

FIRST REGULAR SESSION

HOUSE BILL NO. 967

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STORCH.

Read 1st time April 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2228L.011

AN ACT

To repeal sections 143.121 and 143.431, RSMo, and to enact in lieu thereof two new sections relating to nonresident income tax.

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

Section A. Sections 143.121 and 143.431, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 143.121 and 143.431, 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) 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 pursuant to this paragraph shall be reduced by the amounts applicable to such interest that
11 would have been deductible in computing the taxable income of the taxpayer except only for the
12 application of Section 265 of the Internal Revenue Code. The reduction shall only be made if
13 it is at least five hundred dollars;

14 (c) The amount of any deduction that is included in the computation of federal taxable
15 income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation
16 and Worker Assistance Act of 2002 to the extent the amount deducted relates to property

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

17 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) The amount of any deduction that is included in the computation of federal taxable
21 income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as
22 amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the
23 Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the
24 tax year in which the net operating loss occurred or carries forward for a period of more than
25 twenty years and carries backward for more than two years. Any amount of net operating loss
26 taken against federal taxable income but disallowed for Missouri income tax purposes pursuant
27 to this paragraph after June 18, 2002, may be carried forward and taken against any income on
28 the Missouri income tax return for a period of not more than twenty years from the year of the
29 initial loss; **and**

30 (e) **For nonresident individuals in all taxable years ending on or after December 31,**
31 **2005, the amount of any property taxes paid to another state or a political subdivision of**
32 **another state for which a deduction was allowed on such nonresident's federal return in**
33 **the taxable year.**

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

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

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

51 (c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity
52 or other amount of income or gain which was properly included in income or gain and was taxed

53 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or
54 to a decedent by reason of whose death the taxpayer acquired the right to receive the income or
55 gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

60 (f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise
61 be included in federal adjusted gross income;

62 (g) The amount that would have been deducted in the computation of federal taxable
63 income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002,
64 to the extent that amount relates to property purchased on or after July 1, 2002, but before July
65 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section
66 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act
67 of 2002; and

68 (h) For all tax years ending on or after July 1, 2002, with respect to qualified property
69 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
70 addition modification was made under paragraph (c) of subsection 2 of this section, the amount
71 by which addition modification made under paragraph (c) of subsection 2 of this section on
72 qualified property has not been recovered through the additional subtractions provided in
73 paragraph (g) of this subsection.

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

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

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

6 2. There shall be added to or subtracted from federal taxable income the modifications
7 to adjusted gross income provided in section 143.121 **with the exception of subdivision (e) of**
8 **subsection 2 of section 143.121**, and the applicable modifications to itemized deductions
9 provided in section 143.141. There shall be subtracted the federal income tax deduction
10 provided in section 143.171. There shall be subtracted, to the extent included in federal taxable
11 income, corporate dividends from sources within Missouri.

12 3. (1) If an affiliated group of corporations files a consolidated income tax return for the
13 taxable year for federal income tax purposes and fifty percent or more of its income is derived
14 from sources within this state as determined in accordance with section 143.451, then it may
15 elect to file a Missouri consolidated income tax return. The federal consolidated taxable income
16 of the electing affiliated group for the taxable year shall be its federal taxable income.

17 (2) So long as a federal consolidated income tax return is filed, an election made by an
18 affiliated group of corporations to file a Missouri consolidated income tax return may be
19 withdrawn or revoked only upon substantial change in the law or regulations adversely changing
20 tax liability under this chapter, or with permission of the director of revenue upon the showing
21 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated
22 group, it may not file a Missouri consolidated income tax return for five years thereafter, except
23 with the approval of the director of revenue, and subject to such terms and conditions as he may
24 prescribe.

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

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

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

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

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

46 (2) "Net addition modification", for any taxable year, the amount by which the sum of
47 all required additions to federal taxable income provided in this chapter, except for the net

48 operating loss modification, exceeds the combined sum of the amount of all required subtractions
49 from federal taxable income provided in this chapter;

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

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

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

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

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