

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 674

AN ACT

To repeal sections 32.200, 143.011, 143.071, 143.183, 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, and to enact in lieu thereof ten new sections relating to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 32.200, 143.011, 143.071, 143.183,
2 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, are
3 repealed and ten new sections enacted in lieu thereof, to be
4 known as sections 32.200, 143.011, 143.071, 143.183, 143.431,
5 143.451, 143.455, 143.461, 143.471, and 620.1350, to read as
6 follows:

7 32.200. The "Multistate Tax Compact" is hereby enacted into
8 law and entered into with all jurisdictions legally joining
9 therein, in the form substantially as follows:

10 MULTISTATE TAX COMPACT

11 Article I

12 The purposes of this compact are to:

13 1. Facilitate proper determination of state and local tax
14 liability of multistate taxpayers, including the equitable
15 apportionment of tax bases and settlement of apportionment
16 disputes.

17 2. Promote uniformity or compatibility in significant
18 components of tax systems.

1 3. Facilitate taxpayer convenience and compliance in the
2 filing of tax returns and in other phases of tax administration.

3 4. Avoid duplicative taxation.

4 Article II

5 As used in this compact:

6 1. "State" means a state of the United States, the District
7 of Columbia, the Commonwealth of Puerto Rico, or any territory or
8 possession of the United States.

9 2. "Subdivision" means any governmental unit or special
10 district of a state.

11 3. "Taxpayer" means any corporation, partnership, firm,
12 association, governmental unit or agency or person acting as a
13 business entity in more than one state.

14 4. "Income tax" means a tax imposed on or measured by net
15 income including any tax imposed on or measured by an amount
16 arrived at by deducting expenses from gross income, one or more
17 forms of which expenses are not specifically and directly related
18 to particular transactions.

19 5. "Capital stock tax" means a tax measured in any way by
20 the capital of a corporation considered in its entirety.

21 6. "Gross receipts tax" means a tax, other than a sales
22 tax, which is imposed on or measured by the gross volume of
23 business, in terms of gross receipts or in other terms, and in
24 the determination of which no deduction is allowed which would
25 constitute the tax an income tax.

26 7. "Sales tax" means a tax imposed with respect to the
27 transfer for a consideration of ownership, possession or custody
28 of tangible personal property or the rendering of services

1 measured by the price of the tangible personal property
2 transferred or services rendered and which is required by state
3 or local law to be separately stated from the sales price by the
4 seller, or which is customarily separately stated from the sales
5 price, but does not include a tax imposed exclusively on the sale
6 of a specifically identified commodity or article or class of
7 commodities or articles.

8 8. "Use tax" means a nonrecurring tax, other than a sales
9 tax, which

10 (a) is imposed on or with respect to the exercise or
11 enjoyment of any right or power over tangible personal property
12 incident to the ownership, possession or custody of that property
13 or the leasing of that property from another including any
14 consumption, keeping, retention, or other use of tangible
15 personal property; and

16 (b) is complementary to a sales tax.

17 9. "Tax" means an income tax, capital stock tax, gross
18 receipts tax, sales tax, use tax, and any other tax which has a
19 multistate impact, except that the provisions of articles III, IV
20 and V of this compact shall apply only to the taxes specifically
21 designated therein and the provisions of article IX of this
22 compact shall apply only in respect to determinations pursuant to
23 article IV.

24 Article III

25 1. Any taxpayer subject to an income tax whose income is
26 subject to apportionment and allocation for tax purposes pursuant
27 to the laws of a party state or pursuant to the laws of
28 subdivisions in two or more party states may elect to apportion

1 and allocate his income in the manner provided by the laws of
2 such state or by the laws of such states and subdivisions without
3 reference to this compact, or may elect to apportion and allocate
4 in accordance with article IV; except that for tax years
5 beginning on or after January 1, 2019, any taxpayer subject to
6 the tax imposed by section 143.071 shall apportion and allocate
7 in accordance with the provisions of Chapter 143 and shall not
8 apportion or allocate in accordance with article IV. This
9 election for any tax year may be made in all party states or
10 subdivisions thereof or in any one or more of the party states or
11 subdivisions thereof without reference to the election made in
12 the others. For the purposes of this paragraph, taxes imposed by
13 subdivisions shall be considered separately from state taxes and
14 the apportionment and allocation also may be applied to the
15 entire tax base. In no instance wherein article IV is employed
16 for all subdivisions of a state may the sum of all apportionments
17 and allocations to subdivisions within a state be greater than
18 the apportionment and allocation that would be assignable to that
19 state if the apportionment or allocation were being made with
20 respect to a state income tax.

21 2. Each party state or any subdivision thereof which
22 imposes an income tax shall provide by law that any taxpayer
23 required to file a return, whose only activities within the
24 taxing jurisdiction consist of sales and do not include owning or
25 renting real estate or tangible personal property, and whose
26 dollar volume of gross sales made during the tax year within the
27 state or subdivision, as the case may be, is not in excess of
28 \$100,000 may elect to report and pay any tax due on the basis of

1 a percentage of such volume, and shall adopt rates which shall
2 produce a tax which reasonably approximates the tax otherwise
3 due. The multistate tax commission, not more than once in five
4 years, may adjust the \$100,000 figure in order to reflect such
5 changes as may occur in the real value of the dollar, and such
6 adjusted figure, upon adoption by the commission, shall replace
7 the \$100,000 figure specifically provided herein. Each party
8 state and subdivision thereof may make the same election
9 available to taxpayers additional to those specified in this
10 paragraph.

11 3. Nothing in this article relates to the reporting or
12 payment of any tax other than an income tax.

13 Article IV

14 1. As used in this article, unless the context otherwise
15 requires:

16 (1) "Business income" means income arising from
17 transactions and activity in the regular course of the taxpayer's
18 trade or business and includes income from tangible and
19 intangible property if the acquisition, management, and
20 disposition of the property constitute integral parts of the
21 taxpayer's regular trade or business operations.

22 (2) "Commercial domicile" means the principal place from
23 which the trade or business of the taxpayer is directed or
24 managed.

25 (3) "Compensation" means wages, salaries, commissions and
26 any other form of remuneration paid to employees for personal
27 services.

28 (4) "Financial organization" means any bank, trust company,

1 savings bank, industrial bank, land bank, safe deposit company,
2 private banker, savings and loan association, credit union,
3 cooperative bank, small loan company, sales finance company,
4 investment company, or any type of insurance company.

5 (5) "Nonbusiness income" means all income other than
6 business income.

7 (6) "Public utility" means any business entity

8 (a) which owns or operates any plant, equipment, property,
9 franchise, or license for the transmission of communications,
10 transportation of goods or persons, except by pipeline, or the
11 production, transmission, sale, delivery, or furnishing of
12 electricity, water or steam; and

13 (b) whose rates of charges for goods or services have been
14 established or approved by a federal, state or local government
15 or governmental agency.

16 (7) "Sales" means all gross receipts of the taxpayer not
17 allocated under paragraphs of this article.

18 (8) "State" means any state of the United States, the
19 District of Columbia, the Commonwealth of Puerto Rico, any
20 territory or possession of the United States, and any foreign
21 country or political subdivision thereof.

22 (9) "This state" means the state in which the relevant tax
23 return is filed or, in the case of application of this article,
24 to the apportionment and allocation of income for local tax
25 purposes, the subdivision or local taxing district in which the
26 relevant tax return is filed.

27 2. Any taxpayer having income from business activity which
28 is taxable both within and without this state, other than

1 activity as a financial organization or public utility or the
2 rendering of purely personal services by an individual, shall
3 allocate and apportion his net income as provided in this
4 article. If a taxpayer has income from business activity as a
5 public utility but derives the greater percentage of his income
6 from activities subject to this article, the taxpayer may elect
7 to allocate and apportion his entire net income as provided in
8 this article.

9 3. For purposes of allocation and apportionment of income
10 under this article, a taxpayer is taxable in another state if

11 (1) in that state he is subject to a net income tax, a
12 franchise tax measured by net income, a franchise tax for the
13 privilege of doing business, or a corporate stock tax; or

14 (2) that state has jurisdiction to subject the taxpayer to
15 a net income tax regardless of whether, in fact, the state does
16 or does not.

17 4. Rents and royalties from real or tangible personal
18 property, capital gains, interest, dividends or patent or
19 copyright royalties, to the extent that they constitute
20 nonbusiness income, shall be allocated as provided in paragraphs
21 5 through 8 of this article.

22 5. (1) Net rents and royalties from real property located
23 in this state are allocable to this state.

24 (2) Net rents and royalties from tangible personal property
25 are allocable to this state:

26 (a) if and to the extent that the property is utilized in
27 this state; or

28 (b) in their entirety if the taxpayer's commercial domicile

1 is in this state and the taxpayer is not organized under the laws
2 of or taxable in the state in which the property is utilized.

3 (3) The extent of utilization of tangible personal property
4 in a state is determined by multiplying the rents and royalties
5 by a fraction, the numerator of which is the number of days of
6 physical location of the property in the state during the rental
7 or royalty period in the taxable year and the denominator of
8 which is the number of days of physical location of the property
9 everywhere during all rental or royalty periods in the taxable
10 year. If the physical location of the property during the rental
11 or royalty period is unknown or unascertainable by the taxpayer,
12 tangible personal property is utilized in the state in which the
13 property was located at the time the rental or royalty payer
14 obtained possession.

15 6. (1) Capital gains and losses from sales of real
16 property located in this state are allocable to this state.

17 (2) Capital gains and losses from sales of tangible
18 personal property are allocable to this state if

19 (a) the property had a situs in this state at the time of
20 the sale; or

21 (b) the taxpayer's commercial domicile is in this state and
22 the taxpayer is not taxable in the state in which the property
23 had a situs.

24 (3) Capital gains and losses from sales of intangible
25 personal property are allocable to this state if the taxpayer's
26 commercial domicile is in this state.

27 7. Interest and dividends are allocable to this state if
28 the taxpayer's commercial domicile is in this state.

1 8. (1) Patent and copyright royalties are allocable to
2 this state:

3 (a) if and to the extent that the patent or copyright is
4 utilized by the payer in this state; or

5 (b) if and to the extent that the patent copyright is
6 utilized by the payer in a state in which the taxpayer is not
7 taxable and the taxpayer's commercial domicile is in this state.

8 (2) A patent is utilized in a state to the extent that it
9 is employed in production, fabrication, manufacturing, or other
10 processing in the state or to the extent that a patented product
11 is produced in the state. If the basis of receipts from patent
12 royalties does not permit allocation to states or if the
13 accounting procedures do not reflect states of utilization, the
14 patent is utilized in the state in which the taxpayer's
15 commercial domicile is located.

16 (3) A copyright is utilized in a state to the extent that
17 printing or other publication originates in the state. If the
18 basis of receipts from copyright royalties does not permit
19 allocation to states or if the accounting procedures do not
20 reflect states of utilization, the copyright is utilized in the
21 state in which the taxpayer's commercial domicile is located.

22 9. All business income shall be apportioned to this state
23 by multiplying the income by a fraction, the numerator of which
24 is the property factor plus the payroll factor plus the sales
25 factor, and the denominator of which is three.

26 10. The property factor is a fraction, the numerator of
27 which is the average value of the taxpayer's real and tangible
28 personal property owned or rented and used in this state during

1 the tax period and the denominator of which is the average value
2 of all the taxpayer's real and tangible personal property owned
3 or rented and used during the tax period.

4 11. Property owned by the taxpayer is valued at its
5 original cost. Property rented by the taxpayer is valued at
6 eight times the net annual rental rate. Net annual rental rate
7 is the annual rental rate paid by the taxpayer less any annual
8 rental rate received by the taxpayer from subrentals.

9 12. The average value of property shall be determined by
10 averaging the values at the beginning and ending of the tax
11 period but the tax administrator may require the averaging of
12 monthly values during the tax period if reasonably required to
13 reflect properly the average value of the taxpayer's property.

14 13. The payroll factor is a fraction, the numerator of
15 which is the total amount paid in this state during the tax
16 period by the taxpayer for compensation and the denominator of
17 which is the total compensation paid everywhere during the tax
18 period.

19 14. Compensation is paid in this state if:

20 (1) the individual's service is performed entirely within
21 the state;

22 (2) the individual's service is performed both within and
23 without the state, but the service performed without the state is
24 incidental to the individual's service within the state; or

25 (3) some of the service is performed in the state; and

26 (a) the base of operations or, if there is no base of
27 operations, the place from which the service is directed or
28 controlled is in the state; or

1 (b) the base of operations or the place from which the
2 service is directed or controlled is not in any state in which
3 some part of the service is performed, but the individual's
4 residence is in this state.

5 15. The sales factor is a fraction, the numerator of which
6 is the total sales of the taxpayer in this state during the tax
7 period, and the denominator of which is the total sales of the
8 taxpayer everywhere during the tax period.

9 16. Sales of tangible personal property are in this state
10 if:

11 (1) the property is delivered or shipped to a purchaser,
12 other than the United States government, within this state
13 regardless of the f.o.b. point or other conditions of the sale;
14 or

15 (2) the property is shipped from an office, store,
16 warehouse, factory, or other place of storage in this state; and

17 (a) the purchaser is the United States government; or

18 (b) the taxpayer is not taxable in the state of the
19 purchaser.

20 17. Sales, other than sales of tangible personal property,
21 are in this state if:

22 (1) the income-producing activity is performed in this
23 state; or

24 (2) the income-producing activity is performed both in and
25 outside this state and a greater proportion of the
26 income-producing activity is performed in this state than in any
27 other state, based on costs of performance.

28 18. If the allocation and apportionment provisions of this

1 article do not fairly represent the extent of the taxpayer's
2 business activity in this state, the taxpayer may petition for or
3 the tax administrator may require, in respect to all or any part
4 of the taxpayer's business activity, if reasonable:

5 (1) separate accounting;

6 (2) the exclusion of any one or more of the factors;

7 (3) the inclusion of one or more additional factors which
8 will fairly represent the taxpayer's business activity in this
9 state; or

10 (4) the employment of any other method to effectuate an
11 equitable allocation and apportionment of the taxpayer's income.

12 Article V

13 1. Each purchaser liable for a use tax on tangible personal
14 property shall be entitled to full credit for the combined amount
15 or amounts of legally imposed sales or use taxes paid by him with
16 respect to the same property to another state and any subdivision
17 thereof. The credit shall be applied first against the amount of
18 any use tax due the state, and any unused portion of the credit
19 shall then be applied against the amount of any use tax due a
20 subdivision.

21 2. Whenever a vendor receives and accepts in good faith
22 from a purchaser a resale or other exemption certificate or other
23 written evidence of exemption authorized by the appropriate state
24 or subdivision taxing authority, the vendor shall be relieved of
25 liability for a sales or use tax with respect to the transaction.

26 Article VI

27 1. (a) The multistate tax commission is hereby
28 established. It shall be composed of one "member" from each

1 party state who shall be the head of the state agency charged
2 with the administration of the types of taxes to which this
3 compact applies. If there is more than one such agency the state
4 shall provide by law for the selection of the commission member
5 from the heads of the relevant agencies. State law may provide
6 that a member of the commission be represented by an alternate
7 but only if there is on file with the commission written
8 notification of the designation and identity of the alternate.
9 The attorney general of each party state or his designee, or
10 other counsel if the laws of the party state specifically
11 provide, shall be entitled to attend the meetings of the
12 commission, but shall not vote. Such attorneys general,
13 designees, or other counsel shall receive all notices of meetings
14 required under paragraph 1 (e) of this article.

15 (b) Each party state shall provide by law for the selection
16 of representatives from its subdivisions affected by this compact
17 to consult with the commission member from that state.

18 (c) Each member shall be entitled to one vote. The
19 commission shall not act unless a majority of the members are
20 present, and no action shall be binding unless approved by a
21 majority of the total number of members.

22 (d) The commission shall adopt an official seal to be used
23 as it may provide.

24 (e) The commission shall hold an annual meeting and such
25 other regular meetings as its bylaws may provide and such special
26 meetings as its executive committee may determine. The
27 commission bylaws shall specify the dates of the annual and any
28 other regular meetings, and shall provide for the giving of

1 notice of annual, regular and special meetings. Notices of
2 special meetings shall include the reasons therefor and an agenda
3 of the items to be considered.

4 (f) The commission shall elect annually, from among its
5 members, a chairman, a vice chairman and a treasurer. The
6 commission shall appoint an executive director who shall serve at
7 its pleasure, and it shall fix his duties and compensation. The
8 executive director shall be secretary of the commission. The
9 commission shall make provision for the bonding of such of its
10 officers and employees as it may deem appropriate.

11 (g) Irrespective of the civil service, personnel or other
12 merit system laws of any party state, the executive director
13 shall appoint or discharge such personnel as may be necessary for
14 the performance of the functions of the commission and shall fix
15 their duties and compensation. The commission bylaws shall
16 provide for personnel policies and programs.

17 (h) The commission may borrow, accept or contract for the
18 services of personnel from any state, the United States, or any
19 other governmental entity.

20 (i) The commission may accept for any of its purposes and
21 functions any and all donations and grants of money, equipment,
22 supplies, materials and services, conditional or otherwise, from
23 any governmental entity, and may utilize and dispose of the same.

24 (j) The commission may establish one or more offices for
25 the transacting of its business.

26 (k) The commission shall adopt bylaws for the conduct of
27 its business. The commission shall publish its bylaws in
28 convenient form, and shall file a copy of the bylaws and any

1 amendments thereto with the appropriate agency or officer in each
2 of the party states.

3 (1) The commission annually shall make to the governor and
4 legislature of each party state a report covering its activities
5 for the preceding year. Any donation or grant accepted by the
6 commission or services borrowed shall be reported in the annual
7 report of the commission, and shall include the nature, amount
8 and conditions, if any, of the donation, gift, grant or services
9 borrowed and the identity of the donor or lender. The commission
10 may make additional reports as it may deem desirable.

11 2. (a) To assist in the conduct of its business when the
12 full commission is not meeting, the commission shall have an
13 executive committee of seven members, including the chairman,
14 vice chairman, treasurer and four other members elected annually
15 by the commission. The executive committee, subject to the
16 provisions of this compact and consistent with the policies of
17 the commission, shall function as provided in the bylaws of the
18 commission.

19 (b) The commission may establish advisory and technical
20 committees, membership on which may include private persons and
21 public officials, in furthering any of its activities. Such
22 committees may consider any matter of concern to the commission,
23 including problems of special interest to any party state and
24 problems dealing with particular types of taxes.

25 (c) The commission may establish such additional committees
26 as its bylaws may provide.

27 3. In addition to powers conferred elsewhere in this
28 compact, the commission shall have power to:

1 (a) Study state and local tax systems and particular types
2 of state and local taxes.

3 (b) Develop and recommend proposals for an increase in
4 uniformity or compatibility of state and local tax laws with a
5 view toward encouraging the simplification and improvement of
6 state and local tax law and administration.

7 (c) Compile and publish information as in its judgment
8 would assist the party states in implementation of the compact
9 and taxpayers in complying with state and local tax laws.

10 (d) Do all things necessary and incidental to the
11 administration of its functions pursuant to this compact.

12 4. (a) The commission shall submit to the governor or
13 designated officer or officers of each party state a budget of
14 its estimated expenditures for such period as may be required by
15 the laws of that state for presentation to the legislature
16 thereof.

17 (b) Each of the commission's budgets of estimated
18 expenditures shall contain specific recommendations of the
19 amounts to be appropriated by each of the party states. The
20 total amount of appropriations requested under any such budget
21 shall be apportioned among the party states as follows:
22 one-tenth in equal shares; and the remainder in proportion to the
23 amount of revenue collected by each party state and its
24 subdivisions from income taxes, capital stock taxes, gross
25 receipts taxes, sales and use taxes. In determining such
26 amounts, the commission shall employ such available public
27 sources of information as, in its judgment, present the most
28 equitable and accurate comparisons among the party states. Each

1 of the commission's budgets of estimated expenditures and
2 requests for appropriations shall indicate the sources used in
3 obtaining information employed in applying the formula contained
4 in this paragraph.

5 (c) The commission shall not pledge the credit of any party
6 state. The commission may meet any of its obligations in whole
7 or in part with funds available to it under paragraph 1 (i) of
8 this article; provided that the commission takes specific action
9 setting aside such funds prior to incurring any obligation to be
10 met in whole or in part in such manner. Except where the
11 commission makes use of funds available to it under paragraph 1
12 (i), the commission shall not incur any obligation prior to the
13 allotment of funds by the party states adequate to meet the same.

14 (d) The commission shall keep accurate accounts of all
15 receipts and disbursements. The receipts and disbursements of
16 the commission shall be subject to the audit and accounting
17 procedures established under its bylaws. All receipts and
18 disbursements of funds handled by the commission shall be audited
19 yearly by a certified or licensed public accountant and the
20 report of the audit shall be included in and become part of the
21 annual report of the commission.

22 (e) The accounts of the commission shall be open at any
23 reasonable time for inspection by duly constituted officers of
24 the party states and by any persons authorized by the commission.

25 (f) Nothing contained in this article shall be construed to
26 prevent commission compliance with laws relating to audit or
27 inspection of accounts by or on behalf of any government
28 contributing to the support of the commission.

1 Article VII

2 1. Whenever any two or more party states, or subdivisions
3 of party states, have uniform or similar provisions of law
4 relating to an income tax, capital stock tax, gross receipts tax,
5 sales or use tax, the commission may adopt uniform regulations
6 for any phase of the administration of such law, including
7 assertion of jurisdiction to tax, or prescribing uniform tax
8 forms. The commission may also act with respect to the
9 provisions of article IV of this compact.

10 2. Prior to the adoption of any regulation, the commission
11 shall:

12 (a) As provided in its bylaws, hold at least one public
13 hearing on due notice to all affected party states and
14 subdivisions thereof and to all taxpayers and other persons who
15 have made timely request of the commission for advance notice of
16 its regulation-making proceedings.

17 (b) Afford all affected party states and subdivisions and
18 interested persons an opportunity to submit relevant written data
19 and views, which shall be considered fully by the commission.

20 3. The commission shall submit any regulations adopted by
21 it to the appropriate officials of all party states and
22 subdivisions to which they might apply. Each such state and
23 subdivision shall consider any such regulation for adoption in
24 accordance with its own laws and procedures.

25 Article VIII

26 1. This article shall be in force only in those party
27 states that specifically provide therefor by statute.

28 2. Any party state or subdivision thereof desiring to make

1 or participate in an audit of any accounts, books, papers,
2 records or other documents may request the commission to perform
3 the audit on its behalf. In responding to the request, the
4 commission shall have access to and may examine, at any
5 reasonable time, such accounts, books, papers, records, and other
6 documents and any relevant property or stock of merchandise. The
7 commission may enter into agreements with party states or their
8 subdivisions for assistance in performance of the audit. The
9 commission shall make charges, to be paid by the state or local
10 government or governments for which it performs the service, for
11 any audits performed by it in order to reimburse itself for the
12 actual costs incurred in making the audit.

13 3. The commission may require the attendance of any person
14 within the state where it is conducting an audit or part thereof
15 at a time and place fixed by it within such state for the purpose
16 of giving testimony with respect to any account, book, paper,
17 document, other record, property or stock of merchandise being
18 examined in connection with the audit. If the person is not
19 within the jurisdiction, he may be required to attend for such
20 purpose at any time and place fixed by the commission within the
21 state of which he is a resident; provided that such state has
22 adopted this article.

23 4. The commission may apply to any court having power to
24 issue compulsory process for orders in aid of its powers and
25 responsibilities pursuant to this article and any and all such
26 courts shall have jurisdiction to issue such orders. Failure of
27 any person to obey any such order shall be punishable as contempt
28 of the issuing court. If the party or subject matter on account

1 of which the commission seeks an order is within the jurisdiction
2 of the court to which application is made, such application may
3 be to a court in the state or subdivision on behalf of which the
4 audit is being made or a court in the state in which the object
5 of the order being sought is situated. The provisions of this
6 paragraph apply only to courts in a state that has adopted this
7 article.

8 5. The commission may decline to perform any audit
9 requested if it finds that its available personnel or other
10 resources are insufficient for the purpose or that, in the terms
11 requested, the audit is impracticable of satisfactory
12 performance. If the commission, on the basis of its experience,
13 has reason to believe that an audit of a particular taxpayer,
14 either at a particular time or on a particular schedule, would be
15 of interest to a number of party states or their subdivisions, it
16 may offer to make the audit or audits, the offer to be contingent
17 on sufficient participation therein as determined by the
18 commission.

19 6. Information obtained by any audit pursuant to this
20 article shall be confidential and available only for tax purposes
21 to party states, their subdivisions or the United States.
22 Availability of information shall be in accordance with the laws
23 of the states or subdivisions on whose account the commission
24 performs the audit, and only through the appropriate agencies or
25 officers of such states or subdivisions. Nothing in this article
26 shall be construed to require any taxpayer to keep records for
27 any period not otherwise required by law.

28 7. Other arrangements made or authorized pursuant to law

1 for cooperative audit by or on behalf of the party states or any
2 of their subdivisions are not superseded or invalidated by this
3 article.

4 8. In no event shall the commission make any charge against
5 a taxpayer for an audit.

6 9. As used in this article, "tax" in addition to the
7 meaning ascribed to it in article II, means any tax or license
8 fee imposed in whole or in part for revenue purposes.

9 Article IX

10 1. Whenever the commission finds a need for settling
11 disputes concerning apportionments and allocations by
12 arbitration, it may adopt a regulation placing this article in
13 effect, notwithstanding the provisions of article VII.

14 2. The commission shall select and maintain an arbitration
15 panel composed of officers and employees of state and local
16 governments and private persons who shall be knowledgeable and
17 experienced in matters of tax law and administration.

18 3. Whenever a taxpayer who has elected to employ article
19 IV, or whenever the laws of the party state or subdivision
20 thereof are substantially identical with the relevant provisions
21 of article IV, the taxpayer, by written notice to the commission
22 and to each party state or subdivision thereof that would be
23 affected, may secure arbitration of an apportionment or
24 allocation, if he is dissatisfied with the final administrative
25 determination of the tax agency of the state or subdivision with
26 respect thereto on the ground that it would subject him to double
27 or multiple taxation by two or more party states or subdivisions
28 thereof. Each party state and subdivision thereof hereby

1 consents to the arbitration as provided herein, and agrees to be
2 bound thereby.

3 4. The arbitration board shall be composed of one person
4 selected by the taxpayer, one by the agency or agencies involved,
5 and one member of the commission's arbitration panel. If the
6 agencies involved are unable to agree on the person to be
7 selected by them, such person shall be selected by lot from the
8 total membership of the arbitration panel. The two persons
9 selected for the board in the manner provided by the foregoing
10 provisions of this paragraph shall jointly select the third
11 member of the board. If they are unable to agree on the
12 selection, the third member shall be selected by lot from among
13 the total membership of the arbitration panel. No member of a
14 board selected by lot shall be qualified to serve if he is an
15 officer or employee or is otherwise affiliated with any party to
16 the arbitration proceeding. Residence within the jurisdiction of
17 a party to the arbitration proceeding shall not constitute
18 affiliation within the meaning of this paragraph.

19 5. The board may sit in any state or subdivision party to
20 the proceeding, in the state of the taxpayer's incorporation,
21 residence or domicile, in any state where the taxpayer does
22 business, or in any place that it finds most appropriate for
23 gaining access to evidence relevant to the matter before it.

24 6. The board shall give due notice of the times and places
25 of its hearings. The parties shall be entitled to be heard, to
26 present evidence, and to examine and cross-examine witnesses.
27 The board shall act by majority vote.

28 7. The board shall have power to administer oaths, take

1 testimony, subpoena and require the attendance of witnesses and
2 the production of accounts, books, papers, records, and other
3 documents, and issue commissions to take testimony. Subpoenas
4 may be signed by any member of the board. In case of failure to
5 obey a subpoena, and upon application by the board, any judge of
6 a court of competent jurisdiction of the state in which the board
7 is sitting or in which the person to whom the subpoena is
8 directed may be found may make an order requiring compliance with
9 the subpoena, and the court may punish failure to obey the order
10 as a contempt. The provisions of this paragraph apply only in
11 states that have adopted this article.

12 8. Unless the parties otherwise agree the expenses and
13 other costs of the arbitration shall be assessed and allocated
14 among the parties by the board in such manner as it may
15 determine. The commission shall fix a schedule of compensation
16 for members of arbitration boards and of other allowable expenses
17 and costs. No officer or employee of a state or local government
18 who serves as a member of a board shall be entitled to
19 compensation therefor unless he is required on account of his
20 service to forego the regular compensation attaching to his
21 public employment, but any such board member shall be entitled to
22 expenses.

23 9. The board shall determine the disputed apportionment or
24 allocation and any matters necessary thereto. The determinations
25 of the board shall be final for purposes of making the
26 apportionment or allocation, but for no other purpose.

27 10. The board shall file with the commission and with each
28 tax agency represented in the proceeding: the determination of

1 the board; the board's written statement of its reasons therefor;
2 the record of the board's proceedings; and any other documents
3 required by the arbitration rules of the commission to be filed.

4 11. The commission shall publish the determinations of
5 boards together with the statements of the reasons therefor.

6 12. The commission shall adopt and publish rules of
7 procedure and practice and shall file a copy of such rules and of
8 any amendment thereto with the appropriate agency or officer in
9 each of the party states.

10 13. Nothing contained herein shall prevent at any time a
11 written compromise of any matter or matters in dispute, if
12 otherwise lawful, by the parties to the arbitration proceeding.

13 Article X

14 1. This compact shall enter into force when enacted into
15 law by any seven states. Thereafter, this compact shall become
16 effective as to any other state upon its enactment thereof. The
17 commission shall arrange for notification of all party states
18 whenever there is a new enactment of the compact.

19 2. Any party state may withdraw from this compact by
20 enacting a statute repealing the same. No withdrawal shall
21 affect any liability already incurred by or chargeable to a party
22 state prior to the time of such withdrawal.

23 3. No proceeding commenced before an arbitration board
24 prior to the withdrawal of a state and to which the withdrawing
25 state or any subdivision thereof is a party shall be discontinued
26 or terminated by the withdrawal, nor shall the board thereby lose
27 jurisdiction over any of the parties to the proceeding necessary
28 to make a binding determination therein.

1 Article XI

2 Nothing in this compact shall be construed to:

3 (a) Affect the power of any state or subdivision thereof to
4 fix rates of taxation, except that a party state shall be
5 obligated to implement article III 2 of this compact.

6 (b) Apply to any tax or fixed fee imposed for the
7 registration of a motor vehicle or any tax on motor fuel, other
8 than a sales tax; provided that the definition of "tax" in
9 article VIII 9 may apply for the purposes of that article and the
10 commission's powers of study and recommendation pursuant to
11 article VI 3 may apply.

12 (c) Withdraw or limit the jurisdiction of any state or
13 local court or administrative officer or body with respect to any
14 person, corporation or other entity or subject matter, except to
15 the extent that such jurisdiction is expressly conferred by or
16 pursuant to this compact upon another agency or body.

17 (d) Supersede or limit the jurisdiction of any court of the
18 United States.

19 Article XII

20 This compact shall be liberally construed so as to
21 effectuate the purposes thereof. The provisions of this compact
22 shall be severable and if any phrase, clause, sentence or
23 provision of this compact is declared to be contrary to the
24 constitution of any state or of the United States or the
25 applicability thereof to any government, agency, person or
26 circumstance is held invalid, the validity of the remainder of
27 this compact and the applicability thereof to any government,
28 agency, person or circumstance shall not be affected thereby. If

1 this compact shall be held contrary to the constitution of any
2 state participating therein, the compact shall remain in full
3 force and effect as to the remaining party states and in full
4 force and effect as to the state affected as to all severable
5 matters.

6 143.011. 1. A tax is hereby imposed for every taxable year
7 on the Missouri taxable income of every resident. The tax shall
8 be determined by applying the tax table or the rate provided in
9 section 143.021, which is based upon the following rates:

10 If the Missouri taxable income is:	The tax is:
11 Not over \$1,000.00	1 ½% of the Missouri taxable 12 income
13 Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over 14 \$1,000
15 Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over 16 \$2,000
17 Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over 18 \$3,000
19 Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over 20 \$4,000
21 Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over 22 \$5,000
23 Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess 24 over \$6,000
25 Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over 26 \$7,000
27 Over \$8,000 but not over \$9,000	\$260 plus 5 ½% of excess over 28 \$8,000

1 Over \$9,000 \$315 plus 6% of excess over
2 \$9,000

3 2. (1) Beginning with the 2017 calendar year, the top rate
4 of tax under subsection 1 of this section may be reduced over a
5 period of years. Each reduction in the top rate of tax shall be
6 by one-tenth of a percent and no more than one reduction shall
7 occur in a calendar year. The top rate of tax shall not be
8 reduced below five and one-half percent. Reductions in the rate
9 of tax shall take effect on January first of a calendar year and
10 such reduced rates shall continue in effect until the next
11 reduction occurs.

12 (2) A reduction in the rate of tax shall only occur if the
13 amount of net general revenue collected in the previous fiscal
14 year exceeds the highest amount of net general revenue collected
15 in any of the three fiscal years prior to such fiscal year by at
16 least one hundred fifty million dollars.

17 (3) Any modification of tax rates under this subsection
18 shall only apply to tax years that begin on or after a
19 modification takes effect.

20 (4) The director of the department of revenue shall, by
21 rule, adjust the tax tables under subsection 1 of this section to
22 effectuate the provisions of this subsection. The bracket for
23 income subject to the top rate of tax shall be eliminated once
24 the top rate of tax has been reduced to five and one-half [of a]
25 percent, and the top remaining rate of tax shall apply to all
26 income in excess of the income in the second highest remaining
27 income bracket.

28 3. (1) In addition to the rate reductions under subsection

1 2 of this section, beginning with the 2019 calendar year, the top
2 rate of tax under subsection 1 of this section may be reduced by
3 two-tenths of one percent. Such reduction in the rate of tax
4 shall take effect on January first of a calendar year.

5 (2) The reduction in the top rate of tax under this
6 subsection shall only occur if the Supreme Court of the United
7 States renders a decision, a law is passed by the federal
8 government, or the constitution of the United States is amended
9 which enables the state of Missouri to require out-of-state
10 sellers with no physical presence in the state to collect and
11 remit state and local sales taxes and the director of the
12 department of revenue notifies the general assembly that the
13 department is prepared to enforce such collection of taxes,
14 provided that the tax reduction under this subsection shall
15 become effective if such notification has not been made within
16 nine months of the issuance of a Supreme Court decision or the
17 passage of a federal law or constitutional amendment under this
18 subdivision.

19 (3) The modification of tax rates under this subsection
20 shall only apply to tax years that begin on or after the date the
21 modification takes effect.

22 (4) The director of the department of revenue shall, by
23 rule, adjust the tax tables under subsection 1 of this section to
24 effectuate the provisions of this subsection.

25 4. Beginning with the 2017 calendar year, the brackets of
26 Missouri taxable income identified in subsection 1 of this
27 section shall be adjusted annually by the percent increase in
28 inflation. The director shall publish such brackets annually

1 beginning on or after October 1, 2016. Modifications to the
2 brackets shall take effect on January first of each calendar year
3 and shall apply to tax years beginning on or after the effective
4 date of the new brackets.

5 [4.] 5. As used in this section, the following terms mean:

6 (1) "CPI", the Consumer Price Index for All Urban Consumers
7 for the United States as reported by the Bureau of Labor
8 Statistics, or its successor index;

9 (2) "CPI for the preceding calendar year", the average of
10 the CPI as of the close of the twelve month period ending on
11 August thirty-first of such calendar year;

12 (3) "Net general revenue collected", all revenue deposited
13 into the general revenue fund, less refunds and revenues
14 originally deposited into the general revenue fund but designated
15 by law for a specific distribution or transfer to another state
16 fund;

17 (4) "Percent increase in inflation", the percentage, if
18 any, by which the CPI for the preceding calendar year exceeds the
19 CPI for the year beginning September 1, 2014, and ending August
20 31, 2015.

21 143.071. 1. For all tax years beginning before September
22 1, 1993, a tax is hereby imposed upon the Missouri taxable income
23 of corporations in an amount equal to five percent of Missouri
24 taxable income.

25 2. For all tax years beginning on or after September 1,
26 1993, and ending on or before December 31, 2018, a tax is hereby
27 imposed upon the Missouri taxable income of corporations in an
28 amount equal to six and one-fourth percent of Missouri taxable

1 income.

2 3. For all tax years beginning on or after January 1, 2019,
3 a tax is hereby imposed upon the Missouri taxable income of
4 corporations in an amount equal to three and seven-tenths percent
5 of Missouri taxable income.

6 4. The provisions of this section shall not apply to
7 out-of-state businesses operating under sections 190.270 to
8 190.285.

9 143.183. 1. As used in this section, the following terms
10 mean:

11 (1) "Nonresident entertainer", a person residing or
12 registered as a corporation outside this state who, for
13 compensation, performs any vocal, instrumental, musical, comedy,
14 dramatic, dance or other performance in this state before a live
15 audience and any other person traveling with and performing
16 services on behalf of a nonresident entertainer, including a
17 nonresident entertainer who is paid compensation for providing
18 entertainment as an independent contractor, a partnership that is
19 paid compensation for entertainment provided by nonresident
20 entertainers, a corporation that is paid compensation for
21 entertainment provided by nonresident entertainers, or any other
22 entity that is paid compensation for entertainment provided by
23 nonresident entertainers;

24 (2) "Nonresident member of a professional athletic team", a
25 professional athletic team member who resides outside this state,
26 including any active player, any player on the disabled list if
27 such player is in uniform on the day of the game at the site of
28 the game, and any other person traveling with and performing

1 services on behalf of a professional athletic team;

2 (3) "Personal service income" includes exhibition and
3 regular season salaries and wages, guaranteed payments, strike
4 benefits, deferred payments, severance pay, bonuses, and any
5 other type of compensation paid to the nonresident entertainer or
6 nonresident member of a professional athletic team, but does not
7 include prizes, bonuses or incentive money received from
8 competition in a livestock, equine or rodeo performance,
9 exhibition or show;

10 (4) "Professional athletic team" includes, but is not
11 limited to, any professional baseball, basketball, football,
12 soccer and hockey team.

13 2. Any person, venue, or entity who pays compensation to a
14 nonresident entertainer shall deduct and withhold from such
15 compensation as a prepayment of tax an amount equal to two
16 percent of the total compensation if the amount of compensation
17 is in excess of three hundred dollars paid to the nonresident
18 entertainer. For purposes of this section, the term "person,
19 venue, or entity who pays compensation" shall not be construed to
20 include any person, venue, or entity that is exempt from taxation
21 under 26 U.S.C. Section 501(c)(3), as amended, and that pays an
22 amount to the nonresident entertainer for the entertainer's
23 appearance but receives no benefit from the entertainer's
24 appearance other than the entertainer's performance.

25 3. Any person, venue, or entity required to deduct and
26 withhold tax pursuant to subsection 2 of this section shall, for
27 each calendar quarter, on or before the last day of the month
28 following the close of such calendar quarter, remit the taxes

1 withheld in such form or return as prescribed by the director of
2 revenue and pay over to the director of revenue or to a
3 depository designated by the director of revenue the taxes so
4 required to be deducted and withheld.

5 4. Any person, venue, or entity subject to this section
6 shall be considered an employer for purposes of section 143.191,
7 and shall be subject to all penalties, interest, and additions to
8 tax provided in this chapter for failure to comply with this
9 section.

10 5. Notwithstanding other provisions of this chapter to the
11 contrary, the commissioner of administration, for all taxable
12 years beginning on or after January 1, 1999, but none after
13 December 31, ~~[2020]~~ 2030, shall annually estimate the amount of
14 state income tax revenues collected pursuant to this chapter
15 which are received from nonresident members of professional
16 athletic teams and nonresident entertainers. For fiscal year
17 2000, and for each subsequent fiscal year for a period of
18 ~~[twenty-one]~~ thirty-one years, sixty percent of the annual
19 estimate of taxes generated from the nonresident entertainer and
20 professional athletic team income tax shall be allocated annually
21 to the Missouri arts council trust fund, and shall be
22 transferred, subject to appropriations, from the general revenue
23 fund to the Missouri arts council trust fund established in
24 section 185.100 and any amount transferred shall be in addition
25 to such agency's budget base for each fiscal year. The director
26 shall by rule establish the method of determining the portion of
27 personal service income of such persons that is allocable to
28 Missouri.

1 6. Notwithstanding the provisions of sections 186.050 to
2 186.067 to the contrary, the commissioner of administration, for
3 all taxable years beginning on or after January 1, 1999, but for
4 none after December 31, [2020] 2030, shall estimate annually the
5 amount of state income tax revenues collected pursuant to this
6 chapter which are received from nonresident members of
7 professional athletic teams and nonresident entertainers. For
8 fiscal year 2000, and for each subsequent fiscal year for a
9 period of [twenty-one] thirty-one years, ten percent of the
10 annual estimate of taxes generated from the nonresident
11 entertainer and professional athletic team income tax shall be
12 allocated annually to the Missouri humanities council trust fund,
13 and shall be transferred, subject to appropriations, from the
14 general revenue fund to the Missouri humanities council trust
15 fund established in section 186.055 and any amount transferred
16 shall be in addition to such agency's budget base for each fiscal
17 year.

18 7. Notwithstanding other provisions of section 182.812 to
19 the contrary, the commissioner of administration, for all taxable
20 years beginning on or after January 1, 1999, but for none after
21 December 31, [2020] 2030, shall estimate annually the amount of
22 state income tax revenues collected pursuant to this chapter
23 which are received from nonresident members of professional
24 athletic teams and nonresident entertainers. For fiscal year
25 2000, and for each subsequent fiscal year for a period of
26 [twenty-one] thirty-one years, ten percent of the annual estimate
27 of taxes generated from the nonresident entertainer and
28 professional athletic team income tax shall be allocated annually

1 to the Missouri state library networking fund, and shall be
2 transferred, subject to appropriations, from the general revenue
3 fund to the secretary of state for distribution to public
4 libraries for acquisition of library materials as established in
5 section 182.812 and any amount transferred shall be in addition
6 to such agency's budget base for each fiscal year.

7 8. Notwithstanding other provisions of section 185.200 to
8 the contrary, the commissioner of administration, for all taxable
9 years beginning on or after January 1, 1999, but for none after
10 December 31, ~~[2020]~~ 2030, shall estimate annually the amount of
11 state income tax revenues collected pursuant to this chapter
12 which are received from nonresident members of professional
13 athletic teams and nonresident entertainers. For fiscal year
14 2000, and for each subsequent fiscal year for a period of
15 ~~[twenty-one]~~ thirty-one years, ten percent of the annual estimate
16 of taxes generated from the nonresident entertainer and
17 professional athletic team income tax shall be allocated annually
18 to the Missouri public television broadcasting corporation
19 special fund, and shall be transferred, subject to
20 appropriations, from the general revenue fund to the Missouri
21 public television broadcasting corporation special fund, and any
22 amount transferred shall be in addition to such agency's budget
23 base for each fiscal year; provided, however, that twenty-five
24 percent of such allocation shall be used for grants to public
25 radio stations which were qualified by the corporation for public
26 broadcasting as of November 1, 1996. Such grants shall be
27 distributed to each of such public radio stations in this state
28 after receipt of the station's certification of operating and

1 programming expenses for the prior fiscal year. Certification
2 shall consist of the most recent fiscal year financial statement
3 submitted by a station to the corporation for public
4 broadcasting. The grants shall be divided into two categories,
5 an annual basic service grant and an operating grant. The basic
6 service grant shall be equal to thirty-five percent of the total
7 amount and shall be divided equally among the public radio
8 stations receiving grants. The remaining amount shall be
9 distributed as an operating grant to the stations on the basis of
10 the proportion that the total operating expenses of the
11 individual station in the prior fiscal year bears to the
12 aggregate total of operating expenses for the same fiscal year
13 for all Missouri public radio stations which are receiving
14 grants.

15 9. Notwithstanding other provisions of section 253.402 to
16 the contrary, the commissioner of administration, for all taxable
17 years beginning on or after January 1, 1999, but for none after
18 December 31, ~~[2020]~~ 2030, shall estimate annually the amount of
19 state income tax revenues collected pursuant to this chapter
20 which are received from nonresident members of professional
21 athletic teams and nonresident entertainers. For fiscal year
22 2000, and for each subsequent fiscal year for a period of
23 ~~[twenty-one]~~ thirty-one years, ten percent of the annual estimate
24 of taxes generated from the nonresident entertainer and
25 professional athletic team income tax shall be allocated annually
26 to the Missouri department of natural resources Missouri historic
27 preservation revolving fund, and shall be transferred, subject to
28 appropriations, from the general revenue fund to the Missouri

1 department of natural resources Missouri historic preservation
2 revolving fund established in section 253.402 and any amount
3 transferred shall be in addition to such agency's budget base for
4 each fiscal year.

5 10. For all fiscal years beginning on or after July 1,
6 2019, in addition to the amount withheld under subsection 2 of
7 this section, there shall be an additional two percent of the
8 compensation to nonresident entertainers and nonresident members
9 of a professional athletic team deducted and withheld as a
10 prepayment of tax, and shall be deposited directly into the
11 Missouri senior services protection fund created under section
12 208.1050 and shall be allocated according to the provisions of
13 such section.

14 11. This section shall not be construed to apply to any
15 person who makes a presentation for professional or technical
16 education purposes or to apply to any presentation that is part
17 of a seminar, conference, convention, school, or similar program
18 format designed to provide professional or technical education.

19 143.431. 1. The Missouri taxable income of a corporation
20 taxable under sections 143.011 to 143.996 shall be so much of its
21 federal taxable income for the taxable year, with the
22 modifications specified in subsections 2 to 4 of this section, as
23 is derived from sources within Missouri as provided in section
24 143.451. The tax of a corporation shall be computed on its
25 Missouri taxable income at the rates provided in section 143.071.

26 2. There shall be added to or subtracted from federal
27 taxable income the modifications to adjusted gross income
28 provided in section 143.121, with the exception of subdivision

1 (5) of subsection 2 of section 143.121, and the applicable
2 modifications to itemized deductions provided in section 143.141.
3 There shall be subtracted the federal income tax deduction
4 provided in section 143.171. There shall be subtracted, to the
5 extent included in federal taxable income, corporate dividends
6 from sources within Missouri.

7 3. (1) If an affiliated group of corporations files a
8 consolidated income tax return for the taxable year for federal
9 income tax purposes [and fifty percent or more of its income is
10 derived from sources within this state as determined in
11 accordance with section 143.451], then it may elect to file a
12 Missouri consolidated income tax return. The federal
13 consolidated taxable income of the electing affiliated group for
14 the taxable year shall be its federal taxable income. All
15 transactions between affiliated members of the affiliated group
16 shall be eliminated on the Missouri consolidated income tax
17 return.

18 (2) So long as a federal consolidated income tax return is
19 filed, an election made by an affiliated group of corporations to
20 file a Missouri consolidated income tax return may be withdrawn
21 or revoked only upon substantial change in the law or regulations
22 adversely changing tax liability under this chapter, or with
23 permission of the director of revenue upon the showing of good
24 cause for such action. After such a withdrawal or revocation
25 with respect to an affiliated group, it may not file a Missouri
26 consolidated income tax return for five years thereafter, except
27 with the approval of the director of revenue, and subject to such
28 terms and conditions as he may prescribe.

1 (3) No corporation which is part of an affiliated group of
2 corporations filing a Missouri consolidated income tax return
3 shall be required to file a separate Missouri corporate income
4 tax return for the taxable year.

5 (4) For each taxable year an affiliated group of
6 corporations filing a federal consolidated income tax return does
7 not file a Missouri consolidated income tax return, for purposes
8 of computing the Missouri income tax, the federal taxable income
9 of each member of the affiliated group shall be determined as if
10 a separate federal income tax return had been filed by each such
11 member.

12 (5) The director of revenue may prescribe such regulations
13 not inconsistent with the provisions of this chapter as he may
14 deem necessary in order that the tax liability of any affiliated
15 group of corporations making a Missouri consolidated income tax
16 return, and of each corporation in the group, before, during, and
17 after the period of affiliation, may be returned, determined,
18 computed, assessed, collected, and adjusted, in such manner as
19 clearly to reflect the Missouri taxable income derived from
20 sources within this state and in order to prevent avoidance of
21 such tax liability.

22 4. If a net operating loss deduction is allowed for the
23 taxable year, there shall be added to federal taxable income the
24 amount of the net operating loss modification for each loss year
25 as to which a portion of the net operating loss deduction is
26 attributable. As used in this subsection, the following terms
27 mean:

28 (1) "Loss year", the taxable year in which there occurs a

1 federal net operating loss that is carried back or carried
2 forward in whole or in part to another taxable year;

3 (2) "Net addition modification", for any taxable year, the
4 amount by which the sum of all required additions to federal
5 taxable income provided in this chapter, except for the net
6 operating loss modification, exceeds the combined sum of the
7 amount of all required subtractions from federal taxable income
8 provided in this chapter;

9 (3) "Net operating loss deduction", a net operating loss
10 deduction allowed for federal income tax purposes under Section
11 172 of the Internal Revenue Code of 1986, as amended, or a net
12 operating loss deduction allowed for Missouri income tax purposes
13 under paragraph (d) of subsection 2 of section 143.121, but not
14 including any net operating loss deduction that is allowed for
15 federal income tax purposes but disallowed for Missouri income
16 tax purposes under paragraph (d) of subsection 2 of section
17 143.121;

18 (4) "Net operating loss modification", an amount equal to
19 the lesser of the amount of the net operating loss deduction
20 attributable to that loss year or the amount by which the total
21 net operating loss in the loss year is less than the sum of:

22 (a) The net addition modification for that loss year; and

23 (b) The cumulative net operating loss deductions
24 attributable to that loss year allowed for the taxable year and
25 all prior taxable years.

26 5. For all tax years ending on or after July 1, 2002,
27 federal taxable income may be a positive or negative amount.
28 Subsection 4 of this section shall be effective for all tax years

1 with a net operating loss deduction attributable to a loss year
2 ending on or after July 1, 2002, and the net operating loss
3 modification shall only apply to loss years ending on or after
4 July 1, 2002.

5 143.451. 1. Missouri taxable income of a corporation shall
6 include all income derived from sources within this state.

7 2. For all tax years beginning before January 1, 2019, a
8 corporation described in subdivision (1) of subsection 1 of
9 section 143.441 shall include in its Missouri taxable income all
10 income from sources within this state, including that from the
11 transaction of business in this state and that from the
12 transaction of business partly done in this state and partly done
13 in another state or states. However:

14 (1) Where income results from a transaction partially in
15 this state and partially in another state or states, and income
16 and deductions of the portion in the state cannot be segregated,
17 then such portions of income and deductions shall be allocated in
18 this state and the other state or states as will distribute to
19 this state a portion based upon the portion of the transaction in
20 this state and the portion in such other state or states.

21 (2) The taxpayer may elect to compute the portion of income
22 from all sources in this state in the following manner, or the
23 manner set forth in subdivision (3) of this subsection:

24 (a) The income from all sources shall be determined as
25 provided, excluding therefrom the figures for the operation of
26 any bridge connecting this state with another state.

27 (b) The amount of sales which are transactions wholly in
28 this state shall be added to one-half of the amount of sales

1 which are transactions partly within this state and partly
2 without this state, and the amount thus obtained shall be divided
3 by the total sales or in cases where sales do not express the
4 volume of business, the amount of business transacted wholly in
5 this state shall be added to one-half of the amount of business
6 transacted partly in this state and partly outside this state and
7 the amount thus obtained shall be divided by the total amount of
8 business transacted, and the net income shall be multiplied by
9 the fraction thus obtained, to determine the proportion of income
10 to be used to arrive at the amount of Missouri taxable income.
11 The investment or reinvestment of its own funds, or sale of any
12 such investment or reinvestment, shall not be considered as sales
13 or other business transacted for the determination of said
14 fraction.

15 (c) For the purposes of this subdivision, a transaction
16 involving the sale of tangible property is:

17 a. "Wholly in this state" if both the seller's shipping
18 point and the purchaser's destination point are in this state;

19 b. "Partly within this state and partly without this state"
20 if the seller's shipping point is in this state and the
21 purchaser's destination point is outside this state, or the
22 seller's shipping point is outside this state and the purchaser's
23 destination point is in this state;

24 c. Not "wholly in this state" or not "partly within this
25 state and partly without this state" only if both the seller's
26 shipping point and the purchaser's destination point are outside
27 this state.

28 (d) For purposes of this subdivision:

1 a. The purchaser's destination point shall be determined
2 without regard to the FOB point or other conditions of the sale;
3 and

4 b. The seller's shipping point is determined without regard
5 to the location of the seller's principle office or place of
6 business.

7 (3) The taxpayer may elect to compute the portion of income
8 from all sources in this state in the following manner:

9 (a) The income from all sources shall be determined as
10 provided, excluding therefrom the figures for the operation of
11 any bridge connecting this state with another state;

12 (b) The amount of sales which are transactions in this
13 state shall be divided by the total sales, and the net income
14 shall be multiplied by the fraction thus obtained, to determine
15 the proportion of income to be used to arrive at the amount of
16 Missouri taxable income. The investment or reinvestment of its
17 own funds, or sale of any such investment or reinvestment, shall
18 not be considered as sales or other business transacted for the
19 determination of said fraction;

20 (c) For the purposes of this subdivision, a transaction
21 involving the sale of tangible property is:

22 a. "In this state" if the purchaser's destination point is
23 in this state;

24 b. Not "in this state" if the purchaser's destination point
25 is outside this state;

26 (d) For purposes of this subdivision, the purchaser's
27 destination point shall be determined without regard to the FOB
28 point or other conditions of the sale and shall not be in this

1 state if the purchaser received the tangible personal property
2 from the seller in this state for delivery to the purchaser's
3 location outside this state;

4 (e) For the purposes of this subdivision, a transaction
5 involving the sale other than the sale of tangible property is
6 "in this state" if the taxpayer's market for the sales is in this
7 state. The taxpayer's market for sales is in this state:

8 a. In the case of sale, rental, lease, or license of real
9 property, if and to the extent the property is located in this
10 state;

11 b. In the case of rental, lease, or license of tangible
12 personal property, if and to the extent the property is located
13 in this state;

14 c. In the case of sale of a service, if and to the extent
15 the ultimate beneficiary of the service is located in this state
16 and shall not be in this state if the ultimate beneficiary of the
17 service rendered by the taxpayer or the taxpayer's designee is
18 located outside this state; and

19 d. In the case of intangible property:

20 (i) That is rented, leased, or licensed, if and to the
21 extent the property is used in this state by the rentee, lessee,
22 or licensee, provided that intangible property utilized in
23 marketing a good or service to a consumer is "used in this state"
24 if that good or service is purchased by a consumer who is in this
25 state. Franchise fees or royalties received for the rent, lease,
26 license, or use of a trade name, trademark, service mark, or
27 franchise system or provides a right to conduct business activity
28 in a specific geographic area are "used in this state" to the

1 extent the franchise location is in this state; and

2 (ii) That is sold, if and to the extent the property is
3 used in this state, provided that:

4 i. A contract right, government license, or similar
5 intangible property that authorizes the holder to conduct a
6 business activity in a specific geographic area is "used in this
7 state" if the geographic area includes all or part of this state;

8 ii. Receipts from intangible property sales that are
9 contingent on the productivity, use, or disposition of the
10 intangible property shall be treated as receipts from the rental,
11 lease, or licensing of such intangible property under item (i) of
12 this subparagraph; and

13 iii. All other receipts from a sales of intangible
14 property shall be excluded from the numerator and denominator of
15 the sales factor;

16 (f) If the state or states of assignment under paragraph
17 (e) of this subdivision cannot be determined, the state or states
18 of assignment shall be reasonably approximated;

19 (g) If the state of assignment cannot be determined under
20 paragraph (e) of this subdivision or reasonably approximated
21 under paragraph (f) of this subdivision, such sales shall be
22 excluded from the denominator of the sales factor;

23 (h) The director may prescribe such rules and regulations
24 as necessary or appropriate to carry out the purposes of this
25 section.

26 (4) For purposes of this subsection, the following words
27 shall, unless the context otherwise requires, have the following
28 meaning:

1 (a) "Administration services" include, but are not limited
2 to, clerical, fund or shareholder accounting, participant record
3 keeping, transfer agency, bookkeeping, data processing,
4 custodial, internal auditing, legal and tax services performed
5 for an investment company;

6 (b) "Affiliate", the meaning as set forth in 15 U.S.C.
7 Section 80a-2(a)(3)(C), as may be amended from time to time;

8 (c) "Distribution services" include, but are not limited
9 to, the services of advertising, servicing, marketing,
10 underwriting or selling shares of an investment company, but, in
11 the case of advertising, servicing or marketing shares, only
12 where such service is performed by a person who is, or in the
13 case of a closed end company, was, either engaged in the services
14 of underwriting or selling investment company shares or
15 affiliated with a person that is engaged in the service of
16 underwriting or selling investment company shares. In the case
17 of an open end company, such service of underwriting or selling
18 shares must be performed pursuant to a contract entered into
19 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time
20 amended;

21 (d) "Investment company", any person registered under the
22 federal Investment Company Act of 1940, as amended from time to
23 time, (the act) or a company which would be required to register
24 as an investment company under the act except that such person is
25 exempt to such registration pursuant to Section 80a-3(c)(1) of
26 the act;

27 (e) "Investment funds service corporation" includes any
28 corporation or S corporation doing business in the state which

1 derives more than fifty percent of its gross income in the
2 ordinary course of business from the provision directly or
3 indirectly of management, distribution or administration services
4 to or on behalf of an investment company or from trustees,
5 sponsors and participants of employee benefit plans which have
6 accounts in an investment company. An investment funds service
7 corporation shall include any corporation or S corporation
8 providing management services as an investment advisory firm
9 registered under Section 203 of the Investment Advisors Act of
10 1940, as amended from time to time, regardless of the percentage
11 of gross revenues consisting of fees from management services
12 provided to or on behalf of an investment company;

13 (f) "Management services" include but are not limited to,
14 the rendering of investment advice directly or indirectly to an
15 investment company making determinations as to when sales and
16 purchases of securities are to be made on behalf of the
17 investment company, or the selling or purchasing of securities
18 constituting assets of an investment company, and related
19 activities, but only where such activity or activities are
20 performed:

21 a. Pursuant to a contract with the investment company
22 entered into pursuant to 15 U.S.C. Section 80a-15(a), as from
23 time to time amended;

24 b. For a person that has entered into such contract with
25 the investment company; or

26 c. For a person that is affiliated with a person that has
27 entered into such contract with an investment company;

28 (g) "Qualifying sales", gross income derived from the

1 provision directly or indirectly of management, distribution or
2 administration services to or on behalf of an investment company
3 or from trustees, sponsors and participants of employee benefit
4 plans which have accounts in an investment company. For purposes
5 of this section, "gross income" is defined as that amount of
6 income earned from qualifying sources without deduction of
7 expenses related to the generation of such income;

8 (h) "Residence", presumptively the fund shareholder's
9 mailing address on the records of the investment company. If,
10 however, the investment company or the investment funds service
11 corporation has actual knowledge that the fund shareholder's
12 primary residence or principal place of business is different
13 than the fund shareholder's mailing address such presumption
14 shall not control. To the extent an investment funds service
15 corporation does not have access to the records of the investment
16 company, the investment funds service corporation may employ
17 reasonable methods to determine the investment company fund
18 shareholder's residence.

19 (5) Notwithstanding other provisions of law to the
20 contrary, qualifying sales of an investment funds service
21 corporation, or S corporation, shall be considered wholly in this
22 state only to the extent that the fund shareholders of the
23 investment companies, to which the investment funds service
24 corporation, or S corporation, provide services, are resided
25 in this state. Wholly in this state qualifying sales of an
26 investment funds service corporation, or S corporation, shall be
27 determined as follows:

28 (a) By multiplying the investment funds service

1 corporation's total dollar amount of qualifying sales from
2 services provided to each investment company by a fraction, the
3 numerator of which shall be the average of the number of shares
4 owned by the investment company's fund shareholders resided in
5 this state at the beginning of and at the end of the investment
6 company's taxable year that ends with or within the investment
7 funds service corporation's taxable year, and the denominator of
8 which shall be the average of the number of shares owned by the
9 investment company's fund shareholders everywhere at the
10 beginning of and at the end of the investment company's taxable
11 year that ends with or within the investment funds service
12 corporation's taxable year;

13 (b) A separate computation shall be made to determine the
14 wholly in this state qualifying sales from each investment
15 company. The qualifying sales for each investment company shall
16 be multiplied by the respective percentage of each fund, as
17 calculated pursuant to paragraph (a) of this subdivision. The
18 product of this equation shall result in the wholly in this state
19 qualifying sales. The qualifying sales for each investment
20 company which are not wholly in this state will be considered
21 wholly without this state;

22 (c) To the extent an investment funds service corporation
23 has sales which are not qualifying sales, those nonqualified
24 sales shall be apportioned to this state based on the methodology
25 utilized by the investment funds service corporation without
26 regard to this subdivision.

27 3. Any corporation described in subdivision (1) of
28 subsection 1 of section 143.441 organized in this state or

1 granted a permit to operate in this state for the transportation
2 or care of passengers shall report its gross earnings within the
3 state on intrastate business and shall also report its gross
4 earnings on all interstate business done in this state which
5 report shall be subject to inquiry for the purpose of determining
6 the amount of income to be included in Missouri taxable income.
7 The previous sentence shall not apply to a railroad.

8 4. A corporation described in subdivision (2) of subsection
9 1 of section 143.441 shall include in its Missouri taxable income
10 all income arising from all sources in this state and all income
11 from each transportation service wholly within this state, from
12 each service where the only lines of such corporation used are
13 those in this state, and such proportion of revenue from each
14 service where the facilities of such corporation in this state
15 and in another state or states are used, as the mileage used over
16 the lines of such corporation in the state shall bear to the
17 total mileage used over the lines of such corporation. The
18 taxpayer may elect to compute the portion of income from all
19 sources within this state in the following manner:

20 (1) The income from all sources shall be determined as
21 provided;

22 (2) The amount of investment of such corporation on
23 December thirty-first of each year in this state in fixed
24 transportation facilities, real estate and improvements, plus the
25 value on December thirty-first of each year of any fixed
26 transportation facilities, real estate and improvements in this
27 state leased from any other railroad shall be divided by the sum
28 of the total amount of investment of such corporation on December

1 thirty-first of each year in fixed transportation facilities,
2 real estate and improvements, plus the value on December
3 thirty-first of each year, of any fixed transportation
4 facilities, real estate and improvements leased from any other
5 railroad. Where any fixed transportation facilities, real estate
6 or improvements are leased by more than one railroad, such
7 portion of the value shall be used by each railroad as the rental
8 paid by each shall bear to the rental paid by all lessees. The
9 income shall be multiplied by the fraction thus obtained to
10 determine the proportion to be used to arrive at the amount of
11 Missouri taxable income.

12 5. A corporation described in subdivision (3) of subsection
13 1 of section 143.441 shall include in its Missouri taxable income
14 one-half of the net income from the operation of a bridge between
15 this and another state. If any such bridge is owned or operated
16 by a railroad corporation or corporations, or by a corporation
17 owning a railroad corporation using such bridge, then the figures
18 for operation of such bridge may be included in the return of
19 such railroad or railroads; or if such bridge is owned or
20 operated by any other corporation which may now or hereafter be
21 required to file an income tax return, one-half of the income or
22 loss to such corporation from such bridge may be included in such
23 return by adding or subtracting same to or from another net
24 income or loss shown by the return.

25 6. A corporation described in subdivision (4) of subsection
26 1 of section 143.441 shall include in its Missouri taxable income
27 all income arising from all sources within this state. Income
28 shall include revenue from each telephonic or telegraphic service

1 rendered wholly within this state; from each service rendered for
2 which the only facilities of such corporation used are those in
3 this state; and from each service rendered over the facilities of
4 such corporation in this state and in other state or states, such
5 proportion of such revenue as the mileage involved in this state
6 shall bear to the total mileage involved over the lines of said
7 company in all states. The taxpayer may elect to compute the
8 portion of income from all sources within this state in the
9 following manner:

10 (1) The income from all sources shall be determined as
11 provided;

12 (2) The amount of investment of such corporation on
13 December thirty-first of each year in this state in telephonic or
14 telegraphic facilities, real estate and improvements thereon,
15 shall be divided by the amount of the total investment of such
16 corporation on December thirty-first of each year in telephonic
17 or telegraphic facilities, real estate and improvements. The
18 income of the taxpayer shall be multiplied by fraction thus
19 obtained to determine the proportion to be used to arrive at the
20 amount of Missouri taxable income.

21 7. From the income determined in subsections 2, 3, 4, 5 and
22 6 of this section to be from all sources within this state shall
23 be deducted such of the deductions for expenses in determining
24 Missouri taxable income as were incurred in this state to produce
25 such income and all losses actually sustained in this state in
26 the business of the corporation.

27 8. If a corporation derives only part of its income from
28 sources within Missouri, its Missouri taxable income shall only

1 reflect the effect of the following listed deductions to the
2 extent applicable to Missouri. The deductions are: (a) its
3 deduction for federal income taxes pursuant to section 143.171,
4 and (b) the effect on Missouri taxable income of the deduction
5 for net operating loss allowed by Section 172 of the Internal
6 Revenue Code. The extent applicable to Missouri shall be
7 determined by multiplying the amount that would otherwise affect
8 Missouri taxable income by the ratio for the year of the Missouri
9 taxable income of the corporation for the year divided by the
10 Missouri taxable income for the year as though the corporation
11 had derived all of its income from sources within Missouri. For
12 the purpose of the preceding sentence, Missouri taxable income
13 shall not reflect the listed deductions.

14 9. Any investment funds service corporation organized as a
15 corporation or S corporation which has any shareholders
16 resided in this state shall be subject to Missouri income tax
17 as provided in this chapter.

18 10. The provisions of this section do not impact any other
19 apportionment election available to a taxpayer under Missouri
20 statutes.

21 143.455. 1. Missouri taxable income of a corporation shall
22 include all income derived from sources within this state.

23 2. For all tax years beginning on or after January 1, 2019,
24 a corporation described in subdivision (1) of subsection 1 of
25 section 143.441 shall determine its income derived from sources
26 within this state by allocating and apportioning its net income
27 as provided in this section.

28 3. As used in this section, unless the context otherwise

1 requires, the following terms mean:

2 (1) "Apportionable income":

3 (a) All income that is apportionable under the Constitution
4 of the United States and is not allocated under the laws of this
5 state, including:

6 a. Income arising from transactions and activity in the
7 regular course of the corporation's trade or business; and

8 b. Income arising from tangible and intangible property if
9 the acquisition, management, employment, development, or
10 disposition of the property is or was related to the operation of
11 the corporation's trade or business; and

12 (b) Any income that would be allocable to this state under
13 the Constitution of the United States, but that is apportioned
14 rather than allocated pursuant to the laws of this state;

15 (2) "Commercial domicile", the principal place from which
16 the trade or business of the corporation is directed or managed;

17 (3) "Financial organization", any bank, trust company,
18 savings bank, industrial bank, land bank, safe deposit company,
19 private banker, savings and loan association, credit union,
20 cooperative bank, small loan company, sales finance company,
21 investment company, or any type of insurance company;

22 (4) "Non-apportionable income", all income other than
23 apportionable income;

24 (5) "Public utility", any business entity:

25 (a) Which owns or operates any plant, equipment, property,
26 franchise, or license for the transmission of communications,
27 transportation of goods or persons, except by pipeline, or the
28 production, transmission, sale, delivery, or furnishing of

1 electricity, water or steam; and

2 (b) Whose rates of charges for goods or services have been
3 established or approved by a federal, state, or local government
4 or governmental agency;

5 (6) "Receipts", all gross receipts of the corporation that
6 are not allocated under the provisions of this section, and that
7 are received from transactions and activity in the regular course
8 of the corporation's trade or business; except that receipts of a
9 corporation from hedging transactions and from the maturity,
10 redemption, sale, exchange, loan or other disposition of cash or
11 securities, shall be excluded.

12 4. For purposes of allocation and apportionment of income
13 under this section, a corporation is taxable in another state if:

14 (1) In that state it is subject to a net income tax, a
15 franchise tax measured by net income, a franchise tax for the
16 privilege of doing business, or a corporate stock tax; or

17 (2) That state has jurisdiction to subject the corporation
18 to a net income tax regardless of whether, in fact, the state
19 does or does not do so.

20 5. Rents and royalties from real or tangible personal
21 property, capital gains, interest, dividends or patent or
22 copyright royalties, to the extent that they constitute
23 nonapportionable income, shall be allocated as provided in
24 subsections 6 to 9 of this section.

25 6. (1) Net rents and royalties from real property located
26 in this state are allocable to this state.

27 (2) Net rents and royalties from tangible personal property
28 are allocable to this state:

1 (a) If and to the extent the property is utilized in this
2 state; or

3 (b) In their entirety if the corporation's commercial
4 domicile is in this state and the corporation is not organized
5 under the laws of or taxable in the state in which the property
6 is utilized.

7 (3) The extent of utilization of tangible personal property
8 in a state is determined by multiplying the rents and royalties
9 by a fraction, the numerator of which is the number of days of
10 physical location of the property in the state during the rental
11 or royalty period in the taxable year and the denominator of
12 which is the number of days of physical location of the property
13 everywhere during all rental or royalty periods in the taxable
14 year. If the physical location of the property during the rental
15 or royalty period is unknown or unascertainable by the
16 corporation, tangible personal property is utilized in the state
17 in which the property was located at the time the rental or
18 royalty payer obtained possession.

19 7. (1) Capital gains and losses from sales of real
20 property located in this state are allocable to this state.

21 (2) Capital gains and losses from sales of tangible
22 personal property are allocable to this state if:

23 (a) The property had a situs in this state at the time of
24 the sale; or

25 (b) The corporation's commercial domicile is in this state
26 and the corporation is not taxable in the state in which the
27 property had a situs.

28 (3) Capital gains and losses from sales of intangible

1 personal property are allocable to this state if the
2 corporation's commercial domicile is in this state.

3 8. Interest and dividends are allocable to this state if
4 the corporation's commercial domicile is in this state.

5 9. (1) Patent and copyright royalties are allocable to
6 this state:

7 (a) If and to the extent that the patent or copyright is
8 utilized by the payer in this state; or

9 (b) If and to the extent that the patent or copyright is
10 utilized by the payer in a state in which the corporation is not
11 taxable and the corporation's commercial domicile is in this
12 state.

13 (2) A patent is utilized in a state to the extent that it
14 is employed in production, fabrication, manufacturing, or other
15 processing in the state or to the extent that a patented product
16 is produced in the state. If the basis of receipts from patent
17 royalties does not permit allocation to states or if the
18 accounting procedures do not reflect states of utilization, the
19 patent is utilized in the state in which the corporation's
20 commercial domicile is located.

21 (3) A copyright is utilized in a state to the extent that
22 printing or other publication originates in the state. If the
23 basis of receipts from copyright royalties does not permit
24 allocation to states or if the accounting procedures do not
25 reflect states of utilization, the copyright is utilized in the
26 state in which the corporation's commercial domicile is located.

27 10. All apportionable income shall be apportioned to this
28 state by multiplying the net income by a fraction, the numerator

1 of which is the total receipts of the corporation in this state
2 during the tax period and the denominator of which is the total
3 receipts of the corporation everywhere during the tax period.

4 11. Receipts from the sale of tangible personal property
5 are in this state if the property is received in this state by
6 the purchaser. In the case of the delivery of goods by common
7 carrier or by other means of transportation, including
8 transportation by the purchaser, the place at which the goods are
9 ultimately received after all transportation has been completed
10 shall be considered as the place at which the goods are received
11 by the purchaser. Direct delivery into this state by the
12 taxpayer to a person or firm designated by a purchaser from
13 within or without the state shall constitute delivery to the
14 purchaser in this state.

15 12. (1) Receipts, other than receipts described in
16 subsection 11 of this section, are in this state if the
17 corporation's market for the sales is in this state. The
18 corporation's market for sales is in this state:

19 (a) In the case of sale, rental, lease, or license of real
20 property, if and to the extent the property is located in this
21 state;

22 (b) In the case of rental, lease, or license of tangible
23 personal property, if and to the extent the property is located
24 in this state;

25 (c) In the case of sale of a service, if and to the extent
26 the ultimate beneficiary of the service is located in this state
27 and shall not be in this state if the ultimate beneficiary of
28 the service rendered by the corporation or the corporation's

1 designee is located outside this state; and

2 (d) In the case of intangible property:

3 a. That is rented, leased, or licensed, if and to the
4 extent the property is used in this state, provided that
5 intangible property utilized in marketing a good or service to a
6 consumer is "used in this state" if that good or service is
7 purchased by a consumer who is in this state. Franchise fees or
8 royalties received for the rent, lease, license, or use of a
9 trade name, trademark, service mark, or franchise system or
10 provides a right to conduct business activity in a specific
11 geographic area "are used in this state" to the extent the
12 franchise is located in this state; and

13 b. That is sold, if and to the extent the property is used
14 in this state, provided that:

15 (i) A contract right, government license, or similar
16 intangible property that authorizes the holder to conduct a
17 business activity in a specific geographic area is "used in this
18 state" if the geographic area includes all or part of this state;

19 (ii) Receipts from intangible property sales that are
20 contingent on the productivity, use, or disposition of the
21 intangible property shall be treated as receipts from the rental,
22 lease, or licensing of such intangible property under
23 subparagraph a. of this paragraph; and

24 (iii) All other receipts from a sale of intangible property
25 shall be excluded from the numerator and denominator of the
26 receipts factor.

27 (2) If the state or states of assignment under subdivision
28 (1) of this subsection cannot be determined, the state or states

1 of assignment shall be reasonably approximated.

2 (3) The director may prescribe regulations as necessary or
3 appropriate to carry out the purposes of this section.

4 13. (1) In the case of certain industries where unusual
5 factual situations produce inequitable results under the
6 apportionment and allocation provisions of this section, the
7 director shall promulgate rules for determining the apportionment
8 and allocation factors for each such industry, but such rules
9 shall be applied uniformly.

10 (2) If the allocation and apportionment provisions of this
11 section do not fairly represent the extent of the corporation's
12 income applicable to this state, the corporation may petition for
13 or the director may require:

14 (a) Separate accounting;

15 (b) The inclusion of one or more additional factors which
16 will fairly represent the corporation's income applicable to this
17 state; or

18 (c) The employment of any other method to effectuate an
19 equitable allocation and apportionment of the corporation's
20 income.

21 (3) The party petitioning for, or the director requiring,
22 the use of any method to effectuate an equitable allocation and
23 apportionment of the corporation's income pursuant to subdivision

24 (2) of this subsection shall prove by a preponderance of
25 evidence:

26 (a) That the allocation and apportionment provisions of
27 this section do not fairly represent the extent of the
28 corporation's income applicable to this state; and

1 (b) That the alternative to such provisions is reasonable.
2 The same burden of proof shall apply whether the corporation is
3 petitioning for, or the director is requiring, the use of any
4 reasonable method to effectuate an equitable allocation and
5 apportionment of the corporation's income. Notwithstanding the
6 previous sentence, if the director can show that in any two of
7 the prior five tax years, the corporation had used an allocation
8 or apportionment method at variance with its allocation or
9 apportionment method or methods used for such other tax years,
10 then the director shall not bear the burden of proof in imposing
11 a different method pursuant to subdivision (2) of this
12 subsection.

13 (4) If the director requires any method to effectuate an
14 equitable allocation and apportionment of the corporation's
15 income, the director cannot impose any civil or criminal penalty
16 with reference to the tax due that is attributable to the
17 corporation's reasonable reliance solely on the allocation and
18 apportionment provisions of this section.

19 (5) A corporation that has received written permission from
20 the director to use a reasonable method to effectuate an
21 equitable allocation and apportionment of the corporation's
22 income shall not have that permission revoked with respect to
23 transactions and activities that have already occurred unless
24 there has been a material change in, or a material
25 misrepresentation of, the facts provided by the corporation upon
26 which the director reasonably relied.

27 14. Any corporation described in subdivision (1) of
28 subsection 1 of section 143.441 organized in this state or

1 granted a permit to operate in this state for the transportation
2 or care of passengers shall report its gross earnings within the
3 state on intrastate business and shall also report its gross
4 earnings on all interstate business done in this state. Such
5 report shall be subject to inquiry for the purpose of determining
6 the amount of income to be included in Missouri taxable income.
7 This subsection shall not apply to a railroad.

8 15. A corporation described in subdivision (2) of
9 subsection 1 of section 143.441 shall include in its Missouri
10 taxable income all income arising from all sources in this state
11 and all income from each transportation service wholly within
12 this state, from each service where the only rails and lines of
13 such corporation used are those in this state, and such
14 proportion of revenue from each service where the facilities of
15 such corporation in this state and in another state or states are
16 used, as the mileage used over the rails and lines of such
17 corporation in the state shall bear to the total mileage used
18 over the rails and lines of such corporation. The corporation
19 may elect to compute the portion of income from all sources
20 within this state in the following manner:

21 (1) The income from all sources shall be determined as
22 provided;

23 (2) The amount of investment of such corporation on
24 December thirty-first of each year in this state in fixed
25 transportation facilities, real estate and improvements, plus the
26 value on December thirty-first of each year of any fixed
27 transportation facilities, real estate and improvements in this
28 state leased from any other railroad shall be divided by the sum

1 of the total amount of investment of such corporation on December
2 thirty-first of each year in fixed transportation facilities,
3 real estate and improvements, plus the value on December
4 thirty-first of each year, of any fixed transportation
5 facilities, real estate and improvements leased from any other
6 railroad. Where any fixed transportation facilities, real estate
7 or improvements are leased by more than one railroad, such
8 portion of the value shall be used by each railroad as the rental
9 paid by each shall bear to the rental paid by all lessees. The
10 income shall be multiplied by the fraction thus obtained to
11 determine the proportion to be used to arrive at the amount of
12 Missouri taxable income.

13 16. A corporation described in subdivision (3) of
14 subsection 1 of section 143.441 shall include in its Missouri
15 taxable income one-half of the net income from the operation of a
16 bridge between this and another state. If any such bridge is
17 owned or operated by a railroad corporation or corporations, or
18 by a corporation owning a railroad corporation using such bridge,
19 then the figures for operation of such bridge may be included in
20 the return of such railroad or railroads; or if such bridge is
21 owned or operated by any other corporation which may now or
22 hereafter be required to file an income tax return, one-half of
23 the income or loss to such corporation from such bridge may be
24 included in such return by adding or subtracting the same to or
25 from another net income or loss shown by the return.

26 17. A corporation described in subdivision (4) of
27 subsection 1 of section 143.441 shall include in its Missouri
28 taxable income all income arising from all sources within this

1 state. Income shall include revenue from each telephonic or
2 telegraphic service rendered wholly within this state; from each
3 service rendered for which the only facilities of such
4 corporation used are those in this state; and from each service
5 rendered over the facilities of such corporation in this state
6 and in other state or states, such proportion of such revenue as
7 the mileage involved in this state shall bear to the total
8 mileage involved over the lines of said company in all states.
9 The corporation may elect to compute the portion of income from
10 all sources within this state in the following manner:

11 (1) The income from all sources shall be determined as
12 provided;

13 (2) The amount of investment of such corporation on
14 December thirty-first of each year in this state in telephonic or
15 telegraphic facilities, real estate and improvements thereon,
16 shall be divided by the amount of the total investment of such
17 corporation on December thirty-first of each year in telephonic
18 or telegraphic facilities, real estate and improvements. The
19 income of the corporation shall be multiplied by the fraction
20 thus obtained to determine the proportion to be used to arrive at
21 the amount of Missouri taxable income.

22 18. From the income determined in this section to be from
23 all sources within this state shall be deducted such of the
24 deductions for expenses in determining Missouri taxable income as
25 were incurred in this state to produce such income and all losses
26 actually sustained in this state in the business of the
27 corporation.

28 19. If a corporation derives only part of its income from

1 sources within Missouri, its Missouri taxable income shall only
2 reflect the effect on Missouri taxable income of the deduction
3 for net operating loss allowed by Section 172 of the Internal
4 Revenue Code. The extent applicable to Missouri shall be
5 determined by multiplying the amount that would otherwise affect
6 Missouri taxable income by the ratio for the year of the Missouri
7 taxable income of the corporation for the year divided by the
8 Missouri taxable income for the year as though the corporation
9 had derived all of its income from sources within Missouri. For
10 the purpose of the preceding sentence, Missouri taxable income
11 shall not reflect the deduction.

12 20. Any investment funds service corporation organized as a
13 corporation or S corporation which has any shareholders
14 resided in this state shall be subject to Missouri income tax
15 as provided in this chapter.

16 143.461. 1. A corporation shall elect to determine income
17 applicable to this state by multiplying the total income from all
18 sources by the fraction determined in the manner in section
19 ~~[143.451]~~ 143.455; first, by filing written notice with the
20 director of revenue on or before the due date of the return
21 (including extensions of time) of the taxpayer's election, or,
22 second, by failing to keep its books and records in such manner
23 as to show the income applicable to this state, including gross
24 income and deductions applicable thereto.

25 2. If the corporation shall keep its books and records so
26 as to show the income applicable to this state by any other
27 method of allocation between this state and other states
28 [involved of income from transactions partially within and

1 partially without this state], including gross income and
2 deductions applicable thereto, and such method shows the income
3 applicable to this state, including gross income and deductions
4 applicable thereto, then it may, on or before sixty days before
5 the end of any taxable year, petition the director of revenue, in
6 writing, to be permitted in its return required to be filed to
7 apportion to this state according to the method shown by such
8 books or records. If the director of revenue finds that such
9 method does show the income applicable to this state including
10 gross income and the deductions applicable thereto, he or she
11 shall notify the corporation, at least thirty days prior to the
12 last day on which such corporation's return for that taxable year
13 is to be filed, that it may use that method for the shorter of
14 five years or as long as such method shows the income applicable
15 to this state, including gross income and deductions applicable
16 thereto.

17 3. The corporation shall cease using such method after the
18 shorter of five years or whenever the director of revenue finds
19 and notifies such corporation on or before ninety days before the
20 end of the taxable year, that such method does not so show. Upon
21 and after such expiration or revocation the corporation shall be
22 permitted to petition to use the same or another method of
23 allocation that will show such income including gross income and
24 deductions applicable thereto as though no petition had ever been
25 filed.

26 4. Failure, after a method has expired or been revoked by
27 the director of revenue, to submit a method which the director of
28 revenue finds will show such income applicable to this state

1 including gross income and deductions applicable thereto, on or
2 before sixty days before the end of any taxable year, or failure
3 to make a return on the basis, which has been approved by the
4 director of revenue on petition of the corporation and which
5 stands unrevoked or unexpired, shall constitute an election to
6 accept the determination of income applicable to this state by
7 multiplying the total income from all sources by the fraction
8 determined in the manner set forth in section 143.451 or, for a
9 tax year beginning on or after January 1, 2019, in the manner set
10 forth in section 143.455.

11 143.471. 1. An S corporation, as defined by Section 1361
12 (a) (1) of the Internal Revenue Code, shall not be subject to the
13 taxes imposed by section 143.071, or other sections imposing
14 income tax on corporations.

15 2. A shareholder of an S corporation shall determine such
16 shareholder's S corporation modification and pro rata share,
17 including its character, by applying the following:

18 (1) Any modification described in sections 143.121 and
19 143.141 which relates to an item of S corporation income, gain,
20 loss, or deduction shall be made in accordance with the
21 shareholder's pro rata share, for federal income tax purposes, of
22 the item to which the modification relates. Where a
23 shareholder's pro rata share of any such item is not required to
24 be taken into account separately for federal income tax purposes,
25 the shareholder's pro rata share of such item shall be determined
26 in accordance with his pro rata share, for federal income tax
27 purposes, of S corporation taxable income or loss generally;

28 (2) Each item of S corporation income, gain, loss, or

1 deduction shall have the same character for a shareholder
2 pursuant to sections 143.005 to 143.998 as it has for federal
3 income tax purposes. Where an item is not characterized for
4 federal income tax purposes, it shall have the same character for
5 a shareholder as if realized directly from the source from which
6 realized by the S corporation or incurred in the same manner as
7 incurred by the S corporation.

8 3. A nonresident shareholder of an S corporation shall
9 determine such shareholder's Missouri nonresident adjusted gross
10 income and his or her nonresident shareholder modification by
11 applying the provisions of this subsection. Items shall be
12 determined to be from sources within this state pursuant to
13 regulations of the director of revenue in a manner consistent
14 with the division of income provisions of section 143.451,
15 section 143.461, or section 32.200 (Multistate Tax Compact). In
16 determining the adjusted gross income of a nonresident
17 shareholder of any S corporation, there shall be included only
18 that part derived from or connected with sources in this state of
19 the shareholder's pro rata share of items of S corporation
20 income, gain, loss or deduction entering into shareholder's
21 federal adjusted gross income, as such part is determined
22 pursuant to regulations prescribed by the director of revenue in
23 accordance with the general rules in section 143.181. Any
24 modification described in subsections 2 and 3 of section 143.121
25 and in section 143.141, which relates to an item of S corporation
26 income, gain, loss, or deduction shall be made in accordance with
27 the shareholder's pro rata share, for federal income tax
28 purposes, of the item to which the modification relates, but

1 limited to the portion of such item derived from or connected
2 with sources in this state.

3 4. Notwithstanding subsection 3 of this section to the
4 contrary, for all tax years beginning on or after January 1,
5 2019, the items referred to in that subsection shall be
6 determined to be from sources within this state pursuant to
7 regulations of the director of revenue in a manner consistent
8 with the division of income provisions of section 143.455 and
9 section 143.461.

10 5. The director of revenue shall permit S corporations to
11 file composite returns and to make composite payments of tax on
12 behalf of its nonresident shareholders not otherwise required to
13 file a return. If the nonresident shareholder's filing
14 requirements result solely from one or more interests in any
15 other partnerships or subchapter S corporations, that nonresident
16 shareholder may be included in the composite return.

17 [5.] 6. If an S corporation pays or credits amounts to any
18 of its nonresident individual shareholders as dividends or as
19 their share of the S corporation's undistributed taxable income
20 for the taxable year, the S corporation shall either timely file
21 with the department of revenue an agreement as provided in
22 subsection [6] 7 of this section or withhold Missouri income tax
23 as provided in subsection [7] 8 of this section. An S
24 corporation that timely files an agreement as provided in
25 subsection [6] 7 of this section with respect to a nonresident
26 shareholder for a taxable year shall be considered to have timely
27 filed such an agreement for each subsequent taxable year. An S
28 corporation that does not timely file such an agreement for a

1 taxable year shall not be precluded from timely filing such an
2 agreement for subsequent taxable years. An S corporation is not
3 required to deduct and withhold Missouri income tax for a
4 nonresident shareholder if:

5 (1) The nonresident shareholder not otherwise required to
6 file a return agrees to have the Missouri income tax due paid as
7 part of the S corporation's composite return;

8 (2) The nonresident shareholder not otherwise required to
9 file a return had Missouri assignable federal adjusted gross
10 income from the S corporation of less than twelve hundred
11 dollars;

12 (3) The S corporation is liquidated or terminated;

13 (4) Income was generated by a transaction related to
14 termination or liquidation; or

15 (5) No cash or other property was distributed in the
16 current and prior taxable year.

17 [6.] 7. The agreement referred to in subdivision (1) of
18 subsection [5] 6 of this section is an agreement of a nonresident
19 shareholder of the S corporation to:

20 (1) File a return in accordance with the provisions of
21 section 143.481 and to make timely payment of all taxes imposed
22 on the shareholder by this state with respect to income of the S
23 corporation; and

24 (2) Be subject to personal jurisdiction in this state for
25 purposes of the collection of income taxes, together with related
26 interest and penalties, imposed on the shareholder by this state
27 with respect to the income of the S corporation.

28 The agreement will be considered timely filed for a taxable year,

1 and for all subsequent taxable years, if it is filed at or before
2 the time the annual return for such taxable year is required to
3 be filed pursuant to section 143.511.

4 [7.] 8. The amount of Missouri income tax to be withheld
5 is determined by multiplying the amount of dividends or
6 undistributed income allocable to Missouri that is paid or
7 credited to a nonresident shareholder during the taxable year by
8 the highest rate used to determine a Missouri income tax
9 liability for an individual, except that the amount of the tax
10 withheld may be determined based on withholding tables provided
11 by the director of revenue if the shareholder submits a Missouri
12 withholding allowance certificate.

13 [8.] 9. An S corporation shall be entitled to recover for
14 a shareholder on whose behalf a tax payment was made pursuant to
15 this section, if such shareholder has no tax liability.

16 [9.] 10. With respect to S corporations that are banks or
17 bank holding companies, a pro rata share of the tax credit for
18 the tax payable pursuant to chapter 148 shall be allowed against
19 each S corporation shareholders' state income tax as follows,
20 provided the bank otherwise complies with section 148.112:

21 (1) The credit allowed by this subsection shall be equal to
22 the bank tax calculated pursuant to chapter 148 based on bank
23 income in 1999 and after, on a bank that makes an election
24 pursuant to 26 U.S.C. Section 1362, and such credit shall be
25 allocated to the qualifying shareholder according to stock
26 ownership, determined by multiplying a fraction, where the
27 numerator is the shareholder's stock, and the denominator is the
28 total stock issued by such bank or bank holding company;

1 (2) The tax credit authorized in this subsection shall be
2 permitted only to the shareholders that qualify as S corporation
3 shareholders, provided the stock at all times during the taxable
4 period qualifies as S corporation stock as defined in 26 U.S.C.
5 Section 1361, and such stock is held by the shareholder during
6 the taxable period. The credit created by this section on a
7 yearly basis is available to each qualifying shareholder,
8 including shareholders filing joint returns. A bank holding
9 company is not allowed this credit, except that, such credit
10 shall flow through to such bank holding company's qualified
11 shareholders, and be allocated to such shareholders under the
12 same conditions; and

13 (3) In the event such shareholder cannot use all or part of
14 the tax credit in the taxable period of receipt, such shareholder
15 may carry forward such tax credit for a period of the lesser of
16 five years or until used, provided such credits are used as soon
17 as the taxpayer has Missouri taxable income.

18 [10.] 11. With respect to S corporations that are
19 associations, a pro rata share of the tax credit for the tax
20 payable under chapter 148 shall be allowed against each S
21 corporation shareholders' state income tax as follows, provided
22 the association otherwise complies with section 148.655:

23 (1) The credit allowed by this subsection shall be equal to
24 the savings and loan association tax calculated under chapter 148
25 based on the computations provided in section 148.630 on an
26 association that makes an election under 26 U.S.C. Section 1362,
27 and such credit shall be allocated to the qualifying shareholder
28 according to stock ownership, determined by multiplying a

1 fraction, where the numerator is the shareholder's stock, and the
2 denominator is the total stock issued by the association;

3 (2) The tax credit authorized in this subsection shall be
4 permitted only to the shareholders that qualify as S corporation
5 shareholders, provided the stock at all times during the taxable
6 period qualifies as S corporation stock as defined in 26 U.S.C.
7 Section 1361, and such stock is held by the shareholder during
8 the taxable period. The credit created by this section on a
9 yearly basis is available to each qualifying shareholder,
10 including shareholders filing joint returns. A savings and loan
11 association holding company is not allowed this credit, except
12 that, such credit shall flow through to such savings and loan
13 association holding company's qualified shareholders, and be
14 allocated to such shareholders under the same conditions; and

15 (3) In the event such shareholder cannot use all or part of
16 the tax credit in the taxable period of receipt, such shareholder
17 may carry forward such tax credit for a period of the lesser of
18 five years or until used, provided such credits are used as soon
19 as the taxpayer has Missouri taxable income.

20 [11.] 12. With respect to S corporations that are credit
21 institutions, a pro rata share of the tax credit for the tax
22 payable under chapter 148 shall be allowed against each S
23 corporation shareholders' state income tax as follows, provided
24 the credit institution otherwise complies with section 148.657:

25 (1) The credit allowed by this subsection shall be equal to
26 the credit institution tax calculated under chapter 148 based on
27 the computations provided in section 148.150 on a credit
28 institution that makes an election under 26 U.S.C. Section 1362,

1 and such credit shall be allocated to the qualifying shareholder
2 according to stock ownership, determined by multiplying a
3 fraction, where the numerator is the shareholder's stock, and the
4 denominator is the total stock issued by such credit institution;

5 (2) The tax credit authorized in this subsection shall be
6 permitted only to the shareholders that qualify as S corporation
7 shareholders, provided the stock at all times during the taxable
8 period qualifies as S corporation stock as defined in 26 U.S.C.
9 Section 1361, and such stock is held by the shareholder during
10 the taxable period. The credit created by this section on a
11 yearly basis is available to each qualifying shareholder,
12 including shareholders filing joint returns. A credit
13 institution holding company is not allowed this credit, except
14 that, such credit shall flow through to such credit institution
15 holding company's qualified shareholders, and be allocated to
16 such shareholders under the same conditions; and

17 (3) In the event such shareholder cannot use all or part of
18 the tax credit in the taxable period of receipt, such shareholder
19 may carry forward such tax credit for a period of the lesser of
20 five years or until used, provided such credits are used as soon
21 as the taxpayer has Missouri taxable income.

22 620.1350. 1. The words used in this section and sections
23 620.1355 and 620.1360 shall, unless the context otherwise
24 requires, have the meaning provided in subdivision (4) of
25 subsection 2 of section 143.451, and in addition, the following
26 words shall have the following meanings:

- 27 (1) "Department", the department of economic development;
28 (2) "Director", the director of the department of economic

1 development.

2 2. An investment funds service corporation or S
3 corporation, certified pursuant to this section and sections
4 620.1355 and 620.1360, may make an annual election to compute the
5 portion of income derived from sources within this state either
6 pursuant to section 143.451 or pursuant to section 32.200
7 relating to the multistate tax compact. The annual election
8 shall be made by the filing of a corporate income tax return
9 reflecting the use of such election and by filing a copy of the
10 certificate issued by the director pursuant to the provisions of
11 this section and sections 620.1355 and 620.1360. The annual
12 election may be made regardless of whether the corporation filed
13 its income tax return on a single entity basis or was included in
14 a consolidated income tax return in any year.

15 3. Notwithstanding the provisions of subsection 2 of this
16 section to the contrary, for all tax years beginning on or after
17 January 1, 2019, an investment funds service corporation or S
18 corporation, certified pursuant to this section and sections
19 620.1355 and 620.1360, shall compute the portion of income
20 derived from sources within this state pursuant to section
21 143.455.