

FIRST REGULAR SESSION

SENATE BILL NO. 250

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLAND.

Read 1st time January 11, 1999, and 1,000 copies ordered printed.

L0719.011

TERRY L. SPIELER, Secretary.

AN ACT

Relating to tax relief for child care payments.

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

Section 1. 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 taxable years commencing on or after January 1, 2000, a qualified taxpayer shall be allowed a credit against the tax imposed by chapter 143, RSMo, to the extent of ten percent of the net expenditures made directly or through a fund during a taxable year by the taxpayer in making available child care services to children of employees of the taxpayer. No credit shall be allowed for any amounts for which any other credit is claimed or allowed pursuant to chapter 143, RSMo, for the same net expenditures.

3. The tax credit allowed by this section shall be claimed by the taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability 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 the employer's employees on the basis of race, creed, religion or national origin as a factor in making available child care services, except that, it 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.

Section 2. 1. 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 by the taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability shall not be refunded to the taxpayer or 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. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Section 3. 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. 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 the taxpayer in the tax year in which the 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. Where the amount of the credit exceeds tax liability, the difference between the credit and the tax liability shall not be returned to the taxpayer as a tax refund or 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 being a qualified spouse pursuant to this section.

5. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Section 4. 1. There is hereby created in the state treasury the "Tobacco Settlement Trust Fund".

2. The state treasurer shall deposit to the credit of the tobacco settlement trust fund all moneys received by the state which are the proceeds of any award or settlement resulting from a dispute between this state and any company which manufactures or sells tobacco or tobacco products and all moneys which may be appropriated to it by the general assembly from federal or other sources. The general assembly may appropriate moneys into the fund for the purpose of funding the credit authorized in section 3 of this act.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the trust fund shall not revert to the credit of the general revenue fund at the end of the biennium.

4. All moneys in the trust fund shall be expended only for the purpose of funding the income tax credit for child care service payments authorized in section 3 of this act.

5. The sole relief available to any claim made by the federal government upon the trust fund for reimbursement or indemnification shall be the remedy of restitution and any such restitution ordered to satisfy such claim shall be in an amount equal to one dollar.

6. The provisions of this section shall expire on December 31, 2023.

Section 5. 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, 2000, and December 31, 2002, by any person, or amounts paid for child care services which were provided after December 31, 2002, 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. 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 qualified child care service payments actually made during the taxable year, but such credit for a taxpayer in any taxable year shall not exceed the following amounts:

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

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

3. If the taxpayer has joint custody of a child for whom qualified child care service payments are made, then a portion of the credit shall be allowed 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 by the taxpayer in the tax year in which such qualified tax payments were made and shall be claimed at the

time the taxpayer files a tax return. Where the amount of the credit exceeds tax liability, the difference between the credit and the tax liability shall be returned to the taxpayer as a tax refund.

5. Any taxpayer claiming a credit pursuant to this section shall file as part of the 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 substantially 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. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

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, 2023.

Section A. Sections 2 to 5 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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