

SECOND REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 2461, 2457 & 1782

103RD GENERAL ASSEMBLY

3879H.04C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 135.647, RSMo, and to enact in lieu thereof one new section relating to food pantry donation tax credits.

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

Section A. Section 135.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.647, to read as follows:

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

(1) **"Food bank", any food bank that:**

(a) **Is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;**

(b) **Maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to needy persons; and**

(c) **Is located in the state of Missouri;**

(2) **"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)~~ (3) **"Local homeless shelter", any homeless shelter that is:**

(a) Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; 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.

19 (b) Providing temporary living arrangements, in the area in which the taxpayer
20 claiming the tax credit under this section resides, for individuals and families who otherwise
21 lack a fixed, regular, and adequate nighttime residence and lack the resources or support
22 networks to obtain other permanent housing;

23 ~~[(3)]~~ (4) "Local soup kitchen", any soup kitchen that is:

24 (a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of
25 1986, as amended; and

26 (b) Providing prepared meals through an established congregate feeding operation to
27 needy, low-income persons including, but not limited to, homeless persons in the area in
28 which the taxpayer claiming the tax credit under this section resides;

29 ~~[(4)]~~ (5) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a
30 shareholder in an S corporation doing business in this state and subject to the state income tax
31 imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

32 2. (1) Beginning on March 29, 2013, any donation of cash or food made to a local
33 food pantry on or after January 1, 2013, unless such food is donated after the food's expiration
34 date, shall be eligible for tax credits as provided by this section.

35 (2) Beginning on August 28, 2018, any donation of cash or food made to a local soup
36 kitchen or local homeless shelter on or after January 1, 2018, unless such food is donated after
37 the food's expiration date, shall be eligible for a tax credit as provided under this section.

38 (3) **Beginning on August 28, 2026, any donation of cash or food made to a food**
39 **bank on or after January 1, 2026, unless such food is donated after the food's expiration**
40 **date, shall be eligible for a tax credit as provided under this section.**

41 (4) Any taxpayer who makes a donation that is eligible for a tax credit under this
42 section shall be allowed a credit against the tax otherwise due under chapter 143, excluding
43 withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent
44 of the value of the donations made to the extent such amounts that have been subtracted from
45 federal adjusted gross income or federal taxable income are added back in the determination
46 of Missouri adjusted gross income or Missouri taxable income before the credit can be
47 claimed.

48 (5) Each taxpayer claiming a tax credit under this section shall file an affidavit with
49 the income tax return verifying the amount of their contributions. The amount of the tax
50 credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year
51 that the credit is claimed and shall not exceed two thousand five hundred dollars per taxpayer
52 claiming the credit. Any amount of credit that the taxpayer is prohibited by this section from
53 claiming in a tax year shall not be refundable, but may be carried forward to any of the
54 taxpayer's three subsequent tax years. No tax credit granted under this section shall be
55 transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit pursuant to this

56 section if such taxpayer employs persons who are not authorized to work in the United States
57 under federal law. No taxpayer shall be able to claim more than one credit under this section
58 for a single donation.

59 **3. (1) For all tax years beginning on or after January 1, 2007, but on or before**
60 **December 31, 2025,** the cumulative amount of tax credits under this section which may be
61 allocated to all taxpayers contributing to a local food pantry, local soup kitchen, or local
62 homeless shelter in any one fiscal year shall not exceed one million seven hundred fifty
63 thousand dollars.

64 **(2) For all tax years beginning on or after January 1, 2026, the cumulative**
65 **amount of tax credits under this section that may be allocated to all taxpayers**
66 **contributing to local food pantries, local soup kitchens, and local homeless shelters in**
67 **any one fiscal year shall not exceed two million seven hundred fifty thousand dollars.**
68 **For all tax years beginning on or after January 1, 2026, the cumulative amount of tax**
69 **credits under this section that may be allocated to all taxpayers contributing to food**
70 **banks shall be one million two hundred fifty thousand dollars.**

71 **(3) In the event tax credits claimed under one category do not total the allocated**
72 **amount, the unused portion for that category shall be made available to the other**
73 **category. In the event the total amount of tax credits claimed for any one category**
74 **exceeds the amount available, the amount redeemed shall be apportioned equally to all**
75 **eligible taxpayers claiming the credit under that category.** The director of revenue shall
76 establish a procedure by which the cumulative amount of tax credits is apportioned among all
77 taxpayers claiming the credit by April fifteenth of the fiscal year in which the tax credit is
78 claimed. To the maximum extent possible, the director of revenue shall establish the
79 procedure described in this subsection in such a manner as to ensure that taxpayers can claim
80 all the tax credits possible up to the cumulative amount of tax credits available for the fiscal
81 year.

82 **(4) In the event a full or partial credit denial, due to the cumulative maximum**
83 **amount of credits being redeemed for the fiscal year, causes an income-tax balance due**
84 **to be owed to the state by the taxpayer, the taxpayer shall not be held liable for any**
85 **addition to tax, penalty, or interest on that income-tax balance due, provided the**
86 **balance is paid, or approved payment arrangements are made, within sixty days from**
87 **issuance of the notice of credit denial.**

88 **4. Any food bank,** local food pantry, local soup kitchen, or local homeless shelter
89 may accept or reject any donation of food made under this section for any reason. For
90 purposes of this section, any donations of food accepted by a **food bank,** local food pantry,
91 local soup kitchen, or local homeless shelter shall be valued at fair market value, or at

92 wholesale value if the taxpayer making the donation of food is a retail grocery store, food
93 broker, wholesaler, or restaurant.

94 5. The department of revenue shall promulgate rules to implement the provisions of
95 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
96 created under the authority delegated in this section shall become effective only if it complies
97 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
98 This section and chapter 536 are nonseverable and if any of the powers vested with the
99 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
100 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
101 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid
102 and void.

103 6. Under section 23.253 of the Missouri sunset act:

104 (1) The program authorized under this section shall ~~be reauthorized as of August 28,~~
105 ~~2018, and shall~~ expire on December 31, ~~[2026]~~ **2032**, unless reauthorized by the general
106 assembly; ~~and~~

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

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

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