

**Title 12 – Department of Revenue
Division 10 – Director of Revenue
Chapter 103 – Sales/Use Tax – Imposition of Tax**

PROPOSED AMENDMENT

12 CSR 10-103.395 Physicians, Dentists and Optometrists. The division is amending the purpose.

PURPOSE: The purpose of the amendment is to update the regulation and add examples.

PURPOSE: Sections 144.010.1(1[0]3) and 144.020.1(1), RSMo, tax the retail sale of tangible personal property. This rule interprets the tax laws as they apply to physicians, dentists and optometrists.

(1) In general, physicians, dentists and optometrists are rendering services not subject to tax. Tangible personal property purchased by physicians, dentists and optometrists and used or consumed in the practice of their professions is subject to tax when purchased. Tangible personal property purchased by physicians, dentists and optometrists and not used or consumed in the practice of their professions is subject to tax when resold by them.

(3) Basic Application of Tax.

(A) Physicians, dentists and optometrists must pay tax on the purchase of items used or consumed in the practice of their profession. Such items include, but are not limited to, medical instruments, bandages, splints, x-ray film, medical equipment, **toothpaste, floss**, eyeglasses, frames and lenses.

(B) Physicians, dentists and optometrists that sell items that are not used in the practice of their profession are responsible for collecting and remitting the tax on the gross receipts derived from these sales.

(C) Sales by persons other than physicians or optometrists of eyeglasses, frames and lenses are subject to tax. **The person must collect and remit tax on their gross receipts from these sales.**

(D) See also 12 CSR 10-110.013 Drugs and Medical Equipment, which contains an explanation of other exemptions that may apply to these transactions.

(4) Examples.

(A) A physician purchases diagnostic equipment, surgical tools and supplies for use in providing care to her patients. These purchases are subject to tax.

(B) A dentist purchases dental chairs from an out-of-state supplier. The chairs are shipped to the dentist's location in Missouri. The supplier does not charge tax on the invoice for the chairs. The dentist must accrue and remit use tax on this purchase.

~~[(B)]~~**(C)** An optometrist purchases eyeglasses, frames and lenses and uses these items in the diagnosis, treatment and correction of conditions of the human eye. The optometrist charges the patient a separate amount for the frame and lenses. The optometrist should pay tax on these items because they are consumed in the practice of his profession. The amount charged the patient for the frame and lenses is not a sale at retail and is not subject to tax.

~~[(C)]~~**(D)**A retailer of prescription eyeglasses, lenses and frames advertises that an optometrist is available to examine customers. The optometrist performs eye examinations for customers of the retailer but the retailer owns the inventory held for sale. Sales of the eyeglasses, lenses and frames are subject to tax because they are not sales by the optometrist.

~~[(D)]~~**(E)**An optician makes and sells eyeglasses to fill a patient's prescription. These sales are subject to tax.

~~[(E)]~~**(F)**A dentist sells accessories such as travel kits, mirrors and other items not related to the practice of the profession. These sales are subject to tax.

(G) A dentist provides small tubes of toothpaste, floss, and mouth wash to each patient following a visit. Providing the items is not a sale at retail and are not subject to tax. The dentist should pay tax on these items because they are consumed in the practice.

AUTHORITY: sections [144.010 and] 144.020, RSMo [Supp. 2001]. Original rule filed April 1, 2002, effective Oct. 30, 2002. Amended: Filed Oct. 2, 2018.

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, General Counsel's Office, PO Box 475, 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.*