

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 1253 & 1297

97TH GENERAL ASSEMBLY

5078H.04P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 143.071 and 143.221, RSMo, and to enact in lieu thereof four 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Section A. Sections 143.071 and 143.221, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 143.013, 143.071, 143.221, and 148.720, to read as follows:

**143.013. 1. This act shall be known and may be cited as the "Broad-Based Tax Relief Act of 2014".**

**2. (1) 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.**

**(2) As used in this section, "Missouri net individual income tax revenues" means the revenues collected from the Missouri individual income tax in this chapter less any refunds.**

**(3) As used in this section, "Missouri net corporation income tax revenues" means the revenues collected from the Missouri corporation income tax in section 143.071 less any refunds.**

**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**

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 in subdivisions (1) or (2) of this subsection shall be allowed such deduction apportioned in  
18 proportion to their share of ownership of the business on the last day of the taxpayer's tax  
19 period for which such deduction is being claimed when determining the Missouri adjusted  
20 gross income of:

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

22 (2) The partners in a partnership.

23 4. (1) In addition to all other modifications allowed by law, there shall be  
24 subtracted from the federal adjusted gross income of an individual taxpayer the amounts  
25 of business income as provided in this subsection to the extent included in federal adjusted  
26 gross income when determining the taxpayer's Missouri adjusted gross income.

27 (2) (a) For all tax years beginning on or after January 1, 2014, the percentage of  
28 the amount of business income to be subtracted under this subsection shall be determined  
29 as provided in this subdivision.

30 (b) The office of administration shall compare the sum of the Missouri net  
31 individual income tax revenues and the Missouri net corporation income tax revenues, as  
32 reported by the department of revenue, received in the fiscal year ending on June 30, 2012,  
33 to the Missouri net individual income tax revenues and the Missouri net corporation  
34 income tax revenues, as reported by the department of revenue, received in the fiscal year  
35 ending on June thirtieth of the tax year preceding the tax year for which the percentage  
36 of the amount of business income to be subtracted under this section is being determined  
37 under this section. When performing such comparison, the office of administration shall  
38 exclude any revenues received in any fiscal year as the result of any amnesty from the  
39 assessment or payment of all penalties, additions to tax, and interest with respect to unpaid  
40 taxes or taxes due and owing. Upon the completion of such comparison, the office of  
41 administration shall immediately report the results of such comparison to the director of  
42 the department of revenue.

43 (c) If, upon comparison of the sum of the Missouri net individual income tax  
44 revenues and the Missouri net corporation income tax revenues received as provided in this  
45 subdivision, the office of administration determines that the sum of the Missouri net  
46 individual income tax revenues and the Missouri net corporation income tax revenues  
47 received in the fiscal year ending on June thirtieth of such preceding tax year are less than  
48 the sum of the Missouri net individual income tax revenues and the Missouri net  
49 corporation income tax revenues received in the fiscal year ending on June 30, 2012, the  
50 percentage of the amount of business income that shall be subtracted under this subsection,  
51 if any, shall be the same as the immediately preceding tax year until such time the office  
52 of administration determines that the sum of the Missouri net individual income tax

53 revenues and the Missouri net corporation income tax revenues received are equal to or  
54 greater than the sum of the Missouri net individual income tax revenues and the Missouri  
55 net corporation income tax revenues received in the fiscal year ending on June 30, 2012,  
56 and the percentage of business income subtracted should increase as provided in  
57 paragraph (d) of this subdivision.

58 (d) a. In the first tax year for which the office of administration determines that the  
59 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
60 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
61 tax year are equal to or greater than the sum of the Missouri net individual income tax  
62 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
63 ending on June 30, 2012, the percentage of the amount of business income that shall be  
64 subtracted under this subsection shall be ten percent.

65 b. In the second tax year for which the office of administration determines that the  
66 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
67 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
68 tax year are equal to or greater than the sum of the Missouri net individual income tax  
69 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
70 ending on June 30, 2012, the percentage of the amount of business income that shall be  
71 subtracted under this subsection shall be twenty percent.

72 c. In the third tax year for which the office of administration determines that the  
73 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
74 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
75 tax year are equal to or greater than the sum of the Missouri net individual income tax  
76 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
77 ending on June 30, 2012, the percentage of the amount of business income that shall be  
78 subtracted under this subsection shall be thirty percent.

79 d. In the fourth tax year for which the office of administration determines that the  
80 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
81 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
82 tax year are equal to or greater than the sum of the Missouri net individual income tax  
83 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
84 ending on June 30, 2012, the percentage of the amount of business income that shall be  
85 subtracted under this subsection shall be forty percent.

86 e. In the fifth tax year for which the office of administration determines that the  
87 sum of the Missouri net individual income tax revenues and the Missouri net corporation  
88 income tax revenues received in the preceding fiscal year ending on June thirtieth of such

89 tax year are equal to or greater than the sum of the Missouri net individual income tax  
90 revenues and the Missouri net corporation income tax revenues received in the fiscal year  
91 ending on June 30, 2012, the percentage of the amount of business income that shall be  
92 subtracted under this subsection shall be fifty percent.

93 (e) Once an increase occurs in the percentage of the amount of business income to  
94 be subtracted under this subsection as provided in paragraph (d) of this subdivision, the  
95 percentage of the amount subtracted under this subsection shall not be decreased even if  
96 the sum of the Missouri net individual income tax revenues and the Missouri net  
97 corporation income tax revenues received in any following fiscal year ending on June  
98 thirtieth of any following tax year are less than the sum of the Missouri net individual  
99 income tax revenues and the Missouri net corporation income tax revenues received in the  
100 fiscal year ending on June 30, 2012.

101 5. For all tax years beginning on or after January 1, 2014, in the event the average  
102 payroll for the tax year of the business that is the source of such business income exceeds  
103 one hundred fifty percent of the county average wage in the county in which the business  
104 is located, notwithstanding the provisions of subsection 4 of this section to the contrary and  
105 in lieu of the deduction provided in subsection 4 of this section and in addition to all other  
106 modifications allowed by law, there shall be subtracted from the federal adjusted gross  
107 income of an individual taxpayer fifty percent of business income to the extent included in  
108 federal adjusted gross income when determining the taxpayer's Missouri adjusted gross  
109 income. For the purposes of this subsection, "county average wage" shall be determined  
110 as provided in section 620.1878, RSMo, and "average payroll" shall mean the amount of  
111 taxable wages of full-time employees of the business divided by the total number of full-  
112 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 2014, 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, 2014, 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, 2012,

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. When  
17 performing such comparison, the office of administration shall exclude any revenues  
18 received in any fiscal year as the result of any amnesty from the assessment or payment of  
19 all penalties, additions to tax, and interest with respect to unpaid taxes or taxes due and  
20 owing. Upon the completion of such comparison, the office of administration shall  
21 immediately report the results of such comparison to the director of the department of  
22 revenue.

23 (3) If, upon comparison of the sum of the Missouri net corporation income tax  
24 revenues and the Missouri net individual income tax revenues received as provided in this  
25 subsection, the office of administration determines that the sum of the Missouri net  
26 corporation income tax revenues and the Missouri net individual income tax revenues  
27 received in the fiscal year ending on June thirtieth of such preceding tax year are less than  
28 the sum of the Missouri net corporation income tax revenues and the Missouri net  
29 individual income tax revenues received in the fiscal year ending on June 30, 2012, the  
30 amount of the tax imposed under this subsection shall be at the same rate as the  
31 immediately preceding tax year until such time the office of administration determines that  
32 the sum of the Missouri net corporation income tax revenues and the Missouri net  
33 individual income tax revenues received are equal to or greater than the sum of the  
34 Missouri net corporation income tax revenues and the Missouri net individual income tax  
35 revenues received in the fiscal year ending on June 30, 2012, and the amount of the tax  
36 imposed under this subsection should decrease as provided in subdivision (4) of this  
37 subsection.

38 (4) (a) In the first tax year for which the office of administration determines that the  
39 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
40 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
41 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
42 revenues and the Missouri net individual income tax revenues received in the fiscal year  
43 ending on June 30, 2012, the amount of the tax imposed under this subsection shall  
44 decrease to an amount equal to five and five-eighths percent of Missouri taxable income.

45 (b) In the second tax year for which the office of administration determines that the  
46 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
47 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
48 tax year are equal to or greater than the sum of the Missouri net corporation income tax

49 revenues and the Missouri net individual income tax revenues received in the fiscal year  
50 ending on June 30, 2012, the amount of the tax imposed under this subsection shall  
51 decrease to an amount equal to five percent of Missouri taxable income.

52 (c) In the third tax year for which the office of administration determines that the  
53 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
54 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
55 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
56 revenues and the Missouri net individual income tax revenues received in the fiscal year  
57 ending on June 30, 2012, the amount of the tax imposed under this subsection shall  
58 decrease to an amount equal to four and three-eighths percent of Missouri taxable income.

59 (d) In the fourth tax year for which the office of administration determines that the  
60 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
61 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
62 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
63 revenues and the Missouri net individual income tax revenues received in the fiscal year  
64 ending on June 30, 2012, the amount of the tax imposed under this subsection shall  
65 decrease to an amount equal to three and three-fourths percent of Missouri taxable income.

66 (e) In the fifth tax year for which the office of administration determines that the  
67 sum of the Missouri net corporation income tax revenues and the Missouri net individual  
68 income tax revenues received in the preceding fiscal year ending on June thirtieth of such  
69 tax year are equal to or greater than the sum of the Missouri net corporation income tax  
70 revenues and the Missouri net individual income tax revenues received in the fiscal year  
71 ending on June 30, 2012, the amount of the tax imposed under this subsection shall  
72 decrease to an amount equal to three and one-eighth percent of Missouri taxable income.

73 (5) Once a decrease occurs in the amount of the tax imposed under this subsection  
74 as provided in subdivision (4) of this subsection, the amount of the tax imposed under this  
75 subsection shall not increase even if the sum of the Missouri net corporation income tax  
76 revenues and the Missouri net individual income tax revenues received in any following  
77 fiscal year ending on June thirtieth of any following tax year are less than the sum of the  
78 Missouri net corporation income tax revenues and the Missouri net individual income tax  
79 revenues received in the fiscal year ending on June 30, 2012.

80 4. (1) For all tax years beginning on or after January 1, 2014, in the event the  
81 average payroll for the tax year of a corporation exceeds one hundred fifty percent of the  
82 county average wage in the county in which the corporation is located, notwithstanding the  
83 provisions of subsection 3 of this section to the contrary and in lieu of the rate of tax

84 **provided in subsection 3 of this section, the tax imposed upon the Missouri taxable income**  
85 **of corporations shall be three and one-eighth percent of Missouri taxable income.**

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

143.221. 1. Every employer required to deduct and withhold tax under sections 143.011  
2 to 143.996 shall, for each calendar quarter, on or before the last day of the month following the  
3 close of such calendar quarter, file a withholding return as prescribed by the director of revenue  
4 and pay over to the director of revenue or to a depository designated by the director of revenue  
5 the taxes so required to be deducted and withheld.

6 2. Where the aggregate amount required to be deducted and withheld by any employer  
7 exceeds fifty dollars for at least two of the preceding twelve months, the director, by regulation,  
8 may require a monthly return. The due dates of the monthly return and the monthly payment or  
9 deposit for the first two months of each quarter shall be by the fifteenth day of the succeeding  
10 month. The due dates of the monthly return and the monthly payment or deposit for the last  
11 month of each quarter shall be by the last day of the succeeding month. The director may  
12 increase the amount required for making a monthly employer withholding payment and return  
13 to more than fifty dollars or decrease such required amount, however, the decreased amount shall  
14 not be less than fifty dollars.

15 3. Where the aggregate amount required to be deducted and withheld by any employer  
16 is less than [twenty] **one hundred** dollars in each of the four preceding quarters, **and to the**  
17 **extent the employer does not meet the requirements in subsection 1 or 2 of this section for**  
18 **filing a withholding return on a quarterly or monthly basis**, the employer shall file a  
19 withholding return for a calendar year. The director, by regulation, may also allow other  
20 employers to file annual returns. The return shall be filed and the taxes if any paid on or before  
21 January thirty-first of the succeeding year. The director may increase the amount required for  
22 making an annual employer withholding payment and return to more than [twenty] **one hundred**  
23 dollars or decrease such required amount, however, the decreased amount shall not be less than  
24 [twenty] **one hundred** dollars.

25 4. If the director of revenue finds that the collection of taxes required to be deducted and  
26 withheld by an employer may be jeopardized by delay, he may require the employer to pay over  
27 the tax or make a return at any time. A lien outstanding with regard to any tax administered by  
28 the director shall be a sufficient basis for this action.

**148.720. 1. For all tax years beginning on or after January 1, 2014, in which there**  
2 **is a reduction in the rate of tax imposed under section 143.071, there shall be a**

3 **corresponding and proportional reduction in the rate of tax imposed under sections**  
4 **148.030, 148.140, and 148.620.**

5 **2. The reduction specified in subsection 1 of this section shall occur each year there**  
6 **is a reduction in the rate of tax imposed under section 143.071.**

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