

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 674

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

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ADRIANE D. CROUSE, Secretary.

4409S.08P

AN ACT

To repeal sections 32.200, 143.011, 143.071, 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, and to enact in lieu thereof nine new sections relating to taxation.

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

Section A. Sections 32.200, 143.011, 143.071, 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 32.200, 143.011, 143.071, 143.431, 143.451, 143.455, 143.461, 143.471, and 620.1350, to read as follows:

32.200. The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

MULTISTATE TAX COMPACT

Article I

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax

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

13 returns and in other phases of tax administration.

14 4. Avoid duplicative taxation.

15 Article II

16 As used in this compact:

17 1. "State" means a state of the United States, the District of Columbia,
18 the Commonwealth of Puerto Rico, or any territory or possession of the United
19 States.

20 2. "Subdivision" means any governmental unit or special district of a
21 state.

22 3. "Taxpayer" means any corporation, partnership, firm, association,
23 governmental unit or agency or person acting as a business entity in more than
24 one state.

25 4. "Income tax" means a tax imposed on or measured by net income
26 including any tax imposed on or measured by an amount arrived at by deducting
27 expenses from gross income, one or more forms of which expenses are not
28 specifically and directly related to particular transactions.

29 5. "Capital stock tax" means a tax measured in any way by the capital of
30 a corporation considered in its entirety.

31 6. "Gross receipts tax" means a tax, other than a sales tax, which is
32 imposed on or measured by the gross volume of business, in terms of gross
33 receipts or in other terms, and in the determination of which no deduction is
34 allowed which would constitute the tax an income tax.

35 7. "Sales tax" means a tax imposed with respect to the transfer for a
36 consideration of ownership, possession or custody of tangible personal property
37 or the rendering of services measured by the price of the tangible personal
38 property transferred or services rendered and which is required by state or local
39 law to be separately stated from the sales price by the seller, or which is
40 customarily separately stated from the sales price, but does not include a tax
41 imposed exclusively on the sale of a specifically identified commodity or article
42 or class of commodities or articles.

43 8. "Use tax" means a nonrecurring tax, other than a sales tax, which

44 (a) is imposed on or with respect to the exercise or enjoyment of any right
45 or power over tangible personal property incident to the ownership, possession or
46 custody of that property or the leasing of that property from another including
47 any consumption, keeping, retention, or other use of tangible personal property;
48 and

49 (b) is complementary to a sales tax.

50 9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales
51 tax, use tax, and any other tax which has a multistate impact, except that the
52 provisions of articles III, IV and V of this compact shall apply only to the taxes
53 specifically designated therein and the provisions of article IX of this compact
54 shall apply only in respect to determinations pursuant to article IV.

55 Article III

56 1. Any taxpayer subject to an income tax whose income is subject to
57 apportionment and allocation for tax purposes pursuant to the laws of a party
58 state or pursuant to the laws of subdivisions in two or more party states may
59 elect to apportion and allocate his income in the manner provided by the laws of
60 such state or by the laws of such states and subdivisions without reference to this
61 compact, or may elect to apportion and allocate in accordance with article IV;
62 **except that for tax years beginning on or after January 1, 2019, any**
63 **taxpayer subject to the tax imposed by section 143.071 shall apportion**
64 **and allocate in accordance with the provisions of Chapter 143 and shall**
65 **not apportion or allocate in accordance with article IV.** This election for
66 any tax year may be made in all party states or subdivisions thereof or in any one
67 or more of the party states or subdivisions thereof without reference to the
68 election made in the others. For the purposes of this paragraph, taxes imposed
69 by subdivisions shall be considered separately from state taxes and the
70 apportionment and allocation also may be applied to the entire tax base. In no
71 instance wherein article IV is employed for all subdivisions of a state may the
72 sum of all apportionments and allocations to subdivisions within a state be
73 greater than the apportionment and allocation that would be assignable to that
74 state if the apportionment or allocation were being made with respect to a state
75 income tax.

76 2. Each party state or any subdivision thereof which imposes an income
77 tax shall provide by law that any taxpayer required to file a return, whose only
78 activities within the taxing jurisdiction consist of sales and do not include owning
79 or renting real estate or tangible personal property, and whose dollar volume of
80 gross sales made during the tax year within the state or subdivision, as the case
81 may be, is not in excess of \$100,000 may elect to report and pay any tax due on
82 the basis of a percentage of such volume, and shall adopt rates which shall
83 produce a tax which reasonably approximates the tax otherwise due. The
84 multistate tax commission, not more than once in five years, may adjust the

85 \$100,000 figure in order to reflect such changes as may occur in the real value of
86 the dollar, and such adjusted figure, upon adoption by the commission, shall
87 replace the \$100,000 figure specifically provided herein. Each party state and
88 subdivision thereof may make the same election available to taxpayers additional
89 to those specified in this paragraph.

90 3. Nothing in this article relates to the reporting or payment of any tax
91 other than an income tax.

92 Article IV

93 1. As used in this article, unless the context otherwise requires:

94 (1) "Business income" means income arising from transactions and activity
95 in the regular course of the taxpayer's trade or business and includes income from
96 tangible and intangible property if the acquisition, management, and disposition
97 of the property constitute integral parts of the taxpayer's regular trade or
98 business operations.

99 (2) "Commercial domicile" means the principal place from which the trade
100 or business of the taxpayer is directed or managed.

101 (3) "Compensation" means wages, salaries, commissions and any other
102 form of remuneration paid to employees for personal services.

103 (4) "Financial organization" means any bank, trust company, savings
104 bank, industrial bank, land bank, safe deposit company, private banker, savings
105 and loan association, credit union, cooperative bank, small loan company, sales
106 finance company, investment company, or any type of insurance company.

107 (5) "Nonbusiness income" means all income other than business income.

108 (6) "Public utility" means any business entity

109 (a) which owns or operates any plant, equipment, property, franchise, or
110 license for the transmission of communications, transportation of goods or
111 persons, except by pipeline, or the production, transmission, sale, delivery, or
112 furnishing of electricity, water or steam; and

113 (b) whose rates of charges for goods or services have been established or
114 approved by a federal, state or local government or governmental agency.

115 (7) "Sales" means all gross receipts of the taxpayer not allocated under
116 paragraphs of this article.

117 (8) "State" means any state of the United States, the District of Columbia,
118 the Commonwealth of Puerto Rico, any territory or possession of the United
119 States, and any foreign country or political subdivision thereof.

120 (9) "This state" means the state in which the relevant tax return is filed

121 or, in the case of application of this article, to the apportionment and allocation
122 of income for local tax purposes, the subdivision or local taxing district in which
123 the relevant tax return is filed.

124 2. Any taxpayer having income from business activity which is taxable
125 both within and without this state, other than activity as a financial organization
126 or public utility or the rendering of purely personal services by an individual,
127 shall allocate and apportion his net income as provided in this article. If a
128 taxpayer has income from business activity as a public utility but derives the
129 greater percentage of his income from activities subject to this article, the
130 taxpayer may elect to allocate and apportion his entire net income as provided in
131 this article.

132 3. For purposes of allocation and apportionment of income under this
133 article, a taxpayer is taxable in another state if

134 (1) in that state he is subject to a net income tax, a franchise tax
135 measured by net income, a franchise tax for the privilege of doing business, or a
136 corporate stock tax; or

137 (2) that state has jurisdiction to subject the taxpayer to a net income tax
138 regardless of whether, in fact, the state does or does not.

139 4. Rents and royalties from real or tangible personal property, capital
140 gains, interest, dividends or patent or copyright royalties, to the extent that they
141 constitute nonbusiness income, shall be allocated as provided in paragraphs 5
142 through 8 of this article.

143 5. (1) Net rents and royalties from real property located in this state are
144 allocable to this state.

145 (2) Net rents and royalties from tangible personal property are allocable
146 to this state:

147 (a) if and to the extent that the property is utilized in this state; or

148 (b) in their entirety if the taxpayer's commercial domicile is in this state
149 and the taxpayer is not organized under the laws of or taxable in the state in
150 which the property is utilized.

151 (3) The extent of utilization of tangible personal property in a state is
152 determined by multiplying the rents and royalties by a fraction, the numerator
153 of which is the number of days of physical location of the property in the state
154 during the rental or royalty period in the taxable year and the denominator of
155 which is the number of days of physical location of the property everywhere
156 during all rental or royalty periods in the taxable year. If the physical location

157 of the property during the rental or royalty period is unknown or unascertainable
158 by the taxpayer, tangible personal property is utilized in the state in which the
159 property was located at the time the rental or royalty payer obtained possession.

160 6. (1) Capital gains and losses from sales of real property located in this
161 state are allocable to this state.

162 (2) Capital gains and losses from sales of tangible personal property are
163 allocable to this state if

164 (a) the property had a situs in this state at the time of the sale; or

165 (b) the taxpayer's commercial domicile is in this state and the taxpayer
166 is not taxable in the state in which the property had a situs.

167 (3) Capital gains and losses from sales of intangible personal property are
168 allocable to this state if the taxpayer's commercial domicile is in this state.

169 7. Interest and dividends are allocable to this state if the taxpayer's
170 commercial domicile is in this state.

171 8. (1) Patent and copyright royalties are allocable to this state:

172 (a) if and to the extent that the patent or copyright is utilized by the
173 payer in this state; or

174 (b) if and to the extent that the patent copyright is utilized by the payer
175 in a state in which the taxpayer is not taxable and the taxpayer's commercial
176 domicile is in this state.

177 (2) A patent is utilized in a state to the extent that it is employed in
178 production, fabrication, manufacturing, or other processing in the state or to the
179 extent that a patented product is produced in the state. If the basis of receipts
180 from patent royalties does not permit allocation to states or if the accounting
181 procedures do not reflect states of utilization, the patent is utilized in the state
182 in which the taxpayer's commercial domicile is located.

183 (3) A copyright is utilized in a state to the extent that printing or other
184 publication originates in the state. If the basis of receipts from copyright
185 royalties does not permit allocation to states or if the accounting procedures do
186 not reflect states of utilization, the copyright is utilized in the state in which the
187 taxpayer's commercial domicile is located.

188 9. All business income shall be apportioned to this state by multiplying
189 the income by a fraction, the numerator of which is the property factor plus the
190 payroll factor plus the sales factor, and the denominator of which is three.

191 10. The property factor is a fraction, the numerator of which is the
192 average value of the taxpayer's real and tangible personal property owned or

193 rented and used in this state during the tax period and the denominator of which
194 is the average value of all the taxpayer's real and tangible personal property
195 owned or rented and used during the tax period.

196 11. Property owned by the taxpayer is valued at its original
197 cost. Property rented by the taxpayer is valued at eight times the net annual
198 rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer
199 less any annual rental rate received by the taxpayer from subrentals.

200 12. The average value of property shall be determined by averaging the
201 values at the beginning and ending of the tax period but the tax administrator
202 may require the averaging of monthly values during the tax period if reasonably
203 required to reflect properly the average value of the taxpayer's property.

204 13. The payroll factor is a fraction, the numerator of which is the total
205 amount paid in this state during the tax period by the taxpayer for compensation
206 and the denominator of which is the total compensation paid everywhere during
207 the tax period.

208 14. Compensation is paid in this state if:

209 (1) the individual's service is performed entirely within the state;

210 (2) the individual's service is performed both within and without the state,
211 but the service performed without the state is incidental to the individual's
212 service within the state; or

213 (3) some of the service is performed in the state; and

214 (a) the base of operations or, if there is no base of operations, the place
215 from which the service is directed or controlled is in the state; or

216 (b) the base of operations or the place from which the service is directed
217 or controlled is not in any state in which some part of the service is performed,
218 but the individual's residence is in this state.

219 15. The sales factor is a fraction, the numerator of which is the total sales
220 of the taxpayer in this state during the tax period, and the denominator of which
221 is the total sales of the taxpayer everywhere during the tax period.

222 16. Sales of tangible personal property are in this state if:

223 (1) the property is delivered or shipped to a purchaser, other than the
224 United States government, within this state regardless of the f.o.b. point or other
225 conditions of the sale; or

226 (2) the property is shipped from an office, store, warehouse, factory, or
227 other place of storage in this state; and

228 (a) the purchaser is the United States government; or

- 229 (b) the taxpayer is not taxable in the state of the purchaser.
230 17. Sales, other than sales of tangible personal property, are in this state
231 if:
232 (1) the income-producing activity is performed in this state; or
233 (2) the income-producing activity is performed both in and outside this
234 state and a greater proportion of the income-producing activity is performed in
235 this state than in any other state, based on costs of performance.
- 236 18. If the allocation and apportionment provisions of this article do not
237 fairly represent the extent of the taxpayer's business activity in this state, the
238 taxpayer may petition for or the tax administrator may require, in respect to all
239 or any part of the taxpayer's business activity, if reasonable:
240 (1) separate accounting;
241 (2) the exclusion of any one or more of the factors;
242 (3) the inclusion of one or more additional factors which will fairly
243 represent the taxpayer's business activity in this state; or
244 (4) the employment of any other method to effectuate an equitable
245 allocation and apportionment of the taxpayer's income.

246 Article V

247 1. Each purchaser liable for a use tax on tangible personal property shall
248 be entitled to full credit for the combined amount or amounts of legally imposed
249 sales or use taxes paid by him with respect to the same property to another state
250 and any subdivision thereof. The credit shall be applied first against the amount
251 of any use tax due the state, and any unused portion of the credit shall then be
252 applied against the amount of any use tax due a subdivision.

253 2. Whenever a vendor receives and accepts in good faith from a purchaser
254 a resale or other exemption certificate or other written evidence of exemption
255 authorized by the appropriate state or subdivision taxing authority, the vendor
256 shall be relieved of liability for a sales or use tax with respect to the transaction.

257 Article VI

258 1. (a) The multistate tax commission is hereby established. It shall be
259 composed of one "member" from each party state who shall be the head of the
260 state agency charged with the administration of the types of taxes to which this
261 compact applies. If there is more than one such agency the state shall provide
262 by law for the selection of the commission member from the heads of the relevant
263 agencies. State law may provide that a member of the commission be represented
264 by an alternate but only if there is on file with the commission written

265 notification of the designation and identity of the alternate. The attorney general
266 of each party state or his designee, or other counsel if the laws of the party state
267 specifically provide, shall be entitled to attend the meetings of the commission,
268 but shall not vote. Such attorneys general, designees, or other counsel shall
269 receive all notices of meetings required under paragraph 1 (e) of this article.

270 (b) Each party state shall provide by law for the selection of
271 representatives from its subdivisions affected by this compact to consult with the
272 commission member from that state.

273 (c) Each member shall be entitled to one vote. The commission shall not
274 act unless a majority of the members are present, and no action shall be binding
275 unless approved by a majority of the total number of members.

276 (d) The commission shall adopt an official seal to be used as it may
277 provide.

278 (e) The commission shall hold an annual meeting and such other regular
279 meetings as its bylaws may provide and such special meetings as its executive
280 committee may determine. The commission bylaws shall specify the dates of the
281 annual and any other regular meetings, and shall provide for the giving of notice
282 of annual, regular and special meetings. Notices of special meetings shall include
283 the reasons therefor and an agenda of the items to be considered.

284 (f) The commission shall elect annually, from among its members, a
285 chairman, a vice chairman and a treasurer. The commission shall appoint an
286 executive director who shall serve at its pleasure, and it shall fix his duties and
287 compensation. The executive director shall be secretary of the commission. The
288 commission shall make provision for the bonding of such of its officers and
289 employees as it may deem appropriate.

290 (g) Irrespective of the civil service, personnel or other merit system laws
291 of any party state, the executive director shall appoint or discharge such
292 personnel as may be necessary for the performance of the functions of the
293 commission and shall fix their duties and compensation. The commission bylaws
294 shall provide for personnel policies and programs.

295 (h) The commission may borrow, accept or contract for the services of
296 personnel from any state, the United States, or any other governmental entity.

297 (i) The commission may accept for any of its purposes and functions any
298 and all donations and grants of money, equipment, supplies, materials and
299 services, conditional or otherwise, from any governmental entity, and may utilize
300 and dispose of the same.

301 (j) The commission may establish one or more offices for the transacting
302 of its business.

303 (k) The commission shall adopt bylaws for the conduct of its business. The
304 commission shall publish its bylaws in convenient form, and shall file a copy of
305 the bylaws and any amendments thereto with the appropriate agency or officer
306 in each of the party states.

307 (l) The commission annually shall make to the governor and legislature
308 of each party state a report covering its activities for the preceding year. Any
309 donation or grant accepted by the commission or services borrowed shall be
310 reported in the annual report of the commission, and shall include the nature,
311 amount and conditions, if any, of the donation, gift, grant or services borrowed
312 and the identity of the donor or lender. The commission may make additional
313 reports as it may deem desirable.

314 2. (a) To assist in the conduct of its business when the full commission
315 is not meeting, the commission shall have an executive committee of seven
316 members, including the chairman, vice chairman, treasurer and four other
317 members elected annually by the commission. The executive committee, subject
318 to the provisions of this compact and consistent with the policies of the
319 commission, shall function as provided in the bylaws of the commission.

320 (b) The commission may establish advisory and technical committees,
321 membership on which may include private persons and public officials, in
322 furthering any of its activities. Such committees may consider any matter of
323 concern to the commission, including problems of special interest to any party
324 state and problems dealing with particular types of taxes.

325 (c) The commission may establish such additional committees as its
326 bylaws may provide.

327 3. In addition to powers conferred elsewhere in this compact, the
328 commission shall have power to:

329 (a) Study state and local tax systems and particular types of state and
330 local taxes.

331 (b) Develop and recommend proposals for an increase in uniformity or
332 compatibility of state and local tax laws with a view toward encouraging the
333 simplification and improvement of state and local tax law and administration.

334 (c) Compile and publish information as in its judgment would assist the
335 party states in implementation of the compact and taxpayers in complying with
336 state and local tax laws.

337 (d) Do all things necessary and incidental to the administration of its
338 functions pursuant to this compact.

339 4. (a) The commission shall submit to the governor or designated officer
340 or officers of each party state a budget of its estimated expenditures for such
341 period as may be required by the laws of that state for presentation to the
342 legislature thereof.

343 (b) Each of the commission's budgets of estimated expenditures shall
344 contain specific recommendations of the amounts to be appropriated by each of
345 the party states. The total amount of appropriations requested under any such
346 budget shall be apportioned among the party states as follows: one-tenth in equal
347 shares; and the remainder in proportion to the amount of revenue collected by
348 each party state and its subdivisions from income taxes, capital stock taxes, gross
349 receipts taxes, sales and use taxes. In determining such amounts, the
350 commission shall employ such available public sources of information as, in its
351 judgment, present the most equitable and accurate comparisons among the party
352 states. Each of the commission's budgets of estimated expenditures and requests
353 for appropriations shall indicate the sources used in obtaining information
354 employed in applying the formula contained in this paragraph.

355 (c) The commission shall not pledge the credit of any party state. The
356 commission may meet any of its obligations in whole or in part with funds
357 available to it under paragraph 1 (i) of this article; provided that the commission
358 takes specific action setting aside such funds prior to incurring any obligation to
359 be met in whole or in part in such manner. Except where the commission makes
360 use of funds available to it under paragraph 1 (i), the commission shall not incur
361 any obligation prior to the allotment of funds by the party states adequate to
362 meet the same.

363 (d) The commission shall keep accurate accounts of all receipts and
364 disbursements. The receipts and disbursements of the commission shall be
365 subject to the audit and accounting procedures established under its bylaws. All
366 receipts and disbursements of funds handled by the commission shall be audited
367 yearly by a certified or licensed public accountant and the report of the audit
368 shall be included in and become part of the annual report of the commission.

369 (e) The accounts of the commission shall be open at any reasonable time
370 for inspection by duly constituted officers of the party states and by any persons
371 authorized by the commission.

372 (f) Nothing contained in this article shall be construed to prevent

373 commission compliance with laws relating to audit or inspection of accounts by
374 or on behalf of any government contributing to the support of the commission.

375 Article VII

376 1. Whenever any two or more party states, or subdivisions of party states,
377 have uniform or similar provisions of law relating to an income tax, capital stock
378 tax, gross receipts tax, sales or use tax, the commission may adopt uniform
379 regulations for any phase of the administration of such law, including assertion
380 of jurisdiction to tax, or prescribing uniform tax forms. The commission may also
381 act with respect to the provisions of article IV of this compact.

382 2. Prior to the adoption of any regulation, the commission shall:

383 (a) As provided in its bylaws, hold at least one public hearing on due
384 notice to all affected party states and subdivisions thereof and to all taxpayers
385 and other persons who have made timely request of the commission for advance
386 notice of its regulation-making proceedings.

387 (b) Afford all affected party states and subdivisions and interested persons
388 an opportunity to submit relevant written data and views, which shall be
389 considered fully by the commission.

390 3. The commission shall submit any regulations adopted by it to the
391 appropriate officials of all party states and subdivisions to which they might
392 apply. Each such state and subdivision shall consider any such regulation for
393 adoption in accordance with its own laws and procedures.

394 Article VIII

395 1. This article shall be in force only in those party states that specifically
396 provide therefor by statute.

397 2. Any party state or subdivision thereof desiring to make or participate
398 in an audit of any accounts, books, papers, records or other documents may
399 request the commission to perform the audit on its behalf. In responding to the
400 request, the commission shall have access to and may examine, at any reasonable
401 time, such accounts, books, papers, records, and other documents and any
402 relevant property or stock of merchandise. The commission may enter into
403 agreements with party states or their subdivisions for assistance in performance
404 of the audit. The commission shall make charges, to be paid by the state or local
405 government or governments for which it performs the service, for any audits
406 performed by it in order to reimburse itself for the actual costs incurred in
407 making the audit.

408 3. The commission may require the attendance of any person within the

409 state where it is conducting an audit or part thereof at a time and place fixed by
410 it within such state for the purpose of giving testimony with respect to any
411 account, book, paper, document, other record, property or stock of merchandise
412 being examined in connection with the audit. If the person is not within the
413 jurisdiction, he may be required to attend for such purpose at any time and place
414 fixed by the commission within the state of which he is a resident; provided that
415 such state has adopted this article.

416 4. The commission may apply to any court having power to issue
417 compulsory process for orders in aid of its powers and responsibilities pursuant
418 to this article and any and all such courts shall have jurisdiction to issue such
419 orders. Failure of any person to obey any such order shall be punishable as
420 contempt of the issuing court. If the party or subject matter on account of which
421 the commission seeks an order is within the jurisdiction of the court to which
422 application is made, such application may be to a court in the state or subdivision
423 on behalf of which the audit is being made or a court in the state in which the
424 object of the order being sought is situated. The provisions of this paragraph
425 apply only to courts in a state that has adopted this article.

426 5. The commission may decline to perform any audit requested if it finds
427 that its available personnel or other resources are insufficient for the purpose or
428 that, in the terms requested, the audit is impracticable of satisfactory
429 performance. If the commission, on the basis of its experience, has reason to
430 believe that an audit of a particular taxpayer, either at a particular time or on
431 a particular schedule, would be of interest to a number of party states or their
432 subdivisions, it may offer to make the audit or audits, the offer to be contingent
433 on sufficient participation therein as determined by the commission.

434 6. Information obtained by any audit pursuant to this article shall be
435 confidential and available only for tax purposes to party states, their subdivisions
436 or the United States. Availability of information shall be in accordance with the
437 laws of the states or subdivisions on whose account the commission performs the
438 audit, and only through the appropriate agencies or officers of such states or
439 subdivisions. Nothing in this article shall be construed to require any taxpayer
440 to keep records for any period not otherwise required by law.

441 7. Other arrangements made or authorized pursuant to law for
442 cooperative audit by or on behalf of the party states or any of their subdivisions
443 are not superseded or invalidated by this article.

444 8. In no event shall the commission make any charge against a taxpayer

445 for an audit.

446 9. As used in this article, "tax" in addition to the meaning ascribed to it
447 in article II, means any tax or license fee imposed in whole or in part for revenue
448 purposes.

449 Article IX

450 1. Whenever the commission finds a need for settling disputes concerning
451 apportionments and allocations by arbitration, it may adopt a regulation placing
452 this article in effect, notwithstanding the provisions of article VII.

453 2. The commission shall select and maintain an arbitration panel
454 composed of officers and employees of state and local governments and private
455 persons who shall be knowledgeable and experienced in matters of tax law and
456 administration.

457 3. Whenever a taxpayer who has elected to employ article IV, or whenever
458 the laws of the party state or subdivision thereof are substantially identical with
459 the relevant provisions of article IV, the taxpayer, by written notice to the
460 commission and to each party state or subdivision thereof that would be affected,
461 may secure arbitration of an apportionment or allocation, if he is dissatisfied with
462 the final administrative determination of the tax agency of the state or
463 subdivision with respect thereto on the ground that it would subject him to
464 double or multiple taxation by two or more party states or subdivisions
465 thereof. Each party state and subdivision thereof hereby consents to the
466 arbitration as provided herein, and agrees to be bound thereby.

467 4. The arbitration board shall be composed of one person selected by the
468 taxpayer, one by the agency or agencies involved, and one member of the
469 commission's arbitration panel. If the agencies involved are unable to agree on
470 the person to be selected by them, such person shall be selected by lot from the
471 total membership of the arbitration panel. The two persons selected for the board
472 in the manner provided by the foregoing provisions of this paragraph shall jointly
473 select the third member of the board. If they are unable to agree on the selection,
474 the third member shall be selected by lot from among the total membership of the
475 arbitration panel. No member of a board selected by lot shall be qualified to
476 serve if he is an officer or employee or is otherwise affiliated with any party to
477 the arbitration proceeding. Residence within the jurisdiction of a party to the
478 arbitration proceeding shall not constitute affiliation within the meaning of this
479 paragraph.

480 5. The board may sit in any state or subdivision party to the proceeding,

481 in the state of the taxpayer's incorporation, residence or domicile, in any state
482 where the taxpayer does business, or in any place that it finds most appropriate
483 for gaining access to evidence relevant to the matter before it.

484 6. The board shall give due notice of the times and places of its
485 hearings. The parties shall be entitled to be heard, to present evidence, and to
486 examine and cross-examine witnesses. The board shall act by majority vote.

487 7. The board shall have power to administer oaths, take testimony,
488 subpoena and require the attendance of witnesses and the production of accounts,
489 books, papers, records, and other documents, and issue commissions to take
490 testimony. Subpoenas may be signed by any member of the board. In case of
491 failure to obey a subpoena, and upon application by the board, any judge of a
492 court of competent jurisdiction of the state in which the board is sitting or in
493 which the person to whom the subpoena is directed may be found may make an
494 order requiring compliance with the subpoena, and the court may punish failure
495 to obey the order as a contempt. The provisions of this paragraph apply only in
496 states that have adopted this article.

497 8. Unless the parties otherwise agree the expenses and other costs of the
498 arbitration shall be assessed and allocated among the parties by the board in
499 such manner as it may determine. The commission shall fix a schedule of
500 compensation for members of arbitration boards and of other allowable expenses
501 and costs. No officer or employee of a state or local government who serves as a
502 member of a board shall be entitled to compensation therefor unless he is
503 required on account of his service to forego the regular compensation attaching
504 to his public employment, but any such board member shall be entitled to
505 expenses.

506 9. The board shall determine the disputed apportionment or allocation
507 and any matters necessary thereto. The determinations of the board shall be
508 final for purposes of making the apportionment or allocation, but for no other
509 purpose.

510 10. The board shall file with the commission and with each tax agency
511 represented in the proceeding: the determination of the board; the board's
512 written statement of its reasons therefor; the record of the board's proceedings;
513 and any other documents required by the arbitration rules of the commission to
514 be filed.

515 11. The commission shall publish the determinations of boards together
516 with the statements of the reasons therefor.

553 thereof. The provisions of this compact shall be severable and if any phrase,
 554 clause, sentence or provision of this compact is declared to be contrary to the
 555 constitution of any state or of the United States or the applicability thereof to any
 556 government, agency, person or circumstance is held invalid, the validity of the
 557 remainder of this compact and the applicability thereof to any government,
 558 agency, person or circumstance shall not be affected thereby. If this compact
 559 shall be held contrary to the constitution of any state participating therein, the
 560 compact shall remain in full force and effect as to the remaining party states and
 561 in full force and effect as to the state affected as to all severable matters.

143.011. 1. A tax is hereby imposed for every taxable year on the
 2 Missouri taxable income of every resident. The tax shall be determined by
 3 applying the tax table or the rate provided in section 143.021, which is based
 4 upon the following rates:

5 If the Missouri taxable income is:	The tax is:
6 Not over \$1,000.00	1 ½% of the Missouri taxable income
7 Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
8 Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over \$2,000
9 Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
10 Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over \$4,000
11 Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
12 Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess over \$6,000
13 Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
14 Over \$8,000 but not over \$9,000	\$260 plus 5 ½% of excess over \$8,000
15 Over \$9,000	\$315 plus 6% of excess over \$9,000

16 2. (1) Beginning with the 2017 calendar year, the top rate of tax under
 17 subsection 1 of this section may be reduced over a period of years. Each
 18 reduction in the top rate of tax shall be by one-tenth of a percent and no more
 19 than one reduction shall occur in a calendar year. The top rate of tax shall not
 20 be reduced below five and one-half percent. Reductions in the rate of tax shall
 21 take effect on January first of a calendar year and such reduced rates shall
 22 continue in effect until the next reduction occurs.

23 (2) A reduction in the rate of tax shall only occur if the amount of net
 24 general revenue collected in the previous fiscal year exceeds the highest amount
 25 of net general revenue collected in any of the three fiscal years prior to such
 26 fiscal year by at least one hundred fifty million dollars.

27 (3) Any modification of tax rates under this subsection shall only apply

28 to tax years that begin on or after a modification takes effect.

29 (4) The director of the department of revenue shall, by rule, adjust the tax
30 tables under subsection 1 of this section to effectuate the provisions of this
31 subsection. The bracket for income subject to the top rate of tax shall be
32 eliminated once the top rate of tax has been reduced to five and one-half [of a]
33 percent, **and the top remaining rate of tax shall apply to all income in**
34 **excess of the income in the second highest remaining income bracket.**

35 3. Beginning with the 2017 calendar year, the brackets of Missouri
36 taxable income identified in subsection 1 of this section shall be adjusted
37 annually by the percent increase in inflation. The director shall publish such
38 brackets annually beginning on or after October 1, 2016. Modifications to the
39 brackets shall take effect on January first of each calendar year and shall apply
40 to tax years beginning on or after the effective date of the new brackets.

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

42 (1) "CPI", the Consumer Price Index for All Urban Consumers for the
43 United States as reported by the Bureau of Labor Statistics, or its successor
44 index;

45 (2) "CPI for the preceding calendar year", the average of the CPI as of the
46 close of the twelve month period ending on August thirty-first of such calendar
47 year;

48 (3) **"Net general revenue collected", all revenue deposited into the**
49 **general revenue fund, less refunds and revenues originally deposited**
50 **into the general revenue fund but designated by law for a specific**
51 **distribution or transfer to another state fund;**

52 (4) "Percent increase in inflation", the percentage, if any, by which the
53 CPI for the preceding calendar year exceeds the CPI for the year beginning
54 September 1, 2014, and ending August 31, 2015.

143.071. 1. For all tax years beginning before September 1, 1993, a tax
2 is hereby imposed upon the Missouri taxable income of corporations in an amount
3 equal to five percent of Missouri taxable income.

4 2. For all tax years beginning on or after September 1, 1993, **and ending**
5 **on or before December 31, 2018**, a tax is hereby imposed upon the Missouri
6 taxable income of corporations in an amount equal to six and one-fourth percent
7 of Missouri taxable income.

8 3. **For all tax years beginning on or after January 1, 2019, a tax**
9 **is hereby imposed upon the Missouri taxable income of corporations in**

10 **an amount equal to three and five-tenths percent of Missouri taxable**
11 **income.**

12 4. The provisions of this section shall not apply to out-of-state businesses
13 operating under sections 190.270 to 190.285.

143.431. 1. The Missouri taxable income of a corporation taxable under
2 sections 143.011 to 143.996 shall be so much of its federal taxable income for the
3 taxable year, with the modifications specified in subsections 2 to 4 of this section,
4 as is derived from sources within Missouri as provided in section 143.451. The
5 tax of a corporation shall be computed on its Missouri taxable income at the rates
6 provided in section 143.071.

7 2. There shall be added to or subtracted from federal taxable income the
8 modifications to adjusted gross income provided in section 143.121, with the
9 exception of subdivision (5) of subsection 2 of section 143.121, and the applicable
10 modifications to itemized deductions provided in section 143.141. There shall be
11 subtracted the federal income tax deduction provided in section 143.171. There
12 shall be subtracted, to the extent included in federal taxable income, corporate
13 dividends from sources within Missouri.

14 3. (1) If an affiliated group of corporations files a consolidated income tax
15 return for the taxable year for federal income tax purposes [and fifty percent or
16 more of its income is derived from sources within this state as determined in
17 accordance with section 143.451], then it may elect to file a Missouri consolidated
18 income tax return. The federal consolidated taxable income of the electing
19 affiliated group for the taxable year shall be its federal taxable income. **All**
20 **transactions between affiliated members of the affiliated group shall**
21 **be eliminated on the Missouri consolidated income tax return.**

22 (2) So long as a federal consolidated income tax return is filed, an election
23 made by an affiliated group of corporations to file a Missouri consolidated income
24 tax return may be withdrawn or revoked only upon substantial change in the law
25 or regulations adversely changing tax liability under this chapter, or with
26 permission of the director of revenue upon the showing of good cause for such
27 action. After such a withdrawal or revocation with respect to an affiliated group,
28 it may not file a Missouri consolidated income tax return for five years thereafter,
29 except with the approval of the director of revenue, and subject to such terms and
30 conditions as he may prescribe.

31 (3) No corporation which is part of an affiliated group of corporations
32 filing a Missouri consolidated income tax return shall be required to file a

33 separate Missouri corporate income tax return for the taxable year.

34 (4) For each taxable year an affiliated group of corporations filing a
35 federal consolidated income tax return does not file a Missouri consolidated
36 income tax return, for purposes of computing the Missouri income tax, the federal
37 taxable income of each member of the affiliated group shall be determined as if
38 a separate federal income tax return had been filed by each such member.

39 (5) The director of revenue may prescribe such regulations not
40 inconsistent with the provisions of this chapter as he may deem necessary in
41 order that the tax liability of any affiliated group of corporations making a
42 Missouri consolidated income tax return, and of each corporation in the group,
43 before, during, and after the period of affiliation, may be returned, determined,
44 computed, assessed, collected, and adjusted, in such manner as clearly to reflect
45 the Missouri taxable income derived from sources within this state and in order
46 to prevent avoidance of such tax liability.

47 4. If a net operating loss deduction is allowed for the taxable year, there
48 shall be added to federal taxable income the amount of the net operating loss
49 modification for each loss year as to which a portion of the net operating loss
50 deduction is attributable. As used in this subsection, the following terms mean:

51 (1) "Loss year", the taxable year in which there occurs a federal net
52 operating loss that is carried back or carried forward in whole or in part to
53 another taxable year;

54 (2) "Net addition modification", for any taxable year, the amount by which
55 the sum of all required additions to federal taxable income provided in this
56 chapter, except for the net operating loss modification, exceeds the combined sum
57 of the amount of all required subtractions from federal taxable income provided
58 in this chapter;

59 (3) "Net operating loss deduction", a net operating loss deduction allowed
60 for federal income tax purposes under Section 172 of the Internal Revenue Code
61 of 1986, as amended, or a net operating loss deduction allowed for Missouri
62 income tax purposes under paragraph (d) of subsection 2 of section 143.121, but
63 not including any net operating loss deduction that is allowed for federal income
64 tax purposes but disallowed for Missouri income tax purposes under paragraph
65 (d) of subsection 2 of section 143.121;

66 (4) "Net operating loss modification", an amount equal to the lesser of the
67 amount of the net operating loss deduction attributable to that loss year or the
68 amount by which the total net operating loss in the loss year is less than the sum

69 of:

70 (a) The net addition modification for that loss year; and

71 (b) The cumulative net operating loss deductions attributable to that loss
72 year allowed for the taxable year and all prior taxable years.

73 5. For all tax years ending on or after July 1, 2002, federal taxable income
74 may be a positive or negative amount. Subsection 4 of this section shall be
75 effective for all tax years with a net operating loss deduction attributable to a
76 loss year ending on or after July 1, 2002, and the net operating loss modification
77 shall only apply to loss years ending on or after July 1, 2002.

143.451. 1. Missouri taxable income of a corporation shall include all
2 income derived from sources within this state.

3 2. **For all tax years beginning before January 1, 2019**, a corporation
4 described in subdivision (1) of subsection 1 of section 143.441 shall include in its
5 Missouri taxable income all income from sources within this state, including that
6 from the transaction of business in this state and that from the transaction of
7 business partly done in this state and partly done in another state or
8 states. However:

9 (1) Where income results from a transaction partially in this state and
10 partially in another state or states, and income and deductions of the portion in
11 the state cannot be segregated, then such portions of income and deductions shall
12 be allocated in this state and the other state or states as will distribute to this
13 state a portion based upon the portion of the transaction in this state and the
14 portion in such other state or states.

15 (2) The taxpayer may elect to compute the portion of income from all
16 sources in this state in the following manner, or the manner set forth in
17 subdivision (3) of this subsection:

18 (a) The income from all sources shall be determined as provided,
19 excluding therefrom the figures for the operation of any bridge connecting this
20 state with another state.

21 (b) The amount of sales which are transactions wholly in this state shall
22 be added to one-half of the amount of sales which are transactions partly within
23 this state and partly without this state, and the amount thus obtained shall be
24 divided by the total sales or in cases where sales do not express the volume of
25 business, the amount of business transacted wholly in this state shall be added
26 to one-half of the amount of business transacted partly in this state and partly
27 outside this state and the amount thus obtained shall be divided by the total

28 amount of business transacted, and the net income shall be multiplied by the
29 fraction thus obtained, to determine the proportion of income to be used to arrive
30 at the amount of Missouri taxable income. The investment or reinvestment of its
31 own funds, or sale of any such investment or reinvestment, shall not be
32 considered as sales or other business transacted for the determination of said
33 fraction.

34 (c) For the purposes of this subdivision, a transaction involving the sale
35 of tangible property is:

36 a. "Wholly in this state" if both the seller's shipping point and the
37 purchaser's destination point are in this state;

38 b. "Partly within this state and partly without this state" if the seller's
39 shipping point is in this state and the purchaser's destination point is outside
40 this state, or the seller's shipping point is outside this state and the purchaser's
41 destination point is in this state;

42 c. Not "wholly in this state" or not "partly within this state and partly
43 without this state" only if both the seller's shipping point and the purchaser's
44 destination point are outside this state.

45 (d) For purposes of this subdivision:

46 a. The purchaser's destination point shall be determined without regard
47 to the FOB point or other conditions of the sale; and

48 b. The seller's shipping point is determined without regard to the location
49 of the seller's principle office or place of business.

50 (3) The taxpayer may elect to compute the portion of income from all
51 sources in this state in the following manner:

52 (a) The income from all sources shall be determined as provided,
53 excluding therefrom the figures for the operation of any bridge connecting this
54 state with another state;

55 (b) The amount of sales which are transactions in this state shall be
56 divided by the total sales, and the net income shall be multiplied by the fraction
57 thus obtained, to determine the proportion of income to be used to arrive at the
58 amount of Missouri taxable income. The investment or reinvestment of its own
59 funds, or sale of any such investment or reinvestment, shall not be considered as
60 sales or other business transacted for the determination of said fraction;

61 (c) For the purposes of this subdivision, a transaction involving the sale
62 of tangible property is:

63 a. "In this state" if the purchaser's destination point is in this state;

64 b. Not "in this state" if the purchaser's destination point is outside this
65 state;

66 (d) For purposes of this subdivision, the purchaser's destination point
67 shall be determined without regard to the FOB point or other conditions of the
68 sale and shall not be in this state if the purchaser received the tangible personal
69 property from the seller in this state for delivery to the purchaser's location
70 outside this state;

71 (e) For the purposes of this subdivision, a transaction involving the sale
72 other than the sale of tangible property is "in this state" if the taxpayer's market
73 for the sales is in this state. The taxpayer's market for sales is in this state:

74 a. In the case of sale, rental, lease, or license of real property, if and to
75 the extent the property is located in this state;

76 b. In the case of rental, lease, or license of tangible personal property, if
77 and to the extent the property is located in this state;

78 c. In the case of sale of a service, if and to the extent the ultimate
79 beneficiary of the service is located in this state and shall not be in this state if
80 the ultimate beneficiary of the service rendered by the taxpayer or the taxpayer's
81 designee is located outside this state; and

82 d. In the case of intangible property:

83 (i) That is rented, leased, or licensed, if and to the extent the property is
84 used in this state by the rentee, lessee, or licensee, provided that intangible
85 property utilized in marketing a good or service to a consumer is "used in this
86 state" if that good or service is purchased by a consumer who is in this
87 state. Franchise fees or royalties received for the rent, lease, license, or use of
88 a trade name, trademark, service mark, or franchise system or provides a right
89 to conduct business activity in a specific geographic area are "used in this state"
90 to the extent the franchise location is in this state; and

91 (ii) That is sold, if and to the extent the property is used in this state,
92 provided that:

93 i. A contract right, government license, or similar intangible property that
94 authorizes the holder to conduct a business activity in a specific geographic area
95 is "used in this state" if the geographic area includes all or part of this state;

96 ii. Receipts from intangible property sales that are contingent on the
97 productivity, use, or disposition of the intangible property shall be treated as
98 receipts from the rental, lease, or licensing of such intangible property under item
99 (i) of this subparagraph; and

100 iii. All other receipts from a sales of intangible property shall be excluded
101 from the numerator and denominator of the sales factor;

102 (f) If the state or states of assignment under paragraph (e) of this
103 subdivision cannot be determined, the state or states of assignment shall be
104 reasonably approximated;

105 (g) If the state of assignment cannot be determined under paragraph (e)
106 of this subdivision or reasonably approximated under paragraph (f) of this
107 subdivision, such sales shall be excluded from the denominator of the sales factor;

108 (h) The director may prescribe such rules and regulations as necessary
109 or appropriate to carry out the purposes of this section.

110 (4) For purposes of this subsection, the following words shall, unless the
111 context otherwise requires, have the following meaning:

112 (a) "Administration services" include, but are not limited to, clerical, fund
113 or shareholder accounting, participant record keeping, transfer agency,
114 bookkeeping, data processing, custodial, internal auditing, legal and tax services
115 performed for an investment company;

116 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section
117 80a-2(a)(3)(C), as may be amended from time to time;

118 (c) "Distribution services" include, but are not limited to, the services of
119 advertising, servicing, marketing, underwriting or selling shares of an investment
120 company, but, in the case of advertising, servicing or marketing shares, only
121 where such service is performed by a person who is, or in the case of a closed end
122 company, was, either engaged in the services of underwriting or selling
123 investment company shares or affiliated with a person that is engaged in the
124 service of underwriting or selling investment company shares. In the case of an
125 open end company, such service of underwriting or selling shares must be
126 performed pursuant to a contract entered into pursuant to 15 U.S.C. Section
127 80a-15(b), as from time to time amended;

128 (d) "Investment company", any person registered under the federal
129 Investment Company Act of 1940, as amended from time to time, (the act) or a
130 company which would be required to register as an investment company under
131 the act except that such person is exempt to such registration pursuant to Section
132 80a-3(c)(1) of the act;

133 (e) "Investment funds service corporation" includes any corporation or S
134 corporation doing business in the state which derives more than fifty percent of
135 its gross income in the ordinary course of business from the provision directly or

136 indirectly of management, distribution or administration services to or on behalf
137 of an investment company or from trustees, sponsors and participants of
138 employee benefit plans which have accounts in an investment company. An
139 investment funds service corporation shall include any corporation or S
140 corporation providing management services as an investment advisory firm
141 registered under Section 203 of the Investment Advisors Act of 1940, as amended
142 from time to time, regardless of the percentage of gross revenues consisting of
143 fees from management services provided to or on behalf of an investment
144 company;

145 (f) "Management services" include but are not limited to, the rendering
146 of investment advice directly or indirectly to an investment company making
147 determinations as to when sales and purchases of securities are to be made on
148 behalf of the investment company, or the selling or purchasing of securities
149 constituting assets of an investment company, and related activities, but only
150 where such activity or activities are performed:

151 a. Pursuant to a contract with the investment company entered into
152 pursuant to 15 U.S.C. Section 80a-15(a), as from time to time amended;

153 b. For a person that has entered into such contract with the investment
154 company; or

155 c. For a person that is affiliated with a person that has entered into such
156 contract with an investment company;

157 (g) "Qualifying sales", gross income derived from the provision directly or
158 indirectly of management, distribution or administration services to or on behalf
159 of an investment company or from trustees, sponsors and participants of
160 employee benefit plans which have accounts in an investment company. For
161 purposes of this section, "gross income" is defined as that amount of income
162 earned from qualifying sources without deduction of expenses related to the
163 generation of such income;

164 (h) "Residence", presumptively the fund shareholder's mailing address on
165 the records of the investment company. If, however, the investment company or
166 the investment funds service corporation has actual knowledge that the fund
167 shareholder's primary residence or principal place of business is different than
168 the fund shareholder's mailing address such presumption shall not control. To
169 the extent an investment funds service corporation does not have access to the
170 records of the investment company, the investment funds service corporation may
171 employ reasonable methods to determine the investment company fund

172 shareholder's residence.

173 (5) Notwithstanding other provisions of law to the contrary, qualifying
174 sales of an investment funds service corporation, or S corporation, shall be
175 considered wholly in this state only to the extent that the fund shareholders of
176 the investment companies, to which the investment funds service corporation, or
177 S corporation, provide services, are resided in this state. Wholly in this state
178 qualifying sales of an investment funds service corporation, or S corporation,
179 shall be determined as follows:

180 (a) By multiplying the investment funds service corporation's total dollar
181 amount of qualifying sales from services provided to each investment company
182 by a fraction, the numerator of which shall be the average of the number of
183 shares owned by the investment company's fund shareholders resided in this
184 state at the beginning of and at the end of the investment company's taxable year
185 that ends with or within the investment funds service corporation's taxable year,
186 and the denominator of which shall be the average of the number of shares owned
187 by the investment company's fund shareholders everywhere at the beginning of
188 and at the end of the investment company's taxable year that ends with or within
189 the investment funds service corporation's taxable year;

190 (b) A separate computation shall be made to determine the wholly in this
191 state qualifying sales from each investment company. The qualifying sales for
192 each investment company shall be multiplied by the respective percentage of each
193 fund, as calculated pursuant to paragraph (a) of this subdivision. The product
194 of this equation shall result in the wholly in this state qualifying sales. The
195 qualifying sales for each investment company which are not wholly in this state
196 will be considered wholly without this state;

197 (c) To the extent an investment funds service corporation has sales which
198 are not qualifying sales, those nonqualified sales shall be apportioned to this
199 state based on the methodology utilized by the investment funds service
200 corporation without regard to this subdivision.

201 3. Any corporation described in subdivision (1) of subsection 1 of section
202 143.441 organized in this state or granted a permit to operate in this state for the
203 transportation or care of passengers shall report its gross earnings within the
204 state on intrastate business and shall also report its gross earnings on all
205 interstate business done in this state which report shall be subject to inquiry for
206 the purpose of determining the amount of income to be included in Missouri
207 taxable income. The previous sentence shall not apply to a railroad.

208 4. A corporation described in subdivision (2) of subsection 1 of section
209 143.441 shall include in its Missouri taxable income all income arising from all
210 sources in this state and all income from each transportation service wholly
211 within this state, from each service where the only lines of such corporation used
212 are those in this state, and such proportion of revenue from each service where
213 the facilities of such corporation in this state and in another state or states are
214 used, as the mileage used over the lines of such corporation in the state shall
215 bear to the total mileage used over the lines of such corporation. The taxpayer
216 may elect to compute the portion of income from all sources within this state in
217 the following manner:

218 (1) The income from all sources shall be determined as provided;

219 (2) The amount of investment of such corporation on December thirty-first
220 of each year in this state in fixed transportation facilities, real estate and
221 improvements, plus the value on December thirty-first of each year of any fixed
222 transportation facilities, real estate and improvements in this state leased from
223 any other railroad shall be divided by the sum of the total amount of investment
224 of such corporation on December thirty-first of each year in fixed transportation
225 facilities, real estate and improvements, plus the value on December thirty-first
226 of each year, of any fixed transportation facilities, real estate and improvements
227 leased from any other railroad. Where any fixed transportation facilities, real
228 estate or improvements are leased by more than one railroad, such portion of the
229 value shall be used by each railroad as the rental paid by each shall bear to the
230 rental paid by all lessees. The income shall be multiplied by the fraction thus
231 obtained to determine the proportion to be used to arrive at the amount of
232 Missouri taxable income.

233 5. A corporation described in subdivision (3) of subsection 1 of section
234 143.441 shall include in its Missouri taxable income one-half of the net income
235 from the operation of a bridge between this and another state. If any such bridge
236 is owned or operated by a railroad corporation or corporations, or by a corporation
237 owning a railroad corporation using such bridge, then the figures for operation
238 of such bridge may be included in the return of such railroad or railroads; or if
239 such bridge is owned or operated by any other corporation which may now or
240 hereafter be required to file an income tax return, one-half of the income or loss
241 to such corporation from such bridge may be included in such return by adding
242 or subtracting same to or from another net income or loss shown by the return.

243 6. A corporation described in subdivision (4) of subsection 1 of section

244 143.441 shall include in its Missouri taxable income all income arising from all
245 sources within this state. Income shall include revenue from each telephonic or
246 telegraphic service rendered wholly within this state; from each service rendered
247 for which the only facilities of such corporation used are those in this state; and
248 from each service rendered over the facilities of such corporation in this state and
249 in other state or states, such proportion of such revenue as the mileage involved
250 in this state shall bear to the total mileage involved over the lines of said
251 company in all states. The taxpayer may elect to compute the portion of income
252 from all sources within this state in the following manner:

253 (1) The income from all sources shall be determined as provided;

254 (2) The amount of investment of such corporation on December thirty-first
255 of each year in this state in telephonic or telegraphic facilities, real estate and
256 improvements thereon, shall be divided by the amount of the total investment of
257 such corporation on December thirty-first of each year in telephonic or
258 telegraphic facilities, real estate and improvements. The income of the taxpayer
259 shall be multiplied by fraction thus obtained to determine the proportion to be
260 used to arrive at the amount of Missouri taxable income.

261 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this
262 section to be from all sources within this state shall be deducted such of the
263 deductions for expenses in determining Missouri taxable income as were incurred
264 in this state to produce such income and all losses actually sustained in this state
265 in the business of the corporation.

266 8. If a corporation derives only part of its income from sources within
267 Missouri, its Missouri taxable income shall only reflect the effect of the following
268 listed deductions to the extent applicable to Missouri. The deductions are: (a)
269 its deduction for federal income taxes pursuant to section 143.171, and (b) the
270 effect on Missouri taxable income of the deduction for net operating loss allowed
271 by Section 172 of the Internal Revenue Code. The extent applicable to Missouri
272 shall be determined by multiplying the amount that would otherwise affect
273 Missouri taxable income by the ratio for the year of the Missouri taxable income
274 of the corporation for the year divided by the Missouri taxable income for the
275 year as though the corporation had derived all of its income from sources within
276 Missouri. For the purpose of the preceding sentence, Missouri taxable income
277 shall not reflect the listed deductions.

278 9. Any investment funds service corporation organized as a corporation
279 or S corporation which has any shareholders resided in this state shall be

280 subject to Missouri income tax as provided in this chapter.

281 10. The provisions of this section do not impact any other apportionment
282 election available to a taxpayer under Missouri statutes.

143.455. 1. Missouri taxable income of a corporation shall
2 include all income derived from sources within this state.

3 2. For all tax years beginning on or after January 1, 2019, a
4 corporation described in subdivision (1) of subsection 1 of section
5 143.441 shall determine its income derived from sources within this
6 state by allocating and apportioning its net income as provided in this
7 section.

8 3. As used in this section, unless the context otherwise requires,
9 the following terms mean:

10 (1) "Apportionable income":

11 (a) All income that is apportionable under the Constitution of
12 the United States and is not allocated under the laws of this state,
13 including:

14 a. Income arising from transactions and activity in the regular
15 course of the corporation's trade or business; and

16 b. Income arising from tangible and intangible property if the
17 acquisition, management, employment, development, or disposition of
18 the property is or was related to the operation of the corporation's
19 trade or business; and

20 (b) Any income that would be allocable to this state under the
21 Constitution of the United States, but that is apportioned rather than
22 allocated pursuant to the laws of this state;

23 (2) "Commercial domicile", the principal place from which the
24 trade or business of the corporation is directed or managed;

25 (3) "Financial organization", any bank, trust company, savings
26 bank, industrial bank, land bank, safe deposit company, private banker,
27 savings and loan association, credit union, cooperative bank, small loan
28 company, sales finance company, investment company, or any type of
29 insurance company;

30 (4) "Non-apportionable income", all income other than
31 apportionable income;

32 (5) "Public utility", any business entity:

33 (a) Which owns or operates any plant, equipment, property,
34 franchise, or license for the transmission of communications,

35 transportation of goods or persons, except by pipeline, or the
36 production, transmission, sale, delivery, or furnishing of electricity,
37 water or steam; and

38 (b) Whose rates of charges for goods or services have been
39 established or approved by a federal, state, or local government or
40 governmental agency;

41 (6) "Receipts", all gross receipts of the corporation that are not
42 allocated under the provisions of this section, and that are received
43 from transactions and activity in the regular course of the
44 corporation's trade or business; except that receipts of a corporation
45 from hedging transactions and from the maturity, redemption, sale,
46 exchange, loan or other disposition of cash or securities, shall be
47 excluded.

48 4. For purposes of allocation and apportionment of income under
49 this section, a corporation is taxable in another state if:

50 (1) In that state it is subject to a net income tax, a franchise tax
51 measured by net income, a franchise tax for the privilege of doing
52 business, or a corporate stock tax; or

53 (2) That state has jurisdiction to subject the corporation to a net
54 income tax regardless of whether, in fact, the state does or does not do
55 so.

56 5. Rents and royalties from real or tangible personal property,
57 capital gains, interest, dividends or patent or copyright royalties, to
58 the extent that they constitute nonapportionable income, shall be
59 allocated as provided in subsections 6 to 9 of this section.

60 6. (1) Net rents and royalties from real property located in this
61 state are allocable to this state.

62 (2) Net rents and royalties from tangible personal property are
63 allocable to this state:

64 (a) If and to the extent the property is utilized in this state; or

65 (b) In their entirety if the corporation's commercial domicile is
66 in this state and the corporation is not organized under the laws of or
67 taxable in the state in which the property is utilized.

68 (3) The extent of utilization of tangible personal property in a
69 state is determined by multiplying the rents and royalties by a fraction,
70 the numerator of which is the number of days of physical location of
71 the property in the state during the rental or royalty period in the

72 taxable year and the denominator of which is the number of days of
73 physical location of the property everywhere during all rental or
74 royalty periods in the taxable year. If the physical location of the
75 property during the rental or royalty period is unknown or
76 unascertainable by the corporation, tangible personal property is
77 utilized in the state in which the property was located at the time the
78 rental or royalty payer obtained possession.

79 7. (1) Capital gains and losses from sales of real property
80 located in this state are allocable to this state.

81 (2) Capital gains and losses from sales of tangible personal
82 property are allocable to this state if:

83 (a) The property had a situs in this state at the time of the sale;
84 or

85 (b) The corporation's commercial domicile is in this state and
86 the corporation is not taxable in the state in which the property had a
87 situs.

88 (3) Capital gains and losses from sales of intangible personal
89 property are allocable to this state if the corporation's commercial
90 domicile is in this state.

91 8. Interest and dividends are allocable to this state if the
92 corporation's commercial domicile is in this state.

93 9. (1) Patent and copyright royalties are allocable to this state:

94 (a) If and to the extent that the patent or copyright is utilized by
95 the payer in this state; or

96 (b) If and to the extent that the patent or copyright is utilized by
97 the payer in a state in which the corporation is not taxable and the
98 corporation's commercial domicile is in this state.

99 (2) A patent is utilized in a state to the extent that it is employed
100 in production, fabrication, manufacturing, or other processing in the
101 state or to the extent that a patented product is produced in the state.
102 If the basis of receipts from patent royalties does not permit allocation
103 to states or if the accounting procedures do not reflect states of
104 utilization, the patent is utilized in the state in which the corporation's
105 commercial domicile is located.

106 (3) A copyright is utilized in a state to the extent that printing
107 or other publication originates in the state. If the basis of receipts
108 from copyright royalties does not permit allocation to states or if the

109 accounting procedures do not reflect states of utilization, the copyright
110 is utilized in the state in which the corporation's commercial domicile
111 is located.

112 10. All apportionable income shall be apportioned to this state
113 by multiplying the net income by a fraction, the numerator of which is
114 the total receipts of the corporation in this state during the tax period
115 and the denominator of which is the total receipts of the corporation
116 everywhere during the tax period.

117 11. Receipts from the sale of tangible personal property are in
118 this state if the property is received in this state by the purchaser. In
119 the case of the delivery of goods by common carrier or by other means
120 of transportation, including transportation by the purchaser, the place
121 at which the goods are ultimately received after all transportation has
122 been completed shall be considered as the place at which the goods are
123 received by the purchaser. Direct delivery into this state by the
124 taxpayer to a person or firm designated by a purchaser from within or
125 without the state shall constitute delivery to the purchaser in this
126 state.

127 12. (1) Receipts, other than receipts described in subsection 11
128 of this section, are in this state if the corporation's market for the sales
129 is in this state. The corporation's market for sales is in this state:

130 (a) In the case of sale, rental, lease, or license of real property,
131 if and to the extent the property is located in this state;

132 (b) In the case of rental, lease, or license of tangible personal
133 property, if and to the extent the property is located in this state;

134 (c) In the case of sale of a service, if and to the extent the
135 ultimate beneficiary of the service is located in this state and shall not
136 be in this state if the ultimate beneficiary of the service rendered by
137 the corporation or the corporation's designee is located outside this
138 state; and

139 (d) In the case of intangible property:

140 a. That is rented, leased, or licensed, if and to the extent the
141 property is used in this state, provided that intangible property
142 utilized in marketing a good or service to a consumer is "used in this
143 state" if that good or service is purchased by a consumer who is in this
144 state. Franchise fees or royalties received for the rent, lease, license,
145 or use of a trade name, trademark, service mark, or franchise system

146 or provides a right to conduct business activity in a specific geographic
147 area "are used in this state" to the extent the franchise is located in this
148 state; and

149 b. That is sold, if and to the extent the property is used in this
150 state, provided that:

151 (i) A contract right, government license, or similar intangible
152 property that authorizes the holder to conduct a business activity in a
153 specific geographic area is "used in this state" if the geographic area
154 includes all or part of this state;

155 (ii) Receipts from intangible property sales that are contingent
156 on the productivity, use, or disposition of the intangible property shall
157 be treated as receipts from the rental, lease, or licensing of such
158 intangible property under subparagraph a. of this paragraph; and

159 (iii) All other receipts from a sale of intangible property shall be
160 excluded from the numerator and denominator of the receipts factor.

161 (2) If the state or states of assignment under subdivision (1) of
162 this subsection cannot be determined, the state or states of assignment
163 shall be reasonably approximated.

164 (3) The director may prescribe regulations as necessary or
165 appropriate to carry out the purposes of this section.

166 13. (1) In the case of certain industries where unusual factual
167 situations produce inequitable results under the apportionment and
168 allocation provisions of this section, the director shall promulgate rules
169 for determining the apportionment and allocation factors for each such
170 industry, but such rules shall be applied uniformly.

171 (2) If the allocation and apportionment provisions of this section
172 do not fairly represent the extent of the corporation's income
173 applicable to this state, the corporation may petition for or the director
174 may require:

175 (a) Separate accounting;

176 (b) The inclusion of one or more additional factors which will
177 fairly represent the corporation's income applicable to this state; or

178 (c) The employment of any other method to effectuate an
179 equitable allocation and apportionment of the corporation's income.

180 (3) The party petitioning for, or the director requiring, the use
181 of any method to effectuate an equitable allocation and apportionment
182 of the corporation's income pursuant to subdivision (2) of this

183 subsection shall prove by a preponderance of evidence:

184 (a) That the allocation and apportionment provisions of this
185 section do not fairly represent the extent of the corporation's income
186 applicable to this state; and

187 (b) That the alternative to such provisions is reasonable.

188 The same burden of proof shall apply whether the corporation is
189 petitioning for, or the director is requiring, the use of any reasonable
190 method to effectuate an equitable allocation and apportionment of the
191 corporation's income. Notwithstanding the previous sentence, if the
192 director can show that in any two of the prior five tax years, the
193 corporation had used an allocation or apportionment method at
194 variance with its allocation or apportionment method or methods used
195 for such other tax years, then the director shall not bear the burden of
196 proof in imposing a different method pursuant to subdivision (2) of this
197 subsection.

198 (4) If the director requires any method to effectuate an equitable
199 allocation and apportionment of the corporation's income, the director
200 cannot impose any civil or criminal penalty with reference to the tax
201 due that is attributable to the corporation's reasonable reliance solely
202 on the allocation and apportionment provisions of this section.

203 (5) A corporation that has received written permission from the
204 director to use a reasonable method to effectuate an equitable
205 allocation and apportionment of the corporation's income shall not
206 have that permission revoked with respect to transactions and
207 activities that have already occurred unless there has been a material
208 change in, or a material misrepresentation of, the facts provided by the
209 corporation upon which the director reasonably relied.

210 14. Any corporation described in subdivision (1) of subsection 1
211 of section 143.441 organized in this state or granted a permit to operate
212 in this state for the transportation or care of passengers shall report
213 its gross earnings within the state on intrastate business and shall also
214 report its gross earnings on all interstate business done in this
215 state. Such report shall be subject to inquiry for the purpose of
216 determining the amount of income to be included in Missouri taxable
217 income. This subsection shall not apply to a railroad.

218 15. A corporation described in subdivision (2) of subsection 1 of
219 section 143.441 shall include in its Missouri taxable income all income

220 arising from all sources in this state and all income from each
221 transportation service wholly within this state, from each service
222 where the only rails and lines of such corporation used are those in
223 this state, and such proportion of revenue from each service where the
224 facilities of such corporation in this state and in another state or states
225 are used, as the mileage used over the rails and lines of such
226 corporation in the state shall bear to the total mileage used over the
227 rails and lines of such corporation. The corporation may elect to
228 compute the portion of income from all sources within this state in the
229 following manner:

230 (1) The income from all sources shall be determined as provided;

231 (2) The amount of investment of such corporation on December
232 thirty-first of each year in this state in fixed transportation facilities,
233 real estate and improvements, plus the value on December thirty-first
234 of each year of any fixed transportation facilities, real estate and
235 improvements in this state leased from any other railroad shall be
236 divided by the sum of the total amount of investment of such
237 corporation on December thirty-first of each year in fixed
238 transportation facilities, real estate and improvements, plus the value
239 on December thirty-first of each year, of any fixed transportation
240 facilities, real estate and improvements leased from any other railroad.
241 Where any fixed transportation facilities, real estate or improvements
242 are leased by more than one railroad, such portion of the value shall
243 be used by each railroad as the rental paid by each shall bear to the
244 rental paid by all lessees. The income shall be multiplied by the
245 fraction thus obtained to determine the proportion to be used to arrive
246 at the amount of Missouri taxable income.

247 16. A corporation described in subdivision (3) of subsection 1 of
248 section 143.441 shall include in its Missouri taxable income one-half of
249 the net income from the operation of a bridge between this and another
250 state. If any such bridge is owned or operated by a railroad
251 corporation or corporations, or by a corporation owning a railroad
252 corporation using such bridge, then the figures for operation of such
253 bridge may be included in the return of such railroad or railroads; or
254 if such bridge is owned or operated by any other corporation which
255 may now or hereafter be required to file an income tax return, one-half
256 of the income or loss to such corporation from such bridge may be

257 included in such return by adding or subtracting the same to or from
258 another net income or loss shown by the return.

259 17. A corporation described in subdivision (4) of subsection 1 of
260 section 143.441 shall include in its Missouri taxable income all income
261 arising from all sources within this state. Income shall include revenue
262 from each telephonic or telegraphic service rendered wholly within
263 this state; from each service rendered for which the only facilities of
264 such corporation used are those in this state; and from each service
265 rendered over the facilities of such corporation in this state and in
266 other state or states, such proportion of such revenue as the mileage
267 involved in this state shall bear to the total mileage involved over the
268 lines of said company in all states. The corporation may elect to
269 compute the portion of income from all sources within this state in the
270 following manner:

271 (1) The income from all sources shall be determined as provided;

272 (2) The amount of investment of such corporation on December
273 thirty-first of each year in this state in telephonic or telegraphic
274 facilities, real estate and improvements thereon, shall be divided by the
275 amount of the total investment of such corporation on December
276 thirty-first of each year in telephonic or telegraphic facilities, real
277 estate and improvements. The income of the corporation shall be
278 multiplied by the fraction thus obtained to determine the proportion
279 to be used to arrive at the amount of Missouri taxable income.

280 18. From the income determined in this section to be from all
281 sources within this state shall be deducted such of the deductions for
282 expenses in determining Missouri taxable income as were incurred in
283 this state to produce such income and all losses actually sustained in
284 this state in the business of the corporation.

285 19. If a corporation derives only part of its income from sources
286 within Missouri, its Missouri taxable income shall only reflect the effect
287 on Missouri taxable income of the deduction for net operating loss
288 allowed by Section 172 of the Internal Revenue Code. The extent
289 applicable to Missouri shall be determined by multiplying the amount
290 that would otherwise affect Missouri taxable income by the ratio for
291 the year of the Missouri taxable income of the corporation for the year
292 divided by the Missouri taxable income for the year as though the
293 corporation had derived all of its income from sources within

294 **Missouri. For the purpose of the preceding sentence, Missouri taxable**
295 **income shall not reflect the deduction.**

296 **20. Any investment funds service corporation organized as a**
297 **corporation or S corporation which has any shareholders resided**
298 **in this state shall be subject to Missouri income tax as provided in this**
299 **chapter.**

143.461. 1. A corporation shall elect to determine income applicable to
2 this state by multiplying the total income from all sources by the fraction
3 determined in the manner in section [143.451] **143.455**; first, by filing written
4 notice with the director of revenue on or before the due date of the return
5 (including extensions of time) of the taxpayer's election, or, second, by failing to
6 keep its books and records in such manner as to show the income applicable to
7 this state, including gross income and deductions applicable thereto.

8 2. If the corporation shall keep its books and records so as to show **the**
9 **income applicable to this state** by any other method of allocation between
10 this state and other states [involved of income from transactions partially within
11 and partially without this state], including gross income and deductions
12 applicable thereto, and such method shows the income applicable to this state,
13 including gross income and deductions applicable thereto, then it may, on or
14 before sixty days before the end of any taxable year, petition the director of
15 revenue, in writing, to be permitted in its return required to be filed to apportion
16 to this state according to the method shown by such books or records. If the
17 director of revenue finds that such method does show the income applicable to
18 this state including gross income and the deductions applicable thereto, he **or**
19 **she** shall notify the corporation, at least thirty days prior to the last day on
20 which such corporation's return for that taxable year is to be filed, that it may
21 use that method **for the shorter of five years or** as long as such method
22 shows the income applicable to this state, including gross income and deductions
23 applicable thereto.

24 3. The corporation shall cease using such method **after the shorter of**
25 **five years or** whenever the director of revenue finds and notifies such
26 corporation on or before ninety days before the end of the taxable year, that such
27 method does not so show. Upon and after such **expiration or** revocation the
28 corporation shall be permitted to petition to use **the same or** another method of
29 allocation that will show such income including gross income and deductions
30 applicable thereto as though no petition had ever been filed.

31 4. Failure, after a method has **expired or** been revoked by the director
32 of revenue, to submit a method which the director of revenue finds will show such
33 income applicable to this state including gross income and deductions applicable
34 thereto, on or before sixty days before the end of any taxable year, or failure to
35 make a return on the basis, which has been approved by the director of revenue
36 on petition of the corporation and which stands unrevoked **or unexpired**, shall
37 constitute an election to accept the determination of income applicable to this
38 state by multiplying the total income from all sources by the fraction determined
39 in the manner set forth in section 143.451 **or, for a tax year beginning on or**
40 **after January 1, 2019, in the manner set forth in section 143.455.**

143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the
2 Internal Revenue Code, shall not be subject to the taxes imposed by section
3 143.071, or other sections imposing income tax on corporations.

4 2. A shareholder of an S corporation shall determine such shareholder's
5 S corporation modification and pro rata share, including its character, by
6 applying the following:

7 (1) Any modification described in sections 143.121 and 143.141 which
8 relates to an item of S corporation income, gain, loss, or deduction shall be made
9 in accordance with the shareholder's pro rata share, for federal income tax
10 purposes, of the item to which the modification relates. Where a shareholder's
11 pro rata share of any such item is not required to be taken into account
12 separately for federal income tax purposes, the shareholder's pro rata share of
13 such item shall be determined in accordance with his pro rata share, for federal
14 income tax purposes, of S corporation taxable income or loss generally;

15 (2) Each item of S corporation income, gain, loss, or deduction shall have
16 the same character for a shareholder pursuant to sections 143.005 to 143.998 as
17 it has for federal income tax purposes. Where an item is not characterized for
18 federal income tax purposes, it shall have the same character for a shareholder
19 as if realized directly from the source from which realized by the S corporation
20 or incurred in the same manner as incurred by the S corporation.

21 3. A nonresident shareholder of an S corporation shall determine such
22 shareholder's Missouri nonresident adjusted gross income and his or her
23 nonresident shareholder modification by applying the provisions of this
24 subsection. Items shall be determined to be from sources within this state
25 pursuant to regulations of the director of revenue in a manner consistent with the
26 division of income provisions of section 143.451, section 143.461, or section 32.200

27 (Multistate Tax Compact). In determining the adjusted gross income of a
28 nonresident shareholder of any S corporation, there shall be included only that
29 part derived from or connected with sources in this state of the shareholder's pro
30 rata share of items of S corporation income, gain, loss or deduction entering into
31 shareholder's federal adjusted gross income, as such part is determined pursuant
32 to regulations prescribed by the director of revenue in accordance with the
33 general rules in section 143.181. Any modification described in subsections 2 and
34 3 of section 143.121 and in section 143.141, which relates to an item of S
35 corporation income, gain, loss, or deduction shall be made in accordance with the
36 shareholder's pro rata share, for federal income tax purposes, of the item to which
37 the modification relates, but limited to the portion of such item derived from or
38 connected with sources in this state.

39 **4. Notwithstanding subsection 3 of this section to the contrary,**
40 **for all tax years beginning on or after January 1, 2019, the items**
41 **referred to in that subsection shall be determined to be from sources**
42 **within this state pursuant to regulations of the director of revenue in**
43 **a manner consistent with the division of income provisions of section**
44 **143.455 and section 143.461.**

45 **5.** The director of revenue shall permit S corporations to file composite
46 returns and to make composite payments of tax on behalf of its nonresident
47 shareholders not otherwise required to file a return. If the nonresident
48 shareholder's filing requirements result solely from one or more interests in any
49 other partnerships or subchapter S corporations, that nonresident shareholder
50 may be included in the composite return.

51 **[5.] 6.** If an S corporation pays or credits amounts to any of its
52 nonresident individual shareholders as dividends or as their share of the S
53 corporation's undistributed taxable income for the taxable year, the S corporation
54 shall either timely file with the department of revenue an agreement as provided
55 in subsection **[6] 7** of this section or withhold Missouri income tax as provided in
56 subsection **[7] 8** of this section. An S corporation that timely files an agreement
57 as provided in subsection **[6] 7** of this section with respect to a nonresident
58 shareholder for a taxable year shall be considered to have timely filed such an
59 agreement for each subsequent taxable year. An S corporation that does not
60 timely file such an agreement for a taxable year shall not be precluded from
61 timely filing such an agreement for subsequent taxable years. An S corporation
62 is not required to deduct and withhold Missouri income tax for a nonresident

63 shareholder if:

64 (1) The nonresident shareholder not otherwise required to file a return
65 agrees to have the Missouri income tax due paid as part of the S corporation's
66 composite return;

67 (2) The nonresident shareholder not otherwise required to file a return
68 had Missouri assignable federal adjusted gross income from the S corporation of
69 less than twelve hundred dollars;

70 (3) The S corporation is liquidated or terminated;

71 (4) Income was generated by a transaction related to termination or
72 liquidation; or

73 (5) No cash or other property was distributed in the current and prior
74 taxable year.

75 [6.] 7. The agreement referred to in subdivision (1) of subsection [5] 6
76 of this section is an agreement of a nonresident shareholder of the S corporation
77 to:

78 (1) File a return in accordance with the provisions of section 143.481 and
79 to make timely payment of all taxes imposed on the shareholder by this state
80 with respect to income of the S corporation; and

81 (2) Be subject to personal jurisdiction in this state for purposes of the
82 collection of income taxes, together with related interest and penalties, imposed
83 on the shareholder by this state with respect to the income of the S corporation.
84 The agreement will be considered timely filed for a taxable year, and for all
85 subsequent taxable years, if it is filed at or before the time the annual return for
86 such taxable year is required to be filed pursuant to section 143.511.

87 [7.] 8. The amount of Missouri income tax to be withheld is determined
88 by multiplying the amount of dividends or undistributed income allocable to
89 Missouri that is paid or credited to a nonresident shareholder during the taxable
90 year by the highest rate used to determine a Missouri income tax liability for an
91 individual, except that the amount of the tax withheld may be determined based
92 on withholding tables provided by the director of revenue if the shareholder
93 submits a Missouri withholding allowance certificate.

94 [8.] 9. An S corporation shall be entitled to recover for a shareholder on
95 whose behalf a tax payment was made pursuant to this section, if such
96 shareholder has no tax liability.

97 [9.] 10. With respect to S corporations that are banks or bank holding
98 companies, a pro rata share of the tax credit for the tax payable pursuant to

99 chapter 148 shall be allowed against each S corporation shareholders' state
100 income tax as follows, provided the bank otherwise complies with section 148.112:

101 (1) The credit allowed by this subsection shall be equal to the bank tax
102 calculated pursuant to chapter 148 based on bank income in 1999 and after, on
103 a bank that makes an election pursuant to 26 U.S.C. Section 1362, and such
104 credit shall be allocated to the qualifying shareholder according to stock
105 ownership, determined by multiplying a fraction, where the numerator is the
106 shareholder's stock, and the denominator is the total stock issued by such bank
107 or bank holding company;

108 (2) The tax credit authorized in this subsection shall be permitted only
109 to the shareholders that qualify as S corporation shareholders, provided the stock
110 at all times during the taxable period qualifies as S corporation stock as defined
111 in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the
112 taxable period. The credit created by this section on a yearly basis is available
113 to each qualifying shareholder, including shareholders filing joint returns. A
114 bank holding company is not allowed this credit, except that, such credit shall
115 flow through to such bank holding company's qualified shareholders, and be
116 allocated to such shareholders under the same conditions; and

117 (3) In the event such shareholder cannot use all or part of the tax credit
118 in the taxable period of receipt, such shareholder may carry forward such tax
119 credit for a period of the lesser of five years or until used, provided such credits
120 are used as soon as the taxpayer has Missouri taxable income.

121 [10.] 11. With respect to S corporations that are associations, a pro rata
122 share of the tax credit for the tax payable under chapter 148 shall be allowed
123 against each S corporation shareholders' state income tax as follows, provided the
124 association otherwise complies with section 148.655:

125 (1) The credit allowed by this subsection shall be equal to the savings and
126 loan association tax calculated under chapter 148 based on the computations
127 provided in section 148.630 on an association that makes an election under 26
128 U.S.C. Section 1362, and such credit shall be allocated to the qualifying
129 shareholder according to stock ownership, determined by multiplying a fraction,
130 where the numerator is the shareholder's stock, and the denominator is the total
131 stock issued by the association;

132 (2) The tax credit authorized in this subsection shall be permitted only
133 to the shareholders that qualify as S corporation shareholders, provided the stock
134 at all times during the taxable period qualifies as S corporation stock as defined

135 in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the
136 taxable period. The credit created by this section on a yearly basis is available
137 to each qualifying shareholder, including shareholders filing joint returns. A
138 savings and loan association holding company is not allowed this credit, except
139 that, such credit shall flow through to such savings and loan association holding
140 company's qualified shareholders, and be allocated to such shareholders under
141 the same conditions; and

142 (3) In the event such shareholder cannot use all or part of the tax credit
143 in the taxable period of receipt, such shareholder may carry forward such tax
144 credit for a period of the lesser of five years or until used, provided such credits
145 are used as soon as the taxpayer has Missouri taxable income.

146 [11.] **12.** With respect to S corporations that are credit institutions, a pro
147 rata share of the tax credit for the tax payable under chapter 148 shall be
148 allowed against each S corporation shareholders' state income tax as follows,
149 provided the credit institution otherwise complies with section 148.657:

150 (1) The credit allowed by this subsection shall be equal to the credit
151 institution tax calculated under chapter 148 based on the computations provided
152 in section 148.150 on a credit institution that makes an election under 26 U.S.C.
153 Section 1362, and such credit shall be allocated to the qualifying shareholder
154 according to stock ownership, determined by multiplying a fraction, where the
155 numerator is the shareholder's stock, and the denominator is the total stock
156 issued by such credit institution;

157 (2) The tax credit authorized in this subsection shall be permitted only
158 to the shareholders that qualify as S corporation shareholders, provided the stock
159 at all times during the taxable period qualifies as S corporation stock as defined
160 in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the
161 taxable period. The credit created by this section on a yearly basis is available
162 to each qualifying shareholder, including shareholders filing joint returns. A
163 credit institution holding company is not allowed this credit, except that, such
164 credit shall flow through to such credit institution holding company's qualified
165 shareholders, and be allocated to such shareholders under the same conditions;
166 and

167 (3) In the event such shareholder cannot use all or part of the tax credit
168 in the taxable period of receipt, such shareholder may carry forward such tax
169 credit for a period of the lesser of five years or until used, provided such credits
170 are used as soon as the taxpayer has Missouri taxable income.

620.1350. 1. The words used in this section and sections 620.1355 and
2 620.1360 shall, unless the context otherwise requires, have the meaning provided
3 in subdivision (4) of subsection 2 of section 143.451, and in addition, the following
4 words shall have the following meanings:

5 (1) "Department", the department of economic development;

6 (2) "Director", the director of the department of economic development.

7 2. An investment funds service corporation or S corporation, certified
8 pursuant to this section and sections 620.1355 and 620.1360, may make an
9 annual election to compute the portion of income derived from sources within this
10 state either pursuant to section 143.451 or pursuant to section 32.200 relating to
11 the multistate tax compact. The annual election shall be made by the filing of
12 a corporate income tax return reflecting the use of such election and by filing a
13 copy of the certificate issued by the director pursuant to the provisions of this
14 section and sections 620.1355 and 620.1360. The annual election may be made
15 regardless of whether the corporation filed its income tax return on a single
16 entity basis or was included in a consolidated income tax return in any year.

17 **3. Notwithstanding the provisions of subsection 2 of this section**
18 **to the contrary, for all tax years beginning on or after January 1, 2019,**
19 **an investment funds service corporation or S corporation, certified**
20 **pursuant to this section and sections 620.1355 and 620.1360, shall**
21 **compute the portion of income derived from sources within this state**
22 **pursuant to section 143.455.**

✓

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