

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 453

## 94TH GENERAL ASSEMBLY

0914S.04T

2007

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### AN ACT

To repeal section 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits for certain contributions.

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

Section A. Section 135.1150, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.647 and 135.1150, to read as follows:

**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, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo.

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, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an

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

16 amount equal to fifty percent of the value of the donations made to the extent such amounts  
17 that have been subtracted from federal adjusted gross income or federal taxable income  
18 are added back in the determination of Missouri adjusted gross income or Missouri taxable  
19 income before the credit can be claimed. Each taxpayer claiming a tax credit under this  
20 section shall file an affidavit with the income tax return verifying the amount of their  
21 contributions. The amount of the tax credit claimed shall not exceed the amount of the  
22 taxpayer's state tax liability for the tax year that the credit is claimed, and shall not exceed  
23 two thousand five hundred dollars per taxpayer claiming the credit. Any amount of credit  
24 that the taxpayer is prohibited by this section from claiming in a tax year shall not be  
25 refundable, but may be carried forward to any of the taxpayer's three subsequent taxable  
26 years. No tax credit granted under this section shall be transferred, sold, or assigned. No  
27 taxpayer shall be eligible to receive a credit pursuant to this section if such taxpayer  
28 employs persons who are not authorized to work in the United States under federal law.

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

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

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

51       6. Under section 23.253, RSMo, of the Missouri Sunset Act:

52       (1) The provisions of the new program authorized under this section shall  
53 automatically sunset four years after the effective date of this section unless reauthorized  
54 by an act of the general assembly; and

55       (2) If such program is reauthorized, the program authorized under this section  
56 shall automatically sunset twelve years after the effective date of the reauthorization of this  
57 section; and

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

135.1150. 1. This section shall be known and may be cited as the "Residential  
2 Treatment Agency Tax Credit Act".

3       2. As used in this section, the following terms mean:

4       (1) "Certificate", a tax credit certificate issued under this section;

5       (2) "Department", the Missouri department of social services;

6       (3) "Eligible [monetary] donation", donations received from a taxpayer by an agency that  
7 are used solely to provide direct care services to children who are residents of this state. **Eligible**  
8 **donations may include cash, publicly-traded stocks and bonds, and real estate that will be**  
9 **valued and documented according to rules promulgated by the department of social**  
10 **services.** For purposes of this section, "direct care services" include but are not limited to  
11 increasing the quality of care and service for children through improved employee compensation  
12 and training;

13       (4) "Qualified residential treatment agency" or "agency", a residential care facility that  
14 is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA),  
15 the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the  
16 Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with  
17 the Missouri department of social services to provide treatment services for children who are  
18 residents or wards of residents of this state, and that receives eligible monetary donations. Any  
19 agency that operates more than one facility or at more than one location shall be eligible for the  
20 tax credit under this section only for any eligible monetary donations made to facilities or  
21 locations of the agency which are licensed and accredited;

22       (5) "Taxpayer", any of the following individuals or entities who make **an** eligible  
23 [monetary donations] **donation** to an agency:

24       (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation  
25 doing business in the state of Missouri and subject to the state income tax imposed in chapter  
26 143, RSMo;

27       (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147,  
28 RSMo;

29 (c) An insurance company paying an annual tax on its gross premium receipts in this  
30 state;

31 (d) Any other financial institution paying taxes to the state of Missouri or any political  
32 subdivision of this state under chapter 148, RSMo;

33 (e) An individual subject to the state income tax imposed in chapter 143, RSMo.

34 3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be  
35 allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo,  
36 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal  
37 to fifty percent of the amount of an eligible monetary donation, subject to the restrictions in this  
38 section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state  
39 income tax liability in the tax year for which the credit is claimed. Any amount of credit that the  
40 taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may  
41 be carried forward to any of the taxpayer's four subsequent taxable years.

42 4. To claim the credit authorized in this section, an agency may submit to the department  
43 an application for the tax credit authorized by this section on behalf of taxpayers. The  
44 department shall verify that the agency has submitted the following items accurately and  
45 completely:

46 (1) A valid application in the form and format required by the department;

47 (2) A statement attesting to the eligible [monetary] donation received, which shall  
48 include the name and taxpayer identification number of the individual making the eligible  
49 [monetary] donation, the amount of the eligible [monetary] donation, and the date the eligible  
50 [monetary] donation was received by the agency; and

51 (3) Payment from the agency equal to the value of the tax credit for which application  
52 is made.

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54 If the agency applying for the tax credit meets all criteria required by this subsection, the  
55 department shall issue a certificate in the appropriate amount.

56 5. An agency may apply for tax credits in an aggregate amount that does not exceed forty  
57 percent of the payments made by the department to the agency in the preceding twelve months.

58 6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise  
59 conveyed, and the new owner of the tax credit shall have the same rights in the credit as the  
60 taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a  
61 notarized endorsement shall be filed with the department specifying the name and address of the  
62 new owner of the tax credit or the value of the credit.

63 7. The department shall promulgate rules to implement the provisions of this section.  
64 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created

65 under the authority delegated in this section shall become effective only if it complies with and  
66 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
67 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested  
68 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,  
69 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
70 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid  
71 and void.

72 8. Under section 23.253, RSMo, of the Missouri sunset act:

73 (1) The provisions of the new program authorized under this section shall automatically  
74 sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

75 (2) If such program is reauthorized, the program authorized under this section shall  
76 automatically sunset twelve years after the effective date of the reauthorization of this section;  
77 and

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

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