

FIRST REGULAR SESSION

# HOUSE BILL NO. 833

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRAKER.

1755H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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Section A. Section 144.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.011, to read as follows: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

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

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

58 **(c) Any other private country club, golf course, or golf club not open to the public.**

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

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