

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 528
101ST GENERAL ASSEMBLY

0463H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to a tax deduction.

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

Section A. Section 143.121, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.121 and 143.128, to read as follows:

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

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

(1) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit. The amount added pursuant to this subdivision shall not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability pursuant to Public Law 116-136, enacted by the 116th United States Congress, for the tax year beginning on or after January 1, 2020, and ending on or before December 31, 2020, and deducted from Missouri adjusted gross income pursuant to section 143.171;

(2) Interest on certain governmental obligations excluded from federal gross income by 26 U.S.C. Section 103 ~~[of the Internal Revenue Code]~~, as amended. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (1) of subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 ~~[of the Internal Revenue Code]~~, as amended. The reduction shall only be made if 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.

19 (3) The amount of any deduction that is included in the computation of federal taxable
20 income pursuant to 26 U.S.C. Section 168 ~~[of the Internal Revenue Code]~~, as amended by the
21 Job Creation and Worker Assistance Act of 2002, to the extent the amount deducted relates to
22 property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount
23 deducted exceeds the amount that would have been deductible pursuant to 26 U.S.C. Section 168
24 ~~[of the Internal Revenue Code of 1986]~~ as in effect on January 1, 2002;

25 (4) The amount of any deduction that is included in the computation of federal taxable
26 income for net operating loss allowed by 26 U.S.C. Section 172 ~~[of the Internal Revenue Code~~
27 ~~of 1986]~~, as amended, other than the deduction allowed by 26 U.S.C. Section 172(b)(1)(G) and
28 26 U.S.C. Section 172(i) ~~[of the Internal Revenue Code of 1986]~~, as amended, for a net operating
29 loss the taxpayer claims in the tax year in which the net operating loss occurred or carries
30 forward for a period of more than twenty years and carries backward for more than two years.
31 Any amount of net operating loss taken against federal taxable income but disallowed for
32 Missouri income tax purposes pursuant to this subdivision after June 18, 2002, may be carried
33 forward and taken against any income on the Missouri income tax return for a period of not more
34 than twenty years from the year of the initial loss; and

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

42 (6) For all tax years beginning on or after January 1, 2018, any interest expense paid or
43 accrued in a previous ~~[taxable]~~ **tax** year, but allowed as a deduction under 26 U.S.C. Section 163,
44 as amended, in the current ~~[taxable]~~ **tax** year by reason of the carryforward of disallowed
45 business interest provisions of 26 U.S.C. Section 163(j), as amended. For the purposes of this
46 subdivision, an interest expense is considered paid or accrued only in the first ~~[taxable]~~ **tax** year
47 the deduction would have been allowable under 26 U.S.C. Section 163, as amended, if the
48 limitation under 26 U.S.C. Section 163(j), as amended, did not exist.

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

51 (1) Interest received on deposits held at a federal reserve bank or interest or dividends
52 on obligations of the United States and its territories and possessions or of any authority,
53 commission or instrumentality of the United States to the extent exempt from Missouri income
54 taxes pursuant to the laws of the United States. The amount subtracted pursuant to this

55 subdivision shall be reduced by any interest on indebtedness incurred to carry the described
56 obligations or securities and by any expenses incurred in the production of interest or dividend
57 income described in this subdivision. The reduction in the previous sentence shall only apply
58 to the extent that such expenses including amortizable bond premiums are deducted in
59 determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri
60 itemized deduction. The reduction shall only be made if the expenses total at least five hundred
61 dollars;

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

67 (3) The amount necessary to prevent the taxation pursuant to this chapter of any annuity
68 or other amount of income or gain which was properly included in income or gain and was taxed
69 pursuant to the laws of Missouri for a ~~taxable~~ tax year prior to January 1, 1973, to the taxpayer,
70 or to a decedent by reason of whose death the taxpayer acquired the right to receive the income
71 or gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

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

78 (7) The amount that would have been deducted in the computation of federal taxable
79 income pursuant to 26 U.S.C. Section 168 ~~[of the Internal Revenue Code]~~ as in effect on January
80 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but
81 before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant
82 to 26 U.S.C. Section 168 ~~[of the Internal Revenue Code]~~ as amended by the Job Creation and
83 Worker Assistance Act of 2002;

84 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
85 received for military service while the taxpayer serves in a combat zone which is included in
86 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
87 "combat zone" means any area which the President of the United States by Executive Order
88 designates as an area in which Armed Forces of the United States are or have engaged in combat.
89 Service is performed in a combat zone only if performed on or after the date designated by the
90 President by Executive Order as the date of the commencing of combat activities in such zone,

91 and on or before the date designated by the President by Executive Order as the date of the
92 termination of combatant activities in such zone;

93 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
94 that is sold or otherwise disposed of during a ~~taxable~~ tax year by a taxpayer and for which an
95 additional modification was made under subdivision (3) of subsection 2 of this section, the
96 amount by which additional modification made under subdivision (3) of subsection 2 of this
97 section on qualified property has not been recovered through the additional subtractions provided
98 in subdivision (7) of this subsection;

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

- 102 (a) Livestock Forage Disaster Program;
- 103 (b) Livestock Indemnity Program;
- 104 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 105 (d) Emergency Conservation Program;
- 106 (e) Noninsured Crop Disaster Assistance Program;
- 107 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 108 (g) Annual Forage Pilot Program;
- 109 (h) Livestock Risk Protection Insurance Plan; and
- 110 (i) Livestock Gross Margin Insurance Plan; ~~and~~

111 (11) For all tax years beginning on or after January 1, 2018, any interest expense paid
112 or accrued in the current ~~taxable~~ tax year, but not deducted as a result of the limitation imposed
113 under 26 U.S.C. Section 163(j), as amended. For the purposes of this subdivision, an interest
114 expense is considered paid or accrued only in the first ~~taxable~~ tax year the deduction would
115 have been allowable under 26 U.S.C. Section 163, as amended, if the limitation under 26 U.S.C.
116 Section 163(j), as amended, did not exist; **and**

117 **(12) For all tax years beginning on or after January 1, 2022, one hundred percent**
118 **of all unreimbursed educator expenses incurred by an eligible educator during the tax**
119 **year, not to exceed one thousand dollars. As used in this subdivision, the following terms**
120 **mean:**

121 **(a) "Educator expenses", expenses incurred by an eligible educator that qualify for**
122 **a federal deduction under 26 U.S.C. Section 62, as amended;**

123 **(b) "Eligible educator", an eligible educator as defined under 26 U.S.C. Section 62,**
124 **as amended.**

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

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

129 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
130 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
131 federal adjusted gross income any gain recognized pursuant to 26 U.S.C. Section 1033 [~~of the~~
132 ~~Internal Revenue Code of 1986~~], as amended, arising from compulsory or involuntary conversion
133 of property as a result of condemnation or the imminence thereof.

134 7. (1) As used in this subsection, "qualified health insurance premium" means the
135 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
136 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

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

142 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section,
143 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
144 entity certified by the department of natural resources under section 640.153 or the
145 implementation of any energy efficiency recommendations made in such an audit shall be
146 subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for
147 any such activity is included in federal taxable income. The taxpayer shall provide the
148 department of revenue with a summary of any recommendations made in a qualified home
149 energy audit, the name and certification number of the qualified home energy auditor who
150 conducted the audit, and proof of the amount paid for any activities under this subsection for
151 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
152 recommendations made in a qualified home energy audit to the department of natural resources.

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

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

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

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

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

(1) "Dependent child", in relation to a taxpayer, any individual who:

(a) Is eligible to attend the system of free public schools in this state established under section 160.051;

(b) Qualifies as a dependent of the taxpayer under 26 U.S.C. Section 152 for federal income tax purposes; and

(c) Is the natural or adopted child of the taxpayer or is an individual for whom the taxpayer has been court-appointed as a legal guardian or custodian;

(2) "Education expenditure", any expenditure made in connection with the enrollment, attendance, or participation of the taxpayer's dependent child in a private school program or home school program. "Education expenditure" includes, but is not limited to, tuition, fees, computer software, textbooks, workbooks, curricula, school supplies other than personal computers, and other written materials used primarily for academic instruction or academic tutoring;

(3) "Home school", the same meaning given to such term under subsection 2 of section 167.031;

(4) "Private school", any school in this state giving instruction in prekindergarten, kindergarten, or in any grade not higher than the twelfth grade; provided that, such school does not qualify as a public school under section 160.011;

(5) "Qualifying amount", the amount spent by a taxpayer in a given tax year on education expenditures, up to one thousand dollars;

(6) "Taxpayer", any individual with an income tax liability under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, in a given tax year.

2. For all tax years beginning on or after January 1, 2022, in addition to all other deductions and modifications allowed by law, a taxpayer shall be allowed a deduction from the taxpayer's Missouri adjusted gross income in an amount equal to the taxpayer's qualifying amount.

3. The tax deduction allowed under this section may be claimed by a taxpayer on either an individual or a combined return, but for each dependent child for whom any taxpayer made education expenditures, a deduction under this section shall be allowed for no more than one return. If two taxpayers separately file individual returns and could

32 both otherwise claim the deduction authorized under this section for the same dependent
33 child, only one such taxpayer shall be allowed to claim the deduction.

34 4. The department of revenue shall promulgate all necessary rules and regulations
35 for the administration of this section including, but not limited to, rules relating to the
36 verification of a taxpayer's qualifying amount. Any rule or portion of a rule, as that term
37 is defined in section 536.010, that is created under the authority delegated in this section
38 shall become effective only if it complies with and is subject to all of the provisions of
39 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
40 nonseverable, and if any of the powers vested with the general assembly pursuant to
41 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
42 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
43 proposed or adopted after August 28, 2021, shall be invalid and void.

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