

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 333
100TH GENERAL ASSEMBLY

1033H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 135.090, 143.121, and 148.064, RSMo, and to enact in lieu thereof three new sections relating to taxation.

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

Section A. Sections 135.090, 143.121, and 148.064, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.090, 143.121, and 148.064, to read as follows:

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

(1) "Homestead", the dwelling in Missouri owned by the surviving spouse and not exceeding five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. As used in this section, "homestead" shall not include any dwelling which is occupied by more than two families;

(2) "Public safety officer", any firefighter, police officer, capitol police officer, parole officer, probation officer, correctional employee, water patrol officer, park ranger, conservation officer, commercial motor enforcement officer, emergency medical technician, first responder, or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed in the line of duty, unless the death was the result of the officer's own misconduct or abuse of alcohol or drugs;

(3) "Surviving spouse", a spouse, who has not remarried, of a public safety officer.

2. For all tax years beginning on or after January 1, 2008, a surviving spouse shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to the total amount of the property taxes on the surviving spouse's homestead paid during the tax year for which the credit is

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.

17 claimed. A surviving spouse may claim the credit authorized under this section for each tax year
18 beginning the year of death of the public safety officer spouse until the tax year in which the
19 surviving spouse remarries. No credit shall be allowed for the tax year in which the surviving
20 spouse remarries. If the amount allowable as a credit exceeds the income tax reduced by other
21 credits, then the excess shall be considered an overpayment of the income tax.

22 3. The department of revenue shall promulgate rules to implement the provisions of this
23 section.

24 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
25 under the authority delegated in this section shall become effective only if it complies with and
26 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
27 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
28 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
29 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
30 proposed or adopted after August 28, 2007, shall be invalid and void.

31 5. Pursuant to section 23.253 of the Missouri sunset act:

32 (1) The program authorized under this section shall expire on December 31, [2019]
33 **2027**, unless reauthorized by the general assembly; and

34 (2) This section shall terminate on September first of the calendar year immediately
35 following the calendar year in which the program authorized under this section is sunset; and

36 (3) The provisions of this subsection shall not be construed to limit or in any way impair
37 the department's ability to redeem tax credits authorized on or before the date the program
38 authorized under this section expires or a taxpayer's ability to redeem such tax credits.

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

6 (2) 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 (1) of subsection 3 of this section. The amount
10 added ~~[pursuant to]~~ **under** this subdivision shall be reduced by the amounts applicable to such
11 interest that would have been deductible in computing the taxable income of the taxpayer except
12 only for the application of Section 265 of the Internal Revenue Code. The reduction shall only
13 be made if it is at least five hundred dollars;

14 (3) The amount of any deduction that is included in the computation of federal taxable
15 income ~~[pursuant to]~~ **under** Section 168 of the Internal Revenue Code as amended by the Job
16 Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to
17 property 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]~~ **under** Section 168
19 of the Internal Revenue Code ~~[of 1986]~~ as in effect on January 1, 2002;

20 (4) 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]~~,
22 as 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 taxable income but disallowed for Missouri income tax purposes ~~[pursuant~~
27 ~~to]~~ **under** this subdivision after June 18, 2002, may be carried forward and taken against any
28 income on the Missouri income tax return for a period of not more than twenty years from the
29 year of the initial loss; and

30 (5) For nonresident individuals in all ~~[taxable]~~ **tax** years ending on or after December
31 31, 2006, the amount of any property taxes paid to another state or a political subdivision of
32 another state for which a deduction was allowed on such nonresident's federal return in the
33 ~~[taxable]~~ **tax** year unless such state, political subdivision of a state, or the District of Columbia
34 allows a subtraction from income for property taxes paid to this state for purposes of calculating
35 income for the income tax for such state, political subdivision of a state, or the District of
36 Columbia.

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

39 (1) Interest **received on deposits held at a Federal Reserve Bank** or **interest or**
40 dividends on obligations of the United States and its territories and possessions or of any
41 authority, commission or instrumentality of the United States to the extent exempt from Missouri
42 income taxes ~~[pursuant to]~~ **under** the laws of the United States. The amount subtracted
43 ~~[pursuant to]~~ **under** this subdivision shall be reduced by any interest on indebtedness incurred
44 to carry the described obligations or securities and by any expenses incurred in the production
45 of interest or dividend income described in this subdivision. The reduction in the previous
46 sentence shall only apply to the extent that such expenses including amortizable bond premiums
47 are deducted in determining the taxpayer's federal adjusted gross income or included in the
48 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total
49 at least five hundred dollars;

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

55 (3) The amount necessary to prevent the taxation ~~[pursuant to]~~ **under** this chapter of any
56 annuity or other amount of income or gain which was properly included in income or gain and
57 was taxed ~~[pursuant to]~~ **under** the laws of Missouri for a ~~[taxable]~~ **tax** year prior to January 1,
58 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right
59 to receive the income or gain, or to a trust or estate from which the taxpayer received the income
60 or gain;

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

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

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

67 (7) The amount that would have been deducted in the computation of federal taxable
68 income ~~[pursuant to]~~ **under** Section 168 of the Internal Revenue Code as in effect on January
69 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but
70 before July 1, 2003, and to the extent that amount exceeds the amount actually deducted
71 ~~[pursuant to]~~ **under** Section 168 of the Internal Revenue Code as amended by the Job Creation
72 and Worker Assistance Act of 2002;

73 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
74 received for military service while the taxpayer serves in a combat zone which is included in
75 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
76 "combat zone" means any area which the President of the United States by Executive Order
77 designates as an area in which Armed Forces of the United States are or have engaged in combat.
78 Service is performed in a combat zone only if performed on or after the date designated by the
79 President by Executive Order as the date of the commencing of combat activities in such zone,
80 and on or before the date designated by the President by Executive Order as the date of the
81 termination of combatant activities in such zone;

82 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
83 that is sold or otherwise disposed of during a ~~[taxable]~~ **tax** year by a taxpayer and for which an
84 additional modification was made under subdivision (3) of subsection 2 of this section, the
85 amount by which additional modification made under subdivision (3) of subsection 2 of this

86 section on qualified property has not been recovered through the additional subtractions provided
87 in subdivision (7) of this subsection; and

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

- 91 (a) Livestock Forage Disaster Program;
- 92 (b) Livestock Indemnity Program;
- 93 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 94 (d) Emergency Conservation Program;
- 95 (e) Noninsured Crop Disaster Assistance Program;
- 96 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 97 (g) Annual Forage Pilot Program;
- 98 (h) Livestock Risk Protection Insurance Plan; and
- 99 (i) Livestock Gross Margin insurance plan.

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

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

104 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
105 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
106 federal adjusted gross income any gain recognized ~~[pursuant to]~~ **under** Section 1033 of the
107 Internal Revenue Code ~~[of 1986]~~, as amended, arising from compulsory or involuntary
108 conversion of property as a result of condemnation or the imminence thereof.

109 7. (1) As used in this subsection, "qualified health insurance premium" means the
110 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
111 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

112 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
113 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
114 federal adjusted gross income to the extent the amount paid for such premiums is included in
115 federal taxable income. The taxpayer shall provide the department of revenue with proof of the
116 amount of qualified health insurance premiums paid.

117 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section,
118 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
119 entity certified by the department of natural resources under section 640.153 or the
120 implementation of any energy efficiency recommendations made in such an audit shall be
121 subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for

122 any such activity is included in federal taxable income. The taxpayer shall provide the
123 department of revenue with a summary of any recommendations made in a qualified home
124 energy audit, the name and certification number of the qualified home energy auditor who
125 conducted the audit, and proof of the amount paid for any activities under this subsection for
126 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
127 recommendations made in a qualified home energy audit to the department of natural resources.

128 (2) At no time shall a deduction claimed under this subsection by an individual taxpayer
129 or taxpayers filing combined returns exceed one thousand dollars per year for individual
130 taxpayers or cumulatively exceed two thousand dollars per year for taxpayers filing combined
131 returns.

132 (3) Any deduction claimed under this subsection shall be claimed for the tax year in
133 which the qualified home energy audit was conducted or in which the implementation of the
134 energy efficiency recommendations occurred. If implementation of the energy efficiency
135 recommendations occurred during more than one year, the deduction may be claimed in more
136 than one year, subject to the limitations provided under subdivision (2) of this subsection.

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

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

148.064. 1. Notwithstanding any law to the contrary, this section shall determine the
2 ordering and limit reductions for certain taxes and tax credits which may be used as credits
3 against various taxes paid or payable by banking institutions. Except as adjusted in subsections
4 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

5 (1) The tax on banks determined under subdivision (2) of subsection 2 of section
6 148.030;

7 (2) The tax on banks determined under subdivision (1) of subsection 2 of section
8 148.030;

9 (3) The state income tax in section 143.071.

10 2. The tax credits permitted against taxes payable ~~[pursuant to]~~ **under** subdivision (2)
11 of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in
12 subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without
13 reduction for any tax credits identified in subsection 5 of this section which are used to reduce
14 such taxes. Where a banking institution subject to this section joins in the filing of a
15 consolidated state income tax return under chapter 143, the credit allowed under this section for
16 state income taxes payable under chapter 143 shall be determined based upon the consolidated

17 state income tax liability of the group and allocated to a banking institution, without reduction
18 for any tax credits identified in subsection 5 of this section which are used to reduce such
19 consolidated taxes as provided in chapter 143.

20 3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may
21 be reduced by the tax credits in subsection 5 of this section without regard to any adjustments
22 in subsection 2 of this section.

23 4. To the extent that certain tax credits which the taxpayer is entitled to claim are
24 transferable, such transferability may include transfers among such taxpayers who are members
25 of a single consolidated income tax return, and this subsection shall not impact other tax credit
26 transferability.

27 5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall
28 include tax credits available for economic development, low-income housing and neighborhood
29 assistance which the taxpayer is entitled to claim for the year, including by way of example and
30 not of limitation, tax credits ~~[pursuant to]~~ **under** the following sections: section 32.115, section
31 100.286, and sections 135.110, 135.225, 135.352 and 135.403.

32 6. For tax returns filed on or after January 1, 2001, including returns based on income
33 in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal
34 to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the
35 outstanding shares and surplus exceed one million dollars, determined in the same manner as in
36 section 147.010. This tax credit shall be taken as a dollar-for-dollar credit against the bank tax
37 provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was already
38 reduced to zero by other credits, then against the corporate income tax provided for in chapter
39 143. **For any tax year beginning on or after January 1, 2020, no credit shall be allowed**
40 **under this subsection.**

41 7. In the event the corporation franchise tax in chapter 147 is repealed by the general
42 assembly, there shall also be a reduction in the taxation of banks as follows: in lieu of the loss
43 of the corporation franchise tax credit reduction in subdivision (1) of subsection 2 of section
44 148.030, the bank shall receive a tax credit equal to one and one-half percent of net income as
45 determined in this chapter. This subsection shall take effect at the same time the corporation
46 franchise tax in chapter 147 is repealed.

47 8. An S corporation bank or bank holding company that otherwise qualifies to distribute
48 tax credits to its shareholders shall pass through any tax credits referred to in subsection 5 of this
49 section to its shareholders as otherwise provided for in subsection 10 of section 143.471 with no
50 reductions or limitations resulting from the transfer through such S corporation, and on the same
51 terms originally made available to the original taxpayer, subject to any original dollar or

52 percentage limitations on such credits, and when such S corporation is the original taxpayer,
53 treating such S corporation as having not elected Subchapter S status.

54 9. Notwithstanding any law to the contrary, in the event the corporation franchise tax in
55 chapter 147 is repealed by the general assembly, after such repeal all Missouri taxes of any nature
56 and type imposed directly or used as a tax credit against the bank's taxes shall be passed through
57 to the S corporation bank or bank holding company shareholder in the form otherwise permitted
58 by law, except for the following:

59 (1) Credits for taxes on real estate and tangible personal property owned by the bank and
60 held for lease or rental to others;

61 (2) Contributions paid pursuant to the unemployment compensation tax law of Missouri;
62 or

63 (3) State and local sales and use taxes collected by the bank on its sales of tangible
64 personal property and the services enumerated in chapter 144.

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