

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 27
92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 3, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0484S.09C

AN ACT

To repeal sections 143.091 and 143.181, RSMo, and to enact in lieu thereof seven new sections relating to a flat tax on income, with an emergency clause for certain sections.

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

Section A. Sections 143.091 and 143.181, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 143.091, 143.181, 1, 2, 3, 4, and 5, to read as follows:

143.091. 1. Any term used in sections 143.011 to 143.996 shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required by the provisions of sections 143.011 to 143.996. Any reference in sections 143.011 to 143.996 to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1986, and amendments thereto **enacted on or before January 1, 2003**, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective[, at any time or from time to time,] **on or before January 1, 2003**, for the taxable year.

2. Within sixty days after an amendment of the Internal Revenue Code of 1986 is enacted, the director of revenue shall prepare and submit to the governor, the speaker of the house of representatives, and the president pro tempore of the senate a report which outlines:

- (1) The changes of the Internal Revenue Code of 1986;
- (2) The impact of those changes on state revenue; and
- (3) The impact of those changes on the various classes and types of taxpayers.

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

3. The provisions of subsections 1 to 2 of this section shall expire December 31, 2008.

4. Beginning January 1, 2009, any term used in sections 143.011 to 143.996 shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required by the provisions of sections 143.011 to 143.996. Beginning January 1, 2009, any reference in sections 143.011 to 143.996 to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective, at any time or from time to time, for the taxable year.

143.181. 1. The Missouri nonresident adjusted gross income shall be that part of the nonresident individual's federal adjusted gross income derived from sources within Missouri, as modified in the same manner as set forth in section 143.121 with respect to resident individuals. It shall be the sum of:

(1) The net amount of items of income, gain, loss, and deduction entering into his **or her** federal adjusted gross income which are derived from or connected with sources in this state including:

(a) [His] **The individual's** distributive share of partnership income and deductions determined under section 143.421, and

(b) [His] **The individual's** share of estate or trust income and deductions determined under section 143.391, and

(c) [His] **The individual's** pro rata share of S corporation income and deductions determined under subsection 3 of section 143.471; and

(2) The portion of the modifications described in section 143.121 which relate to income derived from sources in this state, including any modifications attributable to him **or her** as a partner.

2. Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to:

(1) The ownership or disposition of any interest in real or tangible personal property in this state; [and]

(2) A business, trade, profession, or occupation carried on in this state;

(3) **Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and**

(4) **Winnings from any other wager placed in this state or from any wagering**

transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

3. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from:

(1) Property employed in a business, trade, profession, or occupation carried on in this state;

(2) Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and

(3) Winnings from any other wager placed in this state or from any wagering transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

4. Deductions with respect to capital losses, net long-term capital gains, and net operation losses shall be based solely on income, gains, losses, and deductions derived from sources within this state in the same manner as the corresponding federal deductions under regulations to be prescribed by the director of revenue.

5. If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment and allocation under regulations to be prescribed by the director of revenue.

6. Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident shall not constitute income derived from sources within this state.

Section 1. 1. Notwithstanding any provision of law to the contrary, for all taxable years beginning on or after January 1, 2004, the Missouri income tax liability of all residents and nonresidents shall be governed by the provisions of sections 1 to 5 of this act.

2. There shall be imposed a tax on the Missouri taxable income of every resident and nonresident in an amount equal to four percent.

3. For the purposes of sections 1 to 5 of this act, the terms "resident" and "nonresident" shall mean only those residents and nonresidents that are natural

persons.

Section 2. 1. The Missouri taxable income of a resident shall be the resident's federal adjusted gross income less the Missouri deduction for personal exemptions as provided in subsection 2 of this section, and plus or minus the adjustments provided in subsection 3 of this section. No other deductions shall apply to reduce the tax liability imposed against any resident pursuant to this section, with the exception of the reduction to tax liability for payments of estimated income tax authorized pursuant to subsection 7 of section 143.541, RSMo.

2. A resident shall be allowed a deduction of ten thousand dollars for the resident and ten thousand dollars for such resident's spouse; except that, a resident filing as a head of household shall be allowed a deduction of fifteen thousand dollars for the resident, and a resident filing as a surviving spouse shall, in the taxable year in which the death of the resident's spouse occurred, be allowed a deduction of twenty thousand dollars.

3. The following adjustments shall be made to a resident's federal adjusted gross income:

(1) There shall be added to federal adjusted gross income: interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (2) of this subsection. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(2) There shall be subtracted from federal adjusted gross income the following amounts to the extent included in federal adjusted gross income: interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this subdivision shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this subdivision. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining its federal adjusted gross income. The reduction shall only be made if the expenses total at least five hundred dollars;

(3) There shall be subtracted from federal adjusted gross income: the amount of any benefits received pursuant to the Railroad Retirement Tax Act, Sections 3201 and 3211 of the Internal Revenue Code, as amended.

Section 3. 1. In the case of a nonresident, the tax shall only be imposed on income of the nonresident which is derived from sources in this state. The Missouri taxable income shall be that part of the nonresident individual's federal taxable income derived from sources within Missouri. It shall be the sum of:

(1) The net amount of items of income, gain, loss, and deduction entering into the nonresident's federal taxable income which are derived from or connected with sources in this state including the following:

(a) The nonresident's distributive share of partnership income and deductions determined pursuant to section 4 of this act;

(b) The nonresident's share of estate or trust income and deductions determined pursuant to section 143.391, RSMo; and

(c) The nonresident's pro rata share of S corporation income and deductions pursuant to subsection 3 of section 143.471, RSMo;

(2) Adjustments for tax-free bonds and railroad retirement benefits as provided in subsection 3 of section 2 of this act.

2. Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to the ownership or disposition of any interest in real or tangible personal property in this state, and a business, trade, profession, or occupation carried on in this state.

3. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this state.

4. There shall be no deductions from federal taxable income for capital losses, net long-term capital gains, and net operation losses.

5. If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment and allocation pursuant to regulations to be prescribed by the director.

6. Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident shall not constitute income derived from sources within this state.

7. Except as provided in this section, no other deductions shall apply to reduce

the tax liability imposed against any nonresident pursuant to this section, with the exception of the reduction to tax liability for payments of estimated income tax authorized pursuant to subsection 7 of section 143.541, RSMo.

Section 4. 1. In determining the taxable income of a nonresident partner of any partnership, there shall be included only that part derived from or connected with sources in this state of the partner's distributive share of items of partnership income, gain, loss, and deduction entering into the partner's federal adjusted gross income, as such part is determined pursuant to regulations prescribed by the director of revenue in accordance with the general rules in section 143.181, RSMo.

2. In determining the source of a nonresident partner's taxable income, no effect shall be given to a provision in the partnership agreement which:

(1) Characterizes payments to the partner as being for services or for the use of capital, or allocated to the partner, as income or gain from sources outside this state, a greater proportion of the partner's distributive share of partnership income or gain than the ratio of partnership income or gain from sources outside this state to partnership income or gain from all sources, except as authorized in subsection 4 of this section; or

(2) Allocates to the partner a greater proportion of a partnership item of loss or deduction connected with sources in this state than the partner's proportionate share, for federal income tax purposes, of partnership loss or deduction generally, except as authorized in subsection 5 of this section.

3. An item of partnership income, gain, loss, or deduction shall be made in accordance with the partner's distributive share for federal income tax purposes, but limited to the portion of such item derived from or connected with sources in this state.

4. The director of revenue may, on application, authorize the use of such other methods of determining a nonresident partner's portion of partnership items derived from or connected with sources in this state, and the modifications related thereto, as may be appropriate and equitable, on such terms and conditions as the director may require.

5. A nonresident partner's distributive share of items of income, gain, loss, or deduction shall be determined pursuant to subsection 1 of section 143.411, RSMo. The character of partnership items for a nonresident partner shall be determined pursuant to subsection 2 of section 143.411, RSMo. The effect of a special provision in a partnership agreement, other than a provision referred to in subsection 2 of this section, having as a principal purpose the avoidance of tax pursuant to sections 143.011 to 143.996, RSMo, shall be determined pursuant to subsection 3 of section

143.411, RSMo.

Section 5. Notwithstanding any provision of law to the contrary, any tax credit or aggregation of credits issued after the effective date of this act for the same project or purpose and claimed by a taxpayer against any tax liability of this state shall be subject to appropriations if the amount claimed is in excess of the maximum threshold. For the purposes of this section, the term "maximum threshold" means five hundred thousand dollars. In the case of an aggregation of credits being claimed that exceeds the maximum threshold, if any of such credits claimed was issued after the effective date of this act, then the entire claim shall be subject to appropriations.

Section B. Because of the need to balance the state budget, the enactment of sections 1 to 5 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 1 to 5 of this act shall be in full force and effect upon its passage and approval.

Unofficial

Bill

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