

SECOND REGULAR SESSION

# HOUSE BILL NO. 1604

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FROELKER.

Read 1<sup>st</sup> time January 23, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4023L.011

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### AN ACT

To repeal sections 143.121 and 143.124, RSMo, and to enact in lieu thereof two new sections relating to income taxation, with an effective date.

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

Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 143.121 and 143.124, to read as follows:

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

3 2. There shall be added to [his] **the individual's** federal adjusted gross income:

4 (a) The amount of any federal income tax refund received for a prior year which resulted  
5 in a Missouri income tax benefit;

6 (b) Interest on certain governmental obligations excluded from federal gross income by  
7 section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on  
8 obligations of the state of Missouri or any of its political subdivisions or authorities and shall not  
9 apply to the interest described in subdivision (a) of subsection 3 of this section. The amount  
10 added [under] **pursuant to** this paragraph shall be reduced by the amounts applicable to such  
11 interest that would have been deductible in computing the taxable income of the taxpayer except  
12 only for the application of section 265 of the Internal Revenue Code. The reduction shall only  
13 be made if it is at least five hundred dollars.

14 3. There shall be subtracted from [his] **the individual's** federal adjusted gross income  
15 the following amounts to the extent included in federal adjusted gross income:

16 (a) Interest or dividends on obligations of the United States and its territories and

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

17 possessions or of any authority, commission or instrumentality of the United States to the extent  
18 exempt from Missouri income taxes [under] **pursuant to** the laws of the United States. The  
19 amount subtracted [under] **pursuant to** this paragraph shall be reduced by any interest on  
20 indebtedness incurred to carry the described obligations or securities and by any expenses  
21 incurred in the production of interest or dividend income described in this paragraph. The  
22 reduction in the previous sentence shall only apply to the extent that such expenses including  
23 amortizable bond premiums are deducted in determining [his] **the individual's** federal adjusted  
24 gross income or included in [his] **such individual's** Missouri itemized deduction. The reduction  
25 shall only be made if the expenses total at least five hundred dollars;

26 (b) The portion of any gain, from the sale or other disposition of property having a higher  
27 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax  
28 purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is  
29 considered a long-term capital gain for federal income tax purposes, the modification shall be  
30 limited to one-half of such portion of the gain;

31 (c) The amount necessary to prevent the taxation [under] **pursuant to** sections 143.011  
32 to 143.996 of any annuity or other amount of income or gain which was properly included in  
33 income or gain and was taxed [under] **pursuant to** the laws of Missouri for a taxable year prior  
34 to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer  
35 acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer  
36 received the income or gain;

37 (d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the  
38 extent that the same are included in federal adjusted gross income;

39 (e) The amount of any state income tax refund for a prior year which was included in the  
40 federal adjusted gross income;

41 (f) The portion of capital gain specified in [subsection 3 of] section 135.357, RSMo, that  
42 would otherwise be included in federal adjusted gross income[.];

43 (g) **The amount of any Social Security benefits included in federal adjusted gross**  
44 **income and not otherwise excluded therefrom;**

45 (h) **The amount of any military retirement benefits included in federal adjusted**  
46 **gross income and not otherwise excluded therefrom.**

47 4. There shall be added to or subtracted from [his] **the individual's** federal adjusted  
48 gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section  
49 143.351.

50 5. There shall be added to or subtracted from [his] **the individual's** federal adjusted  
51 gross income the modifications provided in section 143.411.

143.124. 1. Other provisions of law to the contrary notwithstanding, the total amount

2 of all annuities, pensions, or retirement allowances above the amount of six thousand dollars  
3 annually provided by any law of this state, the United States, or any other state to any person,  
4 **other than benefits specifically subtracted from federal adjusted gross income pursuant**  
5 **to paragraphs (g) and (h) of section 143.121 and** except as provided in subsection 4 of this  
6 section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to  
7 the same extent and under the same conditions as any other taxable income received by the  
8 person receiving it. For purposes of this section, annuity, pension, or retirement allowance shall  
9 be defined as an annuity, pension or retirement allowance provided by the United States, this  
10 state, any other state or any political subdivision or agency or institution of this or any other state.  
11 For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity,  
12 pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation  
13 plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined  
14 pension plan and individual retirement arrangements, also known as IRAs, as described in the  
15 Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement  
16 allowance provided by the United States, this state, any other state or any political subdivision  
17 or agency or institution of this or any other state. **For all tax years beginning on or after**  
18 **January 1, 2003, for purposes of this section, annuity, pension, or retirement allowance**  
19 **shall not be defined to include benefits specifically subtracted from federal adjusted gross**  
20 **income pursuant to paragraphs (g) and (h) of section 143.121.** An individual taxpayer shall  
21 only be allowed a maximum deduction of six thousand dollars pursuant to this section.  
22 Taxpayers filing combined returns shall only be allowed a maximum deduction of six thousand  
23 dollars for each taxpayer on the combined return.

24         2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be  
25 subtracted from Missouri adjusted gross income for that period, determined pursuant to section  
26 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

27             (1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and  
28 the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars;  
29 or

30             (2) If the taxpayer's filing status is married filing combined and their combined Missouri  
31 adjusted gross income is less than sixteen thousand dollars; or

32             (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri  
33 adjusted gross income is less than eight thousand dollars.

34         3. For [the] tax years beginning on or after January 1, 1990, there shall be subtracted  
35 from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of  
36 the first six thousand dollars of retirement benefits received by each taxpayer from sources other  
37 than privately funded sources, and for tax years beginning on or after January 1, 1998, there shall

38 be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a  
39 maximum of the first one thousand dollars of any retirement allowance received from any  
40 privately funded source for tax years beginning on or after January 1, 1998, but before January  
41 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received  
42 from any privately funded source for tax years beginning on or after January 1, 1999, but before  
43 January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance  
44 received from any privately funded source for tax years beginning on or after January 1, 2000,  
45 but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement  
46 allowance received from any privately funded source for tax years beginning on or after January  
47 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any  
48 retirement allowance received from any privately funded sources for tax years beginning on or  
49 after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this  
50 subsection:

51 (1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and  
52 the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

53 (2) If the taxpayer's filing status is married filing combined and their combined Missouri  
54 adjusted gross income is less than thirty-two thousand dollars; or

55 (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri  
56 adjusted gross income is less than sixteen thousand dollars.

57 4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for  
58 such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this  
59 section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the  
60 maximum exemption provided in subsection 3 of this section reduced by one dollar for every  
61 dollar such taxpayer's income exceeds the ceiling for [his or her] **such taxpayer's** filing status.

62 5. For purposes of this section, any Social Security benefits otherwise included in  
63 Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not, **except**  
64 **as otherwise provided by section 143.121**, be subtracted for purposes of other computations  
65 pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this  
66 section.

67 6. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply  
68 during all tax years in which the federal Internal Revenue Code provides exemption levels for  
69 calculation of the taxability of Social Security benefits that are the same as the levels in  
70 subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the  
71 calculation of the taxability of Social Security benefits are adjusted by applicable federal law or  
72 regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall  
73 be accordingly adjusted to the same exemption levels.

74           7. The portion of a taxpayer's lump sum distribution from an annuity or other retirement  
75 plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this  
76 chapter, but subject to taxation [under] **pursuant to** Internal Revenue Code Section 402 shall  
77 be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution  
78 for the same tax year.

79           8. For purposes of this section, retirement benefits received shall not include any  
80 withdrawals from qualified retirement plans which are subsequently rolled over into another  
81 retirement plan.

82           9. The exemptions provided for in this section shall not affect the calculation of the  
83 income to be used to determine the property tax credit provided in sections 135.010 to 135.035,  
84 RSMo.

            Section B. Section A of this act shall become effective on January 1, 2003, and shall  
2   apply to all taxable years beginning after December 31, 2002.