

SENATE BILL NO. 1154

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

5494S.03I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 143, RSMo, by adding thereto one new section relating to the taxation of pass-through entities.

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

Section A. Chapter 143, RSMo, is amended by adding thereto
2 one new section, to be known as section 143.436, to read as
3 follows:

143.436. 1. This section shall be known and may be
2 cited as the "SALT Parity Act".

3 2. For the purposes of this section, the following
4 terms shall mean:

5 (1) "Affected business entity", any partnership or S
6 corporation that elects to be subject to tax pursuant to
7 subsection 10 of this section;

8 (2) "Direct member", a member that holds an interest
9 directly in an affected business entity;

10 (3) "Indirect member", a member that itself holds an
11 interest, through a direct or indirect member that is a
12 partnership or an S corporation, in an affected business
13 entity;

14 (4) "Member":

15 (a) A shareholder of an S corporation;

16 (b) A partner in a general partnership, a limited
17 partnership, or a limited liability partnership; or

18 (c) A member of a limited liability company that is
19 treated as a partnership or S corporation for federal income
20 tax purposes;

21 (5) "Partnership", the same meaning as provided in 26
22 U.S.C. Section 7701(a)(2). The term "partnership" shall
23 include a limited liability company that is treated as a
24 partnership for federal income tax purposes;

25 (6) "S corporation", a corporation or limited
26 liability company that is treated as an S corporation for
27 federal income tax purposes;

28 (7) "Tax year", the tax year of a partnership or S
29 corporation for federal income tax purposes;

30 3. (1) Notwithstanding any provision of law to the
31 contrary, a tax is hereby imposed on each affected business
32 entity that is a partnership and that is doing business in
33 this state. Such affected business entity shall, no later
34 than ninety days following the close of each tax year, pay a
35 tax in an amount equal to the sum of the separately and
36 nonseparately computed items, as described in 26 U.S.C.
37 Section 702(a), of the affected business entity, to the
38 extent derived from or connected with sources within this
39 state, as determined pursuant to section 143.455, decreased
40 by the deduction allowed under 26 U.S.C. Section 199A
41 computed as if such deduction was allowed to be taken by the
42 affected business entity for federal tax purposes, and
43 increased or decreased by any modification made pursuant to
44 section 143.471 that relates to an item of the affected
45 business entity's income, gain, loss, or deduction, to the
46 extent derived from or connected with sources within this
47 state, as determined pursuant to section 143.455, with such
48 sum multiplied by the highest rate of tax used to determine
49 a Missouri income tax liability for an individual pursuant

50 to section 143.011. An affected entity paying the tax
51 pursuant to this subsection shall include with the payment
52 of such taxes each report provided to a member pursuant to
53 subsection 7 of this section.

54 (2) If the amount calculated pursuant to subdivision
55 (1) of this section results in a net loss, such net loss may
56 be carried forward to succeeding tax years for which the
57 affected business entity elects to be subject to tax
58 pursuant to subsection 11 of this section until fully used.

59 4. (1) Notwithstanding any provision of law to the
60 contrary, a tax is hereby imposed on each affected business
61 entity that is an S corporation and that is doing business
62 in this state. Such affected business entity shall, no
63 later than ninety days following the close of each tax year,
64 pay a tax in an amount equal to the sum of the separately
65 and nonseparately computed items, as described in 26 U.S.C.
66 Section 1366, of the affected business entity, to the extent
67 derived from or connected with sources within this state, as
68 determined pursuant to section 143.455, decreased by the
69 deduction allowed under 26 U.S.C. Section 199A computed as
70 if such deduction was allowed to be taken by the affected
71 business entity for federal tax purposes, and increased or
72 decreased by any modification made pursuant to section
73 143.471 that relates to an item of the affected business
74 entity's income, gain, loss, or deduction, to the extent
75 derived from or connected with sources within this state, as
76 determined pursuant to section 143.455, with such sum
77 multiplied by the highest rate of tax used to determine a
78 Missouri income tax liability for an individual pursuant to
79 section 143.011. An affected entity paying the tax pursuant
80 to this subsection shall include with the payment of such

81 taxes each report provided to a member pursuant to
82 subsection 7 of this section.

83 (2) If the amount calculated pursuant to subdivision
84 (1) of this section results in a net loss, such net loss may
85 be carried forward to succeeding tax years for which the
86 affected business entity elects to be subject to tax
87 pursuant to subsection 11 of this section until fully used.

88 5. If an affected business entity is a direct or
89 indirect member of another affected business entity, the
90 member affected business entity shall, when calculating its
91 net income or loss pursuant to subsections 3 or 4 of this
92 section, subtract its distributive share of income or add
93 its distributive share of loss from the affected business
94 entity in which it is a direct or indirect member to the
95 extent that the income or loss was derived from or connected
96 with sources within this state, as determined pursuant to
97 section 143.455.

98 6. A nonresident individual who is a member shall not
99 be required to file an income tax return pursuant to this
100 chapter for a tax year if, for such tax year, the only
101 source of income derived from or connected with sources
102 within the state for such member, or the member and the
103 member's spouse if a joint federal income tax return is or
104 shall be filed, is from one or more affected business
105 entities and such affected business entity or entities file
106 and pay the tax due under this section.

107 7. Each partnership and S corporation shall report to
108 each of its members, for each tax year, such member's direct
109 pro rata share of the tax imposed pursuant to this section
110 on such partnership or S corporation if it is an affected
111 business entity and its indirect pro rata share of the tax

112 imposed on any affected business entity in which such
113 affected business entity is a direct or indirect member.

114 8. (1) Each member that is subject to the tax imposed
115 pursuant to section 143.011 shall be entitled to a credit
116 against the tax imposed pursuant to section 143.011. Such
117 credit shall be in an amount equal to such member's direct
118 and indirect pro rata share of the tax paid pursuant to this
119 section by any affected business entity of which such member
120 is directly or indirectly a member multiplied by ninety-five
121 percent.

122 (2) If the amount of the credit authorized by this
123 subsection exceeds such member's tax liability for the tax
124 imposed pursuant to section 143.011, the excess amount shall
125 not be refunded but may be carried forward to each
126 succeeding tax year until such credit is fully taken.

127 9. (1) Each member that is subject to the tax imposed
128 pursuant to section 143.011 as a resident or part-year
129 resident of this state shall be entitled to a credit against
130 the tax imposed pursuant to section 143.011 for such
131 member's direct and indirect pro rata share of taxes paid to
132 another state of the United States or to the District of
133 Columbia, on income of any partnership or S corporation of
134 which such person is a member that is derived therefrom,
135 provided the taxes paid to another state of the United
136 States or to the District of Columbia results from a tax
137 that the director of revenue determines is substantially
138 similar to the tax imposed pursuant to this section. Any
139 such credit shall be calculated in a manner to be prescribed
140 by the director of revenue, provided such calculation is
141 consistent with the provisions of this section, and further
142 provided that the limitations provided in subsection 2 of

143 section 143.081 shall apply to the credit authorized by this
144 subsection.

145 (2) If the amount of the credit authorized by this
146 subsection exceeds such member's tax liability for the tax
147 imposed pursuant to section 143.011, the excess amount shall
148 not be refunded and shall not be carried forward.

149 10. (1) Each corporation that is subject to the tax
150 imposed pursuant to section 143.071 and that is a member
151 shall be entitled to a credit against the tax imposed
152 pursuant to section 143.071. Such credit shall be in an
153 amount equal to such corporation's direct and indirect pro
154 rata share of the tax paid pursuant to this section by any
155 affected business entity of which such corporation is
156 directly or indirectly a member. Such credit shall be
157 applied after all other credits.

158 (2) If the amount of the credit authorized by this
159 subsection exceeds such corporation's tax liability for the
160 tax imposed pursuant to section 143.071, the excess amount
161 shall not be refunded but may be carried forward to each
162 succeeding tax year until such credit is fully taken.

163 11. A partnership or an S corporation may elect to
164 become an affected business entity that is required to pay
165 the tax pursuant to this section in any tax year. A
166 separate election shall be made for each taxable year. Such
167 election shall be made on such form and in such manner as
168 the director of revenue may prescribe by rule. An election
169 made pursuant to this subsection shall be signed by:

170 (1) Each member of the electing entity who is a member
171 at the time the election is filed; or

172 (2) Any officer, manager, or member of the electing
173 entity who is authorized to make the election and who

174 attests to having such authorization under penalty of
175 perjury.

176 12. The provisions of sections 143.425 and 143.601
177 shall apply to any modifications made to an affected
178 business entity's federal return, and such affected business
179 entity shall pay any resulting underpayment of tax to the
180 extent not already paid pursuant to section 143.425.

181 13. (1) With respect to an action required or
182 permitted to be taken by an affected business entity
183 pursuant to this section, a proceeding under section 143.631
184 for reconsideration by the director of revenue, an appeal to
185 the administrative hearing commission, or a review by the
186 judiciary with respect to such action, the affected business
187 entity shall designate an affected business entity
188 representative for the tax year, and such affected business
189 entity representative shall have the sole authority to act
190 on behalf of the affected business entity, and the affected
191 business entity's members shall be bound by those actions.

192 (2) The department of revenue may establish reasonable
193 qualifications and procedures for designating a person to be
194 the affected business entity representative.

195 (3) The affected business entity representative shall
196 be considered an authorized representative of the affected
197 business entity and its members under section 32.057 for the
198 purposes of compliance with this section, or participating
199 in a proceeding described in subdivision (1) of this
200 subsection.

201 14. The provisions of this section shall only apply to
202 tax years beginning on or after January 1, 2023.

203 15. The department of revenue may promulgate rules to
204 implement the provisions of this section. Any rule or
205 portion of a rule, as that term is defined in section

206 536.010, that is created under the authority delegated in
207 this section shall become effective only if it complies with
208 and is subject to all of the provisions of chapter 536 and,
209 if applicable, section 536.028. This section and chapter
210 536 are nonseverable and if any of the powers vested with
211 the general assembly pursuant to chapter 536 to review, to
212 delay the effective date, or to disapprove and annul a rule
213 are subsequently held unconstitutional, then the grant of
214 rulemaking authority and any rule proposed or adopted after
215 August 28, 2022, shall be invalid and void.

✓