

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILLS NOS. 517 & 754

98TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 23, 2015, with recommendation that the Senate Committee Substitute do pass.

1366S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 143.191, 143.801, and 144.020, RSMo, and to enact in lieu thereof three new sections relating to taxation.

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

Section A. Sections 143.191, 143.801, and 144.020, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 143.191,
3 143.801, and 144.020, to read as follows:

143.191. 1. Every employer maintaining an office or transacting any
2 business within this state and making payment of any wages taxable under
3 [sections 143.011 to 143.998] **this chapter** to a resident or nonresident
4 individual shall deduct and withhold from such wages for each payroll period the
5 amount provided in subsection 3 of this section.

6 2. The term "wages" referred to in subsection 1 of this section means
7 wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as
8 amended. The term "employer" means any person, firm, corporation, association,
9 fiduciary of any kind, or other type of organization for whom an individual
10 performs service as an employee, except that if the person or organization for
11 whom the individual performs service does not have control of the payment of
12 compensation for such service, the term "employer" means the person having
13 control of the payment of the compensation. The term includes the United States,
14 this state, other states, and all agencies, instrumentalities, and subdivisions of
15 any of them.

16 3. (1) The method of determining the amount to be withheld shall be

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

17 prescribed by regulations of the director of revenue. The prescribed table,
18 percentages, or other method shall result, so far as practicable, in withholding
19 from the employee's wages during each calendar year an amount substantially
20 equivalent to the tax reasonably estimated to be due from the employee under
21 [sections 143.011 to 143.998] **this chapter** with respect to the amount of such
22 wages included in his Missouri adjusted gross income during the calendar year.

23 **(2) The amount to be withheld by an employer with respect to**
24 **tips received by an employee in the course of the employee's**
25 **employment shall be calculated based solely upon the amount of tips**
26 **reported by the employee in a written statement furnished to the**
27 **employer as required by subsection (a) of section 6053 of the Internal**
28 **Revenue Code of 1986, as amended, or if greater, the amount of tips**
29 **received by the employer and remitted to the employee. If an employee**
30 **shares tips, the employer shall withhold only from the employee who**
31 **actually receives the shared tips. The employer's Missouri income tax**
32 **withholding obligation with respect to an employee's tip income shall**
33 **be limited to the portion of the employee's wages under the control of**
34 **the employer against which the employer is required, pursuant to**
35 **federal law, to withhold federal income taxes on the employee's**
36 **tips. Such withholding obligation shall be calculated after making**
37 **reductions for all required federal tax withholding, Missouri income**
38 **tax withholding on non-tip income, and other amounts which have**
39 **higher legal priority.**

40 4. For purposes of this section an employee shall be entitled to the same
41 number of personal and dependency withholding exemptions as the number of
42 exemptions to which he is entitled for federal income tax withholding purposes.
43 An employer may rely upon the number of federal withholding exemptions
44 claimed by the employee, except where the employee provides the employer with
45 a form claiming a different number of withholding exemptions in this state.

46 5. The director of revenue may enter into agreements with the tax
47 departments of other states (which require income tax to be withheld from the
48 payment of wages) so as to govern the amounts to be withheld from the wages of
49 residents of such states under this section. Such agreements may provide for
50 recognition of anticipated tax credits in determining the amounts to be withheld
51 and, under regulations prescribed by the director of revenue, may relieve
52 employers in this state from withholding income tax on wages paid to nonresident

53 employees. The agreements authorized by this subsection are subject to the
54 condition that the tax department of such other states grant similar treatment
55 to residents of this state.

56 6. The director of revenue shall enter into agreements with the Secretary
57 of the Treasury of the United States or with the appropriate secretaries of the
58 respective branches of the Armed Forces of the United States for the withholding,
59 as required by subsections 1 and 2 of this section, of income taxes due the state
60 of Missouri on wages or other payments for service in the armed services of the
61 United States or on payments received as retirement or retainer pay of any
62 member or former member of the Armed Forces entitled to such pay.

63 7. Subject to appropriations for the purpose of implementing this section,
64 the director of revenue shall comply with provisions of the laws of the United
65 States as amended and the regulations promulgated thereto in order that all
66 residents of this state receiving monthly retirement income as a civil service
67 annuitant from the federal government taxable by this state may have withheld
68 monthly from any such moneys, whether pension, annuities or otherwise, an
69 amount for payment of state income taxes as required by state law, but such
70 withholding shall not be less than twenty-five dollars per quarter.

71 8. The provisions of this section shall not apply to out-of-state businesses
72 operating under sections 190.270 to 190.285.

143.801. 1. A claim for credit or refund of an overpayment of any tax
2 imposed by sections 143.011 to 143.996 shall be filed by the taxpayer within three
3 years from the time the return was filed or two years from the time the tax was
4 paid, whichever of such periods expires the later; or if no return was filed by the
5 taxpayer, within two years from the time the tax was paid. No credit or refund
6 shall be allowed or made after the expiration of the period of limitation prescribed
7 in this subsection for the filing of a claim for credit or refund, unless a claim for
8 credit or refund is filed by the taxpayer within such period.

9 2. If the claim is filed by the taxpayer during the three-year period
10 prescribed in subsection 1 **of this section**, the amount of the credit or refund
11 shall not exceed the portion of the tax paid within the three years immediately
12 preceding the filing of the claim plus the period of any extension of time for filing
13 the return. If the claim is not filed within such three-year period, but is filed
14 within the two-year period, the amount of the credit or refund shall not exceed
15 the portion of the tax paid during the two years immediately preceding the filing
16 of the claim. If no claim is filed, the credit or refund shall not exceed the amount

17 which would be allowable under either of the preceding sentences, as the case
18 may be, if a claim was filed on the date the credit or refund is allowed.

19 3. If pursuant to subsection 6 of section 143.711 an agreement for an
20 extension of the period for assessment of income taxes is made within the period
21 prescribed in subsection 1 of this section for the filing of a claim for credit or
22 refund, the period for filing a claim for credit or for making a credit or refund if
23 no claim is filed, shall not expire prior to six months after the expiration of the
24 period within which an assessment may be made pursuant to the agreement or
25 any extension thereof. The amount of such credit or refund shall not exceed the
26 portion of the tax paid after the execution of the agreement and before the filing
27 of the claim or the making of the credit or refund, as the case may be, plus the
28 portion of the tax paid within the period which would be applicable under
29 subsection 1 of this section if a claim had been filed on the date the agreement
30 was executed.

31 4. If a taxpayer is required by section 143.601 to report a change or
32 correction in federal taxable income reported on his federal income tax return, or
33 to report a change or correction which is treated in the same manner as if it were
34 an overpayment for federal income tax purposes, an amended return or a claim
35 for credit or refund of any resulting overpayment of tax shall be filed by the
36 taxpayer within one year from the time the notice of such change or correction or
37 such amended return was required to be filed with the director of revenue. If the
38 report or amended return required by section 143.601 is not filed within the
39 ninety-day period therein specified, interest on any resulting refund or credit
40 shall cease to accrue after such ninetieth day. The amount of such credit or
41 refund shall not exceed the amount of the reduction in tax attributable to:

42 (1) The issues on which such federal change or correction or the items
43 amended on the taxpayer's amended federal income tax return are based, and

44 (2) Any change in the amount of [his] **the taxpayer's** federal income tax
45 deduction under the provisions of subsection 1 of section 143.171. No effect shall
46 be given in the preceding sentence to any federal change or correction or to any
47 item on an amended return unless it is timely under the applicable federal period
48 of limitations. The time and amount provisions of this subsection shall be in lieu
49 of any other provisions of this section. This subsection shall not affect the time
50 within which or the amount for which a claim for credit or refund may be filed
51 apart from this subsection.

52 5. If the claim for credit or refund relates to an overpayment of tax on

53 account of the deductibility by the taxpayer of a debt as a debt which became
54 worthless or a loss from worthlessness of a security or the effect that the
55 deductibility of a debt or of a loss has on the application to the taxpayer of a
56 carryover, the claim may be made, under regulations prescribed by the director
57 of revenue within seven years from the date prescribed by law for filing the
58 return for the year with respect to which the claim is made.

59 6. If the claim for credit or refund relates to an overpayment attributable
60 to a net operating loss carryback or a capital loss carryback, in lieu of the
61 three-year period of limitations prescribed in subsection 1 of this section, the
62 period shall be that period which ends with the expiration of the fifteenth day of
63 the fortieth month (or the thirty-ninth month, in the case of a corporation)
64 following the end of the taxable year of the net operating loss or net capital loss
65 which results in such carryback, or the period prescribed in subsection 3 of this
66 section in respect of such taxable year, whichever expires later. In the case of
67 such a claim, the amount of the credit or refund may exceed the portion of the tax
68 paid within the period provided in subsections 2, 3 and 4 of this section,
69 whichever is applicable, to the extent of the amount of the overpayment
70 attributable to such carryback.

71 **7. (1) No period of limitations provided in subsections 1 to 6 of**
72 **this section shall apply if a taxpayer amends, or the federal Internal**
73 **Revenue Service or its successor agency changes, the taxpayer's federal**
74 **income tax return for the same tax period and:**

75 **(a) Such amendment or change occurs after any period of**
76 **limitations provided in subsections 1 to 6 of this section has expired;**

77 **(b) Such amendment or change reveals that the taxpayer is**
78 **eligible to claim a credit or refund of an overpayment of any tax**
79 **imposed under this chapter; and**

80 **(c) A period of limitations provided in subsections 1 to 6 of this**
81 **section prohibits the taxpayer from claiming such credit or refund.**

82 **(2) If the taxpayer files a claim for such credit or refund, the**
83 **claim shall be filed in the manner provided in this chapter and shall be**
84 **filed within one year from the time the taxpayer amends or the federal**
85 **Internal Revenue Service changes the taxpayer's federal income tax**
86 **return.**

144.020. 1. A tax is hereby levied and imposed for the privilege of titling
2 new and used motor vehicles, trailers, boats, and outboard motors purchased or

3 acquired for use on the highways or waters of this state which are required to be
4 titled under the laws of the state of Missouri and, except as provided in
5 subdivision (9) of this subsection, upon all sellers for the privilege of engaging in
6 the business of selling tangible personal property or rendering taxable service at
7 retail in this state. The rate of tax shall be as follows:

8 (1) Upon every retail sale in this state of tangible personal property,
9 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and
10 outboard motors required to be titled under the laws of the state of Missouri and
11 subject to tax under subdivision (9) of this subsection, a tax equivalent to four
12 percent of the purchase price paid or charged, or in case such sale involves the
13 exchange of property, a tax equivalent to four percent of the consideration paid
14 or charged, including the fair market value of the property exchanged at the time
15 and place of the exchange, except as otherwise provided in section 144.025;

16 (2) A tax equivalent to four percent of the amount paid for admission and
17 seating accommodations, or fees paid to, or in any place of amusement,
18 entertainment or recreation, games and athletic events;

19 (3) A tax equivalent to four percent of the basic rate paid or charged on
20 all sales of electricity or electrical current, water and gas, natural or artificial, to
21 domestic, commercial or industrial consumers;

22 (4) A tax equivalent to four percent on the basic rate paid or charged on
23 all sales of local and long distance telecommunications service to
24 telecommunications subscribers and to others through equipment of
25 telecommunications subscribers for the transmission of messages and
26 conversations and upon the sale, rental or leasing of all equipment or services
27 pertaining or incidental thereto; except that, the payment made by
28 telecommunications subscribers or others, pursuant to section 144.060, and any
29 amounts paid for access to the internet or interactive computer services shall not
30 be considered as amounts paid for telecommunications services;

31 (5) A tax equivalent to four percent of the basic rate paid or charged for
32 all sales of services for transmission of messages of telegraph companies;

33 (6) A tax equivalent to four percent on the amount of sales or charges for
34 all rooms, meals and drinks furnished at any hotel, motel, tavern, inn,
35 restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or
36 other place in which rooms, meals or drinks are regularly served to the
37 public. **The tax imposed under this subdivision shall not apply to any**
38 **automatic mandatory gratuity for a large group imposed by a**

39 **restaurant when such gratuity is reported as employee tip income and**
40 **the restaurant withholds income tax under section 143.191 on such**
41 **gratuity;**

42 (7) A tax equivalent to four percent of the amount paid or charged for
43 intrastate tickets by every person operating a railroad, sleeping car, dining car,
44 express car, boat, airplane and such buses and trucks as are licensed by the
45 division of motor carrier and railroad safety of the department of economic
46 development of Missouri, engaged in the transportation of persons for hire;

47 (8) A tax equivalent to four percent of the amount paid or charged for
48 rental or lease of tangible personal property, provided that if the lessor or renter
49 of any tangible personal property had previously purchased the property under
50 the conditions of "sale at retail" or leased or rented the property and the tax was
51 paid at the time of purchase, lease or rental, the lessor, sublessor, renter or
52 subrenter shall not apply or collect the tax on the subsequent lease, sublease,
53 rental or subrental receipts from that property. The purchase, rental or lease of
54 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard
55 motors shall be taxed and the tax paid as provided in this section and section
56 144.070. In no event shall the rental or lease of boats and outboard motors be
57 considered a sale, charge, or fee to, for or in places of amusement, entertainment
58 or recreation nor shall any such rental or lease be subject to any tax imposed to,
59 for, or in such places of amusement, entertainment or recreation. Rental and
60 leased boats or outboard motors shall be taxed under the provisions of the sales
61 tax laws as provided under such laws for motor vehicles and trailers. Tangible
62 personal property which is exempt from the sales or use tax under section
63 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the
64 lease or rental thereof;

65 (9) A tax equivalent to four percent of the purchase price, as defined in
66 section 144.070, of new and used motor vehicles, trailers, boats, and outboard
67 motors purchased or acquired for use on the highways or waters of this state
68 which are required to be registered under the laws of the state of Missouri. This
69 tax is imposed on the person titling such property, and shall be paid according
70 to the procedures in section 144.440.

71 2. All tickets sold which are sold under the provisions of sections 144.010
72 to 144.525 which are subject to the sales tax shall have printed, stamped or
73 otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

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