

SECOND REGULAR SESSION

# HOUSE BILL NO. 1215

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FARES (Sponsor) AND AVERY (Co-sponsor).

Pre-filed January 3, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3619L.01I

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### AN ACT

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

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*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 terms shall mean:**

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 or the taxpayer**  
12 **or spouse is a veteran of any branch of the armed forces of the United States or this state**  
13 **who became one hundred percent disabled as a result of such service, or the taxpayer or**  
14 **spouse is disabled as defined in subdivision (1) of this subsection, and such taxpayer or**  
15 **spouse provides proof of such disability in such form and manner, and at such times, as the**  
16 **director of revenue may require, has been a resident of Missouri for twenty years, and has**

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 lived in their homestead for at least twenty years. The residency requirement shall be  
18 deemed to have been fulfilled for the purpose of determining the eligibility of a taxpayer  
19 or spouse who would have otherwise met the requirements for a tax credit but who dies  
20 before the last day of the calendar year;

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

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

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

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

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

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

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

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

52           **2. For all taxable years beginning on or after January 1, 2007, an eligible taxpayer**  
53 **who is sixty-five years of age or older, or who is disabled, and who has lived in their**  
54 **homestead for at least twenty years, and has paid more than ten percent of his or her total**  
55 **household income in real property tax on his or her homestead, shall receive a credit in an**  
56 **amount equal to fifty percent of his or her property taxes paid for such homestead. An**  
57 **eligible taxpayer shall not be allowed to claim the tax credit for the year that the homestead**  
58 **is sold.**

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

64           **4. An eligible taxpayer shall not be allowed to claim such credit if the taxpayer filed**  
65 **a valid claim under sections 135.010 to 135.030, RSMo, or section 137.106, RSMo, for the**  
66 **same tax year.**

67           **5. The director of the department of revenue shall promulgate rules and regulations**  
68 **to administer the provisions of this section. Any rule or portion of a rule, as that term is**  
69 **defined in section 536.010, RSMo, that is created under the authority delegated in this**  
70 **section shall become effective only if it complies with and is subject to all of the provisions**  
71 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**  
72 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**  
73 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**  
74 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
75 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**  
76 **void.**

77           **6. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

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

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

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

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