

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Bill No. 884, Page 1, Section A, Line 2, by inserting after all of said section and line the
2 following:

3
4 "32.200. The "Multistate Tax Compact" is hereby enacted into law and entered into with all
5 jurisdictions legally joining therein, in the form substantially as follows:

6 MULTISTATE TAX COMPACT

7 Article I

8 The purposes of this compact are to:

- 9 1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including
10 the equitable apportionment of tax bases and settlement of apportionment disputes.
11 2. Promote uniformity or compatibility in significant components of tax systems.
12 3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of
13 tax administration.
14 4. Avoid duplicative taxation.

15 Article II

16 As used in this compact:

- 17 1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
18 Rico, or any territory or possession of the United States.
19 2. "Subdivision" means any governmental unit or special district of a state.
20 3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or
21 person acting as a business entity in more than one state.
22 4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on
23 or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which
24 expenses are not specifically and directly related to particular transactions.
25 5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in
26 its entirety.
27 6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the
28 gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no
29 deduction is allowed which would constitute the tax an income tax.
30 7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership,
31 possession or custody of tangible personal property or the rendering of services measured by the price of the
32 tangible personal property transferred or services rendered and which is required by state or local law to be
33 separately stated from the sales price by the seller, or which is customarily separately stated from the sales
34 price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or
35 article or class of commodities or articles.
36 8. "Use tax" means a nonrecurring tax, other than a sales tax, which
37 (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible
38 personal property incident to the ownership, possession or custody of that property or the leasing of that
39 property from another including any consumption, keeping, retention, or other use of tangible personal

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1 property; and

2 (b) is complementary to a sales tax.

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

7 Article III

8 1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation
9 for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more
10 party states may elect to apportion and allocate his income in the manner provided by the laws of such state
11 or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion
12 and allocate in accordance with article IV; except that for tax years beginning on or after January 1, 2020,
13 any taxpayer subject to the tax imposed by section 143.071 shall apportion and allocate in accordance with
14 the provisions of Chapter 143 and shall not apportion or allocate in accordance with article IV. This election
15 for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party
16 states or subdivisions thereof without reference to the election made in the others. For the purposes of this
17 paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the
18 apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is
19 employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions
20 within a state be greater than the apportionment and allocation that would be assignable to that state if the
21 apportionment or allocation were being made with respect to a state income tax.

22 2. Each party state or any subdivision thereof which imposes an income tax shall provide by law
23 that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales
24 and do not include owning or renting real estate or tangible personal property, and whose dollar volume of
25 gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of
26 \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall
27 adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate
28 tax commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such
29 changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the
30 commission, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision
31 thereof may make the same election available to taxpayers additional to those specified in this paragraph.

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

33 Article IV

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

35 (1) "Business income" means income arising from transactions and activity in the regular course of
36 the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition,
37 management, and disposition of the property constitute integral parts of the taxpayer's regular trade or
38 business operations.

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

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

43 (4) "Financial organization" means any bank, trust company, savings bank, industrial bank, land
44 bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank,
45 small loan company, sales finance company, investment company, or any type of insurance company.

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

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

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

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

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

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

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

7 2. Any taxpayer having income from business activity which is taxable both within and without this
8 state, other than activity as a financial organization or public utility or the rendering of purely personal
9 services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer
10 has income from business activity as a public utility but derives the greater percentage of his income from
11 activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as
12 provided in this article.

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

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

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

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

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

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

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

25 (b) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not
26 organized under the laws of or taxable in the state in which the property is utilized.

27 (3) The extent of utilization of tangible personal property in a state is determined by multiplying the
28 rents and royalties by a fraction, the numerator of which is the number of days of physical location of the
29 property in the state during the rental or royalty period in the taxable year and the denominator of which is
30 the number of days of physical location of the property everywhere during all rental or royalty periods in the
31 taxable year. If the physical location of the property during the rental or royalty period is unknown or
32 unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was
33 located at the time the rental or royalty payer obtained possession.

34 6. (1) Capital gains and losses from sales of real property located in this state are allocable to this
35 state.

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

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

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

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

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

44 8. (1) Patent and copyright royalties are allocable to this state:

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

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

48 (2) A patent is utilized in a state to the extent that it is employed in production, fabrication,
49 manufacturing, or other processing in the state or to the extent that a patented product is produced in the
50 state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting
51 procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's
52 commercial domicile is located.

53 (3) A copyright is utilized in a state to the extent that printing or other publication originates in the

1 state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting
2 procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's
3 commercial domicile is located.

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

7 10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's
8 real and tangible personal property owned or rented and used in this state during the tax period and the
9 denominator of which is the average value of all the taxpayer's real and tangible personal property owned or
10 rented and used during the tax period.

11 11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is
12 valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the
13 taxpayer less any annual rental rate received by the taxpayer from subrentals.

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

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

20 14. Compensation is paid in this state if:

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

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

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

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

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

29 15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this
30 state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during
31 the tax period.

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

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

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

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

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

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

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

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

44 18. If the allocation and apportionment provisions of this article do not fairly represent the extent of
45 the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may
46 require, in respect to all or any part of the taxpayer's business activity, if reasonable:

47 (1) separate accounting;

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

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

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

1 provisions of article VII.

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

5 3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state
6 or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by
7 written notice to the commission and to each party state or subdivision thereof that would be affected, may
8 secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative
9 determination of the tax agency of the state or subdivision with respect thereto on the ground that it would
10 subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party
11 state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound
12 thereby.

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

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

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

29 7. The board shall have power to administer oaths, take testimony, subpoena and require the
30 attendance of witnesses and the production of accounts, books, papers, records, and other documents, and
31 issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of
32 failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction
33 of the state in which the board is sitting or in which the person to whom the subpoena is directed may be
34 found may make an order requiring compliance with the subpoena, and the court may punish failure to obey
35 the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

36 8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed
37 and allocated among the parties by the board in such manner as it may determine. The commission shall fix
38 a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No
39 officer or employee of a state or local government who serves as a member of a board shall be entitled to
40 compensation therefor unless he is required on account of his service to forego the regular compensation
41 attaching to his public employment, but any such board member shall be entitled to expenses.

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

45 10. The board shall file with the commission and with each tax agency represented in the
46 proceeding: the determination of the board; the board's written statement of its reasons therefor; the record
47 of the board's proceedings; and any other documents required by the arbitration rules of the commission to be
48 filed.

49 11. The commission shall publish the determinations of boards together with the statements of the
50 reasons therefor.

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

53 13. Nothing contained herein shall prevent at any time a written compromise of any matter or

1 matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

2 Article X

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

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

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

13 Article XI

14 Nothing in this compact shall be construed to:

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

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

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

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

24 Article XII

25 This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
26 this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to
27 be contrary to the constitution of any state or of the United States or the applicability thereof to any
28 government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and
29 the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If
30 this compact shall be held contrary to the constitution of any state participating therein, the compact shall
31 remain in full force and effect as to the remaining party states and in full force and effect as to the state
32 affected as to all severable matters.

33 143.011. 1. A tax is hereby imposed for every taxable year on the Missouri taxable income of every
34 resident. The tax shall be determined by applying the tax table or the rate provided in section 143.021,
35 which is based upon the following rates:

36 If the Missouri taxable income is:	The tax is:
37 Not over \$1,000.00	1 ½% of the Missouri taxable income
38 Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
39 Over \$2,000 but not over \$3,000	\$35 plus 2 1/2% of excess over \$2,000
40 Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
41 Over \$4,000 but not over \$5,000	\$90 plus 3 1/2% of excess over \$4,000
42 Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
43 Over \$6,000 but not over \$7,000	\$165 plus 4 1/2% of excess over \$6,000
44 Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
45 Over \$8,000 but not over \$9,000	\$260 plus 5 ½% of excess over \$8,000
46 Over \$9,000	\$315 plus 6% of excess over \$9,000

47 2. (1) Beginning with the 2017 calendar year, the top rate of tax under subsection 1 of this section
48 may be reduced over a period of years. Each reduction in the top rate of tax shall be by one-tenth of a
49 percent and no more than one reduction shall occur in a calendar year. The top rate of tax shall not be
50 reduced below five and one-half percent. Reductions in the rate of tax shall take effect on January first of a
51 calendar year and such reduced rates shall continue in effect until the next reduction occurs.

52 (2) A reduction in the rate of tax shall only occur if the amount of net general revenue collected in
53 the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal

1 years prior to such fiscal year by at least one hundred fifty million dollars.

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

4 (4) The director of the department of revenue shall, by rule, adjust the tax tables under subsection 1
5 of this section to effectuate the provisions of this subsection. The bracket for income subject to the top rate
6 of tax shall be eliminated once the top rate of tax has been reduced to five and one-half ~~of a~~ percent, and the
7 top remaining rate of tax shall apply to all income in excess of the income in the second highest remaining
8 income bracket.

9 3. Beginning with the 2017 calendar year, the brackets of Missouri taxable income identified in
10 subsection 1 of this section shall be adjusted annually by the percent increase in inflation. The director shall
11 publish such brackets annually beginning on or after October 1, 2016. Modifications to the brackets shall
12 take effect on January first of each calendar year and shall apply to tax years beginning on or after the
13 effective date of the new brackets.

14 4. As used in this section, the following terms mean:

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

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

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

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

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

26 2. For all tax years beginning on or after September 1, 1993, and ending on or before December 31,
27 2020, a tax is hereby imposed upon the Missouri taxable income of corporations in an amount equal to six
28 and one-fourth percent of Missouri taxable income.

29 3. For all tax years beginning on or after January 1, 2020, a tax is hereby imposed upon the Missouri
30 taxable income of corporations in an amount equal to three and nine-tenths percent of Missouri taxable
31 income.

32 4. The provisions of this section shall not apply to out-of-state businesses operating under sections
33 190.270 to 190.285.

34 143.431. 1. The Missouri taxable income of a corporation taxable under sections 143.011 to
35 143.996 shall be so much of its federal taxable income for the taxable year, with the modifications specified
36 in subsections 2 to 4 of this section, as is derived from sources within Missouri as provided in section
37 143.451. The tax of a corporation shall be computed on its Missouri taxable income at the rates provided in
38 section 143.071.

39 2. There shall be added to or subtracted from federal taxable income the modifications to adjusted
40 gross income provided in section 143.121, with the exception of subdivision (5) of subsection 2 of section
41 143.121, and the applicable modifications to itemized deductions provided in section 143.141. There shall
42 be subtracted the federal income tax deduction provided in section 143.171. There shall be subtracted, to the
43 extent included in federal taxable income, corporate dividends from sources within Missouri.

44 3. (1) If an affiliated group of corporations files a consolidated income tax return for the taxable
45 year for federal income tax purposes ~~[and fifty percent or more of its income is derived from sources within~~
46 ~~this state as determined in accordance with section 143.451]~~, then it may elect to file a Missouri consolidated
47 income tax return. The federal consolidated taxable income of the electing affiliated group for the taxable
48 year shall be its federal taxable income. All transactions between affiliated members of the affiliated group
49 shall be eliminated on the Missouri consolidated income tax return.

50 (2) So long as a federal consolidated income tax return is filed, an election made by an affiliated
51 group of corporations to file a Missouri consolidated income tax return may be withdrawn or revoked only
52 upon substantial change in the law or regulations adversely changing tax liability under this chapter, or with
53 permission of the director of revenue upon the showing of good cause for such action. After such a

1 withdrawal or revocation with respect to an affiliated group, it may not file a Missouri consolidated income
2 tax return for five years thereafter, except with the approval of the director of revenue, and subject to such
3 terms and conditions as he may prescribe.

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

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

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

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

20 (1) "Loss year", the taxable year in which there occurs a federal net operating loss that is carried
21 back or carried forward in whole or in part to another taxable year;

22 (2) "Net addition modification", for any taxable year, the amount by which the sum of all required
23 additions to federal taxable income provided in this chapter, except for the net operating loss modification,
24 exceeds the combined sum of the amount of all required subtractions from federal taxable income provided
25 in this chapter;

26 (3) "Net operating loss deduction", a net operating loss deduction allowed for federal income tax
27 purposes under Section 172 of the Internal Revenue Code of 1986, as amended, or a net operating loss
28 deduction allowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121,
29 but not including any net operating loss deduction that is allowed for federal income tax purposes but
30 disallowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121;

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

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

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

37 5. For all tax years ending on or after July 1, 2002, federal taxable income may be a positive or
38 negative amount. Subsection 4 of this section shall be effective for all tax years with a net operating loss
39 deduction attributable to a loss year ending on or after July 1, 2002, and the net operating loss modification
40 shall only apply to loss years ending on or after July 1, 2002.

41 143.451. 1. Missouri taxable income of a corporation shall include all income derived from sources
42 within this state.

43 2. For all tax years ending on or before December 31, 2019, a corporation described in subdivision
44 (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income from sources
45 within this state, including that from the transaction of business in this state and that from the transaction of
46 business partly done in this state and partly done in another state or states. However:

47 (1) Where income results from a transaction partially in this state and partially in another state or
48 states, and income and deductions of the portion in the state cannot be segregated, then such portions of
49 income and deductions shall be allocated in this state and the other state or states as will distribute to this
50 state a portion based upon the portion of the transaction in this state and the portion in such other state or
51 states.

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

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

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

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

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

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

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

20 (d) For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

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

51 d. In the case of intangible property:

52 (i) That is rented, leased, or licensed, if and to the extent the property is used in this state by the
53 rentee, lessee, or licensee, provided that intangible property utilized in marketing a good or service to a

1 consumer is "used in this state" if that good or service is purchased by a consumer who is in this state.
2 Franchise fees or royalties received for the rent, lease, license, or use of a trade name, trademark, service
3 mark, or franchise system or provides a right to conduct business activity in a specific geographic area are
4 "used in this state" to the extent the franchise location is in this state; and

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

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

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

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

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

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

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

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

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

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

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

35 (d) "Investment company", any person registered under the federal Investment Company Act of
36 1940, as amended from time to time, (the act) or a company which would be required to register as an
37 investment company under the act except that such person is exempt to such registration pursuant to Section
38 80a-3(c)(1) of the act;

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

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

52 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. Section
53 80a-15(a), as from time to time amended;

1 b. For a person that has entered into such contract with the investment company; or
2 c. For a person that is affiliated with a person that has entered into such contract with an investment
3 company;

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

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

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

21 (a) By multiplying the investment funds service corporation's total dollar amount of qualifying sales
22 from services provided to each investment company by a fraction, the numerator of which shall be the
23 average of the number of shares owned by the investment company's fund shareholders resided in this
24 state at the beginning of and at the end of the investment company's taxable year that ends with or within the
25 investment funds service corporation's taxable year, and the denominator of which shall be the average of the
26 number of shares owned by the investment company's fund shareholders everywhere at the beginning of and
27 at the end of the investment company's taxable year that ends with or within the investment funds service
28 corporation's taxable year;

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

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

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

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

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

50 (2) The amount of investment of such corporation on December thirty-first of each year in this state
51 in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of
52 each year of any fixed transportation facilities, real estate and improvements in this state leased from any
53 other railroad shall be divided by the sum of the total amount of investment of such corporation on December

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

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

15 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include in its
 16 Missouri taxable income all income arising from all sources within this state. Income shall include revenue
 17 from each telephonic or telegraphic service rendered wholly within this state; from each service rendered for
 18 which the only facilities of such corporation used are those in this state; and from each service rendered over
 19 the facilities of such corporation in this state and in other state or states, such proportion of such revenue as
 20 the mileage involved in this state shall bear to the total mileage involved over the lines of said company in
 21 all states. The taxpayer may elect to compute the portion of income from all sources within this state in the
 22 following manner:

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

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

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

33 8. If a corporation derives only part of its income from sources within Missouri, its Missouri taxable
 34 income shall only reflect the effect of the following listed deductions to the extent applicable to Missouri.
 35 The deductions are: (a) its deduction for federal income taxes pursuant to section 143.171, and (b) the effect
 36 on Missouri taxable income of the deduction for net operating loss allowed by Section 172 of the Internal
 37 Revenue Code. The extent applicable to Missouri shall be determined by multiplying the amount that would
 38 otherwise affect Missouri taxable income by the ratio for the year of the Missouri taxable income of the
 39 corporation for the year divided by the Missouri taxable income for the year as though the corporation had
 40 derived all of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri
 41 taxable income shall not reflect the listed deductions.

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

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

46 143.455. 1. Missouri taxable income of a corporation shall include all income derived from sources
 47 within this state.

48 2. For all tax years beginning on or after January 1, 2020, a corporation described in subdivision (1)
 49 of subsection 1 of section 143.441 shall determine its income derived from sources within this state by
 50 allocating and apportioning its net income as provided in this section.

51 3. As used in this section, unless the context otherwise requires, the following terms mean:

52 (1) "Apportionable income":

53 (a) All income that is apportionable under the Constitution of the United States and is not allocated

1 under the laws of this state, including:

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

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

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

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

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

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

15 (5) "Public utility", any business entity;

16 (a) Which owns or operates any plant, equipment, property, franchise, or license for the transmission
17 of communications, transportation of goods or persons, except by pipeline, or the production, transmission,
18 sale, delivery, or furnishing of electricity, water or steam; and

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

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

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

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

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

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

34 6. (1) Net rents and royalties from real property located in this state are allocable to this state.

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

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

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

39 (3) The extent of utilization of tangible personal property in a state is determined by multiplying the
40 rents and royalties by a fraction, the numerator of which is the number of days of physical location of the
41 property in the state during the rental or royalty period in the taxable year and the denominator of which is
42 the number of days of physical location of the property everywhere during all rental or royalty periods in the
43 taxable year. If the physical location of the property during the rental or royalty period is unknown or
44 unascertainable by the corporation, tangible personal property is utilized in the state in which the property
45 was located at the time the rental or royalty payer obtained possession.

46 7. (1) Capital gains and losses from sales of real property located in this state are allocable to this
47 state.

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

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

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

52 (3) Capital gains and losses from sales of intangible personal property are allocable to this state if
53 the corporation's commercial domicile is in this state.

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

3 9. (1) Patent and copyright royalties are allocable to this state:

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

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

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

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

16 10. All apportionable income shall be apportioned to this state by multiplying the net income by a
17 fraction, the numerator of which is the total receipts of the corporation in this state during the tax period and
18 the denominator of which is the total receipts of the corporation everywhere during the tax period.

19 11. Receipts from the sale of tangible personal property are in this state if the property is received in
20 this state by the purchaser. In the case of the delivery of goods by common carrier or by other means of
21 transportation, including transportation by the purchaser, the place at which the goods are ultimately received
22 after all transportation has been completed shall be considered as the place at which the goods are received
23 by the purchaser. Direct delivery into this state by the taxpayer to a person or firm designated by a purchaser
24 from within or without the state shall constitute delivery to the purchaser in this state.

25 12. (1) Receipts, other than receipts described in subsection 11 of this section, are in this state if the
26 corporation's market for the sales is in this state. The corporation's market for sales is in this state:

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

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

31 (c) In the case of sale of a service, if and to the extent the ultimate beneficiary of the service is
32 located in this state and shall not be in this state if the ultimate beneficiary of the service rendered by the
33 corporation or the corporation's designee is located outside this state; and

34 (d) In the case of intangible property:

35 a. That is rented, leased, or licensed, if and to the extent the property is used in this state, provided
36 that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that
37 good or service is purchased by a consumer who is in this state. Franchise fees or royalties received for the
38 rent, lease, license, or use of a trade name, trademark, service mark, or franchise system or provides a right to
39 conduct business activity in a specific geographic area "are used in this state" to the extent the franchise is
40 located in this state; and

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

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

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

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

50 (2) If the state or states of assignment under subdivision (1) of this subsection cannot be determined,
51 the state or states of assignment shall be reasonably approximated.

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

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

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

7 (a) Separate accounting;

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

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

12 (3) The party petitioning for, or the director requiring, the use of any method to effectuate an
13 equitable allocation and apportionment of the corporation's income pursuant to subdivision (2) of this
14 subsection shall prove by a preponderance of evidence:

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

17 (b) That the alternative to such provisions is reasonable.

18 The same burden of proof shall apply whether the corporation is petitioning for, or the director is requiring,
19 the use of any reasonable method to effectuate an equitable allocation and apportionment of the corporation's
20 income. Notwithstanding the previous sentence, if the director can show that in any two of the prior five tax
21 years, the corporation had used an allocation or apportionment method at variance with its allocation or
22 apportionment method or methods used for such other tax years, then the director shall not bear the burden of
23 proof in imposing a different method pursuant to subdivision (2) of this subsection.

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

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

33 14. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized in
34 this state or granted a permit to operate in this state for the transportation or care of passengers shall report its
35 gross earnings within the state on intrastate business and shall also report its gross earnings on all interstate
36 business done in this state. Such report shall be subject to inquiry for the purpose of determining the amount
37 of income to be included in Missouri taxable income. This subsection shall not apply to a railroad.

38 15. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include in its
39 Missouri taxable income all income arising from all sources in this state and all income from each
40 transportation service wholly within this state, from each service where the only rails and lines of such
41 corporation used are those in this state, and such proportion of revenue from each service where the facilities
42 of such corporation in this state and in another state or states are used, as the mileage used over the rails and
43 lines of such corporation in the state shall bear to the total mileage used over the rails and lines of such
44 corporation. The corporation may elect to compute the portion of income from all sources within this state in
45 the following manner:

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

47 (2) The amount of investment of such corporation on December thirty-first of each year in this state
48 in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of
49 each year of any fixed transportation facilities, real estate and improvements in this state leased from any
50 other railroad shall be divided by the sum of the total amount of investment of such corporation on December
51 thirty-first of each year in fixed transportation facilities, real estate and improvements, plus the value on
52 December thirty-first of each year, of any fixed transportation facilities, real estate and improvements leased
53 from any other railroad. Where any fixed transportation facilities, real estate or improvements are leased by

1 more than one railroad, such portion of the value shall be used by each railroad as the rental paid by each
2 shall bear to the rental paid by all lessees. The income shall be multiplied by the fraction thus obtained to
3 determine the proportion to be used to arrive at the amount of Missouri taxable income.

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

12 17. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include in its
13 Missouri taxable income all income arising from all sources within this state. Income shall include revenue
14 from each telephonic or telegraphic service rendered wholly within this state; from each service rendered for
15 which the only facilities of such corporation used are those in this state; and from each service rendered over
16 the facilities of such corporation in this state and in other state or states, such proportion of such revenue as
17 the mileage involved in this state shall bear to the total mileage involved over the lines of said company in
18 all states. The corporation may elect to compute the portion of income from all sources within this state in
19 the following manner:

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

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

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

30 19. If a corporation derives only part of its income from sources within Missouri, its Missouri
31 taxable income shall only reflect the effect on Missouri taxable income of the deduction for net operating
32 loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be
33 determined by multiplying the amount that would otherwise affect Missouri taxable income by the ratio for
34 the year of the Missouri taxable income of the corporation for the year divided by the Missouri taxable
35 income for the year as though the corporation had derived all of its income from sources within Missouri.
36 For the purpose of the preceding sentence, Missouri taxable income shall not reflect the deduction.

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

39 143.461. 1. A corporation shall elect to determine income applicable to this state by multiplying the
40 total income from all sources by the fraction determined in the manner in section 143.451 for all tax years
41 ending on or before December 31, 2019, and for all tax years beginning on or before January 1, 2020, in the
42 manner set forth in section 143.455; first, by filing written notice with the director of revenue on or before
43 the due date of the return (including extensions of time) of the taxpayer's election, or, second, by failing to
44 keep its books and records in such manner as to show the income applicable to this state, including gross
45 income and deductions applicable thereto.

46 2. If the corporation shall keep its books and records so as to show the income applicable to this
47 state by any other method of allocation between this state and other states [~~involved of income from~~
48 ~~transactions partially within and partially without this state~~], including gross income and deductions
49 applicable thereto, and such method shows the income applicable to this state, including gross income and
50 deductions applicable thereto, then it may, on or before sixty days before the end of any taxable year, petition
51 the director of revenue, in writing, to be permitted in its return required to be filed to apportion to this state
52 according to the method shown by such books or records. If the director of revenue finds that such method
53 does show the income applicable to this state including gross income and the deductions applicable thereto,

1 he or she shall notify the corporation, at least thirty days prior to the last day on which such corporation's
2 return for that taxable year is to be filed, that it may use that method for the shorter of five years or as long as
3 such method shows the income applicable to this state, including gross income and deductions applicable
4 thereto.

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

10 4. Failure, after a method has expired or been revoked by the director of revenue, to submit a
11 method which the director of revenue finds will show such income applicable to this state including gross
12 income and deductions applicable thereto, on or before sixty days before the end of any taxable year, or
13 failure to make a return on the basis, which has been approved by the director of revenue on petition of the
14 corporation and which stands unrevoked or unexpired, shall constitute an election to accept the determination
15 of income applicable to this state by multiplying the total income from all sources by the fraction determined
16 in the manner set forth in section 143.451 for all tax years ending on or before December 31, 2019, and for
17 all tax years beginning on or before January 1, 2020, in the manner set forth in section 143.455.

18 143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue Code, shall
19 not be subject to the taxes imposed by section 143.071, or other sections imposing income tax on
20 corporations.

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

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

29 (2) Each item of S corporation income, gain, loss, or deduction shall have the same character for a
30 shareholder pursuant to sections 143.005 to 143.998 as it has for federal income tax purposes. Where an
31 item is not characterized for federal income tax purposes, it shall have the same character for a shareholder as
32 if realized directly from the source from which realized by the S corporation or incurred in the same manner
33 as incurred by the S corporation.

34 3. A nonresident shareholder of an S corporation shall determine such shareholder's Missouri
35 nonresident adjusted gross income and his or her nonresident shareholder modification by applying the
36 provisions of this subsection. Items shall be determined to be from sources within this state pursuant to
37 regulations of the director of revenue in a manner consistent with the division of income provisions of
38 section 143.451, section 143.461, or section 32.200 (Multistate Tax Compact). In determining the adjusted
39 gross income of a nonresident shareholder of any S corporation, there shall be included only that part derived
40 from or connected with sources in this state of the shareholder's pro rata share of items of S corporation
41 income, gain, loss or deduction entering into shareholder's federal adjusted gross income, as such part is
42 determined pursuant to regulations prescribed by the director of revenue in accordance with the general rules
43 in section 143.181. Any modification described in subsections 2 and 3 of section 143.121 and in section
44 143.141, which relates to an item of S corporation income, gain, loss, or deduction shall be made in
45 accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the
46 modification relates, but limited to the portion of such item derived from or connected with sources in this
47 state.

48 4. Notwithstanding subsection 3 of this section to the contrary, for all tax years beginning on or after
49 January 1, 2020, the items referred to in that subsection shall be determined to be from sources within this
50 state pursuant to regulations of the director of revenue in a manner consistent with the division of income
51 provisions of section 143.455 and section 143.461.

52 5. The director of revenue shall permit S corporations to file composite returns and to make
53 composite payments of tax on behalf of its nonresident shareholders not otherwise required to file a return. If

1 the nonresident shareholder's filing requirements result solely from one or more interests in any other
2 partnerships or subchapter S corporations, that nonresident shareholder may be included in the composite
3 return.

4 [5-] 6. If an S corporation pays or credits amounts to any of its nonresident individual shareholders
5 as dividends or as their share of the S corporation's undistributed taxable income for the taxable year, the S
6 corporation shall either timely file with the department of revenue an agreement as provided in subsection [6]
7 7 of this section or withhold Missouri income tax as provided in subsection [7] 8 of this section. An S
8 corporation that timely files an agreement as provided in subsection [6] 7 of this section with respect to a
9 nonresident shareholder for a taxable year shall be considered to have timely filed such an agreement for each
10 subsequent taxable year. An S corporation that does not timely file such an agreement for a taxable year
11 shall not be precluded from timely filing such an agreement for subsequent taxable years. An S corporation
12 is not required to deduct and withhold Missouri income tax for a nonresident shareholder if:

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

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

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

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

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

20 [6-] 7. The agreement referred to in subdivision (1) of subsection [5] 6 of this section is an
21 agreement of a nonresident shareholder of the S corporation to:

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

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

27 The agreement will be considered timely filed for a taxable year, and for all subsequent taxable years, if it is
28 filed at or before the time the annual return for such taxable year is required to be filed pursuant to section
29 143.511.

30 [7-] 8. The amount of Missouri income tax to be withheld is determined by multiplying the amount
31 of dividends or undistributed income allocable to Missouri that is paid or credited to a nonresident
32 shareholder during the taxable year by the highest rate used to determine a Missouri income tax liability for
33 an individual, except that the amount of the tax withheld may be determined based on withholding tables
34 provided by the director of revenue if the shareholder submits a Missouri withholding allowance certificate.

35 [8-] 9. An S corporation shall be entitled to recover for a shareholder on whose behalf a tax
36 payment was made pursuant to this section, if such shareholder has no tax liability.

37 [9-] 10. With respect to S corporations that are banks or bank holding companies, a pro rata share of
38 the tax credit for the tax payable pursuant to chapter 148 shall be allowed against each S corporation
39 shareholders' state income tax as follows, provided the bank otherwise complies with section 148.112:

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

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

52 (3) In the event such shareholder cannot use all or part of the tax credit in the taxable period of
53 receipt, such shareholder may carry forward such tax credit for a period of the lesser of five years or until

1 used, provided such credits are used as soon as the taxpayer has Missouri taxable income.

2 ~~[40-]~~ 11. With respect to S corporations that are associations, a pro rata share of the tax credit for
3 the tax payable under chapter 148 shall be allowed against each S corporation shareholders' state income tax
4 as follows, provided the association otherwise complies with section 148.655:

5 (1) The credit allowed by this subsection shall be equal to the savings and loan association tax
6 calculated under chapter 148 based on the computations provided in section 148.630 on an association that
7 makes an election under 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying
8 shareholder according to stock ownership, determined by multiplying a fraction, where the numerator is the
9 shareholder's stock, and the denominator is the total stock issued by the association;

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

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

21 ~~[41-]~~ 12. With respect to S corporations that are credit institutions, a pro rata share of the tax credit
22 for the tax payable under chapter 148 shall be allowed against each S corporation shareholders' state income
23 tax as follows, provided the credit institution otherwise complies with section 148.657:

24 (1) The credit allowed by this subsection shall be equal to the credit institution tax calculated under
25 chapter 148 based on the computations provided in section 148.150 on a credit institution that makes an
26 election under 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying shareholder
27 according to stock ownership, determined by multiplying a fraction, where the numerator is the shareholder's
28 stock, and the denominator is the total stock issued by such credit institution;

29 (2) The tax credit authorized in this subsection shall be permitted only to the shareholders that
30 qualify as S corporation shareholders, provided the stock at all times during the taxable period qualifies as S
31 corporation stock as defined in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the
32 taxable period. The credit created by this section on a yearly basis is available to each qualifying
33 shareholder, including shareholders filing joint returns. A credit institution holding company is not allowed
34 this credit, except that, such credit shall flow through to such credit institution holding company's qualified
35 shareholders, and be allocated to such shareholders under the same conditions; and

36 (3) In the event such shareholder cannot use all or part of the tax credit in the taxable period of
37 receipt, such shareholder may carry forward such tax credit for a period of the lesser of five years or until
38 used, provided such credits are used as soon as the taxpayer has Missouri taxable income."; and
39

40 Further amend said bill, Page 2, Section 144.087, Line 38, by inserting after all of said section and line the
41 following:

42
43 "620.1350. 1. The words used in this section and sections 620.1355 and 620.1360 shall, unless the
44 context otherwise requires, have the meaning provided in subdivision (4) of subsection 2 of section 143.451,
45 and in addition, the following words shall have the following meanings:

46 (1) "Department", the department of economic development;

47 (2) "Director", the director of the department of economic development.

48 2. An investment funds service corporation or S corporation, certified pursuant to this section and
49 sections 620.1355 and 620.1360, may make an annual election to compute the portion of income derived
50 from sources within this state either pursuant to section 143.451 or pursuant to section 32.200 relating to the
51 multistate tax compact. The annual election shall be made by the filing of a corporate income tax return
52 reflecting the use of such election and by filing a copy of the certificate issued by the director pursuant to the
53 provisions of this section and sections 620.1355 and 620.1360. The annual election may be made regardless

1 of whether the corporation filed its income tax return on a single entity basis or was included in a
2 consolidated income tax return in any year.

3 3. Notwithstanding the provisions of subsection 2 of this section to the contrary, for all tax years
4 beginning on or after January 1, 2020, an investment funds service corporation or S corporation, certified
5 pursuant to this section and sections 620.1355 and 620.1360, shall compute the portion of income derived
6 from sources within this state pursuant to section 143.455."; and

7
8 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.
9
10
11