

House _____ Amendment NO. _____

Offered By

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 908,
Page 38, Section 137.115, Line 210, by inserting after all of said section and line the following:

"143.436. 1. This section shall be known and may be cited as the "SALT Parity Act".

2. For the purposes of this section, the following terms shall mean:

(1) "Affected business entity", any partnership or S corporation that elects to be subject to tax pursuant to subsection 10 of this section;

(2) "Direct member", a member that holds an interest directly in an affected business entity;

(3) "Indirect member", a member that itself holds an interest, through a direct or indirect member that is a partnership or an S corporation, in an affected business entity;

(4) "Member":

(a) A shareholder of an S corporation;

(b) A partner in a general partnership, a limited partnership, or a limited liability partnership; or

(c) A member of a limited liability company that is treated as a partnership or S corporation for federal income tax purposes;

(5) "Partnership", the same meaning as provided in 26 U.S.C. Section 7701(a)(2). The term "partnership" shall include a limited liability company that is treated as a partnership for federal income tax purposes;

(6) "S corporation", a corporation or limited liability company that is treated as an S corporation for federal income tax purposes;

(7) "Tax year", the tax year of a partnership or S corporation for federal income tax purposes.

3. (1) Notwithstanding any provision of law to the contrary, a tax is hereby imposed on each affected business entity that is a partnership and that is doing business in this state. Such affected business entity shall, at the time that the affected business entity's return is due, pay a tax in an amount equal to the sum of the separately and nonseparately computed items, as described in 26 U.S.C. Section 702(a), of the affected business entity, to the extent derived from or connected with sources within this state, as determined pursuant to section 143.455, decreased by the deduction allowed under 26 U.S.C. Section 199A computed as if such deduction was allowed to be taken by

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1 the affected business entity for federal tax purposes, and increased or decreased by any modification
2 made pursuant to section 143.471 that relates to an item of the affected business entity's income,
3 gain, loss, or deduction, to the extent derived from or connected with sources within this state, as
4 determined pursuant to section 143.455, with such sum multiplied by the highest rate of tax used to
5 determine a Missouri income tax liability for an individual pursuant to section 143.011. An affected
6 entity paying the tax pursuant to this subsection shall include with the payment of such taxes each
7 report provided to a member pursuant to subsection 7 of this section.

8 (2) If the amount calculated pursuant to subdivision (1) of this section results in a net loss,
9 such net loss may be carried forward to succeeding tax years for which the affected business entity
10 elects to be subject to tax pursuant to subsection 11 of this section until fully used.

11 4. (1) Notwithstanding any provision of law to the contrary, a tax is hereby imposed on
12 each affected business entity that is an S corporation and that is doing business in this state. Such
13 affected business entity shall, at the time that the affected business entity's return is due, pay a tax in
14 an amount equal to the sum of the separately and nonseparately computed items, as described in 26
15 U.S.C. Section 1366, of the affected business entity, to the extent derived from or connected with
16 sources within this state, as determined pursuant to section 143.455, decreased by the deduction
17 allowed under 26 U.S.C. Section 199A computed as if such deduction was allowed to be taken by
18 the affected business entity for federal tax purposes, and increased or decreased by any modification
19 made pursuant to section 143.471 that relates to an item of the affected business entity's income,
20 gain, loss, or deduction, to the extent derived from or connected with sources within this state, as
21 determined pursuant to section 143.455, with such sum multiplied by the highest rate of tax used to
22 determine a Missouri income tax liability for an individual pursuant to section 143.011. An affected
23 entity paying the tax pursuant to this subsection shall include with the payment of such taxes each
24 report provided to a member pursuant to subsection 7 of this section.

25 (2) If the amount calculated pursuant to subdivision (1) of this section results in a net loss,
26 such net loss may be carried forward to succeeding tax years for which the affected business entity
27 elects to be subject to tax pursuant to subsection 11 of this section until fully used.

28 5. If an affected business entity is a direct or indirect member of another affected business
29 entity, the member affected business entity shall, when calculating its net income or loss pursuant to
30 subsections 3 or 4 of this section, subtract its distributive share of income or add its distributive
31 share of loss from the affected business entity in which it is a direct or indirect member to the extent
32 that the income or loss was derived from or connected with sources within this state, as determined
33 pursuant to section 143.455.

34 6. A nonresident individual who is a member shall not be required to file an income tax
35 return pursuant to this chapter for a tax year if, for such tax year, the only source of income derived
36 from or connected with sources within the state for such member, or the member and the member's
37 spouse if a joint federal income tax return is or shall be filed, is from one or more affected business
38 entities and such affected business entity or entities file and pay the tax due under this section.

39 7. Each partnership and S corporation shall report to each of its members, for each tax year,

1 such member's direct pro rata share of the tax imposed pursuant to this section on such partnership
2 or S corporation if it is an affected business entity and its indirect pro rata share of the tax imposed
3 on any affected business entity in which such affected business entity is a direct or indirect member.

4 8. (1) Each member that is subject to the tax imposed pursuant to section 143.011 shall be
5 entitled to a credit against the tax imposed pursuant to section 143.011. Such credit shall be in an
6 amount equal to such member's direct and indirect pro rata share of the tax paid pursuant to this
7 section by any affected business entity of which such member is directly or indirectly a member.

8 (2) If the amount of the credit authorized by this subsection exceeds such member's tax
9 liability for the tax imposed pursuant to section 143.011, the excess amount shall not be refunded
10 but may be carried forward to each succeeding tax year until such credit is fully taken.

11 9. (1) Each member that is subject to the tax imposed pursuant to section 143.011 as a
12 resident or part-year resident of this state shall be entitled to a credit against the tax imposed
13 pursuant to section 143.011 for such member's direct and indirect pro rata share of taxes paid to
14 another state of the United States or to the District of Columbia, on income of any partnership or S
15 corporation of which such person is a member that is derived therefrom, provided the taxes paid to
16 another state of the United States or to the District of Columbia results from a tax that the director of
17 revenue determines is substantially similar to the tax imposed pursuant to this section. Any such
18 credit shall be calculated in a manner to be prescribed by the director of revenue, provided such
19 calculation is consistent with the provisions of this section, and further provided that the limitations
20 provided in subsection 2 of section 143.081 shall apply to the credit authorized by this subsection.

21 (2) If the amount of the credit authorized by this subsection exceeds such member's tax
22 liability for the tax imposed pursuant to section 143.011, the excess amount shall not be refunded
23 and shall not be carried forward.

24 10. (1) Each corporation that is subject to the tax imposed pursuant to section 143.071 and
25 that is a member shall be entitled to a credit against the tax imposed pursuant to section 143.071.
26 Such credit shall be in an amount equal to such corporation's direct and indirect pro rata share of the
27 tax paid pursuant to this section by any affected business entity of which such corporation is directly
28 or indirectly a member. Such credit shall be applied after all other credits.

29 (2) If the amount of the credit authorized by this subsection exceeds such corporation's tax
30 liability for the tax imposed pursuant to section 143.071, the excess amount shall not be refunded
31 but may be carried forward to each succeeding tax year until such credit is fully taken.

32 11. A partnership or an S corporation may elect to become an affected business entity that is
33 required to pay the tax pursuant to this section in any tax year. A separate election shall be made for
34 each taxable year. Such election shall be made on such form and in such manner as the director of
35 revenue may prescribe by rule. An election made pursuant to this subsection shall be signed by:

36 (1) Each member of the electing entity who is a member at the time the election is filed; or

37 (2) Any officer, manager, or member of the electing entity who is authorized to make the
38 election and who attests to having such authorization under penalty of perjury.

39 12. The provisions of sections 143.425 and 143.601 shall apply to any modifications made

1 to an affected business entity's federal return, and such affected business entity shall pay any
2 resulting underpayment of tax to the extent not already paid pursuant to section 143.425.

3 13. (1) With respect to an action required or permitted to be taken by an affected business
4 entity pursuant to this section, a proceeding under section 143.631 for reconsideration by the
5 director of revenue, an appeal to the administrative hearing commission, or a review by the judiciary
6 with respect to such action, the affected business entity shall designate an affected business entity
7 representative for the tax year, and such affected business entity representative shall have the sole
8 authority to act on behalf of the affected business entity, and the affected business entity's members
9 shall be bound by those actions.

10 (2) The department of revenue may establish reasonable qualifications and procedures for
11 designating a person to be the affected business entity representative.

12 (3) The affected business entity representative shall be considered an authorized
13 representative of the affected business entity and its members under section 32.057 for the purposes
14 of compliance with this section, or participating in a proceeding described in subdivision (1) of this
15 subsection.

16 14. The provisions of this section shall only apply to tax years ending on or after December
17 31, 2022.

18 15. The department of revenue may promulgate rules to implement the provisions of this
19 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
20 under the authority delegated in this section shall become effective only if it complies with and is
21 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
22 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
23 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
24 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
25 August 28, 2022, shall be invalid and void."; and

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27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.