

AN ORDINANCE PROMULGATING A NEW TAX RATE OF 1.8% AS REQUIRED BY SECTION 92.086, RSMo AS AMENDED 2005, BASED ON RATE INFORMATION RECEIVED FROM THE MISSOURI DIRECTOR REVENUE AS REVIEWED BY THE STATE AUDITOR FOR TAXPAYERS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ST. MARY, MISSOURI, AS FOLLOWS:

Whereas, the General Assembly enacted HB 209, known as the Municipal Telecommunications Business License Simplification Act, Sections 92.074 to 92.095, RSMo (hereinafter referred to as "HB209") in 2005 which requires that municipalities promulgate and publish a new tax rate for telephone companies consistent therewith by April 1, 2006; and

Whereas, the Department of Revenue was to have provided the City with its calculation of what the effective tax rate would be under Section 92.086 of HB 209 by April 1st, but has reported will not have a tax rate available until after that date, and the Department has now proved rate information under the auspices of Section 92.086; and

Whereas, pending the determination of the validity of HB 209, the City is desirous of complying with such statute without waiving rights of the citizens of St. Mary; and

Whereas, the city is authorized to adopt tax rates by ordinance; and

Whereas, the Circuit Court of Cole County, Missouri in State of Missouri ex rel City of Springfield et al v. Trish Vincent, et al, Case No. 06-AC-CC00232, issued a temporary restraining order against the April 1st deadline contained in Section 92.086.6, RSMo, so that cities such as St. Mary would be able to enact a valid tax rate after April 1st based on tax rate information provided by the Missouri Department of Revenue; and

Whereas, should HB 209 be found to be a valid statutory enactment, the City's effective tax rate from and after July 1, 2006, shall be one and eight-tenth percent (1.8%) rather than the current five percent (5%) based on information provided to the City at this time by the Missouri Department of Revenue and reviewed by the State Auditor.

Section 1. – That the City Board of the City of St. Mary, Missouri hereby adopts pursuant to the Municipal Telecommunications Business License Simplification Act (hereinafter referred to as "HB 209") and more particularly the requirement of Section 92.086.6, RSMo, one and eight-tenth percent (1.8%) of gross receipts as its effective tax rate, from and after July 1, 2006, for the tax imposed by the city on telecommunications services unless HB 209 is declared to be invalid by the Missouri Supreme Court or other Court of competent jurisdiction, or HB 209 is amended to change the rate a city is to use, or the Missouri Department of Revenue informs the City that a different rate should be used. In the event a different tax rate may be used under state law whether determined by the Missouri Department of Revenue or as a result of an amendment to HB 209 or such legislation being declared invalid, than that adopted herein, such

different tax rate shall be utilized by the St. Mary City Collector in collection of said tax from and after July 1, 2006, or other date if applicable.

Section 2. -- Should this Ordinance be repealed as a result of HB 209, or any part thereof, being declared invalid by a court of law, or repealed in whole or in part in any other manner relating to said tax rate, or for any other reason HB 209 is no longer applicable to the City of St. Mary, Missouri, then the tax rate of five (5%) shall be re-instated and shall apply to the following:

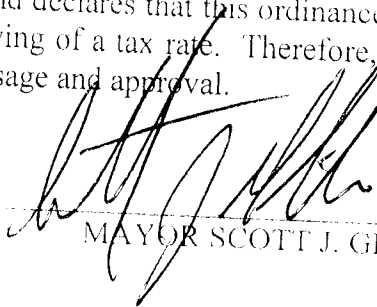
Telecommunication Services subject to Missouri Sales Tax

"Every person engaged in the business of supplying telephones, and telecommunications and telephonic service, and telecommunications services, within the city shall pay a license tax a sum of five percent (5%) of the gross receipts from such business."


Section 3. -- Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 4. -- The Board of Alderman hereby authorizes the Mayor and the City Attorney to take all steps deemed necessary in their respective opinions and discretion to protect the interests of the City with respect to this Ordinance, HB 209 and the validity of any action of this Board pursuant thereto.

Section 5. -- The Board of Aldermen finds and declares that this ordinance constitutes an emergency because it pertains to the fixing and levying of a tax rate. Therefore, this ordinance shall be in full force and effect from and after its passage and approval.



MAYOR SCOTT J. GIBBAR

ATTEST:


CITY CLERK JOANN E. DONZE

ALDERMAN	AYE	NAY	ABSTAIN	ABSENT
Gloria Bader	X			
Robert Bequette	X			
Lyla Bova	X			
Nate Odem	X			

I, JoAnn E. Donze, Clerk of the City of the City of St. Mary, Missouri do hereby certify that the foregoing ordinance was duly read and adopted by the Board of Aldermen at a meeting so convened on this the 20th day of April, 2006.


CITY CLERK JOANN E. DONZE