

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 517 & 754
98TH GENERAL ASSEMBLY

1366H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 143.191 and 144.020, RSMo, and to enact in lieu thereof two new sections relating to the imposition of tax on gratuities.

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

Section A. Sections 143.191 and 144.020, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 143.191 and 144.020, to read as follows:

2 143.191. 1. Every employer maintaining an office or transacting any business within this
2 state and making payment of any wages taxable under [sections 143.011 to 143.998] **this**
3 **chapter** to a resident or nonresident individual shall deduct and withhold from such wages for
4 each payroll period the amount provided in subsection 3 of this section.

5 2. The term "wages" referred to in subsection 1 of this section means wages as defined
6 by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer"
7 means any person, firm, corporation, association, fiduciary of any kind, or other type of
8 organization for whom an individual performs service as an employee, except that if the person
9 or organization for whom the individual performs service does not have control of the payment
10 of compensation for such service, the term "employer" means the person having control of the
11 payment of the compensation. The term includes the United States, this state, other states, and
12 all agencies, instrumentalities, and subdivisions of any of them.

13 3. **(1)** The method of determining the amount to be withheld shall be prescribed by
14 regulations of the director of revenue. The prescribed table, percentages, or other method shall
15 result, so far as practicable, in withholding from the employee's wages during each calendar year
16 an amount substantially equivalent to the tax reasonably estimated to be due from the employee
17 under [sections 143.011 to 143.998] **this chapter** with respect to the amount of such wages
18 included in his Missouri adjusted gross income during the calendar year.

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.

19 **(2) The amount to be withheld by an employer with respect to tips received by an**
20 **employee in the course of the employee's employment shall be calculated based solely on**
21 **the amount of tips reported by the employee in a written statement furnished to the**
22 **employer as required by Section 6053(a) of the Internal Revenue Code of 1986, as**
23 **amended, and only to the extent that collection can be made by the employer, at or after**
24 **the time such statement is furnished and before the close of the calendar year in which the**
25 **statement is furnished, by deducting the amount of the tax from such employee's wages**
26 **under the control of the employer, excluding tips and any amounts which the employer is**
27 **obligated to withhold and remit to the federal government, but including funds turned over**
28 **by the employee to the employer to be used for Missouri income tax withholding. The**
29 **employer shall have no Missouri income tax withholding obligation with respect to an**
30 **employee's under-reported tips.**

31 4. For purposes of this section an employee shall be entitled to the same number of
32 personal and dependency withholding exemptions as the number of exemptions to which he is
33 entitled for federal income tax withholding purposes. An employer may rely upon the number
34 of federal withholding exemptions claimed by the employee, except where the employee
35 provides the employer with a form claiming a different number of withholding exemptions in
36 this state.

37 5. The director of revenue may enter into agreements with the tax departments of other
38 states (which require income tax to be withheld from the payment of wages) so as to govern the
39 amounts to be withheld from the wages of residents of such states under this section. Such
40 agreements may provide for recognition of anticipated tax credits in determining the amounts
41 to be withheld and, under regulations prescribed by the director of revenue, may relieve
42 employers in this state from withholding income tax on wages paid to nonresident employees.
43 The agreements authorized by this subsection are subject to the condition that the tax department
44 of such other states grant similar treatment to residents of this state.

45 6. The director of revenue shall enter into agreements with the Secretary of the Treasury
46 of the United States or with the appropriate secretaries of the respective branches of the Armed
47 Forces of the United States for the withholding, as required by subsections 1 and 2 of this
48 section, of income taxes due the state of Missouri on wages or other payments for service in the
49 armed services of the United States or on payments received as retirement or retainer pay of any
50 member or former member of the Armed Forces entitled to such pay.

51 7. Subject to appropriations for the purpose of implementing this section, the director
52 of revenue shall comply with provisions of the laws of the United States as amended and the
53 regulations promulgated thereto in order that all residents of this state receiving monthly
54 retirement income as a civil service annuitant from the federal government taxable by this state

55 may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an
56 amount for payment of state income taxes as required by state law, but such withholding shall
57 not be less than twenty-five dollars per quarter.

58 8. The provisions of this section shall not apply to out-of-state businesses operating
59 under sections 190.270 to 190.285

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used
2 motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the
3 highways or waters of this state which are required to be titled under the laws of the state of
4 Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the
5 privilege of engaging in the business of selling tangible personal property or rendering taxable
6 service at retail in this state. The rate of tax shall be as follows:

7 (1) Upon every retail sale in this state of tangible personal property, excluding motor
8 vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to
9 be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this
10 subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such
11 sale involves the exchange of property, a tax equivalent to four percent of the consideration paid
12 or charged, including the fair market value of the property exchanged at the time and place of
13 the exchange, except as otherwise provided in section 144.025;

14 (2) A tax equivalent to four percent of the amount paid for admission and seating
15 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,
16 games and athletic events;

17 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of
18 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or
19 industrial consumers;

20 (4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local
21 and long distance telecommunications service to telecommunications subscribers and to others
22 through equipment of telecommunications subscribers for the transmission of messages and
23 conversations and upon the sale, rental or leasing of all equipment or services pertaining or
24 incidental thereto; except that, the payment made by telecommunications subscribers or others,
25 pursuant to section 144.060, and any amounts paid for access to the internet or interactive
26 computer services shall not be considered as amounts paid for telecommunications services;

27 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of
28 services for transmission of messages of telegraph companies;

29 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
30 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
31 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are

32 regularly served to the public. **The tax imposed under this subdivision shall not apply to any**
33 **automatic mandatory gratuity for a large group imposed by a restaurant when such**
34 **gratuity is reported as employee tip income and the restaurant withholds income tax under**
35 **section 143.191 on such gratuity;**

36 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets
37 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such
38 buses and trucks as are licensed by the division of motor carrier and railroad safety of the
39 department of economic development of Missouri, engaged in the transportation of persons for
40 hire;

41 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
42 tangible personal property, provided that if the lessor or renter of any tangible personal property
43 had previously purchased the property under the conditions of "sale at retail" or leased or rented
44 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
45 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
46 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
47 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
48 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
49 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
50 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,
51 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
52 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
53 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
54 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
55 upon the lease or rental thereof;

56 (9) A tax equivalent to four percent of the purchase price, as defined in section 144.070,
57 of new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for
58 use on the highways or waters of this state which are required to be registered under the laws of
59 the state of Missouri. This tax is imposed on the person titling such property, and shall be paid
60 according to the procedures in section 144.440.

61 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525
62 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the
63 words "This ticket is subject to a sales tax."

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