

FIRST REGULAR SESSION

HOUSE BILL NO. 649

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FARES (Sponsor), PORTWOOD, PHILLIPS,
CUNNINGHAM (86), ST. ONGE, SUTHERLAND, VILLA AND PRATT (Co-sponsors).

Read 1st time February 24, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1279L.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to income tax.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be
2 known as section 135.097, to read as follows:

135.097. 1. For purposes of this section the following definitions shall be used.

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

6 **(2) "Eligible taxpayer", a Missouri resident claiming a credit under this section.**
7 **If the persons are eligible to file a joint federal income tax return and reside at the same**
8 **address at any time during the taxable year, then the credit may only be allowed if claimed**
9 **on a combined Missouri income tax return reporting their combined incomes and property**
10 **taxes. A taxpayer shall not be allowed a tax credit unless the taxpayer or spouse has**
11 **attained the age of sixty-five on or before the last day of the calendar year, has been a**
12 **resident of Missouri for ten years, and has lived in their homestead for at least ten years**
13 **or the taxpayer or spouse is a veteran of any branch of the armed forces of the United**
14 **States or this state who became one hundred percent disabled as a result of such service,**
15 **or the taxpayer or spouse is disabled as defined in subdivision (1) of this subsection, and**
16 **such taxpayer or spouse provides proof of such disability in such form and manner, and**

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

17 at such times, as the director of revenue may require. The residency requirement shall be
18 deemed to have been fulfilled for the purpose of determining the eligibility of a surviving
19 spouse for a property tax credit if a person of the age of sixty-five years or older who would
20 have otherwise met the requirements for this tax credit dies before the last day of the
21 calendar year. The residency requirement shall also be deemed to have been fulfilled for
22 the purpose of determining the eligibility of a taxpayer who would have otherwise met the
23 requirements for a tax credit but who dies before the last day of the calendar year;

24 (3) "Homestead", the dwelling in Missouri owned for ten or more years by the
25 eligible taxpayer and not to exceed five acres of land surrounding it as is reasonably
26 necessary for use of the dwelling as a home. It may consist of part of a multidwelling or
27 multipurpose building and part of the land upon which it is built. "Owned" includes a
28 vendee in possession under a land contract and one or more tenants by the entireties, joint
29 tenants, or tenants in common and includes an eligible taxpayer actually in possession if
30 he was the immediate former owner of record, if a lineal descendant is presently the owner
31 of record, and if the eligible taxpayer actually pays all taxes upon the property. It may
32 include a mobile home;

33 (4) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo,
34 and increased, where necessary, to reflect the following:

35 (a) Social Security, railroad retirement, and veterans payments and benefits;

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

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

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

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

42 (6) "Property taxes accrued", property taxes paid, exclusive of special assessments,
43 penalties, interest, and charges for service levied on an eligible taxpayer's homestead in any
44 calendar year. Property taxes shall qualify for the credit only if actually paid prior to the
45 date a return is filed. The director of revenue shall require a tax receipt or other proof of
46 property tax payment. If a homestead is owned only partially by an eligible taxpayer, then
47 "property taxes accrued" is that part of property taxes levied on the homestead which was
48 actually paid by the eligible taxpayer. For purposes of this subdivision, property taxes are
49 "levied" when the tax roll is delivered to the director of revenue for collection. If a
50 homestead is an integral part of a larger unit such as a farm, or multipurpose or
51 multidwelling building, property taxes accrued shall be that percentage of the total
52 property taxes accrued as the value of the homestead is of the total value. For purposes of

53 this subdivision "unit" refers to the parcel of property covered by a single tax statement
54 of which the homestead is a part.

55 **2. For all taxable years beginning on or after January 1, 2006, an eligible taxpayer**
56 **who is sixty-five years of age or older, or who is disabled, and who has lived in their**
57 **homestead for at least ten years, and has paid more than ten percent of his or her total**
58 **household income in real property tax on his or her homestead, shall receive a credit in an**
59 **amount equal to fifty percent of his or her property taxes paid for such homestead.**

60 **3. The tax credit allowed by this section shall be claimed by such individual at the**
61 **time such individual files a return and shall be applied against the income tax liability**
62 **imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to**
63 **143.265, RSMo, after all other credits provided by law have been applied. If the amount**
64 **of the tax credit exceeds the tax liability, the difference shall be refunded to the taxpayer.**

65 **4. The director of the department of revenue shall promulgate rules and regulations**
66 **to administer the provisions of this section. Any rule or portion of a rule, as that term is**
67 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
68 **section shall become effective only if it complies with and is subject to all of the provisions**
69 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
70 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
71 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
72 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
73 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**
74 **void.**

75 **5. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

76 **(1) The provisions of the new program authorized under this section shall**
77 **automatically sunset six years after the effective date of this section unless reauthorized by**
78 **an act of the general assembly; and**

79 **(2) If such program is reauthorized, the program authorized under this section**
80 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
81 **section; and**

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

84 **6. For purposes of this section, section 135.015 shall apply.**