

FIRST REGULAR SESSION

# HOUSE BILL NO. 412

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WASSON (Sponsor), SMITH (14), WILSON (119), WOOD, VIEBROCK, ROARK, BYRD, ERVIN, JACKSON, DAY, WALLACE, CUNNINGHAM (145), JETTON, DENISON, RICHARD, PARSON, SCHAD, KUESSNER, KRATKY, DOUGHERTY, MAY, COOPER (158), WILSON (130) AND DETHROW (Co-sponsors).

Read 1<sup>st</sup> time February 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1062L.02I

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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.

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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Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new sections  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 the  
2 taxpayer's federal adjusted gross income subject to the modifications in this section.

3 2. There shall be added to the taxpayer's federal adjusted gross income:

4 [(a)] **(1)** The amount of any federal income tax refund received for a prior year which  
5 resulted in a Missouri income tax benefit;

6 [(b)] **(2)** Interest on certain governmental obligations excluded from federal gross income  
7 by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest  
8 on obligations of the state of Missouri or any of its political subdivisions or authorities and shall  
9 not apply to the interest described in subdivision [(a)] **(1)** of subsection 3 of this section. The  
10 amount added 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 [(c)] **(3)** The amount of any deduction that is included in the computation of federal

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.

15 taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job  
16 Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to  
17 property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount  
18 deducted exceeds the amount that would have been deductible pursuant to Section 168 of the  
19 Internal Revenue Code of 1986 as in effect on January 1, 2002; and

20 [(d)] (4) The amount of any deduction that is included in the computation of federal  
21 taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of  
22 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i)  
23 of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims  
24 in the tax year in which the net operating loss occurred or carries forward for a period of more  
25 than twenty years and carries backward for more than two years. Any amount of net operating  
26 loss taken against federal income taxes but disallowed against Missouri income taxes pursuant  
27 to this paragraph since July 1, 2002, may be carried forward and taken against any loss on the  
28 Missouri income tax return for a period of not more than twenty years from the year of the initial  
29 loss.

30 3. There shall be subtracted from the taxpayer's federal adjusted gross income the  
31 following amounts to the extent included in federal adjusted gross income:

32 [(a)] (1) Interest or dividends on obligations of the United States and its territories and  
33 possessions or of any authority, commission or instrumentality of the United States to the extent  
34 exempt from Missouri income taxes pursuant to the laws of the United States. The amount  
35 subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred  
36 to carry the described obligations or securities and by any expenses incurred in the production  
37 of interest or dividend income described in this paragraph. The reduction in the previous  
38 sentence shall only apply to the extent that such expenses including amortizable bond premiums  
39 are deducted in determining the taxpayer's federal adjusted gross income or included in the  
40 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total  
41 at least five hundred dollars;

42 [(b)] (2) The portion of any gain, from the sale or other disposition of property having  
43 a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income  
44 tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is  
45 considered a long-term capital gain for federal income tax purposes, the modification shall be  
46 limited to one-half of such portion of the gain;

47 [(c)] (3) The amount necessary to prevent the taxation pursuant to this chapter of any  
48 annuity or other amount of income or gain which was properly included in income or gain and  
49 was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the  
50 taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the

51 income or gain, or to a trust or estate from which the taxpayer received the income or gain;

52 [(d)] (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to  
53 the extent that the same are included in federal adjusted gross income;

54 [(e)] (5) The amount of any state income tax refund for a prior year which was included  
55 in the federal adjusted gross income;

56 [(f)] (6) The portion of capital gain specified in section 135.357, RSMo, that would  
57 otherwise be included in federal adjusted gross income; [and]

58 [(g)] (7) The amount that would have been deducted in the computation of federal  
59 taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1,  
60 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before  
61 July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to  
62 Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker  
63 Assistance Act of 2002; **and**

64 **(8) The amount of any military retirement benefits included in federal adjusted**  
65 **gross income and not otherwise excluded therefrom. The deduction of the benefits**  
66 **specified in this subdivision shall be phased in as follows: for taxable year 2006, twenty**  
67 **percent of such benefits may be deducted; for taxable year 2007, forty percent of such**  
68 **benefits may be deducted; for taxable year 2008, sixty percent of such benefits may be**  
69 **deducted; for taxable year 2009, eighty percent of such benefits may be deducted; and for**  
70 **taxable year 2010 and all taxable years thereafter, one hundred percent of such benefits**  
71 **may be deducted.**

72 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross  
73 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

74 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross  
75 income the modifications provided in section 143.411.

76 **6. This section shall become effective January 1, 2006.**

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 under**  
5 **subdivision (8) of subsection 3 of section 143.121 and** except as provided in subsection 4 of  
6 this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner,  
7 to 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, 2006, for purposes of this section, the terms annuity, pension, or retirement**  
19 **allowance shall not be defined to include benefits specifically subtracted from federal**  
20 **adjusted gross income under subdivision (8) of subsection 3 of section 143.121.** An  
21 individual taxpayer shall only be allowed a maximum deduction of six thousand dollars pursuant  
22 to this section. Taxpayers filing combined returns shall only be allowed a maximum deduction  
23 of six thousand 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 from  
35 Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first  
36 six thousand dollars of retirement benefits received by each taxpayer from sources other than  
37 privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be  
38 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 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 in 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 Internal Revenue Code Section 402 shall be taxed in an  
77 amount equal to ten percent of the taxpayer's federal liability on such distribution for the same  
78 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.

85           10. The exemptions provided for in this section shall apply to any annuity, pension, or  
86 retirement allowance as defined in subsection 1 of this section to the extent that such amounts  
87 are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the  
88 taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This  
89 subsection shall not apply to any individual who qualifies under federal guidelines to be one  
90 hundred percent disabled.

91           **11. This section shall become effective January 1, 2006.**