

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

PROPOSED AMENDMENT

12 CSR 10-110.601 Electrical, Other Energy, and Water as Defined in Section 144.054, RSMo. The director is amending the purpose statement and sections (1) and (3) -(6).

PURPOSE: This amendment updates purchases that are exempt from local sales and use tax pursuant to 144.054 RSMo and deletes subsection (4)(B).

PURPOSE: Section 144.054[.2], RSMo, exempts from *[state tax and local use tax, but not local sales tax,]* **state and local sales and use tax certain equipment, materials, goods, machinery,** 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.

(1) In general, purchases of electricity, gas (natural, artificial, or propane), water, coal, *[and]* energy sources, **chemicals, machinery, equipment, and materials** 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 *[are]* exempt from *[state tax and local use tax, but not local sales tax]* **state and local sales and use tax.**

(3) Basic Application of Exemption.

(A) A taxpayer may claim the exemption for *[state tax and local use tax, but not local sales tax]* **state and local sales and use 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) Purchases 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 energy source and water 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 energy source and water 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 be 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 for informing energy vendors on the *[MO-149] Form 149* (Sales/Use Tax Exemption Certificate) of the percentage of energy used for activities exempt under section 144.054, RSMo. The purchaser *[may]* **should** use any reasonable method to calculate this percentage, such as a square footage *[or reference to a use]* analysis **to calculate the percentage of energy used**. The exemption will be applied as follows:

Purchaser's Calculated

<u>Exempt Percentage</u>	<u>Percentage Exempt</u>
76–100	100
51–75	75
26–50	50
1–25	25
0	0

[(B) Beginning on August 28, 2007 and ending on January 31, 2008, 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 its sales tax return provided the net result is not a negative figure. In the event an exemption certificate is received after January 31, 2008, 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 to production lines, move]* works-in-process between production steps¹, *[move finished goods to an on-site storage area, and to load finished goods on trucks for shipment from the plant]*. The fuel is exempt from *[state tax and local use tax, but not local sales tax]* **state and local sales and use tax**.

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

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

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

[(E)](D) A manufacturer uses water to cool a product during the manufacturing process. The **manufacturer's purchase of** water is exempt from *[state tax and local use tax, but not local sales tax]* **state and local sales and use tax**.

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

[(G)](F) A construction company that 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]* **is** exempt from *[state tax and local use tax, but not local sales tax,]* **state and local sales and use tax** because the fuel is used in producing a product.

(G) A manufacturer builds mobile homes in its factory. The manufacturer's purchases of energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing process are exempt from state and local sales and use tax.

(H) A company uses energy to test manufacturing equipment as it is installed. This energy is exempt from state and local sales and use tax.

(I) A telecommunication company produces a wireless or landline-based telephone call. The energy sources, chemicals, machinery, equipment, and materials used by the telecommunication company to manufacture the phone call are exempt from state and local sales and use tax.

(J) A factory purchases safety equipment such as earplugs and goggles for use by the employees on the manufacturing floor. These items used by the employees who are manufacturing a product are exempt from state and local sales and use tax.

(K) A toy manufacturer purchases sandpaper to use in the manufacturing of wooden rocking horses. The purchase of sandpaper is exempt from state and local sales and use tax because it is a material that is consumed in producing a product.

(L) 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 and local sales and use tax because they are consumed in the developing process.

(6) Taxable Examples.

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

(B) A wireless company operates a customer support call center to assist its customers with questions. The call center is not exempt. Therefore, all state and local taxes apply.

(C) The construction of a road, building, or other fixed structure is not exempt. Therefore, all state and local taxes apply.

(D) An auto repair facility repairs vehicles by installing or replacing parts. This is not exempt because they are not creating a new or distinct item. Therefore, all state and local taxes apply.

(E) A cable television provider's purchase of energy is not exempt. Therefore, all state and local taxes apply.

AUTHORITY: section 144.270, RSMo [2000] 2016, and 144.054, RSMo Supp. [2007] 2023.
Emergency rule filed Aug. 14, 2007, effective Aug. 28, 2007, expired Feb. 23, 2008. Original
rule filed Aug. 14, 2007, effective March 30, 2008. Amended: Filed Oct. 9, 2025.*

**Original authority: 144.054, RSMo 2007; and 144.270, RSMo 1939, amended 1941, 1943,
1945, 1947, 1955, 1961.*

*Public Cost: This proposed amendment will not cost state agencies or political subdivisions
more than five hundred dollars (\$500) in the aggregate.*

*Private Cost: This proposed amendment will not cost private entities more than five hundred
dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition
to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301
W. High St., Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be
received within thirty (30) days after publication of this notice in the **Missouri Register**. No
public hearing is scheduled.*