

HOUSE BILL NO. 2270

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MOON.

4542H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax credits for businesses that were taxed as a result of a change in tax law interpretation.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.780, to read as follows:

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

(1) "Department", the department of revenue;

(2) "Eligible tax payments", sales taxes and use taxes paid to the department that were assessed against the taxpayer after the department, prior to August 28, 2015, expanded its interpretation of taxable items and that the taxpayer did not collect from the taxpayer's customers;

(3) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265;

(4) "Taxpayer", any individual, partnership, or corporation as described under sections 143.441 or 143.471 that is subject to the tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state income tax liability in an amount equal to one hundred percent of the taxpayer's eligible tax payments plus the interest accrued on such eligible tax payments. The amount of interest shall be calculated using the interest rate established under section 32.065 and using the period of time such eligible tax payment was in the department's possession, as determined by the department.

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.

18 **3. The amount of the tax credit claimed shall not exceed the amount of the**
19 **taxpayer's state tax liability for the tax year that the credit is claimed. If the amount of the**
20 **tax credit allowed exceeds the amount of the taxpayer's state tax liability for the tax year**
21 **for which the credit is claimed, the difference shall not be refundable but may be carried**
22 **forward to any of the taxpayer's ten subsequent tax years until the full credit has been**
23 **claimed. A taxpayer shall not be allowed to claim a tax credit in excess of one million**
24 **dollars.**

25 **4. No tax credits issued under the provisions of this section shall be assigned,**
26 **transferred, or sold.**

27 **5. Notwithstanding subsection 4 of section 32.057, the department shall determine**
28 **whether any taxpayer filing a report or return with the department of revenue who has not**
29 **applied for the credit allowed under this section may qualify for the credit, and shall notify**
30 **any qualified claimant of the claimant's potential eligibility, where the department**
31 **determines such potential eligibility exists.**

32 **6. The department may promulgate rules to implement the provisions of this**
33 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
34 **created under the authority delegated in this section shall become effective only if it**
35 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
36 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
37 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
38 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
39 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**
40 **shall be invalid and void.**

41 **7. Under section 23.253 of the Missouri sunset act:**

42 **(1) The program authorized under this section shall automatically sunset on**
43 **December thirty-first six years after the effective date of this section, unless reauthorized**
44 **by an act of the general assembly;**

45 **(2) If such program is reauthorized, the program authorized under this section**
46 **shall automatically sunset on December thirty-first twelve years after the effective date of**
47 **the reauthorization of this section; and**

48 **(3) This section shall terminate on September first of the calendar year immediately**
49 **following the calendar year in which the program authorized under this section is sunset.**

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