

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2540, Page 13, Section 32.200, Line 55,
2 by inserting after the words "article IV" the following "; except that for tax years beginning on or
3 after January 1, 2019, any taxpayer subject to the tax imposed by section 143.071 shall apportion
4 and allocate in accordance with the provisions of chapter 143 and shall not apportion or allocate in
5 accordance with article IV"; and

6
7 Further amend said bill and section, Page 14, Lines 87-89, by deleting all of said lines and inserting
8 in lieu thereof the following:

9
10 (3) "Compensation" means wages, salaries, commissions and any other form of
11 remuneration paid to employees for personal services.

12 (4) "Financial organization" means any bank, trust company, savings bank, industrial"; and

13
14 Further amend said bill and section, Pages 14-15, Lines 93-105, by renumbering subdivisions
15 accordingly; and

16
17 Further amend said bill and section, Pages 16-18, Lines 164-216, by deleting the opening bracket
18 "[" before the number "9." on Line 164 and the closing bracket "]" after the word "income." on Line
19 216 and removing the strikethrough on all of said lines; and

20
21 Further amend said bill, Page 129, Section 143.022, Line 24, by deleting the year "2017" and
22 inserting in lieu thereof the year "2018"; and

23
24 Further amend said bill, Page 131, Section 143.171, Lines 4-5 by deleting said lines and inserting in
25 lieu thereof the following:

26 "return is being filed, not to exceed five thousand dollars on a single taxpayer's return or ten
27 thousand dollars on a combined return, after reduction for all credits thereon, except the credit"; and

28
29 Further amend said bill, page, and section, Line 13, by deleting the following words "the sum of the
30 following amounts"; and

31
32 Further amend said bill, page, and section, Lines 15-26, by deleting each occurrence of the
33 following words "for such taxable income"; and

34
35 Further amend said bill and section, Page 132, Lines 35-36, by deleting the phrase "fifty percent of
36 the corporation's federal income tax liability" and inserting in lieu thereof the phrase "five thousand

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1 dollars on a corporation's tax return"
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3 Further amend said bill, page, and section, Line 37, by deleting the following words "the sum of the
4 following amounts"; and

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6 Further amend said bill, page, and section, Lines 39-50, by deleting each occurrence of the
7 following words "for such taxable income"; and

8
9 Further amend said bill, Page 134, Section 143.225, Line 47, by inserting after all of said section
10 and line the following:

11
12 "143.451. 1. Missouri taxable income of a corporation shall include all income derived
13 from sources within this state.

14 2. For all tax years beginning on or before December 31, 2018, a corporation described in
15 subdivision (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income all
16 income from sources within this state, including that from the transaction of business in this state
17 and that from the transaction of business partly done in this state and partly done in another state or
18 states. However:

19 (1) Where income results from a transaction partially in this state and partially in another
20 state or states, and income and deductions of the portion in the state cannot be segregated, then such
21 portions of income and deductions shall be allocated in this state and the other state or states as will
22 distribute to this state a portion based upon the portion of the transaction in this state and the portion
23 in such other state or states.

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

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

28 (b) The amount of sales which are transactions wholly in this state shall be added to one-
29 half of the amount of sales which are transactions partly within this state and partly without this
30 state, and the amount thus obtained shall be divided by the total sales or in cases where sales do not
31 express the volume of business, the amount of business transacted wholly in this state shall be added
32 to one-half of the amount of business transacted partly in this state and partly outside this state and
33 the amount thus obtained shall be divided by the total amount of business transacted, and the net
34 income shall be multiplied by the fraction thus obtained, to determine the proportion of income to
35 be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its
36 own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other
37 business transacted for the determination of said fraction.

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

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

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

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

47 (d) For purposes of this subdivision:

48 a. The purchaser's destination point shall be determined without regard to the FOB point or

1 other conditions of the sale; and

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

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

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

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

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

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

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

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

21 (e) For the purposes of this subdivision, a transaction involving the sale other than the sale
22 of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The
23 taxpayer's market for sales is in this state:

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

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

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

31 d. In the case of intangible property:

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

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

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

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

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

48 (f) If the state or states of assignment under paragraph (e) of this subdivision cannot be

1 determined, the state or states of assignment shall be reasonably approximated;

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

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

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

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

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

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

22 (d) "Investment company", any person registered under the federal Investment Company
23 Act of 1940, as amended from time to time, (the act) or a company which would be required to
24 register as an investment company under the act except that such person is exempt to such
25 registration pursuant to Section 80a-3(c)(1) of the act;

26 (e) "Investment funds service corporation" includes any corporation or S corporation doing
27 business in the state which derives more than fifty percent of its gross income in the ordinary course
28 of business from the provision directly or indirectly of management, distribution or administration
29 services to or on behalf of an investment company or from trustees, sponsors and participants of
30 employee benefit plans which have accounts in an investment company. An investment funds
31 service corporation shall include any corporation or S corporation providing management services
32 as an investment advisory firm registered under Section 203 of the Investment Advisors Act of
33 1940, as amended from time to time, regardless of the percentage of gross revenues consisting of
34 fees from management services provided to or on behalf of an investment company;

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

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

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

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

45 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of
46 management, distribution or administration services to or on behalf of an investment company or
47 from trustees, sponsors and participants of employee benefit plans which have accounts in an
48 investment company. For purposes of this section, "gross income" is defined as that amount of

1 income earned from qualifying sources without deduction of expenses related to the generation of
2 such income;

3 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the
4 investment company. If, however, the investment company or the investment funds service
5 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
6 business is different than the fund shareholder's mailing address such presumption shall not control.
7 To the extent an investment funds service corporation does not have access to the records of the
8 investment company, the investment funds service corporation may employ reasonable methods to
9 determine the investment company fund shareholder's residence.

10 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an
11 investment funds service corporation, or S corporation, shall be considered wholly in this state only
12 to the extent that the fund shareholders of the investment companies, to which the investment funds
13 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
14 state qualifying sales of an investment funds service corporation, or S corporation, shall be
15 determined as follows:

16 (a) By multiplying the investment funds service corporation's total dollar amount of
17 qualifying sales from services provided to each investment company by a fraction, the numerator of
18 which shall be the average of the number of shares owned by the investment company's fund
19 shareholders resided in this state at the beginning of and at the end of the investment company's
20 taxable year that ends with or within the investment funds service corporation's taxable year, and the
21 denominator of which shall be the average of the number of shares owned by the investment
22 company's fund shareholders everywhere at the beginning of and at the end of the investment
23 company's taxable year that ends with or within the investment funds service corporation's taxable
24 year;

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

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

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

40 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall
41 include in its Missouri taxable income all income arising from all sources in this state and all
42 income from each transportation service wholly within this state, from each service where the only
43 lines of such corporation used are those in this state, and such proportion of revenue from each
44 service where the facilities of such corporation in this state and in another state or states are used, as
45 the mileage used over the lines of such corporation in the state shall bear to the total mileage used
46 over the lines of such corporation. The taxpayer may elect to compute the portion of income from
47 all sources within this state in the following manner:

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

1 (2) The amount of investment of such corporation on December thirty-first of each year in
2 this state in fixed transportation facilities, real estate and improvements, plus the value on December
3 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this
4 state leased from any other railroad shall be divided by the sum of the total amount of investment of
5 such corporation on December thirty-first of each year in fixed transportation facilities, real estate
6 and improvements, plus the value on December thirty-first of each year, of any fixed transportation
7 facilities, real estate and improvements leased from any other railroad. Where any fixed
8 transportation facilities, real estate or improvements are leased by more than one railroad, such
9 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental
10 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the
11 proportion to be used to arrive at the amount of Missouri taxable income.

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

21 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall
22 include in its Missouri taxable income all income arising from all sources within this state. Income
23 shall include revenue from each telephonic or telegraphic service rendered wholly within this state;
24 from each service rendered for which the only facilities of such corporation used are those in this
25 state; and from each service rendered over the facilities of such corporation in this state and in other
26 state or states, such proportion of such revenue as the mileage involved in this state shall bear to the
27 total mileage involved over the lines of said company in all states. The taxpayer may elect to
28 compute the portion of income from all sources within this state in the following manner:

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

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

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

40 8. If a corporation derives only part of its income from sources within Missouri, its Missouri
41 taxable income shall only reflect the effect of the following listed deductions to the extent
42 applicable to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to
43 section 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating
44 loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall
45 be determined by multiplying the amount that would otherwise affect Missouri taxable income by
46 the ratio for the year of the Missouri taxable income of the corporation for the year divided by the
47 Missouri taxable income for the year as though the corporation had derived all of its income from
48 sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall

1 not reflect the listed deductions.

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

5 10. The provisions of this section do not impact any other apportionment election available
6 to a taxpayer under Missouri statutes.

7 143.456. 1. As used in this section, unless the context otherwise requires:

8 (1) "Apportionable income" means:

9 (a) All income that is apportionable under the Constitution of the United States and is not
10 allocated under the laws of this state, including:

11 a. Income arising from transactions and activity in the regular course of the taxpayer's trade
12 or business; and

13 b. Income arising from tangible and intangible property if the acquisition, management,
14 employment, development or disposition of the property is or was related to the operation of the
15 taxpayer's trade or business; and

16 (b) Any income that would be allocable to this state under the Constitution of the United
17 States, but that is apportioned rather than allocated under the laws of this state;

18 (2) "Commercial domicile" means the principal place from which the trade or business of
19 the taxpayer is directed or managed;

20 (3) "Financial organization" means any bank, trust company, savings bank, industrial bank,
21 land bank, safe deposit company, private banker, savings and loan association, credit union,
22 cooperative bank, small loan company, sales finance company, investment company, or any type of
23 insurance company;

24 (4) "Non-apportionable income" means all income other than apportionable income;

25 (5) "Public utility" means any business entity:

26 (a) Which owns or operates any plant, equipment, property, franchise, or license for the
27 transmission of communications, transportation of goods or persons, except by pipeline, or the
28 production, transmission, sale, delivery, or furnishing of electricity, water or steam; and

29 (b) Whose rates of charges for goods or services have been established or approved by a
30 federal, state or local government or governmental agency;

31 (6) "Receipts" means all gross receipts of the taxpayer that are not allocated under
32 paragraphs of this section and that are received from transactions and activity in the regular course
33 of the taxpayer's trade or business; except that receipts of a taxpayer from hedging transactions and
34 from the maturity, redemption, sale, exchange, loan or other disposition of cash or securities, shall
35 be excluded.

36 2. For all tax years beginning on or after January 1, 2019, any corporation having income
37 from business activity which is taxable both within and without this state shall allocate and
38 apportion its net income as provided in this section.

39 3. For purposes of allocation and apportionment of income under this section, a corporation
40 is taxable in another state if:

41 (1) In that state it is subject to a net income tax, a franchise tax measured by net income, a
42 franchise tax for the privilege of doing business, or a corporate stock tax, or

43 (2) That state has jurisdiction to subject the corporation to a net income tax regardless of
44 whether, in fact, the state does or does not do so.

45 4. Rents and royalties from real or tangible personal property, capital gains, interest,
46 dividends or patent or copyright royalties, to the extent that they constitute nonapportionable
47 income, shall be allocated as provided in subsections 5 through 8 of this section.

48 5. (1) Net rents and royalties from real property located in this state are allocable to this

1 state.

2 (2) Net rents and royalties from tangible personal property are allocable to this state:

3 (a) If and to the extent the property is utilized in this state, or

4 (b) In their entirety if the corporation's commercial domicile is in this state and the
5 corporation is not organized under the laws of or taxable in the state in which the property is
6 utilized.

7 (3) The extent of utilization of tangible personal property in a state is determined by
8 multiplying the rents and royalties by a fraction, the numerator of which is the number of days of
9 physical location of the property in the state during the rental or royalty period in the taxable year
10 and the denominator of which is the number of days of physical location of the property everywhere
11 during all rental or royalty periods in the taxable year. If the physical location of the property
12 during the rental or royalty period is unknown or unascertainable by the corporation, tangible
13 personal property is utilized in the state in which the property was located at the time the rental or
14 royalty payer obtained possession.

15 6. (1) Capital gains and losses from sales of real property located in this state are allocable to
16 this state.

17 (2) Capital gains and losses from sales of tangible personal property are allocable to this
18 state if:

19 (a) The property had a situs in this state at the time of the sale, or

20 (b) The corporation's commercial domicile is in this state and the corporation is not taxable
21 in the state in which the property had a situs.

22 (3) Capital gains and losses from sales of intangible personal property are allocable to this
23 state if the corporation's commercial domicile is in this state.

24 7. Interest and dividends are allocable to this state if the corporation's commercial domicile
25 is in this state.

26 8. (1) Patent and copyright royalties are allocable to this state if and to the extent that:

27 (a) The patent or copyright is utilized by the payer in this state, or

28 (b) The patent or copyright is utilized by the payer in a state in which the corporation is not
29 taxable and the corporation's commercial domicile is in this state.

30 (2) A patent is utilized in a state to the extent that it is employed in production, fabrication,
31 manufacturing, or other processing in the state or to the extent that a patented product is produced in
32 the state. If the basis of receipts from patent royalties does not permit allocation to states or if the
33 accounting procedures do not reflect states of utilization, the patent is utilized in the state in which
34 the taxpayer's commercial domicile is located.

35 (3) A copyright is utilized in a state to the extent that printing or other publication originates
36 in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if
37 the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in
38 which the corporation's commercial domicile is located.

39 9. All apportionable income shall be apportioned to this state by multiplying the income by a
40 fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax
41 period and the denominator of which is the total receipts of the taxpayer everywhere during the tax
42 period.

43 10. Receipts from the sale of tangible personal property are in this state if:

44 (1) The property is delivered or shipped to a purchaser, other than the United States
45 Government, within this state regardless of the f.o.b. point or other conditions of the sale; or

46 (2) The property is shipped from an office, store, warehouse, factory, or other place of
47 storage in this state and:

48 (a) The purchaser is the United States Government or

1 (b) The corporation is not taxable in the state of the purchaser.

2 11. (1) Receipts, other than receipts described in subsection 10 of this section, are in this
3 state if the corporation's market for the sales is in this state. The corporation's market for sales is in
4 this state in the case of:

5 (a) Sale, rental, lease or license of real property, if and to the extent the property is located in
6 this state;

7 (b) Rental, lease or license of tangible personal property, if and to the extent the property is
8 located in this state;

9 (c) Sale of a service, if and to the extent the service is delivered to a location in this state;
10 and

11 (d) Intangible property, that is:

12 a. Rented, leased, or licensed, if and to the extent the property is used in this state, provided
13 that intangible property utilized in marketing a good or service to a consumer is "used in this state"
14 if that good or service is purchased by a consumer who is in this state; and

15 b. Sold, if and to the extent the property is used in this state, provided that:

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

19 (ii) Receipts from intangible property sales that are contingent on the productivity, use, or
20 disposition of the intangible property shall be treated as receipts from the rental, lease or licensing
21 of such intangible property under subparagraph a. of paragraph (d) of subdivision (1) of this
22 subsection; and

23 (iii) All other receipts from a sale of intangible property shall be excluded from the
24 numerator and denominator of the receipts factor.

25 (2) If the state or states of assignment under subdivision (1) of this subsection cannot be
26 determined, the state or states of assignment shall be reasonably approximated.

27 (3) If the corporation is not taxable in a state to which a receipt is assigned under subdivision
28 (1) or (2) of this subsection, or if the state of assignment cannot be determined under subdivision (1)
29 of this subsection or reasonably approximated under subdivision (2) of this subsection, such receipt
30 shall be excluded from the numerator and denominator of the receipts factor.

31 (4) The director may prescribe regulations as necessary or appropriate to carry out the
32 purposes of this section.

33 12. (1) If the allocation and apportionment provisions of this section do not fairly represent
34 the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax
35 administrator may require, in respect to all or any part of the taxpayer's business activity, if
36 reasonable:

37 (a) Separate accounting;

38 (b) The inclusion of one or more additional factors which will fairly represent the
39 corporation's business activity in this state; or

40 (c) The employment of any other method to effectuate an equitable allocation and
41 apportionment of the taxpayer's income.

42 (2) (a) If the allocation and apportionment provisions of this section do not fairly represent
43 the extent of business activity in this state of corporations engaged in a particular industry or in a
44 particular transaction or activity, the tax administrator may, in addition to the authority provided in
45 subdivision (1) of this subsection, establish appropriate rules or regulations for determining
46 alternative allocation and apportionment methods for such taxpayers.

47 (b) A regulation adopted pursuant to this section shall be applied uniformly, except that with
48 respect to any corporation to whom such regulation applies, the corporation may petition for, or the

1 director may require, adjustment pursuant to subdivision (1) of subsection 12 of this section.

2 (3) The party petitioning for, or the director requiring, the use of any method to effectuate an
3 equitable allocation and apportionment of the corporation's income pursuant to subdivision (1) of
4 this subsection must prove:

5 (a) That the allocation and apportionment provisions of this section do not fairly represent
6 the extent of the corporation's business activity in this state; and

7 (b) That the alternative to such provisions is reasonable.

8 The same burden of proof shall apply whether the corporation is petitioning for, or the director is
9 requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment
10 of the corporation's income. Notwithstanding the previous sentence, if the director can show that in
11 any two of the prior five tax years, the corporation had used an allocation or apportionment method
12 at variance with its allocation or apportionment method or methods used for such other tax years,
13 then the director shall not bear the burden of proof in imposing a different method pursuant to
14 subdivision (1) of this subsection.

15 (4) If the director requires any method to effectuate an equitable allocation and
16 apportionment of the corporation's income, the director cannot impose any civil or criminal penalty
17 with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the
18 allocation and apportionment provisions of this section.

19 (5) A corporation that has received written permission from the director to use a reasonable
20 method to effectuate an equitable allocation and apportionment of the corporation's income shall not
21 have that permission revoked with respect to transactions and activities that have already occurred
22 unless there has been a material change in, or a material misrepresentation of, the facts provided by
23 the corporation upon which the director reasonably relied.

24 13. For purposes of this subsection, the following words shall, unless the context otherwise
25 requires, have the following meaning:

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

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

31 (3) "Distribution services" include, but are not limited to, the services of advertising,
32 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
33 advertising, servicing or marketing shares, only where such service is performed by a person who is,
34 or in the case of a closed end company, was, either engaged in the services of underwriting or
35 selling investment company shares or affiliated with a person that is engaged in the service of
36 underwriting or selling investment company shares. In the case of an open end company, such
37 service of underwriting or selling shares must be performed pursuant to a contract entered into
38 under 15 U.S.C. section 80a-15(b), as may be amended from time to time;

39 (4) "Investment company", any person registered under the federal investment company act
40 of 1940, as amended from time to time, or a company which would be required to register as an
41 investment company under the act except that such person is exempt to such registration pursuant to
42 section 80a-3(c)(1) of the act;

43 (5) "Investment funds service corporation" includes any corporation or S corporation doing
44 business in the state which derives more than fifty percent of its gross income in the ordinary course
45 of business from the provision directly or indirectly of management, distribution or administration
46 services to or on behalf of an investment company or from trustees, sponsors and participants of
47 employee benefit plans which have accounts in an investment company. An investment funds
48 service corporation shall include any corporation or S corporation providing management services

1 as an investment advisory firm registered under section 203 of the investment advisors act of 1940,
2 as may be amended from time to time, regardless of the percentage of gross revenues consisting of
3 fees from management services provided to or on behalf of an investment company;

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

9 (a) Pursuant to a contract with the investment company entered into under 15 U.S.C. section
10 80a-15(a), as may be amended from time to time;

11 (b) For a person that has entered into such contract with the investment company; or

12 (c) For a person that is affiliated with a person that has entered into such contract with an
13 investment company;

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

20 (8) "Residence", presumptively the fund shareholder's mailing address on the records of the
21 investment company. If, however, the investment company or the investment funds service
22 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
23 business is different than the fund shareholder's mailing address such presumption shall not control.
24 To the extent an investment funds service corporation does not have access to the records of the
25 investment company, the investment funds service corporation may employ reasonable methods to
26 determine the investment company fund shareholder's residence.

27 14. Notwithstanding other provisions of law to the contrary, qualifying sales of an
28 investment funds service corporation, or S corporation, shall be considered wholly in this state only
29 to the extent that the fund shareholders of the investment companies, to which the investment funds
30 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
31 state qualifying sales of an investment funds service corporation, or S corporation, shall be
32 determined as follows:

33 (1) By multiplying the investment funds service corporation's total dollar amount of
34 qualifying sales from services provided to each investment company by a fraction, the numerator of
35 which shall be the average of the number of shares owned by the investment company's fund
36 shareholders resided in this state at the beginning of and at the end of the investment company's
37 taxable year that ends with or within the investment funds service corporation's taxable year, and the
38 denominator of which shall be the average of the number of shares owned by the investment
39 company's fund shareholders everywhere at the beginning of and at the end of the investment
40 company's taxable year that ends with or within the investment funds service corporation's taxable
41 year;

42 (2) A separate computation shall be made to determine the wholly in this state qualifying
43 sales from each investment company. The qualifying sales for each investment company shall be
44 multiplied by the respective percentage of each fund, as calculated pursuant to subdivision (1) of
45 this subsection. The product of this equation shall result in the wholly in this state qualifying sales.
46 The qualifying sales for each investment company which are not wholly in this state will be
47 considered wholly without this state;

48 (3) To the extent an investment funds service corporation has sales which are not qualifying

1 sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized
2 by the investment funds service corporation without regard to this subdivision.

3 15. Any corporation described in subdivision (1) of subsection 1 of section 143.441
4 organized in this state or granted a permit to operate in this state for the transportation or care of
5 passengers shall report its gross earnings within the state on intrastate business and shall also report
6 its gross earnings on all interstate business done in this state. Such report shall be subject to inquiry
7 for the purpose of determining the amount of income to be included in Missouri taxable income.
8 This subsection shall not apply to a railroad.

9 16. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall
10 include in its Missouri taxable income all income arising from all sources in this state and all
11 income from each transportation service wholly within this state, from each service where the only
12 lines of such corporation used are those in this state, and such proportion of revenue from each
13 service where the facilities of such corporation in this state and in another state or states are used, as
14 the mileage used over the lines of such corporation in the state shall bear to the total mileage used
15 over the lines of such corporation. The taxpayer may elect to compute the portion of income from
16 all sources within this state in the following manner:

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

18 (2) The amount of investment of such corporation on December thirty-first of each year in
19 this state in fixed transportation facilities, real estate and improvements, plus the value on December
20 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this
21 state leased from any other railroad shall be divided by the sum of the total amount of investment of
22 such corporation on December thirty-first of each year in fixed transportation facilities, real estate
23 and improvements, plus the value on December thirty-first of each year, of any fixed transportation
24 facilities, real estate and improvements leased from any other railroad. Where any fixed
25 transportation facilities, real estate or improvements are leased by more than one railroad, such
26 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental
27 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the
28 proportion to be used to arrive at the amount of Missouri taxable income.

29 17. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall
30 include in its Missouri taxable income one-half of the net income from the operation of a bridge
31 between this and another state. If any such bridge is owned or operated by a railroad corporation or
32 corporations, or by a corporation owning a railroad corporation using such bridge, then the figures
33 for operation of such bridge may be included in the return of such railroad or railroads; or if such
34 bridge is owned or operated by any other corporation which may now or hereafter be required to file
35 an income tax return, one-half of the income or loss to such corporation from such bridge may be
36 included in such return by adding or subtracting the same to or from another net income or loss
37 shown by the return.

38 18. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall
39 include in its Missouri taxable income all income arising from all sources within this state. Income
40 shall include revenue from each telephonic or telegraphic service rendered wholly within this state;
41 from each service rendered for which the only facilities of such corporation used are those in this
42 state; and from each service rendered over the facilities of such corporation in this state and in other
43 state or states, such proportion of such revenue as the mileage involved in this state shall bear to the
44 total mileage involved over the lines of said company in all states. The taxpayer may elect to
45 compute the portion of income from all sources within this state in the following manner:

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

47 (2) The amount of investment of such corporation on December thirty-first of each year in
48 this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be

1 divided by the amount of the total investment of such corporation on December thirty-first of each
2 year in telephonic or telegraphic facilities, real estate and improvements. The income of the
3 taxpayer shall be multiplied by the fraction thus obtained to determine the proportion to be used to
4 arrive at the amount of Missouri taxable income.

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

9 20. If a corporation derives only part of its income from sources within Missouri, its
10 Missouri taxable income shall only reflect the effect on Missouri taxable income of the deduction
11 for net operating loss allowed by section 172 of the Internal Revenue Code. The extent applicable to
12 Missouri shall be determined by multiplying the amount that would otherwise affect Missouri
13 taxable income by the ratio for the year of the Missouri taxable income of the corporation for the
14 year divided by the Missouri taxable income for the year as though the corporation had derived all
15 of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri
16 taxable income shall not reflect the deduction.

17 21. Any investment funds service corporation organized as a corporation or S corporation
18 which has any shareholders resided in this state shall be subject to Missouri income tax as
19 provided in this chapter.

20 143.461. 1. A corporation shall elect to determine income applicable to this state by
21 multiplying the total income from all sources by the fraction determined in the manner in section
22 143.451; first, by filing written notice with the director of revenue on or before the due date of the
23 return (including extensions of time) of the taxpayer's election, or, second, by failing to keep its
24 books and records in such manner as to show the income applicable to this state, including gross
25 income and deductions applicable thereto.

26 2. If the corporation shall keep its books and records so as to show by any other method of
27 allocation between this state and other states involved of income from transactions partially within
28 and partially without this state, including gross income and deductions applicable thereto, and such
29 method shows the income applicable to this state, including gross income and deductions applicable
30 thereto, then it may, on or before sixty days before the end of any taxable year, petition the director
31 of revenue, in writing, to be permitted in its return required to be filed to apportion to this state
32 according to the method shown by such books or records. If the director of revenue finds that such
33 method does show the income applicable to this state including gross income and the deductions
34 applicable thereto, he shall notify the corporation, at least thirty days prior to the last day on which
35 such corporation's return for that taxable year is to be filed, that it may use that method as long as
36 such method shows the income applicable to this state, including gross income and deductions
37 applicable thereto.

38 3. The corporation shall cease using such method whenever the director of revenue finds
39 and notifies such corporation on or before ninety days before the end of the taxable year, that such
40 method does not so show. Upon and after such revocation the corporation shall be permitted to
41 petition to use another method of allocation that will show such income including gross income and
42 deductions applicable thereto as though no petition had ever been filed.

43 4. Failure, after a method has been revoked by the director of revenue, to submit a method
44 which the director of revenue finds will show such income applicable to this state including gross
45 income and deductions applicable thereto, on or before sixty days before the end of any taxable
46 year, or failure to make a return on the basis, which has been approved by the director of revenue on
47 petition of the corporation and which stands unrevoked, shall constitute an election to accept the
48 determination of income applicable to this state by multiplying the total income from all sources by

1 the fraction determined in the manner set forth in section 143.451.

2 5. If the allocation and apportionment provisions of section 143.456 or this section do not
3 fairly represent the extent of the taxpayer's business activity in this state , the taxpayer may petition
4 for or the tax administrator may require, in respect to all or any part of the taxpayer's business
5 activity, if reasonable:

6 (1) separate accounting;

7 (2) the inclusion of one or more additional factors which will fairly represent the taxpayer's
8 business activity in this state; or

9 (3) the employment of any other method to effectuate an equitable allocation and
10 apportionment of the taxpayer's income."; and

11
12 Further amend said bill, Page 207, Section 208.431, Line 9, by deleting the year "2018" and
13 inserting in lieu thereof the year "2019"; and

14
15 Further amend said bill, page, and section, Line 13, by deleting the word "shall" and inserting in lieu
16 thereof the word "may"; and

17
18 Further amend said bill by amending the title, enacting clause, and intersectional references
19 accordingly.