

SENATE BILL NO. 1082

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

5426S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 135.647, RSMo, and to enact in lieu thereof one new section relating to a tax credit for donated food.

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Section A. Section 135.647, RSMo, is repealed and one new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

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

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

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

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

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

13 (2) "Local food pantry", any food pantry that is:

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

16 (b) Distributing emergency food supplies to Missouri
17 low-income people who would otherwise not have access to

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 food supplies in the area in which the taxpayer claiming the
19 tax credit under this section resides;

20 **[(2)] (3)** "Local homeless shelter", any homeless
21 shelter that is:

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

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

30 **[(3)] (4)** "Local soup kitchen", any soup kitchen that
31 is:

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

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

39 **[(4)] (5)** "Taxpayer", an individual, a firm, a partner
40 in a firm, corporation, or a shareholder in an S corporation
41 doing business in this state and subject to the state income
42 tax imposed by chapter 143, excluding withholding tax
43 imposed by sections 143.191 to 143.265.

44 2. (1) Beginning on March 29, 2013, any donation of
45 cash or food made to a local food pantry on or after January
46 1, 2013, unless such food is donated after the food's
47 expiration date, shall be eligible for tax credits as
48 provided by this section.

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

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

59 (4) **For all tax years ending on or before December 31,**
60 **2025,** any taxpayer who makes a donation that is eligible for
61 a tax credit under this section shall be allowed a credit
62 against the tax otherwise due under chapter 143, excluding
63 withholding tax imposed by sections 143.191 to 143.265, in
64 an amount equal to fifty percent of the value of the
65 donations made to the extent such amounts that have been
66 subtracted from federal adjusted gross income or federal
67 taxable income are added back in the determination of
68 Missouri adjusted gross income or Missouri taxable income
69 before the credit can be claimed. **For all tax years**
70 **beginning on or after January 1, 2026, any taxpayer who**
71 **makes a donation that is eligible for a tax credit under**
72 **this section shall be allowed a credit against the tax**
73 **otherwise due under chapter 143, excluding withholding tax**
74 **imposed by sections 143.191 to 143.265, in an amount up to**
75 **seventy percent of the value of the donations made to the**
76 **extent such amounts that have been subtracted from federal**
77 **adjusted gross income or federal taxable income are added**
78 **back in the determination of Missouri adjusted gross income**
79 **or Missouri taxable income before the credit can be**
80 **claimed.** Each taxpayer claiming a tax credit under this

81 section shall file an affidavit with the income tax return
82 verifying the amount of their contributions. The amount of
83 the tax credit claimed shall not exceed the amount of the
84 taxpayer's state tax liability for the tax year that the
85 credit is claimed and shall not exceed two thousand five
86 hundred dollars per taxpayer claiming the credit. Any
87 amount of credit that the taxpayer is prohibited by this
88 section from claiming in a tax year shall not be refundable,
89 but may be carried forward to any of the taxpayer's three
90 subsequent tax years. No tax credit granted under this
91 section shall be transferred, sold, or assigned. No
92 taxpayer shall be eligible to receive a credit pursuant to
93 this section if such taxpayer employs persons who are not
94 authorized to work in the United States under federal law.
95 No taxpayer shall be able to claim more than one credit
96 under this section for a single donation.

97 **3. (1) For all tax years ending on or before December**
98 **31, 2025,** the cumulative amount of tax credits under this
99 section which may be allocated to all taxpayers contributing
100 to a local food pantry, local soup kitchen, or local
101 homeless shelter in any one fiscal year shall not exceed one
102 million seven hundred fifty thousand dollars. **For all tax**
103 **years beginning on or after January 1, 2026, the cumulative**
104 **amount of tax credits under this section which may be**
105 **allocated to all taxpayers contributing to a food bank,**
106 **local food pantry, local soup kitchen, or local homeless**
107 **shelter in any one fiscal year shall not exceed three**
108 **million five hundred thousand dollars.** The director of
109 revenue shall establish a procedure by which the cumulative
110 amount of tax credits is apportioned among all taxpayers
111 claiming the credit by April fifteenth of the fiscal year in
112 which the tax credit is claimed. To the maximum extent

113 possible, the director of revenue shall establish the
114 procedure described in this subsection in such a manner as
115 to ensure that taxpayers can claim all the tax credits
116 possible up to the cumulative amount of tax credits
117 available for the fiscal year.

118 **(2) In the event a full or partial credit denial, due**
119 **to the cumulative maximum amount of credits being claimed**
120 **for the fiscal year, causes a tax balance due to be owed to**
121 **the state by the taxpayer, the taxpayer shall not be held**
122 **liable for any addition to tax, penalty, or interest on that**
123 **tax balance due, provided the balance is paid, or approved**
124 **payment arrangements have been made, within sixty days from**
125 **issuance of the notice of credit denial.**

126 4. Any **food bank**, local food pantry, local soup
127 kitchen, or local homeless shelter may accept or reject any
128 donation of food made under this section for any reason.
129 For purposes of this section, any donations of food accepted
130 by a **food bank**, local food pantry, local soup kitchen, or
131 local homeless shelter shall be valued at fair market value,
132 or at wholesale value if the taxpayer making the donation of
133 food is a retail grocery store, food broker, wholesaler, or
134 restaurant.

135 5. The department of revenue shall promulgate rules to
136 implement the provisions of this section. Any rule or
137 portion of a rule, as that term is defined in section
138 536.010, that is created under the authority delegated in
139 this section shall become effective only if it complies with
140 and is subject to all of the provisions of chapter 536 and,
141 if applicable, section 536.028. This section and chapter
142 536 are nonseverable and if any of the powers vested with
143 the general assembly pursuant to chapter 536 to review, to
144 delay the effective date, or to disapprove and annul a rule

145 are subsequently held unconstitutional, then the grant of
146 rulemaking authority and any rule proposed or adopted after
147 August 28, 2007, shall be invalid and void.

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

149 (1) The program authorized under this section shall
150 [be reauthorized as of August 28, 2018, and shall expire on
151 December 31, 2026, unless reauthorized by the general
152 assembly; and] **automatically sunset on December 31, 2032,**
153 **unless reauthorized by an act of the general assembly;**

154 (2) This section shall terminate on September first of
155 the calendar year immediately following the calendar year in
156 which the program authorized [under] **pursuant to** this
157 section is sunset; and

158 (3) The provisions of this subsection shall not be
159 construed to [limit or in any way impair a taxpayer's
160 ability to redeem tax credits authorized on or before the
161 date the program authorized under this section expires]
162 **impair or impede the state's fulfillment of any obligations,**
163 **including the authorization, issuance, or redemption of tax**
164 **credits, incurred pursuant to this section prior to the date**
165 **the program authorized pursuant to this section is sunset.**

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