

SECOND REGULAR SESSION

# HOUSE BILL NO. 1563

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DAY (Sponsor), JACKSON, WASSON, DETHROW, FISHER, SANDER, SMITH (150), BIVINS, RICHARD, SATER, SCHAD, PEARCE, CUNNINGHAM (86), TILLEY, KRAUS, WILSON (119) AND SMITH (14) (Co-sponsors).

Read 1st time January 26, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3325L.04I

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### AN ACT

To repeal sections 143.121 and 143.124, RSMo, and to enact in lieu thereof two new sections relating to income tax exemptions for military pensions.

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

Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 143.121 and 143.124, to read as follows:

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

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

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

6 (b) Interest on certain governmental obligations excluded from federal gross income by  
7 Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on  
8 obligations of the state of Missouri or any of its political subdivisions or authorities and shall not  
9 apply to the interest described in subdivision (a) of subsection 3 of this section. The amount  
10 added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that  
11 would have been deductible in computing the taxable income of the taxpayer except only for the  
12 application of Section 265 of the Internal Revenue Code. The reduction shall only be made if  
13 it is at least five hundred dollars;

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.

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

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

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

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

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

46 (c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity  
47 or other amount of income or gain which was properly included in income or gain and was taxed  
48 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or

49 to a decedent by reason of whose death the taxpayer acquired the right to receive the income or  
50 gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

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

57 (g) The amount that would have been deducted in the computation of federal taxable  
58 income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002,  
59 to the extent that amount relates to property purchased on or after July 1, 2002, but before July  
60 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section  
61 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act  
62 of 2002; [and]

63 (h) For all tax years beginning on or after January 1, 2005, the amount of any income  
64 received for military service while the taxpayer serves in a combat zone which is included in  
65 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,  
66 "combat zone" means any area which the President of the United States by Executive Order  
67 designates as an area in which armed forces of the United States are or have engaged in combat.  
68 Service is performed in a combat zone only if performed on or after the date designated by the  
69 President by Executive Order as the date of the commencing of combat activities in such zone,  
70 and on or before the date designated by the President by Executive Order as the date of the  
71 termination of combatant activities in such zone; **and**

72 (i) **For all tax years beginning on or after January 1, 2007, the amount of any**  
73 **retirement benefits received from any source located outside Missouri by any military**  
74 **member or the military member's spouse who is stationed in this state with a primary**  
75 **residence in another state as indicated on the member's leave and earnings statement**  
76 **(LES) and that are included in federal adjusted gross income and not otherwise excluded**  
77 **therefrom. For purposes of this paragraph, "armed forces of the United States" does not**  
78 **include any reserve components or state military forces as defined in section 40.005, RSMo.**

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

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

143.124. 1. Other provisions of law to the contrary notwithstanding, the total amount  
2 of all annuities, pensions, or retirement allowances above the amount of six thousand dollars

3 annually provided by any law of this state, the United States, or any other state to any person,  
4 **other than retirement benefits specifically subtracted from federal adjusted gross income**  
5 **under subsection 3 of section 143.121 and** except as provided in subsection 4 of this section,  
6 shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same  
7 extent and under the same conditions as any other taxable income received by the person  
8 receiving it. For purposes of this section, annuity, pension, or retirement allowance shall be  
9 defined as an annuity, pension or retirement allowance provided by the United States, this state,  
10 any other state or any political subdivision or agency or institution of this or any other state. For  
11 all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension  
12 or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans,  
13 self-employed retirement plans, also known as Keogh plans, annuities from a defined pension  
14 plan and individual retirement arrangements, also known as IRAs, as described in the Internal  
15 Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement  
16 allowance provided by the United States, this state, any other state or any political subdivision  
17 or agency or institution of this or any other state. **For all tax years beginning on or after**  
18 **January 1, 2007, for purposes of this section, the terms annuity, pension, or retirement**  
19 **allowance shall not be defined to include retirement benefits specifically subtracted from**  
20 **federal adjusted gross income under paragraph (i) of subsection 3 of section 143.121.** An  
21 individual taxpayer shall only be allowed a maximum deduction of six thousand dollars pursuant  
22 to this section. Taxpayers filing combined returns shall only be allowed a maximum deduction  
23 of six thousand dollars for each taxpayer on the combined return.

24 2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be  
25 subtracted from Missouri adjusted gross income for that period, determined pursuant to section  
26 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

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

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

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

34 3. For the tax years beginning on or after January 1, 1990, there shall be subtracted from  
35 Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first  
36 six thousand dollars of retirement benefits received by each taxpayer from sources other than  
37 privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be  
38 subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a

39 maximum of the first one thousand dollars of any retirement allowance received from any  
40 privately funded source for tax years beginning on or after January 1, 1998, but before January  
41 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received  
42 from any privately funded source for tax years beginning on or after January 1, 1999, but before  
43 January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance  
44 received from any privately funded source for tax years beginning on or after January 1, 2000,  
45 but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement  
46 allowance received from any privately funded source for tax years beginning on or after January  
47 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any  
48 retirement allowance received from any privately funded sources for tax years beginning on or  
49 after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this  
50 subsection:

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

53 (2) If the taxpayer's filing status is married filing combined and their combined Missouri  
54 adjusted gross income is less than thirty-two thousand dollars; or

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

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

62 5. For purposes of this section, any Social Security benefits otherwise included in  
63 Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not, **except**  
64 **as otherwise provided in section 143.121**, be subtracted for purposes of other computations  
65 pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this  
66 section.

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

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

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

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

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

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