

FIRST REGULAR SESSION

SENATE BILL NO. 205

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLAND.

Pre-filed December 19, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0433S.011

AN ACT

To amend chapter 135, RSMo, by adding thereto four new sections relating to tax relief for child care payments, with penalty provisions and an expiration date for a certain section.

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

Section A. Chapter 135, RSMo, is amended by adding thereto four new sections, to be known as sections 135.850, 135.852, 135.854 and 135.856, to read as follows:

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

(1) "Children", dependent natural, adopted or foster children, dependent stepchildren, or dependent wards;

(2) "Net expenditures", only those amounts paid or incurred for child care services or irrevocably contributed to a fund established exclusively to contract for child care services rendered pursuant to a written contract with a third-party provider less any amounts received by the qualified taxpayer from any source for the provision of child care services;

(3) "Qualified taxpayer", an employer who makes expenditures pursuant to this section.

2. For tax years beginning on or after January 1, 2002, a qualified taxpayer shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to ten percent of the net expenditures made directly or through a fund during a tax year by the taxpayer in making available child care services to children of the taxpayer's employees. No credit shall be allowed for any amounts for which any other credit against state income tax is claimed or allowed for the same net expenditures.

3. The tax credit allowed by this section shall be claimed at the time a taxpayer

files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after the application of all other credits provided by law. The credit allowed by this section may be carried forward into a subsequent taxable year as otherwise provided by law.

4. No such credit shall be allowed:

(1) To an employer who fails to provide subsidized child care services on a sliding scale, based on need, to parents of at least twenty-five percent of the children served by the facility for which the credit is sought;

(2) To an employer who unfairly discriminates among its employees on the basis of race, creed, religion or national origin as a factor in making available child care services, except that, an employer may give a preference to children of child care dependent employees in providing services qualifying for a credit pursuant to this section; or

(3) For services provided by a facility which is not licensed pursuant to the provisions of sections 210.201 to 210.245, RSMo, and subject to the regulations of the department of health governing child care facilities.

135.852. 1. For tax years beginning on or after January 1, 2002, a taxpayer who is allowed a federal income tax credit pursuant to section 21 of the Internal Revenue Code, as amended, for the taxpayer's expenses for household and dependent care services necessary for gainful employment shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to one hundred percent of the allowable federal income tax credit.

2. The tax credit allowed by this section shall be claimed at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after the application of all other credits provided by law. The credit allowed by this section shall not be refundable and shall not be carried forward into any subsequent taxable year.

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

28, 2001, shall be invalid and void.

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

(1) "Child", a person who is less than six years old, who receives no public assistance, and for whom the taxpayer claiming a credit pursuant to this section, or the taxpayer's spouse, has a legal obligation to support;

(2) "Child care", providing the majority of the supervision, instruction and care received by a child during an average day;

(3) "Qualified spouse", a person who is married to the taxpayer claiming a credit pursuant to this section, who is not employed in a trade or business and who is not providing any services for hire, who receives no public assistance and who provides child care to such person's, or to the taxpayer's, child.

2. For tax years beginning on or after January 1, 2002, a resident individual taxpayer who receives no public assistance and whose child, or whose spouse's child, receives child care from a qualified spouse shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to four hundred dollars.

3. The tax credit allowed by this section shall be claimed by a taxpayer in the tax year in which such taxpayer's qualified spouse provided the taxpayer's child, or such spouse's child, with child care and shall be claimed at the time the taxpayer files a tax return. The credit allowed pursuant to this section shall not be refundable and shall not be carried forward into any subsequent tax year.

4. Any taxpayer claiming a credit pursuant to this section shall file as part of the taxpayer's return an affidavit signed by the taxpayer's spouse attesting to qualified spouse status pursuant to this section.

5. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

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

(1) "Child", a person who is less than five years old and for whom the taxpayer claiming a credit pursuant to this section has a legal obligation to support;

(2) "Child care services", supervision and care provided a child by a parent or guardian or by a person other than the child's parent or guardian when such parent or guardian is temporarily unable to provide such supervision and care due to involvement in activities related to employment or education;

(3) "Full-time child care services", when more than seventy-five percent of the total annual qualified child care service payments are for weeks in which child care services were provided to a child for twenty hours or more;

(4) "Part-time child care services", child care services which are not full-time child care services;

(5) "Qualified child care service payments", amounts paid for child care services which were provided between January 1, 2002, and December 31, 2004, by any person, or amounts paid for child care services which were provided after December 31, 2004, either by a child care facility which is licensed pursuant to the provisions of sections 210.201 to 210.259, RSMo, or by a person or facility which meets the requirements of sections 210.201 to 210.259, RSMo, but is not licensed pursuant to the provisions of such sections.

2. For tax years beginning on or after January 1, 2002, an individual resident taxpayer who has made qualified child care service payments on behalf of a child shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to the lesser of qualified child care service payments actually made during the taxable year or the following amounts:

(1) One thousand dollars for every child who is less than three years of age and for whom full-time child care services are provided, or five hundred dollars for every such child for whom part-time child care services are provided; or

(2) Five hundred dollars for every child who is at least three years of age and less than five years of age and for whom full-time child care services are provided, or two hundred fifty dollars for every such child for whom part-time child care services are provided.

3. If a taxpayer has joint custody of a child for whom qualified child care service payments are made, then the taxpayer shall be allowed a portion of the credit in an amount equal to the full credit amount otherwise allowed multiplied by the same percentage as the percentage of time for which the taxpayer has legal custody of the child. On a combined return only one spouse shall be allowed to claim the credit for any one child for whom both spouses have made qualified child care service payments.

4. The tax credit allowed by this section shall be claimed in the tax year in which such qualified tax payments were made at the time the taxpayer files a tax return. The

credit allowed pursuant to this section shall be refundable.

5. Any taxpayer claiming a credit pursuant to this section shall file as part of such taxpayer's return copies of receipts for the qualified child care service payments and any other documentation the director of the department of revenue determines necessary to confirm that the taxpayer has made the qualified child care service payments for which the credit is claimed. The receipts required pursuant to this subsection shall provide the following information to the satisfaction of the director:

(1) The name and address of the taxpayer and child;

(2) The name and address of the child care services provider;

(3) The dates and the number of hours upon such dates for which child care services were provided in return for the payment for which the receipt is evidence; and

(4) The amount paid for which the receipt was issued.

6. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section and shall design all necessary forms. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. Any person falsely claiming a credit pursuant to this section shall be guilty of a class A misdemeanor.

8. The provisions of this section shall expire on December 31, 2025.