

FIRST REGULAR SESSION

# HOUSE BILL NO. 223

## 95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

0708L.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 144.020, RSMo, and to enact in lieu thereof three new sections relating to taxation of health and fitness memberships and equipment.

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

Section A. Section 144.020, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 143.132, 144.020, and 144.066, to read as follows:

**143.132. 1. As used in this section, the following terms mean:**

(1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;

(2) "Fitness equipment", any health, fitness, exercise, or similar equipment for the private participation in health-benefit activities in the purchaser's home;

(3) "Fitness fees", any membership dues or fees paid to health or fitness centers or similar locations solely for the participation in health-benefit activities;

(4) "Taxpayer", any individual subject to the income tax imposed in this chapter.

2. In addition to all deductions listed in this chapter, for all taxable years beginning on or after January 1, 2009, a taxpayer shall be allowed a deduction for amounts expended on fitness equipment and fitness fees. The deduction amount shall be equal to the purchase price of any fitness equipment and the full amount of any fitness fees, and shall only be deductible to the extent that such amounts are not deducted on the taxpayer's federal income tax return for that taxable year.

3. The department of revenue shall establish the procedure by which the deduction provided in this section may be claimed, and may promulgate rules to implement the

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.

18 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
19 536.010, RSMo, that is created under the authority delegated in this section shall become  
20 effective only if it complies with and is subject to all of the provisions of chapter 536,  
21 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
22 nonseverable and if any of the powers vested with the general assembly pursuant to  
23 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule  
24 are subsequently held unconstitutional, then the grant of rulemaking authority and any  
25 rule proposed or adopted after August 28, 2009, shall be invalid and void.

26 4. Under section 23.253, RSMo, of the Missouri Sunset Act:

27 (1) The provisions of the new program authorized under this section shall  
28 automatically sunset on December thirty-first six years after the effective date of this  
29 section unless reauthorized by an act of the general assembly; and

30 (2) If such program is reauthorized, the program authorized under this section  
31 shall automatically sunset on December thirty-first twelve years after the effective date of  
32 the reauthorization of this section; and

33 (3) This section shall terminate on September first of the calendar year immediately  
34 following the calendar year in which the program authorized under this section is sunset.

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of  
2 engaging in the business of selling tangible personal property or rendering taxable service at  
3 retail in this state. The rate of tax shall be as follows:

4 (1) Upon every retail sale in this state of tangible personal property, including but not  
5 limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard  
6 motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale  
7 involves the exchange of property, a tax equivalent to four percent of the consideration paid or  
8 charged, including the fair market value of the property exchanged at the time and place of the  
9 exchange, except as otherwise provided in section 144.025;

10 (2) A tax equivalent to four percent of the amount paid for admission and seating  
11 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,  
12 games and athletic events, **except that no tax shall be levied and imposed on the amount paid**  
13 **for dues or membership fees to any health club, athletic club, exercise club, fitness club,**  
14 **or other similar club or facility;**

15 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of  
16 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or  
17 industrial consumers;

18 (4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local  
19 and long distance telecommunications service to telecommunications subscribers and to others

20 through equipment of telecommunications subscribers for the transmission of messages and  
21 conversations and upon the sale, rental or leasing of all equipment or services pertaining or  
22 incidental thereto; except that, the payment made by telecommunications subscribers or others,  
23 pursuant to section 144.060, and any amounts paid for access to the Internet or interactive  
24 computer services shall not be considered as amounts paid for telecommunications services;

25 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of  
26 services for transmission of messages of telegraph companies;

27 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,  
28 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,  
29 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are  
30 regularly served to the public;

31 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets  
32 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such  
33 buses and trucks as are licensed by the division of motor carrier and railroad safety of the  
34 department of economic development of Missouri, engaged in the transportation of persons for  
35 hire;

36 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of  
37 tangible personal property, provided that if the lessor or renter of any tangible personal property  
38 had previously purchased the property under the conditions of "sale at retail" [as defined in  
39 subdivision (8) of section 144.010] or leased or rented the property and the tax was paid at the  
40 time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or  
41 collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property.  
42 The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles,  
43 boats, and outboard motors shall be taxed and the tax paid as provided in this section and section  
44 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale,  
45 charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such  
46 rental or lease be subject to any tax imposed to, for, or in such places of amusement,  
47 entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the  
48 provisions of the sales tax laws as provided under such laws for motor vehicles and trailers.  
49 Tangible personal property which is exempt from the sales or use tax under section 144.030 upon  
50 a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

51 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525  
52 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the  
53 words "This ticket is subject to a sales tax."

**144.066. In addition to all other exemptions granted under this chapter, there is**  
2 **hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600**

3 to 144.746, and from the computation of the tax levied, assessed, or payable under sections  
4 144.010 to 144.525 and 144.600 to 144.746, all sales and purchases of health, fitness,  
5 exercise, or similar equipment for private use in the purchaser's home. The exemption  
6 granted in this section shall not apply to local sales taxes as defined in section 32.085,  
7 RSMo.

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