

FIRST REGULAR SESSION

SENATE BILL NO. 497

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EHLMANN.

Read 1st time February 25, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2132.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to tax credits for donations to scholarship charities.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.825, to read as follows:

135.825. 1. As used in this act, the following terms shall mean:

- (1) "Director", the director of the department of economic development;**
- (2) "Scholarship charity", a charitable organization in this state that is exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code, as amended, and that allocates at least ninety percent of its annual revenue for educational scholarships to children to allow them to attend a qualified school. For purposes of this section, the phrase "qualified school" means any elementary or secondary school of a child's parents' choice which is situated in this state and does not discriminate on the basis of race, color, handicap, national origin or ancestry which a child may attend to meet the requirements of section 167.031, RSMo. To qualify as a scholarship charity the charitable organization shall provide educational scholarships to students without limiting availability to students attending a particular school and shall give preference to students of families who demonstrate financial need;**
- (3) "Taxpayer", a person, individual, firm, a partner in a firm, corporation or shareholder in a corporation.**

2. Any taxpayer which makes voluntary cash contributions to a scholarship charity shall receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of all such contributions made during such taxpayer's taxable year; except that no taxpayer shall claim a credit pursuant to this

section for any contribution made by the taxpayer or, in the case of a business taxpayer, an agent of the taxpayer, on behalf of the taxpayer's dependent, or in the case of a business taxpayer, on behalf of the agent's dependent.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's four subsequent taxable years.

4. The cumulative amount of tax credits allowed pursuant to this section shall not exceed five million dollars per fiscal year.

5. The director shall determine, at least annually, which charities in this state may be classified as scholarship charities. The director may require a charity seeking classification as a scholarship charity to provide any information reasonably necessary to make such a determination. The director shall classify a charity as a scholarship charity if such charity meets the criteria provided in subdivision (2) of subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a charity has been classified as a scholarship charity, and by which such taxpayer can then contribute to such scholarship charity and claim a tax credit pursuant to this section.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all charities classified as scholarship charities. If a scholarship charity fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those scholarship charities that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. 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.

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