

FIRST REGULAR SESSION

HOUSE BILL NO. 328

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORRIS.

0980H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 144.011, RSMo, and to enact in lieu thereof one new section relating to sales and use tax exemptions, with an emergency clause.

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

Section A. Section 144.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.011, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 **(c) Any organization or club not open to the public whose articles of incorporation**
59 **define it as a general not-for-profit corporation and whose purpose is to bring together and**
60 **allow individuals to participate in and enjoy an activity including, but not limited to, a**
61 **private country club, fitness club, golf course, golf club, swim club, or tennis club.**

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

Section B. Because immediate action is necessary to encourage membership in
2 organizations that facilitate comradery and advance the health and fitness of their members, the
3 repeal and reenactment of section 144.011 of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the repeal and reenactment of section
6 144.011 of this act shall be in full force and effect upon its passage and approval.

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