

TAXATION:
INCOME TAX:
ST. LOUIS EARNINGS TAX:
EXEMPTIONS:

Section 143.160, as amended, provides for a deduction for those taxes paid to the City of St. Louis upon compensation for personal services earned by resident and non-resident individuals.

October 4, 1961



Honorable M. E. Morris
Director of Revenue
Jefferson Building
Jefferson City, Missouri

Dear Mr. Morris:

This is in response to your letter dated August 18, 1961, in which you request an official opinion from this office. Your letter is as follows:

"House Bill No. 159 passed by the 71st General Assembly and signed by the Governor, amends Section 143.160 RS Mo 1959.

"The paragraph in question, (4) Taxes, is amended by adding the words 'by any municipality on compensation for personal services.'

"In view of the words 'for personal services', is the St. Louis City Earnings tax which is paid by corporations deductible on the Missouri corporation income tax return?"

Section 143.160, RSMo 1959, provides for certain deductions which may be taken by individual and corporate taxpayers. These deductions are subtracted from gross income and result in the determination of net income. Examples of such deductions are ordinary and necessary business expenses, losses sustained during the taxable year, interest paid within the taxable year, taxes paid within the taxable year, and others. Your opinion request is specifically directed to that deduction concerning taxes paid within the taxable year. It is found in Subsection 4 of Section 143.160. This subsection reads as follows:

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"(4) Taxes: All taxes paid within the year imposed by the authority of the United States or its territories or possessions, or foreign country or under authority of any state, county, school district or municipality or other taxing subdivision of any state or country, not including those assessed against local benefits and inheritance taxes and taxes based on income, except those imposed by any municipality on compensation for personal services or the United States on incomes."

Thus, the Legislature has granted the deduction from gross income for those taxes paid to a municipality upon "all compensation for personal services". The only tax of this nature presently authorized is the St. Louis Earnings Tax. The statutes enabling the City of St. Louis to impose such a tax are found in Chapter 92, RSMo 1959. They authorize the City of St. Louis to levy and collect:

"an earnings tax on salaries, wages, commissions and other compensation earned by its residents; on the salaries, wages, commissions and other compensation earned by non-residents of the City for work done or services performed or rendered in the city; on the net profits of associations, businesses or other activities conducted by residents; on the net profits of associations, businesses or other activities conducted in the city by nonresidents; and on the net profits earned by all corporations as the result of work done or services performed or rendered and business or other activities conducted in the city." Section 92.110, RSMo, 1959.

This statutory language is found verbatim in ordinance #47063, enacted by the City of St. Louis, April 28, 1954, which levies and imposes the earnings tax.

Section 2 of this ordinance was amended by ordinance #49540 effective July 24, 1959, and reads as follows:

"Sec 2.[Rate and basis of tax] A tax for general revenue purposes of one per centum is hereby imposed on (a) salaries, wages, commissions and other compensation earned after July 31, 1959, by resident individuals

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of the City, including the entire distributive share of any member of a partnership or association, less the amount thereof, if any, which may be shown to have been taxed under the provisions hereof to said association or partnership; and on (b) salaries, wages, commissions and other compensation earned after July 31, 1959, by non-resident individuals of the City, for work done or services performed or rendered in the City; and on (c) the net profits earned after July 31, 1959, of associations, businesses, or other activities conducted by a resident or residents, and on (d) the net profits earned after July 31, 1959, of associations, businesses, or other activities conducted in the City by a non-resident or non-residents; and (e) on the net profits earned after July 31, 1959, by all corporations as a result of work done or services performed or rendered, and business or other activities conducted in the city."

From the statute and ordinances listed above it is readily apparent that the St. Louis Earnings Tax is imposed upon two classifications of sources of income. One source is salaries, wages, commissions and other compensation earned by resident and non-resident individuals. The other source is net profits earned by associations, businesses or other activities conducted by residents or non-residents and net profits earned by corporations. The Legislature has specifically delineated these two distinct classes in Section 92.110. When it uses the statutory language in Section 143.160(4), "compensation for personal service," it seems reasonable that the Legislature intended for this phrase to apply only to salaries, wages, commissions and other compensation earned by resident and non-resident individuals. "Net profits" contemplate deductions for expenses, whereas "compensation for personal services" does not. The fact that Section 143.160(4) fails to mention an allowance of a deduction for taxes paid to a municipality based upon "net profits" indicates that a deduction of this nature is not provided for.

CONCLUSION

As you mention in your letter, Section 143.160 (4), RSMo 1959, grants a deduction for those taxes paid to any municipality imposed upon compensation for personal service.

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It is the opinion of this office that the phrase "compensation for personal service" as used in Section 143.160, RSMo 1959, as amended, applies to the earnings tax imposed upon salaries, wages, commissions and other compensation earned by resident individuals of the City of St. Louis, and by non-resident individuals for work done or services performed or rendered in the City of St. Louis and has no reference to "net profits".

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Eugene G. Bushmann.

Yours very truly,

THOMAS F. HAGLETON
Attorney General

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