

12 CSR 10-110.400 Newspapers and Other Publications

PURPOSE: This rule explains the application of sales and use tax law to the publication and sale of newspapers and other publications. Additionally, section 144.030, RSMo, exempts from taxation newsprint, ink, computers, photosensitive paper and film, toner, printing plates, and other machinery, equipment, replacement parts, and supplies used in producing newspapers published for dissemination of news to the general public. This rule explains what elements must be met in order to qualify for this exemption. The sale of publications that are not in tangible form is not subject to tax and is not addressed in this rule.

(1) In general, newspapers, magazines, newsletters, periodicals, trade journals, books and other publications are tangible personal property and their sale is subject to tax to the same extent as any other personal property. Sellers of printed materials are subject to all rules applicable to other sellers of tangible personal property, except as otherwise specifically provided in this rule. Machinery, equipment, replacement parts, and supplies used to produce newspapers for dissemination of news to the general public are exempt from tax. Publishers of other printed materials are not included within the same exemption as newspapers that disseminate news to the general public but may qualify for exemptions applicable to manufacturers to the same extent as any other manufacturer.

(2) Definition of Terms.

(A) Equipment—devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets, other than land and buildings, that are capitalized and depreciated for purposes of business and accounting practices.

(B) Machinery—combinations of parts that work together as a functioning unit, even if they are subordinate elements of more complex machinery. Machinery may be simple or complex, but does not include the replacement of an individual part, even if that part becomes an element of a functioning machine.

(C) Newspapers published for the dissemination of news to the general public—publications that are published at stated short intervals, usually daily or weekly, and contain news of current events available for distribution to anyone; that do not, when successive issues are put together, constitute a book; and that are generally in sheet form.

(D) Parts—articles of tangible personal property that are components of machinery or equipment, which can be separated from the machinery or equipment and replaced.

Like machinery and equipment, parts must have a degree of permanence and durability. Items that are consumed in a single processing and benefit only one (1) production cycle are materials and supplies, not parts. Items such as nuts, bolts, hoses, hose clamps, chains, belts, gears, drill bits, grinding heads, blades, and bearings, would ordinarily be considered parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as lubricants, paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property are not parts; these items would be considered materials or supplies within the meaning of the exemptions.

(E) Producing—for purposes of this rule only, the process of creating a newspaper.

(F) Publisher—a person who prepares and issues a publication for public distribution.

(G) Publication—any written material, such as newspapers, magazines, newsletters, periodicals, trade journals, and books, offered for sale or distribution.

(H) Supplies—for purposes of this rule only, tangible personal property consumed in the production of a newspaper. The term supplies does not include fuel.

(3) Basic Application of Exemption.

(A) If the retail purchaser buys a publication directly from the publisher or the publisher bears the risk of loss for noncollection, the publisher is the seller and must collect and remit the tax. If the retail purchaser buys the publication from someone other than the publisher and that person bears the risk of loss for noncollection, then that person is the seller and must collect and remit the tax.

(B) If the purchaser receives the publication in Missouri, the seller must collect and remit sales tax, unless the order for the publication is approved outside Missouri and delivered to the purchaser from outside Missouri by common or contract carrier, in which case the seller must collect and remit use tax.

(C) The sale of a publication subject to state sales tax is subject to the local sales tax at the rate in effect at the seller's place of business in Missouri. A sale of a publication subject to state use tax is subject to the local use tax in effect where the publication is first delivered in Missouri.

(D) The sale by the publisher of a publication through a vending machine is subject to tax based on one hundred thirty-five percent (135%) of the average price at which the publisher sells the publication to vendors or on actual gross receipts. The sale of a

publication through a vending machine is subject to local sales tax at the rate in effect where the vending machine is located.

(E) If delivery or if the charge for delivery or similar service is not separately stated, the entire sale price is subject to tax.

(F) A publisher may set the individual copy price to a round amount including tax, provided that the publication states somewhere that the amount of the price includes tax. Any other seller must collect and remit tax on the sale price of the publication.

(G) A publisher may purchase an insert to its publication exempt from tax as an ingredient or component part. See 12 CSR 10-110.200.

(4) Examples.

(A) An individual in Missouri subscribes to the local newspaper by contracting with the publisher. The publisher contracts with a third party to deliver the newspaper and collect the entire cost of the newspaper, including delivery charges, which are not separately stated. The publisher bears the risk that the individual will not pay for the subscription. The publisher is the seller and must collect and remit sales tax, including local sales tax at the rate in effect at the publisher's place of business. Tax is imposed on the entire sale price, including delivery charges, because the delivery charges are not separately stated. The publisher may set the price at a round amount, including tax, as long as the publication states somewhere that the price includes tax.

(B) An individual in Missouri subscribes to an out-of-state newspaper by contracting with a Missouri newspaper carrier, which is the only way to obtain this newspaper in Missouri. The carrier bears the risk that the individual will not pay for the subscription. The carrier is the seller and must collect and remit sales tax, including local sales tax at the rate in effect at the carrier's place of business. Tax is imposed on the entire price of only the newspaper, excluding delivery charges, because delivery charges are not subject to tax.

(C) An individual in Missouri subscribes to an out-of-state newspaper by contracting with the out-of-state publisher that has nexus with Missouri. The publisher delivers the newspaper by mail, which is the only way to obtain the newspaper in Missouri. The publisher does not have a place of business in Missouri. The publisher is the seller and must collect and remit use tax, including local use tax at the rate in effect where the newspaper is delivered. Tax is imposed on the sale price of only the newspaper, excluding separately stated postage and handling charges.

(D) A retailer sells local and national publications. The retailer is the seller of the publications and must collect and remit sales tax, including local sales tax at the rate in effect at the retailer's place of business. The retailer may claim a resale exemption when purchasing the publications from the publishers.

(E) A publisher prints a daily newspaper and occasionally prints extra copies for free distribution to nonsubscribers. The publisher should not remit tax on the copies distributed for free and the supplies used to produce the newspaper are exempt.

(F) Publisher A prints and sells a newspaper to publisher B. Publisher B distributes the newspaper for free. Publisher A should collect and remit tax on its sales to publisher B.

(G) Same facts as (4)(F), except publisher B sells the newspaper. Publisher B must collect and remit tax on its sale of the newspaper, but may issue a resale exemption certificate and purchase the newspaper from publisher A exempt from tax.

(H) A publisher produces an advertising circular that it distributes for free. The publisher should pay tax on the machinery, equipment and supplies used to produce the circular.

(I) Same facts as (4)(H), except the publisher sells the circular. The publisher must collect and remit tax on its sales of the circular. The machinery and equipment used to produce, and the ingredients or component parts incorporated in, the circular are exempt from tax when purchased because the publisher is manufacturing a product sold at retail.

AUTHORITY: sections 144.270 and 144.705, RSMo 2016.* Original rule filed Dec. 1, 2004, effective July 30, 2005. Amended: Filed Aug. 8, 2023, effective March 30, 2024.

*Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008, and 144.705, RSMo 1959.

Hearst Corp. v. Director of Revenue, 779 S.W.2d 557 (Mo. banc 1990). Newspapers are tangible personal property subject to sales tax.

Daily Record Co. v. Ray James, 629 S.W.2d 348 (Mo. banc 1982). Newspaper inserts are component parts of the newspaper and exempt from tax on the purchase.

In *James v. Mars Enders, Inc.*, 629 S.W.2d 331 (Mo. banc 1982), the Supreme Court extended the holding in *Daily Record* to supplements printed by a third party printer and delivered to a newspaper publisher for distribution with the newspaper.