

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax

Proposed Rule

12 CSR 10-2.255 Allocation and Apportionment for Nonresident Shareholders of S Corporations and Nonresident Partners of Partnerships (Beginning on or After January 1, 2020)

PURPOSE: This rule interprets and applies sections 143.421 and 143.471, RSMo for purposes of determining the adjusted gross income from a shareholder's pro rata share of items of S corporation income, gain, loss, or deduction and the adjusted gross income of a nonresident partner from the partnership's items of income, gain, loss, or deduction.

(1) Definitions.

(A) Missouri allocated income. That portion of an entity's nonapportionable income, as that term is used in section 143.455, RSMo that is allocated to Missouri under any of the provisions of section 143.455, RSMo or any other applicable provision of Missouri law.

(B) Missouri apportioned income. The income figure arrived at by multiplying an entity's net income, less nonapportionable income, as that term is used in section 143.455, RSMo, by the receipts factor provided in section 143.455.10, RSMo.

(2) S Corporation Income Derived from Sources Within this State. For all tax years beginning on or after January 1, 2020, items of S corporation income, gain, loss, or deduction entering into a nonresident shareholder's federal adjusted gross income are from sources within this state to the extent that—

(A) The S corporation would include that item in its Missouri Apportioned Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo, (including any applicable regulations applying to unique industries); or

(B) The S corporation would include that item in its Missouri Allocated Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo (including any applicable regulations applying to unique industries).

(3) Partnership Income Derived from Sources within this State. For all tax years beginning on or after January 1, 2020, items of partnership income, gain, loss, or deduction entering into a nonresident partner's federal adjusted gross income are from sources within this state to the extent that—

(A) The partnership would include that item in its Missouri Apportioned Income by applying the provisions of section 143.455, RSMo, and the regulations issued in connection with section 143.455, RSMo (including any applicable regulations applying to unique industries); or

(B) The partnership would include that item in its Missouri Allocated Income by applying the provisions of section 143.455, RSMo and the regulations issued in connection with section 143.455, RSMo (including any applicable regulations applying to unique industries).

(4) For purposes of applying this regulation, any references in section 143.455, RSMo to the term “corporation” shall be deemed to refer instead to the type of entity to which this regulation is applied.

*AUTHORITY: sections 143.421, 143.961, RSMo 2016 , and section 143.47, RSMo Supp. 2020.
Original rule filed Sept. 8, 2020.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*