

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1132

97TH GENERAL ASSEMBLY

4546S.02T

2014

AN ACT

To repeal sections 135.600, 135.630, and 135.647, RSMo, and to enact in lieu thereof three new sections relating to benevolent tax credits.

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

Section A. Sections 135.600, 135.630, and 135.647, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 135.600, 135.630, and 135.647, to read
3 as follows:

135.600. 1. As used in this section, the following terms shall mean:

2 (1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or
3 real property;

4 (2) "Maternity home", a residential facility located in this state established for the
5 purpose of providing housing and assistance to pregnant women who are carrying their
6 pregnancies to term, and which is exempt from income taxation under the United States Internal
7 Revenue Code;

8 (3) "State tax liability", in the case of a business taxpayer, any liability incurred by such
9 taxpayer pursuant to the provisions of chapter 143, chapter 147, chapter 148, and chapter 153,
10 exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191
11 to 143.265, and related provisions, and in the case of an individual taxpayer, any liability
12 incurred by such taxpayer pursuant to the provisions of chapter 143;

13 (4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S
14 corporation doing business in the state of Missouri and subject to the state income tax imposed
15 by the provisions of chapter 143, including any charitable organization which is exempt from

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 federal income tax and whose Missouri unrelated business taxable income, if any, would be
17 subject to the state income tax imposed under chapter 143, or a corporation subject to the annual
18 corporation franchise tax imposed by the provisions of chapter 147, or an insurance company
19 paying an annual tax on its gross premium receipts in this state, or other financial institution
20 paying taxes to the state of Missouri or any political subdivision of this state pursuant to the
21 provisions of chapter 148, or an express company which pays an annual tax on its gross receipts
22 in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by
23 the provisions of chapter 143.

24 2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax
25 liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a
26 maternity home.

27 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's
28 state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be
29 allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any
30 tax credit that cannot be claimed in the taxable year the contribution was made may be carried
31 over to the next four succeeding taxable years until the full credit has been claimed.

32 4. Except for any excess credit which is carried over pursuant to subsection 3 of this
33 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such
34 taxpayer's contribution or contributions to a maternity home or homes in such taxpayer's taxable
35 year has a value of at least one hundred dollars.

36 5. The director of the department of social services shall determine, at least annually,
37 which facilities in this state may be classified as maternity homes. The director of the
38 department of social services may require of a facility seeking to be classified as a maternity
39 home whatever information is reasonably necessary to make such a determination. The director
40 of the department of social services shall classify a facility as a maternity home if such facility
41 meets the definition set forth in subsection 1 of this section.

42 6. The director of the department of social services shall establish a procedure by which
43 a taxpayer can determine if a facility has been classified as a maternity home, and by which such
44 taxpayer can then contribute to such maternity home and claim a tax credit. Maternity homes
45 shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax
46 credits which may be claimed by all the taxpayers contributing to maternity homes in any one
47 fiscal year shall not exceed two million dollars **for all fiscal years ending on or before June**
48 **30, 2014, and two million five hundred thousand dollars for all fiscal years beginning on**
49 **or after July 1, 2014.**

50 7. The director of the department of social services shall establish a procedure by which,
51 from the beginning of the fiscal year until some point in time later in the fiscal year to be

52 determined by the director of the department of social services, the cumulative amount of tax
53 credits are equally apportioned among all facilities classified as maternity homes. If a maternity
54 home fails to use all, or some percentage to be determined by the director of the department of
55 social services, of its apportioned tax credits during this predetermined period of time, the
56 director of the department of social services may reapportion these unused tax credits to those
57 maternity homes that have used all, or some percentage to be determined by the director of the
58 department of social services, of their apportioned tax credits during this predetermined period
59 of time. The director of the department of social services may establish more than one period
60 of time and reapportion more than once during each fiscal year. To the maximum extent
61 possible, the director of the department of social services shall establish the procedure described
62 in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits
63 possible up to the cumulative amount of tax credits available for the fiscal year.

64 8. This section shall become effective January 1, 2000, and shall apply to all tax years
65 after December 31, 1999. **No tax credits shall be issued under this section after June 30,**
66 **2020.**

135.630. 1. As used in this section, the following terms mean:

- 2 (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or
3 real property;
- 4 (2) "Director", the director of the department of social services;
- 5 (3) "Pregnancy resource center", a nonresidential facility located in this state:
 - 6 (a) Established and operating primarily to provide assistance to women with crisis
7 pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and
8 material support, and other similar services to encourage and assist such women in carrying their
9 pregnancies to term; and
 - 10 (b) Where childbirths are not performed; and
 - 11 (c) Which does not perform, induce, or refer for abortions and which does not hold itself
12 out as performing, inducing, or referring for abortions; and
 - 13 (d) Which provides direct client services at the facility, as opposed to merely providing
14 counseling or referral services by telephone; and
 - 15 (e) Which provides its services at no cost to its clients; and
 - 16 (f) When providing medical services, such medical services must be performed in
17 accordance with Missouri statute; and
 - 18 (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of
19 1986, as amended;
- 20 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such
21 taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections

22 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability
23 incurred by such taxpayer pursuant to the provisions of chapter 143, excluding sections 143.191
24 to 143.265 and related provisions;

25 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S
26 corporation doing business in the state of Missouri and subject to the state income tax imposed
27 by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax
28 imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its
29 gross premium receipts in this state, or other financial institution paying taxes to the state of
30 Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or
31 an express company which pays an annual tax on its gross receipts in this state pursuant to
32 chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter
33 143, or any charitable organization which is exempt from federal income tax and whose Missouri
34 unrelated business taxable income, if any, would be subject to the state income tax imposed
35 under chapter 143.

36 2. (1) Beginning on March 29, 2013, any contribution to a pregnancy resource center
37 made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

38 (2) For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed
39 to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent
40 of the amount such taxpayer contributed to a pregnancy resource center.

41 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's
42 state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not
43 be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However,
44 any tax credit that cannot be claimed in the taxable year the contribution was made may be
45 carried over to the next four succeeding taxable years until the full credit has been claimed.

46 4. Except for any excess credit which is carried over pursuant to subsection 3 of this
47 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such
48 taxpayer's contribution or contributions to a pregnancy resource center or centers in such
49 taxpayer's taxable year has a value of at least one hundred dollars.

50 5. The director shall determine, at least annually, which facilities in this state may be
51 classified as pregnancy resource centers. The director may require of a facility seeking to be
52 classified as a pregnancy resource center whatever information which is reasonably necessary
53 to make such a determination. The director shall classify a facility as a pregnancy resource
54 center if such facility meets the definition set forth in subsection 1 of this section.

55 6. The director shall establish a procedure by which a taxpayer can determine if a facility
56 has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted
57 to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be

58 claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year
59 shall not exceed two million dollars **for all fiscal years ending on or before June 30, 2014, and**
60 **two million five hundred thousand dollars for all fiscal years beginning on or after July 1,**
61 **2014.** Tax credits shall be issued in the order contributions are received.

62 7. The director shall establish a procedure by which, from the beginning of the fiscal year
63 until some point in time later in the fiscal year to be determined by the director, the cumulative
64 amount of tax credits are equally apportioned among all facilities classified as pregnancy
65 resource centers. If a pregnancy resource center fails to use all, or some percentage to be
66 determined by the director, of its apportioned tax credits during this predetermined period of
67 time, the director may reapportion these unused tax credits to those pregnancy resource centers
68 that have used all, or some percentage to be determined by the director, of their apportioned tax
69 credits during this predetermined period of time. The director may establish more than one
70 period of time and reapportion more than once during each fiscal year. To the maximum extent
71 possible, the director shall establish the procedure described in this subsection in such a manner
72 as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of
73 tax credits available for the fiscal year.

74 8. Each pregnancy resource center shall provide information to the director concerning
75 the identity of each taxpayer making a contribution to the pregnancy resource center who is
76 claiming a tax credit pursuant to this section and the amount of the contribution. The director
77 shall provide the information to the director of revenue. The director shall be subject to the
78 confidentiality and penalty provisions of section 32.057 relating to the disclosure of tax
79 information.

80 9. Pursuant to section 23.253 of the Missouri sunset act:

81 (1) The program authorized under this section shall be reauthorized as of March 29,
82 2013, and shall expire on December 31, 2019, unless reauthorized by the general assembly; and

83 (2) This section shall terminate on September first of the calendar year immediately
84 following the calendar year in which a program authorized under this section is sunset; and

85 (3) The provisions of this subsection shall not be construed to limit or in any way impair
86 the department's ability to issue tax credits authorized on or before the date the program
87 authorized under this section expires or a taxpayer's ability to redeem such tax credits.

135.647. 1. As used in this section, the following terms shall mean:

2 (1) "Local food pantry", any food pantry that is:

3 (a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986,
4 as amended; and

5 (b) Distributing emergency food supplies to Missouri low-income people who would
6 otherwise not have access to food supplies in the area in which the taxpayer claiming the tax
7 credit under this section resides;

8 (2) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a shareholder
9 in an S corporation doing business in this state and subject to the state income tax imposed by
10 chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

11 2. (1) Beginning on March 29, 2013, any donation of cash or food made on or after
12 January 1, 2013, shall be eligible for tax credits as provided by this section.

13 (2) For all tax years beginning on or after January 1, 2007, any taxpayer who donates
14 cash or food, unless such food is donated after the food's expiration date, to any local food pantry
15 shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding
16 tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the value of
17 the donations made to the extent such amounts that have been subtracted from federal adjusted
18 gross income or federal taxable income are added back in the determination of Missouri adjusted
19 gross income or Missouri taxable income before the credit can be claimed. Each taxpayer
20 claiming a tax credit under this section shall file an affidavit with the income tax return verifying
21 the amount of their contributions. The amount of the tax credit claimed shall not exceed the
22 amount of the taxpayer's state tax liability for the tax year that the credit is claimed, and shall not
23 exceed two thousand five hundred dollars per taxpayer claiming the credit. Any amount of credit
24 that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable,
25 but may be carried forward to any of the taxpayer's three subsequent taxable years. No tax credit
26 granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible
27 to receive a credit pursuant to this section if such taxpayer employs persons who are not
28 authorized to work in the United States under federal law.

29 3. The cumulative amount of tax credits under this section which may be allocated to all
30 taxpayers contributing to a local food pantry in any one fiscal year shall not exceed one million
31 [two] **seven** hundred fifty thousand dollars. The director of revenue shall establish a procedure
32 by which the cumulative amount of tax credits is apportioned among all taxpayers claiming the
33 credit by April fifteenth of the fiscal year in which the tax credit is claimed. To the maximum
34 extent possible, the director of revenue shall establish the procedure described in this subsection
35 in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the
36 cumulative amount of tax credits available for the fiscal year.

37 4. Any local food pantry may accept or reject any donation of food made under this
38 section for any reason. For purposes of this section, any donations of food accepted by a local
39 food pantry shall be valued at fair market value, or at wholesale value if the taxpayer making the
40 donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

41 5. The department of revenue shall promulgate rules to implement the provisions of this
42 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
43 under the authority delegated in this section shall become effective only if it complies with and
44 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
45 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
46 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
47 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
48 proposed or adopted after August 28, 2007, shall be invalid and void.

49 6. Under section 23.253 of the Missouri sunset act:

50 (1) The program authorized under this section shall be reauthorized as of March 29,
51 2013, and shall expire on December 31, 2019, unless reauthorized by the general assembly; and

52 (2) This section shall terminate on September first of the calendar year immediately
53 following the calendar year in which the program authorized under this section is sunset; and

54 (3) The provisions of this subsection shall not be construed to limit or in any way impair
55 the department's ability to redeem tax credits authorized on or before the date the program
56 authorized under this section expires or a taxpayer's ability to redeem such tax credits.

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