

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 11
92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, January 30, 2003, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 11, adopted March 10, 2003.

Taken up for Perfection March 10, 2003. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0345S.02P

AN ACT

To repeal section 143.181, RSMo, and to enact in lieu thereof two new sections relating to taxation, with an emergency clause and a termination date.

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

Section A. Section 143.181, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.181 and 144.049, to read as follows:

143.181. 1. The Missouri nonresident adjusted gross income shall be that part of the nonresident individual's federal adjusted gross income derived from sources within Missouri, as modified in the same manner as set forth in section 143.121 with respect to resident individual~~t~~ shall be the sum of:

(1) The net amount of items of income, gain, loss, and deduction entering into his **or her** federal adjusted gross income which are derived from or connected with sources in this state including

(a) **[His] The individual's** distributive share of partnership income and deductions determined under section 143.421, and

(b) **[His] The individual's** share of estate or trust income and deductions determined under section 143.391, and

(c) **[His] The individual's** pro rata share of S corporation income and deductions

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

determined under subsection 3 of section 143.471; and

(2) The portion of the modifications described in section 143.121 which relate to income derived from sources in this state, including any modifications attributable to him **or her** as a partner.

2. Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to:

(1) The ownership or disposition of any interest in real or tangible personal property in this state; [and]

(2) A business, trade, profession, or occupation carried on in this state;

(3) Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and

(4) Winnings from any other wager placed in this state or from any wagering transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

3. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from:

(1) Property employed in a business, trade, profession, or occupation carried on in this state;

(2) Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and

(3) Winnings from any other wager placed in this state or from any wagering transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

4. Deductions with respect to capital losses, net long-term capital gains, and net operation losses shall be based solely on income, gains, losses, and deductions derived from sources within this state in the same manner as the corresponding federal deductions under regulations to be prescribed by the director of revenue.

5. If a business, trade, profession, or occupation is carried on partly within and partly

without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment and allocation under regulations to be prescribed by the director of revenue.

6. Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident shall not constitute income derived from sources within this state.

144.049. 1. For purposes of this section, the following terms mean:

(1) "Clothing", any article of wearing apparel, including footwear, intended to be worn on or about the human body. The term shall include but not be limited to cloth and other material used to make school uniforms or other school clothing. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles; and

(2) "Personal computers", a laptop, desktop, or tower computer system which consists of a central processing unit, random access memory, a storage drive, a display monitor, and a keyboard and devices designed for use in conjunction with a personal computer, such as a disk drive, memory module, compact disk drive, daughterboard, digitalizer, microphone, modem, motherboard, mouse, multimedia speaker, printer, scanner, single-user hardware, single-user operating system, soundcard, or video card;

(3) "School supplies", any item normally used by students in a standard classroom for educational purposes, including but not limited to, textbooks, notebooks, paper, writing instruments, crayons, art supplies, rulers, book bags, back packs, handheld calculators, chalk, maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting equipment, portable or desktop computers, portable or desktop telephones, copiers or other office equipment, furniture, or fixtures.

2. There is hereby specifically exempted from the provisions of the state and local sales tax law as defined in section 32.085, RSMo, section 67.1545, RSMo, section 65.1712, RSMo, sections 70.500 to 70.510, RSMo, section 94.413, RSMo, sections 94.577 to 94.1010, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.745, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.410, RSMo, section 321.242, RSMo, section 321.246, RSMo, and sections 644.032 to 644.033, RSMo, and from the computation of the tax levied, assessed or payable pursuant to the state and local sales tax law as defined in section 32.085, RSMo, section 67.1545, RSMo, section 65.1712, RSMo, sections 70.500 to 70.510, RSMo, section 94.413, RSMo, sections 94.577 to 94.1010, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.745, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.410, RSMo, section 321.242,

RSMo, section 321.246, RSMo, and sections 644.032 to 644.033, RSMo, all retail sales of any article of clothing having a taxable value of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per purchase, and all retail sales of personal computers or computer peripheral devices not to exceed two thousand dollars, during a three-day period beginning at 12:01 a.m. on the second Friday in August and ending at midnight on the Sunday following.

3. Beginning on the effective date of this act, the governing body of any political subdivision may adopt an ordinance to prohibit the provisions of this section from exempting sales that occur within the political subdivision from being subject to the local sales taxes applicable to sales within the political subdivision. Upon adoption of such an ordinance, the governing body of the political subdivision shall provide written notice to the department of revenue of the substance of the ordinance. If the event such notification is not received by the department of revenue prior to the second Friday in July in any given year, the ordinance shall not go into effect prior to the year the notice is received.

4. There is hereby established a "Sales Tax Holiday Joint Legislative Committee" which shall be composed of eight members appointed as follows: four members of the senate, two from each of the major political parties, shall be appointed by the president pro tem of the senate; and four members of the house of representatives, two from each of the major political parties, shall be appointed by the speaker of the house. The committee members shall elect a chair from among their membership. The committee shall study and review the effects of the sales tax holiday defined in this section and shall issue a report to the general assembly on or before January 8, 2005, setting forth in detail the committee's findings and recommendations.

5. The provisions of this section shall expire July 1, 2005.

Section B. Because immediate action is necessary to prevent the imposition of sales tax on retail sales of clothing, school supplies and personal computers, the enactment of section 144.049 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 144.049 shall be in full force and effect July 1, 2003, or upon its passage and approval, whichever later occurs.