

FIRST REGULAR SESSION

SENATE BILL NO. 5

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

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S0265.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 147.010, 147.020, 147.030, 147.050 and 147.070, RSMo 1994, relating to corporation franchise tax, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Sections 147.010, 147.020, 147.030, 147.050 and 147.070, RSMo 1994, are repealed and five new sections enacted in lieu thereof, to be known as sections 147.010, 147.020, 147.030, 147.050 and 147.070, to read as follows:

147.010. 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, every corporation organized under or subject to chapter 351, RSMo, or under any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceeds two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose herein contained, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares should exceed five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceeds two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state exceeds two hundred thousand dollars, and for the purposes of this chapter, such corporation shall be deemed to have employed in this state that proportion of its entire

outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether under a certificate of authority issued under chapter 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated above does not exceed two hundred thousand dollars shall state that fact on a form prescribed by the secretary of state.

2. This law shall not apply to corporations not organized for profit, nor to corporations organized under the provisions of chapter 349, RSMo, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which pay an annual tax on their premium receipts in this state, nor to electric and telephone corporations organized under chapters 351, RSMo, and 392, RSMo, prior to January 1, 1980, which have been declared tax exempt organizations under section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible under the provisions of this chapter.

3. A corporation's "taxable year" for purposes of this chapter shall be its taxable year as provided in section 143.271, RSMo.

4. A corporation's "transitional year" for the purposes of this chapter shall be its taxable year which includes parts of each of the years 1979 and 1980.

5. The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, RSMo, shall be similarly computed under regulations prescribed by the secretary of state.

6. All franchise reports and franchise taxes shall be returned to the secretary of state who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

7. Section 32.057, RSMo, shall apply to the secretary of state as equally as it applies to the director of revenue and the secretary of state shall maintain the confidentiality of all franchise tax reports returned to him. Such reports, however, may be made available at any time to the director of revenue and the director of revenue will maintain their confidentiality.

147.020. 1. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, every corporation liable to the tax prescribed in section 147.010 shall make a report in writing showing the financial condition of the corporation at the beginning of business on the first day of its taxable year to the secretary of state annually on or before the fifteenth day

of the fourth month of the corporation's taxable year in such form as the secretary of state may prescribe. The report shall be signed by an officer of the corporation.

2. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, if a corporation shall obtain an extension of time for filing its annual Missouri income tax return pursuant to section 143.551, RSMo, such corporation will also be granted a corresponding extension of time for filing the report required under this chapter for its taxable year immediately succeeding the taxable year for which the income tax extension is granted. At the time the corporation files its annual corporate report, it shall inform the secretary of state in writing of such extension.

3. Every corporation having a transitional year liable for the tax prescribed in section 147.010 shall make a report in writing, showing the financial condition of the corporation at the beginning of business on the first day of its transitional year, on or before April 15, 1980, in such form as the director may prescribe. The report shall be signed by an officer of the corporation.

147.030. 1. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, the franchise tax provided for in this chapter shall be paid on or before the fifteenth day of the fourth month of the corporation's taxable year.

2. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, if a corporation shall obtain an extension of time for paying its annual Missouri income tax pursuant to section 143.551, RSMo, such corporation will also be granted a corresponding extension of time for paying the franchise tax due under this chapter for its taxable year immediately succeeding the taxable year for which the income tax extension is granted.

3. If the time for filing the franchise tax report is extended under section 147.020, but the time for payment of the franchise tax is not extended under this section, the corporation shall pay, on or before the fifteenth day of the fourth month of its taxable year, the amount properly estimated as its franchise tax for the taxable year.

4. Every corporation having a transitional year shall pay the franchise tax provided for in this chapter on or before the fifteenth day of April 1980.

147.050. 1. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, every corporation organized under any laws of this state and every foreign corporation engaged in business in this state and having no shares shall make a report in writing to the secretary of state, annually, on or before the fifteenth day of the fourth month of the corporation's taxable year, in the form as the secretary of state may prescribe.

2. The report shall be signed by an officer of the corporation, and forwarded to the secretary of state; provided, that all state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized under any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by

assessment, shall not be required to make reports and shall be exempt from all the provisions of this section and chapter and shall not be required to pay any fees as in this chapter provided.

3. Every corporation having a transitional year and coming under the provisions of this section shall make the report required hereunder on or before the fifteenth day of April, 1980.

147.070. 1. Every corporation organized as a mutual insurance corporation not having shares, or any other corporation not organized strictly for religious, charitable or educational purposes and having no shares or of a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of money to the family, heirs, executors, administrators or assigns of the deceased member thereof shall in addition to filing the report prescribed in section 147.050 pay an annual fee of twenty-five dollars.

2. All foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature coming within the provisions of section 147.050 and doing business in this state having outstanding shares with stated capital of less than five hundred thousand dollars shall pay an annual fee of fifty dollars, and all other such insurance companies having outstanding shares with stated capital of more than five hundred thousand dollars an annual fee of one hundred dollars for the privilege of doing business in this state, and all savings and loan associations and domestic and foreign regulated investment companies as defined by section 170 of the act of Congress commonly known as the "Revenue Act of 1942", as now existing or hereafter amended, to pay an annual fee to the state of twenty-five dollars for the privilege of doing business in this state in place of the fee based on the outstanding shares and surplus as herein provided.

3. For each taxable year beginning on or after January 1, 1980, **but before January 1, 2000**, any corporation coming under the provisions of this section shall pay the fee stipulated hereunder on or before the fifteenth day of the fourth month of the corporation's taxable year.

4. Every corporation having a transitional year and coming under the provisions of this section shall compute the fee due hereunder as provided in subsection 6 of section 147.010 and pay such fee on or before the fifteenth day of April 1980.

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