

SENATE BILL NO. 46

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0131S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof one new section relating to an income tax deduction for capital gains.

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

Section A. Section 143.121, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 143.121,
3 to read as follows:

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

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

6 (1) The amount of any federal income tax refund
7 received for a prior year which resulted in a Missouri
8 income tax benefit. The amount added pursuant to this
9 subdivision shall not include any amount of a federal income
10 tax refund attributable to a tax credit reducing a
11 taxpayer's federal tax liability pursuant to Public Law 116-
12 136 or 116-260, enacted by the 116th United States Congress,
13 for the tax year beginning on or after January 1, 2020, and
14 ending on or before December 31, 2020, and deducted from
15 Missouri adjusted gross income pursuant to section 143.171.
16 The amount added under this subdivision shall also not
17 include any amount of a federal income tax refund
18 attributable to a tax credit reducing a taxpayer's federal

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

19 tax liability under any other federal law that provides
20 direct economic impact payments to taxpayers to mitigate
21 financial challenges related to the COVID-19 pandemic, and
22 deducted from Missouri adjusted gross income under section
23 143.171;

24 (2) Interest on certain governmental obligations
25 excluded from federal gross income by 26 U.S.C. Section 103
26 of the Internal Revenue Code, as amended. The previous
27 sentence shall not apply to interest on obligations of the
28 state of Missouri or any of its political subdivisions or
29 authorities and shall not apply to the interest described in
30 subdivision (1) of subsection 3 of this section. The amount
31 added pursuant to this subdivision shall be reduced by the
32 amounts applicable to such interest that would have been
33 deductible in computing the taxable income of the taxpayer
34 except only for the application of 26 U.S.C. Section 265 of
35 the Internal Revenue Code, as amended. The reduction shall
36 only be made if it is at least five hundred dollars;

37 (3) The amount of any deduction that is included in
38 the computation of federal taxable income pursuant to 26
39 U.S.C. Section 168 of the Internal Revenue Code as amended
40 by the Job Creation and Worker Assistance Act of 2002 to the
41 extent the amount deducted relates to property purchased on
42 or after July 1, 2002, but before July 1, 2003, and to the
43 extent the amount deducted exceeds the amount that would
44 have been deductible pursuant to 26 U.S.C. Section 168 of
45 the Internal Revenue Code of 1986 as in effect on January 1,
46 2002;

47 (4) The amount of any deduction that is included in
48 the computation of federal taxable income for net operating
49 loss allowed by 26 U.S.C. Section 172 of the Internal
50 Revenue Code of 1986, as amended, other than the deduction

51 allowed by 26 U.S.C. Section 172(b)(1)(G) and 26 U.S.C.
52 Section 172(i) of the Internal Revenue Code of 1986, as
53 amended, for a net operating loss the taxpayer claims in the
54 tax year in which the net operating loss occurred or carries
55 forward for a period of more than twenty years and carries
56 backward for more than two years. Any amount of net
57 operating loss taken against federal taxable income but
58 disallowed for Missouri income tax purposes pursuant to this
59 subdivision after June 18, 2002, may be carried forward and
60 taken against any income on the Missouri income tax return
61 for a period of not more than twenty years from the year of
62 the initial loss; and

63 (5) For nonresident individuals in all taxable years
64 ending on or after December 31, 2006, the amount of any
65 property taxes paid to another state or a political
66 subdivision of another state for which a deduction was
67 allowed on such nonresident's federal return in the taxable
68 year unless such state, political subdivision of a state, or
69 the District of Columbia allows a subtraction from income
70 for property taxes paid to this state for purposes of
71 calculating income for the income tax for such state,
72 political subdivision of a state, or the District of
73 Columbia;

74 (6) For all tax years beginning on or after January 1,
75 2018, any interest expense paid or accrued in a previous
76 taxable year, but allowed as a deduction under 26 U.S.C.
77 Section 163, as amended, in the current taxable year by
78 reason of the carryforward of disallowed business interest
79 provisions of 26 U.S.C. Section 163(j), as amended. For the
80 purposes of this subdivision, an interest expense is
81 considered paid or accrued only in the first taxable year
82 the deduction would have been allowable under 26 U.S.C.

83 Section 163, as amended, if the limitation under 26 U.S.C.
84 Section 163(j), as amended, did not exist.

85 3. There shall be subtracted from the taxpayer's
86 federal adjusted gross income the following amounts to the
87 extent included in federal adjusted gross income:

88 (1) Interest received on deposits held at a federal
89 reserve bank or interest or dividends on obligations of the
90 United States and its territories and possessions or of any
91 authority, commission or instrumentality of the United
92 States to the extent exempt from Missouri income taxes
93 pursuant to the laws of the United States. The amount
94 subtracted pursuant to this subdivision shall be reduced by
95 any interest on indebtedness incurred to carry the described
96 obligations or securities and by any expenses incurred in
97 the production of interest or dividend income described in
98 this subdivision. The reduction in the previous sentence
99 shall only apply to the extent that such expenses including
100 amortizable bond premiums are deducted in determining the
101 taxpayer's federal adjusted gross income or included in the
102 taxpayer's Missouri itemized deduction. The reduction shall
103 only be made if the expenses total at least five hundred
104 dollars;

105 (2) The portion of any gain, from the sale or other
106 disposition of property having a higher adjusted basis to
107 the taxpayer for Missouri income tax purposes than for
108 federal income tax purposes on December 31, 1972, that does
109 not exceed such difference in basis. If a gain is
110 considered a long-term capital gain for federal income tax
111 purposes, the modification shall be limited to one-half of
112 such portion of the gain;

113 (3) The amount necessary to prevent the taxation
114 pursuant to this chapter of any annuity or other amount of

115 income or gain which was properly included in income or gain
116 and was taxed pursuant to the laws of Missouri for a taxable
117 year prior to January 1, 1973, to the taxpayer, or to a
118 decedent by reason of whose death the taxpayer acquired the
119 right to receive the income or gain, or to a trust or estate
120 from which the taxpayer received the income or gain;

121 (4) Accumulation distributions received by a taxpayer
122 as a beneficiary of a trust to the extent that the same are
123 included in federal adjusted gross income;

124 (5) The amount of any state income tax refund for a
125 prior year which was included in the federal adjusted gross
126 income;

127 (6) The portion of capital gain specified in section
128 135.357 that would otherwise be included in federal adjusted
129 gross income;

130 (7) The amount that would have been deducted in the
131 computation of federal taxable income pursuant to 26 U.S.C.
132 Section 168 of the Internal Revenue Code as in effect on
133 January 1, 2002, to the extent that amount relates to
134 property purchased on or after July 1, 2002, but before July
135 1, 2003, and to the extent that amount exceeds the amount
136 actually deducted pursuant to 26 U.S.C. Section 168 of the
137 Internal Revenue Code as amended by the Job Creation and
138 Worker Assistance Act of 2002;

139 (8) For all tax years beginning on or after January 1,
140 2005, the amount of any income received for military service
141 while the taxpayer serves in a combat zone which is included
142 in federal adjusted gross income and not otherwise excluded
143 therefrom. As used in this section, "combat zone" means any
144 area which the President of the United States by Executive
145 Order designates as an area in which Armed Forces of the
146 United States are or have engaged in combat. Service is

147 performed in a combat zone only if performed on or after the
148 date designated by the President by Executive Order as the
149 date of the commencing of combat activities in such zone,
150 and on or before the date designated by the President by
151 Executive Order as the date of the termination of combatant
152 activities in such zone;

153 (9) For all tax years ending on or after July 1, 2002,
154 with respect to qualified property that is sold or otherwise
155 disposed of during a taxable year by a taxpayer and for
156 which an additional modification was made under subdivision
157 (3) of subsection 2 of this section, the amount by which
158 additional modification made under subdivision (3) of
159 subsection 2 of this section on qualified property has not
160 been recovered through the additional subtractions provided
161 in subdivision (7) of this subsection;

162 (10) For all tax years beginning on or after January
163 1, 2014, the amount of any income received as payment from
164 any program which provides compensation to agricultural
165 producers who have suffered a loss as the result of a
166 disaster or emergency, including the:

- 167 (a) Livestock Forage Disaster Program;
- 168 (b) Livestock Indemnity Program;
- 169 (c) Emergency Assistance for Livestock, Honeybees, and
170 Farm-Raised Fish;
- 171 (d) Emergency Conservation Program;
- 172 (e) Noninsured Crop Disaster Assistance Program;
- 173 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 174 (g) Annual Forage Pilot Program;
- 175 (h) Livestock Risk Protection Insurance Plan;
- 176 (i) Livestock Gross Margin Insurance Plan;

177 (11) For all tax years beginning on or after January
178 1, 2018, any interest expense paid or accrued in the current

179 taxable year, but not deducted as a result of the limitation
180 imposed under 26 U.S.C. Section 163(j), as amended. For the
181 purposes of this subdivision, an interest expense is
182 considered paid or accrued only in the first taxable year
183 the deduction would have been allowable under 26 U.S.C.
184 Section 163, as amended, if the limitation under 26 U.S.C.
185 Section 163(j), as amended, did not exist;

186 (12) One hundred percent of any retirement benefits
187 received by any taxpayer as a result of the taxpayer's
188 service in the Armed Forces of the United States, including
189 reserve components and the National Guard of this state, as
190 defined in 32 U.S.C. Sections 101(3) and 109, and any other
191 military force organized under the laws of this state; [and]

192 (13) For all tax years beginning on or after January
193 1, 2022, one hundred percent of any federal, state, or local
194 grant moneys received by the taxpayer if the grant money was
195 disbursed for the express purpose of providing or expanding
196 access to broadband internet to areas of the state deemed to
197 be lacking such access; **and**

198 **(14) For all tax years beginning on or after January**
199 **1, 2025, one hundred percent of all income reported as a**
200 **capital gain for federal income tax purposes.**

201 4. There shall be added to or subtracted from the
202 taxpayer's federal adjusted gross income the taxpayer's
203 share of the Missouri fiduciary adjustment provided in
204 section 143.351.

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

208 6. In addition to the modifications to a taxpayer's
209 federal adjusted gross income in this section, to calculate
210 Missouri adjusted gross income there shall be subtracted

211 from the taxpayer's federal adjusted gross income any gain
212 recognized pursuant to 26 U.S.C. Section 1033 of the
213 Internal Revenue Code of 1986, as amended, arising from
214 compulsory or involuntary conversion of property as a result
215 of condemnation or the imminence thereof.

216 7. (1) As used in this subsection, "qualified health
217 insurance premium" means the amount paid during the tax year
218 by such taxpayer for any insurance policy primarily
219 providing health care coverage for the taxpayer, the
220 taxpayer's spouse, or the taxpayer's dependents.

221 (2) In addition to the subtractions in subsection 3 of
222 this section, one hundred percent of the amount of qualified
223 health insurance premiums shall be subtracted from the
224 taxpayer's federal adjusted gross income to the extent the
225 amount paid for such premiums is included in federal taxable
226 income. The taxpayer shall provide the department of
227 revenue with proof of the amount of qualified health
228 insurance premiums paid.

229 8. (1) Beginning January 1, 2014, in addition to the
230 subtractions provided in this section, one hundred percent
231 of the cost incurred by a taxpayer for a home energy audit
232 conducted by an entity certified by the department of
233 natural resources under section 640.153 or the
234 implementation of any energy efficiency recommendations made
235 in such an audit shall be subtracted from the taxpayer's
236 federal adjusted gross income to the extent the amount paid
237 for any such activity is included in federal taxable
238 income. The taxpayer shall provide the department of
239 revenue with a summary of any recommendations made in a
240 qualified home energy audit, the name and certification
241 number of the qualified home energy auditor who conducted
242 the audit, and proof of the amount paid for any activities

243 under this subsection for which a deduction is claimed. The
244 taxpayer shall also provide a copy of the summary of any
245 recommendations made in a qualified home energy audit to the
246 department of natural resources.

247 (2) At no time shall a deduction claimed under this
248 subsection by an individual taxpayer or taxpayers filing
249 combined returns exceed one thousand dollars per year for
250 individual taxpayers or cumulatively exceed two thousand
251 dollars per year for taxpayers filing combined returns.

252 (3) Any deduction claimed under this subsection shall
253 be claimed for the tax year in which the qualified home
254 energy audit was conducted or in which the implementation of
255 the energy efficiency recommendations occurred. If
256 implementation of the energy efficiency recommendations
257 occurred during more than one year, the deduction may be
258 claimed in more than one year, subject to the limitations
259 provided under subdivision (2) of this subsection.

260 (4) A deduction shall not be claimed for any otherwise
261 eligible activity under this subsection if such activity
262 qualified for and received any rebate or other incentive
263 through a state-sponsored energy program or through an
264 electric corporation, gas corporation, electric cooperative,
265 or municipally owned utility.

266 9. The provisions of subsection 8 of this section
267 shall expire on December 31, 2020.

268 10. (1) As used in this subsection, the following
269 terms mean:

270 (a) "Beginning farmer", a taxpayer who:

271 a. Has filed at least one but not more than ten
272 Internal Revenue Service Schedule F (Form 1040) Profit or
273 Loss From Farming forms since turning eighteen years of age;

274 b. Is approved for a beginning farmer loan through the
275 USDA Farm Service Agency Beginning Farmer direct or
276 guaranteed loan program;

277 c. Has a farming operation that is determined by the
278 department of agriculture to be new production agriculture
279 but is the principal operator of a farm and has substantial
280 farming knowledge; or

281 d. Has been determined by the department of
282 agriculture to be a qualified family member;

283 (b) "Farm owner", an individual who owns farmland and
284 disposes of or relinquishes use of all or some portion of
285 such farmland as follows:

286 a. A sale to a beginning farmer;

287 b. A lease or rental agreement not exceeding ten years
288 with a beginning farmer; or

289 c. A crop-share arrangement not exceeding ten years
290 with a beginning farmer;

291 (c) "Qualified family member", an individual who is
292 related to a farm owner within the fourth degree by blood,
293 marriage, or adoption and who is purchasing or leasing or is
294 in a crop-share arrangement for land from all or a portion
295 of such farm owner's farming operation.

296 (2) (a) In addition to all other subtractions
297 authorized in this section, a taxpayer who is a farm owner
298 who sells all or a portion of such farmland to a beginning
299 farmer may subtract from such taxpayer's Missouri adjusted
300 gross income an amount to the extent included in federal
301 adjusted gross income as provided in this subdivision.

302 (b) Subject to the limitations in paragraph (c) of
303 this subdivision, the amount that may be subtracted shall be
304 equal to the portion of capital gains received from the sale

305 of such farmland that such taxpayer receives in the tax year
306 for which such taxpayer subtracts such capital gain.

307 (c) A taxpayer may subtract the following amounts and
308 percentages per tax year in total capital gains received
309 from the sale of such farmland under this subdivision:

310 a. For the first two million dollars received, one
311 hundred percent;

312 b. For the next one million dollars received, eighty
313 percent;

314 c. For the next one million dollars received, sixty
315 percent;

316 d. For the next one million dollars received, forty
317 percent; and

318 e. For the next one million dollars received, twenty
319 percent.

320 (d) The department of revenue shall prepare an annual
321 report reviewing the costs and benefits and containing
322 statistical information regarding the subtraction of capital
323 gains authorized under this subdivision for the previous tax
324 year including, but not limited to, the total amount of all
325 capital gains subtracted and the number of taxpayers
326 subtracting such capital gains. Such report shall be
327 submitted before February first of each year to the
328 committee on agriculture policy of the Missouri house of
329 representatives and the committee on agriculture, food
330 production and outdoor resources of the Missouri senate, or
331 the successor committees.

332 (3) (a) In addition to all other subtractions
333 authorized in this section, a taxpayer who is a farm owner
334 who enters a lease or rental agreement for all or a portion
335 of such farmland with a beginning farmer may subtract from
336 such taxpayer's Missouri adjusted gross income an amount to

337 the extent included in federal adjusted gross income as
338 provided in this subdivision.

339 (b) Subject to the limitation in paragraph (c) of this
340 subdivision, the amount that may be subtracted shall be
341 equal to the portion of cash rent income received from the
342 lease or rental of such farmland that such taxpayer receives
343 in the tax year for which such taxpayer subtracts such
344 income.

345 (c) No taxpayer shall subtract more than twenty-five
346 thousand dollars per tax year in total cash rent income
347 received from the lease or rental of such farmland under
348 this subdivision.

349 (4) (a) In addition to all other subtractions
350 authorized in this section, a taxpayer who is a farm owner
351 who enters a crop-share arrangement on all or a portion of
352 such farmland with a beginning farmer may subtract from such
353 taxpayer's Missouri adjusted gross income an amount to the
354 extent included in federal adjusted gross income as provided
355 in this subdivision.

356 (b) Subject to the limitation in paragraph (c) of this
357 subdivision, the amount that may be subtracted shall be
358 equal to the portion of income received from the crop-share
359 arrangement on such farmland that such taxpayer receives in
360 the tax year for which such taxpayer subtracts such income.

361 (c) No taxpayer shall subtract more than twenty-five
362 thousand dollars per tax year in total income received from
363 the lease or rental of such farmland under this subdivision.

364 (5) The department of agriculture shall, by rule,
365 establish a process to verify that a taxpayer is a beginning
366 farmer for purposes of this section and shall provide
367 verification to the beginning farmer and farm seller of such

368 farmer's and seller's certification and qualification for
369 the exemption provided in this subsection.

✓