

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 773**  
**99TH GENERAL ASSEMBLY**

5294H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 67.3000, 67.3005, 143.183, and 143.451, RSMo, and to enact in lieu thereof four new sections relating to taxation.

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

Section A. Sections 67.3000, 67.3005, 143.183, and 143.451, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 67.3000, 67.3005, 143.183,  
3 and 143.451, to read as follows:

- 67.3000. 1. As used in this section and section 67.3005, the following words shall mean:
- 2 (1) "Active member", an organization located in the state of Missouri which solicits and  
3 services sports events, sports organizations, and other types of sports-related activities in that  
4 community;
- 5 (2) "Applicant" or "applicants", one or more certified sponsors, endorsing counties,  
6 endorsing municipalities, or a local organizing committee, acting individually or collectively;
- 7 (3) "Certified sponsor" or "certified sponsors", a nonprofit organization which is an  
8 active member of the National Association of Sports Commissions;
- 9 (4) "Department", the Missouri department of economic development;
- 10 (5) "Director", the director of revenue;
- 11 (6) "Eligible costs" shall include:
- 12 (a) Costs necessary for conducting the sporting event;
- 13 (b) Costs relating to the preparations necessary for the conduct of the sporting event; and
- 14 (c) An applicant's pledged obligations to the site selection organization as evidenced by  
15 the support contract for the sporting event **including, but not limited to, bid fees and financial**  
16 **guarantees.**  
17

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 "Eligible costs" shall not include any cost associated with the rehabilitation or construction of  
19 any facilities used to host the sporting event or direct payments to a for-profit site selection  
20 organization, but may include costs associated with the retrofitting of a facility necessary to  
21 accommodate the sporting event;

22 (7) "Eligible donation", donations received, by a certified sponsor or local organizing  
23 committee, from a taxpayer that may include cash, publicly traded stocks and bonds, and real  
24 estate that will be valued and documented according to rules promulgated by the department.  
25 Such donations shall be used solely to provide funding to attract sporting events to this state;

26 (8) "Endorsing municipality" or "endorsing municipalities", any city, town, incorporated  
27 village, or county that contains a site selected by a site selection organization for one or more  
28 sporting events;

29 (9) "Joinder agreement", an agreement entered into by one or more applicants, acting  
30 individually or collectively, and a site selection organization setting out representations and  
31 assurances by each applicant in connection with the selection of a site in this state for the  
32 location of a sporting event;

33 (10) "Joinder undertaking", an agreement entered into by one or more applicants, acting  
34 individually or collectively, and a site selection organization that each applicant will execute a  
35 joinder agreement in the event that the site selection organization selects a site in this state for  
36 a sporting event;

37 (11) "Local organizing committee", a nonprofit corporation or its successor in interest  
38 that:

39 (a) Has been authorized by one or more certified sponsors, endorsing municipalities, or  
40 endorsing counties, acting individually or collectively, to pursue an application and bid on its or  
41 the applicant's behalf to a site selection organization for selection as the host of one or more  
42 sporting events; or

43 (b) With the authorization of one or more certified sponsors, endorsing municipalities,  
44 or endorsing counties, acting individually or collectively, executes an agreement with a site  
45 selection organization regarding a bid to host one or more sporting events;

46 (12) "Site selection organization", the National Collegiate Athletic Association (NCAA);  
47 an NCAA member conference, university, or institution; the National Association of  
48 Intercollegiate Athletics (NAIA); the United States Olympic Committee (USOC); a national  
49 governing body (NGB) or international federation of a sport recognized by the USOC; the United  
50 States Golf Association (USGA); the United States Tennis Association (USTA); the Amateur  
51 ~~Softball Association of America (ASA)~~ **Athletic Union (AAU); the National Christian**  
52 **College Athletic Association (NCCAA); the National Junior College Athletic Association**  
53 **(NJCAA); the United States Sports Specialty Association (USSSA); any rights holder**

54 **member of the National Association of Sports Commissions (NASC)**; other major regional,  
55 national, and international sports associations, and amateur organizations that promote, organize,  
56 or administer sporting games or competitions; or other major regional, national, and international  
57 organizations that promote or organize sporting events;

58 (13) "Sporting event" or "sporting events", an amateur, **collegiate**, or Olympic sporting  
59 event that is competitively bid or is awarded by a site selection organization;

60 (14) "Support contract" or "support contracts", an event award notification, joinder  
61 undertaking, joinder agreement, or contract executed by an applicant and a site selection  
62 organization;

63 (15) "Tax credit" or "tax credits", a credit or credits issued by the department against the  
64 tax otherwise due under chapter 143 or 148, excluding withholding tax imposed under sections  
65 143.191 to 143.265;

66 (16) "Taxpayer", any of the following individuals or entities who make an eligible  
67 donation:

68 (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation  
69 doing business in the state of Missouri and subject to the state income tax imposed under chapter  
70 143;

71 (b) A corporation subject to the annual corporation franchise tax imposed under chapter  
72 147;

73 (c) An insurance company paying an annual tax on its gross premium receipts in this  
74 state;

75 (d) Any other financial institution paying taxes to the state of Missouri or any political  
76 subdivision of this state under chapter 148;

77 (e) An individual subject to the state income tax imposed under chapter 143;

78 (f) Any charitable organization which is exempt from federal income tax and whose  
79 Missouri unrelated business taxable income, if any, would be subject to the state income tax  
80 imposed under chapter 143.

81 2. An applicant may submit a copy of a support contract for a sporting event to the  
82 department. Within sixty days of receipt of the sporting event support contract, the department  
83 may review the applicant's support contract and certify such support contract if it complies with  
84 the requirements of this section. Upon certification of the support contract by the department,  
85 the applicant may be authorized to receive the tax credit under subsection 4 of this section.

86 3. No more than ~~thirty~~ **ninety** days following the conclusion of the sporting event, the  
87 applicant shall submit eligible costs and documentation of the costs evidenced by receipts, paid  
88 invoices, **event settlements**, or other documentation in a manner prescribed by the department.

89 **Eligible costs may be paid by the applicant or an entity cohosting the event with the**  
90 **applicant.**

91 4. **(1)** No later than seven days following the conclusion of the sporting event, the  
92 department, in consultation with the director, ~~[may]~~ **shall** determine the total number of tickets  
93 sold at face value for such event **or, if such event was participant-based and did not sell**  
94 **admission tickets, the total number of paid participant registrations.**

95 **(2)** No later than sixty days following the receipt of eligible costs and documentation of  
96 such costs from the applicant as required in subsection 3 of this section, the department ~~[may]~~  
97 **shall, except for the limitations under subsection 5 of this section,** issue a refundable tax  
98 credit to the applicant for the ~~[lesser]~~ **least of:**

99 **(a)** One hundred percent of eligible costs incurred by the applicant ~~[or]~~ ;

100 **(b)** An amount equal to five dollars for every admission ticket sold to such event; **or**

101 **(c) An amount equal to ten dollars for every paid participant registration if such**  
102 **event was participant-based and did not sell admission tickets.**

103

104 **The calculations under paragraphs (b) and (c) of this subdivision shall use the actual**  
105 **number of tickets sold or registrations paid, not an estimated amount.**

106 **(3)** Tax credits authorized by this section may be claimed against taxes imposed by  
107 chapters 143 and 148 and shall be claimed within one year of the close of the ~~[taxable]~~ **tax** year  
108 for which the credits were issued. Tax credits authorized by this section may be transferred, sold,  
109 or assigned by filing a notarized endorsement thereof with the department that names the  
110 transferee, the amount of tax credit transferred, and the value received for the credit, as well as  
111 any other information reasonably requested by the department.

112 5. In no event shall the amount of tax credits issued by the department under subsection  
113 4 of this section exceed three million dollars in any fiscal year. **For all events located within**  
114 **the following counties, the total amount of tax credits issued shall not exceed two million**  
115 **seven hundred thousand dollars in any fiscal year:**

116 **(1) A county with a charter form of government and with more than six hundred**  
117 **thousand inhabitants; or**

118 **(2) A city not within a county.**

119 6. An applicant shall provide any information necessary as determined by the department  
120 for the department and the director to fulfill the duties required by this section. At any time upon  
121 the request of the state of Missouri, a certified sponsor shall subject itself to an audit conducted  
122 by the state.

123           7. This section shall not be construed as creating or requiring a state guarantee of  
124 obligations imposed on an endorsing municipality under a support contract or any other  
125 agreement relating to hosting one or more sporting events in this state.

126           8. The department shall only certify an applicant's support contract for a sporting event  
127 in which the site selection organization has yet to select a location for the sporting event as of  
128 December 1, 2012. No support contract shall be certified unless the site selection organization  
129 has chosen to use a location in this state from competitive bids, at least one of which was a bid  
130 for a location outside of this state, **except that competitive bids shall not be required for any**  
131 **previously-awarded event whose site selection organization extends its contractual**  
132 **agreement with the event's certified sponsor or for any post-season collegiate football game**  
133 **or other neutral-site game with at least one out-of-state team.** Support contracts shall not be  
134 certified by the department after August 28, [2019] **2030**, provided that the support contracts may  
135 be certified on or prior to August 28, [2019] **2030**, for sporting events that will be held after such  
136 date.

137           9. The department may promulgate rules as necessary to implement the provisions of this  
138 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
139 under the authority delegated in this section shall become effective only if it complies with and  
140 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
141 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
142 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule  
143 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
144 proposed or adopted after August 28, 2013, shall be invalid and void.

67.3005. 1. For all [~~taxable~~] **tax** years beginning on or after January 1, 2013, any  
2 taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148,  
3 excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty  
4 percent of the amount of an eligible donation, subject to the restrictions in this section. The  
5 amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax  
6 liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer  
7 is prohibited by this section from claiming in a tax year shall not be refundable, but may be  
8 carried forward to any of the taxpayer's two subsequent [~~taxable~~] **tax** years.

9           2. To claim the credit authorized in this section, a certified sponsor or local organizing  
10 committee shall submit to the department an application for the tax credit authorized by this  
11 section on behalf of taxpayers. The department shall verify that the applicant has submitted the  
12 following items accurately and completely:

13           (1) A valid application in the form and format required by the department;

14 (2) A statement attesting to the eligible donation received, which shall include the name  
15 and taxpayer identification number of the individual making the eligible donation, the amount  
16 of the eligible donation, and the date the eligible donation was received; and

17 (3) Payment from the certified sponsor or local organizing committee equal to the value  
18 of the tax credit for which application is made.

19

20 If the certified sponsor or local organizing committee applying for the tax credit meets all criteria  
21 required by this subsection, the department shall issue a certificate in the appropriate amount.

22 3. Tax credits issued under this section may be assigned, transferred, sold, or otherwise  
23 conveyed, and the new owner of the tax credit shall have the same rights in the credit as the  
24 taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a  
25 notarized endorsement shall be filed with the department specifying the name and address of the  
26 new owner of the tax credit or the value of the credit. In no event shall the amount of tax credits  
27 issued by the department under this section exceed ten million dollars in any fiscal year.

28 4. The department shall promulgate rules to implement the provisions of this section.  
29 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
30 authority delegated in this section shall become effective only if it complies with and is subject  
31 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
32 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant  
33 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
34 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
35 or adopted after August 28, 2013, shall be invalid and void.

36 5. Under section 23.253 of the Missouri sunset act:

37 (1) The provisions of the new program authorized under section 67.3000 and under this  
38 section shall automatically sunset ~~six~~ **twelve** years after August 28, ~~[2013]~~ **2018**, unless  
39 reauthorized by an act of the general assembly; and

40 (2) If such program is reauthorized, the program authorized under section 67.3000 and  
41 under this section shall automatically sunset twelve years after the effective date of the  
42 reauthorization of these sections; and

43 (3) Section 67.3000 and this section shall terminate on September first of the calendar  
44 year immediately following the calendar year in which the program authorized under these  
45 sections is sunset.

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

2 (1) "Nonresident entertainer", a person residing or registered as a corporation outside this  
3 state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic,  
4 dance or other performance in this state before a live audience and any other person traveling

5 with and performing services on behalf of a nonresident entertainer, including a nonresident  
6 entertainer who is paid compensation for providing entertainment as an independent contractor,  
7 a partnership that is paid compensation for entertainment provided by nonresident entertainers,  
8 a corporation that is paid compensation for entertainment provided by nonresident entertainers,  
9 or any other entity that is paid compensation for entertainment provided by nonresident  
10 entertainers;

11 (2) "Nonresident member of a professional athletic team", a professional athletic team  
12 member who resides outside this state, including any active player, any player on the disabled  
13 list if such player is in uniform on the day of the game at the site of the game, and any other  
14 person traveling with and performing services on behalf of a professional athletic team;

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

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

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

30 3. Any person, venue, or entity required to deduct and withhold tax pursuant to  
31 subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month  
32 following the close of such calendar quarter, remit the taxes withheld in such form or return as  
33 prescribed by the director of revenue and pay over to the director of revenue or to a depository  
34 designated by the director of revenue the taxes so required to be deducted and withheld.

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

38 5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of  
39 administration, for all taxable years beginning on or after January 1, 1999, but none after  
40 December 31, ~~2020~~ **2030**, shall annually estimate the amount of state income tax revenues

41 collected pursuant to this chapter which are received from nonresident members of professional  
42 athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal  
43 year for a period of [~~twenty-one~~] **thirty-one** years, sixty percent of the annual estimate of taxes  
44 generated from the nonresident entertainer and professional athletic team income tax shall be  
45 allocated annually to the Missouri arts council trust fund, and shall be transferred, subject to  
46 appropriations, from the general revenue fund to the Missouri arts council trust fund established  
47 in section 185.100 and any amount transferred shall be in addition to such agency's budget base  
48 for each fiscal year. The director shall by rule establish the method of determining the portion  
49 of personal service income of such persons that is allocable to Missouri.

50         6. Notwithstanding the provisions of sections 186.050 to 186.067 to the contrary, the  
51 commissioner of administration, for all taxable years beginning on or after January 1, 1999, but  
52 for none after December 31, [~~2020~~] **2030**, shall estimate annually the amount of state income tax  
53 revenues collected pursuant to this chapter which are received from nonresident members of  
54 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
55 subsequent fiscal year for a period of [~~twenty-one~~] **thirty-one** years, ten percent of the annual  
56 estimate of taxes generated from the nonresident entertainer and professional athletic team  
57 income tax shall be allocated annually to the Missouri humanities council trust fund, and shall  
58 be transferred, subject to appropriations, from the general revenue fund to the Missouri  
59 humanities council trust fund established in section 186.055 and any amount transferred shall  
60 be in addition to such agency's budget base for each fiscal year.

61         7. Notwithstanding other provisions of section 182.812 to the contrary, the commissioner  
62 of administration, for all taxable years beginning on or after January 1, 1999, but for none after  
63 December 31, [~~2020~~] **2030**, shall estimate annually the amount of state income tax revenues  
64 collected pursuant to this chapter which are received from nonresident members of professional  
65 athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal  
66 year for a period of [~~twenty-one~~] **thirty-one** years, ten percent of the annual estimate of taxes  
67 generated from the nonresident entertainer and professional athletic team income tax shall be  
68 allocated annually to the Missouri state library networking fund, and shall be transferred, subject  
69 to appropriations, from the general revenue fund to the secretary of state for distribution to public  
70 libraries for acquisition of library materials as established in section 182.812 and any amount  
71 transferred shall be in addition to such agency's budget base for each fiscal year.

72         8. Notwithstanding other provisions of section 185.200 to the contrary, the commissioner  
73 of administration, for all taxable years beginning on or after January 1, 1999, but for none after  
74 December 31, [~~2020~~] **2030**, shall estimate annually the amount of state income tax revenues  
75 collected pursuant to this chapter which are received from nonresident members of professional  
76 athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal

77 year for a period of [~~twenty-one~~] **thirty-one** years, ten percent of the annual estimate of taxes  
78 generated from the nonresident entertainer and professional athletic team income tax shall be  
79 allocated annually to the Missouri public television broadcasting corporation special fund, and  
80 shall be transferred, subject to appropriations, from the general revenue fund to the Missouri  
81 public television broadcasting corporation special fund, and any amount transferred shall be in  
82 addition to such agency's budget base for each fiscal year; provided, however, that twenty-five  
83 percent of such allocation shall be used for grants to public radio stations which were qualified  
84 by the corporation for public broadcasting as of November 1, 1996. Such grants shall be  
85 distributed to each of such public radio stations in this state after receipt of the station's  
86 certification of operating and programming expenses for the prior fiscal year. Certification shall  
87 consist of the most recent fiscal year financial statement submitted by a station to the corporation  
88 for public broadcasting. The grants shall be divided into two categories, an annual basic service  
89 grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the  
90 total amount and shall be divided equally among the public radio stations receiving grants. The  
91 remaining amount shall be distributed as an operating grant to the stations on the basis of the  
92 proportion that the total operating expenses of the individual station in the prior fiscal year bears  
93 to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio  
94 stations which are receiving grants.

95 9. Notwithstanding other provisions of section 253.402 to the contrary, the commissioner  
96 of administration, for all taxable years beginning on or after January 1, 1999, but for none after  
97 December 31, [~~2020~~] **2030**, shall estimate annually the amount of state income tax revenues  
98 collected pursuant to this chapter which are received from nonresident members of professional  
99 athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal  
100 year for a period of [~~twenty-one~~] **thirty-one** years, ten percent of the annual estimate of taxes  
101 generated from the nonresident entertainer and professional athletic team income tax shall be  
102 allocated annually to the Missouri department of natural resources Missouri historic preservation  
103 revolving fund, and shall be transferred, subject to appropriations, from the general revenue fund  
104 to the Missouri department of natural resources Missouri historic preservation revolving fund  
105 established in section 253.402 and any amount transferred shall be in addition to such agency's  
106 budget base for each fiscal year.

107 10. This section shall not be construed to apply to any person who makes a presentation  
108 for professional or technical education purposes or to apply to any presentation that is part of a  
109 seminar, conference, convention, school, or similar program format designed to provide  
110 professional or technical education.

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

3           2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall  
4 include in its Missouri taxable income all income from sources within this state, including that  
5 from the transaction of business in this state and that from the transaction of business partly done  
6 in this state and partly done in another state or states. However:

7           (1) Where income results from a transaction partially in this state and partially in another  
8 state or states, and income and deductions of the portion in the state cannot be segregated, then  
9 such portions of income and deductions shall be allocated in this state and the other state or  
10 states as will distribute to this state a portion based upon the portion of the transaction in this  
11 state and the portion in such other state or states.

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

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

16           (b) The amount of sales which are transactions wholly in this state shall be added to one-  
17 half of the amount of sales which are transactions partly within this state and partly without this  
18 state, and the amount thus obtained shall be divided by the total sales or in cases where sales do  
19 not express the volume of business, the amount of business transacted wholly in this state shall  
20 be added to one-half of the amount of business transacted partly in this state and partly outside  
21 this state and the amount thus obtained shall be divided by the total amount of business  
22 transacted, and the net income shall be multiplied by the fraction thus obtained, to determine the  
23 proportion of income to be used to arrive at the amount of Missouri taxable income. The  
24 investment or reinvestment of its own funds, or sale of any such investment or reinvestment,  
25 shall not be considered as sales or other business transacted for the determination of said  
26 fraction.

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

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

31           b. "Partly within this state and partly without this state" if the seller's shipping point is  
32 in this state and the purchaser's destination point is outside this state, or the seller's shipping point  
33 is outside this state and the purchaser's destination point is in this state;

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

36           (d) For purposes of this subdivision:

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

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

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

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

45           (b) The amount of sales which are transactions in this state shall be divided by the total  
46 sales, and the net income shall be multiplied by the fraction thus obtained, to determine the  
47 proportion of income to be used to arrive at the amount of Missouri taxable income. The  
48 investment or reinvestment of its own funds, or sale of any such investment or reinvestment,  
49 shall not be considered as sales or other business transacted for the determination of said  
50 fraction;

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

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

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

55           (d) For purposes of this subdivision, the purchaser's destination point shall be determined  
56 without regard to the FOB point or other conditions of the sale and shall not be in this state if the  
57 purchaser received the tangible personal property from the seller in this state for delivery to the  
58 purchaser's location outside this state;

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

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

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

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

69           d. In the case of intangible property:

70           (i) That is rented, leased, or licensed, if and to the extent the property is used in this state  
71 by the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good  
72 or service to a consumer is "used in this state" if that good or service is purchased by a consumer  
73 who is in this state. Franchise fees or royalties received for the rent, lease, license, or use of a  
74 trade name, trademark, service mark, or franchise system or provides a right to conduct business

75 activity in a specific geographic area are "used in this state" to the extent the franchise location  
76 is in this state; and

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

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

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

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

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

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

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

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

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

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

100 (c) "Distribution services" include, but are not limited to, the services of advertising,  
101 servicing, marketing, underwriting or selling shares of an investment company, but, in the case  
102 of advertising, servicing or marketing shares, only where such service is performed by a person  
103 who is, or in the case of a closed end company, was, either engaged in the services of  
104 underwriting or selling investment company shares or affiliated with a person that is engaged in  
105 the service of underwriting or selling investment company shares. In the case of an open end  
106 company, such service of underwriting or selling shares must be performed pursuant to a contract  
107 entered into pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

108 (d) "Investment company", any person registered under the federal Investment Company  
109 Act of 1940, as amended from time to time, (the act) or a company which would be required to

110 register as an investment company under the act except that such person is exempt to such  
111 registration pursuant to Section 80a-3(c)(1) of the act;

112 (e) "Investment funds service corporation" includes any corporation or S corporation  
113 doing business in the state which derives more than fifty percent of its gross income in the  
114 ordinary course of business from the provision directly or indirectly of management, distribution  
115 or administration services to or on behalf of an investment company or from trustees, sponsors  
116 and participants of employee benefit plans which have accounts in an investment company. An  
117 investment funds service corporation shall include any corporation or S corporation providing  
118 management services as an investment advisory firm registered under Section 203 of the  
119 Investment Advisors Act of 1940, as amended from time to time, regardless of the percentage  
120 of gross revenues consisting of fees from management services provided to or on behalf of an  
121 investment company;

122 (f) "Management services" include but are not limited to, the rendering of investment  
123 advice directly or indirectly to an investment company making determinations as to when sales  
124 and purchases of securities are to be made on behalf of the investment company, or the selling  
125 or purchasing of securities constituting assets of an investment company, and related activities,  
126 but only where such activity or activities are performed:

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

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

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

132 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of  
133 management, distribution or administration services to or on behalf of an investment company  
134 or from trustees, sponsors and participants of employee benefit plans which have accounts in an  
135 investment company. For purposes of this section, "gross income" is defined as that amount of  
136 income earned from qualifying sources without deduction of expenses related to the generation  
137 of such income;

138 (h) "Residence", presumptively the fund shareholder's mailing address on the records of  
139 the investment company. If, however, the investment company or the investment funds service  
140 corporation has actual knowledge that the fund shareholder's primary residence or principal place  
141 of business is different than the fund shareholder's mailing address such presumption shall not  
142 control. To the extent an investment funds service corporation does not have access to the  
143 records of the investment company, the investment funds service corporation may employ  
144 reasonable methods to determine the investment company fund shareholder's residence.

145 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an  
146 investment funds service corporation, or S corporation, shall be considered wholly in this state  
147 only to the extent that the fund shareholders of the investment companies, to which the  
148 investment funds service corporation, or S corporation, provide services, are resided in this  
149 state. Wholly in this state qualifying sales of an investment funds service corporation, or S  
150 corporation, shall be determined as follows:

151 (a) By multiplying the investment funds service corporation's total dollar amount of  
152 qualifying sales from services provided to each investment company by a fraction, the numerator  
153 of which shall be the average of the number of shares owned by the investment company's fund  
154 shareholders resided in this state at the beginning of and at the end of the investment  
155 company's taxable year that ends with or within the investment funds service corporation's  
156 taxable year, and the denominator of which shall be the average of the number of shares owned  
157 by the investment company's fund shareholders everywhere at the beginning of and at the end  
158 of the investment company's taxable year that ends with or within the investment funds service  
159 corporation's taxable year;

160 (b) A separate computation shall be made to determine the wholly in this state qualifying  
161 sales from each investment company. The qualifying sales for each investment company shall  
162 be multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a)  
163 of this subdivision. The product of this equation shall result in the wholly in this state qualifying  
164 sales. The qualifying sales for each investment company which are not wholly in this state will  
165 be considered wholly without this state;

166 (c) To the extent an investment funds service corporation has sales which are not  
167 qualifying sales, those nonqualified sales shall be apportioned to this state based on the  
168 methodology utilized by the investment funds service corporation without regard to this  
169 subdivision.

170 **(6) Notwithstanding the Multistate Tax Compact, sections 32.200 to 32.240; this**  
171 **section; and section 143.461 to the contrary, sales and business transactions shall not**  
172 **include any intercompany transactions, as that term is defined under 26 C.F.R. 1.1502-13,**  
173 **between corporations that file a consolidated income tax return in this state.**

174 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441  
175 organized in this state or granted a permit to operate in this state for the transportation or care  
176 of passengers shall report its gross earnings within the state on intrastate business and shall also  
177 report its gross earnings on all interstate business done in this state which report shall be subject  
178 to inquiry for the purpose of determining the amount of income to be included in Missouri  
179 taxable income. The previous sentence shall not apply to a railroad.

180           4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall  
181 include in its Missouri taxable income all income arising from all sources in this state and all  
182 income from each transportation service wholly within this state, from each service where the  
183 only lines of such corporation used are those in this state, and such proportion of revenue from  
184 each service where the facilities of such corporation in this state and in another state or states are  
185 used, as the mileage used over the lines of such corporation in the state shall bear to the total  
186 mileage used over the lines of such corporation. The taxpayer may elect to compute the portion  
187 of income from all sources within this state in the following manner:

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

189           (2) The amount of investment of such corporation on December thirty-first of each year  
190 in this state in fixed transportation facilities, real estate and improvements, plus the value on  
191 December thirty-first of each year of any fixed transportation facilities, real estate and  
192 improvements in this state leased from any other railroad shall be divided by the sum of the total  
193 amount of investment of such corporation on December thirty-first of each year in fixed  
194 transportation facilities, real estate and improvements, plus the value on December thirty-first  
195 of each year, of any fixed transportation facilities, real estate and improvements leased from any  
196 other railroad. Where any fixed transportation facilities, real estate or improvements are leased  
197 by more than one railroad, such portion of the value shall be used by each railroad as the rental  
198 paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the  
199 fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri  
200 taxable income.

201           5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall  
202 include in its Missouri taxable income one-half of the net income from the operation of a bridge  
203 between this and another state. If any such bridge is owned or operated by a railroad corporation  
204 or corporations, or by a corporation owning a railroad corporation using such bridge, then the  
205 figures for operation of such bridge may be included in the return of such railroad or railroads;  
206 or if such bridge is owned or operated by any other corporation which may now or hereafter be  
207 required to file an income tax return, one-half of the income or loss to such corporation from  
208 such bridge may be included in such return by adding or subtracting same to or from another net  
209 income or loss shown by the return.

210           6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall  
211 include in its Missouri taxable income all income arising from all sources within this state.  
212 Income shall include revenue from each telephonic or telegraphic service rendered wholly within  
213 this state; from each service rendered for which the only facilities of such corporation used are  
214 those in this state; and from each service rendered over the facilities of such corporation in this  
215 state and in other state or states, such proportion of such revenue as the mileage involved in this

216 state shall bear to the total mileage involved over the lines of said company in all states. The  
217 taxpayer may elect to compute the portion of income from all sources within this state in the  
218 following manner:

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

220 (2) The amount of investment of such corporation on December thirty-first of each year  
221 in this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be  
222 divided by the amount of the total investment of such corporation on December thirty-first of  
223 each year in telephonic or telegraphic facilities, real estate and improvements. The income of  
224 the taxpayer shall be multiplied by **the** fraction thus obtained to determine the proportion to be  
225 used to arrive at the amount of Missouri taxable income.

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

230 8. If a corporation derives only part of its income from sources within Missouri, its  
231 Missouri taxable income shall only reflect the effect of the following listed deductions to the  
232 extent applicable to Missouri. The deductions are: (a) its deduction for federal income taxes  
233 pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for  
234 net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable  
235 to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri  
236 taxable income by the ratio for the year of the Missouri taxable income of the corporation for the  
237 year divided by the Missouri taxable income for the year as though the corporation had derived  
238 all of its income from sources within Missouri. For the purpose of the preceding sentence,  
239 Missouri taxable income shall not reflect the listed deductions.

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

243 10. The provisions of this section do not impact any other apportionment election  
244 available to a taxpayer under Missouri statutes **unless explicitly stated in this section.**

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