TITLE 12 DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 2 – Income Tax

PROPOSED AMENDMENT

12 CSR 10-2.015 Withholding of Tax. The department is amending sections (1), (6), (11), (18), and (21).

PURPOSE: This amendment updates methods for closing an employer's withholding account and the handling of withholding for Missouri resident employees working outside of Missouri. This amendment also clarifies the applicability of the employer compensation deduction and certain aspects of a complex employer's use of withholding agents.

PURPOSE: This rule provides guidance for the withholding of Missouri income taxes from wages or retirement income.

(1) Registration of Employers. Every employer required to deduct and withhold any amount of tax under section 143.191, RSMo, must register with the Missouri Department of Revenue by completing the Missouri Tax Registration Application Form 2643 or through the online business registration feature on the Missouri Department of Revenue's website. A Missouri tax identification number will be assigned. A new registration is required, and a new Missouri tax identification number will be assigned, when any change in ownership or ownership type occurs. An employer who receives a new Missouri tax identification number as a result of a change in ownership type must file a Final Report Form 5633, to close the old account. These Missouri tax identification numbers are not transferable. It is recommended that the Missouri tax identification number be included in all reports and correspondence from the employer to the Missouri Department of Revenue concerning withholding. If a business is discontinued, transferred, or sold, or if an employer closes or indefinitely ceases to pay wages, the employer must close the employer's withholding account by filing a Final Report (Form 5633). If the business of another employer is acquired, do not use the Missouri tax identification number assigned to that business; a new Missouri tax identification number must be obtained.

(A) Employer With More Than One (1) Payroll Unit—Complex Employer. If a consolidated report and remittance of the tax withheld cannot be made by the employer because of the complexity of the organization, branch offices*[,]* or divisions **of the employer** may be designated as withholding agents. These agents can perform the actual withholding and remitting. However, regardless of any internal arrangements which may be established by the complex employer, the legal responsibility and liability under the law still rests with the *[home office]* **employer and any other entity or person made liable under state law**. If the complex employer has designated withholding agents, and the agents wish to claim the compensation deduction **on behalf of the employer**, only one (1) agent will be entitled to the full deduction and the remaining agents will be entitled to one-half of one percent [(1/2%)] **(0.5%)** deduction of income taxes withheld if the returns **and remittances** are filed **and made** timely**, but in no**

event shall the complex employer receive an aggregate compensation deduction greater than what would be allowed by law had the employer not elected to use designated withholding agents under this provision.

(6) Resident of Missouri Employed in Another State. *[A Missouri resident paying income tax to another state because of employment in that state may complete and provide to the employer a Withholding Affidavit for Missouri Residents (Form MO W-4C). If the employee does not complete and provide the Form MO W-4C, the employer may withhold Missouri taxes on wages for all services performed, regardless of where performed.]* All wages received for **a Missouri resident's** services performed in another state not having a state **individual** income tax are subject to Missouri withholding**. All wages received for a Missouri resident's services performed in another state having a state individual income tax that is a lower rate than Missouri's individual income tax rate are subject to Missouri withholding for the amount of the difference between that state's and Missouri's withholding requirements**. *[If services are performed partly within and partly outside the state, only wages paid for that portion of the services performed within Missouri are subject to Missouri withholding tax, provided that the services performed in the other state are subject to the other state's withholding provisions. If a service is partly within and partly outside and only a portion of an employee's wages is subject to Missouri withholding tax, then the amount of Missouri tax required to be withheld is calculated using a percentage of the amount listed in the withholding tables. The calculation begins by determining the amount that would be withheld if all the wages were subject to Missouri withholding. This amount is then multiplied by a percent, which is determined by dividing the wages subject to Missouri withholding tax by the total federal wages.*

(A) Example: A resident employee earns $1,500 per month and is single. The employee performs 40% of his or her services in Kansas. The remaining 60% of the employee's services are performed in Missouri. If the total withholding on all earnings is $40 per month, the actual withholding for Missouri would be $24 ($40 x 60% = $24).]

(11) Exemption for Certain Individuals. This section applies to a Missouri nonresident performing services in Missouri or a Missouri resident. Exemption from withholding for an individual is valid only if the employee submits to the employer a completed Employee's Withholding *[Allowance]* Certificate Form MO W-4, certifying that the employee has no income tax liability from the previous year and expects none for the current year. The employee must file a Form MO W-4 annually if the employee wishes to continue to be exempt.

(18) Employer Compensation. For every remittance made to the director of revenue, on or before the respective due date for the payment involved, each employer (except the United States, the state of Missouri, and all agencies and political subdivisions of the state of Missouri or the United States government) may deduct and retain as compensation the following percentages of the total amount of the tax withheld and paid annually: two percent (2%) of the first five thousand dollars ($5,000) or less; one percent (1%) of the amount in excess of five thousand dollars up to ten thousand dollars ($5,000–$10,000); one-half of one percent [(1/2%)] **(0.5%)** of the amount collected in excess of ten thousand dollars ($10,000). The employer is not entitled to any compensation if the remittance is not made on or before the due date. Compensation for

complex employers is covered in section (1). **The employer compensation deduction generally does not apply for withholding and remittance by an entity administering a pension or retirement fund or program pursuant to section 143.265, RSMo.**

(21) Records to Be Kept by Employers.

(A) The following records must be retained:

1. Name, address, Social Security number, and period of employment for all employees;

2. Amounts and dates of all wage payments subject to the Missouri withholding tax for all employees;

3. All Form(s) W-2, Form(s) 1099-R, state income tax withholding certificate**s** (Form MO W-4), **and** Certificates of Nonresidence or Allocation of Withholding Tax (Form MO W-4A)*[, and Withholding Affidavits for Missouri Residents (MO W-4C),]* provided to or by any employee;

4. Employer's Missouri tax identification number;

5. Record of quarter-monthly, monthly, quarterly, and annual returns filed including dates and amounts of payments; and

6. Records that would assist the Missouri Department of Revenue in auditing the employer's records.

(B) The above listed records must be kept by the employer for at least three (3) years after the date the taxes to which they relate become due, or the date the taxes are paid, whichever is later. However, any employee's copies of the Withholding Statement required by section 143.201, RSMo, which cannot be delivered to the employee after reasonable effort is exerted must be kept by the employer for at least four (4) years.

(C) In addition to the records listed in paragraphs (21)(A)1.–6., all records of the allocation of working days in the state of Missouri must be retained for all employees that, during the withholding period, worked one (1) or more days outside of Missouri and one (1) or more days in Missouri. This subsection (21)(C) does not require an employer to create such records of the allocation of working days.

AUTHORITY: sections 136.120, 143.191, 143.221, 143.225, 143.571, and 143.961, RSMo 2016. This rule was previously filed as "Missouri Employer's Tax Guide," Feb. 20, 1973, effective March 2, 1973. Original rule filed Jan. 29, 1974, effective Feb. 8, 1974. Emergency amendment filed Jan. 13, 1983, effective Jan. 23, 1983, expired May 23, 1983. Amended: Filed Jan. 13, 1983, effective April 11, 1983. Amended: Filed March 9, 1984, effective July 1, 1984. Amended: Filed June 2, 1993, effective Nov. 8, 1993. Amended: Filed July 28, 1995, effective Jan. 30, 1996. Amended: Filed Feb. 6, 1998, effective Aug. 30, 1998. Emergency amendment filed Nov. 30, 1999, effective Dec. 10, 1999, expired June 6, 2000. Amended: Filed Nov. 30, 1999, effective June 30, 2000. Amended: Filed April 1, 2002, effective Oct. 30, 2002. Emergency amendment filed April 16, 2019, effective April 26, 2019, expired Feb. 5, 2020. Amended: Filed*

April 16, 2019, effective Nov. 30, 2019. Amended: Filed Nov. 8, 2023, effective June 30, 2024. Amended: Filed October 27, 2025

**Original authority: 136.120, RSMo 1945; 143.191, RSMo 1972, amended 1988, 1990, 1992, 1994, 2014, 2015; 143.221, RSMo 1972, amended 1983, 1985, 1998, 2016; 143.225, RSMo 1983, amended 2003; 143.571, RSMo 1972; and 143.961, RSMo 1972.*

Public Cost: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

Private Cost: This proposed amendment 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 amendment with the Missouri Department of Revenue, Legislative Office, 301 West 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.*