

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 517 & 754

98TH GENERAL ASSEMBLY

1366H.04P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 143.191, 143.801, and 144.020, RSMo, and to enact in lieu thereof four new sections relating 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Section A. Sections 143.191, 143.801, and 144.020, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 143.191, 143.266, 143.801, and
3 144.020, to read as follows:

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

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

13 3. **(1)** The method of determining the amount to be withheld shall be prescribed by
14 regulations of the director of revenue. The prescribed table, percentages, or other method shall
15 result, so far as practicable, in withholding from the employee's wages during each calendar year
16 an amount substantially equivalent to the tax reasonably estimated to be due from the employee

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 under [sections 143.011 to 143.998] **this chapter** with respect to the amount of such wages
18 included in his Missouri adjusted gross income during the calendar year.

19 **(2) The amount to be withheld by an employer with respect to tips received by an**
20 **employee in the course of the employee's employment shall be calculated based solely on**
21 **the amount of tips reported by the employee in a written statement furnished to the**
22 **employer as required by Section 6053(a) of the Internal Revenue Code of 1986, as**
23 **amended, and only to the extent that collection can be made by the employer, at or after**
24 **the time such statement is furnished and before the close of the calendar year in which the**
25 **statement is furnished, by deducting the amount of the tax from such employee's wages**
26 **under the control of the employer, excluding tips and any amounts which the employer is**
27 **obligated to withhold and remit to the federal government, but including funds turned over**
28 **by the employee to the employer to be used for Missouri income tax withholding. The**
29 **employer shall have no Missouri income tax withholding obligation with respect to an**
30 **employee's under-reported tips.**

31 4. For purposes of this section an employee shall be entitled to the same number of
32 personal and dependency withholding exemptions as the number of exemptions to which he is
33 entitled for federal income tax withholding purposes. An employer may rely upon the number
34 of federal withholding exemptions claimed by the employee, except where the employee
35 provides the employer with a form claiming a different number of withholding exemptions in
36 this state.

37 5. The director of revenue may enter into agreements with the tax departments of other
38 states (which require income tax to be withheld from the payment of wages) so as to govern the
39 amounts to be withheld from the wages of residents of such states under this section. Such
40 agreements may provide for recognition of anticipated tax credits in determining the amounts
41 to be withheld and, under regulations prescribed by the director of revenue, may relieve
42 employers in this state from withholding income tax on wages paid to nonresident employees.
43 The agreements authorized by this subsection are subject to the condition that the tax department
44 of such other states grant similar treatment to residents of this state.

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

51 7. Subject to appropriations for the purpose of implementing this section, the director
52 of revenue shall comply with provisions of the laws of the United States as amended and the

53 regulations promulgated thereto in order that all residents of this state receiving monthly
54 retirement income as a civil service annuitant from the federal government taxable by this state
55 may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an
56 amount for payment of state income taxes as required by state law, but such withholding shall
57 not be less than twenty-five dollars per quarter.

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

**143.266. 1. This section shall be known and may be cited as the "Missouri
2 Supporting Families Income Tax Holiday Act".**

**3 2. The department of revenue may conduct a review of the collection of withholding
4 tax imposed by sections 143.191 to 143.265 in all tax years beginning on or after January
5 1, 2016, but ending on or before December 31, 2018, to determine the average amount of
6 withholding tax collected in each month in all such tax years to determine in which month
7 the amount of withholding tax collected is the lowest.**

**8 3. The department shall submit its report to the general assembly no later than
9 February 1, 2019.**

10 4. Under section 23.253 of the Missouri sunset act:

**11 (1) The provisions of the new program authorized under this section shall
12 automatically sunset on December thirty-first six years after the effective date of this
13 section unless reauthorized by an act of the general assembly; and**

**14 (2) If such program is reauthorized, the program authorized under this section
15 shall automatically sunset on December thirty-first twelve years after the effective date of
16 the reauthorization of this section; and**

**17 (3) This section shall terminate on September first of the calendar year immediately
18 following the calendar year in which the program authorized under this section is sunset.
19 The termination of the program as described in this subsection shall not be construed to
20 preclude any taxpayer who claims any benefit under any program that is sunset under this
21 subsection from claiming such benefit for all allowable activities related to such claim that
22 were completed before the program was sunset, or to eliminate any responsibility of the
23 administering agency to verify the continued eligibility of projects receiving tax credits and
24 to enforce other requirements of law that applied before the program was sunset.**

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

6 prescribed in this subsection for the filing of a claim for credit or refund, unless a claim for credit
7 or refund is filed by the taxpayer within such period.

8 2. If the claim is filed by the taxpayer during the three-year period prescribed in
9 subsection 1 **of this section**, the amount of the credit or refund shall not exceed the portion of
10 the tax paid within the three years immediately preceding the filing of the claim plus the period
11 of any extension of time for filing the return. If the claim is not filed within such three-year
12 period, but is filed within the two-year period, the amount of the credit or refund shall not exceed
13 the portion of the tax paid during the two years immediately preceding the filing of the claim.
14 If no claim is filed, the credit or refund shall not exceed the amount which would be allowable
15 under either of the preceding sentences, as the case may be, if a claim was filed on the date the
16 credit or refund is allowed.

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

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

37 (1) The issues on which such federal change or correction or the items amended on the
38 taxpayer's amended federal income tax return are based[,] ; and

39 (2) Any change in the amount of [his] **the taxpayer's** federal income tax deduction
40 under the provisions of subsection 1 of section 143.171. No effect shall be given in the
41 preceding sentence to any federal change or correction or to any item on an amended return

42 unless it is timely under the applicable federal period of limitations. The time and amount
43 provisions of this subsection shall be in lieu of any other provisions of this section. This
44 subsection shall not affect the time within which or the amount for which a claim for credit or
45 refund may be filed apart from this subsection.

46 5. If the claim for credit or refund relates to an overpayment of tax on account of the
47 deductibility by the taxpayer of a debt as a debt which became worthless or a loss from
48 worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the
49 application to the taxpayer of a carryover, the claim may be made, under regulations prescribed
50 by the director of revenue within seven years from the date prescribed by law for filing the return
51 for the year with respect to which the claim is made.

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

62 7. **(1) No period of limitations provided in subsections 1 to 6 of this section shall**
63 **apply if the director of revenue examines or causes to have examined any return filed and**
64 **retained under section 143.971 and:**

65 **(a) Such examination is conducted after any period of limitations provided in**
66 **subsections 1 to 6 of this section has expired;**

67 **(b) Such examination reveals that the taxpayer is eligible to claim a credit or refund**
68 **of an overpayment of any tax imposed under this chapter; and**

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

71 **(2) The director shall notify the taxpayer of any overpayment discovered under this**
72 **subsection and inform the taxpayer of the procedure for filing a claim for a credit or**
73 **refund of such overpayment. If the taxpayer files a claim for such credit or refund, the**
74 **claim shall be filed in the manner provided in this chapter and shall be filed within one**
75 **year from the time the director provided notice to the taxpayer.**

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

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

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

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

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

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

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

29 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
30 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
31 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
32 regularly served to the public. **The tax imposed under this subdivision shall not apply to any
33 automatic mandatory gratuity for a large group imposed by a restaurant when such
34 gratuity is reported as employee tip income and the restaurant withholds income tax under
35 section 143.191 on such gratuity;**

36 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets
37 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such
38 buses and trucks as are licensed by the division of motor carrier and railroad safety of the

39 department of economic development of Missouri, engaged in the transportation of persons for
40 hire;

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

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

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

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