

# Missouri Revised Statutes

## Chapter 135 Tax Relief

- [←Chapter: 130](#)
- [Chapter: 136→](#) August 28, 2015

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### Definitions.

[135.010](#). As used in sections [135.010](#) to [135.030](#) the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections [135.010](#) to [135.030](#). If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the Armed Forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section [137.106](#) in the year following the year for which the property tax credit is claimed. The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A

claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entirety, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section [143.121](#) less two thousand dollars, or in the case of a homestead owned and occupied, for the entire year, by the claimant, less four thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property

taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

(L. 1973 H.B. 149, et al. § 1, A.L. 1975 H.B. 121, et al., A.L. 1979 S.B. 247, et al., A.L. 1983 S.B. 47 & 29, A.L. 1988 S.B. 555, A.L. 1992 S.B. 797 merged with H.B. 1434 & 1490, A.L. 1994 H.B. 1745, A.L. 1996 H.B. 1098, A.L. 1998 S.B. 675, et al., A.L. 2005 H.B. 58 merged with H.B. 186 merged with H.B. 229 merged with H.B. 461, A.L. 2008 S.B. 711)

#### **Time for filing and other procedural matters, how governed.**

[135.015](#). Procedural matters related to filing a claim under sections [135.010](#) to [135.030](#), including refunds, deficiencies, interest, contents of returns, limitations, and penalties shall be determined pursuant to sections [143.481](#) to [143.996](#) applicable to the income tax. The credit regarding the property taxes of a calendar year may only be claimed on a return for the calendar year or for a claimant's return for a fiscal year that includes the end of the calendar year.

(L. 1973 H.B. 149, et al., § 2, A.L. 1975 H.B. 121, et al., A.L. 1983 S.B. 47 & 29)

Effective 1-1-84

#### **Credits, how applied, considered overpayment, when.**

[135.020](#). A credit for property taxes shall be allowed for the amount provided in section [135.030](#). If the amount allowable as a credit exceeds the income tax reduced by other credits, then the excess shall be considered an overpayment of the income tax.

(L. 1973 H.B. 149, et al.)

Effective 10-1-73

**Accrued taxes and rent constituting taxes to be totaled--maximum amount allowable-- allocation regulations, when.**

135.025. The property taxes accrued and rent constituting property taxes accrued on each return shall be totaled. This total, up to seven hundred fifty dollars in rent constituting property taxes actually paid or eleven hundred dollars in actual property tax paid, shall be used in determining the property tax credit. The director of revenue shall prescribe regulations providing for allocations where part of a claimant's homestead is rented to another or used for nondwelling purposes or where a homestead is owned or rented or used as a dwelling for part of a year.

(L. 1973 H.B. 149, et al. § 4, A.L. 1975 H.B. 121, et al., A.L. 1988 S.B. 555, A.L. 2008 S.B. 711)

**Formula for determining credits--table to be prepared by director of revenue--taxpayer not applying for credit to be notified of eligibility.**

135.030. 1. As used in this section:

(1) The term "maximum upper limit" shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of twenty-five thousand dollars. For all calendar years beginning on or after January 1, 2008, the maximum upper limit shall be the sum of twenty-seven thousand five hundred dollars. In the case of a homestead owned and occupied for the entire year by the claimant, the maximum upper limit shall be the sum of thirty thousand dollars;

(2) The term "minimum base" shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of thirteen thousand dollars. For all calendar years beginning on or after January 1, 2008, the minimum base shall be the sum of fourteen thousand three hundred dollars.

2. If the income on a return is equal to or less than the maximum upper limit for the calendar year for which the return is filed, the property tax credit shall be determined from a table of credits based upon the amount by which the total property tax described in section 135.025 exceeds the percent of income in the following list:

If the income on the return is: The percent is:

Not over the minimum base 0 percent with credit not to exceed \$1,100 in actual property tax or rent equivalent paid up to \$750

Over the minimum base but 1/16 percent accumulative per \$300 from 0 percent to 4 percent.  
not over the maximum upper limit

The director of revenue shall prescribe a table based upon the preceding sentences. The property tax shall be in increments of twenty-five dollars and the income in increments of three hundred dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the basis of the property tax and income at the midpoints of each increment. As used in this subsection, the term "accumulative" means an increase by continuous or repeated application of the percent to the income increment at each three hundred dollar level.

3. Notwithstanding subsection 4 of section [32.057](#), the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to section [135.020](#) may qualify for the credit, and shall notify any qualified claimant of the claimant's potential eligibility, where the department determines such potential eligibility exists.

(L. 1973 H.B. 149, et al. § 5, A.L. 1975 H.B. 121, et al., A.L. 1977 S.B. 387, et al., A.L. 1979 S.B. 247, et al., A.L. 1983 S.B. 47 & 29, A.L. 1985 S.B. 69, A.L. 1986 S.B. 751, A.L. 1988 S.B. 555, A.L. 1998 S.B. 675, et al. , A.L. 2007 S.B. 30, A.L. 2008 S.B. 711)

#### **Claims for calendar year 1975 and later affected.**

[135.035](#). Sections [135.010](#), [135.015](#), [135.025](#), and [135.030](#) shall be effective with respect to claims filed for the calendar year 1975 and thereafter.

(L. 1975 H.B. 121, et al. § A)

#### **Income tax credit for surviving spouses of public safety officers--sunset provision.**

[135.090](#). 1. As used in this section, the following terms mean:

(1) "Homestead", the dwelling in Missouri owned by the surviving spouse and not exceeding five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. As used in this section, "homestead" shall not include any dwelling which is occupied by more than two families;

(2) "Public safety officer", any firefighter, police officer, capitol police officer, parole officer, probation officer, correctional employee, water patrol officer, park ranger, conservation officer, commercial motor enforcement officer, emergency medical technician, first responder, or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed in the line of duty, unless the death was the result of the officer's own misconduct or abuse of alcohol or drugs;

(3) "Surviving spouse", a spouse, who has not remarried, of a public safety officer.

2. For all tax years beginning on or after January 1, 2008, a surviving spouse shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), in an amount equal to the total amount of the property taxes on the surviving spouse's homestead paid during the tax year for which the credit is claimed. A surviving spouse may claim the credit authorized under this section for each tax year beginning the year of death of the public safety officer spouse until the tax year in which the surviving spouse remarries. No credit shall be allowed for the tax year in which the surviving spouse remarries. If the amount allowable as a credit exceeds the income tax reduced by other credits, then the excess shall be considered an overpayment of the income tax.

3. The department of revenue shall promulgate rules to implement the provisions of this section.

4. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

5. Pursuant to section [23.253](#) of the Missouri sunset act:

(1) The program authorized under this section shall expire on December 31, 2019, unless reauthorized by the general assembly; and

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

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

(L. 2007 S.B. 30, A.L. 2008 S.B. 979, A.L. 2013 S.B. 20, 15 & 19)

Effective 3-29-13

Sunset date 12-31-19

Termination date 9-01-20

### **Long-term care insurance tax deduction, amount.**

[135.096](#). 1. In order to promote personal financial responsibility for long-term health care in this state, for all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. For all taxable years beginning after December 31, 2006, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all nonreimbursed amounts paid by such individuals for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the proportion of such individual's payment of all qualified long-term care insurance premiums. The director of the department of revenue shall place a line on all Missouri individual income tax returns for the deduction created by this section.

2. For purposes of this section, "qualified long-term care insurance" means any policy which meets or exceeds the provisions of sections [376.1100](#) to [376.1118](#) and the rules and regulations promulgated pursuant to such sections for long-term care insurance.

3. Notwithstanding any other provision of law to the contrary, two or more insurers issuing a qualified long-term care insurance policy shall not act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems.

(L. 1999 S.B. 8 & 173 § 8, A.L. 2007 S.B. 577)

#### **Definitions.**

135.100. As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;

(5) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the

commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (11) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

(6) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section [135.110](#) is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(7) "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The property factor is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section [135.110](#), at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32.

For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

(8) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section [135.110](#) is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(9) "Office", a regional, national or international headquarters, a telemarketing operation, a computer operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (6) of this section;

(10) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections [135.100](#) to [135.150](#), "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or

income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

(11) "Replacement business facility", a facility otherwise described in subdivision (3) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility.

Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section [135.110](#), in the new facility during the tax period in which the credits allowed in sections [135.110](#), [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (9) of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (12) of this section;

(12) "Revenue-producing enterprise" means:

- (a) Manufacturing activities classified as NAICS 31-33;
- (b) Agricultural activities classified as NAICS 11;
- (c) Rail transportation terminal activities classified as NAICS 482;
- (d) Motor freight transportation terminal activities classified as NAICS 484 and NAICS 4884;
- (e) Public warehousing and storage activities classified as NAICS 493, miniwarehouse warehousing and warehousing self-storage;
- (f) Water transportation terminal activities classified as NAICS 4832;
- (g) Airports, flying fields, and airport terminal services classified as NAICS 481;
- (h) Wholesale trade activities classified as NAICS 42;
- (i) Insurance carriers activities classified as NAICS 524;

(j) Research and development activities classified as NAICS 5417;

(k) Farm implement dealer activities classified as NAICS 42382;

(l) Interexchange telecommunications services as defined in subdivision (20) of section [386.020](#) or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section [386.020](#);

(m) Recycling activities classified as NAICS 42393;

(n) Office activities as defined in subdivision (9) of this section, notwithstanding NAICS classification;

(o) Mining activities classified as NAICS 21;

(p) Computer programming, data processing and other computer-related activities classified as NAICS 5415;

(q) The administrative management of any of the foregoing activities; or

(r) Any combination of any of the foregoing activities;

(13) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

(14) "Taxpayer", an individual proprietorship, corporation described in section [143.441](#) or [143.471](#), and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty-percent employee requirement of section [135.230](#), to any obligation imposed pursuant to section [375.916](#).

(L. 1980 S.B. 644 § 1, A.L. 1983 H.B. 54, A.L. 1985 H.B. 416, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1993 H.B. 566, A.L. 1994 H.B. 1248 & 1048, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 S.B. 827, A.L. 1999 H.B. 701, A.L. 2011 H.B. 315)

**Tax credit for new or expanded business facility--computation--maximum years and amount allowed--no credit allowed a public utility and certain businesses--definitions.**

[135.110](#). 1. Any taxpayer who shall establish a new business facility shall be allowed a credit, each year for ten years, in an amount determined pursuant to subsection 2 or 3 of this section, whichever is applicable, against the tax imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or an insurance company which shall establish a new business facility by satisfying the requirements in subdivision (7) of section [135.100](#) shall be allowed a credit against the tax otherwise imposed by chapter 148, and in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#), except that no taxpayer shall be entitled to multiple ten-year periods for subsequent expansions at the same facility, except as otherwise provided in this section. For the

purpose of this section, the term "facility" shall mean, and be limited to, the facility or facilities which are located on the same site in which the new business facility is located, and in which the business conducted at such facility or facilities is directly related to the business conducted at the new business facility. Notwithstanding the provisions of this subsection, a taxpayer may be entitled to an additional ten-year period if a new business facility is expanded in the eighth, ninth or tenth year of the current ten-year period or in subsequent years following the expiration of the ten-year period, if the number of new business facility employees attributed to such expansion is at least twenty-five and the amount of new business facility investment attributed to such expansion is at least one million dollars. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years. A letter of intent, as provided for in section [135.258](#), must be filed with the department of economic development no later than fifteen days prior to the commencement of commercial operations at the new business facility. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility. This provision shall have effect on all initial applications filed on or after August 28, 1992. No credit shall be allowed pursuant to this section unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; except that the number of new business facility employees engaged or maintained in employment by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of section [135.100](#) which establishes an office as defined in subdivision (8) of section [135.100](#) shall equal or exceed twenty-five.

2. For tax periods beginning after August 28, 1991, in the case of a taxpayer operating an existing business facility, the credit allowed by subsection 1 of this section shall offset the greater of:

(1) Some portion of the income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, and in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#) with respect to such taxpayer's new business facility income for the taxable year for which such credit is allowed; or

(2) Up to fifty percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), seventy-five percent of the business income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, and in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#) if the business operates no other facilities in Missouri. In the case of an existing business facility operating more than one facility in Missouri, the credit allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed

community as defined in section [135.530](#), thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision. Such credit shall be an amount equal to the sum of one hundred dollars or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), one hundred fifty dollars for each new business facility employee plus one hundred dollars or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), one hundred fifty dollars for each one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one percent or more) in new business facility investment. For the purpose of this section, tax credits earned by a taxpayer, who establishes a new business facility because it satisfies the requirements of paragraph (c) of subdivision (4) of section [135.100](#), shall offset the greater of the portion prescribed in subdivision (1) of this subsection or up to fifty percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), seventy-five percent of the business' tax provided the business operates no other facilities in Missouri. In the case of a business operating more than one facility in Missouri, the credit allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision.

3. For tax periods beginning after August 28, 1991, in the case of a taxpayer not operating an existing business facility, the credit allowed by subsection 1 of this section shall offset the greater of:

(1) Some portion of the income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, and in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#) with respect to such taxpayer's new business facility income for the taxable year for which such credit is allowed; or

(2) Up to one hundred percent of the business income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, and in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#) if the business has no other facilities operating in Missouri. In the case of a taxpayer not operating an existing business and operating more than one facility in Missouri, the credit allowed by subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#),

thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision. Such credit shall be an amount equal to the sum of seventy-five dollars or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), one hundred twenty-five dollars for each new business facility employee plus seventy-five dollars or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), one hundred twenty-five dollars for each one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one percent or more) in new business facility investment.

4. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility because it qualifies as a separate facility pursuant to subsection 6 of this section, and, in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (4) of section [135.100](#), or subdivision (10) of section [135.100](#), the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation or the establishment of a new facility.

5. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility because it qualifies as a separate facility pursuant to subsection 6 of this section, and, in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (4) of section [135.100](#) or subdivision (10) of section [135.100](#), the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (7) of section [135.100](#) for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation or the establishment of a new facility.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered a separate facility eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars, or, if less, one hundred percent of the investment in the original facility prior to expansion and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, except that the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which the credit is claimed equals or exceeds twenty-five if an office as defined in subdivision (8) of section [135.100](#) is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of section [135.100](#) and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion, except that the total number of employees at the facility after the expansion is at least greater than the number of employees before the expansion by twenty-five, if an office as defined in subdivision (8) of section [135.100](#) is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of section [135.100](#); and

(2) The expansion otherwise constitutes a new business facility. The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (7) of section [135.100](#).

7. No credit shall be allowed pursuant to this section to a public utility, as such term is defined in section [386.020](#). Notwithstanding any provision of this subsection to the contrary, motor carriers, barge lines or railroads engaged in transporting property for hire, or any interexchange telecommunications company or local exchange telecommunications company that establishes a new business facility shall be eligible to qualify for credits allowed in this section.

8. For the purposes of the credit described in this section, in the case of a corporation described in section [143.471](#) or partnership, in computing Missouri's tax liability, this credit shall be allowed to the following:

(1) The shareholders of the corporation described in section [143.471](#);

(2) The partners of the partnership. This credit shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

9. Notwithstanding any provision of law to the contrary, any employee-owned engineering firm classified as SIC 8711, architectural firm as classified SIC 8712, or accounting firm classified SIC 8721 establishing a new business facility because it qualifies as a headquarters as defined in subsection 10 of this section, shall be allowed the credits described in subsection 11 of this section under the same terms and conditions prescribed in sections [135.100](#) to [135.150](#); provided:

(1) Such facility maintains an average of at least five hundred new business facility employees as defined in subdivision (5) of section [135.100](#) during the taxpayer's tax period in which such credits are being claimed; and

(2) Such facility maintains an average of at least twenty million dollars in new business facility investment as defined in subdivision (7) of section [135.100](#) during the taxpayer's tax period in which such credits are being claimed.

10. For the purpose of the credits allowed in subsection 9 of this section:

(1) "Employee-owned" means the business employees own directly or indirectly, including through an employee stock ownership plan or trust at least:

(a) Seventy-five percent of the total business stock, if the taxpayer is a corporation described in section [143.441](#); or

(b) One hundred percent of the interest in the business if the taxpayer is a corporation described in section [143.471](#), a partnership, or a limited liability company; and

(2) "Headquarters" means:

(a) The administrative management of at least three integrated facilities operated by the taxpayer or related taxpayer; and

(b) The taxpayer's business has been headquartered in this state for more than fifty years.

11. The tax credits allowed in subsection 9 of this section shall be the greater of:

(1) Four hundred dollars for each new business facility employee as computed in subsection 4 of this section and four percent of new business facility investment as computed in subsection 5 of this section; or

(2) Five hundred dollars for each new business facility employee as computed in subsection 4 of this section, and five hundred dollars of each one hundred thousand dollars of new business facility investment as computed in subsection 5 of this section.

12. For the purpose of the credit described in subsection 9 of this section, in the case of a small corporation described in section [143.471](#), or a partnership, or a limited liability company, the credits allowed in subsection 9 of this section shall be apportioned in proportion to the share of ownership of each shareholder, partner or stockholder on the last day of the taxpayer's tax period for which such credits are being claimed.

13. For the purpose of the credit described in subsection 9 of this section, tax credits earned, to the extent such credits exceed the taxpayer's Missouri tax on taxable business income, shall constitute an overpayment of taxes and in such case, be refunded to the taxpayer provided such refunds are used by the taxpayer to purchase specified facility items. For the purpose of the refund as authorized in this subsection, "specified facility items" means equipment, computers, computer software, copiers, tenant finishing, furniture and fixtures installed and in use at the new business facility during the taxpayer's taxable year. The taxpayer shall perfect such refund by attesting in

writing to the director, subject to the penalties of perjury, the requirements prescribed in this subsection have been met and submitting any other information the director may require.

14. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 9 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, referred to as the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

(1) For no less than seventy-five percent of the par value of such credits; and

(2) In an amount not to exceed one hundred percent of such earned credits. The taxpayer acquiring the earned credits referred to as the assignee for the purpose of this subsection may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.261](#), or chapter 148, or in the case of an insurance company exempt from the thirty percent employee requirement of section [135.230](#), against any obligation imposed pursuant to section [375.916](#). Unused credits in the hands of the assignee may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which commencement of commercial operations occurred at the new business facility. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the director in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the director to administer and carry out the provisions of this subsection. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the difference between the amount paid by the assignee and the par value of the credits shall be taxable as income of the assignee.

(L. 1980 S.B. 644 § 2, A.L. 1983 H.B. 54, A.L. 1986 S.B. 727 merged with H.B. 1554 Revision, A.L. 1991 H.B. 294 & 405, H.B. 608, A.L. 1992 S.B. 661 & 620, A.L. 1993 H.B. 566, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1998 H.B. 1656 merged with S.B. 827)

Effective 8-28-98 (S.B. 827)

1-1-99 (H.B. 1656)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

#### **Vesting of tax credits, when--waiver, applicable when.**

[135.115](#). The right to receive the tax credits described in section [135.110](#) shall vest in the taxpayer upon commencement of operations of the revenue-producing enterprise, but the taxpayer shall waive such vested right for any given year in which the taxpayer fails to meet the terms and conditions of sections [135.100](#) to [135.150](#). Representations made by the department of economic development and relied upon in good faith by the taxpayer shall be binding upon the state of Missouri to the extent such representations are consistent with the provisions of this chapter. The

provisions of this section shall apply to all revenue-producing enterprises which are eligible for incentives pursuant to this section and which commenced operations on or after January 1, 1990, to the extent such incentives do not exceed the ten-year limitation set forth in subsection 1 of section [135.110](#).

(L. 1999 H.B. 701)

#### **Deferment of tax credit--election--notice.**

[135.120](#). A taxpayer entitled to the credit allowed by section [135.110](#) may elect to defer the commencement of the ten-year period during which such credit is allowed to any taxable year not later than the third taxable year following the taxable year in which commencement of commercial operations at the new business facility occurs. The taxpayer shall perfect such election by notifying the director of economic development, by a written statement attached to the tax credit application for the taxable year in which commencement of commercial operations at the new business facility occurs, of the intention to make such election. The election shall be made during the taxable year immediately following the taxable year in which commencement of commercial operations occurs at such new business facility. Once such election has been perfected, the credit shall be allowed for the taxable year specified in such election and for each of the nine succeeding taxable years.

(L. 1980 S.B. 644 § 3, A.L. 1991 H.B. 294 & 405)

#### **Transfer of business facility, all or part--apportionment of tax credit--estate of taxpayer entitled to credit and distributee of estate also entitled to credit.**

[135.130](#). 1. If a taxpayer, hereafter referred to in this section as "transferor", shall have established a new business facility and, prior to the expiration of the ten-year period during which the credit allowed by section [135.110](#) may be claimed by the transferor, all or a portion of such new business facility is acquired by, or leased to, any other taxpayer, hereafter referred to in this section as "transferee", the transferor shall allow the transferee to claim such credit as provided in subsection 2 of this section.

2. If all or a portion of the new business facility is acquired by, or leased to, the transferee, the portion thereof so acquired by, or leased to, the transferee shall be considered a new business facility in the hands of the transferee. In such event, the transferee shall be entitled to a credit, computed in accordance with section [135.110](#), with respect to the portion of the new business facility held by it. Such credit shall be allowed for the remaining portion of the ten-year period during which the transferor could have claimed such credit if all or a portion of the new business facility had not been acquired by, or leased to, the transferee. The portion, if any, of the new business facility retained by the transferor shall continue to be a new business facility in the hands of the transferor and it shall be entitled to the credit allowed by section [135.110](#) for the remaining portion of such ten-year period.

3. The transferor shall notify the director of economic development of the transferor's intentions to transfer the rights to claim such credit to the transferee by written statement attached to the tax credit application for the taxable year in which the new business facility is acquired by, or leased to,

the transferee, setting forth such other information as the director of economic development may, by rules and regulations, require.

4. If an individual taxpayer entitled to the credit allowed by section [135.110](#) shall die prior to the expiration of the ten-year period during which such taxpayer is entitled to such credit and the new business facility with respect to which such credit was claimed passes to the estate of the deceased taxpayer, such estate shall be entitled to a credit with respect to such new business facility, and upon distribution of the new business facility, or a portion thereof, to a distributee of such estate the credit with respect to such new business facility, or portion thereof, such distributee shall be entitled to a credit with respect to such new business facility or portion thereof.

(L. 1980 S.B. 644 § 4, A.L. 1991 H.B. 294 & 405)

**Termination and resumption of operation of business--consent of director required for claim of credit.**

[135.140](#). If a taxpayer has terminated the operation of a revenue producing enterprise at a new business facility prior to the expiration of the ten-year period during which a credit is allowed under sections [135.100](#) to 135.160, and later resumes the operation of the same or a different revenue producing enterprise at such new business facility, the taxpayer may, with the consent of the director of economic development, elect to claim a credit, upon resuming the operation of a revenue producing enterprise at such new business facility, computed in accordance with section [135.110](#) but for a number of years following resumption of such operations equal to ten reduced by the number of years for which the credit was claimed prior to termination of operation of such revenue producing enterprise. The director of economic development shall grant such consent if it is determined that the termination of operations was due to reasonable cause and that the resumption of operations of a revenue producing enterprise at such new business facility will provide increased opportunities for employment and result in a substantial contribution to the economy of the state.

(L. 1980 S.B. 644 § 5, A.L. 1986 S.B. 727)

**Rules, promulgation duties--certification of applications for tax credit--application requesting credit granted when--denial, protest procedure--review by administrative hearing commission authorized.**

[135.150](#). 1. Until January 1, 1987, the director of revenue shall prescribe such rules and regulations necessary to carry out the provisions of sections [135.100](#) to [135.150](#).

2. Beginning January 1, 1987, the director of economic development shall prescribe the method for submitting applications for claiming the tax credits allowed in subsections 2 and 3 of section [135.110](#) and shall, if such application or portion thereof is approved, certify same to the director of revenue or the director of the department of insurance, financial institutions and professional registration that the taxpayer claiming the credits has satisfied all requirements prescribed in sections [135.100](#) to [135.150](#) and is therefore eligible to claim the credits. The director of economic development shall also calculate and specify the amount of the credit earned by the taxpayer during the taxpayer's first taxable year in which such credits are claimed and for each of the

nine succeeding taxable years the credits are claimed by the taxpayer and shall certify such amounts to the director of revenue or the director of the department of insurance, financial institutions and professional registration and shall notify the taxpayer in writing of the action taken on his request for the credits and if the request for credits is disallowed, the director of economic development shall state the reason or reasons the claim for credit was disallowed. The director shall certify the extent to which earned credits can be claimed to the director of revenue or the director of the department of insurance, financial institutions and professional registration and shall notify the taxpayer in writing of such determination. The director of economic development may prescribe such rules and regulations necessary to carry out the provisions of sections [135.100](#) to [135.150](#).

3. The director of revenue and, when appropriate, the director of the department of insurance, financial institutions and professional registration may prescribe rules and regulations necessary to process the credits following certification by the director of economic development. No rule or portion of a rule promulgated under the authority of sections [135.100](#) to 135.160\* shall become effective unless it has been promulgated pursuant to the provisions of section [536.024](#).

4. Any taxpayer who has submitted an application for claiming tax credits as allowed in section [135.110](#) may file with the director of economic development, a protest within sixty days (one hundred fifty days if the taxpayer is outside the United States) after the date of such certification notice or the date of the notice denying such certification. The protest shall be in writing and shall set forth the grounds on which the protest is based.

5. If a protest is filed, the director of economic development shall consider the taxpayer's grounds for protest and make a determination concerning such protest. The director of economic development shall notify the taxpayer in writing of such determination within thirty days following the date on which the written protest was received. Such notice shall be mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the director of economic development's findings of fact and the basis of decision.

6. The decision of the director of economic development on the taxpayer's protest is final upon the expiration of thirty days from the date when he mails notice of his action to the taxpayer unless within this period, the taxpayer seeks review of the director of economic development's determination by the administrative hearing commission, which is hereby authorized.

(L. 1980 S.B. 644 § 6, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1993 H.B. 566 merged with S.B. 52, A.L. 1995 S.B. 3)

\*Section 135.160 was repealed by H.B. 294 & 405 § A, 1991.

**Prohibition on certain enterprises receiving certain incentives--expansion deemed new business facility--certain properties considered one facility, when.**

[135.155](#). 1. Notwithstanding any provision of the law to the contrary, no revenue-producing enterprise other than headquarters as defined in subsection 10 of section [135.110](#) shall receive the incentives set forth in sections [135.100](#) to [135.150](#) for facilities commencing operations on or after January 1, 2005. No headquarters shall receive the incentives set forth in subsections 9 to 14 of section [135.110](#) for facilities commencing or expanding operations on or after January 1, 2025.

2. Notwithstanding subsection 9 of section [135.110](#) to the contrary, expansions at headquarters facilities shall each be considered a separate new business facility and each be entitled to the credits as set forth in subsections 9 to 14 of section [135.110](#) if the number of new business facility employees attributed to each such expansion is at least twenty-five and the amount of new business facility investment attributed to each such expansion is at least one million dollars. In any year in which a new business facility is not created, the jobs and investment for that year shall be included in calculating the credits for the most recent new business facility and not an earlier created new business facility.

3. Notwithstanding any provision of law to the contrary, for headquarters, buildings on multiple noncontiguous real properties shall be considered one facility if the buildings are located within the same county or within the same municipality.

(L. 2004 S.B. 1155, A.L. 2009 H.B. 191, A.L. 2015 S.B. 194)

### **Definitions.**

[135.200](#). The following terms, whenever used in sections [135.200](#) to [135.256](#), mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;

(6) "New business facility" shall have the meaning defined in section [135.100](#), except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (7) of this section;

(7) "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as NAICS 31-33;

(b) Agricultural activities classified as NAICS 11;

(c) Rail transportation terminal activities classified as NAICS 482;

(d) Renting or leasing of residential property to low- and moderate-income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as NAICS 484 and NAICS 4884;

- (f) Public warehousing and storage activities classified as NAICS 493, miniwarehouse warehousing and warehousing self-storage;
- (g) Water transportation terminal activities classified as NAICS 4832;
- (h) Airports, flying fields, and airport terminal services classified as NAICS 481;
- (i) Wholesale trade activities classified as NAICS 42;
- (j) Insurance carriers activities classified as NAICS 524;
- (k) Research and development activities classified as NAICS 5417;
- (l) Farm implement dealer activities classified as NAICS 42382;
- (m) Employment agency activities classified as NAICS 5613;
- (n) Computer programming, data processing and other computer-related activities classified as NAICS 518;
- (o) Health service activities classified as NAICS 621, 622, and 623;
- (p) Interexchange telecommunications as defined in subdivision (20) of section [386.020](#) or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section [386.020](#);
- (q) Recycling activities classified as NAICS 42393;
- (r) Banking activities classified as NAICS 522;
- (s) Office activities as defined in subdivision (9) of section [135.100](#), notwithstanding NAICS classification;
- (t) Mining activities classified as NAICS 21;
- (u) The administrative management of any of the foregoing activities; or
- (v) Any combination of any of the foregoing activities;
- (8) "Satellite zone", a noncontiguous addition to an existing state-designated enterprise zone.

(L. 1982 H.B. 1713, et al. § 2, A.L. 1983 H.B. 559, A.L. 1985 H.B. 416, A.L. 1986 S.B. 727, A.L. 1989 S.B. 59, A.L. 1991 H.B. 294 & 405, A.L. 1994 H.B. 1248 & 1048, A.L. 1995 H.B. 414, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 H.B. 1656, A.L. 1999 H.B. 701, A.L. 2011 H.B. 315)

#### **Contingent effective date for certain sections.**

[135.204](#). The repeal and reenactment of sections [99.918](#), [99.1082](#), [135.205](#), [135.207](#), [135.230](#), [135.530](#), [135.903](#), [135.953](#), [215.263](#), and [620.1023](#) of section A of this act\*\* shall become effective on April 1, 2011, or when the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate period ends in zero becomes available, which

first occurs. The commissioner of the office of administration shall notify the revisor of statutes when the updated United States Census Bureau data has been released.

(L. 2010 H.B. 1965 § B)

\*The Revisor of Statutes did not receive notification on the contingency prior to April 1, 2011, therefore the sections listed became effective April 1, 2011.

\*\*"This act" (H.B. 1965, 2010) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

### **Requirements to qualify as enterprise zone.**

[135.205](#). For purposes of sections [135.200](#) to [135.256](#), an area must meet all the following criteria in order to qualify as an enterprise zone:

(1) The area is one of pervasive poverty, unemployment, and general distress;

(2) At least sixty-five percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(3) The resident population of the area must be at least four thousand but not more than seventy-two thousand at the time of designation as an enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau; or, if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation must be at least one thousand but not more than twenty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction; provided, however, no enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis.

(L. 1982 H.B. 1713, et al. § 3, A.L. 1983 H.B. 559, A.L. 1984 H.B. 1611 Revision, A.L. 1995 H.B. 414, A.L. 1999 H.B. 701, A.L. 2010 H.B. 1965)

Effective 4-01-11, see § [135.204](#)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Counties, certain third class counties to have one enterprise zone designated, requirements.**

[135.206](#). In addition to the number of enterprise zones authorized by the provisions of section [135.210](#), the department of economic development shall designate one such zone in every county of the third class which has a population of less than twenty-five thousand inhabitants, and an assessed valuation of between two hundred and seventy million dollars and three hundred million dollars as published in the 1985 proceedings of the Missouri state tax commission. Such designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

(L. 1987 S.B. 421 § 1)

Effective 3-18-87

**Satellite zones may be established in certain cities or villages, requirements.**

[135.207](#). 1. (1) Any city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any city not within a county, which includes an existing state designated enterprise zone within the corporate limits of the city, may each, upon approval of the local governing authority of the city and the director of the department of economic development, designate up to three satellite zones within its corporate limits. A prerequisite for the designation of a satellite zone shall be the approval by the director of a plan submitted by the local governing authority of the city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(2) Any Missouri community classified as a village whose borders lie adjacent to a city with a population in excess of three hundred fifty thousand inhabitants as described in subdivision (1) of this subsection, and which has within the corporate limits of the village a factory, mining operation, office, mill, plant or warehouse which has at least three thousand employees and has an investment in plant, machinery and equipment of at least two hundred million dollars may, upon securing approval of the director and the local governing authorities of the village and the adjacent city which contains an existing state-designated enterprise zone, designate one satellite zone to be located within the corporate limits of the village, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(3) Any geographical area partially contained within any city not within a county and partially contained within any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, which area is comprised of a total population of at least four thousand inhabitants but not more than seventy-two thousand inhabitants, and which area consists of at least one fourth class city, and has within its boundaries a military reserve facility and a utility pumping station having a capacity of ten million cubic feet, may, upon securing approval of the director and the appropriate local governing authorities as provided for in section [135.210](#), be designated as a satellite zone, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(4) In addition to all other satellite zones authorized in this section, any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(5) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits along the southwest corner of any intersection of two United States interstate highways. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(6) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants which includes an existing state-designated enterprise zone within the corporate limits of the city may, upon approval of the governing authority of the city and the director of the department of economic development, designate one satellite zone within its corporate limits. No satellite zone shall be designated pursuant to this subdivision until the governing authority of the city submits a plan describing how the satellite zone corresponds to the city's overall enterprise zone strategy and the director approves the plan.

(7) In addition to all other satellite zones authorized in this section, any city of the fourth classification with more than three thousand eight hundred but less than four thousand inhabitants and located in more than one county and which city lies adjacent to any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants and which contains an enterprise zone may, upon approval of the director and the governing authorities of the city of the fourth classification and the home rule city, designate one satellite zone within its corporate limits. The satellite enterprise zone authorized by this subdivision shall be designated only if it meets the criteria established by subsection 2 of this section. Retail businesses, as identified by the 1997 North American Industry Classification System (NAICS) sector numbers 44-45, located within the satellite enterprise zone shall be eligible for all benefits provided under the provisions of sections [135.200](#) to [135.258](#).

2. For satellite zones designated pursuant to the provisions of subdivisions (1) and (3) of subsection 1 of this section, the satellite zones, in conjunction with the existing state-designated enterprise zone shall meet the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress, or one in which a large number of jobs have been lost, a large number of employers have closed, or in which a large percentage of available production capacity is idle. For the purpose of this subdivision, "large number of jobs" means one percent or more of the area's population according to the most recent decennial census, and "large number of employers" means over five;

(2) At least fifty percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(3) The resident population of the existing state-designated enterprise zone and its satellite zones must be at least four thousand but not more than seventy-two thousand at the time of designation;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than sixty percent of the statewide percentage of residents employed on a full-time basis.

3. A qualified business located within a satellite zone shall be subject to the same eligibility criteria and can be eligible to receive the same benefits as a qualified facility in sections [135.200](#) to [135.258](#).

(L. 1989 S.B. 59, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1999 H.B. 701, A.L. 2003 H.B. 289 merged with S.B. 504, A.L. 2004 S.B. 1155, A.L. 2010 H.B. 1965)

Effective 4-01-11, see § [135.204](#)

**Additional enterprise zones to be designated, certain third class counties, Independence, Camden County, Randolph County, Ste. Genevieve County, Jefferson County, the city of Ava, the city of Portageville, the city of Lamar, requirements.**

[135.208](#). 1. In addition to the number of enterprise zones authorized under the provisions of sections [135.206](#) and [135.210](#), the department of economic development shall designate one such zone in any county of the third class which is south of the Missouri River and which adjoins one county of the second class and also the state of Oklahoma. Such designation shall only be made if the area of the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

2. In addition to the number of enterprise zones authorized under the provisions of sections [135.206](#) and [135.210](#), the department of economic development shall designate one such zone in any county of the third class which borders the Missouri River and which adjoins a county of the second class with a population of at least one hundred thousand inhabitants and which contains

a branch of the state university. Such designation shall only be made if the area of the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

3. In addition to the number of enterprise zones authorized under the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in every county of the third class without a township form of government with a population of more than seven thousand eight hundred but less than ten thousand inhabitants located south of the Missouri River, which adjoins one third class county with a township form of government, and which adjoins no first or second class county. Such enterprise zone designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

4. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in a city of the third class with a population of more than eight thousand but less than ten thousand located in a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-two thousand. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

5. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone for any city with a home rule form of government and a population of at least one hundred ten thousand inhabitants but not more than one hundred thirty thousand inhabitants. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

6. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone for any county of the first classification without a charter form of government with a population of less than thirty thousand inhabitants. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

7. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#), [135.256](#) and [135.257](#), the department of economic development shall designate one such zone in a city of the fourth classification with a population of at least three thousand but less than four thousand inhabitants located in a county of the second classification with a population of at least twenty thousand but not more than twenty-five thousand inhabitants. Such enterprise zone designation shall only be made if such area which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

8. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#), [135.256](#) and [135.257](#), the department of economic development shall designate one such zone for any area that includes property in two adjoining counties where one county is a county of the third classification without a township form of government with a population

of less than sixteen thousand three hundred and more than sixteen thousand inhabitants and the other county is a county of the first classification having a population of at least one hundred seventy-one thousand but less than one hundred seventy-two thousand inhabitants. Such enterprise zone designation shall only be made if such area which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

9. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in a city of the fourth class with a population of more than four thousand located in a county of the third classification with a township form of government and with a population of less than thirteen thousand. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

10. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in a city of the fourth class with a population of more than two thousand nine hundred located in a county of the third classification without a township form of government with a population of less than twelve thousand and more than eleven thousand seven hundred inhabitants. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

11. In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in a county of the third classification without a township form of government with a population of less than twenty-four thousand five hundred and more than twenty-four thousand inhabitants. Such enterprise zone designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

(L. 1990 H.B. 1564 §§ 5, 6, 7, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 S.B. 827, A.L. 1999 H.B. 701)

#### **Satellite enterprise zone may be established, city of Independence.**

[135.209](#). 1. Any city in which an enterprise zone is designated pursuant to subsection 5 of section [135.208](#) may, upon approval of the local governing authority of the city and the director of the department of economic development, designate one satellite enterprise zone within its corporate limits. A prerequisite for the designation of the satellite zone shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of the city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

2. The satellite enterprise zone authorized by this section shall be designated only if it meets the criteria established by subdivisions (1) to (4) of subsection 2 of section [135.207](#). Retail businesses, as identified by the 1997 North American Industry Classification System (NAICS) sector numbers 44 to 45, located within the satellite enterprise zone shall be eligible for all benefits provided pursuant to the provisions of sections [135.200](#) to [135.258](#).

(L. 1999 H.B. 701)

**Designation as enterprise zone, procedure--maximum number,exceptions--report required from all zones--cancellation of zone,procedure.**

135.210. 1. Any governing authority which desires to have any portion of a city or unincorporated area of a county under its control designated as an enterprise zone shall hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons who will be affected by such designation. The governing authority shall notify the director of such hearing at least thirty days prior thereto and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by such designation at least twenty days prior to the date of the hearing but not more than thirty days prior to such hearing. Such notice shall state the time, location, date and purpose of the hearing. The director, or the director's designee, shall attend such hearing.

2. After a public hearing is held as required in subsection 1 of this section, the governing authority may file a petition with the department requesting the designation of a specific area as an enterprise zone. Such petition shall include, in addition to a description of the physical, social, and economic characteristics of the area:

(1) A plan to provide adequate police protection within the area;

(2) A specific and practical process for individual businesses to obtain waivers from burdensome local regulations, ordinances, and orders which serve to discourage economic development within the area to be designated an enterprise zone; except that, such waivers shall not substantially endanger the health or safety of the employees of any such business or the residents of the area;

(3) A description of what other specific actions will be taken to support and encourage private investment within the area;

(4) A plan to ensure that resources are available to assist area residents to participate in increased development through self-help efforts and in ameliorating any negative effects of designation of the area as an enterprise zone;

(5) A statement describing the projected positive and negative effects of designation of the area as an enterprise zone; and

(6) A specific plan to provide assistance to any person or business dislocated as a result of activities within the zone. Such plan shall determine the need of dislocated persons for relocation assistance; provide, prior to displacement, information about the type, location and price of comparable housing or commercial property; provide information concerning state and federal programs for relocation assistance and provide other advisory services to displaced persons. Public agencies may choose to provide assistance under the Uniform Relocation and Real Property Acquisition Act, 42 U.S.C. section 4601, et seq. to meet the requirements of this subdivision.

3. Notwithstanding the provisions of section 135.250, the director of the department of economic development shall, prior to the designation of any enterprise zone, submit to the joint

committee on economic development policy and planning, established in section 620.602, rules and regulations pertaining to the designation of enterprise zones. Following approval by the joint committee, such rules and regulations shall be issued pursuant to the provisions of section [536.021](#). Upon approval of an enterprise zone designation by the department, the director shall submit such enterprise zone designation to the joint committee for its approval. An enterprise zone designation shall be effective upon such approval by the joint committee. The director shall report annually to the joint committee the number and location of all enterprise zones designated, together with the business activity within each designated enterprise zone.

4. No more than fifty such areas may be designated by the director as an enterprise zone under the provisions of this subsection, except that any enterprise zones authorized apart from this subsection by specific legislative enactment, on or after August 28, 1991, shall not be counted toward the limitation set forth in this subsection. After fifty enterprise zones, plus any others authorized apart from this subsection by specific legislative enactment first designated on or after August 28, 1991, have been designated by the director, additional enterprise zones may be authorized apart from this subsection by specific legislative enactment, except that if an enterprise zone designation is cancelled under the provision of subsection 5 of this section, the director may designate one area as an enterprise zone for each enterprise zone designation which is cancelled.

5. Each designated enterprise zone or satellite zone must report to the director on an annual basis regarding the status of the zone and business activity within the zone. On the fifth anniversary of the designation of each zone after August 8, 1989, and each five years thereafter, the director shall evaluate the activity which has occurred within the zone during the previous five-year period, including business investments and the creation of new jobs. The director shall present the director's evaluation to the joint legislative committee on economic development policy and planning. If the director finds that the plan outlined in the application for designation was not implemented in good faith, or if such zone no longer qualifies under the original criteria, or if the director finds that the zone is not being effectively promoted or developed, the director may recommend to the committee that the designation of that area as an enterprise zone be cancelled. All agreements negotiated under the benefits of such zone shall remain in effect for the originally agreed upon duration. The committee shall schedule a hearing on such recommendation for not later than sixty days after the recommendation is filed with it. At the hearing, interested parties, including the director, may present witnesses and evidence as to why the enterprise zone designation for that particular area should be continued or cancelled. Within thirty days after the hearing the committee shall determine whether or not the designation should be continued. If it is not continued, the director shall remove the designation from the area and, following the procedures outlined in this section, award the designation of an enterprise zone to another applicant. If an area has requested a designated enterprise zone, and met all existing statutory requirements, but has not been designated such, then the applicant may appeal to the joint legislative committee on economic development policy and planning for a hearing to determine its eligibility for such a designation. The review of the director's evaluation and the hearing thereon, and any appeal as provided for in this subsection, by the joint legislative committee on economic development policy and planning shall be an additional duty for that body.

(L. 1982 H.B. 1713, et al. § 4, A.L. 1983 H.B. 559, A.L. 1985 H.B. 416, A.L. 1986 S.B. 727, A.L. 1989 S.B. 59, A.L. 1991 H.B. 294 & 405 merged with S.B. 289, A.L. 1995 H.B. 414)

Effective 1-01-96

**Additional enterprise zones to be designated--certain zones not to expire before certain date (Linn, Macon counties).**

[135.212](#). 1. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone in any county of the third classification without a township form of government and with more than thirty-two thousand five hundred but less than thirty-two thousand six hundred inhabitants. Such enterprise zone designations shall have the same boundaries as such county, and shall only be made if the area to be included in the enterprise zone meets all the requirements of section [135.205](#).

2. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than one thousand eight hundred but less than one thousand nine hundred inhabitants and located in three counties. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

3. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than one thousand but less than one thousand one hundred inhabitants and located in any county of the third classification without a township form of government and with more than forty-one thousand one hundred but less than forty-one thousand two hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

4. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but less than thirteen thousand one hundred seventy-five inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

5. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone in the portions of any city of the fourth classification with more than three thousand eight hundred but less than four thousand inhabitants and located in more than one county and any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants which include a political subdivision that receives a portion of its funding from section [163.031](#) and is located in part in any home rule city with more than four hundred thousand inhabitants and located in more than one county. Such enterprise zone shall only be made if the area to be included in the enterprise zone meets all the requirements of section [135.205](#).

6. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than four thousand three hundred but less than four thousand five hundred located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

7. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than five thousand four hundred but less than five thousand five hundred inhabitants and located in more than one county. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

8. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall be located partially in any city of the fourth classification with more than twelve thousand one hundred but less than twelve thousand four hundred inhabitants and partially in any city of the fourth classification with more than nine thousand six hundred but less than nine thousand seven hundred inhabitants and shall include all area in between any city of the fourth classification with more than twelve thousand one hundred but less than twelve thousand four hundred inhabitants and any city of the fourth classification with more than nine thousand six hundred but less than nine thousand seven hundred inhabitants with specific boundaries to be determined by the department of economic development in conjunction with the governing authority of the county. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

9. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone within any county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section [135.205](#).

10. Notwithstanding the provisions of section [135.230](#) to the contrary, any enterprise zone designated in any county of the third classification with a township form of government and with more than thirteen thousand seven hundred but less than thirteen thousand eight hundred inhabitants or designated in any county of the third classification without a township form of government and with more than fifteen thousand seven hundred but less than fifteen thousand eight hundred inhabitants shall not expire before December 31, 2015.

11. In addition to the number of enterprise zones authorized by the provisions of sections [135.200](#) to [135.270](#), the department of economic development shall designate one such zone in every county of the third classification without a township form of government and with more than six thousand seven hundred fifty but less than six thousand eight hundred fifty inhabitants.

Such designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

12. In addition to the number of enterprise zones authorized by the provisions of this chapter the department of economic development shall designate one such zone in every city of the fourth classification with more than thirteen thousand six hundred but less than thirteen thousand eight hundred inhabitants which shall have boundaries abutting an international airport and an interstate highway with specific boundaries to be determined by the department of economic development in conjunction with the governing authority of the city. Such designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

13. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one such zone in a city of the fourth classification with more than thirty thousand three hundred but less than thirty thousand seven hundred inhabitants. Such enterprise zone shall only be made if the area to be included in the enterprise zone meets all the requirements of section [135.205](#).

(L. 2004 S.B. 1155)

\*Section includes Laclede County, Richland, Crocker, Douglas County, Sugar Creek, Independence, St. Clair, Pacific, Nixa, Ozark, the area between Nixa and Ozark, Webster County, Linn County, Macon County, Shelby County, St. Ann, and Raytown.

**Real property improvements exemption from assessment and ad valorem taxes--procedure--maximum period granted--abatement or exemption ceases, when.**

[135.215](#). 1. Improvements made to "real property" as such term is defined in section [137.010](#), which are made in an enterprise zone subsequent to the date such zone or expansion thereto was designated, may upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions, provided that, except as to the exemption allowed under subsection 3 of this section, at least fifty new jobs that provide an average of at least thirty-five hours of employment per week per job are created and maintained at the new or expanded facility. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions or stipulations otherwise required. A copy of the resolution shall be provided the director within thirty calendar days following adoption of the resolution by the governing authority.

2. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at

least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date and purpose of the hearing.

3. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enterprise zone shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof, if said political subdivision or municipality levies ad valorem taxes, for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for assembling, fabricating, processing, manufacturing, mining, warehousing or distributing properties.

4. No exemption shall be granted for a period more than twenty-five years following the date on which the original enterprise zone was designated by the department except for any enterprise zone within any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants provided in any instance the exemption shall not be granted for a period longer than twenty-five years from the date on which the exemption was granted.

5. The provisions of subsection 1 of this section shall not apply to improvements made to real property which have been started prior to August 28, 1991.

6. The mandatory abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section [99.855](#) and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of section [99.845](#) unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of section [99.820](#).

7. Effective August 28, 2004, any abatement or exemption provided for in this section on an individual parcel of real property shall cease after a period of thirty days of business closure, work stoppage, major reduction in force, or a significant change in the type of business conducted at that location. For the purposes of this subsection, "work stoppage" shall not include strike or lockout or time necessary to retool a plant, and "major reduction in force" is defined as a seventy-five percent or greater reduction. Any owner or new owner may reapply, but cannot receive the abatement or exemption for any period of time beyond the original life of the enterprise zone.

(L. 1982 H.B. 1713, et al. § 5, A.L. 1983 H.B. 559, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1994 H.B. 1248 & 1048, A.L. 1995 H.B. 414, A.L. 2004 S.B. 1099 merged with S.B. 1155, A.L. 2012 S.B. 769)

**Income earned by business, revenue producing enterprise, in zone, residential units, exemption, how computed.**

[135.220](#). 1. The provisions of chapter 143 notwithstanding, one-half of the Missouri taxable income attributed to a new business facility in an enterprise zone which is earned by a taxpayer establishing and operating a new business facility located within an enterprise zone shall be exempt from taxation under chapter 143. A taxpayer operating a revenue producing enterprise as defined in

paragraph (d) of subdivision (6) of section [135.200](#) may elect to exempt from taxation under chapter 143 one-half of the Missouri taxable income attributed to a new business facility in an enterprise zone or may elect to claim a fifty-dollar credit against the tax imposed under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), for each room constructed for use as a bedroom for each qualifying residential unit. A "bedroom" is defined as a structurally separate room used primarily for sleeping, and not as a living room, dining room, kitchen or closet. That portion of income attributed to the new business facility shall be determined in a manner prescribed in paragraph (b) of subdivision (6) of section [135.100](#), except that compensation paid to truck drivers, or rail or barge vehicle operators shall be excluded from the fraction.

2. In the case of a small corporation described in section [143.471](#) or a partnership, in computing the Missouri taxable income of the taxpayers described in subdivisions (1) and (2) of this subsection, a deduction apportioned in proportion to their share of ownership of the business on the last day of the taxpayer's tax period for which such tax credits are being claimed, shall be allowed from their Missouri adjusted gross income in the amount of one-half of the Missouri taxable income earned by the new business facility, as determined by the method prescribed in subsection 1 of this section located within the enterprise zone, as defined in this section, to the following:

- (1) The shareholders of a small corporation described in section [143.471](#);
- (2) The partners in a partnership.

(L. 1982 H.B. 1713, et al. § 6, A.L. 1983 H.B. 559, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1994 H.B. 1248 & 1048)

**Tax credit for new or expanded business facility, requirements--definitions--apportionment of credits--period for which tax credit granted--election to forfeit and claim tax credit under section [135.110](#)--vesting of credits and exemptions, when--waiver of credits and exemptions, when.**

[135.225](#). 1. The credits otherwise provided by sections [135.100](#) to [135.150](#) shall upon proper application be granted to any taxpayer who shall establish and operate a new business facility located within an enterprise zone, except one designated pursuant to subsection 5 of section [135.230](#), on the same terms and conditions specified in those sections, except that:

(1) The credit otherwise allowed for each new business facility employee employed within an enterprise zone shall be four hundred dollars;

(2) An additional credit of four hundred dollars shall be granted for each twelve-month period that a new business facility employee is a resident of an enterprise zone;

(3) An additional credit of four hundred dollars shall be granted for each twelve-month period that the person employed as a new business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section [135.240](#);

(4) The credit otherwise allowed for new business facility investment shall be equal to the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five percent of the

next ninety thousand dollars of such qualifying investment, plus two percent of all remaining qualifying investments within an enterprise zone;

(5) In the case of a small corporation described in section [143.471](#) or a partnership, the credits granted by this section shall be apportioned in proportion to the share of ownership of the taxpayer on the last day of the taxpayer's tax period for which such tax credits are being claimed, to the following:

- (a) The shareholders of a small corporation described in section [143.471](#);
- (b) The partners in a partnership;

(6) In the case of financial institutions described pursuant to the provisions of chapter 148, the credits allowed in subdivisions (1), (2), (3) and (4) of this subsection and the credit allowed in section [135.235](#) may be used to offset the tax imposed by chapter 148 and, in the case of an insurance company exempt from the thirty-percent employee requirement of section [135.230](#), any obligations imposed pursuant to section [375.916](#) subject to the same method of apportionment as prescribed for taxes imposed by chapter 143 and as provided in subdivision (6) of section [135.100](#) and subsections 2 and 3 of section [135.110](#);

(7) If a facility within an enterprise zone, which does not constitute a new business facility, is expanded or improved by the taxpayer within the enterprise zone, the expansion or improvement shall be considered a separate facility eligible for the credits allowed in this section and section [135.235](#), and the exemption allowed in section [135.220](#), if:

(a) The new business facility investment in the expansion or improvement during the tax period in which such credits and the exemption are claimed exceeds one hundred thousand dollars or, if less than one hundred thousand dollars, is twenty-five percent of the investment in the original facility prior to expansion or improvement; and

(b) The expansion or improvement otherwise constitutes a new business facility; and

(c) The number of new business facility employees engaged or maintained in employment at the expanded or improved facility for the taxable year for which the credit is claimed equals or exceeds two and the total number of employees at the facility after expansion or improvement is at least two greater than the total number of employees before expansion or improvement. The taxpayer's investment in the expansion or improvement and in the original facility prior to expansion or improvement shall be determined in the manner provided in subdivision (7) of section [135.100](#);

(8) For the purpose of sections [135.200](#) to [135.256](#), an office as defined in subdivision (8) of section [135.100](#), when established, must create and maintain at least two new business facility employees as defined in subdivision (5) of section [135.100](#);

(9) In the case where a person employed by the new business facility is a resident of the enterprise zone for less than a twelve-month period, or in the case where a person employed as a new business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section [135.240](#), is employed for less than a twelve-month period, the credits allowed by subdivisions (2) and (3) of this subsection shall be determined

by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the person met the requirements prescribed in subdivision (2) or (3) of this subsection, and the denominator of which is three hundred and sixty-five, except that such credit shall not exceed four hundred dollars per employee in any one taxable year;

(10) The deferment of tax credit authorized in section [135.120](#) shall not be available to taxpayers establishing a new business facility in an enterprise zone;

(11) The allowance for additional ten-year periods to certain new business facilities as prescribed in subsection 1 of section [135.110](#) shall not be available to taxpayers expanding a new business facility in an enterprise zone, except that any taxpayer who has been eligible to earn enterprise zone tax benefits for ten tax periods, or until the expiration of the fifteen-year period as prescribed in subsection 1 of section [135.230](#), or for the maximum period otherwise allowed by law, may qualify for the tax credits allowed in section [135.110](#) if otherwise eligible, pursuant to the same terms and conditions prescribed in sections [135.100](#) to [135.150](#);

(12) Taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section [135.200](#) shall not be required to create and maintain new business facility employees.

2. The tax credits described in subdivisions (1), (2), (3) and (4) of subsection 1 of this section, the training credit allowed in section [135.235](#), and the income exemption allowed in section [135.220](#), shall be allowed to any taxpayer, under the same terms and conditions specified in such sections, who establishes a new business facility in an enterprise zone designated pursuant to subsection 5 of section [135.230](#), except that all such tax benefits shall be removed not later than seven years after the enterprise zone is designated as such.

3. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enterprise zone, may elect to forfeit the tax credits otherwise allowed in section [135.235](#) and this section and the exemptions otherwise allowed in sections [135.215](#) and [135.220](#) and the refund otherwise allowed in section [135.245](#), and in lieu thereof, claim the tax credits allowed in section [135.110](#), pursuant to the same terms and conditions prescribed in sections [135.100](#) to [135.150](#). To perfect the election, the taxpayer shall attach written notification of such election to the taxpayer's initial application for claiming tax credits. The election shall be irreversible once perfected.

4. The right to receive the income exemption described in section [135.220](#), the tax credits described in subsection 1 of this section and the training credit allowed in section [135.235](#) shall vest in the taxpayer upon commencement of operations of the revenue-producing enterprise, but such vested right shall be waived by the taxpayer for any given year in which the terms and conditions of sections [135.100](#) to [135.268](#) are not met. Representations made by the department and relied upon in good faith by the taxpayer shall be binding upon the state of Missouri insofar as they are consistent with the provisions of this chapter. The provisions of this subsection shall apply to all revenue-producing enterprises which are eligible for incentives pursuant to this subsection and which commenced operation on or after January 1, 1996, to the extent such incentives do not

exceed the fifteen-year limitation pursuant to subsection 1 of section [135.230](#) or the seven-year limitation pursuant to subsection 5 of section [135.230](#). The provisions of this subsection shall apply to all revenue-producing enterprises which are eligible for the incentives set forth in this subsection, and which began operation after January 1, 1996, to the extent such incentives do not exceed the fifteen-year limitation set forth in subsection 1 of section [135.230](#), or the seven-year limit set forth in subsection 5 of section [135.230](#).

(L. 1982 H.B. 1713, et al. § 7, A.L. 1983 H.B. 559, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1994 H.B. 1248 & 1048, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1999 H.B. 701)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Tax credits and exemptions, maximum period granted--calculation formula--employee requirements, waived or reduced, when--motorcarrier, tax credits, conditions--expansion of boundaries of enterprise zone--petition for additional period, qualifications.**

[135.230](#). 1. The exemption or credit established and allowed by section [135.220](#) and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section [135.225](#) shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section [135.225](#) or section [135.235](#) and no exemption shall be allowed pursuant to section [135.220](#) unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section [135.200](#). In order to qualify for either the exemption pursuant to section [135.220](#) or the credit pursuant to subdivision (4) of subsection 1 of section [135.225](#), or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section [135.110](#), meet the criteria established in section [135.240](#) or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section [135.200](#) or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section [135.100](#) located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section [135.225](#) are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent

requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section [135.240](#) must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections [135.215](#) and [135.220](#) and the credits allowed in sections [135.225](#) and [135.235](#) and the refund established and authorized in section [135.245](#) shall not be allowed to any "public utility", as such term is defined in section [386.020](#). For the purposes of achieving the fifteen-percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections [135.215](#) and [135.220](#), and the credits allowed in sections [135.225](#) and [135.235](#) and the refund established and authorized in section [135.245](#), except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections [135.200](#) to [135.256](#) to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections [135.225](#) and [135.235](#) and the exemption provided in section [135.220](#), even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million dollars at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

- (1) The area to be expanded meets the requirements prescribed in section [135.207](#) or [135.210](#), whichever is applicable;
- (2) The area to be expanded is contiguous to the existing enterprise zone; and
- (3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3) and (4) of section [135.205](#) according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections [135.210](#), [135.215](#) and [135.255](#);

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section [135.210](#).

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections [135.225](#) and [135.235](#), and the exemptions authorized in sections [135.215](#) and [135.220](#), pursuant to the same terms and conditions as prescribed in sections [135.100](#) to [135.256](#). The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section [135.210](#).

(L. 1982 H.B. 1713, et al. § 8, A.L. 1983 H.B. 559, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1994 H.B. 1248 & 1048 § [135.230](#) subsecs. 1, 3, 4, 5, merged

with S.B. 740, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1999 H.B. 701, A.L. 2001 H.B. 453 merged with H.B. 738, A.L. 2010 H.B. 1965)

Effective 4-01-11, see § [135.204](#)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

### **Tax credit for expense of training employees--small corporations and partnerships.**

[135.235](#). To the extent that expenses incurred by a new business facility in an enterprise zone for the training of persons employed in the operation of the new business facility is not covered by an existing federal, state or local program, such new business facility shall be eligible for a full tax credit equal to eighty percent of that portion of such training expenses which are in excess of four hundred dollars for each trainee who is a resident of the enterprise zone or who was at the time of such employment at the new business facility unemployable or difficult to employ as defined in section [135.240](#), provided such credit shall not exceed four hundred dollars for each employee trained. In the case of a small corporation described in section [143.471](#) or a partnership, all credits allowed by this section shall be apportioned in proportion to the share of ownership of the business to the following:

(1) The shareholders of the corporation described in section [143.471](#); or

(2) The partners in a partnership.

(L. 1982 H.B. 1713, et al. § 9, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405)

### **Employees for which employer may claim training credit.**

[135.240](#). The provisions of subdivision (3) of section [135.225](#) and section [135.230](#) shall apply to employees determined to:

(1) Be difficult to employ. For the purpose of this section, "a person difficult to employ" shall mean a person who was unemployed for at least three months immediately prior to being employed at the new business facility in the enterprise zone; or

(2) Be eligible for aid to families with dependent children or general relief programs.

(L. 1982 H.B. 1713, et al. § 10, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620)

### **Income tax refund limited to taxpayer establishing new facility in enterprise zone--refund if tax credits earned exceed tax liability, when, limitations.**

[135.245](#). 1. Notwithstanding any other provision of Missouri law, some portion of the tax credits earned by a newly established new business facility within an enterprise zone through the provisions of sections [135.200](#) to [135.256](#), except one designated pursuant to subsection 5 of section [135.230](#), which exceeds its total income tax liability shall be considered an overpayment of the income tax and shall be refunded to the taxpayer as provided by this section, except that such refund shall only

apply to taxpayers subject to the tax imposed pursuant to chapter 143. The refund allowed by this section shall be limited to taxpayers who establish new facilities in enterprise zones. The refund shall not be allowed to a taxpayer who establishes a new business facility because it qualifies as a separate facility pursuant to subsection 6 of section [135.110](#) or subdivision (7) of subsection 1 of section [135.225](#) or because it satisfies the requirements of paragraph (c) of subdivision (4) of section [135.100](#) or subdivision (10) of section [135.100](#). The provisions of this section shall have effect on all initial applications filed on or after August 28, 1992. The provisions of this section shall only be available to a taxpayer for the first two consecutive years during which the taxpayer is eligible for the credits provided by sections [135.200](#) to [135.256](#), and the portion of tax credit which is considered an overpayment of the income tax shall be limited to fifty percent or fifty thousand dollars, whichever is less, in the first year and twenty-five percent or twenty-five thousand dollars, whichever is less, in the second year in which the taxpayer is eligible. The overpayment of the income tax for the first year shall not be refunded to the taxpayer until the third taxable year of operation by the new business facility and the overpayment of the income tax for the second year shall not be refunded to the taxpayer until the fourth taxable year of operation by the new business facility.

2. The portion of tax credit which is considered an overpayment of the income tax by any taxpayer who establishes a new business facility in an enterprise zone designated pursuant to subsection 5 of section [135.230](#) shall be limited to twenty-five percent or twenty-five thousand dollars, whichever is less, in the first year of the ensuing seven-year period. Such overpayment of tax shall not be refunded to the taxpayer until the third taxable year of operation by the new business facility.

3. Such refunds to the taxpayer shall be made as otherwise provided by law. In the case of a small corporation described in section [143.471](#) or a partnership, all refunds allowed by this section shall be apportioned in proportion to the share of ownership of the business on the last day of the taxpayer's tax period for which such tax credits are being claimed, to the following:

- (1) The shareholders of the corporation described in section [143.471](#); or
- (2) The partners in a partnership.

(L. 1982 H.B. 1713, et al. § 11, A.L. 1983 H.B. 559, A.L. 1986 S.B. 727, A.L. 1991 H.B. 294 & 405, A.L. 1992 S.B. 661 & 620, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237)

Effective 1-1-97

**Federal empowerment, enterprise community deemed state enterprisezone--credits, exemption, refund--retail businesses eligible forbenefits.**

[135.247](#). 1. Notwithstanding the provisions of sections [135.205](#), [135.207](#), and [135.210](#) or any other provisions to the contrary, any area having been designated by the United States Department of Housing and Urban Development as a federal empowerment zone or by the United States Department of Agriculture as an enterprise community pursuant to the federal Omnibus Budget Reconciliation Act of 1993, title XIII, chapter I, subchapter c, shall immediately upon such federal

designation become and remain a state enterprise zone until the expiration of such federal designation.

2. The credits otherwise provided by sections [135.225](#) and [135.235](#), the exemption provided by section [135.220](#), and the refund provided by section [135.245](#) shall be available to any taxpayer who establishes and operates a new business facility located within a federal empowerment zone or enterprise community on the same terms and conditions specified in sections [135.100](#) to [135.256](#). The exemption provided in section [135.215](#) shall be available to any taxpayer who makes improvements to real property after the date the area is designated as a federal empowerment zone or enterprise community pursuant to the same terms and conditions specified in section [135.215](#).

3. Notwithstanding any provision of law to the contrary, retail businesses, as defined by SICs 52 through 59, hotels and motels, as defined by SIC 7011, and recreational facilities as defined by SIC 7999, shall be eligible for all benefits provided pursuant to the provisions of sections [135.200](#) to [135.256](#), if:

(1) In the case of a retail business, such business is located within a state-designated enterprise zone located wholly or partially within a federal empowerment zone or enterprise community; or

(2) Such business is located within a satellite enterprise zone, established pursuant to subdivision (1) or (3) of subsection 1 of section [135.207](#), whether or not such satellite zone is contained within a federal empowerment zone or enterprise community; and

(3) In the case of a hotel or motel, such business is located within an enterprise zone which is located within any county of the first classification with a population of at least five hundred thousand but less than seven hundred thousand inhabitants according to the last decennial census, or in an enterprise zone which is located within any city of the third classification which is partially located within a county of the first class with a population of one hundred fifty thousand or more which is adjacent to a county of the first classification with a population of at least five hundred thousand but less than seven hundred thousand according to the last decennial census; and

(4) In the case of a recreational facility, such business is located within an area designated a satellite enterprise zone pursuant to subdivision (1) of subsection 1 of section [135.207](#), by the director after January 1, 1991, and before January 1, 1992, in any city not within a county, and further provided the director approves the eligibility of such recreational facility to claim tax benefits otherwise allowed in sections [135.200](#) to [135.256](#). When making such determination, the director shall consider the number and quality of new jobs to be created, the amount of payroll and investment to be generated from the proposed project, the extent to which such tax concessions are needed to induce the development, whether the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation and the overall economic benefits to be realized from the proposed project.

4. For purposes of qualifying for benefits pursuant to this section, recreational facilities, as defined by SIC 7999, shall not include:

(1) An excursion gambling boat licensed pursuant to sections [313.800](#) to [313.850](#) and the docking facility associated with such licensed excursion gambling boat; or

(2) An excursion gambling boat and docking facility as proposed on an application filed with the Missouri gaming commission.

(L. 1994 H.B. 1248 & 1048, A.L. 1995 H.B. 414, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1)

Effective 12-23-97

### **Rules authorized, procedure.**

[135.250](#). 1. The director of the department of economic development may, subject to the requirements of section [536.021](#), issue such rules and regulations as he deems necessary regarding the qualifications necessary for an area to be deemed an "enterprise zone" and for the continuation of such designation. Beginning January 1, 1987, the director shall prescribe the method for submitting applications for claiming the tax credits allowed in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) and shall, if such application is approved, certify same to the director of revenue that the taxpayer claiming the credits allowed in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) has satisfied all requirements prescribed in sections [135.200](#) to [135.255](#), and is therefore eligible to claim the credits and exemption. The director shall also calculate and specify the amount of the credits earned by the taxpayer during the taxpayer's first taxable year in which such credits are claimed and for each of the nine succeeding taxable years the credits are claimed by the taxpayer and shall certify such amounts to the director of revenue. The director shall certify the extent to which such earned credits and the exemption allowed in section [135.220](#) can be claimed to the director of revenue and shall notify the taxpayer in writing of such determination. The director may prescribe such rules and regulations necessary to carry out the provisions of sections [135.200](#) to [135.255](#).

2. The director of revenue shall determine the amount of the taxpayer's refund, as allowed in section [135.245](#), if any, and shall notify the taxpayer in writing of any amount to be refunded. The director of revenue may, subject to the requirements of section [536.021](#), prescribe rules and regulations necessary to process the credits allowed in sections [135.225](#) and [135.235](#) and the exemption allowed in section [135.220](#) and the refund allowed in section [135.245](#) following certification of eligibility by the director. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section [536.024](#).

3. Any taxpayer who has submitted an application for claiming tax credits as allowed in sections [135.225](#), [135.235](#), or the exemption allowed in section [135.220](#) or an application to be certified as a new business facility for the purpose of claiming the refund as allowed in section [135.245](#), may file with the director of economic development, a protest within sixty days (one hundred fifty days if the taxpayer is outside the United States) after the date of such certification notice or the date of the notice denying such certification. The protest shall be in writing and shall set forth the grounds on which the protest is based.

4. If a protest is filed, the director of economic development shall consider the taxpayer's grounds for protest and make a determination concerning such protest. The director of economic development shall notify the taxpayer in writing of such determination within thirty days following the date in which the written protest was received. Such notice shall be mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the director of economic development's findings of fact and the basis of decision.

5. The decision of the director of economic development on the taxpayer's protest is final upon the expiration of thirty days from the date when he mails notice of his action to the taxpayer unless within this period, the taxpayer seeks review of the director of economic development's determination by the administrative hearing commission.

(L. 1982 H.B. 1713, et al. § 12, A.L. 1985 H.B. 416, A.L. 1986 S.B. 727, A.L. 1989 H.B. 181 & 633, A.L. 1991 H.B. 294 & 405, A.L. 1995 S.B. 3)

### **Displaced enterprise zone resident assistance, when, limitations.**

135.255. After August 13, 1982, whenever an enterprise zone resident becomes displaced as a result of condemnation authorized under the provisions of chapter 353 and is displaced from a dwelling which was actually owned and occupied by the displaced person as his principal residence for not less than one year prior to the initiation of negotiations for acquisition of the property, the redevelopment corporation shall make payment to the displaced person upon proper application for:

(1) Actual expenses up to five hundred dollars incurred in moving himself, his family and other personal property; or the displaced person may elect to be moved by licensed, bonded moving services, or receive\* a moving expense allowance up to a maximum of five hundred dollars;

(2) Actual dislocation expenses incurred up to two hundred dollars, including as eligible expenses, but not limited to, utility connection costs, and other incidental expenses;

(3) The amount, if any, which, when added to the acquisition cost of the dwelling acquired by the redevelopment corporation, equals the reasonable cost of a replacement dwelling which is comparable to the dwelling being acquired in size, condition, and accessibility to public services, and commercial facilities, and which is reasonably accessible to his place of employment, and is available on the private market without discrimination due to race, color, creed, religion, national origin, sex or source of income;

(4) The amount, if any, which will compensate the displaced person for any increased interest costs which such person is required to pay for financing the acquisition of a replacement dwelling. Such amount shall be equal to the interest differential between the existing and new mortgage based upon the remaining principal and term on the existing mortgage;

(5) The amount, if any, which will compensate the displaced person for any increased monthly payments for principal, interest, taxes and insurance which such person is required to pay due to the loss by such person of government subsidies, including, but not limited to, subsidies under Section 235 of Title 24, Code of Federal Regulations, as a result of being displaced. Such amount shall be discounted to present value. The discount rate shall be five and one-half percent. The payments

authorized by this section shall be made only to a displaced person who purchases or occupies a replacement dwelling which is decent, safe and sanitary not later than one year after the date on which the displaced person receives payment of consideration for the acquired dwelling or the date on which the displaced person moves from the acquired dwelling, whichever is later. No payment under this section to any displaced person may exceed ten thousand dollars.

(L. 1982 H.B. 1713, et al. § 13)

\*Word "received" appears in original rolls.

#### **Enterprise zone to be established in certain cities (Rolla).**

[135.256](#). In addition to the number of enterprise zones authorized under the provisions of sections [135.206](#) and [135.210](#), the department of economic development shall designate one such zone in every city of the third class in every county of the third class which contains a state university whose primary mission is engineering studies and technical research. Such enterprise zone designation shall only be made if the area in the city which is to be included meets all the requirements of section [135.205](#).

(L. 1989 H.B. 249 & 47 § 1 merged with S.B. 59 § 1)

#### **Enterprise zone to be established in city not within a county(St. Louis).**

[135.257](#). In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.208](#), [135.210](#) and [135.256](#), the department of economic development shall designate one such zone in any city not within a county if such area which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

(L. 1997 2d Ex. Sess. S.B. 1 § 1)

Effective 12-23-97

#### **Letter of intent required, when.**

[135.258](#). 1. A taxpayer shall not be entitled to receive the tax credits, the exemption and the refunds respectively provided for in sections [135.110](#), [135.220](#), [135.225](#), and [135.245](#) solely because the taxpayer has met and maintained the new investment and new job creation criteria required by sections [135.100](#) through [135.256](#). In addition to meeting these criteria, the taxpayer must be in receipt of an approved letter of intent as described in subsection 2 of this section. The taxpayer shall make available such copies of the approved letter of intent, as may be required, to the department of revenue.

2. In order to be eligible for the tax credits, exemption and refunds specified in subsection 1 of this section, a taxpayer must submit a letter of intent to the director of the department of economic development. The letter of intent shall be completed on a form that shall be prepared by the department. It need not contain an estimate of the amounts of the tax credits, exemption or refunds for which the taxpayer may become eligible. The letter of intent shall be submitted to the director at least fifteen days prior to the commencement of commercial operations as defined in subdivision (1)

of section [135.100](#). The director shall approve or deny the letter of intent and return such to the taxpayer within fifteen days of its receipt.

(L. 1998 H.B. 1656)

Effective 1-1-99

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

### **Enterprise zone designated for a certain county (Wright County)**

[135.259](#). In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#), [135.210](#), [135.256](#) and [135.257](#), the department of economic development shall designate one such zone for any county of the third classification without a township form of government with a population of less than eighteen thousand and more than seventeen thousand nine hundred. Such enterprise zone designation shall only be made if such area which is to be included in the enterprise zone meets all the requirements of section [135.205](#).

(L. 2002 S.B. 856)

### **Enterprise zone designated for a certain city (Carl Junction)**

[135.260](#). In addition to the number of enterprise zones authorized pursuant to the provisions of sections [135.206](#) and [135.210](#), the department of economic development shall designate one such zone in every city of the fourth classification with greater than five thousand two hundred inhabitants and less than five thousand three hundred inhabitants in every noncharter county of the first classification which contains greater than one hundred four thousand inhabitants and fewer than one hundred five thousand inhabitants. Such enterprise zone shall only be made if such area in the city which is to be included meets all the requirements of section [135.205](#).

(L. 2002 S.B. 856)

### **Any area meeting enterprise zone requirements shall be designated as such.**

[135.262](#). In addition to the number of enterprise zones authorized under the provisions of sections [135.206](#) to [135.260](#), the department of economic development shall designate any area that meets all the requirements of section [135.205](#) as an enterprise zone.

(L. 2004 S.B. 1155)

### **Strategic initiative investment income tax refund, automobile manufacturers or assemblers.**

[135.270](#). 1. Any automobile manufacturer or assembler, as defined by standard industrial classification code (SIC) number 3711, that is located within a state enterprise zone established pursuant to sections [135.200](#) to [135.256](#) may make an application to the department of economic development for a strategic initiative investment income tax refund.

2. Such refunds shall be approved only if the total amount of tax credits certified for the automobile manufacturer or assembler in the four calendar years immediately preceding 1998 exceeded the company's total Missouri tax on taxable income in those years by an amount equal to at least twenty million dollars. In such cases, a portion of tax credits earned shall constitute an overpayment of taxes and may be refunded to the taxpayer in the manner authorized by this section as a strategic initiative income tax fund.

3. The department shall evaluate and may approve such applications based upon the importance of the manufacturer to the economy of Missouri, the company's investment of at least one hundred million dollars in new facilities or equipment, and the number of jobs to be created or retained as a result of new investment. Such applications may be approved annually for no longer than five successive years. The maximum amount of refund that may be awarded to the manufacturer or assembler shall not exceed two million dollars per year.

(L. 1998 S.B. 827 § 1)

### **Definitions.**

135.276. As used in sections 135.276 to 135.283, the following terms mean: (1) "Continuation of commercial operations" shall be deemed to occur during the first taxable year following the taxable year during which the business entered into an agreement with the department pursuant to section 135.283 in order to receive the tax exemption, tax credits and refundable credits authorized by sections 135.276 to 135.283; (2) "Department", the department of economic development; (3) "Director", the director of the department of economic development; (4) "Enterprise zone", an enterprise zone created under section 135.210 that includes all or part of a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants; (5) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility; (6) "NAICS", the industrial classification as such classifications are defined in the 1997 edition of the North American Industrial Classification System Manual as prepared by the Executive Office of the President, Office of Management and Budget; (7) "Retained business facility", a facility in an enterprise zone operated by the taxpayer which satisfies the following requirements as determined by the department and included in an agreement with the department:

(a) The taxpayer agrees to a capital investment project at the facility of at least five hundred million dollars to take place over a period of two consecutive taxable years ending no later than the fifth taxable year after continuation of commercial operations;

(b) The taxpayer has maintained at least two thousand employees per year at the facility for each of the five taxable years preceding the year of continuation of commercial operations;

(c) The taxpayer agrees to maintain at least the level of employment that it had at the facility in the taxable year immediately preceding the year of continuation of commercial operations for ten

consecutive taxable years beginning with the year of the continuation of commercial operations. Temporary layoffs necessary to implement the capital investment project will not be considered a violation of this requirement;

(d) The taxpayer agrees that the amount of the average wage paid by the taxpayer at the facility will exceed the average wage paid within the county in which the facility is located for ten consecutive taxable years beginning with the year of the continuation of commercial operations;

(e) Significant local incentives with respect to the project or retained facility have been committed, which incentives may consist of:

a. Cash or in-kind incentives derived from any nonstate source, including incentives provided by the affected political subdivisions, private industry and/or local chambers of commerce or similar such organizations; or

b. Relief from local taxes;

(f) Receipt of the tax exemption, tax credits, and refunds are major factors in the taxpayer's decision to retain its operations at the facility in Missouri and go forward with the capital investment project and not receiving the exemption, credits, and refunds will result in the taxpayer moving its operations out of Missouri; and

(g) There is at least one other state that the taxpayer verifies is being considered as the site to which the facility's operations will be relocated; (8) "Retained business facility employee", a person employed by the taxpayer in the operation of a retained business facility during the taxable year for which the credit allowed by section [135.279](#) is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute retained business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the retained business facility on a regular, full-time basis. The number of retained business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the retained business facility is in operation for less than the entire taxable year, the number of retained business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period; (9) "Retained business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the retained business facility. If a taxpayer has income derived from the operation of a retained business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the retained business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the retained business facility investment certified for the tax period, and the denominator of which is the average value of all the

taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as retained business facility employees at the retained business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32;

(10) "Retained business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the retained business facility after the date of continuation of commercial operations, which is used by the taxpayer in the operation of the retained business facility, during the taxable year for which the credit allowed by section [135.279](#) is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, rail yards, and spurs shall not constitute retained business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The retained business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the retained business facility is in operation for less than an entire taxable year, the retained business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period;

(11) "Revenue-producing enterprise", manufacturing activities classified as NAICS 336211.

(L. 2003 H.B. 289 merged with S.B. 620)

Effective 6-18-03 (S.B. 620)

7-07-03 (H.B. 289)

Contingent expiration date, see § [135.284](#)

### **Taxable income of retained business facility exempt from incometaxation, amount.**

[135.277](#). The provisions of chapter 143 notwithstanding, one-half of the Missouri taxable income attributed to an approved retained business facility that is earned by a taxpayer operating the approved retained business facility may be exempt from taxation under chapter 143. That portion of income attributed to the retained business facility shall be determined in a manner prescribed in

paragraph (b) of subdivision (9) of section [135.276](#), except that compensation paid to truck drivers, rail, or barge vehicle operators shall be excluded from the fraction.

(L. 2003 H.B. 289 merged with S.B. 620)

Effective 6-18-03 (S.B. 620)

7-07-03 (H.B. 289)

Contingent expiration date, see § [135.284](#)

### **Tax credit, amount (Hazelwood Ford Plant)--calculation and limitations on credit.**

[135.279](#). 1. Any taxpayer that operates an approved retained business facility in an enterprise zone may be allowed a credit, each year for ten years, in an amount determined pursuant to subsection 2 or 3 of this section, whichever is applicable, against the tax imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), as follows:

(1) The credit allowed for each retained business facility employee shall be four hundred dollars, except that for each retained business facility employee that exceeds the level of employment set forth in paragraph (b) of subdivision (7) of section [135.276](#), the credit shall be five hundred dollars. Transfers from another facility operated by the taxpayer in the state will not count as retained business facility employees;

(2) An additional credit of four hundred dollars shall be granted for each twelve-month period that a retained business facility employee is a resident of an enterprise zone;

(3) An additional credit of four hundred dollars shall be granted for each twelve-month period that the person employed as a retained business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section [135.240](#);

(4) To the extent that expenses incurred by a retained business facility in an enterprise zone for the training of persons employed in the operation of the retained business facility is not covered by an existing federal, state, or local program, such retained business facility shall be eligible for a full tax credit equal to eighty percent of that portion of such training expenses which are in excess of four hundred dollars for each trainee who is a resident of an enterprise zone or who was at the time of such employment at the retained business facility unemployable or difficult to employ as defined in section [135.240](#), provided such credit shall not exceed four hundred dollars for each employee trained;

(5) The credit allowed for retained business facility investment shall be equal to the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five percent of the next ninety thousand dollars of such qualifying investment, plus two percent of all remaining qualifying investments within an enterprise zone. The taxpayer's retained business facility investment shall be reduced by the amount of investment made by the taxpayer or related taxpayer which was subsequently transferred to the retained business facility from another Missouri facility and for which credits authorized in this section are not being earned.

2. The credits allowed by subsection 1 of this section shall offset the greater of:

(1) Some portion of the income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), with respect to such taxpayer's retained business facility income for the taxable year for which such credit is allowed; or

(2) If the taxpayer operates no other facility in Missouri, the credits allowed in subsection 1 of this section shall offset up to fifty percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), seventy-five percent of the business income tax otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), if the business operates no other facilities in Missouri;

(3) If the taxpayer operates more than one facility in Missouri, the credits allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section [135.530](#), thirty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision.

3. In the case where a person employed by the retained business facility is a resident of the enterprise zone for less than a twelve-month period, or in the case where a person employed as a retained business facility employee is a person who, at the time of such employment by the retained business facility, met the criteria as set forth in section [135.240](#), is employed for less than a twelve-month period, the credits allowed by subdivisions (2) and (3) of subsection 1 of this section shall be determined by multiplying the dollar amount of the credit by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the person met the requirements prescribed in subdivision (2) or (3) of this subsection, and the denominator of which is three hundred sixty-five.

4. Notwithstanding any provision of law to the contrary, any taxpayer who claims the exemption and credits allowed in sections [135.276](#) to [135.283](#) shall not be eligible to receive the exemption allowed in section [135.220](#), the credits allowed in sections [135.225](#) and [135.235](#), and the refund authorized by section [135.245](#) or the tax credits allowed in section [135.110](#). The taxpayer must elect among the options. To perfect the election, the taxpayer shall attach written notification of such election to the taxpayer's initial application for claiming tax credits. The election shall be irreversible once perfected.

5. A taxpayer shall not receive the income exemption described in section [135.276](#) and the tax credits described in subsection 1 of this section for any year in which the terms and conditions of sections [135.276](#) to [135.283](#) are not met. Such incentives shall not exceed the fifteen-year limitation pursuant to subsection 1 of section [135.230](#) or the seven-year limitation pursuant to subsection 5 of section [135.230](#).

6. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility.

7. Credits may not be carried forward but shall be claimed for the taxable year during which continuation of commercial operations occurs at such retained business facility, and for each of the nine succeeding taxable years.

(L. 2003 H.B. 289 merged with S.B. 620)

Effective 6-18-03 (S.B. 620)

7-07-03 (H.B. 289)

Contingent expiration date, see § [135.284](#)

#### **Application for income tax refund (Hazelwood Ford Plant)--approval procedures.**

[135.281](#). 1. Any taxpayer operating an approved retained business facility that is located within a state enterprise zone established pursuant to sections [135.200](#) to [135.256](#) may make an application to the department of economic development for an income tax refund.

2. Such refunds shall be approved only if the amount of tax credits certified for the taxpayer in the taxable year exceeded the company's total Missouri tax on taxable income in that year by an amount equal to at least one million dollars. In such cases, a portion of tax credits earned shall constitute an overpayment of taxes and may be refunded to the taxpayer in the manner authorized by this section.

3. The department shall evaluate and may approve such applications based upon the importance of the approved retained business facility to the economy of Missouri, the company's investment of at least five hundred million dollars in facilities or equipment, and the number of jobs to be created or retained. Such applications may be approved annually for no longer than five successive years. The maximum amount of refund that may be awarded to the manufacturer or assembler shall not exceed two million dollars per year. Notwithstanding other provisions of law to the contrary, if the taxpayer's tax credits issued under sections [135.276](#) to [135.283](#) for a taxable year exceed the taxpayer's taxable income by more than two million dollars, the credits may be carried forward for five years or until used, whichever is earlier, and may be included in refund amounts otherwise authorized by this section.

(L. 2003 H.B. 289 merged with S.B. 620)

Effective 6-18-03 (S.B. 620)

7-07-03 (H.B. 289)

Contingent expiration date, see § [135.284](#)

#### **Program application--approval by department--executed agreement required, contents.**

[135.283](#). 1. A taxpayer shall apply to the department for approval to participate in the program authorized by sections [135.276](#) to [135.283](#). The application shall be in a form prescribed by and contain all information requested by the department to determine eligibility for the program and for the department to make its decision whether to approve the taxpayer for participation in the program.

2. The department may issue an approval contingent upon the successful execution of an agreement between the department and the taxpayer seeking approval of a facility as a retained business facility which shall include, but not be limited to, the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) A requirement that the taxpayer shall annually report to the department the total amount of salaries and wages paid to eligible employees in retained business facility jobs, and any other information the department requires to confirm compliance with the requirements of sections [135.276](#) to [135.283](#);

(3) A requirement that the taxpayer shall provide written notification to the director not more than thirty days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer;

(4) A requirement that the taxpayer shall maintain operations at the facility location for at least ten years at a certain employment level;

(5) The requirements otherwise required by sections [135.276](#) to [135.283](#); and

(6) A provision for repayment of incentives upon breach of the agreement.

(L. 2003 H.B. 289 merged with S.B. 620)

Effective 6-18-03 (S.B. 620)

7-07-03 (H.B. 289)

Contingent expiration date, see § [135.284](#)

#### **Contingent expiration of certain sections.**

[135.284](#). 1. The repeal and reenactment of sections [100.710](#) and [100.840](#), and the enactment of sections [135.276](#), [135.277](#), [135.279](#), [135.281](#), and [135.283](#) shall expire on January 1, 2006, if no essential industry retention projects have been approved by the department of economic development by December 31, 2005. If an essential industry retention project has been approved by the department of economic development by December 31, 2005, the repeal and reenactment of sections [100.710](#) and [100.840](#), and the enactment of sections [135.276](#), [135.277](#), [135.279](#), [135.281](#), and [135.283](#) shall expire on January 1, 2020.

2. Notwithstanding any other provision of law to the contrary, the time for approval of essential industry retention projects as identified in subsection 1 of this section is extended until December 31, 2007, and if an essential industry retention project has been approved by the department of economic development by December 31, 2007, the provisions of subsection 1 of this section shall expire on January 1, 2020.

(L. 2003 H.B. 289 § B merged with S.B. 620 § B, A.L. 2005 S.B. 343 §§ [135.284](#), 1, A.L. 2013 H.B. 196)

\*Contingent expiration date for subsection 1.

## **Revenue-producing enterprises not eligible for certain tax benefits--time period of exemptions.**

[135.286](#). 1. Notwithstanding any provision of law to the contrary, no revenue-producing enterprise shall receive the state tax exemption, state tax credits, or state tax refund as provided in sections [135.200](#) to [135.283](#) for facilities commencing operations on or after January 1, 2005. This provision is not intended to affect in any way the local real property tax abatement authorized by section [135.215](#).

2. Notwithstanding subsection 4 of section [135.215](#) to the contrary, if an exemption pursuant to section [135.215](#) is granted on property prior to the expiration of the twenty-five year anniversary of the designation of the enterprise zone, the property may continue to receive that exemption for up to twenty-five years following the date the exemption on that property was granted, provided that the total number of years of exemption on that property shall not exceed twenty-five.

(L. 2004 S.B. 1155)

## **Definitions.**

[135.300](#). As used in sections [135.300](#) to [135.311](#), unless the context requires otherwise, the following terms mean:

(1) "Missouri forestry industry residue", any residue that results from normal timber harvest or production to include slash, sawdust, shavings, edgings, slabs, leaves, bark, and timber thinnings from timber stand improvements;

(2) "Processed wood products", wood pellets, cubes, flour, or any product that results from thermal, chemical, or mechanical processes that sufficiently alter the wood residue to be used as an energy source. Hogged wood and chipped wood do not qualify as processed wood energy resources under sections [135.300](#) to [135.311](#);

(3) "Wood energy producer", any person, firm or corporation who engages in the business of producing processed wood products, to be used as an energy source, from Missouri forest industry residues;

(4) "Wood energy producing facility", a Missouri facility using Missouri forest industry residue to produce processed wood products.

(L. 1985 H.B. 831 § 1, A.L. 1996 H.B. 1237)

Effective 1-1-97

## **Eligibility--amount of tax credit.**

[135.305](#). A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, except sections [143.191](#) to [143.261](#), as a production incentive to produce processed wood products in a qualified wood-producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed

material. The credit may be claimed for a period of five years and is to be a tax credit against the tax otherwise due. No new tax credits, provided for under sections [135.300](#) to [135.311](#), shall be authorized after June 30, 2020. In no event shall the aggregate amount of all tax credits allowed under sections [135.300](#) to [135.311](#) exceed six million dollars in any given fiscal year. There shall be no tax credits authorized under sections [135.300](#) to [135.311](#) unless an appropriation is made for such tax credits.

(L. 1985 H.B. 831 § 2, A.L. 1996 H.B. 1237, A.L. 2008 H.B. 2058, A.L. 2014 S.B. 729)

#### **Credit exceeding tax, not refunded, effect.**

[135.307](#). Any amount of credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed four years.

(L. 1985 H.B. 831 § 3, A.L. 1996 H.B. 1237)

Effective 1-1-97

#### **Assignment of credit, procedure.**

[135.309](#). The wood energy producer may elect to assign to a third party the approved tax credit. Certification of assignment and other appropriate forms must be filed with the Missouri department of revenue.

(L. 1985 H.B. 831 § 4, A.L. 1996 H.B. 1237)

Effective 1-1-97

#### **Application, content, filed where.**

[135.311](#). When applying for a tax credit the wood energy producer shall make application for the credit to the division of energy of the department of natural resources. The application shall include:

(1) The number of tons of processed wood products produced during the preceding calendar year;

(2) The name and address of the person to whom processed products were sold and the number of tons sold to each person;

(3) Other information which the department of natural resources reasonably requires. The application shall be received and reviewed by the division of energy of the department of natural resources and the division shall certify to the department of revenue each applicant which qualifies as a wood energy-producing facility.

(L. 1985 H.B. 831 §§ 5, 6, A.L. 1991 S.B. 185, A.L. 1996 H.B. 1237)

Effective 1-1-97

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

### **Credit for charcoal producers.**

[135.313](#). 1. Any person, firm or corporation who engages in the business of producing charcoal or charcoal products in the state of Missouri shall be eligible for a tax credit on income taxes otherwise due pursuant to chapter 143, except sections [143.191](#) to [143.261](#), as an incentive to implement safe and efficient environmental controls. The tax credit shall be equal to fifty percent of the purchase price of the best available control technology equipment connected with the production of charcoal in the state of Missouri or, if the taxpayer manufactures such equipment, fifty percent of the manufacturing cost of the equipment, to and including the year the equipment is put into service. The credit may be claimed for a period of eight years beginning with the 1998 calendar year and is to be a tax credit against the tax otherwise due.

2. Any amount of credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed seven years.

3. The charcoal producer may elect to assign to a third party the approved tax credit. Certification of assignment and other appropriate forms must be filed with the Missouri department of revenue and the department of economic development.

4. When applying for a tax credit, the charcoal producer specified in subsection 1 of this section shall make application for the credit to the division of environmental quality of the department of natural resources. The application shall identify the specific best available control technology equipment and the purchase price, or manufacturing cost of such equipment. The director of the department of natural resources is authorized to require permits to construct prior to the installation of best available control technology equipment and other information which he or she deems appropriate.

5. The director of the department of natural resources in conjunction with the department of economic development shall certify to the department of revenue that the best available control technology equipment meets the requirements to obtain a tax credit as specified in this section.

(L. 1998 H.B. 1656)

Effective 1-1-99

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

### **Title.**

[135.325](#). Sections [135.325](#) to [135.339](#) shall be known and may be cited as the "Special Needs Adoption Tax Credit Act".

(L. 1987 S.B. 402 § 1)

Effective 1-1-88

## Definitions.

135.326. As used in sections 135.325 to 135.339, the following terms shall mean:

(1) "Business entity", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153;

(2) "Handicap", a mental, physical, or emotional impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(3) "Nonrecurring adoption expenses", reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a special needs child and which are not incurred in violation of federal, state, or local law;

(4) "Special needs child", a child for whom it has been determined by the children's division, or by a child-placing agency licensed by the state, or by a court of competent jurisdiction to be a child:

(a) That cannot or should not be returned to the home of his or her parents; and

(b) Who has a specific factor or condition such as ethnic background, age, membership in a minority or sibling group, medical condition, or handicap because of which it is reasonable to conclude that such child cannot be easily placed with adoptive parents;

(5) "State tax liability", any liability incurred by a taxpayer under the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions.

(L. 1987 S.B. 402 § 2, A.L. 1995 H.B. 414, A.L. 1999 H.B. 316, et al., A.L. 2014 H.B. 1299 Revision)

**Special needs child adoption tax credit--nonrecurring adoption expenses, amount--individual and business entities tax credit, amount, time for filing application--assignment of tax credit, when.**

135.327. 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to

taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143; provided, however, that beginning on March 29, 2013, the tax credits shall only be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars. The cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses shall not be more than two million dollars but may be increased by appropriation in any fiscal year beginning on or after July 1, 2004. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and April fifteenth of each fiscal year.

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

(L. 1987 S.B. 402 § 3, A.L. 1995 H.B. 414, A.L. 1999 H.B. 316, et al., A.L. 2002 S.B. 923, et al., A.L. 2004 H.B. 1453, A.L. 2006 H.B. 1485 merged with S.B. 1229, A.L. 2007 S.B. 86, A.L. 2013 S.B. 20, 15 & 19)

Effective 3-29-13

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Credit not allowed, when.**

[135.329](#). No credit shall be allowable for that portion of the nonrecurring adoption expenses for which a credit is allowable and taken under any similar provision of federal, state, or local law. Credit may be taken up to the amount allowable under section [135.327](#) for that portion of the nonrecurring adoption expenses which exceed the credit taken under such other provision of federal, state or local law. If there is a deduction allowable and taken under any other provision of federal, state or

local law which is similar to the credit allowable under section [135.327](#), the credit allowable for nonrecurring adoption expenses shall be reduced by the amount of the decrease in the tax liability resulting from taking such deduction. No credit shall be allowable for that portion of the nonrecurring adoption expenses paid from any funds received under any federal, state, or local program.

(L. 1987 S.B. 402 § 4, A.L. 1995 H.B. 414)

Effective 1-1-96

**Adopted child eighteen years of age or older, credit not allowed--exception.**

[135.331](#). No credit shall be allowable for the adoption of any child who has attained the age of eighteen, unless it has been determined that the child has a medical condition or handicap that would limit the child's ability to live independently of the adoptive parents.

(L. 1987 S.B. 402 § 5)

Effective 1-1-88

**Credit exceeding tax due or applied for, not refunded--may be carried forward, time limit--effect of assignment, transfer or sale of tax credit.**

[135.333](#). 1. Any amount of tax credit which exceeds the tax due or which is applied for and otherwise eligible for issuance but not issued shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may be taken for each child adopted.

2. Tax credits that are assigned, transferred or sold as allowed in section [135.327](#) may be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

(L. 1987 S.B. 402 § 6, A.L. 1999 H.B. 316, et al., A.L. 2006 H.B. 1485 merged with S.B. 1229)

**Credit reduced, amount, when.**

[135.335](#). In the year of adoption and in any year thereafter in which the credit is carried forward pursuant to section [135.333](#), the credit shall be reduced by an amount equal to the state's cost of providing care, treatment, maintenance and services when:

(1) The special needs child is placed, with no intent to return to the adoptive home, in foster care or residential treatment licensed or operated by the children's division, the division of youth services or the department of mental health; or

(2) A juvenile court temporarily or finally relieves the adoptive parents of custody of the special needs child.

(L. 1987 S.B. 402 § 7, A.L. 2014 H.B. 1299 Revision)

**Credit not to be considered for adoption subsidy.**

[135.337](#). A tax credit taken by a person or business entity under the provisions of sections [135.325](#) to [135.339](#) shall not be considered in determining the eligibility for, or the amount of, any adoption subsidy to the child adopted, including a subsidy for nonrecurring adoption expenses, that is available under any federal, state, or local program.

(L. 1987 S.B. 402 § 8, A.L. 1995 H.B. 414)

Effective 1-1-96

#### **Rules authorized, procedure.**

[135.339](#). The director of revenue, in consultation with the children's division, shall prescribe such rules and regulations necessary to carry out the provisions of sections [135.325](#) to [135.339](#). No rule or portion of a rule promulgated under the authority of sections [135.325](#) to [135.339](#) shall become effective unless it has been promulgated pursuant to the provisions of section [536.024](#).

(L. 1987 S.B. 402 § 9, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3, A.L. 2014 H.B. 1299 Revision)

#### **Definitions--tax credit authorized, amount--application procedure--assignment--rulemaking authority--sunset provision.**

[135.341](#). 1. As used in this section, the following terms shall mean:

(1) "CASA", an entity which receives funding from the court-appointed special advocate fund established under section [476.777](#), including an association based in this state, affiliated with a national association, organized to provide support to entities receiving funding from the court-appointed special advocate fund;

(2) "Child advocacy centers", the regional child assessment centers listed in subsection 2 of section [210.001](#);

(3) "Contribution", the amount of donation to a qualified agency;

(4) "Crisis care center", entities contracted with this state which provide temporary care for children whose age ranges from birth through seventeen years of age whose parents or guardian are experiencing an unexpected and unstable or serious condition that requires immediate action resulting in short-term care, usually three to five continuous, uninterrupted days, for children who may be at risk for child abuse, neglect, or in an emergency situation;

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

(6) "Director", the director of the department of revenue;

(7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;

(8) "Tax liability", the tax due under chapter 143 other than taxes withheld under sections [143.191](#) to [143.265](#).

2. For all tax years beginning on or after January 1, 2013, a tax credit may be claimed in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall be named

the champion for children tax credit. The minimum amount of any tax credit issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143, excluding sections [143.191](#) to [143.265](#). A contribution verification shall be issued to the taxpayer by the agency receiving the contribution. Such contribution verification shall include the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the name and address of the agency receiving the credit, and the date the contribution was made. The tax credit provided under this subsection shall be initially filed for the year in which the verified contribution is made.

3. The cumulative amount of the tax credits redeemed shall not exceed one million dollars in any tax year. The amount available shall be equally divided among the three qualified agencies: CASA, child advocacy centers, or crisis care centers, to be used towards tax credits issued. In the event tax credits claimed under one agency do not total the allocated amount for that agency, the unused portion for that agency will be made available to the remaining agencies equally. In the event the total amount of tax credits claimed for any one agency exceeds the amount available for that agency, the amount redeemed shall and will be apportioned equally to all eligible taxpayers claiming the credit under that agency.

4. Prior to December thirty-first of each year, each qualified agency shall apply to the department of social services in order to verify their qualified agency status. Upon a determination that the agency is eligible to be a qualified agency, the department of social services shall provide a letter of eligibility to such agency. No later than February first of each year, the department of social services shall provide a list of qualified agencies to the department of revenue. All tax credit applications to claim the champion for children tax credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall apply for the champion for children tax credit by attaching a copy of the contribution verification provided by a qualified agency to such taxpayer's income tax return.

5. Any amount of tax credit which exceeds the tax due or which is applied for and otherwise eligible for issuance but not issued shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years.

6. Tax credits may be assigned, transferred or sold.

7. (1) In the event a credit denial, due to lack of available funds, causes a balance-due notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer will not be held liable for any penalty or interest, provided the balance is paid, or approved payment arrangements have been made, within sixty days from the notice of denial.

(2) In the event the balance is not paid within sixty days from the notice of denial, the remaining balance shall be due and payable under the provisions of chapter 143.

8. The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general

assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

9. Pursuant to section [23.253](#), of the Missouri sunset act:

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

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

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

10. Beginning on March 29, 2013, any verified contribution to a qualified agency made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

(L. 2013 S.B. 20, 15 & 19)

Effective 3-29-13

Sunset date 12-31-19

Termination date 9-01-20

#### **Definitions.**

[135.350](#). As used in this section, unless the context clearly requires otherwise, the following words and phrases shall mean:

(1) "Commission", the Missouri housing development commission, or its successor agency;

(2) "Director", director of the department of revenue;

(3) "Eligibility statement", a statement authorized and issued by the commission certifying that a given project qualifies for the Missouri low-income housing tax credit. The commission shall promulgate rules establishing criteria upon which the eligibility statements will be issued. The eligibility statement shall specify the amount of the Missouri low-income housing tax credit allowed. The commission shall only authorize the tax credits to qualified projects which begin after June 18, 1991;

(4) "Federal low-income housing tax credit", the federal tax credit as provided in section 42 of the 1986 Internal Revenue Code, as amended;

(5) "Low-income project", a housing project which has restricted rents that do not exceed thirty percent of median income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income;

(6) "Median income", those incomes which are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size;

(7) "Qualified Missouri project", a qualified low-income building as that term is defined in section 42 of the 1986 Internal Revenue Code, as amended, which is located in Missouri;

(8) "Taxpayer", person, firm or corporation subject to the state income tax imposed by the provisions of chapter 143 (except withholding imposed by sections [143.191](#) to [143.265](#)) or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state.

(L. 1990 H.B. 960 § 3 subsec. 1, A.L. 1991 S.B. 185)

Effective 6-18-91

**Taxpayer owning interest in qualified project shall be allowed a state tax credit, how determined, cap--carry-back and carry-forward of credit authorized--rules promulgation and procedure.**

[135.352](#). 1. A taxpayer owning an interest in a qualified Missouri project shall, subject to the limitations provided under the provisions of subsection 3 of this section, be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period.

3. No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance.

4. The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section [32.115](#). The credit authorized by this section shall not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years.

5. All or any portion of Missouri tax credits issued in accordance with the provisions of sections [135.350](#) to [135.362](#) may be allocated to parties who are eligible pursuant to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify to the director the amount

of credit allocated to each taxpayer. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated.

6. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section [135.355](#), any statement submitted to the director as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture and the amount of credit previously allocated to such taxpayer.

7. The director of the department may promulgate rules and regulations necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section [536.024](#).

(L. 1990 H.B. 960 § 3 subsec. 2 subdivs. (1), (2), A.L. 1991 S.B. 185, A.L. 1993 H.B. 566, A.L. 1994 H.B. 1745, A.L. 1995 S.B. 3, A.L. 1997 H.B. 578, A.L. 2009 H.B. 191)

\*Rulemaking authority, effective when, null and void, when, see [135.361](#).

**Eligibility statement must be filed with tax return, failure to comply, effect--federal requirement to recapture, state requires to recapture, amount.**

[135.355](#). 1. The owner of a qualified Missouri project eligible for the Missouri low-income housing tax credit shall submit, at the time of filing the owner's return, an eligibility statement. In the case of failure to attach the eligibility statement, no credit under this section shall be allowed with respect to such project for that year until these copies are provided to the department of revenue.

2. If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a low-income project is required to be recaptured only during the first ten years after a project is placed in service, the taxpayer claiming state credits with respect to such project shall also be required to recapture a portion of any state credits authorized by this section. The state recapture amount shall be equal to the proportion of the state credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(L. 1990 H.B. 960 § 3 subsec. 2 subdivs. (3), (4), A.L. 1994 H.B. 1745, A.L. 2000 H.B. 1238)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Capital gain exclusion, when.**

[135.357](#). A taxpayer shall be allowed to exclude from taxation under chapter 143 a portion of the capital gain, as calculated under the Internal Revenue Code of 1986, as amended, that results from the sale of a low-income project subsidized by the federal Department of Housing and Urban Development to a nonprofit or governmental organization, agreeing to preserve or increase the low-income occupancy of the project. For those owners whose low-income project has at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, the exclusion shall equal twenty-five percent of the capital gain.

(L. 1990 H.B. 960 § 3 subsec. 3)

Effective 10-1-90

**Rules authorized, procedure.**

[135.359](#). The director or the commission may require the filing of additional documentation necessary to determine the accuracy of a tax preference claimed under the provisions of this section through the promulgation of rules. No rule or portion of a rule promulgated under the authority of sections [135.350](#) to [135.363](#) shall become effective unless it has been promulgated pursuant to the provisions of section [536.024](#).

(L. 1990 H.B. 960 § 3 subsec. 4, A.L. 1991 S.B. 185, A.L. 1993 S.B. 52, A.L. 1994 H.B. 1248 & 1048, A.L. 1995 S.B. 3)

**Rules, effective, when--rules invalid and void, when.**

[135.361](#). Any rule or portion of a rule promulgated pursuant to this bill\* shall become effective only as provided pursuant to chapter 536, including but not limited to section [536.028](#), if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section [536.028](#), if applicable, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

(L. 1997 H.B. 578 § 2)

\*"This bill" (H.B. 578, 1997) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

**Eligibility statement, low-income housing credit, not applicable,when.**

[135.362](#). 1. The provisions of subdivision (3) of section [135.350](#) shall not apply to any qualified Missouri project:

(1) With respect to which a loan is made or insured under Title V of the U.S. Housing Act of 1949; or

(2) In which at least ten percent of the total reasonably expected basis in such project was incurred by the project owner prior to June 18, 1991, and such project is placed in service no later than December 31, 1993.

2. Qualified Missouri projects described in subdivisions (1) and (2) of subsection 1 of this section shall continue to be governed by the provisions of subdivision (2) of section [135.350](#) in effect prior to June 18, 1991.

(L. 1991 S.B. 185 § A § 1, A.L. 1993 H.B. 566)

**Sale, assignment, transfer of tax credits allowed, when--statementrequired, submission to director--rules.**

[135.363](#). 1. All or any portion of tax credits issued in accordance with the provisions of sections [135.350](#) to [135.363](#) may be transferred, sold or assigned to parties who are eligible under the provisions of subsection 1 of section [135.352](#).

2. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner or transferee desiring to make a transfer, sale or assignment as described in subsection 1 of this section shall submit to the director of the department of revenue a statement which describes the amount of credit for which such transfer, sale or assignment of credit is eligible. The owner shall provide to the director of revenue appropriate information so that the low-income housing tax credit can be properly allocated.

3. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section [135.355](#), any statement submitted to the director of the department of revenue as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

4. The director of the department of revenue may prescribe rules and regulations necessary for the administration of the provisions of this section.

(L. 1994 H.B. 1248 & 1048)

**Definitions.**

[135.400](#). As used in sections [135.400](#) to [135.430](#), the following terms mean: (1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections [135.400](#) to [135.430](#); (2) "Community bank", either a bank community development corporation or development bank, which are financial organizations which receive investments from commercial financial institutions regulated by the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, or the Missouri division of finance. Community banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity investments in businesses or in real estate provided that such transactions have associated public benefits; (3) "Community development corporation", a not-for-profit corporation whose board of directors is composed of businesses, civic and community leaders, and whose primary purpose is to encourage and promote the industrial, economic, entrepreneurial, commercial, and civic development or redevelopment of a community or area, including the provision of housing and community development projects that benefit low-income individuals and communities; (4) "Department", the Missouri department of economic development; (5) "Director", the director of the department of economic development, or a person acting under the supervision of the director; (6) "Investment", a transaction in which a Missouri small business or a community bank receives a monetary benefit from an investor pursuant to the provisions of sections [135.403](#) to [135.414](#); (7) "Investor", an individual, partnership, financial institution, trust or corporation meeting the eligibility requirements of

sections [135.403](#) to [135.414](#). In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors; (8) "Missouri small business", an independently owned and operated business as defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 CFR Part 121, which is headquartered in Missouri and which employs at least eighty percent of its employees in Missouri, except that no such small business shall employ more than one hundred employees. Such businesses must be involved in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, insurance or professional services. For the purpose of qualifying for the tax credit pursuant to sections [135.400](#) to [135.430](#), "Missouri small business" shall include cooperative marketing associations organized pursuant to chapter 274 which are engaged in the business of producing and marketing fuels derived from agriculture commodities, without regard for whether a cooperative marketing association has more than one hundred employees. Cooperative marketing associations organized pursuant to chapter 274 shall not be required to comply with the requirements of section [135.414](#); (9) "Primary employment", work which pays at least the minimum wage and which is not seasonal or part-time;

(10) "Principal owners", one or more persons who own an aggregate of fifty percent or more of the Missouri small business and who are involved in the operation of the business as a full-time professional activity;

(11) "Project", any commercial or industrial business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, unemployment or widespread reliance on public assistance which creates permanent primary employment opportunities;

(12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions of chapter 143, chapter 147, chapter 148, section [375.916](#), and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections [143.191](#) to [143.265](#) and related provisions;

(13) "Target area", a group of blocks or a self-defined neighborhood where the rate of poverty in the area is greater than twice the national poverty rate and as defined by the department of social services in conjunction with the department of economic development. Areas of the state satisfying the criteria of this subdivision may be designated as a "target area" following appropriate findings made and certified by the departments of economic development and social services. In making such findings, the departments of economic development and social services may use any commonly recognized records and statistical indices published or made available by any agency or instrumentality of the federal or state government. No area of the state shall be a target area until so certified by the department of social services and the revitalization plan submitted pursuant to section 208.335 has received approval.

(L. 1992 S.B. 661 & 620 § 8, A.L. 1994 H.B. 1547 & 961, A.L. 1995 H.B. 414, S.B. 445, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 S.B. 827, A.L. 2003 H.B. 289)

CROSS REFERENCE:

Annual report for tax credits, [320.092](#)

**Community development fund, creation, administration by development of economic development, expenditures.**

[135.401](#). There is hereby created in the state treasury a revolving fund to be administered by the department of economic development to be known as the "Community Development Fund". The fund shall consist of all moneys which may be appropriated to it by the general assembly, gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the fund shall be used for the programs and activities implemented by community development corporations to stimulate economic development in neighborhoods or communities. Notwithstanding the provisions of section [33.080](#), money in the fund at the end of any biennium shall not be transferred to the general revenue fund.

(L. 1996 H.B. 1237)

Effective 1-1-97

**Tax credit for qualified investment in Missouri small businesses and qualified investors in community banks or community development corporations--credit evidenced by certificate, limitation of amount of investment eligible for tax credit.**

[135.403](#). 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or, in the case of a qualified investment in a Missouri small business in a distressed community as defined by section [135.530](#), a credit equal to sixty percent of the amount of the investment, and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment. The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed thirteen million dollars and at least four million dollars of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities. Authorization for all or any part of this four-million-dollar amount shall in no way restrict the eligibility of Missouri small businesses in distressed communities, as defined in section [135.530](#), for the remaining amounts authorized within this section. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment shall be certified for any one project, as defined in section [135.400](#). The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections [135.400](#) to [135.430](#) and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any of the ten tax years thereafter. When the qualified small business is in a distressed community, as defined in section [135.530](#), the tax credit may also be used to satisfy the state tax liability of the owner of the certificate that was due during each of the previous three years in addition to the year in which the investment is made and any of the ten years thereafter. No investor may receive a tax credit pursuant to sections [135.400](#) to [135.430](#) unless that person presents a tax credit certificate to the department of revenue for payment of such state tax

liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section [32.115](#). Subject to the provisions of sections [135.400](#) to [135.430](#), certificates of tax credit issued in accordance with these sections may be transferred, sold or assigned by notarized endorsement thereof which names the transferee.

2. Five hundred thousand dollars in tax credits shall be available annually from the total amount of tax credits authorized by section [32.110](#) and subdivision (4) of subsection 2 of section [32.115](#) as a result of investments in community banks or community development corporations. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.

3. This section and section [620.1039](#) shall become effective January 1, 2001.

(L. 1992 S.B. 661 & 620 § 9 subsecs. 1, 2, A.L. 1994 H.B. 1547 & 961, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 H.B. 1656, A.L. 2000 S.B. 894 §§ [135.403](#), B)

Effective 1-1-01

(2002) Senate Bill 894 provision declared unconstitutional as a violation of the clear title requirement of Art. III, Section 23. Home Builders of Greater St. Louis v. State, 75 S.W.3d 267 (Mo.banc).

#### **Total tax credit minimum--maximum--not to limit other investments.**

[135.405](#). The total amount of tax credit evidenced by certificates of tax credit issued to or owned, directly or indirectly, by a single taxpayer authorized by the department who has invested in a Missouri small business shall be not less than one thousand five hundred dollars nor more than an aggregate of one hundred thousand dollars in any one business, except that this section shall not be interpreted to limit other investment. These limits shall not apply to investments in community banks or community development corporations or to investments in Missouri small businesses in distressed communities, as defined in section [135.530](#).

(L. 1992 S.B. 661 & 620 § 9 subsec. 3, A.L. 1994 H.B. 1547 & 961, A.L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 H.B. 1656)

Effective 1-1-99

#### **Qualified investment in a small business, requirements--to be eligible for tax credit--required purposes for investments.**

[135.408](#). A qualified investment in a Missouri small business may be made either through an unsecured loan or the purchase of equity or unsecured debt securities of such business. Investors in a small business qualifying for tax credits under the provisions of sections [135.400](#) to [135.430](#), however, must collectively own less than fifty percent of a business after their investments are made. Qualified investments in a Missouri small business must be expended for capital improvements, plant, equipment, research and development, or working capital for the business or such business activity as may be approved by the department.

(L. 1992 S.B. 661 & 620 § 9 subsec. 4, A.L. 1994 H.B. 1547 & 961)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Investment to remain in business for five years--failure to comply, repayment of tax credit.**

[135.411](#). The amount of the qualified investment made in a Missouri small business must remain in that business for a minimum of five years. Withdrawal of the investment prior to the minimum five-year period shall result in revocation of the tax credit, and repayment of any amounts of the tax credit already applied against the investor's state tax liability.

(L. 1992 S.B. 661 & 620 § 9 subsec. 5, A.L. 1994 H.B. 1248 & 1048)

**Requirements for business to be eligible for tax credit investments--ineligible persons or entities.**

[135.414](#). The business receiving the investment must have annual revenues of two million dollars or less determined as of the end of the most recent fiscal year and the operation of the business must be the full-time professional activity of the principal owner or owners, except full-time researchers or faculty members at public or private universities. The following persons or entities shall not be eligible for a credit against state tax liability under the provisions of sections [135.400](#) to [135.430](#):

- (1) The principal owner;
- (2) The spouse of the principal owner;
- (3) Any person related to the person specified in subdivision (1) or (2) of this section within the third degree of consanguinity or affinity; or
- (4) Any corporation, partnership, trust or other entity which is controlled, directly or indirectly, by any of the persons specified in subdivision (1), (2) or (3) of this section where fifty percent or more of the equity interest in any such entity is owned, directly or indirectly, by any of the persons specified in subdivision (1), (2) or (3) of this section.

(L. 1992 S.B. 661 & 620 § 9 subsec. 6, A.L. 1994 H.B. 1547 & 961, A.L. 1995 H.B. 414)

Effective 1-1-96

**Investment percentage required to be spent in Missouri.**

[135.416](#). All investments in Missouri small businesses for which tax credits are claimed under the provisions of sections [135.400](#) to [135.430](#) shall satisfy the conditions of being registered or specifically exempt from registration by provisions or regulations under chapter 409 that require a certain percentage of the investment to be used in Missouri.

(L. 1992 S.B. 661 & 620 § 10, A.L. 1994 H.B. 1547 & 961)

**Director of department of economic development, duties, certificate of tax credit--procedure to request.**

[135.420](#). The director shall be responsible for the administration and issuance of the certificates of tax credits authorized by sections [135.400](#) to [135.429](#). The director shall issue a certificate of tax credit at the request of any qualified investor. Each request shall include a true copy of the documents as defined by the administrative rules of the department. Each request shall be acknowledged under oath by the investor making the request for tax credits.

(L. 1992 S.B. 661 & 620 § 11)

Effective 1-1-93

**Revocation of tax credit, grounds for--procedures.**

[135.423](#). The department may revoke a tax credit certificate if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the state department of revenue.

(L. 1992 S.B. 661 & 620 § 12)

Effective 1-1-93

**Unused balance of tax credit--director to issue a new certificate for unused balance.**

[135.426](#). The Missouri department of revenue or secretary of state, whichever is applicable, shall accept a certificate of tax credit in lieu of other payment in such amount as is equal to the lesser of the amount of the tax or the remaining unused amount of the credit as indicated on the certificate of tax credit; and shall indicate on the certificate of tax credit the amount of tax thereby paid, the date of such payment, and the remainder of the unused credit available to the taxpayer after such payment. The certificate of the credit shall be returned to the director of the department of economic development. The director of the department of economic development shall issue a new certificate to the property owner for any unused balance.

(L. 1992 S.B. 661 & 620 § 13)

Effective 1-1-93

**Penalties and procedural matters how determined.**

[135.429](#). Except as otherwise specifically provided in sections [135.400](#) to [135.430](#), interest and penalty provisions and procedural matters under the provisions of sections [135.400](#) to [135.430](#) shall be determined pursuant to and in the manner prescribed in chapter 143, chapter 147, chapter 148, or chapter 153, whichever is applicable.

(L. 1992 S.B. 661 & 620 §§ 14, E, A.L. 1994 H.B. 1547 & 961)

## **Department of social services, rulemaking authority.**

[135.430](#). The department of social services shall promulgate such rules and regulations, pursuant to chapter 536 and section [660.017](#), as are necessary to define and certify target areas as defined in section [135.400](#). The department of economic development shall promulgate such rules and regulations, pursuant to chapter 536 and subsection 20 of section [620.010](#) as are necessary to implement the provisions of sections [135.400](#) to 135.440 after a target area has been defined and certified by the department of social services.

(L. 1994 H.B. 1547 & 961, A.L. 1995 H.B. 414 and S.B. 445)

## **Rulemaking authority, procedure.**

[135.432](#). 1. The department of economic development shall promulgate such rules and regulations as are necessary to implement the provisions of sections [135.400](#) to [135.430](#).

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the department shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the department shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to Section 8, Article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section [536.037](#). The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

(L. 1995 H.B. 414)

Effective 7-5-95

**Citation of law--tax credit, amount, claim, limitation--allowable programs--report--apportionment of credits--rulemaking authority.**

[135.460](#). 1. This section and sections [620.1100](#) and [620.1103](#) shall be known and may be cited as the "Youth Opportunities and Violence Prevention Act".

2. As used in this section, the term "taxpayer" shall include corporations as defined in section [143.441](#) or [143.471](#), any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, and individuals, individual proprietorships and partnerships.

3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), chapter 147, chapter 148, or chapter 153 in an amount equal to thirty percent for property contributions and fifty percent for monetary contributions of the amount such taxpayer contributed to the programs described in subsection 5 of this section, not to exceed two hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this section. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536. The provisions of this section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, including the ability to review, to delay the effective date,

or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

4. The tax credits allowed by this section shall be claimed by the taxpayer to offset the taxes that become due in the taxpayer's tax period in which the contribution was made. Any tax credit not used in such tax period may be carried over the next five succeeding tax periods.

5. The tax credit allowed by this section may only be claimed for monetary or property contributions to public or private programs authorized to participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

(6) Mentor and role model programs;

(7) Drug and alcohol abuse prevention training programs for youth;

(8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;

(9) Not-for-profit, private or public youth activity centers;

(10) Nonviolent conflict resolution and mediation programs;

(11) Youth outreach and counseling programs.

6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.

7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.

8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.

9. For the purposes of the credits described in this section, in the case of a corporation described in section [143.471](#), partnership, limited liability company described in section [347.015](#), cooperative, marketing enterprise, or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:

- (1) The shareholders of the corporation described in section [143.471](#);
- (2) The partners of the partnership;
- (3) The members of the limited liability company; and
- (4) Individual members of the cooperative or marketing enterprise.

Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

(L. 1995 H.B. 174, et al. §§ 11, 12, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

### **Rebuilding communities and neighborhood preservation act cited.**

[135.475](#). Sections [135.475](#) to [135.487](#) shall be known and may be cited as the "Rebuilding Communities and Neighborhood Preservation Act".

(L. 1999 S.B. 20 § 1)

Effective 1-1-00

### **Definitions.**

[135.478](#). As used in sections [135.481](#) to [135.487](#), the following terms mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;
- (3) "Distressed community", as defined in section [135.530](#);
- (4) "Eligible costs for a new residence", expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services

and construction and all other necessary and incidental expenses incurred for constructing a new market rate residence, which is or will be owner-occupied, which is not replacing a national register listed or local historic structure; except that, costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;

(5) "Eligible costs for rehabilitation", expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable loans other than tax credits provided pursuant to state or federal governmental programs are ineligible;

(6) "Eligible residence", a single-family residence forty years of age or older, located in this state and not within a distressed community as defined by section [135.530](#), which is occupied or intended to be or occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a nonmetropolitan area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the nonmetropolitan areas in the state;

(7) "Flood plain", any land or area susceptible to being inundated by water from any source or located in a one hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

(8) "New residence", a residence constructed on land which if located within a distressed community has either been vacant for at least two years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in subdivision (6) or (10) of this section, either replaces a residence forty years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty continuous years as residential or utility, commercial, railroad or other real property pursuant to Article X, Section 4(b) of the Missouri Constitution, as defined in section [137.016](#); except that, no new residence shall be constructed in a flood plain or on property used for agricultural purposes. In a distressed community, the term "new residence" shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple unit structures;

(9) "Project", new construction, rehabilitation or substantial rehabilitation of a residence that qualifies for a tax credit pursuant to sections [135.475](#) to [135.487](#);

(10) "Qualifying residence", a single-family residence, forty years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is located in a metropolitan statistical area or

nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

(11) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided that, the structure is at least fifty years old notwithstanding any provision of sections [135.475](#) to [135.487](#) to the contrary;

(12) "Tax liability", the tax due pursuant to chapter 143, 147 or 148, other than taxes withheld pursuant to sections [143.191](#) to [143.265](#);

(13) "Taxpayer", any person, partnership, corporation, trust, limited liability company, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

(L. 1999 S.B. 20 § 2, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

#### **Taxpayers incurring eligible costs entitled to tax credit, amount, qualifications.**

[135.481](#). 1. (1) Any taxpayer who incurs eligible costs for a new residence located in a distressed community or within a census block group as described in subdivision (10) of section [135.478](#), or for a multiple unit condominium described in subdivision (2) of this subsection, shall receive a tax credit equal to fifteen percent of such costs against his or her tax liability. The tax credit shall not exceed forty thousand dollars per new residence in any ten-year period.

(2) For the purposes of this section, a "multiple unit condominium" is one that is intended to be owner occupied, which is constructed on property subject to an industrial development contract as defined in section [100.310](#) and which lies within an area with a city zoning classification of urban redevelopment district established after January 1, 2000, and before December 31, 2001, and which is constructed in connection with the qualified rehabilitation of a structure more than ninety years old eligible for the historic structures rehabilitation tax credit described in sections [253.545](#) to [253.559](#), and is under way by January 1, 2000, and completed by January 1, 2002.

2. Any taxpayer who incurs eligible costs for a new residence located within a census block as described in subdivision (6) of section [135.478](#) shall receive a tax credit equal to fifteen percent of such costs against his or her tax liability. The tax credit shall not exceed twenty-five thousand dollars per new residence in any ten-year period.

3. Any taxpayer who is not performing substantial rehabilitation and who incurs eligible costs for rehabilitation of an eligible residence or a qualifying residence shall receive a tax credit equal to

twenty-five percent of such costs against his or her tax liability. The minimum eligible costs for rehabilitation of an eligible residence shall be ten thousand dollars. The minimum eligible costs for rehabilitation of a qualifying residence shall be five thousand dollars. The tax credit shall not exceed twenty-five thousand dollars in any ten-year period.

4. Any taxpayer who incurs eligible costs for substantial rehabilitation of a qualifying residence shall receive a tax credit equal to thirty-five percent of such costs against his or her tax liability. The minimum eligible costs for substantial rehabilitation of a qualifying residence shall be ten thousand dollars. The tax credit shall not exceed seventy thousand dollars in any ten-year period.

5. A taxpayer shall be eligible to receive tax credits for new construction or rehabilitation pursuant to only one subsection of this section.

6. No tax credit shall be issued pursuant to this section for any structure which is in violation of any municipal or county property, maintenance or zoning code.

7. No tax credit shall be issued pursuant to sections [135.475](#) to [135.487](#) for the construction or rehabilitation of rental property.

(L. 1999 S.B. 20 § 3, A.L. 2000 H.B. 1238)

#### **Limitation on available tax credits, allocation of available credits.**

[135.484](#). 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section [135.481](#) in an amount not to exceed sixteen million dollars per year. Of this total amount of tax credits in any given year, eight million dollars shall be set aside for projects in areas described in subdivision (6) of section [135.478](#) and eight million dollars for projects in areas described in subdivision (10) of section [135.478](#). The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community shall not exceed three million dollars.

2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and the value of the credit.

3. The tax credits allowed pursuant to sections [135.475](#) to [135.487](#) may not be claimed in addition to any other state tax credits, with the exception of the historic structures rehabilitation tax credit authorized pursuant to sections [253.545](#) to [253.559](#), which insofar as sections [135.475](#) to [135.487](#) are concerned may be claimed only in conjunction with the tax credit allowed pursuant to subsection 4 of section [135.481](#). In order for a taxpayer eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to subsection 4 of section [135.481](#), the taxpayer must comply with the requirements of sections [253.545](#) to [253.559](#), and in such cases, the amount of the tax credit pursuant to subsection 4 of section [135.481](#) shall be limited to the lesser of twenty percent of the taxpayer's eligible costs or forty thousand dollars.

(L. 1999 S.B. 20 § 4, A.L. 2000 S.B. 894)

(2002) Senate Bill 894 provision declared unconstitutional as a violation of the clear title requirement of Art. III, Section 23. Home Builders of Greater St. Louis v. State, 75 S.W.3d 267 (Mo.banc).

**Procedure for application for tax credit--department of economic development may cooperate with political subdivisions to determine eligibility--department to conduct annual program evaluation.**

[135.487](#). 1. To obtain any credit allowed pursuant to sections [135.475](#) to [135.487](#), a taxpayer shall submit to the department, for preliminary approval, an application for tax credit. The director shall, upon final approval of an application and presentation of acceptable proof of substantial completion of construction, issue the taxpayer a certificate of tax credit. The director shall issue all credits allowed pursuant to sections [135.475](#) to [135.487](#) in the order the applications are received. In the case of a taxpayer other than an owner-occupant, the director shall not delay the issuance of a tax credit pursuant to sections [135.475](#) to [135.487](#) until the sale of a residence at market rate for owner-occupancy. A taxpayer, taxpayer other than an owner-occupant who receives a certificate of tax credit pursuant to sections [135.475](#) to [135.487](#) shall, within thirty days of the date of the sale of a residence, furnish to the director satisfactory proof that such residence was sold at market rate for owner-occupancy. If the director reasonably determines that a residence was not in good faith intended for long-term owner occupancy, the director make revoke any tax credits issued and seek recovery of any tax credits issued pursuant to section [620.017](#).

2. The department may cooperate with a municipality or a county in which a project is located to help identify the location of the project, the type and eligibility of the project, the estimated cost of the project and the completion date of the project.

3. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of sections [135.475](#) to [135.487](#). No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The department shall conduct annually a comprehensive program evaluation illustrating where the tax credits allowed pursuant to sections [135.475](#) to [135.487](#) are being utilized, explaining the economic impact of such program and making recommendations on appropriate program modifications to ensure the program's success.

(L. 1999 S.B. 20 § 5)

Effective 1-1-00

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Eligible small business to receive tax credit for efforts to comply with Americans With Disabilities Act, amount--joint administration of tax credit.**

[135.490](#). 1. In order to encourage and foster community improvement, an eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit not to exceed five thousand dollars against the tax otherwise due pursuant to chapter 143, not including sections [143.191](#) to [143.265](#), in an amount equal to fifty percent of all eligible access expenditures exceeding the monetary cap provided by Section 44 of the Internal Revenue Code. For purposes of this section, "eligible access expenditures" means amounts paid or incurred by the taxpayer in order to comply with applicable access requirements provided by the Americans With Disabilities Act of 1990, as further defined in Section 44 of the Internal Revenue Code and federal rulings interpreting Section 44 of the Internal Revenue Code.

2. The tax credit allowed by this section shall be claimed by the taxpayer at the time such taxpayer files a return. Any amount of tax credit which exceeds the tax due shall be carried over to any subsequent taxable year, but shall not be refunded and shall not be transferable.

3. The director of the department of economic development and the director of the department of revenue shall jointly administer the tax credit authorized by this section. Both the director of the department of economic development and the director of the department of revenue are authorized to promulgate rules and regulations necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The provisions of this section shall become effective on January 1, 2000, and shall apply to all taxable years beginning after December 31, 1999.

(L. 1999 H.B. 516 § 1 merged with S.B. 20 § 6, A.L. 2001 H.B. 590)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements [135.800](#) to [135.830](#)

#### **Title of law--definitions.**

[135.500](#). 1. Sections [135.500](#) to [135.529](#) shall be known and may be cited as the "Missouri Certified Capital Company Law".

2. As used in sections [135.500](#) to [135.529](#), the following terms mean:

(1) "Affiliate of a certified company":

(a) Any person, directly or indirectly owning, controlling or holding power to vote ten percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person ten percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, controlled or held with power to vote by the Missouri certified capital company;

(c) Any person directly or indirectly controlling, controlled by, or under common control with the Missouri certified capital company;

- (d) A partnership in which the Missouri certified capital company is a general partner;
- (e) Any person who is an officer, director or agent of the Missouri certified capital company or an immediate family member of such officer, director or agent;
- (2) "Applicable percentage", one hundred percent;
- (3) "Capital in a qualified Missouri business", any debt, equity or hybrid security, of any nature and description whatsoever, including a debt instrument or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants which are acquired by a Missouri certified capital company or a qualified investing entity as a result of a transfer of cash to a business;
- (4) "Certified capital", an investment of cash by an investor in a Missouri certified capital company;
- (5) "Certified capital company", any partnership, corporation, trust or limited liability company, whether organized on a profit or not-for-profit basis, that is located, headquartered and registered to conduct business in Missouri that has as its primary business activity, the investment of cash in qualified Missouri businesses, and which is certified by the department as meeting the criteria of sections [135.500](#) to [135.529](#);
- (6) "Department", the Missouri department of economic development;
- (7) "Director", the director of the department of economic development or a person acting under the supervision of the director;
- (8) "Investor", any insurance company that contributes cash;
- (9) "Liquidating distribution", payments to investors or to the certified capital company from earnings;
- (10) "Person", any natural person or entity, including a corporation, general or limited partnership, trust, limited liability company, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;
- (11) "Qualified distribution", any distribution or payment to equity holders of a certified capital company in connection with the following:
  - (a) Reasonable costs and expenses of forming, syndicating, managing and operating the certified capital company;
  - (b) Management fees for managing and operating the certified capital company; and
  - (c) Any increase in federal or state taxes, penalties and interest, including those related to state and federal income taxes, of equity owners of a certified capital company which related to the ownership, management or operation of a certified capital company;

(12) "Qualified investing entity", any partnership, corporation, trust, or limited liability company, whether organized on a for-profit or not-for-profit basis, that:

(a) Is registered to do business in this state;

(b) Is a wholly owned subsidiary of a certified capital company or otherwise affiliated with and under common control with a certified capital company; and

(c) Has been designated as a qualified investing entity by such certified capital company. Such designation shall be effective upon delivery by the certified capital company of written notice of the designation to the department. A qualified investing entity may raise debt or equity capital for investment, but such capital shall not be considered certified capital. Any qualified investment made by a qualified investing entity after the effective date of this act shall be deemed to have been made by a certified capital company that designated the qualified investing entity as such; provided that no qualified investment may be deemed to have been made by more than one certified capital company;

(13) "Qualified investment", the investment of cash by a Missouri certified capital company or a qualified investing entity in such a manner as to acquire capital in a qualified Missouri business;

(14) "Qualified Missouri business", an independently owned and operated business, which is headquartered and located in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business shall have no more than two hundred employees, eighty percent of which are employed in Missouri. Such business shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians. At the time a certified capital company or qualified investing entity makes an initial investment in a business, such business shall be a small business concern that meets the requirements of the United States Small Business Administration's qualification size standards for its venture capital program, as defined in Section 13 CFR 121.301(c) of the Small Business Investment Act of 1958, as amended. Any business which is classified as a qualified Missouri business at the time of the first investment in such business by a Missouri certified capital company or qualified investing entity shall, for a period of seven years from the date of such first investment, remain classified as a qualified Missouri business and may receive follow-on investments from any Missouri certified capital company or qualified investing entity and such follow-on investments shall be qualified investments even though such business may not meet the other qualifications of this subsection at the time of such follow-on investments;

(15) "State premium tax liability", any liability incurred by an insurance company pursuant to the provisions of section [148.320](#), [148.340](#), [148.370](#) or [148.376](#), and any other related provisions, which may impose a tax upon the premium income of insurance companies after January 1, 1997.

(L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 2003 H.B. 289, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

**Amount of credit, how calculated, reduction--insurance companies not required to pay retaliatory tax, when--carry forward--limitation on amounts of certified capital, allocation of certified capital--notification of limitation.**

[135.503](#). 1. Any investor that makes an investment of certified capital shall, in the year of investment, earn a vested credit against state premium tax liability equal to the applicable percentage of the investor's investment of certified capital. An investor shall be entitled to take up to ten percent of the vested credit in any taxable year of the investor. Any time after three years after August 28, 1996, the director, with the approval of the commissioner of administration, may reduce the applicable percentage on a prospective basis. Any such reduction in the applicable percentage by the director shall not have any effect on credits against state premium tax liability which have been claimed or will be claimed by any investor with respect to credits which have been earned and vested pursuant to an investment of certified capital prior to the effective date of any such change.

2. An insurance company claiming a state premium tax credit earned through an investment in a certified capital company shall not be required to pay any additional retaliatory tax levied pursuant to section [375.916](#) as a result of claiming such credit.

3. The credit against state premium tax liability which is described in subsection 1 of this section may not exceed the state premium tax liability of the investor for any taxable year. All such credits against state premium tax liability may be carried forward indefinitely until the credits are utilized. The maximum amount of certified capital in one or more certified capital companies for which earned and vested tax credits will be allowed in any year to any one investor or its affiliates shall be limited to ten million dollars.

4. Except as provided in subsection 5 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for all persons pursuant to sections [135.500](#) to [135.529](#) shall not exceed the following amounts: for calendar year 1996, \$0.00; for calendar year 1997, an amount which would entitle all Missouri certified capital company investors to take aggregate credits of five million dollars; and for any year thereafter, an additional amount to be determined by the director but not to exceed aggregate credits of ten million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section [33.282](#), provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years to take them, pursuant to subsection 1 of this section. During any calendar year in which the limitation described in this subsection will limit the amount of certified capital for which earned and vested credits against state premium tax liability are allowed, certified capital for which credits are allowed will be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section [135.516](#). Certified capital limited in any calendar year by the application of the provisions of this subsection shall be allowed and allocated in the immediately succeeding calendar year in the order of priority set forth in this subsection. The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 5 of this section.

5. In addition to the maximum amount pursuant to subsection 4 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for persons pursuant to sections [135.500](#) to [135.529](#) shall be the following: for calendar year 1999 and for any year thereafter, an amount to be determined by the director which would entitle all Missouri certified capital company investors to take aggregate credits not to exceed four million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section [33.282](#), provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years or pursuant to the provisions of subsection 4 of this section to take them, pursuant to subsection 1 of this section. For purposes of any requirement regarding the schedule of qualified investments for certified capital for which earned and vested credits against state premium tax liability are allowed pursuant to this subsection only, the definition of a "qualified Missouri business" as set forth in subdivision (14) of subsection 2 of section [135.500](#) means a Missouri business that is located in a distressed community as defined in section [135.530](#), and meets all of the requirements of subdivision (14) of subsection 2 of section [135.500](#). During any calendar year in which the limitation described in this subsection limits the amount of additional certified capital for which earned and vested credits against state premium tax liability are allowed, additional certified capital for which credits are allowed shall be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section [135.516](#) with respect to such additional certified capital. The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 4 of this section. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to subsection 4 of this section shall limit the amount of certified capital for which credits are allowed pursuant to this subsection. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to this subsection shall limit the amount of certified capital for which credits are allowed pursuant to subsection 4 of this section.

6. The department shall advise any Missouri certified capital company, in writing, within fifteen days after receiving the filing described in subdivision (1) of subsection 5 of section [135.516](#) whether the limitations of subsection 3 of this section then in effect will be applicable with respect to the investments and credits described in such filing with the department.

(L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 H.B. 1656, A.L. 2003 H.B. 289)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

#### **Funding period.**

[135.505](#). A Missouri certified capital company shall have a funding period of one year from the date of receiving certification from the director. All investments in the Missouri certified capital company shall be made within such three hundred sixty-five-day funding period.

(L. 1996 H.B. 1237)

Effective 1-1-97

**Certification of profit or not-for-profit entities--limitation on insurance companies, management or direction of certified capital company--seventy-five days to issue or refuse certification--responsibility for administration of tax credits--rulemaking authority.**

[135.508](#). The department may certify profit or not-for-profit entities which submit an application to be designated as a Missouri certified capital company. The department shall review the organizational documents for each applicant for certification and the business history of the applicant, determine that the Missouri certified capital company's cash, marketable securities and other liquid assets are at least five hundred thousand dollars, determine that the liquid asset base for certified companies is at least five hundred thousand dollars at all times during the company's participation in the program authorized by sections [135.500](#) to [135.529](#), and determine that the officers and the board of directors, partners, trustees or managers are thoroughly acquainted with the requirements of sections [135.500](#) to [135.529](#). No insurance company which receives tax credits permitted under sections [135.500](#) to [135.529](#) for an investment in a Missouri certified capital company shall, individually or with or through one or more affiliates, be a managing general partner of or control the direction of investments of that Missouri certified capital company. Within seventy-five days of application, the department shall either issue the certification and notify the department of revenue and the director of the department of insurance, financial institutions and professional registration of such certification or shall refuse the certification and communicate in detail to the applicant the grounds for the refusal, including the suggestions for the removal of those grounds. The department shall be responsible for the administration of the tax credits authorized by sections [135.500](#) to [135.529](#). No rule or portion of a rule promulgated under the authority of sections [135.500](#) to [135.529](#) shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536. The provisions of this section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

(L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1)

Effective 12-23-97

**Schedule of qualified investments--qualified distributions, when, requirements--qualified investment cost limit--company documents as closed records, when--company report to department of economic development.**

[135.516](#). 1. To continue to be certified, a Missouri certified capital company shall make qualified investments according to the following schedule:

(1) Within two years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least twenty-five percent of its certified capital shall be, or have been, placed in qualified investments;

(2) Within three years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least forty percent of its certified capital shall be, or have been, placed in qualified investments;

(3) Within four years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company, at least fifty percent of its total certified capital shall be, or have been, placed in qualified investments. A Missouri certified capital company may not make an investment in an affiliate of the certified capital company. For the purposes of this subsection, if a legal entity is not an affiliate before a certified capital company initially invests in the entity, it will not be an affiliate if a certified capital company provides additional investment in such entity subsequent to its initial investment;

(4) A certified capital company, at least fifteen working days prior to making what it determines to be an initial qualified investment in a specific qualified Missouri business, shall certify to the department that the company in which it or a qualified investing entity proposes to invest is a qualified Missouri business. The certified capital company shall state the amount of capital it or a qualified investing entity intends to invest and the name of the business in which it or a qualified investing entity intends to invest. The certified capital company shall also provide to the department an explanation of its determination that the business meets the definition of a qualified Missouri business. If the department determines that the business does not meet the definition of a qualified Missouri business, it shall, within the fifteen-working-day period prior to the making of the proposed investment, notify the certified capital company of its determination and an explanation thereof. If the department fails to notify the certified capital company with respect to the proposed investment within the fifteen-working-day period prior to the making of the proposed investment, the company in which the certified capital company or a qualified investing entity proposes to invest shall be deemed to be a qualified Missouri business. If a certified capital company fails to notify the department prior to making an initial investment in a business, the department may subsequently determine that the business in which the certified capital company or a qualified investing entity invested was not a qualified Missouri business even though the business, at the time of the investment, met the requirements of subdivision (15) of subsection 2 of section [135.500](#);

(5) All certified capital which is not required to be placed in qualified investments or which has been placed in qualified investments and can be received by the company, may be held or invested in such manner as the Missouri certified capital company, in its discretion, deems appropriate. The proceeds of all certified capital which is received by a certified capital company after it was originally placed in qualified investments may be placed again in qualified investments and shall count toward any requirement in sections [135.500](#) to [135.529](#) with respect to placing certified capital in qualified investments.

2. A certified capital company may make qualified distributions at any time. In order to make distributions, other than qualified distributions, a certified capital company must have made

cumulative qualified investments, including those made through a qualified investing entity, in an amount cumulatively equal to at least one hundred percent of its certified capital. Cumulative distributions to equity holders, other than qualified distributions, in excess of the certified capital company's original certified capital and any additional capital contributions to the certified capital company shall be subject to audit by a nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company. The audit shall determine whether aggregate cumulative distributions to all investors and equity holders, other than qualified distributions, when combined with all tax credits utilized by investors pursuant to sections [135.500](#) to [135.529](#), have resulted in an annual internal rate of return of fifteen percent computed on the sum of total original certified capital of the certified capital company and any additional capital contributions to the certified capital company. Twenty-five percent of distributions made, other than qualified distributions, in excess of the amount required to produce a fifteen percent annual internal rate of return, as determined by the audit, shall be payable by the certified capital company to the Missouri development finance board. Distributions or payments to debt holders of a certified capital company, however, may be made without restriction with respect to debt owed to them by a certified capital company. A debt holder that is also an investor or equity holder of a certified capital company may receive distributions or payments with respect to such debt without restriction.

3. No qualified investment may be made at a cost to a Missouri certified capital company greater than fifteen percent of the total certified capital under management of the Missouri certified capital company at the time of investment.

4. Documents and other materials submitted by Missouri certified capital companies or by businesses for purposes of the continuance of certification may be deemed "closed records" pursuant to the provisions of section [620.014](#).

5. Each Missouri certified capital company shall report the following to the department:

(1) As soon as practicable after the receipt of certified capital, the name of each investor from which the certified capital was received, the amount of each investor's investment of certified capital and tax credits computed without regard to any limitations under subsection 3 of section [135.503](#), and the date on which the certified capital was received;

(2) On a quarterly basis, the amount of the Missouri certified capital company's certified capital at the end of the quarter, whether or not the Missouri certified capital company has invested, together with any investments made by a qualified investing entity that are deemed to have been made by the certified capital company, more than fifteen percent of the total certified capital under management in any one company, and all qualified investments that the Missouri certified capital company has made or has been deemed to have been made through a qualified investing entity;

(3) Each Missouri certified capital company shall provide annual audited financial statements to the department which include an opinion of an independent certified public accountant to the department within ninety days of the close of the fiscal year. At the same time, the certified capital company shall also provide audited financial statements for any qualified investing entity that has made qualified investments on its behalf, unless the financial results of such qualified investing entity

are included in the consolidated financial statements of the certified capital company. The audit shall address the methods of operation and conduct of the business of the Missouri certified capital company to determine if the Missouri certified capital company is complying with the statutes and program rules and that the funds received by the Missouri certified capital company have been invested as required within the time limits provided by sections [135.500](#) to [135.529](#).

(L. 1996 H.B. 1237, A.L. 1997 2d Ex. Sess. S.B. 1, A.L. 2003 H.B. 289)

#### **Qualified investments, requirements.**

[135.517](#). In order for investments of a qualifying investing entity to be counted as qualified investments pursuant to sections [135.500](#) to [135.529](#), each such investment of a qualifying investing entity must have received prior approval from the department.

(L. 2003 H.B. 289)

#### **Annual review by division of finance, report findings--decertification, grounds, notice of noncompliance--notice of decertification, decertification.**

[135.520](#). 1. The division of finance shall conduct an annual review of each Missouri certified capital company and any qualified investing entities designated by it to determine if the Missouri certified capital company is abiding by the requirements of certifications, to advise the Missouri certified capital company as to the certification status of its qualified investments and to ensure that no investment has been made in violation of sections [135.500](#) to [135.529](#). The cost of the annual review shall be paid by each Missouri certified capital company according to a reasonable fee schedule adopted by the department. The division of finance shall report its findings to the department as soon as practicable following completion of the audit.

2. Any material violation of sections [135.500](#) to [135.529](#) shall be grounds for decertification under this section. If the department determines that a company is not in compliance with any requirements for continuing in certification, it shall, by written notice, inform the officers of the company and the board of directors, managers, trustees or general partners that they may be decertified in one hundred twenty days from the date of mailing of the notice, unless they correct the deficiencies and are again in compliance with the requirements for certification.

3. At the end of the one hundred twenty-day grace period, if the Missouri certified capital company is still not in compliance, the department may send a notice of decertification to the company and to the directors of the department of revenue and department of insurance, financial institutions and professional registration. Decertification of a Missouri certified capital company prior to the certified capital company meeting all requirements of subdivisions (1) to (3) of subsection 1 of section [135.516](#) shall cause the recapture of all premium tax credits previously claimed by an investor and the forfeiture of all future credits to be claimed by an investor with respect to its investment in the certified capital company. Decertification of a Missouri certified capital company after it has met all requirements of subdivisions (1) to (3) of subsection 1 of section [135.516](#) shall cause the forfeiture of premium tax credits for the taxable year of the investor in which the decertification arose and for future taxable years with no recapture of tax credits obtained by an

investor with respect to the investor's tax years which ended before the decertification occurred. Once a certified capital company has made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least one hundred percent of its certified capital, all future premium tax credits to be claimed by investors with respect to said certified capital company pursuant to sections [135.500](#) to [135.529](#) shall be nonforfeitable. Once a certified capital company has made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least one hundred percent of its certified capital and has met all other requirements under sections [135.500](#) to [135.529](#), it shall no longer be subject to regulation by the department except with respect to the payment of distributions to the Missouri development finance board.

(L. 1996 H.B. 1237, A.L. 2003 H.B. 289, A.L. 2008 S.B. 788)

#### **Certification revocation, application misrepresentations.**

[135.523](#). The department may revoke the certification of a Missouri certified capital company if any material representation to the department in connection with the application process proves to have been falsely made or if the application materially violates any requirement established by the department pursuant to sections [135.500](#) to [135.529](#).

(L. 1996 H.B. 1237)

Effective 1-1-97

#### **Registration of investments.**

[135.526](#). All investments for which tax credits are claimed under the provisions of sections [135.500](#) to [135.529](#) shall satisfy the conditions of being registered or specifically exempt from registration by provisions or regulations under chapter 409.

(L. 1996 H.B. 1237)

Effective 1-1-97

#### **Sale or transfer of credit--rulemaking authority--administrative review.**

[135.529](#). 1. The tax credit established pursuant to sections [135.500](#) to [135.529](#) may be sold or transferred in accordance with regulations adopted by the department. Any such sale or transfer shall not affect the time schedule for taking the tax credit, as provided in sections [135.500](#) to [135.529](#). Any premium tax credits recaptured pursuant to section [135.520](#) shall be the liability of the taxpayer which actually claimed the credit. In approving the sale or transfer of the credit pursuant to this section, the department may require the transferor or the transferee or both the transferor and the transferee to execute guarantees or post bonds with respect to any potential credit recapture.

2. No rule or portion of a rule promulgated under the authority of sections [135.500](#) to [135.529](#) shall become effective unless it has been promulgated pursuant to the

provisions of chapter 536. The department shall make and promulgate emergency rules and regulations consistent with the provisions of sections [135.500](#) to [135.529](#) as are necessary or useful to carry out the provisions of sections [135.500](#) to [135.529](#), pursuant to section [536.025](#).

3. Every final order, decision, license or other official act of the director pursuant to sections [135.500](#) to [135.529](#) is subject to administrative review in accordance with chapter 621.

(L. 1996 H.B. 1237)

Effective 1-1-97

### **Distressed community defined.**

[135.530](#). For the purposes of sections [100.010](#), [100.710](#), [100.850](#), [135.110](#), [135.200](#), [135.258](#), [135.313](#), [135.403](#), [135.405](#), [135.503](#), [135.530](#), [135.545](#), [215.030](#), [348.300](#), [348.302](#), and 620.1400 to 620.1460\*, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred with each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five. In metropolitan statistical areas, the definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 1986, but shall not include expansions of such state enterprise zones done after March 16, 1988.

(L. 1998 H.B. 1656, A.L. 1999 S.B. 20, A.L. 2004 S.B. 1155, A.L. 2010 H.B. 1965)

Effective 4-01-11, see § [135.204](#)

\*Sections 620.1400 to 620.1460 were repealed by S.B. 1155, 2004.

**Tax credit for relocating a business to a distressed community, approval by department of economic development, application--employees eligible to receive credit--credit forexpenditures on equipment--transfer of certificate of credit--maximum amount allowed, credit carriedover--limitations--tax credit for existing business in a distressed community which hires new employees, conditions and types of businesses eligible.**

135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, including internet, web hosting, and other information technology, wireless or wired or other telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, other than taxes withheld pursuant to sections 143.191 to 143.265, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, shall assign appropriate North American Industry Classification System numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, other than the taxes withheld pursuant to sections 143.191 to 143.265, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development

expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the next five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining

agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section [135.110](#), or the tax credits, exemptions, and refund otherwise allowed in sections [135.200](#), [135.220](#), [135.225](#) and [135.245](#), respectively, for the same business for the same tax period.

(L. 1998 H.B. 1656, A.L. 1999 H.B. 701 and S.B. 20, A.L. 2005 S.B. 343, A.L. 2007 H.B. 741, A.L. 2013 S.B. 20, 15 & 19)

Effective 3-29-13

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Tax credit for investing in the transportation development of adistressed community-- approval of investment by economicdevelopment, credit carried forward, transfer of certificate ofcredit, maximum amount allowed.**

[135.545](#). A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, 147 or 148 in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section [135.530](#), and which are part of a development plan approved by the appropriate local agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of date received. A taxpayer may carry forward any unused tax credit for up to ten years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee. The tax credits allowed pursuant to this section shall be for an amount of no more than ten million dollars for each year. This credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999. Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed. For purposes of this section, a "taxpayer" shall include any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

(L. 1998 H.B. 1656, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Tax credits for investing in the transportation development of adistressed community prohibited, when.**

[135.546](#). For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under section [135.545](#); if an organization has been allocated credits for contribution-based credits prior to January 1, 2005, the organization may issue such credits prior to January 1, 2007, for qualified contributions.

(L. 2004 S.B. 1155)

**Definitions--tax credit, amount--limitations--director of socialservices determinations, classification of shelters--effectivedate.**

[135.550](#). 1. As used in this section, the following terms shall mean: (1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property; (2) "Shelter for victims of domestic violence", a facility located in this state which meets the definition of a shelter for victims of domestic violence pursuant to section [455.200](#) and which meets the requirements of section [455.220](#); (3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections [143.191](#) to [143.265](#) and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143; (4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 143.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter for victims of domestic violence.

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

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's

contribution or contributions to a shelter or shelters for victims of domestic violence in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as shelters for victims of domestic violence. The director of the department of social services may require of a facility seeking to be classified as a shelter for victims of domestic violence whatever information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a shelter for victims of domestic violence if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a shelter for victims of domestic violence, and by which such taxpayer can then contribute to such shelter for victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic violence in any one fiscal year shall not exceed two million dollars.

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as shelters for victims of domestic violence. If a shelter for victims of domestic violence fails to use all, or some percentage to be determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those shelters for victims of domestic violence that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

(L. 1997 H.B. 491, A.L. 1999 H.B. 548 merged with S.B. 159, A.L. 2006 S.B. 614, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Principal dwellings, tax credit for renovations for disability access.**

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of one hundred percent of such costs or two thousand five hundred dollars per taxpayer, per tax year.

2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand five hundred dollars per taxpayer per tax year. No taxpayer shall be eligible to receive tax credits under this section in any tax year immediately following a tax year in which such taxpayer received tax credits under the provisions of this section.

3. Tax credits issued pursuant to this section may be refundable in an amount not to exceed two thousand five hundred dollars per tax year.

4. Eligible costs for which the credit may be claimed include:

- (1) Constructing entrance or exit ramps;
- (2) Widening exterior or interior doorways;
- (3) Widening hallways;
- (4) Installing handrails or grab bars;
- (5) Moving electrical outlets and switches;
- (6) Installing stairway lifts;
- (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- (8) Modifying hardware of doors; or
- (9) Modifying bathrooms.

5. The tax credits allowed, including the maximum amount that may be claimed, pursuant to this section shall be reduced by an amount sufficient to offset any amount of such costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to the extent such taxpayer has applied any other state or federal income tax credit to such costs.

6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the credit is issued, and at the time such taxpayer files his or her Missouri income tax return; provided that such return is timely filed.

7. The department may, in consultation with the department of social services, promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion

of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The provisions of this section shall apply to all tax years beginning on or after January 1, 2008.

9. The provisions of this section shall expire December 31, 2019, unless reauthorized by the general assembly. This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

10. In no event shall the aggregate amount of all tax credits allowed pursuant to this section exceed one hundred thousand dollars in any given fiscal year. The tax credits issued pursuant to this section shall be on a first-come, first-served filing basis.

(L. 2007 H.B. 741, A.L. 2013 S.B. 20, 15 & 19)

Effective 3-29-13

Sunset date 12-31-19

Termination date 9-01-20

**Definitions--tax credit, amount--limitations--director of revenue,rules--sunset provision.**

[135.575](#). 1. As used in this section, the following terms mean: (1) "Missouri health care access fund", the fund created in section [191.1056](#); (2) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#); (3) "Taxpayer", any individual subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#).

2. The provisions of this section shall be subject to section [33.282](#). For all taxable years beginning on or after January 1, 2007, a taxpayer shall be allowed a tax credit for donations in excess of one hundred dollars made to the Missouri health care access fund. The tax credit shall be subject to annual approval by the senate appropriations committee and the house budget committee. The tax credit amount shall be equal to one-half of the total donation made, but shall not exceed twenty-five thousand dollars per taxpayer claiming the credit. If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed, the difference shall not be refundable but may be carried forward to any of the taxpayer's next four taxable years. No tax credit granted under this section shall be transferred, sold, or

assigned. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed one million dollars.

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

4. Pursuant to section [23.253](#) of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

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

(L. 2007 S.B. 577)

Sunset date 8-28-13

Termination date 9-01-14

**Definitions--tax credit, amount--limitations--director of socialservices determinations, classification of maternityhomes--effective date--no new credits issued, when.**

[135.600](#). 1. As used in this section, the following terms shall mean:

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

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

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

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

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

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

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

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

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

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

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as maternity homes. If a maternity home fails to use all, or some percentage to be determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those maternity homes that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of

social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

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

(L. 1997 H.B. 491, A.L. 1999 H.B. 548 merged with S.B. 159, A.L. 2007 1st Ex. Sess H.B. 1, A.L. 2014 H.B. 1132)

\*Effective 10-10-14, see § [21.250](#). H.B. 1132 was vetoed July 9, 2014. The veto was overridden on September 10, 2014.

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

**Tax credit for contributions to pregnancy resource centers, definitions--amount--limitations--determination of qualifying centers--cumulative amount of credits--apportionment procedure, reapportionment of credits--identity of contributors provided to director, confidentiality--sunset provision.**

[135.630](#). 1. As used in this section, the following terms mean:

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

(2) "Director", the director of the department of social services;

(3) "Pregnancy resource center", a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

(c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and

(d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and

(e) Which provides its services at no cost to its clients; and

(f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and

(g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 1986, as amended;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections [143.191](#) to [143.265](#) and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, excluding sections [143.191](#) to [143.265](#) and related provisions;

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

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

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

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

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

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

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

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

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

8. Each pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section [32.057](#) relating to the disclosure of tax information.

9. Pursuant to section [23.253](#) of the Missouri sunset act:

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

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

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

(L. 2006 H.B. 1485, A.L. 2007 1st Ex. Sess H.B. 1, A.L. 2013 S.B. 20, 15 & 19, A.L. 2014 H.B. 1132)

\*Effective 10-10-14, see § [21.250](#). H.B. 1132 was vetoed July 9, 2014. The veto was overridden on September 10, 2014.

Sunset date 12-31-19

Termination date 9-01-20

**Donated food tax credit--definitions--amount--procedure to claim the credit--rulemaking authority--sunset provision.**

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

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

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

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

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

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

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

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

4. Any local food pantry may accept or reject any donation of food made under this section for any reason. For purposes of this section, any donations of food accepted by a local food pantry shall

be valued at fair market value, or at wholesale value if the taxpayer making the donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

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

6. Under section [23.253](#) of the Missouri sunset act:

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

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

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

(L. 2007 H.B. 453, A.L. 2013 S.B. 20, 15 & 19, A.L. 2014 H.B. 1132)

\*Effective 10-10-14, see § [21.250](#). H.B. 1132 was vetoed July 9, 2014. The veto was overridden on September 10, 2014.

Sunset date 12-31-19

Termination date 9-01-20

**Citation--definitions--tax credit, amount, claim procedure--rulemaking authority.**

[135.679](#). 1. This section shall be known and may be cited as the "Qualified Beef Tax Credit Act".

2. As used in this section, the following terms mean: (1) "Agricultural property", any real and personal property, including but not limited to buildings, structures, improvements, equipment, and livestock, that is used in or is to be used in this state by residents of this state for:

(a) The operation of a farm or ranch; and

(b) Grazing, feeding, or the care of livestock; (2) "Authority", the agricultural and small business development authority established in chapter 348; (3) "Backgrounded", any additional weight at the time of the first qualifying sale, before being finished, above the established baseline weight; (4) "Baseline weight", the average weight in the immediate past three years of all beef animals sold that are thirty months of age or younger, categorized by sex. Baseline weight for qualified beef animals that are physically out-of-state but whose ownership is retained by a resident of this state shall be

established by the average transfer weight in the immediate past three years of all beef animals that are thirty months of age or younger and that are transferred out-of-state but whose ownership is retained by a resident of this state, categorized by sex. The established baseline weight shall be effective for a period of three years. If the taxpayer is a qualifying beef animal producer with fewer than three years of production, the baseline weight shall be established by the available average weight in the immediate past year of all beef animals sold that are thirty months of age or younger, categorized by sex. If the qualifying beef animal producer has no previous production, the baseline weight shall be established by the authority; (5) "Finished", the period from backgrounded to harvest; (6) "Qualifying beef animal", any beef animal that is certified by the authority, that was born in this state after August 28, 2008, that was raised and backgrounded or finished in this state by the taxpayer, excluding any beef animal more than thirty months of age as verified by certified written birth records; (7) "Qualifying sale", the first time a qualifying beef animal is sold in this state after the qualifying beef animal is backgrounded, and a subsequent sale if the weight of the qualifying beef animal at the time of the subsequent sale is greater than the weight of the qualifying beef animal at the time of the first qualifying sale of such beef animal; (8) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or otherwise due under chapter 147; (9) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or the tax imposed in chapter 147;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or in the absence of a 911 system, a physical address; and

(c) Owns or rents agricultural property and principal place of business is located in this state.

3. For all taxable years beginning on or after January 1, 2009, but ending on or before December 31, 2016, a taxpayer shall be allowed a tax credit for the first qualifying sale and for a subsequent qualifying sale of all qualifying beef animals. The tax credit amount for the first qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the first qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The tax credit amount for each subsequent qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the subsequent qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The authority may waive no more than twenty-five percent of the two hundred pound weight gain requirement, but any such waiver shall be based on a disaster declaration issued by the U. S. Department of Agriculture.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the taxable year in which the qualifying sale of

the qualifying beef occurred, but any amount of credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years and carried backward to any of the taxpayer's three previous taxable years. The amount of tax credits that may be issued to all eligible applicants claiming tax credits authorized in this section in a fiscal year shall not exceed three million dollars. Tax credits shall be issued on an as-received application basis until the fiscal year limit is reached. Any credits not issued in any fiscal year shall expire and shall not be issued in any subsequent years.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a qualified sale was made and for which a tax credit is claimed under this section. The application shall include any certified documentation and information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the qualified sale meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. Whenever a tax credit certificate is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate or the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

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

8. This section shall not be subject to the Missouri sunset act, sections [23.250](#) to [23.298](#).

(L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

**Definitions--tax credit, amount--recapture, when--rulemaking authority--reauthorization procedure--sunset provision.**

[135.680](#). 1. As used in this section, the following terms shall mean:

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) "Credit allowance date", with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified equity investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after September 4, 2007, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section. This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph a. of paragraph (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several qualified community development entities;

(9) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed in sections [143.191](#) to [143.265](#), or otherwise due under section [375.916](#) or chapter 147, 148, or 153;

(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143, excluding withholding tax imposed in sections [143.191](#) to [143.265](#), or the tax imposed in section [375.916](#) or chapter 147, 148, or 153.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement

among such partners, members, or shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than twenty-five million dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after September 4, 2007, shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under

subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section [23.253](#) of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section [23.253](#) from claiming tax credits relating to such qualified equity investment for each credit allowance date.

(L. 2007 1st Ex. Sess H.B. 1, A.L. 2009 H.B. 191)

Effective 6-04-09

Sunset date 9-04-13

Termination date 9-01-14

#### **Letter rulings to be issued, procedure--letter rulings closed records.**

[135.682](#). 1. The director of the department of economic development or the director's designee shall issue letter rulings regarding the tax credit program authorized under section [135.680](#), subject to the terms and conditions set forth in this section. The director of the department of economic development may impose additional terms and conditions consistent with this section to requests for letter rulings by regulation promulgated under chapter 536. For the purposes of this section, the term "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting a letter ruling.

2. The director or director's designee shall respond to a request for a letter ruling within sixty days of receipt of such request. The applicant may provide a draft letter ruling for the department's consideration. The applicant may withdraw the request for a letter ruling, in writing, prior to the issuance of the letter ruling. The director or the director's designee may refuse to issue a letter ruling for good cause, but must list the specific reasons for refusing to issue the letter ruling. Good cause includes, but is not limited to:

(1) The applicant requests the director to determine whether a statute is constitutional or a regulation is lawful;

(2) The request involves a hypothetical situation or alternative plans;

(3) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling; and

(4) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may definitely resolve the issue.

3. Letter rulings shall bind the director and the director's agents and their successors until such time as the taxpayer or its shareholders, members, or partners, as applicable, claim all of such tax credits on a Missouri tax return, subject to the terms and conditions set forth in properly published regulations. The letter ruling shall apply only to the applicant.

4. Letter rulings issued under the authority of this section shall not be a rule as defined in section [536.010](#) in that it is an interpretation issued by the department with respect to a specific set of facts and intended to apply only to that specific set of facts, and therefore shall not be subject to the rulemaking requirements of chapter 536.

5. Information in letter ruling requests as described in section [620.014](#) shall be closed to the public. Copies of letter rulings shall be available to the public provided that the applicant identifying information and otherwise protected information is redacted from the letter ruling as provided in subsection 1 of section [610.024](#).

(L. 2008 H.B. 2058 merged with S.B. 718)

#### **Tax credit for grape and wine producers.**

[135.700](#). For all tax years beginning on or after January 1, 1999, a grape grower or wine producer shall be allowed a tax credit against the state tax liability incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as provided in sections [143.191](#) to [143.265](#), in an amount equal to twenty-five percent of the purchase price of all new equipment and materials used directly in the growing of grapes or the production of wine in the state. Each grower or producer shall apply to the department of economic development and specify the total amount of such new equipment and materials purchased during the calendar year. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a grape grower or wine producer is entitled pursuant to this section. The provisions of this section notwithstanding, a grower or producer may only apply for and receive the credit authorized by this section for five tax periods.

(L. 1998 S.B. 827 § 3)

#### **CROSS REFERENCE:**

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

#### **Tax credit authorized, procedure--director of revenue duties--rulemaking authority--sunset provision.**

[135.710](#). 1. As used in this section, the following terms mean:

(1) "Alternative fuel vehicle refueling property", property in this state owned by an eligible applicant and used for storing alternative fuels and for dispensing such alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or private citizens;

(2) "Alternative fuels", any motor fuel at least seventy percent of the volume of which consists of one or more of the following:

(a) Ethanol;

(b) Natural gas;

(c) Compressed natural gas, or CNG;

(d) Liquefied natural gas, or LNG;

(e) Liquefied petroleum gas, or LP gas, propane, or autogas;

(f) Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;

(g) Hydrogen;

(3) "Department", the department of economic development;

(4) "Electric vehicle recharging property", property in this state owned by an eligible applicant and used for recharging electric motor vehicles owned by such eligible applicant or private citizens;

(5) "Eligible applicant", a business entity or private citizen that is the owner of an electric vehicle recharging property or an alternative fuel vehicle refueling property;

(6) "Qualified Missouri contractor", a contractor whose principal place of business is located in Missouri and has been located in Missouri for a period of not less than five years;

(7) "Qualified property", an electric vehicle recharging property or an alternative fuel vehicle refueling property which, if constructed after August 28, 2014, was constructed with at least fifty-one percent of the costs being paid to qualified Missouri contractors for the:

(a) Fabrication of premanufactured equipment or process piping used in the construction of such facility;

(b) Construction of such facility; and

(c) General maintenance of such facility during the time period in which such facility receives any tax credit under this section.

If no qualified Missouri contractor is located within seventy-five miles of the property, the requirement that fifty-one percent of the costs shall be paid to qualified Missouri contractors shall not apply.

2. For all tax years beginning on or after January 1, 2015, but before January 1, 2018, any eligible applicant who installs and operates a qualified property shall be allowed a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or due under chapter 147 or chapter 148 for any tax year in which the

applicant is constructing the qualified property. The credit allowed in this section per eligible applicant who is a private citizen shall not exceed fifteen hundred dollars or per eligible applicant that is a business entity shall not exceed the lesser of twenty thousand dollars or twenty percent of the total costs directly associated with the purchase and installation of any alternative fuel storage and dispensing equipment or any recharging equipment on any qualified property, which shall not include the following:

- (1) Costs associated with the purchase of land upon which to place a qualified property;
- (2) Costs associated with the purchase of an existing qualified property; or
- (3) Costs for the construction or purchase of any structure.

3. Tax credits allowed by this section shall be claimed by the eligible applicant at the time such applicant files a return for the tax year in which the storage and dispensing or recharging facilities were placed in service at a qualified property, and shall be applied against the income tax liability imposed by chapter 143, chapter 147, or chapter 148 after all other credits provided by law have been applied. The cumulative amount of tax credits which may be claimed by eligible applicants claiming all credits authorized in this section shall not exceed one million dollars in any calendar year, subject to appropriations.

4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the difference shall not be refundable. Any amount of credit that an eligible applicant is prohibited by this section from claiming in a taxable year may be carried forward to any of such applicant's two subsequent taxable years. Tax credits allowed under this section may be assigned, transferred, sold, or otherwise conveyed.

5. Any qualified property, for which an eligible applicant receives tax credits under this section, which ceases to sell alternative fuel or recharge electric vehicles shall cause the forfeiture of such eligible applicant's tax credits provided under this section for the taxable year in which the qualified property ceased to sell alternative fuel or recharge electric vehicles and for future taxable years with no recapture of tax credits obtained by an eligible applicant with respect to such applicant's tax years which ended before the sale of alternative fuel or recharging of electric vehicles ceased.

6. The director of revenue shall establish the procedure by which the tax credits in this section may be claimed, and shall establish a procedure by which the cumulative amount of tax credits is apportioned equally among all eligible applicants claiming the credit. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that eligible applicants can claim all the tax credits possible up to the cumulative amount of tax credits available for the taxable year. No eligible applicant claiming a tax credit under this section shall be liable for any interest or penalty for filing a tax return after the date fixed for filing such return as a result of the apportionment procedure under this subsection.

7. Any eligible applicant desiring to claim a tax credit under this section shall submit the appropriate application for such credit with the department. The application for a tax credit under this section shall include any information required by the department. The department shall review the

applications and certify to the department of revenue each eligible applicant that qualifies for the tax credit.

8. The department and the department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

9. The provisions of section [23.253](#) of the Missouri sunset act notwithstanding:

(1) The provisions of the new program authorized under this section shall automatically sunset three years after December 31, 2014, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset; and

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

(L. 2008 S.B. 931, A.L. 2014 S.B. 729)

Sunset date 12-31-17

Termination date 12-31-18

### **Tax credit for qualified film production projects--definitions--application--cap--transfer of credits--sunset provision.**

[135.750](#). 1. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars. Regardless of the production costs, "qualified film production project" shall not include any:

(a) News or current events programming;

(b) Talk show;

(c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(d) Sports event or sports program;

(e) Gala presentation or awards show;

(f) Infomercial or any production that directly solicits funds;

(g) Political ad;

(h) Production that is considered obscene, as defined in section [573.010](#);

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified film production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company on which the production company remitted withholding payments to the department of revenue under chapter 143. For purposes of this section, compensation and wages shall not include any amounts paid to a highly compensated individual;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or otherwise due under chapter 148;

(5) "Taxpayer", any individual, partnership, or corporation as described in section [143.441](#), [143.471](#), or section [148.370](#) that is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or the tax imposed in chapter 148 or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

2. For all taxable years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the amount of investment in production or production-related activities in any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. For all taxable years beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project. Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

3. Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

4. For all taxable years ending on or before December 31, 2007, tax credits certified pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year. For all taxable years beginning on or after January 1, 2008, tax credits certified under subsection 1 of this section shall not exceed a total for all tax credits certified of four million five hundred thousand dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

5. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 2 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

6. Under section [23.253](#) of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after November 28, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

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

(L. 1998 S.B. 827 § 2, A.L. 1999 H.B. 701, A.L. 2004 S.B. 1394, A.L. 2007 1st Ex. Sess H.B. 1)

Effective 11-28-07

Sunset date 11-28-13

Termination date 9-01-14

CROSS REFERENCES:

Annual report for tax credits, [320.092](#)

Tax Credit Accountability Act of 2004, additional requirements, [135.800](#) to [135.830](#)

## **Tax credit for guaranty fee paid by small businesses, when.**

[135.766](#). An eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due pursuant to chapter 143, not including sections [143.191](#) to [143.265](#), in an amount equal to any amount paid by the eligible small business to the United States Small Business Administration as a guaranty fee pursuant to obtaining Small Business Administration guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies. No tax credits provided under this section shall be authorized on or after the thirtieth day following the effective date of this act\*. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to the thirtieth day following the effective date of this act\*, or a taxpayer's ability to redeem such tax credits.

(L. 1999 H.B. 139 § 4, Repealed L. 2000 S.B. 894 § A, L. 2004 H.B. 1603, A.L. 2009 H.B. 191)

\*"This act" (H.B. 191, 2009) contained multiple effective dates.

## **Citation--definitions.**

[135.800](#). 1. The provisions of sections [135.800](#) to [135.830](#) shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections [135.800](#) to [135.830](#), the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section [348.430](#), the new generation cooperative incentive tax credit created pursuant to section [348.432](#), the family farm breeding livestock loan tax credit created under section [348.505](#), the qualified beef tax credit created under section [135.679](#), and the wine and grape production tax credit created pursuant to section [135.700](#);

(3) "All tax credit programs", or "any tax credit program", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, financial and insurance tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections [135.110](#) to [135.150](#) and section [135.258](#), the enterprise zone tax benefits created pursuant to sections [135.200](#) to [135.270](#), the business use incentives for large-scale development programs created pursuant to sections [100.700](#) to [100.850](#), the development tax credits created pursuant to sections [32.100](#) to [32.125](#), the rebuilding communities tax credit created pursuant to section [135.535](#), the film production tax credit created pursuant to section [135.750](#), the enhanced

enterprise zone created pursuant to sections [135.950](#) to [135.970](#), and the Missouri quality jobs program created pursuant to sections [620.1875](#) to [620.1900](#);

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections [32.100](#) to [32.125](#), the family development account tax credit created pursuant to sections [208.750](#) to [208.775](#), the dry fire hydrant tax credit created pursuant to section [320.093](#), and the transportation development tax credit created pursuant to section [135.545](#);

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section [135.460](#) and sections [620.1100](#) to [620.1103](#), the shelter for victims of domestic violence created pursuant to section [135.550](#), the senior citizen or disabled person property tax credit created pursuant to sections [135.010](#) to [135.035](#), the special needs adoption tax credit created pursuant to sections [135.325](#) to [135.339](#), the champion for children tax credit created pursuant to section [135.341](#), the maternity home tax credit created pursuant to section [135.600](#), the surviving spouse tax credit created pursuant to section [135.090](#), the residential treatment agency tax credit created pursuant to section [135.1150](#), the pregnancy resource center tax credit created pursuant to section [135.630](#), the food pantry tax credit created pursuant to section [135.647](#), the health care access fund tax credit created pursuant to section [135.575](#), the residential dwelling access tax credit created pursuant to section [135.562](#), the developmental disability care provider tax credit created under section [135.1180](#), and the shared care tax credit created pursuant to section [192.2015](#)\*;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections [135.400](#) to [135.429](#), the certified capital company tax credit created pursuant to sections [135.500](#) to [135.529](#), the seed capital tax credit created pursuant to sections [348.300](#) to [348.318](#), the new enterprise creation tax credit created pursuant to sections [620.635](#) to [620.653](#), the research tax credit created pursuant to section [620.1039](#), the small business incubator tax credit created pursuant to section [620.495](#), the guarantee fee tax credit created pursuant to section [135.766](#), and the new generation cooperative tax credit created pursuant to sections [32.105](#) to [32.125](#);

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section [135.313](#), the wood energy tax credit created pursuant to sections [135.300](#) to [135.311](#), and the alternative fuel stations tax credit created pursuant to section [135.710](#);

(9) "Financial and insurance tax credits", the bank franchise tax credit created pursuant to section [148.030](#), the bank tax credit for S corporations created pursuant to section [143.471](#), the exam fee tax credit created pursuant to section [148.400](#), the health insurance pool tax credit created pursuant to section [376.975](#), the life and health insurance guaranty tax credit created pursuant to section [376.745](#), the property and casualty guaranty tax credit created pursuant to section [375.774](#), and the self-employed health insurance tax credit created pursuant to section [143.119](#);

(10) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections [135.475](#) to [135.487](#), the low-income housing tax credit created pursuant to sections [135.350](#) to [135.363](#), and the affordable housing tax credit created pursuant to sections [32.105](#) to [32.125](#);

(11) "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section [135.805](#);

(12) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections [253.545](#) to [253.559](#), the brownfield redevelopment program tax credit created pursuant to sections [447.700](#) to [447.718](#), the community development corporations tax credit created pursuant to sections [135.400](#) to [135.430](#), the infrastructure tax credit created pursuant to subsection 6 of section [100.286](#), the bond guarantee tax credit created pursuant to section [100.297](#), the disabled access tax credit created pursuant to section [135.490](#), the new markets tax credit created pursuant to section [135.680](#), and the distressed areas land assemblage tax credit created pursuant to section [99.1205](#);

\*\* (13) "Training and educational tax credits", the Missouri works new jobs tax credit and Missouri works retained jobs credit created pursuant to sections [620.800](#) to [620.809](#).

(L. 2004 S.B. 1099, A.L. 2008 H.B. 2058 merged with S.B. 931, A.L. 2009 H.B. 191, A.L. 2013 H.B. 196 merged with S.B. 20, 15 & 19)

Effective 3-29-13 (S.B. 20)

8-28-13 (H.B. 196)

\*Statutory reference to section 660.055 changed to section [192.2015](#) to comply with section [3.060](#).

\*\*Subdivision (13) changes were made by H.B. 196, 2013, effective 8-28-13.

**Information required to be submitted with tax credit applications--certain information required for specific tax credits--rulemaking authority--requirements to apply to certain recipients, when--duties of agencies.**

[135.802](#). 1. Beginning January 1, 2005, all applications for all tax credit programs shall include, in addition to any requirements provided by the enacting statutes of a particular credit program, the following information to be submitted to the department administering the tax credit:

(1) Name, address, and phone number of the applicant or applicants, and the name, address, and phone number of a contact person or agent for the applicant or applicants;

(2) Taxpayer type, whether individual, corporation, nonprofit or other, and taxpayer identification number, if applicable;

(3) Standard industry code, if applicable;

(4) Program name and type of tax credit, including the identity of any other state or federal program being utilized for the same activity or project; and

(5) Number of estimated jobs to be created, as a result of the tax credits, if applicable, separated by construction, part-time permanent, and full-time permanent.

2. In addition to the information required by subsection 1 of this section, an applicant for a community development tax credit shall also provide information detailing the title and location of the corresponding project, the estimated time period for completion of the project, and all geographic areas impacted by the project.

3. In addition to the information required by subsection 1 of this section, an applicant for a redevelopment tax credit shall also provide information detailing the location and legal description of the property, age of the structure, if applicable, whether the property is residential, commercial, or governmental, and the projected project cost, labor cost, and projected date of completion. Where a redevelopment tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection.

4. In addition to the information required by subsection 1 of this section, an applicant for a business recruitment tax credit shall also provide information detailing the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the application, the number of employees projected to increase as a result of the completion of the project, and the estimated project cost.

5. In addition to the information required by subsection 1 of this section, an applicant for a training and educational tax credit shall also provide information detailing the name and address of the educational institution to be used, the average salary of workers to be served, the estimated project cost, and the number of employees and number of students to be served.

6. In addition to the information required by subsection 1 of this section, an applicant for a housing tax credit also shall provide information detailing the address, legal description, and fair market value of the property, and the projected labor cost and projected completion date of the project. Where a housing tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection. For the purposes of this subsection, "fair market value" means the value as of the purchase of the property or the most recent assessment, whichever is more recent.

7. In addition to the information required by subsection 1 of this section, an applicant for an entrepreneurial tax credit shall also provide information detailing the amount of investment and the names of the project, fund, and research project.

8. In addition to the information required by subsection 1 of this section, an applicant for an agricultural tax credit shall also provide information detailing the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

9. In addition to the information required by subsection 1 of this section, an applicant for an environmental tax credit shall also include information detailing the type of equipment, if applicable, purchased and any environmental impact statement, if required by state or federal law.

10. An administering agency may, by rule, require additional information to be submitted by an applicant. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be void.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the application requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. It shall be the duty of each administering agency to provide information to every applicant, at some time prior to authorization of an applicant's tax credit application, wherein the requirements of this section, the annual reporting requirements of section [135.805](#), and the penalty provisions of section [135.810](#) are described in detail.

(L. 2004 S.B. 1099, A.L. 2009 H.B. 191)

#### **Ineligibility based on conflict of interest, when.**

[135.803](#). A taxpayer shall not be deemed ineligible for any state tax credit program in effect or hereinafter established on the basis that there exists a conflict of interest due to a relationship of any degree or affinity to any statewide elected official or member of the general assembly, when the person of relation holds less than a two percent equity interest in the taxpayer.

(L. 2008 H.B. 2058)

#### **Certain information to be submitted annually, who, time period--duedate of reporting requirements--requirements to apply to certainrecipients, when--applicant in compliance, when, writtennotification, when, records available for review--effectivedate--names of recipients to be made public.**

[135.805](#). 1. A recipient of any tax credit program, except domestic and social tax credits, environmental tax credits, or financial and insurance tax credits, shall annually, for a period of three years following the issuance of the tax credits, provide to the administering agency the actual number of jobs created as a result of the tax credits, at the location on the last day of the annual reporting period, separated by part-time permanent and full-time permanent for each month of the preceding twelve-month period.

2. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

3. A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

4. A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

5. A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

6. A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section [135.802](#), and the projected or actual labor cost and completion date of the project.

7. A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

8. A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity or new generation cooperative then the new generation processing entity or new generation cooperative, and not the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

9. A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

10. The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections [135.802](#) to [135.810](#), upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections [135.802](#) to [135.810](#). The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

13. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

14. Notwithstanding provisions of law to the contrary, every agency of this state charged with administering a tax credit program authorized under the laws of this state shall make available for public inspection the name of each tax credit recipient and the amount of tax credits issued to each such recipient.

15. The department of economic development shall make all information provided under the provisions of this section available for public inspection on the department's website and the Missouri accountability portal.

16. The administering agency of any tax credit program for which reporting requirements are required under the provisions of subsection 1 of this section shall publish guidelines and may promulgate rules to implement the provisions of such subsection. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

(L. 2004 S.B. 1099, A.L. 2008 H.B. 2058 merged with S.B. 931, A.L. 2009 H.B. 191)

**Failure to report, penalties--notice required, when, taxpayerliable for penalties, when--change of address notificationrequired--rulemaking authority.**

[135.810](#). 1. After credits have been issued, any failure to meet the annual reporting requirements established in section [135.805](#) or any determination of fraud in the application process shall result in penalties as follows:

(1) Failure to report for more than six months but less than one year shall result in a penalty equal to two percent of the value of the credits issued for each month of delinquency during such time period;

(2) Failure to report for more than one year shall result in a penalty equal to ten percent of the value of the credits issued for each month of delinquency during such time period up to one hundred percent of the value of the credit issued is assessed by way of penalty;

(3) Fraud in the application process shall result in a penalty equal to one hundred percent of the credits issued. No taxpayer shall be deemed to have committed fraud in the application process for any credit unless such conclusion has been reached by a court of competent jurisdiction or the administrative hearing commission.

2. Ninety days after the annual report is past due, the administering agency shall send notice by registered mail to the last known address of the person or entity obligated to complete the annual reporting informing such person or entity of the past-due annual report and describing in detail the pending penalties and their respective deadlines. Six months after the annual report is past due, the administering agency shall notify the department of revenue of any taxpayer subject to penalties. The taxpayer shall be liable for any penalties as of December thirty-first of any tax year and such liability shall be due as of the filing date of the taxpayer's next income tax return. If the taxpayer is not required to file an income tax return, the taxpayer's liability for penalties shall be due as of April fifteenth of each year. The director of the department of revenue shall prepare forms and promulgate rules to allow for the reporting and satisfaction of liability for such penalties. The director of the department of revenue shall offset any credits claimed on a contemporaneously filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed. Any nonpayment of liability for penalties shall be subject to the same provisions of law as a liability for unpaid income taxes, including, but not limited to, interest and penalty provisions.

3. Penalties shall remain the liability of the person or entity obligated to complete the annual reporting, without regard to any transfer of the credits.

4. Any person or entity obligated to complete the annual reporting requirements provided in section [135.805](#) shall provide the proper administering agency with notice of change of address when necessary.

5. An administering agency may promulgate rules in order to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

(L. 2004 S.B. 1099)

**Verification of applicant's tax payment status, when, effect of delinquency--employment of unauthorized aliens, effect of.**

135.815. 1. Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest or penalties on such taxes, and through the department of insurance, financial institutions and professional registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, financial institutions and professional registration concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits towards a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

2. Any applicant of a tax credit program contained in the definition of the term "all tax credit programs" who purposely and directly employs unauthorized aliens shall forfeit any tax credits issued to such applicant which have not been redeemed, and shall repay the amount of any tax credits redeemed by such applicant during the period of time such unauthorized alien was employed by the applicant. As used in this subsection, the term "unauthorized alien" shall mean an alien who does not have the legal right or authorization under federal law to work in the United States, as defined under Section 8 U.S.C. 1324a(h)(3).

(L. 2004 S.B. 1099, A.L. 2008 H.B. 2058 merged with S.B. 718)

**Tracking system for tax credits required--exception--rulemaking authority.**

135.825. 1. The administering agencies for all tax credit programs shall, in cooperation with the department of revenue, implement a system for tracking the amount of tax credits authorized, issued, and redeemed. Any such agency may promulgate rules for the implementation of this section.

2. The provisions of this section shall not apply to any credit that is issued and redeemed simultaneously.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

(L. 2004 S.B. 1099)

**Tax credit accountability act of 2004 to be in addition to existing tax laws.**

[135.830](#). The provisions of sections [135.800](#) to [135.830](#) shall be construed, wherever necessary, to be in addition to existing requirements, duties, or obligations present in other provisions of law, with regard to all tax credit programs.

(L. 2004 S.B. 1099)

**Definitions.**

[135.900](#). As used in sections [135.900](#) to [135.906](#), the following terms mean: (1) "Department", the department of economic development; (2) "Director", the director of the department of economic development; (3) "Earned income", all income not derived from retirement accounts, pensions, or transfer payments; (4) "New business facility", the same meaning as such term is defined in section [135.100](#); except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section; (5) "Population", all residents living in an area who are not enrolled in any course at a college or university in the area; (6) "Revenue-producing enterprise":

- (a) Manufacturing activities classified as SICs 20 through 39;
- (b) Agricultural activities classified as SIC 025;
- (c) Rail transportation terminal activities classified as SIC 4013;
- (d) Renting or leasing of residential property to low- and moderate-income persons as defined in 42 U.S.C.A. 5302(a)-(20);
- (e) Motor freight transportation terminal activities classified as SIC 4231;
- (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
- (g) Water transportation terminal activities classified as SIC 4491;
- (h) Airports, flying fields, and airport terminal services classified as SIC 4581;
- (i) Wholesale trade activities classified as SICs 50 and 51;
- (j) Insurance carriers activities classified as SICs 631, 632, and 633;
- (k) Research and development activities classified as SIC 873, except 8733;
- (l) Farm implement dealer activities classified as SIC 5999;
- (m) Employment agency activities classified as SIC 7361;

(n) Computer programming, data processing, and other computer-related activities classified as SIC 737;

(o) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092, and 8093;

(p) Interexchange telecommunications service as defined in section [386.020](#) or training activities conducted by an interexchange telecommunications company as defined in section [386.020](#);

(q) Recycling activities classified as SIC 5093;

(r) Banking activities classified as SICs 602 and 603;

(s) Office activities as defined in section [135.100](#), notwithstanding SIC classification;

(t) Mining activities classified as SICs 10 through 14;

(u) The administrative management of any of the foregoing activities; or

(v) Any combination of any of the foregoing activities; (7) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the standard industrial classification manual as prepared by the executive office of the president, office of management and budget; (8) "Transfer payments", payments made under Medicaid, Medicare, Social Security, child support or custody agreements, and separation agreements.

(L. 2004 S.B. 1155)

Expires 8-28-14

**Rural empowerment zone criteria--application, zone created, reapplication--limitation.**

[135.903](#). 1. To qualify as a rural empowerment zone, an area shall meet all the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress;

(2) At least sixty-five percent of the population has earned income below eighty percent of the median income of all residents within the state according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(3) The population of the area is at least four hundred but not more than three thousand five hundred at the time of designation as a rural empowerment zone;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on

a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis;

(5) The area is situated more than ten miles from any existing rural empowerment zone;

(6) The area is situated in a county of the third classification without a township form of government and with more than eight thousand nine hundred twenty-five but less than nine thousand twenty-five inhabitants; and

(7) The area is not situated in an existing enterprise zone.

2. The governing body of any county in which an area may be designated a rural empowerment zone shall submit to the department an application showing that the area complies with the requirements of subsection 1 of this section. The department shall declare the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section. If the area is found not to meet the requirements, the governing body shall have the opportunity to submit another application for designation as a rural empowerment zone and the department shall designate the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section.

3. There shall be no more than two rural empowerment zones as created under sections [135.900](#) to [135.906](#) in existence at any time.

(L. 2004 S.B. 1155, A.L. 2010 H.B. 1965)

Effective 4-01-11, see § [135.204](#)

Expires 8-28-14

#### **Taxable income of certain entities exempt, when.**

[135.906](#). All of the Missouri taxable income attributed to a new business facility in a rural empowerment zone which is earned by a taxpayer establishing and operating a new business facility located within a rural empowerment zone shall be exempt from taxation under chapter 143 if such new business facility is responsible for the creation of ten new full-time jobs in the zone within one year from the date on which the tax abatement begins. All of the Missouri taxable income attributed to a revenue-producing enterprise in a rural empowerment zone which is earned by a taxpayer operating a revenue-producing enterprise located within a rural empowerment zone and employing nineteen or fewer full-time employees shall be exempt from taxation under chapter 143 if such revenue-producing enterprise is responsible for the creation of five new full-time jobs in the zone within one year from the date on which the tax abatement begins. All of the Missouri taxable income attributed to a revenue-producing enterprise in a rural empowerment zone which is earned by a taxpayer operating a revenue-producing enterprise located within a rural empowerment zone and employing twenty or more full-time employees shall be exempt from taxation under chapter 143 if such revenue-producing enterprise is responsible for the creation of a number of new full-time jobs in the zone equal to twenty-five percent of the number of full-time employees employed by the revenue-producing enterprise on the date on which tax abatement begins within one year from the date on which the tax abatement begins.

(L. 2004 S.B. 1155 § 135.910)

Expires 8-28-14

**Expiration date.**

[135.909](#). The provisions of sections [135.900](#) to [135.906](#) shall expire on August 28, 2014.

(L. 2004 S.B. 1155 § 135.911)

**Definitions.**

[135.950](#). The following terms, whenever used in sections [135.950](#) to [135.970](#) mean:

(1) "Average wage", the new payroll divided by the number of new jobs;

(2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use. The term "blighted area" shall also include any area which produces or generates or has the potential to produce or generate electrical energy from a renewable energy resource, and which, by reason of obsolescence, decadence, blight, dilapidation, deteriorating or inadequate site improvements, substandard conditions, the predominance or defective or inadequate street layout, unsanitary or unsafe conditions, improper subdivision or obsolete platting, or the existence of conditions which endanger the life or property by fire or other means, or any combination of such factors, is underutilized, unutilized, or diminishes the economic usefulness of the land, improvements, or lock and dam site within such area for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;

(3) "Board", an enhanced enterprise zone board established pursuant to section [135.957](#);

(4) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being

relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(6) "Department", the department of economic development;

(7) "Director", the director of the department of economic development;

(8) "Employee", a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;

(9) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied. Service industries may be eligible only if a majority of its annual revenues will be derived from out of the state;

(10) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(11) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(12) "Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;

(13) "Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll

shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

(14) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(15) "Megaproject", any manufacturing or assembling facility, approved by the department for construction and operation within an enhanced enterprise zone, which satisfies the following:

(a) The new capital investment is projected to exceed three hundred million dollars over a period of eight years from the date of approval by the department;

(b) The number of new jobs is projected to exceed one thousand over a period of eight years beginning on the date of approval by the department;

(c) The average wage of new jobs to be created shall exceed the county average wage;

(d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty percent of such insurance premiums; and

(e) An acceptable plan of repayment, to the state, of the tax credits provided for the megaproject has been provided by the taxpayer;

(16) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(17) "New business facility", a facility that does not produce or generate electrical energy from a renewable energy resource and satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced

business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision (27) of this section;

(18) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section [135.967](#) is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

(19) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by [135.967](#) is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(20) "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

(21) "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

(22) "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

(23) "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent;  
or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

(24) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

(25) "Renewable energy generation zone", an area which has been found, by a resolution or ordinance adopted by the governing authority having jurisdiction of such area, to be a blighted area and which contains land, improvements, or a lock and dam site which is unutilized or underutilized for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;

(26) "Renewable energy resource", shall include:

(a) Wind;

(b) Solar thermal sources or photovoltaic cells and panels;

(c) Dedicated crops grown for energy production;

(d) Cellulosic agricultural residues;

(e) Plant residues;

(f) Methane from landfills, agricultural operations, or wastewater treatment;

(g) Thermal depolymerization or pyrolysis for converting waste material to energy;

(h) Clean and untreated wood such as pallets;

(i) Hydroelectric power, which shall include electrical energy produced or generated by hydroelectric power generating equipment, as such term is defined in section [137.010](#);

(j) Fuel cells using hydrogen produced by one or more of the renewable resources provided in paragraphs (a) to (i) of this subdivision; or

(k) Any other sources of energy, not including nuclear energy, that are certified as renewable by rule by the department of natural resources;

(27) "Replacement business facility", a facility otherwise described in subdivision (17) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision (19) of this section, in the new facility during the tax period for which the credits allowed in section [135.967](#) are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

(28) "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

(L. 2004 S.B. 1155 § 135.1050, A.L. 2007 1st Ex. Sess. H.B. 1, A.L. 2008 H.B. 2393, A.L. 2011 H.B. 737)

**Enhanced enterprise zone criteria--zone may be established in certain areas--additional criteria.**

[135.953](#). 1. For purposes of sections [135.950](#) to [135.970](#), an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the last decennial census or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a

metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county;

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months; and

(5) No finding of blight under this chapter shall be used to meet the conditions for blight under any other statute of this state.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., for an emergency proclaimed by the governor pursuant to section [44.100](#) due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

(1) The potential to create sustainable jobs in a targeted industry; or

(2) A demonstrated impact on local industry cluster development.

5. Notwithstanding the requirements of subsections 1 and 4 of this section to the contrary, a renewable energy generation zone may be designated as an enhanced enterprise zone if the renewable energy generation zone meets the criteria set forth in subdivision (25) of section [135.950](#).

(L. 2004 S.B. 1155 § 135.1055, A.L. 2010 H.B. 1965, A.L. 2011 H.B. 737, A.L. 2012 S.B. 628)

**Enhanced enterprise zone board required, members--terms--boardactions--chair--role of board.**

135.957. 1. A governing authority planning to seek designation of an enhanced enterprise zone shall establish an enhanced enterprise zone board. The number of members on the board shall be seven. One member of the board shall be appointed by the school district or districts located within the area proposed for designation as an enhanced enterprise zone. One member of the board shall be appointed by other affected taxing districts. The remaining five members shall be chosen by the chief elected official of the county or municipality.

2. The school district member and the affected taxing district member shall each have initial terms of five years. Of the five members appointed by the chief elected official, two shall have initial terms of four years, two shall have initial terms of three years, and one shall have an initial term of two years. Thereafter, members shall serve terms of five years. Each commissioner shall hold office until a successor has been appointed. All vacancies shall be filled in the same manner as the original appointment. For inefficiency or neglect of duty or misconduct in office, a member of the board may be removed by the applicable appointing authority.

3. A majority of the members shall constitute a quorum of such board for the purpose of conducting business and exercising the powers of the board and for all other purposes. Action may be taken by the board upon a vote of a majority of the members present.

4. The members of the board annually shall elect a chair from among the members.

5. The role of the board shall be to conduct the activities necessary to advise the governing authority on the designation of an enhanced enterprise zone and any other advisory duties as determined by the governing authority. The role of the board after the designation of an enhanced enterprise zone shall be review and assessment of zone activities as it relates to the annual reports as set forth in section 135.960.

(L. 2004 S.B. 1155 § 135.1057)

**Public hearing required--ordinance requirements--expirationdate--annual report.**

135.960. 1. Any governing authority that desires to have any portion of a city or unincorporated area of a county under its control designated as an enhanced enterprise zone shall hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons who will be affected by such designation.

2. After a public hearing is held as required in subsection 1 of this section, the governing authority may, by a majority vote of the members of the governing authority, adopt an ordinance or resolution designating a specific area as an enhanced enterprise zone. Such ordinance shall include, in addition to a description of the physical, social, and economic characteristics of the area:

(1) A plan to provide adequate police protection within the area;

(2) A specific and practical process for individual businesses to obtain waivers from burdensome local regulations, ordinances, and orders which serve to discourage economic development within the area to be designated an enhanced enterprise zone, except that such waivers shall not substantially endanger the health or safety of the employees of any such business or the residents of the area;

(3) A description of what other specific actions will be taken to support and encourage private investment within the area;

(4) A plan to ensure that resources are available to assist area residents to participate in increased development through self-help efforts and in ameliorating any negative effects of designation of the area as an enhanced enterprise zone;

(5) A statement describing the projected positive and negative effects of designation of the area as an enhanced enterprise zone;

(6) A specific plan to provide assistance to any person or business dislocated as a result of activities within the enhanced enterprise zone. Such plan shall determine the need of dislocated persons for relocation assistance; provide, prior to displacement, information about the type, location, and price of comparable housing or commercial property; provide information concerning state and federal programs for relocation assistance and provide other advisory services to displaced persons. Public agencies may choose to provide assistance under the Uniform Relocation and Real Property Acquisition Act, 42 U.S.C. Section 4601, et seq., to meet the requirements of this subdivision; and

(7) A description or plan that demonstrates the requirements of subsection 4 of section [135.953](#).

3. An enhanced enterprise zone designation shall expire in twenty-five years.

4. Each designated enhanced enterprise zone board shall report to the director on an annual basis regarding the status of the zone and business activity within the zone.

(L. 2004 S.B. 1155 § 135.1060, A.L. 2013 H.B. 184)

**Improvements exempt, when--authorizing resolution, contents--publichearing required, notice--certain property exempt from ad valorem taxes, duration--time period--property affected--assessor's duties.**

[135.963](#). 1. Improvements made to real property as such term is defined in section [137.010](#) which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated may, upon approval of an authorizing resolution or ordinance by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. Improvements made to real property, as such term is defined in section [137.010](#), which are locally assessed and in a renewable energy generation zone designated as an enhanced enterprise zone, subsequent to the date such enhanced enterprise zone or

expansion thereto was designated, may, upon approval of an authorizing resolution or ordinance by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone of enhanced business enterprises or speculative industrial or warehouse buildings as indicated in subsection 1 of this section shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof, if said political subdivision or municipality levies ad valorem taxes, for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises. The exemption for speculative buildings is subject to the approval of the governing authority for a period not to exceed two years if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was occupied by an enhanced business enterprise. The two- and five-year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section [99.855](#), [99.957](#), or [99.1042](#) and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section [99.845](#), subdivision

(2) of subsection 3 of section [99.957](#), or subdivision (2) of subsection 3 of section [99.1042](#) unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section [99.820](#), section [99.942](#), or section [99.1027](#).

(L. 2004 S.B. 1155 § 135.1065, A.L. 2007 1st Ex. Sess. H.B. 1, A.L. 2011 H.B. 737, A.L. 2012 S.B. 769)

**Tax credit allowed, duration--prohibition on receiving other taxcredits--limitations on issuance of tax credits--cap--eligibilityof certain expansions--employee calculations-- computation ofcredit--flow-through tax treatments--credits may be claimed,when-- certificates--refunds--verification procedures.**

[135.967](#). 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#). No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections [135.100](#) to [135.150](#), sections [135.200](#) to [135.286](#), or section [135.535](#), and may not simultaneously receive tax credits under sections [620.1875](#) to [620.1890](#) at the same facility.

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than twenty-four million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (19) of section [135.950](#).

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (17) of section [135.950](#), or subdivision (25) of section [135.950](#), the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period,

the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (17) of section [135.950](#) or subdivision (25) of section [135.950](#), the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (19) of section [135.950](#) for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance, financial institutions and professional registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, financial institutions and professional registration, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency

causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

(L. 2004 S.B. 1155 § 135.1070, A.L. 2007 1st Ex. Sess. H.B. 1, A.L. 2008 H.B. 2058 merged with H.B. 2393 merged with S.B. 718)

**Megaprojects, tax credit authorized, eligibility--department duties--binding contract required, when--issuance of credits, procedure.**

135.968. 1. A taxpayer who establishes a megaproject, approved by the department, within an enhanced enterprise zone shall, in exchange for the consideration provided by new tax revenues and other economic stimuli that will be generated from the new jobs created by the megaproject, be allowed an income tax credit equal to the percentage of actual new annual payroll of the taxpayer attributable to employees directly related to the manufacturing and assembly process and administration, as provided under subsection 4 of this section. A taxpayer seeking approval of a megaproject shall submit an application to the department. The department shall not approve any megaproject after December 31, 2008. The department shall not approve any credits for megaprojects to be issued prior to January 1, 2013, and in no event shall the department authorize more than forty million dollars to be issued annually for all megaprojects. The total amount of credits issued under this section shall not exceed two hundred forty million dollars.

2. In considering applications for approval of megaprojects, the department may approve an application if:

(1) The taxpayer's project is financially sound and the taxpayer has adequately demonstrated an ability to successfully undertake and complete the megaproject. This determination shall be supported by a professional third-party market feasibility analysis conducted on behalf of the state by a firm with direct experience with the industry of the proposed megaproject, and by a professional third-party financial analysis of the taxpayer's ability to complete the project;

(2) The taxpayer's plan of repayment to the state of the amount of tax credits provided is reasonable and sound;

(3) The taxpayer's megaproject will create new jobs that were not jobs previously performed by employees of the taxpayer or a related taxpayer in Missouri;

(4) Local taxing entities are providing a significant level of incentives for the megaproject relative to the projected new local tax revenues created by the megaproject;

(5) There is at least one other state or foreign country that the taxpayer verifies is being considered for the project, and receiving megaproject tax credits is a major factor in the taxpayer's

decision to go forward with the project and not receiving the credit will result in the taxpayer not creating new jobs in Missouri;

(6) The megaproject will be located in an enhanced enterprise zone which constitutes an economic or social liability and a detriment to the public health, safety, morals, or welfare in its present condition and use;

(7) The completion of the megaproject will serve an essential public municipal purpose by creating a substantial number of new jobs for citizens, increasing their purchasing power, improving their living conditions, and relieving the demand for unemployment and welfare assistance thereby promoting the economic development of the enhanced enterprise zone, the municipality, and the state; and

(8) The creation of new jobs will assist the state in providing the services needed to protect the health, safety, and social and economic well-being of the citizens of the state.

3. Prior to final approval of an application, a binding contract shall be executed between the taxpayer and the department of economic development which shall include, but not be limited to:

(1) A repayment plan providing for cash payment to the state general revenue fund which shall result in a positive internal rate of return to the state and fully comply with the provisions of the World Trade Organization Agreement on Subsidies and Countervailing Measures. The rate of return shall be commercially reasonable and, over the life of the project, exceed one hundred and fifty percent of the state's borrowing costs based on the AAA-rated twenty-year tax-exempt bond rate average over a twenty-year borrowing period. The rate shall be verified by a professional third-party financial analysis;

(2) The taxpayer's obligation to construct a facility of at least one million square feet within five years from the date of approval;

(3) A requirement that the issuance of tax credits authorized under this section shall cease and the taxpayer shall immediately submit payment, to the state general revenue fund, in an amount equal to all credits previously issued less any amounts previously repaid, increased by an additional amount that shall provide the state a reasonable rate of return, in the event the taxpayer:

(a) Fails to construct a facility of at least one million square feet within five years of the date of approval;

(b) Fails to make a scheduled payment as required by the repayment plan; or

(c) Fails to compensate new jobs at rate equal to or in excess of the county average wage or fails to offer health insurance to all such new jobs and pay at least eighty percent of such premiums; and

(4) A requirement that the department shall suspend issuance of tax credits authorized under this section if, at any point, the total amount of tax credits issued less the total amount of repayments received equals one hundred and fifty-five million dollars.

4. Upon approval of an application by the department, tax credits shall be issued annually for a period not to exceed eight years from the commencement of commercial operations of the megaproject. The eight-year period for the issuance of megaproject tax credits may extend beyond the expiration of the enhanced enterprise zone. The maximum percentage of the annual payroll of the taxpayer for new jobs located at the megaproject which may be approved or issued by the department for tax credits shall not exceed:

- (1) Eighty percent for the first three years that tax credits will be issued for the megaproject;
- (2) Sixty percent for the next two subsequent years;
- (3) Fifty percent for the next two subsequent years; and
- (4) Thirty percent for the remaining year.

In no event shall the department issue more than forty million dollars annually in megaproject tax credits to any taxpayer. In any given year, the amount of tax credits issued shall be the lesser of forty million dollars, the applicable annual payroll percentage, or the amount of tax credits remaining unissued under the two hundred forty million dollar limitation on megaproject tax credit issuance provided under subsection 1 of this section.

5. Tax credits issued under this section may be claimed against the tax imposed by chapter 143, excluding withholding tax imposed by sections [143.191](#) to [143.265](#). For taxpayers with flow-through tax treatment of its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period. The director of revenue shall issue a refund to a taxpayer to the extent the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax liability in the year redemption is authorized. An owner of tax credits issued under this section shall not be required to have any Missouri income tax liability in order to redeem such tax credits and receive a refund. The director of revenue shall prepare a form to permit the owner of such tax credits to obtain a refund.

6. Certificates of tax credits authorized under this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. Upon such transfer, sale, or assignment, the transferee shall be the owner of such tax credits entitled to claim the tax credits or any refunds with respect thereto issued to the taxpayer. Tax credits may not be carried forward past the year of issuance. Tax credits authorized by this section may not be pledged or used to secure any bonds or other indebtedness issued by the state or any political subdivision of the state. Once such tax credits have been issued, nothing shall prohibit the owner of the tax credits from pledging the tax credits to any lender or other third party.

7. Any taxpayer issued tax credits under this section shall provide an annual report to the department and the house and senate appropriations committees of the number of new jobs located at the megaproject, the new annual payroll of such new jobs, and such other information as may be required by the department to document the basis for benefits under this section. The department

may withhold the approval of the annual issuance of any tax credits until it is satisfied that proper documentation has been provided, and shall reduce the tax credits to reflect any reduction in new payroll. If the department determines the average wage is below the county average wage, or the taxpayer has not maintained employee health insurance as required, the taxpayer shall not receive tax credits for that year.

8. Notwithstanding any provision of law to the contrary, any taxpayer who is awarded tax credits under this section shall not also receive tax credits under sections [135.100](#) to [135.150](#), sections [135.200](#) to [135.286](#), section [135.535](#), or sections [620.1875](#) to [620.1890](#).

9. Any action brought in any court contesting the approval of a megaproject and the issuance of the tax credits, or any other action undertaken pursuant to this section related to such megaproject, shall be filed within ninety days following approval of the megaproject by the department.

10. Records and documents relating to a proposed megaproject shall be deemed closed records until such time as the application has been approved. Provisions of this subsection to the contrary notwithstanding, records containing business plan information which may endanger the competitiveness of the business shall remain closed.

11. Notwithstanding any provision of this section to the contrary, no taxpayer who receives megaproject tax credits authorized under this section or any related taxpayer shall employ, prior to January 1, 2022, directly:

(1) Any elected public official of this state holding office as of January 1, 2008;

(2) Any director, deputy director, division director, or employee directly involved in negotiations between the department of economic development and a taxpayer relative to the megaproject who was employed as of January 1, 2008, by the department.

(L. 2008 H.B. 2393)

#### **Rulemaking authority.**

[135.970](#). The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of sections [135.950](#) to [135.970](#). Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

(L. 2004 S.B. 1155 § 135.1075)

#### **Eligibility of existing enterprise zones.**

135.973. After January 1, 2007, all enterprise zones designated before January 1, 2006, shall be eligible to receive the tax benefits under sections 135.950 to 135.970.

(L. 2004 S.B. 1155 § 135.1078)

**No restriction by ballot permitted for certain businesses with NAICcode--expiration date.**

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

(1) "NAICS", the classification provided by the most recent edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget;

(2) "Public financial incentive", any economic or financial incentive offered including:

(a) Any tax reduction, credit, forgiveness, abatement, subsidy, or other tax-relieving measure;

(b) Any tax increment financing or similar financial arrangement;

(c) Any monetary or nonmonetary benefit related to any bond, loan, or similar financial arrangement;

(d) Any reduction, credit, forgiveness, abatement, subsidy, or other relief related to any bond, loan, or similar financial arrangement; and

(e) The ability to form, own, direct, or receive any economic or financial benefit from any special taxation district.

2. No city not within a county shall by ballot measure impose any restriction on any public financial incentive authorized by statute for a business with a NAICS code of 212111.

3. The provisions of this section shall expire on December 31, 2017.

(L. 2014 S.B. 672)

Expires 12-31-17

**Citation of law--definitions--tax credit, amount--claimapplication--limitation--transferability of credit--rulemakingauthority.**

135.1150. 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented

according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section [210.484](#), accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the agency which are licensed and accredited;

(5) "Taxpayer", any of the following individuals or entities who make an eligible donation to an agency:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;

(e) An individual subject to the state income tax imposed in chapter 143;

(f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148, excluding withholding tax imposed by sections [143.191](#) to [143.265](#), in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the agency; and

(3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

(L. 2006 S.B. 614 § 135.1142, A.L. 2007 H.B. 453 merged with S.B. 86, A.L. 2007 1st Ex. Sess. H.B. 1, A.L. 2012 H.B. 1172, A.L. 2015 S.B. 463)

**Citation of law--definitions--tax credit, amount,procedure--rulemaking authority.**

[135.1180](#). 1. This section shall be known and may be cited as the "Developmental Disability Care Provider Tax Credit Program".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received by a provider from a taxpayer that are used solely to provide direct care services to persons with developmental disabilities who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include, but are not limited to, increasing the quality of care and service for persons with developmental disabilities through improved employee compensation and training;

(4) "Qualified developmental disability care provider" or "provider", a care provider that provides assistance to persons with developmental disabilities, and is accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), or is under contract with the Missouri department of social services or department of mental health to provide treatment services for such persons, and that receives eligible donations. Any provider that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the provider which are licensed or accredited;

(5) "Taxpayer", any of the following individuals or entities who make an eligible donation to a provider:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;

(e) An individual subject to the state income tax imposed in chapter 143;

(f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2012, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148 excluding withholding tax imposed by sections [143.191](#) to [143.265](#) in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, a provider may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the provider has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the provider; and

(3) Payment from the provider equal to the value of the tax credit for which application is made.

If the provider applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

6. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

(L. 2012 H.B. 1172, A.L. 2015 S.B. 463)

**Relocated jobs, eligibility for tax credits and financial incentives--director's duties--expiration date.**

[135.1670](#). 1. As used in this section, the following terms mean:

(1) "Kansas border county", Douglas, Johnson, Miami, or Wyandotte County in Kansas;

(2) "Missouri border county", any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, any county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a city of the fourth classification with more than four thousand five hundred but fewer than five thousand inhabitants as the county seat, any county of the first classification with more than two hundred thousand but fewer than two hundred sixty thousand inhabitants, or any county of the first classification with more than ninety-two thousand but fewer than one hundred one thousand inhabitants in Missouri.

\*2. If any job that qualifies for a tax credit under sections [100.700](#) to [100.850](#) or under sections [135.100](#) to [135.258](#), for funding under section [620.1023](#), or for a tax credit or retention of state withholding taxes under sections [620.2000](#) to [620.2020](#), relocates to a Missouri border county from a Kansas border county, no tax credits shall be issued, funding provided, or retention of withholding taxes authorized for such job under such sections.

\*3. If the director of the Missouri department of economic development determines that the state of Kansas has enacted legislation or the governor of Kansas issued an executive order or similar action which prohibits the Kansas Department of Commerce or any other Kansas executive department from providing economic incentives for jobs that are relocated from a Missouri border county to a Kansas border county, then the director shall execute and deliver to the governor, the

speaker of the house of representatives, and the president pro tempore of the senate a written certification of such determination. Upon the execution and delivery of such written certification and the parties receiving such certification providing a unanimous written affirmation, the provisions of subsection 2 of this section shall be effective unless otherwise provided in this section. The provisions of subsection 2 of this section shall not apply to incentives reserved on behalf of and awarded to Missouri employers prior to the provisions of subsection 2 of this section taking effect.

\*4. If the director of the Missouri department of economic development determines that the Kansas Department of Commerce or any other Kansas executive department is providing economic incentives for jobs that relocate from a Missouri border county to a Kansas border county, then the director shall execute and deliver to the governor, the speaker of the house of representatives, and the president pro tempore of the senate a written certification of such determination. Upon the execution and delivery of such written certification and the parties receiving such certification providing a unanimous written affirmation, the provisions of subsection 2 of this section shall not be effective until such time as the director determines that the Kansas Department of Commerce or any other Kansas executive department is not providing economic incentives for jobs that relocate from a Missouri border county to a Kansas border county, and the director has executed and delivered to the governor, the speaker of the house of representative, and the president pro tempore of the senate a written certification of such determination and the parties receiving such certification provide an unanimous written affirmation.

\*5. The director of the Missouri department of economic development shall notify the revisor of statutes of all changes in whether subsection 2 of this section is effective.

\*\*6. The provisions of this section shall expire August 28, 2016, unless at such time the provisions of subsection 2 of this section are in effect. If the provisions of this section do not expire on August 28, 2016, the provisions of this section shall expire on August 28, 2020.

(L. 2014 S.B. 635)

\*Contingent effective date

\*\*Contingent expiration date

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