

FIRST REGULAR SESSION

HOUSE BILL NO. 754

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HICKS.

1403L.021

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Section 143.191, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.191, to read as follows: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 business within this state and making payment of any wages taxable under [sections 143.011 to 143.998] **this chapter** to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

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

3. **(1)** The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee

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.

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.

19 **(2) (a) Except as provided in paragraph (b) of this subdivision, for purposes of this**
20 **chapter, any determination made by the department of revenue of the amount of Missouri**
21 **income tax an employer should withhold based upon total tips received by an employee in**
22 **the course of the employee's employment shall be calculated based solely upon the amount**
23 **of total tips reported to the employer in a written statement furnished to the employee's**
24 **employer as required by law.**

25 **(b) This subdivision shall not be construed to relieve any employer that is a large**
26 **food or beverage establishment, as defined in Section 6053 of the Internal Revenue Code**
27 **of 1986, as amended, of any obligation to withhold income tax based upon any calculation**
28 **as required by law that is different from the calculation required in paragraph (a) of this**
29 **subdivision.**

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

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

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

50 7. Subject to appropriations for the purpose of implementing this section, the director
51 of revenue shall comply with provisions of the laws of the United States as amended and the
52 regulations promulgated thereto in order that all residents of this state receiving monthly

53 retirement income as a civil service annuitant from the federal government taxable by this state
54 may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an
55 amount for payment of state income taxes as required by state law, but such withholding shall
56 not be less than twenty-five dollars per quarter.

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

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

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