



# TESTIMONY

September 12, 2023

## COLLECTION OF THE EARNINGS TAX ON REMOTE WORK BY ST. LOUIS

*By David Stokes*

**Testimony before the Missouri House Special Interim Committee  
on the Earnings Tax**

Thank you for the opportunity to present this testimony. My name is David Stokes. I am director of municipal policy for the Show-Me Institute, a nonprofit, nonpartisan, Missouri-based think tank that supports free-market solutions for state policy. The ideas presented here are my own.

The State of Missouri, through the General Assembly, should make clear in state law that the city earnings taxes in St. Louis and Kansas City cannot be applied to the earnings of telecommuting nonresidents who work from home. For many years, both cities have recognized that the earnings tax does not apply for the portion of work done outside of the city limits by nonresidents. This practice comports with the plain language of the applicable statute, which applies to wages described as follows in the section regarding nonresidents<sup>1</sup>:

Salaries, wages, commissions and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city.

Despite the plain language of existing law, the City of St. Louis, since 2020, has collected earnings-tax revenue from nonresidents who work for businesses within the city even if they perform their work from their homes located outside of the city limits. While we understand the financial challenges the pandemic posed for many entities, this decision was misguided and violated the law. If the lawsuits that have been filed against the city are any indication, it seems many workers and businesses agree.<sup>2</sup> Furthermore, in early 2023 a judge agreed with the plaintiffs in one of the lawsuits and ruled that the City of St. Louis had acted improperly. In his decision, the judge wrote (emphasis added):<sup>3</sup>

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It seems this sudden surge in telework caused the Collector to fear a high demand for the Earnings Tax refund and its potentially profound effect on the City's budget. As a result, it seems the Collector unilaterally altered the criteria for the refunds without pursuing any kind of formal rule-making process or any amendments to the existing Earnings Tax statute or ordinance. While Defendants contend they always had the power to collect the Earnings Tax from teleworkers, they just never exercised it until recently, the Court finds that untrue given the analysis of the Earnings Tax above. Moreover, it strains credibility to think Defendants always believed they were entitled to more tax dollars but just decided for reasons unknown not to attempt to collect them.

The city was ordered to repay the earnings taxes collected on remote work to the plaintiffs. Not surprisingly, the city is appealing. As one former city aldermen stated in response to the judge's ruling, "I would appeal it for the next 1,000 years."<sup>4</sup> The city apparently intends to appeal, oppose, or ignore the judge's ruling for as long as it possibly can.

The argument for the earnings tax has always been that people working in the city need to contribute to city coffers. Whatever you think of that rationale, it would be a dramatic expansion of the City of St. Louis's authority to continue to allow it to collect taxes for work performed outside of the city.

Kansas City, on the other hand, has been issuing earnings tax refunds to remote workers. The city set aside about \$17 million to reimburse taxpayers in 2021.<sup>5</sup> While that's a large amount of tax revenue, that money rightly belongs in the pockets of remote workers. However the two cities chose to address the issue, it is worth noting that they each received hundreds of millions of dollars in Federal stimulus funds in 2021, and one of the primary purposes of those funds was to replace lost local tax revenues.

Local income taxes are harmful for cities. They encourage movement of population, labor, and capital away from the cities that impose them to surrounding communities that do not levy such taxes.<sup>6</sup> This effect has been documented by numerous studies.<sup>7</sup> Despite the evidence against earnings taxes, they remain popular with voters and local

officials in both cities. After all, who wouldn't want to tax non-residents to help pay for the public services of the residents? The short-term political gains appear to always trump the long-term benefits of eliminating the earnings tax.<sup>8</sup> The earnings tax in general places a burden on workers and can contribute to business decisions to locate outside of the City of St. Louis and Kansas City.<sup>9</sup>

Remote work has become much more popular, and many believe it will remain popular going forward. If remote workers are burdened by the earnings tax being improperly applied to telecommuting, their employers will have even more incentive to relocate their businesses or simply open satellite offices outside the city. We do not need another reason for businesses to locate outside of Missouri's largest cities.

St. Louis and Kansas City should actively explore how to phase out their earnings and payroll taxes to create a better environment for economic growth in those two cities over the long term. The substantial increase in working from home during and after the pandemic is one more reason to move away from depending on earnings taxes.<sup>10</sup> Nobody says it will be easy to replace a substantial part of those cities' budgets, but if earnings taxes were phased out over a 10-year period, St. Louis and Kansas City could replace the lost income tax revenue with a combination of:

- Substantially reduced granting of various tax subsidies
- Increasing other, less economically harmful taxes
- Sharing services where possible with other governments
- Privatizing certain services and assets, such as their water departments
- Budget cuts
- Pension reforms

This committee can make an important statement about telecommuting and remote work as it relates to local earnings taxes in Kansas City and St. Louis. Such a tax on nonresidents is improper and unwarranted. Thank you for the opportunity to testify today.

**NOTES**

1. RSMO 92.111.2(2)
2. Gerber, Cameron. “St. Louis remote workers challenge city’s earnings tax.” *The Missouri Times*, and Jacob Barker. “AT&T says St. Louis collector improperly charged payroll tax on work outside city limits.” *St. Louis Post-Dispatch*.
3. *Boles, et al v. City of St. Louis*. Missouri circuit court, twenty-second judicial district, Order and Judgement by Judge Jason Sengheiser, January 19, 2023.
4. Huguelet, Austin, “St. Louis could lose \$150 million in earnings taxes to people working from home,” *St. Louis Post-Dispatch*, January 26, 2023.
5. Hendricks, Mike. “Remote workers: Expect to wait months for your Kansas City earnings tax refund.” *Kansas City Star*.
6. Haslag, Joseph, “How an Earnings Tax Harms Cities Like St. Louis and Kansas City,” Show-Me Institute Policy Study No. 1, March 2006.
7. Glaeser, Edward, “Triumph of the City,” Penguin Books, 2011, p. 59.
8. Wall, Howard, “Updated Estimates of the Effects of Earnings Taxes on City Growth,” Show-Me Institute Essay, September 2014.
9. Baier, Corianna. “Local Income Taxes.” Show-Me Institute, 2020.
10. Gurley, Gabrielle, “ Remote Workers Punch Holes in City Revenues,” *The American Prospect*, January 13, 2022, <https://prospect.org/economy/remote-workers-punch-holes-in-city-revenues>.



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