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**Rules of  
Department of Revenue  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

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

**12 CSR 10-103.360 Titling and Sales Tax  
Treatment of Boats and Outboard Motors**

*PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale and lease of watercraft and outboard motors pursuant to sections 144.020.1(8), 144.069 and 144.070, RSMo. Chapter 306 requires the owner to obtain a certificate of title for certain watercraft and outboard motors from the Department of Revenue.*

(1) In general, the purchaser must pay directly to the Department of Revenue the sales tax due on the sale of watercraft and outboard motors required to be titled. The sales tax due on the sale of all other watercraft must be collected from the purchaser by the seller and remitted to the Department of Revenue.

(2) Definition of Terms.

(A) Boat/outboard motor leasing company—A company obtaining a permit from the Department of Revenue to operate as a boat or outboard motor leasing company.

(B) Documented vessel—A vessel documented by the United States Coast Guard or other agency of the federal government. Such vessels are not subject to any state or local sales or use tax but are instead subject to an in-lieu watercraft tax. See section 306.016, RSMo, for information regarding the in-lieu tax.

(C) Motorboat—Any watercraft propelled by machinery, whether or not such machinery is the principal source of propulsion.

(D) Outboard motor—an internal combustion engine with an integrally attached propeller or waterjet propulsion unit temporarily secured to the stern of a boat.

(E) Personal watercraft—A class of inboard vessel, which uses an internal combustion engine powering a jet pump as its primary source of propulsion.

(F) Vessel—Any motorboat or motorized watercraft; also, any watercraft more than twelve feet (12') in length which is powered by sail or a combination of sail and machinery. The term vessel does not include any watercraft solely propelled by a paddle or oars. A vessel kept within this state must be registered and titled.

(G) Watercraft—Any boat or craft used or capable of being used as a means of transport on waters. Watercraft may or may not be required to be titled.

(3) Basic Application of Tax.

(A) The sales tax due on the sale of a vessel or outboard motor required to be titled must be paid by the purchaser directly to the department at the time the vessel or motor is titled. The rate of sales tax paid is based on the address of the purchaser and the rate in effect on the date the purchaser submits the application for title to the department.

(B) The seller must collect the sales tax due on the sale of all watercraft not covered by section (1) above from the purchaser in accordance with the general sales tax collection methods under Chapter 144, RSMo.

(C) Persons engaged in the lease or rental of watercraft or outboard motors have the option of—

1. Paying taxes on the full purchase price of the watercraft or outboard motor at the time of purchase or titling, depending on the type of craft; or

2. Collecting and remitting the sales tax on the gross receipts derived from the lease or rental of the watercraft or outboard motor.

(D) A person engaged in the lease or rental of watercraft or outboard motors must choose one of the methods listed in (3)(A) or (3)(B) and must treat all watercraft and outboard motors the same for sales tax purposes.

(E) If the lessor chooses the option to collect and remit sales tax based on the lease or rental of the watercraft or outboard motor, the lessor must register with the Department of Revenue as a leasing company pursuant to section 144.070, RSMo. If this option is chosen, the lessor should not pay sales tax on the purchase of the watercraft or outboard motor at the time of purchase or titling.

(F) The rental or lease of watercraft or outboard motors is not considered a fee paid in or to a place of amusement, entertainment or recreation and is therefore not subject to tax as such. This provision avoids double taxation on the purchase and subsequent lease or rental of watercraft or outboard motors.

(G) Examples.

1. Mr. Justin purchases a motorboat and a personal watercraft (jet ski) to be kept in this state. Because the motorboat and jet ski are types of vessels, they are required to be titled. Mr. Justin must title the motorboat and jet ski with the Department of Revenue and pay sales tax on the purchase price of these items directly to the department upon titling. The local sales tax is based upon Mr. Justin's address.

2. Ms. Lindsey purchases a canoe from a boat dealer. A canoe is not a vessel, therefore a title is not required. The seller should charge sales tax on the purchase price of the canoe at the time of sale. The local sales tax is based upon the place of business of the boat dealer.

3. Mr. Biggs rents motorboats, canoes and paddleboats. Mr. Biggs has chosen to pay sales tax at the time of purchase or titling and not to collect sales tax on the rental receipts of the watercraft. Mr. Biggs must pay sales tax on the purchase price of the motorboats directly to the Department of Revenue at the time the boats are titled because the motorboats are vessels required to be titled. Mr. Biggs must pay sales tax to the seller of the canoes and paddleboats at the time of purchase; the canoes and paddleboats are not required to be titled because they do not meet the definition of vessel. Mr. Biggs has chosen to pay sales tax at the time of purchase or titling and should therefore use this same method for all watercraft and outboard motors that will be rented.

4. Mr. Kev also rents motorboats, canoes and paddleboats. However, Mr. Kev has chosen to collect and remit sales tax on the rental receipts rather than to pay sales tax on the purchase price of the watercraft. In order to choose this option, Mr. Kev must first register with the Department of Revenue as a leasing company. Mr. Kev should then provide his lease/rental number to the Department of Revenue at the time of titling of the motorboats. Mr. Kev should also present a resale exemption certificate to the vendor of the canoes and paddleboats at the time of purchase. Mr. Kev has chosen to collect and remit sales tax on the rental receipts and should therefore use this same method for all watercraft and outboard motors that will be rented.

5. JJ's Resort operates a place of amusement at which motorboats and canoes may also be rented. JJ has the option of paying tax on the motorboats and canoes at the time of purchase or titling or to collect and remit sales tax on the rental receipts. Should JJ choose to pay tax at the time of purchase or titling, the gross receipts from the rental of the motorboats and canoes are not subject to sales tax notwithstanding the fact that JJ operates a place of amusement, entertainment or recreation.

*AUTHORITY: sections 144.270 and 144.705, RSMo 1994.\* Original rule filed Nov. 10, 1999, effective May 30, 2000.*

*\*Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961; 144.705, RSMo 1959.*

**12 CSR 10-103.390 Veterinary Transactions**

*PURPOSE: Sections 144.010.1(9) and 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax laws as they apply to veterinarians. This rule also interprets sales tax exemptions that apply to veterinarians including section 144.030.2(22), RSMo.*

(1) In general, veterinarians are rendering services not subject to sales tax. However, veterinarians making retail sales of tangible personal property are responsible for collecting and remitting sales tax on the gross receipts derived from these sales.

(2) Definition of Terms.

(A) Livestock—cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine or rabbits raised in confinement for human consumption.

(B) Prescription drug—controlled drug available by order of a physician’s or veterinarian’s prescription. A prescription must exhibit one of the following legends:

1. “Caution: Federal law prohibits dispensing without prescription”; or
2. “Caution: Federal law restricts this drug to be used by or on order by a licensed veterinarian.”

(C) Veterinarian—a person licensed to treat animals medically.

(3) Basic Application of Tax.

(A) Veterinarians pay tax on their purchases of items consumed in their veterinarian service. Such items may include, but are not limited to, instruments, bandages, splints, syringes, furniture and equipment.

(B) Veterinarians that sell items including but not limited to, leashes, shampoos, collars, nonprescription drugs, and food for animals (except livestock or poultry) for nonfood producing animals are responsible for collecting and remitting tax on the gross receipts derived from these sales. Veterinarians should provide an exemption certificate to the vendor when purchasing items for resale.

(C) Purchases for resale subsequently used or consumed by the veterinarian are subject to the applicable tax. The veterinarian should accrue and remit this tax to the Missouri Department of Revenue. Veterinarians have used or consumed items purchased for resale if they dispense these items to clients for no charge at the same time they provide a non-taxable service. Medications and vaccines

administered to livestock or poultry in the production of food or fiber are exempt from tax.

(D) Prescription drugs are exempt. Products bearing labels, such as, “Available through veterinarians,” “For sales to licensed veterinarians” or “Available through licensed veterinarians exclusively,” are not prescription drugs and are subject to tax.

(4) Examples.

(A) Dr. Kassady purchased an examining table and operating supplies for her veterinarian practice. The purchase is subject to tax.

(B) Dr. Kassady sells dog food at retail. She also operates a kennel. Dr. Kassady feeds the dogs in her kennel the same dog food she purchases exempt for resale. When Dr. Kassady removes the food from inventory to use in her kennel, tax is due.

(C) Dr. Kassady sells a poultry farmer nonprescription vaccines for use on turkeys raised for the production of food. The farmer also purchases vaccines for his pets. The vaccines for the poultry are exempt; however, the vaccines for the pets are subject to sales tax.

(D) Dr. Kassady purchases surgical tools bearing the label “For sale to licensed veterinarians” to use in her practice. This purchase is subject to tax.

*AUTHORITY: sections 144.270 and 144.705, RSMo 1994.\* Original rule filed Nov. 10, 1999, effective May 30, 2000.*

*\*Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961; 144.705, RSMo 1959.*

*Exotic Animal Paradise, Inc. v. Director of Revenue, (A.H.C. 1989). Purchases of feed and hay for animals in an amusement park were not tax-exempt under section 144.030.2(1), RSMo, even though some animals qualified as livestock, because the exemption applies only to feed and hay for animals that will be ultimately resold. The park was also denied an exemption under section 144.030.2(18), RSMo, for purchases of prescription drugs because it failed to show that any of the items claimed required a prescription.*

**12 CSR 10-103.500 Sales of Food and Beverages to and by Public Carriers**

*PURPOSE: Section 144.020.1(1), RSMo, taxes the retail sale of tangible personal property. This rule interprets the sales tax law as it applies to the sale of food and beverages to and by public carriers.*

(1) In general, the sales of food and beverages to public carriers are subject to tax unless the carrier charges a separate amount for the sale of these items to its passengers or crew.

(2) Definition of Terms.

(A) Airline—a person engaged in the carriage of persons or cargo for hire by commercial aircraft pursuant to the authority of the federal Civil Aeronautics Board, or successor thereof.

(B) Missouri passenger miles—miles from airline flights that either land in or take off from locations in Missouri.

(C) Public carrier—a person engaged in the business of transporting persons or cargo for hire for the use or benefit of all.

(3) Basic Application of Tax.

(A) Public carriers that purchase food and beverages in this state to be used in serving passengers and crew should pay tax on these items at the time of purchase, unless the public carrier separately charges for the sales of these items.

(B) A public carrier may issue a resale exemption certificate to a seller of food and beverages if the public carrier sells the food and beverages to its passengers or crew and charges them a separately stated amount for these items. If a public carrier chooses this option, it is subject to tax on the gross receipts from all sales in this state of food or beverages to passengers or crew.

(C) Federal statutes exempt Amtrak from state sales tax on the gross receipts from sales in this state to passengers or crew.

(D) Airlines which purchase alcoholic beverages from wholesale distributors must remit tax of those beverages on the following basis:

1. On all sales made on the ground in this state, tax should be collected on the sales price of the drink;

2. The tax due on sales made in flight should be determined by multiplying the tax rate times the Missouri gross liquor revenues; and

3. The Missouri gross liquor revenues are the airline’s total gross liquor revenue times the percentage of Missouri passenger miles to total passenger miles.

(E) Federal law, 49 U.S.C. 40116 (c), prohibits a state from taxing activities on flights that merely fly over a state without taking off or landing from an airport in the state.

(4) Examples.

(A) Cool Crowd Airlines is engaged in the business of transporting persons and cargo for hire and has operating facilities in this state where aircraft are furnished with food and beverages. Cool Crowd does not separately charge for sales of food and beverages to its passengers or crew and therefore must pay tax on the purchase of these items when they are delivered in this state.

(B) Assume the same facts as in example one except that Cool Crowd does separately charge for sales of food and drink to passengers or crew. In this instance, Cool Crowd should issue a resale exemption certificate to its food and beverage vendors and purchase these items tax free. Cool Crowd should then collect and remit tax on all sales of food and beverages that occur in this state.

(C) Cool Crowd Airlines purchases alcoholic beverages tax free for resale both in clubs located in this state and in flight. Cool Crowd should remit sales tax on the total gross receipts resulting from all sales made on the ground in this state. For sales occurring in flight, Cool Crowd should remit use tax on the Missouri gross liquor revenues. The Missouri gross liquor revenues are computed by multiplying the airline's total gross liquor revenue times a fraction, the numerator of which is Missouri passenger miles and the denominator of which is total passenger miles.

*AUTHORITY: sections 144.270 and 144.705, RSMo 1994.\* Original rule filed Nov. 10, 1999, effective May 30, 2000.*

*\*Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961; 144.705, RSMo 1959.*

***Republic Airlines Inc. v. Wisconsin Department of Revenue***, 159 Wis. 2d 247; 464 N.W. 2d 62: (Wisc. App. 1990). *Republic reported tax on the gross receipts of food, beverages and peanuts based on a ratio of revenue passenger miles flown in Wisconsin (the numerator), to its revenue passenger miles everywhere (the denominator). The numerator included flights that landed in or took off from Wisconsin but did not include overflights. The Wisconsin Department of Revenue adjusted the numerator of this fraction upward to include overflights. The Wisconsin Court of Appeals ruled that the Wisconsin statute did not authorize the inclusion of flyover miles in the sales tax apportionment factor, even though such inclusion was authorized by the applicable regulation. The court determined that the Legislature's use of the word "in" in the statute did not authorize the Revenue Department's promulgation of a regulation including miles merely "over" the State in the apportionment factor.*