

FIRST REGULAR SESSION

SENATE BILL NO. 459

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1863S.011

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to small business health insurance expenses 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Section A. Section 143.121, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.237 and 143.121, to read as follows:

135.237. 1. This section shall be known and may be cited as the "Small Business Health Insurance Expenses Deduction".

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

- (1) "Department", the department of revenue;**
- (2) "Director", the director of the department of revenue;**
- (3) "Farmer", any person who derives at least two-thirds of such person's income from using or cultivating land for the production of agricultural crops, livestock, or livestock products, poultry, or poultry products, milk or dairy products, or fruit or other horticultural products. The term shall not include a person who processes farm products or distributes farming supplies by contracting to provide spraying, harvesting, or other farming services;**

(4) "Small business", a for-profit enterprise consisting of fewer than fifty full- or part-time employees;

(5) "Taxpayer", any small business or farmer that incurs expenses in providing health insurance for its employees.

3. If any taxpayer incurs expenses for providing its employees with health insurance, such taxpayer may subtract from its federal adjusted gross income in an amount equal to one hundred percent of such costs paid during the taxable year. In the case of a small corporation described in section 143.471, RSMo, or a partnership, in computing the Missouri taxable income of the taxpayer, a deduction apportioned in proportion to their share of ownership of the business

on the last day of the taxpayer's tax period for which such tax deductions are being claimed shall be allowed from their Missouri adjusted gross income in the amount of one hundred percent of qualified employee health insurance expenses. In the case of a sole proprietorship, the sole proprietor shall be allowed a tax deduction in an amount equal to one hundred percent of any qualified employee health insurance expenses.

4. The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

5. The provisions of this section shall apply to all tax years beginning on or after January 1, 2006.

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:

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

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. 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 (a) of subsection 3 of this section. The amount added pursuant to this paragraph 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 Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

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

(d) The amount of any deduction that is included in the computation of federal

taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal taxable income but disallowed for Missouri income tax purposes pursuant to this paragraph after June 18, 2002, may be carried forward and taken against any income on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

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

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

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

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

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

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

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

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

(h) For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection[.]; **and**

(i) The amount of any qualified employee health insurance expenses incurred by a small business as determined under section 135.237, RSMo.

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.

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