

FIRST REGULAR SESSION

HOUSE BILL NO. 860

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SIMMONS.

1878H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof one new section relating to income tax deductions for certain types of employee compensation.

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

Section A. Section 143.121, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.121, to read as follows: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 or 116-260, 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. The amount added under this subdivision shall also not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability under any other federal law that provides direct economic impact payments to taxpayers to mitigate financial challenges related to the COVID-19 pandemic, and deducted from Missouri adjusted gross income under 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

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 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of
19 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced
20 by the amounts applicable to such interest that would have been deductible in computing the
21 taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 of the
22 Internal Revenue Code, as amended. The reduction shall only be made if it is at least five
23 hundred dollars;

24 (3) The amount of any deduction that is included in the computation of federal
25 taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended
26 by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted
27 relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the
28 extent the amount deducted exceeds the amount that would have been deductible pursuant to
29 26 U.S.C. Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

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

41 (5) For nonresident individuals in all ~~taxable~~ tax years ending on or after December
42 31, 2006, the amount of any property taxes paid to another state or a political subdivision of
43 another state for which a deduction was allowed on such nonresident's federal return in the
44 ~~taxable~~ tax year unless such state, political subdivision of a state, or the District of
45 Columbia allows a subtraction from income for property taxes paid to this state for purposes
46 of calculating income for the income tax for such state, political subdivision of a state, or the
47 District of Columbia;

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

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

57 (1) Interest received on deposits held at a federal reserve bank or interest or dividends
58 on obligations of the United States and its territories and possessions or of any authority,
59 commission or instrumentality of the United States to the extent exempt from Missouri
60 income taxes pursuant to the laws of the United States. The amount subtracted pursuant to
61 this subdivision shall be reduced by any interest on indebtedness incurred to carry the
62 described obligations or securities and by any expenses incurred in the production of interest
63 or dividend income described in this subdivision. The reduction in the previous sentence
64 shall only apply to the extent that such expenses including amortizable bond premiums are
65 deducted in determining the taxpayer's federal adjusted gross income or included in the
66 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses
67 total at least five hundred dollars;

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

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

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

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

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

85 (7) The amount that would have been deducted in the computation of federal taxable
86 income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as in effect on
87 January 1, 2002, to the extent that amount relates to property purchased on or after July 1,
88 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually
89 deducted pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended by the
90 Job Creation and Worker Assistance Act of 2002;

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

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

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

- 109 (a) Livestock Forage Disaster Program;
- 110 (b) Livestock Indemnity Program;
- 111 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 112 (d) Emergency Conservation Program;
- 113 (e) Noninsured Crop Disaster Assistance Program;
- 114 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 115 (g) Annual Forage Pilot Program;
- 116 (h) Livestock Risk Protection Insurance Plan;
- 117 (i) Livestock Gross Margin Insurance Plan;

118 (11) For all tax years beginning on or after January 1, 2018, any interest expense paid
119 or accrued in the current ~~taxable~~ tax year, but not deducted as a result of the limitation
120 imposed under 26 U.S.C. Section 163(j), as amended. For the purposes of this subdivision, an
121 interest expense is considered paid or accrued only in the first ~~taxable~~ tax year the deduction
122 would have been allowable under 26 U.S.C. Section 163, as amended, if the limitation under
123 26 U.S.C. Section 163(j), as amended, did not exist;

124 (12) One hundred percent of any retirement benefits received by any taxpayer as a
125 result of the taxpayer's service in the Armed Forces of the United States, including reserve
126 components and the National Guard of this state, as defined in 32 U.S.C. Sections 101(3) and
127 109, and any other military force organized under the laws of this state; ~~and~~

(13) For all tax years beginning on or after January 1, 2022, one hundred percent of any federal, state, or local grant moneys received by the taxpayer if the grant money was disbursed for the express purpose of providing or expanding access to broadband internet to areas of the state deemed to be lacking such access;

(14) For all tax years beginning on or after January 1, 2026, one hundred percent of the amount of any income received by a taxpayer as overtime compensation. There shall be no requirement for employer withholding under section 143.191 with respect to an employee's overtime compensation except as required by federal law; and

(15) For all tax years beginning on or after January 1, 2026, one hundred percent of tips received or paid to a tipped employee engaged in an occupation that customarily and regularly receives tips. There shall be no requirement for employer withholding under section 143.191 with respect to an employee's tips except as required by federal law. For the purposes of this subdivision, the term "tip" shall have the same meaning as such term is described under 29 CFR Section 531.52 and the term "tipped employee" shall have the same meaning as such term is defined under 29 U.S.C. Section 203(t) of the Fair Labor Standards Act, as amended.

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

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

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

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

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

8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this section, one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an entity certified by the department of natural resources under section 640.153

or the implementation of any energy efficiency recommendations made in such an audit shall be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for any such activity is included in federal taxable income. The taxpayer shall provide the department of revenue with a summary of any recommendations made in a qualified home energy audit, the name and certification number of the qualified home energy auditor who conducted the audit, and proof of the amount paid for any activities under this subsection for which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any recommendations made in a qualified home energy audit to the department of natural resources.

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

(3) Any deduction claimed under this subsection shall be claimed for the tax year in which the qualified home energy audit was conducted or in which the implementation of the energy efficiency recommendations occurred. If implementation of the energy efficiency recommendations occurred during more than one year, the deduction may be claimed in more 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.

10. (1) As used in this subsection, the following terms mean:

(a) "Beginning farmer", a taxpayer who:

a. Has filed at least one but not more than ten Internal Revenue Service Schedule F (Form 1040) Profit or Loss From Farming forms since turning eighteen years of age;

b. Is approved for a beginning farmer loan through the USDA Farm Service Agency Beginning Farmer direct or guaranteed loan program;

c. Has a farming operation that is determined by the department of agriculture to be new production agriculture but is the principal operator of a farm and has substantial farming knowledge; or

d. Has been determined by the department of agriculture to be a qualified family member;

(b) "Farm owner", an individual who owns farmland and disposes of or relinquishes use of all or some portion of such farmland as follows:

a. A sale to a beginning farmer;

202 b. A lease or rental agreement not exceeding ten years with a beginning farmer; or

203 c. A crop-share arrangement not exceeding ten years with a beginning farmer;

204 (c) "Qualified family member", an individual who is related to a farm owner within
205 the fourth degree by blood, marriage, or adoption and who is purchasing or leasing or is in a
206 crop-share arrangement for land from all or a portion of such farm owner's farming operation.

207 (2) (a) In addition to all other subtractions authorized in this section, a taxpayer who
208 is a farm owner who sells all or a portion of such farmland to a beginning farmer may subtract
209 from such taxpayer's Missouri adjusted gross income an amount to the extent included in
210 federal adjusted gross income as provided in this subdivision.

211 (b) Subject to the limitations in paragraph (c) of this subdivision, the amount that may
212 be subtracted shall be equal to the portion of capital gains received from the sale of such
213 farmland that such taxpayer receives in the tax year for which such taxpayer subtracts such
214 capital gain.

215 (c) A taxpayer may subtract the following amounts and percentages per tax year in
216 total capital gains received from the sale of such farmland under this subdivision:

217 a. For the first two million dollars received, one hundred percent;

218 b. For the next one million dollars received, eighty percent;

219 c. For the next one million dollars received, sixty percent;

220 d. For the next one million dollars received, forty percent; and

221 e. For the next one million dollars received, twenty percent.

222 (d) The department of revenue shall prepare an annual report reviewing the costs and
223 benefits and containing statistical information regarding the subtraction of capital gains
224 authorized under this subdivision for the previous tax year including, but not limited to, the
225 total amount of all capital gains subtracted and the number of taxpayers subtracting such
226 capital gains. Such report shall be submitted before February first of each year to the
227 committee on agriculture policy of the Missouri house of representatives and the committee
228 on agriculture, food production and outdoor resources of the Missouri senate, or the successor
229 committees.

230 (3) (a) In addition to all other subtractions authorized in this section, a taxpayer who
231 is a farm owner who enters a lease or rental agreement for all or a portion of such farmland
232 with a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
233 amount to the extent included in federal adjusted gross income as provided in this
234 subdivision.

235 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
236 be subtracted shall be equal to the portion of cash rent income received from the lease or
237 rental of such farmland that such taxpayer receives in the tax year for which such taxpayer
238 subtracts such income.

239 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
240 total cash rent income received from the lease or rental of such farmland under this
241 subdivision.

242 (4) (a) In addition to all other subtractions authorized in this section, a taxpayer who
243 is a farm owner who enters a crop-share arrangement on all or a portion of such farmland with
244 a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
245 amount to the extent included in federal adjusted gross income as provided in this
246 subdivision.

247 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
248 be subtracted shall be equal to the portion of income received from the crop-share
249 arrangement on such farmland that such taxpayer receives in the tax year for which such
250 taxpayer subtracts such income.

251 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
252 total income received from the lease or rental of such farmland under this subdivision.

253 (5) The department of agriculture shall, by rule, establish a process to verify that a
254 taxpayer is a beginning farmer for purposes of this section and shall provide verification to
255 the beginning farmer and farm seller of such farmer's and seller's certification and
256 qualification for the exemption provided in this subsection.

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