

FIRST REGULAR SESSION

SENATE BILL NO. 186

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Pre-filed December 18, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0593S.011

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to small business health insurance expenses deduction.

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

Section A. Section 143.121, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.237 and 143.121, to read as follows:

135.237. 1. This section shall be known and may be cited as the "Small Business Health Insurance Expenses Deduction".

2. As used in this section, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Farmer", any person who derives at least two-thirds of such person's income from using or cultivating land for the production of agricultural crops, livestock, or livestock products, poultry, or poultry products, milk or dairy products, or fruit or other horticultural products. The term shall not include a person who processes farm products or distributes farming supplies by contracting to provide spraying, harvesting, or other farming services;

(4) "Small business", a for-profit enterprise consisting of fewer than fifty full- or part-time employees;

(5) "Taxpayer", any small business or farmer that incurs expenses in providing health insurance for its employees.

3. If any taxpayer incurs expenses for providing its employees with health insurance, such taxpayer may subtract from its federal

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

19 **adjusted gross income an amount equal to one hundred percent of such**
20 **costs paid during the taxable year. In the case of a S corporation or**
21 **small business corporation described in section 143.471, RSMo, or a**
22 **partnership, in computing the Missouri taxable income of the taxpayer,**
23 **a deduction apportioned in proportion to their share of ownership of**
24 **the business on the last day of the taxpayer's tax period for which such**
25 **tax deductions are being claimed shall be allowed from their Missouri**
26 **adjusted gross income in the amount of one hundred percent of**
27 **qualified employee health insurance expenses. In the case of a sole**
28 **proprietorship, the sole proprietor shall be allowed a tax deduction in**
29 **an amount equal to one hundred percent of any qualified employee**
30 **health insurance expenses.**

31 **4. The department may promulgate such rules or regulations as**
32 **are necessary to administer the provisions of this section. Any rule or**
33 **portion of a rule, as that term is defined in section 536.010, RSMo, that**
34 **is created under the authority delegated in this section shall become**
35 **effective only if it complies with and is subject to all of the provisions**
36 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**
37 **section and chapter 536, RSMo, are nonseverable and if any of the**
38 **powers vested with the general assembly pursuant to chapter 536,**
39 **RSMo, to review, to delay the effective date, or to disapprove and annul**
40 **a rule are subsequently held unconstitutional, then the grant of**
41 **rulemaking authority and any rule proposed or adopted after August**
42 **28, 2007, shall be invalid and void.**

43 **5. The provisions of this section shall apply to all tax years**
44 **beginning on or after January 1, 2008.**

143.121. 1. The Missouri adjusted gross income of a resident individual
2 shall be the taxpayer's federal adjusted gross income subject to the modifications
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:

5 (a) The amount of any federal income tax refund received for a prior year
6 which resulted in a Missouri income tax benefit;

7 (b) Interest on certain governmental obligations excluded from federal
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence
9 shall not apply to interest on obligations of the state of Missouri or any of its
10 political subdivisions or authorities and shall not apply to the interest described
11 in subdivision (a) of subsection 3 of this section. The amount added pursuant to

12 this paragraph shall be reduced by the amounts applicable to such interest that
13 would have been deductible in computing the taxable income of the taxpayer
14 except only for the application of Section 265 of the Internal Revenue Code. The
15 reduction shall only be made if it is at least five hundred dollars;

16 (c) The amount of any deduction that is included in the computation of
17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the
19 amount deducted relates to property purchased on or after July 1, 2002, but
20 before July 1, 2003, and to the extent the amount deducted exceeds the amount
21 that would have been deductible pursuant to Section 168 of the Internal Revenue
22 Code of 1986 as in effect on January 1, 2002; and

23 (d) The amount of any deduction that is included in the computation of
24 federal taxable income for net operating loss allowed by Section 172 of the
25 Internal Revenue Code of 1986, as amended, other than the deduction allowed by
26 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as
27 amended, for a net operating loss the taxpayer claims in the tax year in which the
28 net operating loss occurred or carries forward for a period of more than twenty
29 years and carries backward for more than two years. Any amount of net
30 operating loss taken against federal taxable income but disallowed for Missouri
31 income tax purposes pursuant to this paragraph after June 18, 2002, may be
32 carried forward and taken against any income on the Missouri income tax return
33 for a period of not more than twenty years from the year of the initial loss.

34 3. There shall be subtracted from the taxpayer's federal adjusted gross
35 income the following amounts to the extent included in federal adjusted gross
36 income:

37 (a) Interest or dividends on obligations of the United States and its
38 territories and possessions or of any authority, commission or instrumentality of
39 the United States to the extent exempt from Missouri income taxes pursuant to
40 the laws of the United States. The amount subtracted pursuant to this
41 paragraph shall be reduced by any interest on indebtedness incurred to carry the
42 described obligations or securities and by any expenses incurred in the production
43 of interest or dividend income described in this paragraph. The reduction in the
44 previous sentence shall only apply to the extent that such expenses including
45 amortizable bond premiums are deducted in determining the taxpayer's federal
46 adjusted gross income or included in the taxpayer's Missouri itemized
47 deduction. The reduction shall only be made if the expenses total at least five

48 hundred dollars;

49 (b) The portion of any gain, from the sale or other disposition of property
50 having a higher adjusted basis to the taxpayer for Missouri income tax purposes
51 than for federal income tax purposes on December 31, 1972, that does not exceed
52 such difference in basis. If a gain is considered a long-term capital gain for
53 federal income tax purposes, the modification shall be limited to one-half of such
54 portion of the gain;

55 (c) The amount necessary to prevent the taxation pursuant to this chapter
56 of any annuity or other amount of income or gain which was properly included in
57 income or gain and was taxed pursuant to the laws of Missouri for a taxable year
58 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose
59 death the taxpayer acquired the right to receive the income or gain, or to a trust
60 or estate from which the taxpayer received the income or gain;

61 (d) Accumulation distributions received by a taxpayer as a beneficiary of
62 a trust to the extent that the same are included in federal adjusted gross income;

63 (e) The amount of any state income tax refund for a prior year which was
64 included in the federal adjusted gross income;

65 (f) The portion of capital gain specified in section 135.357, RSMo, that
66 would otherwise be included in federal adjusted gross income;

67 (g) The amount that would have been deducted in the computation of
68 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
69 in effect on January 1, 2002, to the extent that amount relates to property
70 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that
71 amount exceeds the amount actually deducted pursuant to Section 168 of the
72 Internal Revenue Code as amended by the Job Creation and Worker Assistance
73 Act of 2002;

74 (h) For all tax years beginning on or after January 1, 2005, the amount
75 of any income received for military service while the taxpayer serves in a combat
76 zone which is included in federal adjusted gross income and not otherwise
77 excluded therefrom. As used in this section, "combat zone" means any area which
78 the President of the United States by Executive Order designates as an area in
79 which armed forces of the United States are or have engaged in combat. Service
80 is performed in a combat zone only if performed on or after the date designated
81 by the President by Executive Order as the date of the commencing of combat
82 activities in such zone, and on or before the date designated by the President by
83 Executive Order as the date of the termination of combatant activities in such

84 zone; [and]

85 (i) For all tax years ending on or after July 1, 2002, with respect to
86 qualified property that is sold or otherwise disposed of during a taxable year by
87 a taxpayer and for which an addition modification was made under paragraph (c)
88 of subsection 2 of this section, the amount by which addition modification made
89 under paragraph (c) of subsection 2 of this section on qualified property has not
90 been recovered through the additional subtractions provided in paragraph (g) of
91 this subsection; **and**

92 **(j) The amount of any qualified employee health insurance**
93 **expenses incurred by a small business or farmer as determined under**
94 **section 135.237, RSMo.**

95 4. There shall be added to or subtracted from the taxpayer's federal
96 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment
97 provided in section 143.351.

98 5. There shall be added to or subtracted from the taxpayer's federal
99 adjusted gross income the modifications provided in section 143.411.

100 6. In addition to the modifications to a taxpayer's federal adjusted gross
101 income in this section, to calculate Missouri adjusted gross income there shall be
102 subtracted from the taxpayer's federal adjusted gross income any gain recognized
103 pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended,
104 arising from compulsory or involuntary conversion of property as a result of
105 condemnation or the imminence thereof.

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