

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 113—Sales/Use Tax—Use Tax**

PROPOSED AMENDMENT

12 CSR 10-113.300 Temporary Storage. The department is adding a court decision to the rule.

PURPOSE: This rule is being amended to provide a court decision that helps explain the rule.

PURPOSE: section 144.610, RSMo imposes use tax on the sale of tangible personal property that is purchased for use, storage or consumption in this state. Section 144.620, RSMo creates a presumption that tangible personal property sold for delivery in or transportation to Missouri is for use, storage or consumption in Missouri unless otherwise excluded. Sections 144.605(10) and (13), RSMo define the incidence of “storage” and “use.” These sections provide an exclusion from use tax for property that is purchased for temporary storage in Missouri with the intent to subsequently use the property outside Missouri. This rule interprets this exclusion.

AUTHORITY: section 144.705, RSMo [1994] 2016. Original rule filed June 8, 2000, effective Dec. 30, 2000. Amended: Filed Oct. 9, 2025.*

**Original authority: 144.705, RSMo 1959.*

Custom Hardware Engineering & Consulting, Inc. v. Director of Revenue, 358 S.W.3d 54 (Mo. banc 2012). Custom Hardware Engineering, Inc. (CHE) performed computer hardware maintenance and repair on enterprise-class machines and purchased parts from vendors outside Missouri. These parts were shipped to CHEs Missouri headquarters, where they were tested and certified for use by customers. CHE retained title to the parts until they were utilized by the customer. The Supreme Court of Missouri held that CHE did not qualify for the temporary storage exemption because the testing and certification process went beyond mere temporary storage and constituted a taxable use. The court also held that CHE did not qualify for the resale exemption because the parts were not purchased for a subsequent taxable sale but were instead used to fulfill maintenance contracts. Additionally, the fact that some of CHEs customers were public entities exempt from taxation did not render CHE exempt from use tax. Finally, the court held that the Administrative Hearing Commission had the authority to increase CHE's tax liability beyond the amount initially determined by the director of revenue.

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.*