and (4).

*PURPOSE: This rule is being amended due to TAFP HCS SCS SB 196, enacted by the 93rd General Assembly, 2005 and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007.*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, sales of printed product by commercial printers are subject to tax. Purchases of materials and supplies, such as paper and ink, which become a component part or ingredient of the printed product are exempt. Other materials used by the printer may be exempt if title or ownership to the materials transfers to the customer. Purchases of machinery, equipment and parts for replacement or for a new or expanded plant are exempt if directly used in the manufacturing process. This includes printing presses and plates. *[Chemicals to develop the film and plates are not exempt unless they become an ingredient or component part of materials resold to the customer.]*

(3) Basic Application of Tax.

(B) Ingredients and component parts—Purchases of material and supplies such as paper and ink may be purchased tax exempt by printers as ingredients or component parts under section 144.030.2(2), RSMo.

1. Chemicals that blend with and become part of the ink mixture are exempt, including:

A. The fountain solution that blends with the ink at the press to keep the non-image area clean of ink while printing;

B. Chemicals used on the rollers to keep the ink from drying out;

C. Isopropyl alcohol to keep the ink wet on the rollers; and  
D. Ink anti-stain used to keep the ink from bleeding onto other printed material.

*[2. Purchases of material and supplies used in the printing process that do not blend with the ink are taxable, including:*

A. Anti-static products used to reduce static on the printed product;

B. Chemicals used to clean the presses; and

C. Color wax used for layout purposes.]

(C) *[Other materials transferred to customers—]* Purchases of materials, including film, used by the printer in its manufacturing process do not qualify for the sale for resale exclusion unless title or ownership to such materials is transferred to the customer. Whether title passes is based on the intent of the parties, as evidenced by all relevant facts, including written agreements, course of dealing or usage of trade and availability of the materials for future use by the customer.

(D) Chemicals—Chemicals to develop the film and plates are *[not]* exempt *[unless]* if they become an ingredient or component part of materials resold to the customer. *[Chemicals that generally do not become an ingredient or component part include chemicals used on plates to desensitize the plates and to prevent them from oxidizing, developers, replenishers, finishers, fixers, store gum and plating solution.]*

(E) Supplies and Parts.

1. Perforation devices consumed in a single production cycle are not exempt as machinery and equipment or parts.

2. Perforation devices benefiting more than one production cycle are exempt as parts of machinery and equipment.

3. Blankets and necessary attachments are exempt as parts of machinery and equipment.

4. Proof paper and phototypesetting paper are not exempt as machinery and equipment or parts.

5. Mineral spirits used as a solvent to clean brushes, overspray and equipment are *[taxable]* not exempt as ingredients or component parts if used as a cleaning solvent separate from the ink. If mixed with the ink, then the mineral spirits are exempt as ingredients or component parts.

(4) Examples.

(B) A commercial printer purchases plates[, and film[, phototypesetting paper, developer chemical for plates and film (which do not become a part of the plates or film), and press cleaning solvent that is not mixed with ink]. The plate is exempt machinery and equipment. The printer's contract with the customer states the negatives become the property of the customer. The film is exempt as a component part of the negative. *[The phototypesetting paper does not qualify for exemption as machinery or equipment, ingredient or component part or sale for resale. The developer chemicals and cleaning solvent do not qualify for exemption as ingredients or component parts or sales for resale.]*

*AUTHORITY: section 144.270, RSMo 2000. Original rule filed Oct. 11, 2001, effective April 30, 2002. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 111—Sales/Use Tax—Machinery and  
Equipment Exemptions**

**EMERGENCY RULE**

**12 CSR 10-111.101 Items Used or Consumed by Commercial Printers, as Defined in Section 144.054, RSMo**



**PURPOSE:** *Section 144.054.2, RSMo exempts from state tax, but not local tax, machinery, equipment, materials and chemicals used or consumed in manufacturing, processing, compounding, mining or producing any product or used in research and development related to manufacturing. This rule explains the taxation rules for commercial printers and what elements must be met to qualify for these exemptions.*

**EMERGENCY STATEMENT:** *The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency rule. This emergency rule is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency rule informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(1) In general, purchases of machinery, equipment, materials and chemicals used or consumed by a printer in the production process are exempt from state tax and local use tax, but not local sales tax.

(2) Definition of Terms. See definition of terms in 12 CSR 10-111.010 Machinery and Equipment Exemptions.

(3) Basic Application of Tax.

(A) Purchases of material and supplies used in the printing process that do not blend with the ink are exempt from state tax and local use tax, but not local sales tax, including, anti-static products used to reduce static on the printed product; chemicals used to clean the presses and color wax used for layout purposes.

(B) Chemicals to develop the film and plates are exempt from state tax and local use tax, but not local sales tax. Chemicals exempt from state, but not local tax include chemicals used on plates to desensitize the plates and to prevent them from oxidizing, developers, replenishers, finishers, fixers, store gum and plating solution.

(C) Perforation devices consumed in a single production cycle are exempt from state tax, but not local tax as machinery and equipment used or consumed in the printing process. Proof paper and phototypesetting paper are also exempt from state tax, but not local tax as machinery and equipment used or consumed in the printing process. Mineral spirits used as a solvent to clean brushes, overspray and equipment are exempt from state tax and local use tax, but not local sales tax even when used as a cleaning solvent separate from the ink.

(4) Example.

(A) A commercial printer purchases phototypesetting paper, developer chemical for plates, film (which does not become the property of the customer) and press cleaning solvent that is not mixed with ink. All these items are exempt from state tax and local use tax, but not local sales tax as materials used or consumed in producing a product.

**AUTHORITY:** *section 144.270, RSMo 2000 and CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 112—Sales/Use Tax—Contractors**

**EMERGENCY AMENDMENT**

**12 CSR 10-112.010 Contractors.** The director proposes to amend subsection (3)(D).

**PURPOSE:** *This rule is being amended due to TAFP CCS HCS SS SCS SB 22, enacted by the 94th General Assembly, and to clarify the exemption contained in section 144.062, RSMo, as it relates to fuel and to add exempt entities.*

**EMERGENCY STATEMENT:** *The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of the enactment of TAFP CCS HCS SS SCS SB 22, by the 94th Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed August 14, 2007, effective August 28, 2007, expires February 23, 2008.*

(3) Basic Application of Tax.

(D) Flow Through Project Exemptions—A contractor, including subcontractors working for the contractor, constructing, repairing or remodeling facilities for a specific exempt entity, may purchase tax exempt tangible personal property and materials incorporated into or consumed in the project if the exempt entity furnishes to the contractor a project exemption certificate. Tangible personal property and materials that can only be used for one construction, repair or remodeling job which are actually used up in performing the contract are consumed. Examples include sandpaper[, *fuel to run equipment*] and drill bits that are actually used up in the performance of the exempt contract. Items that are not consumed are hand tools, drinking water coolers, hardhats and bulldozers. For purposes of this flow through exemption an exempt entity is limited to:

1. Political subdivisions exempt under Article III section 39(10) of the *Missouri Constitution*;
2. Federal government and its instrumentalities;
3. Religious organizations;
4. Charitable organizations;
5. Elementary and secondary schools, public and private; *[or]*
6. Higher education institutions, public and private~~[.]~~;
7. **Missouri Department of Transportation; or**
8. **Jackson County Sports Complex Authority.**

**AUTHORITY:** *section 144.270, RSMo [1994] 2000. Original rule filed June 13, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*