

RSMO-Chapter 135

Definitions.

135.350. As used in this section, unless the context clearly requires otherwise, the following words and phrases shall mean:

- (1) "Commission", the Missouri housing development commission, or its successor agency;
- (2) "Director", director of the department of revenue;
- (3) "Eligibility statement", a statement authorized and issued by the commission certifying that a given project qualifies for the Missouri low-income housing tax credit. The commission shall promulgate rules establishing criteria upon which the eligibility statements will be issued. The eligibility statement shall specify the amount of the Missouri low-income housing tax credit allowed. The commission shall only authorize the tax credits to qualified projects which begin after June 18, 1991;
- (4) "Federal low-income housing tax credit", the federal tax credit as provided in section 42 of the 1986 Internal Revenue Code, as amended;
- (5) "Low-income project", a housing project which has restricted rents that do not exceed thirty percent of median income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income;
- (6) "Median income", those incomes which are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size;
- (7) "Qualified Missouri project", a qualified low-income building as that term is defined in section 42 of the 1986 Internal Revenue Code, as amended, which is located in Missouri;
- (8) "Taxpayer", person, firm or corporation subject to the state income tax imposed by the provisions of chapter 143 (except withholding imposed by sections 143.191 to 143.265) or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of

chapter 148, or an express company which pays an annual tax on its gross receipts in this state.

Section 135.352

August 28, 2013

Taxpayer owning interest in qualified project shall be allowed a state tax credit, how determined, cap--carry-back and carry-forward of credit authorized--rules promulgation and procedure.

135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall, subject to the limitations provided under the provisions of subsection 3 of this section, be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period.

3. No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance.

4. The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section 32.115. The credit authorized by this section shall not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years.

5. All or any portion of Missouri tax credits issued in accordance with the provisions of sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify to the director the amount of credit allocated to each taxpayer. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated.

6. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture and the amount of credit previously allocated to such taxpayer.

7. The director of the department may promulgate rules and regulations necessary 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 section 536.024.

Eligibility statement must be filed with tax return, failure to comply, effect-- federal requirement to recapture, state requires to recapture, amount.

135.355. 1. The owner of a qualified Missouri project eligible for the Missouri low-income housing tax credit shall submit, at the time of filing the owner's return, an eligibility statement. In the case of failure to attach the eligibility statement, no credit under this section shall be allowed with respect to such project for that year until these copies are provided to the department of revenue.

2. If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a low-income project is required to be recaptured only during the first ten years after a project is placed in service, the taxpayer claiming state credits with respect to such project shall also be required to recapture a portion of any state credits authorized by this section. The state recapture amount shall be equal to the proportion of the state credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

Capital gain exclusion, when.

135.357. A taxpayer shall be allowed to exclude from taxation under chapter 143 a portion of the capital gain, as calculated under the Internal Revenue Code of 1986, as amended, that results from the sale of a low-income project subsidized by the federal Department of Housing and Urban Development to a nonprofit or governmental organization, agreeing to preserve or increase the low-income occupancy of the project. For those owners whose low-income project has at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, the exclusion shall equal twenty-five percent of the capital gain.

Rules authorized, procedure.

135.359. The director or the commission may require the filing of additional documentation necessary to determine the accuracy of a tax preference claimed under the provisions of this section through the promulgation of rules. No rule or portion of a rule promulgated under the authority of sections 135.350 to 135.363 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

Rules, effective, when--rules invalid and void, when.

135.361. Any rule or portion of a rule promulgated pursuant to this bill* shall become effective only as provided pursuant to chapter 536, including but not limited to section 536.028, if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, if applicable, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

Eligibility statement, low-income housing credit, not applicable, when.

135.362. 1. The provisions of subdivision (3) of section 135.350 shall not apply to any qualified Missouri project:

(1) With respect to which a loan is made or insured under Title V of the U.S. Housing Act of 1949; or

(2) In which at least ten percent of the total reasonably expected basis in such project was incurred by the project owner prior to June 18, 1991, and such project is placed in service no later than December 31, 1993.

2. Qualified Missouri projects described in subdivisions (1) and (2) of subsection 1 of this section shall continue to be governed by the provisions of subdivision (2) of section 135.350 in effect prior to June 18, 1991.

Sale, assignment, transfer of tax credits allowed, when--statement required, submission to director--rules.

135.363. 1. All or any portion of tax credits issued in accordance with the provisions of sections 135.350 to 135.363 may be transferred, sold or assigned to parties who are eligible under the provisions of subsection 1 of section 135.352.

2. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner or transferee desiring to make a transfer, sale or assignment as described in subsection 1 of this section shall submit to the director of the department of revenue a statement which describes the amount of credit for which such transfer, sale or assignment of credit is eligible. The owner shall provide to the director of revenue appropriate information so that the low-income housing tax credit can be properly allocated.

3. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director of the department of revenue as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

4. The director of the department of revenue may prescribe rules and regulations necessary for the administration of the provisions of this section.