

Revisor of Missouri

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Title X TAXATION AND REVENUE

Chapter 135

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135.778. Biodiesel producer — definitions — producer tax credit, amount, procedure — rules — sunset provision. — 1. For the purposes of this section, the following terms shall mean:

(1) "**Biodiesel fuel**", a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets the most recent version of the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock. A fuel shall be deemed to be biodiesel fuel if the fuel consists of a pure B100 or B99 ratio. Biodiesel produced from palm oil is not biodiesel fuel for the purposes of this section unless the palm oil is contained within waste oil and grease collected within the United States;

(2) "**B99**", a blend of ninety-nine percent biodiesel fuel that meets the most recent version of the ASTM International D6751 Standard Specification for Biodiesel Fuel Blend Stock with a minimum of one-tenth of one percent and maximum of one percent diesel fuel that meets the most recent version of the ASTM International D975 Standard Specification for Diesel Fuel;

(3) "**Department**", the Missouri department of revenue;

(4) "**Missouri biodiesel producer**", a person, firm, or corporation doing business in this state that produces biodiesel fuel in this state, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR Part 79, and has begun construction on such facility or has been selling biodiesel fuel produced at such facility on or before January 2, 2023.

2. For all tax years beginning on or after January 1, 2023, a Missouri biodiesel producer shall be allowed a tax credit to be taken against the producer's state income tax liability. For any Missouri biodiesel producer with a tax year beginning prior to January 1, 2023, but ending during the 2023 calendar year, such Missouri biodiesel producer shall be allowed a tax credit for the amount of biodiesel fuel produced during the portion of such tax year that occurs during the 2023 calendar year. The amount of the tax credit shall be two cents per gallon of biodiesel fuel produced by the Missouri biodiesel producer during the tax year for which the tax credit is claimed.

3. Tax credits authorized under this section shall not be transferred, sold, or assigned. If the amount of the tax credit exceeds the taxpayer's state tax liability, the

difference shall be refundable. The total amount of tax credits issued under this section for any given fiscal year shall not exceed five million five hundred thousand dollars, which shall be authorized on a first-come, first-served basis.

4. The tax credit authorized under this section shall be claimed by such taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by [chapter 143](#), excluding the withholding tax imposed by sections [143.191 to 143.265](#), after reduction for all other credits allowed thereon. The department may require any documentation it deems necessary to administer the provisions of this section.

5. The department shall promulgate rules to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of [chapter 536](#) and, if applicable, section [536.028](#). This section and [chapter 536](#) are nonseverable and if any of the powers vested with the general assembly pursuant to [chapter 536](#) to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 2, 2023, shall be invalid and void.

6. Under section [23.253](#) of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December 31, 2028, unless reauthorized by an act of the general assembly;

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. The termination of the program as described in this subsection shall not be construed to preclude any qualified taxpayer who claims any benefit under any program that is sunset under this subsection from claiming such benefit for all allowable activities related to such claim that were completed before the program was sunset, or to eliminate any responsibility of the department to verify the continued eligibility of qualified individuals receiving tax credits and to enforce other requirements of law that applied before the program was sunset.

(L. 2022 1st Ex. Sess. H.B. 3, A.L. 2023 H.B. 202 merged with S.B. 138)

Sunset date 12-31-28

Termination date 9-01-29

---- end of effective **28 Aug 2023** ----
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