

FIRST REGULAR SESSION

# HOUSE BILL NO. 253

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BERRY (Sponsor), JONES (110), NETH, DIEHL, SMITH (120), CIERPIOT, MOLENDORP, SCHIEBER, BROWN, WIELAND, LANT, GUERNSEY, KEENEY, BARNES, FREDERICK, FRANKLIN, MUNTZEL, LOVE, DAVIS, WHITE, CRAWFORD, LAIR, ALLEN, JONES (50), ELMER, RICHARDSON, HOUGHTON, HOUGH AND KOENIG (Co-sponsors).

0619H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 143.071, RSMo, and to enact in lieu thereof two new sections relating to the taxation of business income.

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

Section A. Section 143.071, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.013 and 143.071, to read as follows:

**143.013. 1. This act shall be known and maybe cited as the "Broad-Based Tax Relief Act of 2013".**

**2. As used in this section, "business income" means income greater than zero arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. "Business income" shall not include "compensation" as such term is defined under subsection 1 of article IV of section 32.200.**

**3. In the case of a small corporation described in section 143.471 or a partnership, computing the deduction allowed under subsection 4 of this section, taxpayers described in subdivisions (1) or (2) of this subsection shall be allowed such deduction apportioned in proportion to their share of ownership of the business on the last day of the taxpayer's tax period for which such deduction is being claimed when determining the Missouri adjusted gross income of:**

**(1) The shareholders of a small corporation as described in section 143.471;**

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

16           **(2) The partners in a partnership.**

17           **4. (1) In addition to all other modifications allowed by law, there shall be**  
18 **subtracted from the federal adjusted gross income of an individual taxpayer the amounts**  
19 **of business income as provided in this subsection to the extent included in federal adjusted**  
20 **gross income when determining the taxpayer's Missouri adjusted gross income.**

21           **(2) (a) For all tax years beginning on or after January 1, 2013, the percentage of**  
22 **the amount of business income to be subtracted under this subsection shall be determined**  
23 **as provided in this subdivision.**

24           **(b) The office of administration shall compare the sum of the Missouri net**  
25 **individual income tax revenues and the Missouri net corporation income tax revenues, as**  
26 **reported by the department of revenue, received in the fiscal year ending on June 30, 2011,**  
27 **to the Missouri net individual income tax revenues and the Missouri net corporation**  
28 **income tax revenues, as reported by the department of revenue, received in the fiscal year**  
29 **ending on June thirtieth of the tax year preceding the tax year for which the percentage**  
30 **of the amount of business income to be subtracted under this section is being determined**  
31 **under this section. Upon the completion of such comparison, the office of administration**  
32 **shall immediately report the results of such comparison to the director of the department**  
33 **of revenue.**

34           **(c) If, upon comparison of the sum of the Missouri net individual income tax**  
35 **revenues and the Missouri net corporation income tax revenues received as provided in this**  
36 **subdivision, the office of administration determines that the sum of the Missouri net**  
37 **individual income tax revenues and the Missouri net corporation income tax revenues**  
38 **received in the fiscal year ending on June thirtieth of such preceding tax year are less than**  
39 **the sum of the Missouri net individual income tax revenues and the Missouri net**  
40 **corporation income tax revenues received in the fiscal year ending on June 30, 2011, the**  
41 **percentage of the amount of business income that shall be subtracted under this subsection,**  
42 **if any, shall be the same as the immediately preceding tax year until such time the office**  
43 **of administration determines that the sum of the Missouri net individual income tax**  
44 **revenues and the Missouri net corporation income tax revenues received are equal to or**  
45 **greater than the sum of the Missouri net individual income tax revenues and the Missouri**  
46 **net corporation income tax revenues received in the fiscal year ending on June 30, 2011,**  
47 **and the percentage of business income subtracted should increase as provided in**  
48 **paragraph (d) of this subdivision.**

49           **(d) a. In the first tax year for which the office of administration determines that the**  
50 **sum of the Missouri net individual income tax revenues and the Missouri net corporation**  
51 **income tax revenues received in the preceding fiscal year ending on June thirtieth of such**

52 tax year are equal to or greater than the sum of the Missouri net individual income tax  
53 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
54 ending on June 30, 2011, the percentage of the amount of business income that shall be  
55 subtracted under this subsection shall be ten percent.

56       **b.** In the second tax year for which the office of administration determines that the  
57 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
58 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
59 tax year are equal to or greater than the sum of the Missouri net individual income tax  
60 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
61 ending on June 30, 2011, the percentage of the amount of business income that shall be  
62 subtracted under this subsection shall be twenty percent.

63       **c.** In the third tax year for which the office of administration determines that the  
64 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
65 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
66 tax year are equal to or greater than the sum of the Missouri net individual income tax  
67 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
68 ending on June 30, 2011, the percentage of the amount of business income that shall be  
69 subtracted under this subsection shall be thirty percent.

70       **d.** In the fourth tax year for which the office of administration determines that the  
71 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
72 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
73 tax year are equal to or greater than the sum of the Missouri net individual income tax  
74 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
75 ending on June 30, 2011, the percentage of the amount of business income that shall be  
76 subtracted under this subsection shall be forty percent.

77       **e.** In the fifth tax year for which the office of administration determines that the  
78 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
79 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
80 tax year are equal to or greater than the sum of the Missouri net individual income tax  
81 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
82 ending on June 30, 2011, the percentage of the amount of business income that shall be  
83 subtracted under this subsection shall be fifty percent.

84       **(e)** Once an increase occurs in the percentage of the amount of business income to  
85 be subtracted under this subsection as provided in paragraph (d) of this subdivision, the  
86 percentage of the amount subtracted under this subsection shall not be decreased even if  
87 the sum of the Missouri net individual income tax revenues and the Missouri net

88 corporation income tax revenues received in any following fiscal year ending on June  
89 thirtieth of any following tax year are less than the sum of the Missouri net individual  
90 income tax revenues and the Missouri net corporation income tax revenues received in the  
91 fiscal year ending on June 30, 2011.

92       **5. (1) For all tax years beginning on or after January 1, 2013, in the event the**  
93 **average payroll for the tax year of the business that is the source of such business income**  
94 **exceeds one hundred fifty percent of the county average wage in the county in which the**  
95 **business is located, notwithstanding the provisions of subsection 4 of this section to the**  
96 **contrary and in lieu of the deduction provided in subsection 4 of this section and in**  
97 **addition to all other modifications allowed by law, there shall be subtracted from the**  
98 **federal adjusted gross income of an individual taxpayer fifty percent of business income**  
99 **to the extent included in federal adjusted gross income when determining the taxpayer's**  
100 **Missouri adjusted gross income. For the purposes of this subsection, "county average**  
101 **wage" shall be determined as provided in section 620.1878, RSMo, and "average payroll"**  
102 **shall mean the amount of taxable wages of full-time employees of the business divided by**  
103 **the total number of full-time employees.**

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

4       2. For all tax years beginning on or after September 1, 1993, **but before January 1,**  
5 **2013,** a tax is hereby imposed upon the Missouri taxable income of corporations in an amount  
6 equal to six and one-fourth percent of Missouri taxable income.

7       **3. (1) For each tax year beginning on or after January 1, 2013, the tax imposed**  
8 **upon the Missouri taxable income of corporations shall be in an amount as determined**  
9 **under this subsection.**

10       **(2) The office of administration shall compare the sum of the Missouri net**  
11 **corporation income tax revenues and the Missouri net individual income tax revenues, as**  
12 **reported by the department of revenue, received in the fiscal year ending on June 30, 2011,**  
13 **to the sum of the Missouri net corporation income tax revenues and the Missouri net**  
14 **individual income tax revenues, as reported by the department of revenue, received in the**  
15 **fiscal year ending on June thirtieth of the tax year preceding the tax year for which the**  
16 **amount of the tax imposed under this section is being determined under this section. Upon**  
17 **the completion of such comparison, the office of administration shall immediately report**  
18 **the results of such comparison to the director of the department of revenue.**

19       **(3) If, upon comparison of the sum of the Missouri net corporation income tax**  
20 **revenues and the Missouri net individual income tax revenues received as provided in this**

21 subsection, the office of administration determines that the sum of the Missouri net  
22 corporation income tax revenues and the Missouri net individual income tax revenues  
23 received in the fiscal year ending on June thirtieth of such preceding tax year are less than  
24 the sum of the Missouri net corporation income tax revenues and the Missouri net  
25 individual income tax revenues received in the fiscal year ending on June 30, 2011, the  
26 amount of the tax imposed under this subsection shall be at the same rate as the  
27 immediately preceding tax year until such time the office of administration determines that  
28 the sum of the Missouri net corporation income tax revenues and the Missouri net  
29 individual income tax revenues received are equal to or greater than the sum of the  
30 Missouri net corporation income tax revenues and the Missouri net individual income tax  
31 revenues received in the fiscal year ending on June 30, 2011, and the amount of the tax  
32 imposed under this subsection should decrease as provided in subdivision (4) of this  
33 subsection.

34 (4) (a) In the first tax year for which the office of administration determines that the  
35 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
36 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
37 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
38 revenues and the Missouri net individual income tax revenues received in the fiscal year  
39 ending on June 30, 2011, the amount of the tax imposed under this subsection shall  
40 decrease to an amount equal to five and five-eighths percent of Missouri taxable income.

41 (b) In the second tax year for which the office of administration determines that the  
42 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
43 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
44 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
45 revenues and the Missouri net individual income tax revenues received in the fiscal year  
46 ending on June 30, 2011, the amount of the tax imposed under this subsection shall  
47 decrease to an amount equal to five percent of Missouri taxable income.

48 (c) In the third tax year for which the office of administration determines that the  
49 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
50 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
51 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
52 revenues and the Missouri net individual income tax revenues received in the fiscal year  
53 ending on June 30, 2011, the amount of the tax imposed under this subsection shall  
54 decrease to an amount equal to four and three-eighths percent of Missouri taxable income.

55 (d) In the fourth tax year for which the office of administration determines that the  
56 sum of the Missouri net corporation income tax revenues and the Missouri net individual

57 **income tax revenues received in the preceding fiscal year ending on June thirtieth of such**  
58 **tax year are equal to or greater than the sum of the Missouri net corporation income tax**  
59 **revenues and the Missouri net individual income tax revenues received in the fiscal year**  
60 **ending on June 30, 2011, the amount of the tax imposed under this subsection shall**  
61 **decrease to an amount equal to three and three-fourths percent of Missouri taxable income.**

62 **(e) In the fifth tax year for which the office of administration determines that the**  
63 **sum of the Missouri net corporation income tax revenues and the Missouri net individual**  
64 **income tax revenues received in the preceding fiscal year ending on June thirtieth of such**  
65 **tax year are equal to or greater than the sum of the Missouri net corporation income tax**  
66 **revenues and the Missouri net individual income tax revenues received in the fiscal year**  
67 **ending on June 30, 2011, the amount of the tax imposed under this subsection shall**  
68 **decrease to an amount equal to three and one-eighth percent of Missouri taxable income.**

69 **(5) Once a decrease occurs in the amount of the tax imposed under this subsection**  
70 **as provided in subdivision (4) of this subsection, the amount of the tax imposed under this**  
71 **subsection shall not increase even if the sum of the Missouri net corporation income tax**  
72 **revenues and the Missouri net individual income tax revenues received in any following**  
73 **fiscal year ending on June thirtieth of any following tax year are less than the sum of the**  
74 **Missouri net corporation income tax revenues and the Missouri net individual income tax**  
75 **revenues received in the fiscal year ending on June 30, 2011.**

76 **4. (1) For all tax years beginning on or after January 1, 2013, in the event the**  
77 **average payroll for the tax year of a corporation exceeds one hundred fifty percent of the**  
78 **county average wage in the county in which the corporation is located, notwithstanding the**  
79 **provisions of subsection 3 of this section to the contrary and in lieu of the rate of tax**  
80 **provided in subsection 3 of this section, the tax imposed upon the Missouri taxable income**  
81 **of corporations shall be three and one-eighth percent of Missouri taxable income.**

82 **(2) For the purposes of this subsection, “county average wage” shall be determined**  
83 **as provided in section 620.1878, RSMo, and “average payroll” shall mean the amount of**  
84 **taxable wages of full-time employees of the business divided by the total number of full-**  
85 **time employees.**

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