

Sales/Use/Indirect:

Missouri DOR Proposes Changes to Rules Addressing Manufacturing and Resale Exemptions

Proposed Amendments to Reg. section 10-111.010 and Reg. section 10-107.100, Mo. Dept. of Rev. (9/1/23). The Missouri Department of Revenue (Department) proposed changes to some of its sales and use tax regulations, including amendments to Missouri's manufacturing machinery and equipment (M&E) and resale exemptions. Under its proposal on Missouri's manufacturing M&E exemption, the Department states that the terms "producing," "compounding," and "processing" are synonymous with "manufacturing." Moreover, the proposal defines a "product" as an "output with market value," and provides that the output must have a new identity, use, and market value produced by the taxpayer's efforts which is intended at the time of the production activity to be sold ultimately for final use or consumption – noting that a "product" may be tangible personal property or a service. The proposal also explains that the taxpayer is *not* required to actually market the good or service but must prove the existence of a market. Two additional example scenarios are included in the proposal – one involving customized steel pipes and the other medical services. The Department is also proposing to delete some provisions in the current regulation addressing specific situations where the exemption may apply.

URL: <https://www.sos.mo.gov/CMSImages/AdRules/moreg/2023/v48n17Sept1/v48n17.pdf>

Under its proposal on Missouri's resale exemption, the Department provides that "good faith" means "honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry," and "burden of proof" refers to the burden of "persuading the finder of fact that the existence of a fact is more probable than the nonexistence." Moreover, the current requirement for sellers to update resale exemption certificates every five years would be deleted. Comments on these proposed changes to Missouri's manufacturing M&E and resale exemptions must be received within 30 days after their September 1 publication in the Missouri Register. Please contact us with any questions.

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