

SENATE BILL NO. 436

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1991S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof one new section relating to a deduction for business expenses related to the sale of medical marijuana.

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

Section A. Section 143.121, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 143.121,
3 to read as follows:

143.121. 1. The Missouri adjusted gross income of a
2 resident individual shall be the taxpayer's federal adjusted
3 gross income subject to the modifications in this section.

4 2. There shall be added to the taxpayer's federal
5 adjusted gross income:

6 (1) The amount of any federal income tax refund
7 received for a prior year which resulted in a Missouri
8 income tax benefit. The amount added pursuant to this
9 subdivision shall not include any amount of a federal income
10 tax refund attributable to a tax credit reducing a
11 taxpayer's federal tax liability pursuant to Public Law 116-
12 136, enacted by the 116th United States Congress, for the
13 tax year beginning on or after January 1, 2020, and ending
14 on or before December 31, 2020, and deducted from Missouri
15 adjusted gross income pursuant to section 143.171;

16 (2) Interest on certain governmental obligations
17 excluded from federal gross income by 26 U.S.C. Section 103
18 of the Internal Revenue Code, as amended. The previous

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

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

29 (3) The amount of any deduction that is included in
30 the computation of federal taxable income pursuant to 26
31 U.S.C. Section 168 of the Internal Revenue Code as amended
32 by the Job Creation and Worker Assistance Act of 2002 to the
33 extent the amount deducted relates to property purchased on
34 or after July 1, 2002, but before July 1, 2003, and to the
35 extent the amount deducted exceeds the amount that would
36 have been deductible pursuant to 26 U.S.C. Section 168 of
37 the Internal Revenue Code of 1986 as in effect on January 1,
38 2002;

39 (4) The amount of any deduction that is included in
40 the computation of federal taxable income for net operating
41 loss allowed by 26 U.S.C. Section 172 of the Internal
42 Revenue Code of 1986, as amended, other than the deduction
43 allowed by 26 U.S.C. Section 172(b)(1)(G) and 26 U.S.C.
44 Section 172(i) of the Internal Revenue Code of 1986, as
45 amended, for a net operating loss the taxpayer claims in the
46 tax year in which the net operating loss occurred or carries
47 forward for a period of more than twenty years and carries
48 backward for more than two years. Any amount of net
49 operating loss taken against federal taxable income but
50 disallowed for Missouri income tax purposes pursuant to this

51 subdivision after June 18, 2002, may be carried forward and
52 taken against any income on the Missouri income tax return
53 for a period of not more than twenty years from the year of
54 the initial loss; and

55 (5) For nonresident individuals in all taxable years
56 ending on or after December 31, 2006, the amount of any
57 property taxes paid to another state or a political
58 subdivision of another state for which a deduction was
59 allowed on such nonresident's federal return in the taxable
60 year unless such state, political subdivision of a state, or
61 the District of Columbia allows a subtraction from income
62 for property taxes paid to this state for purposes of
63 calculating income for the income tax for such state,
64 political subdivision of a state, or the District of
65 Columbia;

66 (6) For all tax years beginning on or after January 1,
67 2018, any interest expense paid or accrued in a previous
68 taxable year, but allowed as a deduction under 26 U.S.C.
69 Section 163, as amended, in the current taxable year by
70 reason of the carryforward of disallowed business interest
71 provisions of 26 U.S.C. Section 163(j), as amended. For the
72 purposes of this subdivision, an interest expense is
73 considered paid or accrued only in the first taxable year
74 the deduction would have been allowable under 26 U.S.C.
75 Section 163, as amended, if the limitation under 26 U.S.C.
76 Section 163(j), as amended, did not exist.

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

80 (1) Interest received on deposits held at a federal
81 reserve bank or interest or dividends on obligations of the
82 United States and its territories and possessions or of any

83 authority, commission or instrumentality of the United
84 States to the extent exempt from Missouri income taxes
85 pursuant to the laws of the United States. The amount
86 subtracted pursuant to this subdivision shall be reduced by
87 any interest on indebtedness incurred to carry the described
88 obligations or securities and by any expenses incurred in
89 the production of interest or dividend income described in
90 this subdivision. The reduction in the previous sentence
91 shall only apply to the extent that such expenses including
92 amortizable bond premiums are deducted in determining the
93 taxpayer's federal adjusted gross income or included in the
94 taxpayer's Missouri itemized deduction. The reduction shall
95 only be made if the expenses total at least five hundred
96 dollars;

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

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

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

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

119 (6) The portion of capital gain specified in section
120 135.357 that would otherwise be included in federal adjusted
121 gross income;

122 (7) The amount that would have been deducted in the
123 computation of federal taxable income pursuant to 26 U.S.C.
124 Section 168 of the Internal Revenue Code as in effect on
125 January 1, 2002, to the extent that amount relates to
126 property purchased on or after July 1, 2002, but before July
127 1, 2003, and to the extent that amount exceeds the amount
128 actually deducted pursuant to 26 U.S.C. Section 168 of the
129 Internal Revenue Code as amended by the Job Creation and
130 Worker Assistance Act of 2002;

131 (8) For all tax years beginning on or after January 1,
132 2005, the amount of any income received for military service
133 while the taxpayer serves in a combat zone which is included
134 in federal adjusted gross income and not otherwise excluded
135 therefrom. As used in this section, "combat zone" means any
136 area which the President of the United States by Executive
137 Order designates as an area in which Armed Forces of the
138 United States are or have engaged in combat. Service is
139 performed in a combat zone only if performed on or after the
140 date designated by the President by Executive Order as the
141 date of the commencing of combat activities in such zone,
142 and on or before the date designated by the President by
143 Executive Order as the date of the termination of combatant
144 activities in such zone;

145 (9) For all tax years ending on or after July 1, 2002,
146 with respect to qualified property that is sold or otherwise
147 disposed of during a taxable year by a taxpayer and for
148 which an additional modification was made under subdivision
149 (3) of subsection 2 of this section, the amount by which
150 additional modification made under subdivision (3) of
151 subsection 2 of this section on qualified property has not
152 been recovered through the additional subtractions provided
153 in subdivision (7) of this subsection;

154 (10) For all tax years beginning on or after January
155 1, 2014, the amount of any income received as payment from
156 any program which provides compensation to agricultural
157 producers who have suffered a loss as the result of a
158 disaster or emergency, including the:

- 159 (a) Livestock Forage Disaster Program;
- 160 (b) Livestock Indemnity Program;
- 161 (c) Emergency Assistance for Livestock, Honeybees, and
162 Farm-Raised Fish;
- 163 (d) Emergency Conservation Program;
- 164 (e) Noninsured Crop Disaster Assistance Program;
- 165 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 166 (g) Annual Forage Pilot Program;
- 167 (h) Livestock Risk Protection Insurance Plan; and
- 168 (i) Livestock Gross Margin Insurance Plan; [and]

169 (11) For all tax years beginning on or after January
170 1, 2018, any interest expense paid or accrued in the current
171 taxable year, but not deducted as a result of the limitation
172 imposed under 26 U.S.C. Section 163(j), as amended. For the
173 purposes of this subdivision, an interest expense is
174 considered paid or accrued only in the first taxable year
175 the deduction would have been allowable under 26 U.S.C.

176 Section 163, as amended, if the limitation under 26 U.S.C.
177 Section 163(j), as amended, did not exist; **and**

178 **(12) For taxpayers authorized to do business pursuant**
179 **to article XIV of the Missouri Constitution, the amount**
180 **equal to any expenditure otherwise allowable as a federal**
181 **income tax deduction, but that is disallowed pursuant to 26**
182 **U.S.C. Section 280E, as in effect on January 1, 2021,**
183 **because cannabis is a controlled substance under federal law.**

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

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

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

199 7. (1) As used in this subsection, "qualified health
200 insurance premium" means the amount paid during the tax year
201 by such taxpayer for any insurance policy primarily
202 providing health care coverage for the taxpayer, the
203 taxpayer's spouse, or the taxpayer's dependents.

204 (2) In addition to the subtractions in subsection 3 of
205 this section, one hundred percent of the amount of qualified
206 health insurance premiums shall be subtracted from the
207 taxpayer's federal adjusted gross income to the extent the

208 amount paid for such premiums is included in federal taxable
209 income. The taxpayer shall provide the department of
210 revenue with proof of the amount of qualified health
211 insurance premiums paid.

212 8. (1) Beginning January 1, 2014, in addition to the
213 subtractions provided in this section, one hundred percent
214 of the cost incurred by a taxpayer for a home energy audit
215 conducted by an entity certified by the department of
216 natural resources under section 640.153 or the
217 implementation of any energy efficiency recommendations made
218 in such an audit shall be subtracted from the taxpayer's
219 federal adjusted gross income to the extent the amount paid
220 for any such activity is included in federal taxable
221 income. The taxpayer shall provide the department of
222 revenue with a summary of any recommendations made in a
223 qualified home energy audit, the name and certification
224 number of the qualified home energy auditor who conducted
225 the audit, and proof of the amount paid for any activities
226 under this subsection for which a deduction is claimed. The
227 taxpayer shall also provide a copy of the summary of any
228 recommendations made in a qualified home energy audit to the
229 department of natural resources.

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

235 (3) Any deduction claimed under this subsection shall
236 be claimed for the tax year in which the qualified home
237 energy audit was conducted or in which the implementation of
238 the energy efficiency recommendations occurred. If
239 implementation of the energy efficiency recommendations

240 occurred during more than one year, the deduction may be
241 claimed in more than one year, subject to the limitations
242 provided under subdivision (2) of this subsection.

243 (4) A deduction shall not be claimed for any otherwise
244 eligible activity under this subsection if such activity
245 qualified for and received any rebate or other incentive
246 through a state-sponsored energy program or through an
247 electric corporation, gas corporation, electric cooperative,
248 or municipally owned utility.

249 9. The provisions of subsection 8 of this section
250 shall expire on December 31, 2020.

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