

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 336

98TH GENERAL ASSEMBLY

2015

1746H.03T

AN ACT

To repeal section 143.191, RSMo, and to enact in lieu thereof one new section relating to income tax withholding on tips.

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

Section A. Section 143.191, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 143.191, to read as follows:

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

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

16 3. **(1)** The method of determining the amount to be withheld shall be
17 prescribed by regulations of the director of revenue. The prescribed table,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 percentages, or other method shall result, so far as practicable, in withholding
19 from the employee's wages during each calendar year an amount substantially
20 equivalent to the tax reasonably estimated to be due from the employee under
21 [sections 143.011 to 143.998] **this chapter** with respect to the amount of such
22 wages included in his Missouri adjusted gross income during the calendar year.

23 **(2) The amount to be withheld by an employer with respect to**
24 **tips received by an employee in the course of the employee's**
25 **employment shall be calculated based solely upon the amount of tips**
26 **reported by the employee in a written statement furnished to the**
27 **employer as required by subsection (a) of section 6053 of the Internal**
28 **Revenue Code of 1986, as amended, or, if greater, the amount of tips**
29 **received by the employer and remitted to the employee. If an employee**
30 **shares tips, the employer shall withhold only from the employee who**
31 **actually received the shared tips. The employer's Missouri income tax**
32 **withholding obligation with respect to an employee's tip income shall**
33 **be limited to the portion of the employee's wages under the control of**
34 **the employer against which the employer is required, pursuant to**
35 **federal law, to withhold federal income taxes on the employee's**
36 **tips. Such withholding obligation shall be calculated after making**
37 **reductions for all required federal tax withholding, Missouri income**
38 **tax withholding on non-tip income, and other amounts which have**
39 **higher legal priority.**

40 4. For purposes of this section an employee shall be entitled to the same
41 number of personal and dependency withholding exemptions as the number of
42 exemptions to which he is entitled for federal income tax withholding purposes.
43 An employer may rely upon the number of federal withholding exemptions
44 claimed by the employee, except where the employee provides the employer with
45 a form claiming a different number of withholding exemptions in this state.

46 5. The director of revenue may enter into agreements with the tax
47 departments of other states (which require income tax to be withheld from the
48 payment of wages) so as to govern the amounts to be withheld from the wages of
49 residents of such states under this section. Such agreements may provide for
50 recognition of anticipated tax credits in determining the amounts to be withheld
51 and, under regulations prescribed by the director of revenue, may relieve
52 employers in this state from withholding income tax on wages paid to nonresident
53 employees. The agreements authorized by this subsection are subject to the

54 condition that the tax department of such other states grant similar treatment
55 to residents of this state.

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

63 7. Subject to appropriations for the purpose of implementing this section,
64 the director of revenue shall comply with provisions of the laws of the United
65 States as amended and the regulations promulgated thereto in order that all
66 residents of this state receiving monthly retirement income as a civil service
67 annuitant from the federal government taxable by this state may have withheld
68 monthly from any such moneys, whether pension, annuities or otherwise, an
69 amount for payment of state income taxes as required by state law, but such
70 withholding shall not be less than twenty-five dollars per quarter.

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

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