

FIRST REGULAR SESSION

# HOUSE BILL NO. 221

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MOORE (Sponsor), MUNZLINGER, PAGE, DAY, FISHER, HARRIS (110), WALTON, CHINN, DUSENBERG, EMERY, DOUGHERTY, DIXON, PRATT, ERVIN, SUTHERLAND, SATER, BYRD, KRAUS, LEMBKE AND SANDER (Co-sponsors).

Read 1<sup>st</sup> time January 13, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0678L.011

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### AN ACT

To repeal section 143.124, RSMo, and to enact in lieu thereof one new section relating to income tax exemptions for military pensions, with an effective date.

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

Section A. Section 143.124, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.124, to read as follows:

143.124. 1. Other provisions of law to the contrary notwithstanding, the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, "annuity, pension, or retirement allowance" shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state, **except for any annuity, pension, or retirement allowance provided as a result of service in the armed forces of the United States**. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described

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

15 in the Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or  
16 retirement allowance provided by the United States, this state, any other state or any political  
17 subdivision or agency or institution of this or any other state. An individual taxpayer shall only  
18 be allowed a maximum deduction of six thousand dollars pursuant to this section. Taxpayers  
19 filing combined returns shall only be allowed a maximum deduction of six thousand dollars for  
20 each taxpayer on the combined return.

21 2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be  
22 subtracted from Missouri adjusted gross income for that period, determined pursuant to section  
23 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

24 (1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and  
25 the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars;  
26 or

27 (2) If the taxpayer's filing status is married filing combined and their combined Missouri  
28 adjusted gross income is less than sixteen thousand dollars; or

29 (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri  
30 adjusted gross income is less than eight thousand dollars.

31 3. For the tax years beginning on or after January 1, 1990, there shall be subtracted from  
32 Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first  
33 six thousand dollars of retirement benefits received by each taxpayer from sources other than  
34 privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be  
35 subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a  
36 maximum of the first one thousand dollars of any retirement allowance received from any  
37 privately funded source for tax years beginning on or after January 1, 1998, but before January  
38 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received  
39 from any privately funded source for tax years beginning on or after January 1, 1999, but before  
40 January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance  
41 received from any privately funded source for tax years beginning on or after January 1, 2000,  
42 but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement  
43 allowance received from any privately funded source for tax years beginning on or after January  
44 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any  
45 retirement allowance received from any privately funded sources for tax years beginning on or  
46 after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this  
47 subsection:

48 (1) If the taxpayer's filing status is single, head of household or qualifying widow(er)  
49 and the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

50 (2) If the taxpayer's filing status is married filing combined and their combined Missouri

51 adjusted gross income is less than thirty-two thousand dollars; or

52 (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri  
53 adjusted gross income is less than sixteen thousand dollars.

54 4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for  
55 such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this  
56 section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the  
57 maximum exemption provided in subsection 3 of this section reduced by one dollar for every  
58 dollar such taxpayer's income exceeds the ceiling for his or her filing status.

59 5. For purposes of this section, any Social Security benefits otherwise included in  
60 Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be  
61 subtracted for purposes of other computations pursuant to this chapter, and are not to be  
62 considered as retirement benefits for purposes of this section.

63 6. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply  
64 during all tax years in which the federal Internal Revenue Code provides exemption levels for  
65 calculation of the taxability of Social Security benefits that are the same as the levels in  
66 subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the  
67 calculation of the taxability of Social Security benefits are adjusted by applicable federal law or  
68 regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall  
69 be accordingly adjusted to the same exemption levels.

70 7. The portion of a taxpayer's lump sum distribution from an annuity or other retirement  
71 plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this  
72 chapter but subject to taxation under Internal Revenue Code Section 402 shall be taxed in an  
73 amount equal to ten percent of the taxpayer's federal liability on such distribution for the same  
74 tax year.

75 8. For purposes of this section, retirement benefits received shall not include any  
76 withdrawals from qualified retirement plans which are subsequently rolled over into another  
77 retirement plan.

78 9. The exemptions provided for in this section shall not affect the calculation of the  
79 income to be used to determine the property tax credit provided in sections 135.010 to 135.035,  
80 RSMo.

81 10. The exemptions provided for in this section shall apply to any annuity, pension, or  
82 retirement allowance as defined in subsection 1 of this section to the extent that such amounts  
83 are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the  
84 taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This  
85 subsection shall not apply to any individual who qualifies under federal guidelines to be one  
86 hundred percent disabled.

87           **11. Other provisions of law to the contrary notwithstanding, the total amount of**  
88 **all annuities, pensions, or retirement allowances provided as a result of service in the**  
89 **armed forces of the United States shall be exempt from taxation under this chapter.**

Section B. Section A of this act shall become effective January 1, 2006.