

FIRST REGULAR SESSION

# SENATE BILL NO. 69

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

S0445.011

TERRY L. SPIELER, Secretary.

## AN ACT

To repeal sections 135.015 and 135.020, RSMo 1994, and sections 135.010 and 135.030, RSMo Supp. 1998, relating to tax relief for senior citizens, and to enact in lieu thereof four new sections relating to the same subject, with an effective date.

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

Section A. Sections 135.015 and 135.020, RSMo 1994, and sections 135.010 and 135.030, RSMo Supp. 1998, are repealed and four new sections enacted in lieu thereof, to be known as sections 135.010, 135.015, 135.020 and 135.030, to read as follows:

135.010. As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit **[under]** pursuant to sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax **or pharmaceutical tax** credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse social security benefits

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

during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse social security benefits during the calendar year for which the credit will be claimed. The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then [he] **the director** shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession [under] **pursuant to** a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if [he] **the claimant** was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two

thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received [under] **pursuant to** this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) **"Prescription drugs", prescription drugs ordered by a licensed physician, and any insulin and syringes and needles used to administer the insulin;**

(7) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

[(7)] **(8)** "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

135.015. Procedural matters related to filing a claim [under] **pursuant to** sections 135.010 to 135.030, including refunds, deficiencies, interest, contents of returns, limitations, and penalties shall be determined pursuant to sections 143.481 to [143.996] **143.1012**, RSMo, applicable to the

income tax. The credit regarding the property taxes **or pharmaceutical expenses** of a calendar year may only be claimed on a return for the calendar year or for a claimant's return for a fiscal year that includes the end of the calendar year.

135.020. A credit for property taxes **and pharmaceutical expenses** shall be allowed for the amount provided in section 135.030. If the amount allowable as a credit exceeds the income tax reduced by other credits, then the excess shall be considered an overpayment of the income tax.

135.030. 1. As used in this section:

(1) The term "maximum upper limit" shall, in the calendar year 1989, be the sum of thirteen thousand five hundred dollars. For each calendar year through December 31, 1992, the maximum upper limit shall be increased by five hundred dollars per year. For calendar years after December 31, 1992, and prior to calendar year 1998, the maximum upper limit shall be the sum used on December 31, 1992. For each calendar year after December 31, 1997, the maximum upper limit shall be the sum of twenty-five thousand dollars;

(2) The term "minimum base" shall, in the calendar year 1989, be the sum of five thousand dollars. For each succeeding calendar year through December 31, 1992, the minimum base shall be increased, in one-hundred-dollar increments, by the same percentage as the increase in the general price level as measured by the Consumer Price Index for all urban consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor, or its successor agency, or five percent, whichever is greater. The increase in the index shall be that as first published by the Department of Labor for the calendar year immediately preceding the year in which the minimum base is calculated. For calendar years after December 31, 1992, and prior to calendar year 1998, the minimum base shall be the sum used on December 31, 1992. For each calendar year after December 31, 1997, the minimum base shall be the sum of thirteen thousand dollars.

2. When calculating the minimum base for purposes of this section, whenever the increase in the Consumer Price Index used in the calculation would result in a figure which is greater than one one-hundred-dollar increment but less than another one-hundred-dollar increment, the director of revenue shall always round that figure off to the next higher one-hundred-dollar increment when determining the table of credits **[under] pursuant to** this section.

3. If the income on a return is equal to or less than the maximum upper limit for the calendar year for which the return is filed, the property tax credit shall be determined from a table of credits based upon the amount by which the total property tax described in section 135.025 exceeds the percent of income in the following list:

If the income on the return is:

The percent is:

Not over the minimum base

0 percent with credit not  
to exceed actual property

tax or rent equivalent

paid up to \$750

Over the minimum base but not over the maximum upper limit                      1/16 percent accumulative per \$300 from 0 percent to 4 percent.

The director of revenue shall prescribe a table based upon the preceding sentences. The property tax shall be in increments of twenty-five dollars and the income in increments of three hundred dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the basis of the property tax and income at the midpoints of each increment. As used in this subsection, the term "accumulative" means an increase by continuous or repeated application of the percent to the income increment at each three-hundred-dollar level.

4. Notwithstanding the provision of subsection 4 of section 32.057, RSMo, the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any qualified claimant of his or her potential eligibility, where the department determines such potential eligibility exists.

**5. The pharmaceutical credit allowed pursuant to sections 135.010 to 135.030 shall be equal to the total amount spent on purchasing prescription drugs in any calendar year less any reimbursement from other sources and less one percent of income as defined in section 135.010. The pharmaceutical credit allowed a claimant pursuant to sections 135.010 to 135.030 shall not exceed seven hundred fifty dollars. A claimant's spouse residing at the same address as claimant shall also be eligible for the pharmaceutical credit and any such eligible spouse shall calculate such credit using the same income as that used by the claimant.**

Section B. The repeal and reenactment of sections 135.010, 135.015, 135.020 and 135.030 of this act shall become effective on January 1, 2000, and shall apply to all taxable years beginning after December 31, 1999.

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