

FIRST REGULAR SESSION

HOUSE BILL NO. 985

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STORCH.

1234L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for qualified research expenses.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.770, to read as follows:

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

- (1) **"Business component", any product, process, computer software, technique, formula, or invention which is to be held for sale, lease, or license, or is to be used by the taxpayer in a trade or business of the taxpayer. Any plant process, machinery, or technique for commercial production of a business component shall be treated as a separate business component and not as part of the business component being produced;**
- (2) **"Contract research expenses", sixty-five percent of any amount paid or incurred by the taxpayer to any person other than an employee of the taxpayer for qualified research. If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of such taxable year, such amount shall be treated as paid or incurred during the period during which the qualified research is conducted;**
- (3) **"In-house research expenses":**
- (a) **Any wages paid or incurred to an employee for qualified services performed by such employee;**
- (b) **Any amount paid or incurred for equipment and supplies used in the conduct of qualified research; 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.

18 (c) Any amount paid or incurred to another person for the right to use computers
19 or instruments in the conduct of qualified research. Such amount paid or incurred shall
20 not apply to any amount to the extent that the taxpayer receives or accrues any amount
21 from any other person for the right to use substantially identical personal property;

22 (4) "Qualified research", research which is undertaken for the purpose of
23 discovering information that is technological in nature and the application of which is
24 intended to be useful in the development of a new or improved business component of the
25 taxpayer, and substantially all of the activities of which constitute elements of a process of
26 experimentation for a purpose described in this section. Qualified research shall not
27 include any of the following:

28 (a) Research for incremental improvements conducted after the beginning of
29 commercial production of the business component;

30 (b) Research related to the adaptation of an existing business component to a
31 particular customer's requirement or need;

32 (c) Research related to the reproduction of an existing business component, in
33 whole or in part, from a physical examination of the business component itself or from
34 plans, blueprints, detailed specifications, or publicly available information with respect to
35 such business component;

36 (d) Any efficiency survey, activity relating to management function or technique,
37 market research, testing, or development including advertising or promotions, routine data
38 collection, or routine or ordinary testing or inspection for quality control;

39 (e) Except to the extent provided in any regulations, any research with respect to
40 computer software which is developed by or for the benefit of the taxpayer primarily for
41 internal use by the taxpayer, other than for use in an activity which constitutes qualified
42 research or a production process related to qualified research;

43 (f) Research in social sciences, arts, or humanities;

44 (g) Research to the extent funded by any grant, contract, or otherwise by another
45 person or governmental entity;

46 (5) "Qualified research expenses", the sum of the amounts for qualified services,
47 supplies, and wages that are paid or incurred by the taxpayer during the taxable year for
48 qualified research taking place in this state in carrying on any trade or business of the
49 taxpayer, including contract research expenses and in-house research expenses;

50 (6) "Qualified services", services consisting of engaging in qualified research or
51 engaging in the direct supervision or direct support of research activities that constitute
52 qualified research. If substantially all of the services performed by an individual for the
53 taxpayer during the taxable year consist of services meeting the requirements of this

54 subdivision, the term "qualified services" means all of the services performed by such
55 individual for the taxpayer during the taxable year;

56 (7) "Supplies", any tangible property other than land or improvements to land and
57 property of a character subject to the allowance for depreciation;

58 (8) "Tax credit", a credit against the following taxes due and in the following
59 order:

60 (a) The annual tax on gross premium receipts of insurance companies in chapter
61 148, RSMo;

62 (b) The tax on banks determined in subdivision (2) of subsection 2 of section
63 148.030, RSMo;

64 (c) The tax on banks determined in subdivision (1) of subsection 2 of section
65 148.030, RSMo;

66 (d) The tax on other financial institutions in chapter 148, RSMo;

67 (e) The corporation franchise tax in chapter 147, RSMo;

68 (f) The state income tax in chapter 143, RSMo; and

69 (g) The annual tax on gross receipts of express companies in chapter 153, RSMo;

70 (9) "Taxpayer", any individual or entity that:

71 (a) Is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax
72 imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, 148, or
73 153, RSMo;

74 (b) Employs no more than two hundred twenty-five employees, with at least
75 seventy-five percent of such employees based in this state; and

76 (c) Is engaged on a for-profit basis in the development of medical instruments and
77 devices, medical diagnostics or therapeutics, plant science products, pharmaceutical or
78 veterinary products with agricultural applications, or other products derived from life or
79 biomedical sciences;

80 (10) "Wages", all remuneration, payable or paid, for personal services, including
81 commissions, bonuses, and the cash value of all remuneration paid in any medium other
82 than cash.

83 2. For all taxable years beginning on or after January 1, 2010, a taxpayer shall be
84 allowed a tax credit for qualified research expenses incurred. The tax credit amount shall
85 be equal to the following schedule:

86 (1) Ten percent of the qualified research expenses incurred by the taxpayer, but not
87 to exceed five hundred thousand dollars; or

88 (2) Twenty-five percent of the qualified research expenses incurred if a taxpayer
89 incurs the expenses in a distressed community as defined in section 135.530, but not to
90 exceed one million dollars.

91 3. The cumulative amount of tax credits which may be issued under this section in
92 any one fiscal year shall not exceed ten million dollars. At least six million dollars of the
93 tax credits issued under this section shall be for qualified research expenses in a distressed
94 community. Issuance of the six million dollars in tax credits for qualified research
95 expenses incurred in a distressed community shall not restrict the eligibility of qualified
96 research expenses incurred in a distressed community for tax credits from the remaining
97 four million dollars under the cumulative amount cap in this subsection.

98 4. To claim the tax credit allowed under this section, the taxpayer shall submit an
99 application for a tax credit certificate on a form authorized and provided by the
100 department of economic development and any application fee imposed by the department.
101 The application shall be filed with the department at the end of each calendar year in
102 which a qualified research expense was paid or incurred and for which a tax credit is
103 claimed under this section. The application shall include any certified documentation and
104 information required by the department. All required information obtained by the
105 department shall be confidential and not disclosed except by court order, subpoena, or as
106 otherwise provided by law. If the taxpayer and the qualified research expenses comply
107 with all criteria required by this section and approval is granted by the department, the
108 department shall issue a tax credit certificate in the appropriate amount. The tax credit
109 certificate may be used to satisfy the taxpayer's state tax liability in the taxable year in
110 which the qualified expenses were paid or incurred, or in any of the taxpayer's ten
111 subsequent taxable years. Tax credit certificates issued under this section may be assigned,
112 transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate
113 shall have the same rights in the tax credit as the original taxpayer. Whenever a tax credit
114 certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement
115 shall be filed with the department specifying the name and address of the new owner of the
116 tax credit certificate or the value of the tax credit.

117 5. A taxpayer shall be deemed to have paid or incurred in-house research expenses
118 for a trade or business purpose if, at the time such in-house research expenses are paid or
119 incurred, the principal purpose of the taxpayer in making such expenditures is to use the
120 results of the research in the active conduct of a future trade or business of the taxpayer.

121 6. Research shall be deemed to have been conducted for a purpose eligible for a tax
122 credit under this section if it relates to a new or improved function, performance, or
123 reliability or quality. Research shall not be deemed to have been conducted for a purpose

124 eligible for a tax credit under this section if it relates to style, taste, cosmetic, or seasonal
125 design factors.

126 7. The department of revenue shall apply tax credits issued under this section in
127 the same order as established in subdivision (8) of subsection 1 of this section.

128 8. The department of economic development and the department of revenue may
129 promulgate rules to implement the provisions of this section. Any rule or portion of a rule,
130 as that term is defined in section 536.010, RSMo, that is created under the authority
131 delegated in this section shall become effective only if it complies with and is subject to all
132 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
133 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
134 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or
135 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
136 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
137 invalid and void.

138 9. Under section 23.253, RSMo, of the Missouri Sunset Act:

139 (1) The provisions of the new program authorized under this section shall
140 automatically sunset on December thirty-first six years after the effective date of this
141 section unless reauthorized by an act of the general assembly; and

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

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

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