

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 676, Pages 1-2, Section 137.010, Lines 1-
2 40, by deleting all of said section and lines from the bill; and

3
4 Further amend said bill, Page 4, Section 137.115, Lines 68-69, by deleting the words "~~fifty~~ two
5 hundred" and inserting in lieu thereof the following word "fifty; and

6
7 Further amend said bill, Pages 8-10, Section 137.122, Lines 1-86, by deleting all of said section and
8 lines from the bill; and

9
10 Further amend said bill, Page 17-25, Section 143.425, Lines 1-312, by deleting all of said section
11 and lines and inserting in lieu thereof the following:

12
13 "143.425. 1. For the purposes of this section, the following terms shall mean:

14 (1) "Administrative adjustment request", an administrative adjustment request filed by a
15 partnership under 26 U.S.C. Section 6227;

16 (2) "Audited partnership", a partnership subject to a partnership level audit resulting in a
17 federal adjustment;

18 (3) "Corporate partner", a partner that is subject to tax under section 143.071;

19 (4) "Direct partner", a partner that holds an interest directly in a partnership or pass-through
20 entity;

21 (5) "Exempt partner", a partner that is exempt from taxation under the provisions of
22 subdivisions (1) or (4) of subsection 2 of section 143.441, except on unrelated business taxable
23 income;

24 (6) "Federal adjustment", a change to an item or amount determined under the Internal
25 Revenue Code that is used by a taxpayer to compute Missouri individual or corporate income tax
26 owed, whether that change results from action by the IRS, including a partnership level audit, or the
27 filing of an amended federal return, federal refund claim, or an administrative adjustment request by
28 the taxpayer. A federal adjustment is positive to the extent that it increases Missouri taxable income
29 as determined under section 143.431, or Missouri adjusted gross income under section 143.121 or
30 143.181, and is negative to the extent that it decreases such Missouri taxable income or Missouri
31 adjusted gross income;

32 (7) "Federal adjustments report", methods or forms, which shall be prescribed by the
33 department of revenue, for use by a taxpayer to report final federal adjustments, including an
34 amended Missouri tax return, a uniform multistate report, or an information return, notwithstanding
35 any provision of law restricting the form or applicability of information return filing;

36 (8) "Federal partnership representative", the person the partnership designates for the

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1 taxable year as the partnership's representative, or the person the IRS has appointed to act as the
2 federal partnership representative, under 26 U.S.C. Section 6223(a);

3 (9) "Final determination date", shall be the following:

4 (a) Except as provided under paragraphs (b) and (c) of this subdivision, if the federal
5 adjustment arises from an IRS audit or other action by the IRS, the final determination date shall be
6 the first day on which no federal adjustments arising from such audit or other action remain to be
7 finally determined, whether by IRS decision with respect to which all rights of appeal have been
8 waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to
9 which all rights of appeal have been waived or exhausted. For agreements required to be signed by
10 the IRS and the taxpayer, the final determination date shall be the date on which the last party
11 signed the agreement;

12 (b) For federal adjustments arising from an IRS audit or other action by the IRS, if the
13 taxpayer filed as a member of a Missouri consolidated return, the final determination date shall be
14 the first day on which no related federal adjustments arising from such audit remain to be finally
15 determined, as described in paragraph (a) of this subdivision, for the entire group;

16 (c) If the federal adjustment results from filing an amended federal return, a federal refund
17 claim, or an administrative adjustment request, or if it is a federal adjustment reported on an
18 amended federal return or other similar report filed under 26 U.S.C. Section 6225(c), the final
19 determination date shall be the day on which the amended return, refund claim, administrative
20 adjustment request, or other similar report was filed;

21 (10) "Final federal adjustment", a federal adjustment that remains in effect after the final
22 determination date for such federal adjustment has passed;

23 (11) "IRS", the Internal Revenue Service of the United States Department of the Treasury;

24 (12) "Indirect partner", a partner in a partnership or pass-through entity, where such
25 partnership or pass-through entity itself holds a direct or indirect interest in another partnership or
26 pass-through entity. A partnership or pass-through entity holds an "indirect interest" in another
27 partnership or pass-through entity where its interest is held through an indirect partner or series of
28 indirect partners;

29 (13) "Non-resident partner", an individual, trust, or estate partner that is not a resident
30 partner;

31 (14) "Partner", a person that holds an interest directly or indirectly in a partnership or other
32 pass-through entity;

33 (15) "Partnership", the same meaning as used in 26 U.S.C. Sections 701 to 771;

34 (16) "Partnership level audit", an examination by the IRS at the partnership level under 26
35 U.S.C. Sections 6221 to 6241, as enacted by the Bipartisan Budget Act of 2015, Public Law 114-74,
36 and any amendments thereto, which results in federal adjustments;

37 (17) "Pass-through entity", an entity, other than a partnership, that is not subject to tax under
38 section 143.071, section 153.020, chapter 148, or a tax on insurance companies or insurance
39 providers imposed by the state of Missouri;

40 (18) "Publicly traded partnership", the same meaning as used in 26 U.S.C. Section 7704(b),
41 and any amendments thereto;

42 (19) "Reallocation adjustment", a federal adjustment resulting from a partnership level audit
43 or an administrative adjustment request that changes the shares of one or more items of partnership
44 income, gain, loss, expense, or credit allocated to direct partners. A positive reallocation adjustment
45 means the portion of a reallocation adjustment that would increase federal adjusted gross income or
46 federal taxable income for one or more direct partners, and a negative reallocation adjustment means
47 the portion of a reallocation adjustment that would decrease federal adjusted gross income or federal
48 taxable income for one or more direct partners;

49 (20) "Resident partner", an individual, trust, or estate partner that is a resident of Missouri as

1 defined under section 143.101 for individuals, or under section 143.331 for trusts or estates, for the
2 relevant tax period;

3 (21) "Reviewed year", the taxable year of a partnership that is subject to a partnership level
4 audit which results in a federal adjustment;

5 (22) "Taxpayer", any individual or entity subject to a tax in Missouri or a tax-related
6 reporting requirement in Missouri and, unless the context clearly indicates otherwise, includes a
7 partnership subject to a partnership level audit or a partnership that has made an administrative
8 adjustment request, as well as a tiered partner of that partnership;

9 (23) "Tiered partner", any partner that is a partnership or pass-through entity;

10 (24) "Unrelated business taxable income", the same meaning as defined in 26 U.S.C.
11 Section 512.

12 2. Except in the case of final federal adjustments that are reported and, if applicable, on the
13 basis of which Missouri income tax is paid by a partnership and its partners using the procedures
14 provided under subsections 3 to 9 of this section, final federal adjustments required to be reported
15 for federal purposes under 26 U.S.C. Section 6225(a)(2), and changes required to be reported under
16 section 143.601, a taxpayer shall report and pay any Missouri tax due with respect to final federal
17 adjustments arising from an audit or other action by the IRS or reported by the taxpayer on a timely
18 filed amended federal income tax return, including a return or other similar report filed under 26
19 U.S.C. Section 6225(c)(2), or federal claim for refund, by filing a federal adjustments report with
20 the department of revenue for the reviewed year and, if applicable, paying the additional Missouri
21 tax owed by the taxpayer no later than one hundred eighty days after the final determination date.

22 3. Except for adjustments required to be reported for federal purposes under 26 U.S.C.
23 Section 6225(a)(2), partnerships and partners shall report final federal adjustments arising from a
24 partnership level audit or an administrative adjustment request and make payments as required
25 under subsections 3 to 9 of this section.

26 4. (1) With respect to an action required or permitted to be taken by a partnership under
27 subsections 3 to 9 of this section, a proceeding under section 143.631 for reconsideration by the
28 director of revenue, appeal to the administrative hearing commission, or review by the judiciary
29 with respect to such action, the state partnership representative for the reviewed year shall have the
30 sole authority to act on behalf of the partnership, and the partnership's direct partners and indirect
31 partners shall be bound by those actions.

32 (2) The state partnership representative for the reviewed year is the partnership's federal
33 partnership representative unless the partnership designates in writing another person as its state
34 partnership representative.

35 (3) The department of revenue may establish reasonable qualifications and procedures for
36 designating a person, other than the federal partnership representative, to be the state partnership
37 representative.

38 (4) The state partnership representative shall be considered an authorized representative of
39 the partnership and its partners under section 32.057 for the purposes of compliance with this
40 section, or participating in a proceeding described in subdivision (1) of this section.

41 5. Final federal adjustments subject to the requirements of subsections 3 to 9 of this section,
42 except for those subject to a properly made election under subsection 6 of this section, shall be
43 reported as follows:

44 (1) No later than ninety days after the final determination date, the partnership shall:

45 (a) File a completed federal adjustments report with the department of revenue, including
46 information as required by the department of revenue;

47 (b) Notify each of its direct partners of their distributive share of the final federal
48 adjustments including information as required by the department of revenue;

49 (c) Pay any additional amount under section 143.411 that would have been due had the final

1 federal adjustments originally been reported properly, unless the partnership is a publicly traded
2 partnership; and

3 (d) If the partnership is a publicly traded partnership, report such information as is required
4 by the department of revenue and in the manner and format as required by department of revenue
5 instruction, including the name, address, and taxpayer identification number of each direct partner
6 with income in Missouri which the publicly traded partnership can reasonably determine to be:

7 a. Six hundred dollars or more if the partner is an individual; or

8 b. One hundred dollars or more if the partner is a corporation or entity other than an
9 individual;

10 (2) No later than one hundred eighty days after the final determination date, each direct
11 partner that is subject to tax under sections 143.011 to 143.996, section 153.020, chapter 148, or a
12 Missouri tax on insurance companies or insurance providers, shall:

13 (a) File a federal adjustments report reporting the distributive share of the adjustments
14 reported to them under paragraph (b) of subdivision (1) of this subsection; and

15 (b) Pay any additional amount of tax due as if final federal adjustments had been properly
16 reported, plus any penalty and interest due under sections 143.011 to 143.996 or any other provision
17 of law, and less any credit for related amounts paid or withheld and remitted on behalf of the direct
18 partner. The rate of interest on any amount due shall be determined by section 32.068.

19 6. (1) Subject to the limitations provided under subdivision (2) of this subsection, an
20 audited partnership making an election under this subsection shall:

21 (a) No later than ninety days after the final determination date, file a completed federal
22 adjustments report, including information as required by department of revenue, and notify the
23 department of revenue that it is making the election under this subsection;

24 (b) No later than ninety days after the final determination date, pay an amount, determined
25 as follows, in lieu of taxes owed by its direct and indirect partners:

26 a. Exclude from final federal adjustments the distributive share of such adjustments reported
27 to a direct exempt partner not subject to tax under sections 143.011 to 143.996;

28 b. For the total distributive shares of the remaining final federal adjustments reported to
29 direct corporate partners subject to tax under section 143.071, and to direct exempt partners subject
30 to tax under sections 143.011 to 143.996, apportion and allocate such adjustments as provided under
31 section 143.455 if applicable, and multiply the resulting amount by the tax rate provided under
32 section 143.071 for direct corporate partners and direct exempt partners that are corporations, or the
33 top rate of tax under section 143.011 for direct exempt partners that are not corporations;

34 c. For the total distributive shares of the remaining final federal adjustments reported to
35 non-resident direct partners subject to tax under sections 143.011 to 143.996, determine the amount
36 of such adjustments which is derived from or connected with sources in Missouri as described in
37 section 143.421, and multiply the resulting amount by the highest rate of tax under section 143.011;

38 d. For the total distributive shares of the remaining final federal adjustments reported to
39 tiered partners:

40 (i) Determine the amount of such adjustments which is of a type such that it would be
41 subject to sourcing to this state under section 143.421; and then determine the portion of such
42 amount that would be sourced to the state under section 143.421;

43 (ii) Determine the amount of such adjustments which is of a type such that it would not be
44 subject to sourcing to Missouri by a nonresident partner under section 143.421;

45 (iii) Determine the portion of the amount determined in item (ii) of this subparagraph that
46 can be established, under regulation issued by the department of revenue, to be properly allocable to
47 nonresident indirect partners or other partners not subject to tax on the adjustments;

48 (iv) Multiply the sum of the amounts determined in items (i) and (ii) of this subparagraph,
49 reduced by the amount determined in item (iii) of this subparagraph, by the highest rate of tax under

1 section 143.011;

2 e. For the total distributive shares of the remaining final federal adjustments reported to
3 resident direct partners subject to tax under section 143.011 or 143.061, multiply such amount by
4 the highest rate of tax under section 143.011;

5 f. For the total distributive shares of the remaining final federal adjustments reported to
6 direct partners subject to tax under chapter 148, section 153.020, or a Missouri tax on insurance
7 companies or insurance providers, apportion and allocate such adjustments in the manner provided
8 by law for such tax, if applicable, and multiply the resulting amount by the tax rate applicable to
9 such direct partner;

10 g. Add the amounts determined under subparagraphs b to f of this paragraph, in addition to
11 any penalty and interest as provided under sections 143.011 to 143.961 or any other provision of
12 law. The rate of interest on any amount due shall be determined by section 32.068.

13 (2) Final federal adjustments subject to the election provided for under this subsection shall
14 not include:

15 (a) The distributive share of final audit adjustments that would, under section 143.455, be
16 included in the apportionable income of any direct or indirect corporate partner, provided that the
17 audited partnership can reasonably determine such amount; and

18 (b) Any final federal adjustments resulting from an administrative adjustment request.

19 (3) An audited partnership not otherwise subject to any reporting or payment obligation to
20 Missouri that makes an election under this subsection consents to be subject to Missouri law related
21 to reporting, assessment, payment, and collection of Missouri tax calculated under this subsection.

22 7. The direct and indirect partners of an audited partnership that are tiered partners, and all
23 of the partners of such tiered partners that are subject to tax under sections 143.011 to 143.961, shall
24 be subject to the reporting and payment requirements of subsection 5 of this section, and such tiered
25 partners shall be entitled to make the election provided under subsection 6 of this section. The tiered
26 partners or their partners shall make required reports and payments no later than ninety days after
27 the time for filing and furnishing statements to tiered partners and their partners as established under
28 26 U.S.C. Section 6226. The department of revenue may promulgate rules to establish procedures
29 and interim time periods for the reports and payments required by tiered partners and their partners,
30 and for making the elections under subsection 6 of this section.

31 8. (1) The election made under subsection 6 of this section shall be irrevocable, unless the
32 director of revenue, in his or her discretion or that of the directors' designee, determines otherwise.

33 (2) If properly reported and paid by the audited partnership or tiered partner, the amount
34 determined under subdivision (2) of subsection 6 of this section shall be treated as paid in lieu of
35 taxes owed by its direct and indirect partners, to the extent applicable, on the same final federal
36 adjustments. The direct partners or indirect partners shall not take any deduction or credit on the
37 determined amount, or claim a refund of such amount in this state. Nothing in this subsection shall
38 preclude a direct resident partner from claiming a credit against the tax otherwise due to this state
39 under section 143.081, or any amounts paid by the audited partnership or tiered partner on the
40 resident partner's behalf to another state or local tax jurisdiction in accordance with the provisions of
41 section 143.081.

42 9. Nothing in subsections 3 to 9 of this section shall be construed to prevent the department
43 of revenue from assessing direct partners or indirect partners for taxes owed by such partners, using
44 the best information available, in the event that a partnership or tiered partner fails to timely make
45 any report or payment required under subsections 3 to 9 of this section for any reason.

46 10. The department of revenue shall assess additional tax, interest, additions to tax, and
47 penalties arising from final federal adjustments arising from an audit by the IRS, including a
48 partnership level audit, or reported by the taxpayer on an amended federal income tax return, or as
49 part of an administrative adjustment request by no later than the latest of the following dates:

1 (1) If a taxpayer files with the department of revenue a federal adjustments report or an
2 amended Missouri tax return as required within the period provided under subsections 2 to 9 of this
3 section, the department of revenue shall assess any amounts, including taxes, interest, additions to
4 tax, and penalties arising from such federal adjustments if the department of revenue issues a notice
5 of the assessment to the taxpayer no later than:

6 (a) The expiration of the limitations period provided under section 143.711; or

7 (b) The expiration of the one year period following the date of filing with the department of
8 revenue of the federal adjustments report;

9 (2) If the taxpayer fails to file the federal adjustments report within the period provided
10 under subsections 2 to 9 of this section, as appropriate, or the federal adjustments report filed by the
11 taxpayer omits final federal adjustments or understates the correct amount of tax owed, the
12 department of revenue shall assess amounts or additional amounts including taxes, interest,
13 additions to tax, and penalties arising from the final federal adjustments, if it mails a notice of the
14 assessment to the taxpayer by a date which is the latest of the following:

15 (a) The expiration of the limitations period provided under section 143.711;

16 (b) The expiration of the one year period following the date the federal adjustments report
17 was filed with the department of revenue; or

18 (c) Absent fraud, the expiration of the six-year period following the final determination
19 date.

20 11. A taxpayer may make estimated payments to the department of revenue of the Missouri
21 tax expected to result from a pending IRS audit, prior to the due date of the federal adjustments
22 report, without having to file such report with the department of revenue. The estimated tax
23 payments shall be credited against any tax liability ultimately found to be due to Missouri and shall
24 limit the accrual of further interest on such amount. If the estimated tax payments exceed the final
25 tax liability and interest ultimately determined to be due, the taxpayer shall be entitled to a refund or
26 credit for the excess, provided the taxpayer files a federal adjustments report or claim for refund or
27 credit of tax under section 143.781 or 143.821 no later than one year following the final
28 determination date.

29 12. Except for final federal adjustments required to be reported for federal purposes under
30 26 U.S.C. Section 6225(a)(2), a taxpayer may file a claim for refund or credit of tax arising from
31 federal adjustments made by the IRS on or before the later of:

32 (1) The expiration of the last day for filing a claim for refund or credit of Missouri tax under
33 section 143.801, including any extensions; or

34 (2) One year from the date a federal adjustments report required under subsections 2 to 9 of
35 this section, as applicable, was due to the department of revenue, including any extensions provided
36 under subsection 13 of this section.

37 The federal adjustments report shall serve as the means for the taxpayer to report additional tax due,
38 report a claim for refund or credit of tax, and make other adjustments resulting from adjustments to
39 the taxpayer's federal taxable income.

40 13. (1) Unless otherwise agreed in writing by the taxpayer and the department of revenue,
41 any adjustments by the department or by the taxpayer made after the expiration of the appropriate
42 limitations period provided under section 143.711 or 143.801 shall be limited to changes to the
43 taxpayer's tax liability arising from federal adjustments.

44 (2) For purposes of compliance with this section, the time periods provided for in chapter
45 143 may be extended:

46 (a) Automatically, upon written notice to the department of revenue, by ninety days for an
47 audited partnership or tiered partner which has one hundred or more direct partners; or

48 (b) By written agreement between the taxpayer and the department of revenue.

49 (3) Any extension granted under this subsection for filing the federal adjustments report

1 extends the last day prescribed by law for assessing any additional tax arising from the adjustments
2 to federal taxable income and the period for filing a claim for refund or credit of taxes under section
3 143.781 or 143.821.

4 14. The department of revenue shall promulgate rules to implement the provisions of this
5 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
6 under the authority delegated in this section shall become effective only if it complies with and is
7 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
8 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
9 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
11 August 28, 2020, shall be invalid and void.

12 15. The provisions of this section shall apply to any adjustments to a taxpayer's federal
13 taxable income or federal adjusted gross income with a final determination date occurring on or
14 after January 1, 2021."; and

15
16 Further amend said bill, Pages 26-27, Section 144.805, Lines 1-34, by deleting all of said section
17 and lines from the bill; and

18
19 Further amend said bill by amending the title, enacting clause, and intersectional references
20 accordingly.