

SECOND REGULAR SESSION

HOUSE BILL NO. 765

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROARK.

Pre-filed December 1, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2598L.011

AN ACT

To repeal section 143.081, RSMo, and to enact in lieu thereof one new section relating to credit for income tax paid in another state.

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

Section A. Section 143.081, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.081, to read as follows:

143.081. 1. **Except as provided by subsection 5 of this section**, a resident individual, resident estate, and resident trust shall be allowed a credit against the tax otherwise due pursuant to [sections 143.005 to 143.998] **this chapter** for the amount of any income tax imposed for the taxable year by another state of the United States (or a political subdivision thereof) or the District of Columbia on income derived from sources therein and which is also subject to tax pursuant to [sections 143.005 to 143.998] **this chapter**. Solely for purposes of this subsection, the phrase "income tax imposed" shall include any income tax credit allowed by such other state or the District of Columbia the basis for which is a charitable contribution which qualifies as a charitable deduction from income pursuant to the Internal Revenue Code of 1986, as amended if the other state or the District of Columbia authorizes a reciprocal benefit for residents of this state.

2. The credit provided pursuant to this section shall not exceed an amount which bears the same ratio to the tax otherwise due pursuant to [sections 143.005 to 143.998] **this chapter** as the amount of the taxpayer's Missouri adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's Missouri adjusted gross income derived from all sources. In applying the limitation of the previous sentence to an estate or trust, Missouri taxable

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

17 income shall be substituted for Missouri adjusted gross income. If the tax of more than one other
18 taxing jurisdiction is imposed on the same item of income, the credit shall not exceed the
19 limitation that would result if the taxes of all the other jurisdictions applicable to the item were
20 deemed to be of a single jurisdiction.

21 3. For the purposes of this section, in the case of an S corporation, each resident S
22 shareholder shall be considered to have paid a tax imposed on the shareholder in an amount
23 equal to the shareholder's pro rata share of any net income tax paid by the S corporation **and**
24 **partnerships** to a state which does not measure the income of shareholders on an S corporation
25 by reference to the income of the S corporation or where a composite return and composite
26 payments are made in such state on behalf of the S shareholders by the S corporation.

27 4. For purposes of subsection 3 of this section, in the case of an S corporation that is a
28 bank chartered by a state, the office of thrift supervision, or the comptroller of currency, each
29 Missouri resident S shareholder of such out-of-state bank shall qualify for the shareholder's pro
30 rata share of any net tax paid, including a bank franchise tax based on the income of the bank,
31 by such S corporation where bank payment of taxes are made in such state on behalf of the S
32 shareholders by the S bank to the extent of the tax paid.

33 **5. Any resident individual who was domiciled in another state for at least thirty**
34 **consecutive days during any taxable year and received taxable income from sources within**
35 **that state during the same taxable year may, in lieu of applying the credit authorized in this**
36 **section, exclude that amount of taxable income from the computation of Missouri adjusted**
37 **gross income as provided in section 143.121. The director of revenue may require proof**
38 **that income tax was paid to the other state unless the other state does not levy a state**
39 **income tax.**