



THE ISSUE:

SALES TAX ON DELIVERY FEES

👉 The Bill:

SB 16 – Sponsor Will Kraus (R – Lee’s Summit)

👉 Summary of the Bill:

The bill provides that usual and customary delivery charges that are stated separately from the sale price shall not be subject to sales and use taxes.

👉 The Ask:

Support passage of SB 16.

The Background: The position of the Missouri Department of Revenue (“DOR” or “Department”) regarding the collection of sales tax on delivery fees, such as those charged for delivery of restaurant food, was historically indicated from the following sentences contained in a May 2013 DOR Private Letter Ruling, “If the delivery convenience fee is separately stated and is only charged when the customer chooses home delivery, the fee is not subject to sales tax. Customers are not required to pay the convenience fee as part of the purchase price of the food because they can easily avoid the charge by picking up the order at the restaurant.”

However, in the latter part of 2016, sellers of tangible personal property that “may be delivered to Missouri customers” received

a letter from the Taxation Division of the Department advising that a recent Missouri Supreme Court decision might require the collection and remittance of [sales] tax on delivery charges. The letter cited *Alberici Constructors, Inc. v. Director of Revenue*, where the high court held tax must be collected on delivery charges for a rented crane.

As is currently indicated on DOR’s website, the Department has reversed its previous position on whether separately stated delivery fees are subject to sales tax. Citing the Supreme Court’s ruling in *Alberici*, DOR now requires the collection and remittance of sales tax on delivery charges even if such charges are separately stated.



Talking Points: Reasonable delivery fees, that are customary in the ordinary course of business, should not be subject to sales tax as long as such charges are separately stated on the invoice. Delivery of restaurant food has very little in common with the delivery of a rented construction crane. Pass SB 16 and restore common sense to this area of Missouri sales tax law.

Actions:

On March 16, 2017 in the House:

- Referred H Ways and Means

On February 13, 2017 in the House:

- H Second Read

On February 13, 2017 in the House:

- H First Read

On February 13, 2017 in the House

- S Third Read and Passed
- Reported from S Fiscal Oversight Committee
- Voted Do Pass S Fiscal Oversight Committee

On February 13, 2017 in the House:

- Referred S Fiscal Oversight Committee

On February 13, 2017 in the House:

- Reported Truly Perfected S Rules, Joint
- Rules, Resolutions and Ethics Committee

On February 13, 2017 in the House:

- Perfected
- SS for SCS S offered & adopted (Kraus)

On February 13, 2017 in the House:

- Reported from S Ways and Means Committee w/ SCS

On February 13, 2017 in the House:

- SCS Voted Do Pass S Ways and Means Committee (0031S.03C)

On February 13, 2017 in the House:

- Hearing Conducted S Ways and Means Committee

On February 13, 2017 in the House:

- Second Read and Referred S Ways and Means Committee

On February 13, 2017 in the House:

- S First Read--SB 16-Kraus

On February 13, 2017 in the House:

- Prefiled