

FIRST REGULAR SESSION

SENATE BILL NO. 336

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time January 28, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1746S.011

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Section A. Section 143.191, RSMo, is repealed and one new section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,
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

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

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) (a) Except as provided in paragraph (b) of this subdivision,**
24 **for purposes of this chapter, any determination made by the**
25 **department of revenue of the amount of Missouri income tax an**
26 **employer should withhold based upon total tips received by an**
27 **employee in the course of the employee's employment shall be**
28 **calculated based solely upon the amount of total tips reported to the**
29 **employer in a written statement furnished to the employee's employer**
30 **as required by Subsection (a) of Section 6053 of the Internal Revenue**
31 **Code of 1986, as amended.**

32 **(b) This subdivision shall not be construed to relieve any**
33 **employer that is a large food or beverage establishment, as defined in**
34 **Section 6053 of the Internal Revenue Code of 1986, as amended, of any**
35 **obligation to withhold income tax based upon any calculation as**
36 **required by such section that is different from the calculation required**
37 **in paragraph (a) of this subdivision.**

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

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

54 6. The director of revenue shall enter into agreements with the Secretary
55 of the Treasury of the United States or with the appropriate secretaries of the

56 respective branches of the Armed Forces of the United States for the withholding,
57 as required by subsections 1 and 2 of this section, of income taxes due the state
58 of Missouri on wages or other payments for service in the armed services of the
59 United States or on payments received as retirement or retainer pay of any
60 member or former member of the Armed Forces entitled to such pay.

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

69 8. **For the purposes of this section, no employer shall be**
70 **obligated for the payment to the department of revenue of any amount**
71 **of under-reported cash tip income of any employee.**

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

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