

FIRST REGULAR SESSION

# HOUSE BILL NO. 92

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREEN.

0211H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapters 143 and 443, RSMo, by adding thereto seven new sections relating to the first-time business owner savings account act.

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

Section A. Chapters 143 and 443, RSMo, are amended by adding thereto seven new sections, to be known as sections 143.1155, 443.1011, 443.1013, 443.1014, 443.1015, 443.1016, and 443.1017, to read as follows:

**143.1155. 1. This section shall be known and may be cited as the "First-Time Business Owner Tax Deduction".**

**2. As used in this section, the following terms mean:**

**(1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;**

**(2) "Eligible expenses", the same meaning as that term is defined under subdivision (3) of section 443.1013;**

**(3) "First-time business owner savings account", the same meaning as that term is defined under subdivision (6) of section 443.1013;**

**(4) "First-time business owner savings account act", sections 443.1011 to 443.1017;**

**(5) "Taxpayer", any individual who is a resident of this state and subject to the income tax imposed under this chapter, excluding withholding tax imposed under sections 143.191 to 143.265.**

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

15           **3. For all tax years beginning on or after January 1, 2020, a taxpayer shall be**  
16 **allowed a deduction equal to fifty percent of the taxpayer's contributions to a first-time**  
17 **business owner savings account in the tax year of the contribution.**

18           **4. The amount of the deduction claimed shall not exceed the amount of the**  
19 **taxpayer's Missouri adjusted gross income for the tax year the deduction is claimed.**

20           **5. The assets of a first-time business owner savings account and any income**  
21 **therefrom shall be exempt from all taxation by the state or any of its political subdivisions.**  
22 **Income earned or received as a result of assets in a first-time business owner savings**  
23 **account shall not be subject to state income tax imposed under chapter 143. The exemption**  
24 **from taxation under this section shall apply only to assets and income maintained, accrued,**  
25 **or expended under the requirements of the first-time business owner savings account act,**  
26 **and no exemption shall apply to assets and income expended for any other purposes.**  
27 **Annual contributions made to the savings program, up to and including eight hundred**  
28 **dollars per participating taxpayer, or up to and including one thousand six hundred**  
29 **dollars for married individuals filing a joint tax return, shall be subtracted from gross**  
30 **income to determine Missouri adjusted gross income under section 143.121.**

31           **6. If any deductible contributions to or earnings from the program referred to in**  
32 **this section are distributed and not used to pay for eligible expenses or are not held for the**  
33 **minimum length of time under subsection 2 of section 443.1015, the amount so distributed**  
34 **shall be added to the Missouri adjusted gross income of the participant or, if the**  
35 **participant is not living, the amount shall be added to the Missouri adjusted gross income**  
36 **of the participant's beneficiary.**

37           **7. The department of revenue shall promulgate rules to implement the provisions**  
38 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**  
39 **is created under the authority delegated in this section shall become effective only if it**  
40 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
41 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
42 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
43 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
44 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,**  
45 **shall be invalid and void.**

46           **8. Under section 23.253 of the Missouri sunset act:**

47           **(1) The provisions of the new program authorized under this section shall**  
48 **automatically sunset on December thirty-first six years after the effective date of this**  
49 **section, unless reauthorized by an act of the general assembly;**

50 (2) If such program is reauthorized, the program authorized under this section  
51 shall automatically sunset on December thirty-first six years after the effective date of the  
52 reauthorization of this section; and

53 (3) This section shall terminate on September first of the calendar year immediately  
54 following the calendar year in which the program authorized under this section is sunset.

443.1011. Sections 443.1011 to 443.1017 shall be known and may be cited as the  
2 "First-Time Business Owner Savings Account Act".

443.1013. As used in sections 443.1011 to 443.1017, the following terms mean:

2 (1) "Account holder", an individual who establishes an account with a financial  
3 institution that is designated as a first-time business owner savings account in accordance  
4 with section 443.1014;

5 (2) "Department", the department of revenue;

6 (3) "Eligible expenses", any business expenses that result from the start-up of a  
7 new business or that occur during the first month of a new business including, but not  
8 limited to, incorporation fees; legal fees; marketing expenses; purchases of equipment,  
9 inventory, real estate, or supplies; rent; security deposits; vehicles; or wages of employees;

10 (4) "Financial institution", any state bank, state trust company, savings and loan  
11 association, federally chartered credit union doing business in this state, credit union  
12 chartered by the state of Missouri, national bank, broker-dealer, mutual fund, insurance  
13 company, or other similar financial entity qualified to do business in this state;

14 (5) "First-time business owner", an individual who:

15 (a) Either individually or jointly, has never owned, been a partner in, or held the  
16 majority of shares in a sole proprietorship, partnership, corporation, or limited liability  
17 company; and

18 (b) Is a member of a minority;

19 (6) "First-time business owner savings account" or "account", an account with a  
20 financial institution designated as such in accordance with subsection 1 of section 443.1014;

21 (7) "Member of a minority", any individual who has been subjected to racial or  
22 ethnic prejudice or cultural bias because of their identity as a member of a group without  
23 regard to their individual qualities. Such groups shall include, but not be limited to,  
24 groups based on race, color, religion, sex, or national origin;

25 (8) "Qualified beneficiary", a first-time business owner, designated by an account  
26 holder, for whose eligible expenses the moneys in a first-time business owner savings  
27 account are or will be used.

443.1014. 1. Beginning January 1, 2020, any individual may open an account with  
2 a financial institution and designate the account, in its entirety, as a first-time business

3 owner savings account to be used to pay or reimburse a qualified beneficiary's eligible  
4 expenses for starting a new business. An individual may be the account holder of multiple  
5 accounts, and an individual may jointly own the account with another person if such  
6 persons file a joint income tax return. To be eligible for the tax deduction under section  
7 143.1155, an account holder shall comply with the requirements of this section.

8       2. An account holder shall designate, no later than April fifteenth of the year  
9 following the tax year during which the account was established, a first-time business  
10 owner as the qualified beneficiary of the first-time business owner savings account. The  
11 account holder may designate himself or herself as the qualified beneficiary. The account  
12 holder may change the designated qualified beneficiary at any time, but no first-time  
13 business owner savings account shall have more than one qualified beneficiary at any time.  
14 No account holder shall have multiple accounts with the same qualified beneficiary, but  
15 an individual may be designated as the qualified beneficiary of multiple accounts.

16       3. (1) The following limits apply to a first-time business owner savings account:

17       (a) The maximum contribution to a first-time business owner savings account is one  
18 thousand six hundred dollars per year for an individual and three thousand two hundred  
19 dollars per year for account holders who file a joint tax return;

20       (b) The maximum amount of all contributions for all tax years to a first-time  
21 business owner savings account is twenty thousand dollars; and

22       (c) The maximum balance of a first-time business owner savings account is thirty  
23 thousand dollars;

24       (2) If a limit in subdivision (1) of this subsection is exceeded, then thereafter no  
25 interest or other income earned on the investment of moneys in the first-time business  
26 owner savings account shall be included in the tax deduction under section 143.1155; and

27       (3) Moneys may remain in a first-time business owner savings account for an  
28 unlimited duration without the interest or income being subject to recapture or penalty.

29       4. The account holder shall not use moneys in an account to pay expenses of  
30 administering the account, except that a service fee may be deducted from the account by  
31 a financial institution. The account holder shall be responsible for maintaining  
32 documentation for the first-time business owner savings account and for eligible expenses  
33 related to the qualified beneficiary starting a new business.

443.1015. 1. (1) For purposes of the tax benefit conferred under the first-time  
2 business owner savings account act, the moneys in a first-time business owner savings  
3 account may be:

4       (a) Used for eligible expenses related to a qualified beneficiary starting a new  
5 business located in this state;

6           **(b) Used for eligible expenses related to a qualified beneficiary starting a new**  
7 **business located outside this state if the qualified beneficiary is active-duty military and**  
8 **was stationed in Missouri for any time after the creation of the account;**

9           **(c) Transferred to another newly created first-time business owner savings account;**  
10 **and**

11           **(d) Used to pay a service fee that is deducted by the financial institution.**

12           **(2) Subdivision (1) of this subsection applies whether the qualified beneficiary is**  
13 **the sole owner of the new business or a joint owner with another person who does not**  
14 **qualify as a qualified beneficiary.**

15           **2. Moneys withdrawn from a first-time business owner savings account shall be**  
16 **subject to recapture in the tax year in which they are withdrawn if:**

17           **(1) At the time of the withdrawal, it has been less than a year since the first deposit**  
18 **in the first-time business owner savings account; or**

19           **(2) The moneys are used for any purpose other than those specified under**  
20 **subsection 1 of this section.**

21  
22 **The recapture shall be an amount equal to the moneys withdrawn and shall be added to**  
23 **the Missouri adjusted gross income of the account holder or, if the account holder is not**  
24 **living, the qualified beneficiary.**

25           **3. If any moneys are subject to recapture under subsection 2 of this section, the**  
26 **account holder shall pay to the department a penalty in the same tax year as the recapture.**  
27 **If the withdrawal was made ten or fewer years after the first deposit in the first-time**  
28 **business owner savings account, the penalty shall be equal to five percent of the amount**  
29 **subject to recapture, and, if the withdrawal was made more than ten years after the first**  
30 **deposit in the account, the penalty shall be equal to ten percent of the amount subject to**  
31 **recapture. These penalties shall not apply if:**

32           **(1) The withdrawn moneys are used for eligible expenses related to a qualified**  
33 **beneficiary starting a new business outside of the state; or**

34           **(2) The withdrawn moneys are from a first-time business owner savings account**  
35 **for which the qualified beneficiary died, and the account holder does not designate a new**  
36 **qualified beneficiary during the same tax year.**

37           **4. If the account holder dies or, if the first-time business owner savings account is**  
38 **jointly owned, the account holders die and the account does not have a surviving transfer**  
39 **on death beneficiary, then all of the moneys in the account that were used for a tax**  
40 **deduction under section 143.1155 shall be subject to recapture in the tax year of the death**  
41 **or deaths, but no penalty shall be due to the department.**

443.1016. 1. The department shall establish forms for an account holder to annually report information about a first-time business owner savings account including, but not limited to, how the moneys withdrawn from the fund are used and shall identify any supporting documentation that is required to be maintained. To be eligible for the tax deduction under section 143.1155, an account holder shall annually file with the account holder's state income tax return all forms required by the department under this section, the 1099 form for the account issued by the financial institution, and any other supporting documentation the department requires.

2. The department of revenue may promulgate rules and regulations necessary to administer the provisions of the first-time business owner savings account act. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void.

443.1017. 1. No financial institution shall be required to:

(1) Designate an account as a first-time business owner savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems or in any other way;

(2) Track the use of moneys withdrawn from a first-time business owner savings account; or

(3) Report any information to the department or any other governmental agency that is not otherwise required by law.

2. No financial institution shall be responsible or liable for:

(1) Determining or ensuring that an account holder is eligible for a tax deduction under section 143.1155;

(2) Determining or ensuring that moneys in the account are used for eligible expenses; or

(3) Reporting or remitting taxes or penalties related to use of moneys in a first-time business owner savings account.

3. In implementing section 143.1155 and sections 443.1011 to 443.1017, the department shall not establish any administrative, reporting, or other requirements on financial institutions that are outside the scope of normal account procedures.

✓