

FIRST REGULAR SESSION

SENATE BILL NO. 325

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time January 23, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1497S.01I

AN ACT

To repeal section 144.026, RSMo, and to enact in lieu thereof one new section relating to sales and use tax exemptions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 144.026, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 144.026, to read as follows:

144.026. 1. The director of revenue shall not send notice to any taxpayer
2 under subsection 2 of section 144.021 regarding the decision in IBM Corporation
3 v. Director of Revenue, [Case No. 94999] **491 S.W.3d 535** (Mo. banc 2016) prior
4 to August 28, 2017.

5 2. The general assembly intends expressly through this statute
6 to clarify existing law as interpreted by the Missouri supreme court in
7 **Southwestern Bell Tel. Co. v. Director of Revenue, 78 S.W.3d 763 (Mo.**
8 **banc 2002)** and **Southwestern Bell Tel. Co. v. Director of Revenue 182**
9 **S.W.3d 226 (Mo. banc 2005)** holding that telecommunications services,
10 including the electronic transfer of a voice or voices, constitutes the
11 manufacturing of a product for the purposes of the exemptions in
12 subdivisions (5) and (6) of subsection 2 of section 144.030 and
13 subsection 2 of section 144.054. The director of revenue and all courts
14 of competent jurisdiction shall follow the reasoning of the Missouri
15 supreme court in these decisions and their progeny in interpreting and
16 applying the exemptions in subdivisions (5) and (6) of subsection 2 of
17 section 144.030 and subsection 2 of section 144.054, and shall apply such
18 reasoning to all pending audits, assessments, refund claims, and claims
19 for credit not finally adjudicated as of the effective date of this section,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 as well as all future audits, assessments, refund claims, and claims for
21 credit.

22 3. The general assembly further intends expressly to abrogate
23 through this statute the Missouri supreme court's interpretation of the
24 exemptions found in subdivisions (5) and (6) of subsection 2 of section
25 144.030 and subsection 2 of section 144.054 in *IBM Corporation v.*
26 *Director of Revenue* 491 S.W.3d 535 (Mo. banc 2016), and in any other
27 decision of the Missouri supreme court or administrative hearing
28 commission and any letter ruling or regulation of the director of
29 revenue that is inconsistent with this section.

✓

Bill

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