

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Bill No. 3, Pages 1-3, Section 135.010, Lines 1-86, by striking said
2 section from the bill; and

3
4 Further amend said bill, Pages 3-4, Section 135.025, Lines 1-7, by deleting all of said lines and
5 inserting in lieu thereof the following:

6
7 "135.025. 1. The property taxes accrued and rent constituting property taxes accrued on
8 each return shall be totaled. This total, up to seven hundred fifty dollars in rent constituting
9 property taxes actually paid or eleven hundred dollars in actual property tax paid, shall be used in
10 determining the property tax credit. The director of revenue shall prescribe regulations providing
11 for allocations where part of a claimant's homestead is rented to another or used for nondwelling
12 purposes or where a homestead is owned or rented or used as a dwelling for part of a year."; and

13
14 Further amend said bill, Page 4, section, Lines 18-19, by deleting all of said lines and inserting in
15 lieu thereof the following:

16
17 "3. The director of the department of revenue shall calculate the increase in the amount of
18 corporate income tax revenue generated by the change in the allocation of corporate income under
19 section 143.451 in fiscal year 2016. In fiscal year 2018"; and

20
21 Further amend said bill, Pages 4-5, Section 135.030, Lines 1-37, by striking said section from the
22 bill; and

23
24 Further amend said bill, Page 5, section, Line 37, by inserting after all of said section and line the
25 following:

26
27 "143.451. 1. Missouri taxable income of a corporation shall include all income derived
28 from sources within this state.

29 2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall
30 include in its Missouri taxable income all income from sources within this state, including that from
31 the transaction of business in this state and that from the transaction of business partly done in this
32 state and partly done in another state or states. However:

33 (1) Where income results from a transaction partially in this state and partially in another
34 state or states, and income and deductions of the portion in the state cannot be segregated, then such
35 portions of income and deductions shall be allocated in this state and the other state or states as will
36 distribute to this state a portion based upon the portion of the transaction in this state and the portion

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1 in such other state or states.

2 (2) The taxpayer may elect to compute the portion of income from all sources in this state in
3 the following manner, or the manner set forth in subdivision (3) of this subsection:

4 (a) The income from all sources shall be determined as provided, excluding therefrom the
5 figures for the operation of any bridge connecting this state with another state.

6 (b) The amount of sales which are transactions wholly in this state shall be added to one-
7 half of the amount of sales which are transactions partly within this state and partly without this
8 state, and the amount thus obtained shall be divided by the total sales or in cases where sales do not
9 express the volume of business, the amount of business transacted wholly in this state shall be added
10 to one-half of the amount of business transacted partly in this state and partly outside this state and
11 the amount thus obtained shall be divided by the total amount of business transacted, and the net
12 income shall be multiplied by the fraction thus obtained, to determine the proportion of income to
13 be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its
14 own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other
15 business transacted for the determination of said fraction.

16 (c) For the purposes of this subdivision, a transaction involving the sale of tangible property
17 is:

18 a. "Wholly in this state" if both the seller's shipping point and the purchaser's destination
19 point are in this state;

20 b. "Partly within this state and partly without this state" if the seller's shipping point is in
21 this state and the purchaser's destination point is outside this state, or the seller's shipping point is
22 outside this state and the purchaser's destination point is in this state;

23 c. Not "wholly in this state" or not "partly within this state and partly without this state"
24 only if both the seller's shipping point and the purchaser's destination point are outside this state.

25 (d) For purposes of this subdivision:

26 a. The purchaser's destination point shall be determined without regard to the FOB point or
27 other conditions of the sale; and

28 b. The seller's shipping point is determined without regard to the location of the seller's
29 principle office or place of business.

30 (3) The taxpayer may elect to compute the portion of income from all sources in this state in
31 the following manner:

32 (a) The income from all sources shall be determined as provided, excluding therefrom the
33 figures for the operation of any bridge connecting this state with another state;

34 (b) The amount of sales which are transactions in this state shall be divided by the total
35 sales, and the net income shall be multiplied by the fraction thus obtained, to determine the
36 proportion of income to be used to arrive at the amount of Missouri taxable income. The
37 investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall
38 not be considered as sales or other business transacted for the determination of said fraction;

39 (c) For the purposes of this subdivision, a transaction involving the sale of tangible property
40 is:

41 a. "In this state" if the purchaser's destination point is in this state;

42 b. Not "in this state" if the purchaser's destination point is outside this state;

43 (d) For purposes of this subdivision, the purchaser's destination point shall be determined
44 without regard to the FOB point or other conditions of the sale and shall not be in this state if the
45 purchaser received the tangible personal property from the seller in this state for delivery to the
46 purchaser's location outside this state;

47 ~~[(e) For the purposes of this subdivision, a transaction involving the sale other than the sale~~
48 ~~of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The~~

1 taxpayer's market for sales is in this state:

2 a. ~~In the case of sale, rental, lease, or license of real property, if and to the extent the~~
3 ~~property is located in this state;~~

4 b. ~~In the case of rental, lease, or license of tangible personal property, if and to the extent~~
5 ~~the property is located in this state;~~

6 c. ~~In the case of sale of a service, if and to the extent the ultimate beneficiary of the service~~
7 ~~is located in this state and shall not be in this state if the ultimate beneficiary of the service rendered~~
8 ~~by the taxpayer or the taxpayer's designee is located outside this state; and~~

9 d. ~~In the case of intangible property:~~

10 (i) ~~That is rented, leased, or licensed, if and to the extent the property is used in this state by~~
11 ~~the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good or~~
12 ~~service to a consumer is "used in this state" if that good or service is purchased by a consumer who~~
13 ~~is in this state. Franchise fees or royalties received for the rent, lease, license, or use of a trade~~
14 ~~name, trademark, service mark, or franchise system or provides a right to conduct business activity~~
15 ~~in a specific geographic area are "used in this state" to the extent the franchise location is in this~~
16 ~~state; and~~

17 (ii) ~~That is sold, if and to the extent the property is used in this state, provided that:~~

18 i. ~~A contract right, government license, or similar intangible property that authorizes the~~
19 ~~holder to conduct a business activity in a specific geographic area is "used in this state" if the~~
20 ~~geographic area includes all or part of this state;~~

21 ii. ~~Receipts from intangible property sales that are contingent on the productivity, use, or~~
22 ~~disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing~~
23 ~~of such intangible property under item (i) of this subparagraph; and~~

24 iii. ~~All other receipts from a sales of intangible property shall be excluded from the~~
25 ~~numerator and denominator of the sales factor;~~

26 ~~—(f) If the state or states of assignment under paragraph (e) of this subdivision cannot be~~
27 ~~determined, the state or states of assignment shall be reasonably approximated;~~

28 (g) ~~If the state of assignment cannot be determined under paragraph (e) of this subdivision~~
29 ~~or reasonably approximated under paragraph (f) of this subdivision, such sales shall be excluded~~
30 ~~from the denominator of the sales factor;~~

31 (h) ~~The director may prescribe such rules and regulations as necessary or appropriate to~~
32 ~~carry out the purposes of this section.]~~

33 (4) For purposes of this subsection, the following words shall, unless the context otherwise
34 requires, have the following meaning:

35 (a) "Administration services" include, but are not limited to, clerical, fund or shareholder
36 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,
37 internal auditing, legal and tax services performed for an investment company;

38 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be
39 amended from time to time;

40 (c) "Distribution services" include, but are not limited to, the services of advertising,
41 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
42 advertising, servicing or marketing shares, only where such service is performed by a person who is,
43 or in the case of a closed end company, was, either engaged in the services of underwriting or
44 selling investment company shares or affiliated with a person that is engaged in the service of
45 underwriting or selling investment company shares. In the case of an open end company, such
46 service of underwriting or selling shares must be performed pursuant to a contract entered into
47 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

48 (d) "Investment company", any person registered under the federal Investment Company

1 Act of 1940, as amended from time to time, (the act) or a company which would be required to
2 register as an investment company under the act except that such person is exempt to such
3 registration pursuant to Section 80a-3(c)(1) of the act;

4 (e) "Investment funds service corporation" includes any corporation or S corporation doing
5 business in the state which derives more than fifty percent of its gross income in the ordinary course
6 of business from the provision directly or indirectly of management, distribution or administration
7 services to or on behalf of an investment company or from trustees, sponsors and participants of
8 employee benefit plans which have accounts in an investment company. An investment funds
9 service corporation shall include any corporation or S corporation providing management services
10 as an investment advisory firm registered under Section 203 of the Investment Advisors Act of
11 1940, as amended from time to time, regardless of the percentage of gross revenues consisting of
12 fees from management services provided to or on behalf of an investment company;

13 (f) "Management services" include but are not limited to, the rendering of investment advice
14 directly or indirectly to an investment company making determinations as to when sales and
15 purchases of securities are to be made on behalf of the investment company, or the selling or
16 purchasing of securities constituting assets of an investment company, and related activities, but
17 only where such activity or activities are performed:

18 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C.
19 Section 80a-15(a), as from time to time amended;

20 b. For a person that has entered into such contract with the investment company; or

21 c. For a person that is affiliated with a person that has entered into such contract with an
22 investment company;

23 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of
24 management, distribution or administration services to or on behalf of an investment company or
25 from trustees, sponsors and participants of employee benefit plans which have accounts in an
26 investment company. For purposes of this section, "gross income" is defined as that amount of
27 income earned from qualifying sources without deduction of expenses related to the generation of
28 such income;

29 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the
30 investment company. If, however, the investment company or the investment funds service
31 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
32 business is different than the fund shareholder's mailing address such presumption shall not control.
33 To the extent an investment funds service corporation does not have access to the records of the
34 investment company, the investment funds service corporation may employ reasonable methods to
35 determine the investment company fund shareholder's residence.

36 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an
37 investment funds service corporation, or S corporation, shall be considered wholly in this state only
38 to the extent that the fund shareholders of the investment companies, to which the investment funds
39 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
40 state qualifying sales of an investment funds service corporation, or S corporation, shall be
41 determined as follows:

42 (a) By multiplying the investment funds service corporation's total dollar amount of
43 qualifying sales from services provided to each investment company by a fraction, the numerator of
44 which shall be the average of the number of shares owned by the investment company's fund
45 shareholders resided in this state at the beginning of and at the end of the investment company's
46 taxable year that ends with or within the investment funds service corporation's taxable year, and the
47 denominator of which shall be the average of the number of shares owned by the investment
48 company's fund shareholders everywhere at the beginning of and at the end of the investment

1 company's taxable year that ends with or within the investment funds service corporation's taxable
2 year;

3 (b) A separate computation shall be made to determine the wholly in this state qualifying
4 sales from each investment company. The qualifying sales for each investment company shall be
5 multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a) of this
6 subdivision. The product of this equation shall result in the wholly in this state qualifying sales.
7 The qualifying sales for each investment company which are not wholly in this state will be
8 considered wholly without this state;

9 (c) To the extent an investment funds service corporation has sales which are not qualifying
10 sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized
11 by the investment funds service corporation without regard to this subdivision.

12 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441
13 organized in this state or granted a permit to operate in this state for the transportation or care of
14 passengers shall report its gross earnings within the state on intrastate business and shall also report
15 its gross earnings on all interstate business done in this state which report shall be subject to inquiry
16 for the purpose of determining the amount of income to be included in Missouri taxable income.
17 The previous sentence shall not apply to a railroad.

18 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall
19 include in its Missouri taxable income all income arising from all sources in this state and all
20 income from each transportation service wholly within this state, from each service where the only
21 lines of such corporation used are those in this state, and such proportion of revenue from each
22 service where the facilities of such corporation in this state and in another state or states are used, as
23 the mileage used over the lines of such corporation in the state shall bear to the total mileage used
24 over the lines of such corporation. The taxpayer may elect to compute the portion of income from
25 all sources within this state in the following manner:

26 (1) The income from all sources shall be determined as provided;

27 (2) The amount of investment of such corporation on December thirty-first of each year in
28 this state in fixed transportation facilities, real estate and improvements, plus the value on December
29 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this
30 state leased from any other railroad shall be divided by the sum of the total amount of investment of
31 such corporation on December thirty-first of each year in fixed transportation facilities, real estate
32 and improvements, plus the value on December thirty-first of each year, of any fixed transportation
33 facilities, real estate and improvements leased from any other railroad. Where any fixed
34 transportation facilities, real estate or improvements are leased by more than one railroad, such
35 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental
36 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the
37 proportion to be used to arrive at the amount of Missouri taxable income.

38 5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall
39 include in its Missouri taxable income one-half of the net income from the operation of a bridge
40 between this and another state. If any such bridge is owned or operated by a railroad corporation or
41 corporations, or by a corporation owning a railroad corporation using such bridge, then the figures
42 for operation of such bridge may be included in the return of such railroad or railroads; or if such
43 bridge is owned or operated by any other corporation which may now or hereafter be required to file
44 an income tax return, one-half of the income or loss to such corporation from such bridge may be
45 included in such return by adding or subtracting same to or from another net income or loss shown
46 by the return.

47 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall
48 include in its Missouri taxable income all income arising from all sources within this state. Income

1 shall include revenue from each telephonic or telegraphic service rendered wholly within this state;
2 from each service rendered for which the only facilities of such corporation used are those in this
3 state; and from each service rendered over the facilities of such corporation in this state and in other
4 state or states, such proportion of such revenue as the mileage involved in this state shall bear to the
5 total mileage involved over the lines of said company in all states. The taxpayer may elect to
6 compute the portion of income from all sources within this state in the following manner:

7 (1) The income from all sources shall be determined as provided;

8 (2) The amount of investment of such corporation on December thirty-first of each year in
9 this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be
10 divided by the amount of the total investment of such corporation on December thirty-first of each
11 year in telephonic or telegraphic facilities, real estate and improvements. The income of the
12 taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used to
13 arrive at the amount of Missouri taxable income.

14 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from all
15 sources within this state shall be deducted such of the deductions for expenses in determining
16 Missouri taxable income as were incurred in this state to produce such income and all losses actually
17 sustained in this state in the business of the corporation.

18 8. If a corporation derives only part of its income from sources within Missouri, its Missouri
19 taxable income shall only reflect the effect of the following listed deductions to the extent
20 applicable to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to
21 section 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating
22 loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall
23 be determined by multiplying the amount that would otherwise affect Missouri taxable income by
24 the ratio for the year of the Missouri taxable income of the corporation for the year divided by the
25 Missouri taxable income for the year as though the corporation had derived all of its income from
26 sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall
27 not reflect the listed deductions.

28 9. Any investment funds service corporation organized as a corporation or S corporation
29 which has any shareholders resided in this state shall be subject to Missouri income tax as
30 provided in this chapter.

31 10. The provisions of this section do not impact any other apportionment election available
32 to a taxpayer under Missouri statutes."; and

33
34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.