

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 1172

## 96TH GENERAL ASSEMBLY

4805L.01T

2012

---

---

### AN ACT

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

---

---

*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Section A. Section 135.1150, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.1150 and 135.1180, to read as follows:

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

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

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

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

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

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or

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 wards of residents of this state, and that receives eligible donations. Any agency that operates  
18 more than one facility or at more than one location shall be eligible for the tax credit under this  
19 section only for any eligible donation made to facilities or locations of the agency which are  
20 licensed and accredited;

21 (5) "Taxpayer", any of the following individuals or entities who make an eligible  
22 donation to an agency:

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

26 (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

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

29 (d) Any other financial institution paying taxes to the state of Missouri or any political  
30 subdivision of this state under chapter 148;

31 (e) An individual subject to the state income tax imposed in chapter 143;

32 (f) Any charitable organization which is exempt from federal income tax and whose  
33 Missouri unrelated business taxable income, if any, would be subject to the state income tax  
34 imposed under chapter 143.

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

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

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

48 (2) A statement attesting to the eligible donation received, which shall include the name  
49 and taxpayer identification number of the individual making the eligible donation, the amount  
50 of the eligible donation, and the date the eligible 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. If the agency applying for the tax credit meets all criteria required by this subsection,  
53 the department shall issue a certificate in the appropriate amount.

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

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

62 7. The department shall promulgate rules to implement the provisions of this section.  
63 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
64 authority delegated in this section shall become effective only if it complies with and is subject  
65 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
66 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant  
67 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
68 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
69 or adopted after August 28, 2006, shall be invalid and void.

70 8. Under section 23.253 of the Missouri sunset act:

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

73 (2) If such program is reauthorized,] The program authorized under this section shall  
74 [automatically sunset twelve years after the effective date of the reauthorization of this section]  
75 **expire on December 31, 2015;** and

76 [(3)] (2) This section shall terminate on September [first of the calendar year  
77 immediately following the calendar year in which the program authorized under this section is  
78 sunset] **1, 2016.**

**135.1180. 1. This section shall be known and may be cited as the "Developmental  
2 Disability Care Provider Tax Credit Program".**

**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 donation", donations received, by a provider, from a taxpayer that are  
7 used solely to provide direct care services to persons with developmental disabilities who  
8 are residents of this state. Eligible donations may include cash, publicly traded stocks and**

9 bonds, and real estate that will be valued and documented according to rules promulgated  
10 by the department of social services. For purposes of this section, "direct care services"  
11 include, but are not limited to, increasing the quality of care and service for persons with  
12 developmental disabilities through improved employee compensation and training;

13 (4) "Qualified developmental disability care provider" or "provider", a care  
14 provider that provides assistance to persons with developmental disabilities, and is  
15 accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation  
16 of Healthcare Organizations (JCAHO), or the Commission on Accreditation of  
17 Rehabilitation Facilities (CARF), or is under contract with the Missouri department of  
18 social services or department of mental health to provide treatment services for such  
19 persons, and that receives eligible donations. Any provider that operates more than one  
20 facility or at more than one location shall be eligible for the tax credit under this section  
21 only for any eligible donation made to facilities or locations of the provider which are  
22 licensed or accredited;

23 (5) "Taxpayer", any of the following individuals or entities who make an eligible  
24 donation to a provider:

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

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

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

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

34 (e) An individual subject to the state income tax imposed in chapter 143;

35 (f) Any charitable organization which is exempt from federal income tax and whose  
36 Missouri unrelated business taxable income, if any, would be subject to the state income  
37 tax imposed under chapter 143.

38 3. For all taxable years beginning on or after January 1, 2012, any taxpayer shall  
39 be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148  
40 excluding withholding tax imposed by sections 143.191 to 143.265 in an amount equal to  
41 fifty percent of the amount of an eligible donation, subject to the restrictions in this section.  
42 The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state  
43 income tax liability in the tax year for which the credit is claimed. Any amount of credit  
44 that the taxpayer is prohibited by this section from claiming in a tax year shall not be

45 refundable, but may be carried forward to any of the taxpayer's four subsequent taxable  
46 years.

47 **4. To claim the credit authorized in this section, a provider may submit to the**  
48 **department an application for the tax credit authorized by this section on behalf of**  
49 **taxpayers. The department shall verify that the provider has submitted the following items**  
50 **accurately and completely:**

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

52 **(2) A statement attesting to the eligible donation received, which shall include the**  
53 **name and taxpayer identification number of the individual making the eligible donation,**  
54 **the amount of the eligible donation, and the date the eligible donation was received by the**  
55 **provider; and**

56 **(3) Payment from the provider equal to the value of the tax credit for which**  
57 **application is made. If the provider applying for the tax credit meets all criteria required**  
58 **by this subsection, the department shall issue a certificate in the appropriate amount.**

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

64 **6. The department shall promulgate rules to implement the provisions of this**  
65 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
66 **created under the authority delegated in this section shall become effective only if it**  
67 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**  
68 **section 536.028. This section and chapter 536, are nonseverable and if any of the powers**  
69 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**  
70 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
71 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**  
72 **shall be invalid and void.**

73 **7. Under section 23.253 of the Missouri sunset act:**

74 **(1) The provisions of the new program authorized under this section shall**  
75 **automatically sunset on December 31, 2016, unless reauthorized by an act of the general**  
76 **assembly; and**

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

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

✓