

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 336
98TH GENERAL ASSEMBLY

1746H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 143.191, RSMo, and to enact in lieu thereof one new section relating to income tax withholding on tips.

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

Section A. Section 143.191, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.191, to read as follows:

143.191. 1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under [sections 143.011 to 143.998] **this chapter** to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 of this section means wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means any person, firm, corporation, association, fiduciary of any kind, or other type of organization for whom an individual performs service as an employee, except that if the person or organization for whom the individual performs service does not have control of the payment of compensation for such service, the term "employer" means the person having control of the payment of the compensation. The term includes the United States, this state, other states, and all agencies, instrumentalities, and subdivisions of any of them.

3. **(1)** The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee

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.

17 under [sections 143.011 to 143.998] **this chapter** with respect to the amount of such wages
18 included in his Missouri adjusted gross income during the calendar year.

19 **(2) The amount to be withheld by an employer with respect to tips received by an**
20 **employee in the course of the employee's employment shall be calculated based solely upon**
21 **the amount of tips reported by the employee in a written statement furnished to the**
22 **employer as required by subsection (a) of section 6053 of the Internal Revenue Code of**
23 **1986, as amended, or, if greater, the amount of tips received by the employer and remitted**
24 **to the employee. If an employee shares tips, the employer shall withhold only from the**
25 **employee who actually received the shared tips. The employer's Missouri income tax**
26 **withholding obligation with respect to an employee's tip income shall be limited to the**
27 **portion of the employee's wages under the control of the employer against which the**
28 **employer is required, pursuant to federal law, to withhold federal income taxes on the**
29 **employee's tips. Such withholding obligation shall be calculated after making reductions**
30 **for all required federal tax withholding, Missouri income tax withholding on non-tip**
31 **income, and other amounts which have higher legal priority.**

32 4. For purposes of this section an employee shall be entitled to the same number of
33 personal and dependency withholding exemptions as the number of exemptions to which he is
34 entitled for federal income tax withholding purposes. An employer may rely upon the number
35 of federal withholding exemptions claimed by the employee, except where the employee
36 provides the employer with a form claiming a different number of withholding exemptions in
37 this state.

38 5. The director of revenue may enter into agreements with the tax departments of other
39 states (which require income tax to be withheld from the payment of wages) so as to govern the
40 amounts to be withheld from the wages of residents of such states under this section. Such
41 agreements may provide for recognition of anticipated tax credits in determining the amounts
42 to be withheld and, under regulations prescribed by the director of revenue, may relieve
43 employers in this state from withholding income tax on wages paid to nonresident employees.
44 The agreements authorized by this subsection are subject to the condition that the tax department
45 of such other states grant similar treatment to residents of this state.

46 6. The director of revenue shall enter into agreements with the Secretary of the Treasury
47 of the United States or with the appropriate secretaries of the respective branches of the Armed
48 Forces of the United States for the withholding, as required by subsections 1 and 2 of this
49 section, of income taxes due the state of Missouri on wages or other payments for service in the
50 armed services of the United States or on payments received as retirement or retainer pay of any
51 member or former member of the Armed Forces entitled to such pay.

52 7. Subject to appropriations for the purpose of implementing this section, the director
53 of revenue shall comply with provisions of the laws of the United States as amended and the
54 regulations promulgated thereto in order that all residents of this state receiving monthly
55 retirement income as a civil service annuitant from the federal government taxable by this state
56 may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an
57 amount for payment of state income taxes as required by state law, but such withholding shall
58 not be less than twenty-five dollars per quarter.

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

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