

# MISSOURI AMATEUR SPORTING TAX CREDIT PROGRAM

## GUIDELINES

The Missouri Amateur Sporting Tax Credits Program was passed in March of 2013 by the Missouri General Assembly, and became effective August 28, 2013. The law was amended by SS SCS HCS HB 1388 in 2018, and became effective August 28, 2018. The law's intent is to aid in the attraction of amateur sporting events to the state of Missouri.



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## NOTICE

**The Tax Credit Accountability Act of 2004 (Senate Bill 1099, Sections 135.800 through 135.830, RSMo) makes several changes to the tax credit programs, specifically:**

- **Processing tax credit applications;**
- **Annual reporting requirements; and,**
- **Penalty provisions.**

### Changes in Processing of Tax Credits (Section 135.815, RSMo)

**Prior to the Missouri Department of Economic Development (DED) authorization of a tax credit, the DED will contact the Departments of Revenue and Insurance and verify that the Applicant does not owe any delinquent income, sales, use, or insurance taxes, or interest or penalties on such taxes. If a delinquency exists, the amount of tax credits issued will be reduced by the amount of the delinquency. After satisfying all delinquencies, the remaining credits shall be issued.**

### Reporting Requirements (Section 135.805, RSMo)

**Certain tax credit recipients are required to annually report information pertaining to the project that received the tax credits to the DED. The statute requires that a full year pass after the issuance of the tax credits before the reporting requirements must be met. The earliest date that reporting may be required is June 30, 2006.**

### Penalty Provisions (Section 135.810, RSMo)

**Failure to meet the annual reporting requirements or fraud in the application process if determined by a court, such person or entity shall be subject to penalties.**

If the annual report is ninety (90) days past due, the Department of Revenue shall send notice by registered mail to the last known address of the person or entity who is required to complete the annual report. The notice shall inform the person or entity of the past-due report and the pending penalties and their respective deadlines.

If the annual report is six (6) months past due, the Department of Revenue will note that the taxpayer is subject to penalties because of failure to report.

**Such penalties include the following:**

- Failure to report for six (6) months but less than one year shall equal a penalty of two percent (2%) of the value of the tax credits issued for each month of the delinquency.
  - EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2007. The recipient is nine (9) months delinquent and the penalty would equal 2% multiplied by \$10,000 for nine (9) months or \$1800.
- Failure to report for more than one (1) year shall equal a penalty of ten percent (10%) of the value of the credits issued for each month of the delinquency, not to exceed one hundred percent (100%) of the tax credit value.
  - EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2008. The recipient is twenty-one (21) months delinquent and the penalty would equal 10% multiplied by \$10,000 for twenty-one (21) months or \$21,000, however, the statute limits the penalty to the amount of the tax credits, therefore, the penalty would be \$10,000.

The taxpayer shall be liable for any penalties as of December 31 of any tax year and the liability shall be due as of the filing date of the taxpayer's next income tax return.

If the taxpayer is not required to file an income tax return, the taxpayer's liability for penalties shall be due as of April 15<sup>th</sup> of each year.

The Director of the Department of Revenue shall offset any tax credits claimed on a filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed.

Any nonpayment of liability for penalties shall be subject to the same provisions of law as a liability for unpaid income taxes, including, but not limited to, interest and penalty provisions.

Penalties shall remain the obligation of the person or entity obligated to complete the annual report without regard to any transfer of the credits.

<b>Closed Records (Sections 610.255 and 620.014, RSMo)</b>
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Prior to August 28, 2004 and pursuant to Section 620.014, DED had the authority to close certain records except for the name of the tax credit recipient and the amount of the tax credit. SB 1099 removes this broad exception but DED retains the authority to close records or documents that "relate to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business" or as also allowed by law.

**Fee Imposed on Tax Credit Recipients (Section 620.1900, RSMo)**

The DED has the authority to charge a fee in an amount up to 2.5% of the amount of tax credits issued. The implementation of this fee is effective on all applications received by the Department (and subsequently approved) after September 7, 2005. The fee shall be payable for deposit in the Economic Development Advancement Fund prior to the issuance of tax credits.

**Federal Employment Authorization (Sections 285.525 to 285.555, RSMo)**

Business entities and employers are prohibited from knowingly employing, hiring, or continuing to employ illegal aliens to perform work in Missouri. Participation in a federal work authorization program which enables employers to electronically verify employment eligibility is required for all public employers and business entities receiving a state contract or grant in excess of \$5,000 or a state-administered tax credit, tax abatement, or loan from the state. Participation in a federal work authorization program is an affirmative defense to an allegation that a business entity knowingly hired an illegal alien.

A violation of the prohibition against employing illegal aliens by a business entity awarded a state-administered tax credit from the state will result in the suspension or debarment of the business entity from doing business in this state for a period of three years. A second or subsequent violation will result in the permanent suspension or debarment of the business entity from doing business in this state.

## WHAT'S THE PROCESS?

The Amateur Sporting Tax Credit Program is designed to encourage and promote the State of Missouri as a location for amateur sporting events. The steps in the application process are outlined below:

1. The DED receives and reviews a Project Proposal;
2. There must be Program cap space available;
3. Upon reviewing the Project Proposal the DED shall either:
  - I. Certify that the Project Proposal meets the statutory requirements of the Amateur Sporting Tax Credit Program and make a reservation for the credits; or
  - II. Deny the Project's entry into the Amateur Sporting Tax Credit Program;
4. Upon reviewing the Support Contract the DED shall either:
  - I. Certify that the Support Contract meets the statutory requirements of the Amateur Sporting Tax Credit Program and make an authorization for the credits; or
  - II. Determine that the Support Contract does not meet the statutory requirements of the Amateur Sporting Tax Credit Program, therefore, deny the Project's authorization and remove the reservation of Tax Credits;
5. If the Program Cap has been reached, and your Support Contract submission would have been otherwise approved, your Sporting Event will be placed on administrative hold until the earlier of:
  - I. A date upon which there is cap space available due to other Denials in the fiscal year covered by the Project Proposal, at which point your project will be Approved; or
  - II. A date 90 days following the end of the Sporting Event, at which point the project will be Denied;
6. An Event Notification must be submitted to the DED during the Event Notification Period;
7. The Event Notification is approved or denied by the DED;
8. The Sporting Event takes place;
9. If the DED Approved the Event Notification, then no more than seven days immediately following the conclusion of the Sporting Event, the State will determine the total number of tickets sold at Face Value, or if the Sporting Event is paid participant based and did not sell admission tickets, the total number of paid participant registrations;
10. No more than ninety days immediately following the End of the Sporting Event, the Applicant submits all Eligible Expenses along with the Cost Certification and a ticket sales statement or list of paid participant registrant competitors;
11. No later than sixty days immediately following the receipt of the Final Application, the DED shall issue Tax Credits equal to the lesser of 100% of the Eligible Costs incurred by the Applicant, five dollars for each Admission Ticket sold to the Sporting Event, or ten dollars for every paid participant registration if Sporting Event is participant-based and did not sell admission tickets;
12. Projects with previous reservation or authorizations will have their authorizations reallocated in the event the:
  - I. Project is Denied;
  - II. Sporting Event doesn't occur; or
  - III. Applicant fails to submit the Cost Certification.

13. If a Sporting Event has eligible tax credits that exceed the authorized tax credits available for the Project, if tax credits are remaining at the end of the fiscal year for the Project, the Applicant can come back and request an additional issuance of tax credits in a first-in-line basis based on the approval dates for the Sporting Event until the fiscal year cap has been exhausted.

There are four required forms for each Sporting Event. The first is the Project Proposal, which the DED uses to evaluate the impact of the proposed Sporting Event. The second is the Support Contract, which provides the contract for the Sporting Event. The third is called the Event Notification, which alerts the State that already approved Sporting Event is about to occur. The fourth is the Cost Certification, which allows the State to establish Eligible Costs, and to judge if the projections made in the Project Proposal have been met.

The Project Proposal step is designed to allow Applicants the opportunity to gain a tax credit reservation under the program cap, before bidding on any Sporting Event and before entering into a Support Contract.

The DED understands that an executed Support Contract may not be available until after an Event Notification is sent to the DED. The Support Contract need not be made available for DED review prior to submission of the Event Notification, or prior to the Sporting Event, but in no event can Approval or Issuance of Tax Credits be made prior to receipt of an executed Support Contract.

## FREQUENTLY ASKED QUESTIONS (FAQS)

*Q: How do I claim the tax credits?*

A: Complete form MO-TC, available from the Department of Revenue at (573) 751-3505 or at DOR's website: [www.dor.mo.gov/tax/personal/forms](http://www.dor.mo.gov/tax/personal/forms)

*Q: Which expenses are eligible for tax credits?*

A: Put simply, Eligible Expenses come in two forms. The first being expenses necessary to conduct or prepare for the Sporting Event. This first type of expense includes only those costs necessary to actually play the sport at the Sporting Event. For example, in the case of a basketball tournament, such costs would include things like balls and baskets; but not security, concession staffing, or event location rental.

The second type of Eligible Expenses are the reasonable Pledged Obligations of the Applicant. This type of expense includes reasonable expenses specifically listed in the Support Contract . Such cost could include reasonable costs related to: event security, concession staffing, and event location rental, provided such costs are clearly required to be paid by the Applicant or Co-Host under the terms of the Support Contract.

*Q: Can tax credits be sold or transferred?*

A: Yes, Tax Credits may be refunded, sold or transferred. Please contact the Department of Revenue for details.

*Q: What is the consequence of the Applicant failing to meet a Deadline?*

A: The statute places very strict deadlines upon Applicants to the Sporting Tax Credit Program. Failure to meet a statutory deadline will bar the DED from being able to issue Tax Credits.

*Q: Must each Sporting Event apply separately?*

A: No. If your Sporting Event is in reality a series of Sporting Events, such as a basketball tournament held over several days, then only one application is required. However, each application form should indicate, where applicable, that the Events cover multiple days and should list the relevant information for each separate Event when applicable.

*Q: What does it mean to have a reservation of Tax Credits?*

A: Having a reservation of Tax Credits means that you have a certain amount of Cap Space allotted to your project under the \$3 Million (maximum amount of \$2.7 Million for Applicants in Jackson County, St. Louis, and St. Louis County) annual Project Cap. This way, your project can be assured that Cap Space will remain available while you bid for the event or while you finalize your Support Contract.

*Q: What does it mean to have your Sporting Event Approved?*

A: An approved Sporting Event, (or Approved Application), means that your project has already been reserved Cap Space under the Project Proposal step, and the DED has certified that your Support Contract meets all the Statutory Requirements necessary to receive an Authorization of Tax Credits.

# DEFINITIONS AND KEY POINTS

## Definitions:

- a. Active Member: An organization located in the state of Missouri, which solicits and services sports events, sports organizations, and other types of sports-related activities in that community.
- b. Admission Ticket: A Ticket that is both purchased for Face Value, and utilized by a spectator of a Sporting Event.
- c. Applicant or Applicants: One or more of the following acting individually or collectively:
  - 1. Certified Sponsors;
  - 2. Endorsing Counties;
  - 3. Endorsing Municipalities;
  - 4. Local Organizing Committees; or
  - 5. Related Parties to another Applicant.
- d. Bid Fee: an Applicant's payment of money to a Site Selection Organization to cover the application cost to host the Sporting Event once awarded to the Applicant.
- e. Certified Sponsor or Certified Sponsors: One or more Nonprofit Organizations which are Active Members of the National Association of Sports Commissions.
- f. Co-Host: An entity partnering with the Applicant to produce the Sporting Event.
- g. Construction: Any activity directly or indirectly related to the building of new improvements on real property.
- h. DED: The Missouri Department of Economic Development.
- i. Department: The Missouri Department of Economic Development.
- j. De Minimis Ticket Price: A Ticket sold for less than five dollars.
- k. Director: The Director of the Department of Revenue.
- l. DOR: The Department of Revenue.
- m. Eligible Costs: All costs, except Ineligible Costs, that are:
  - 1. Necessary for Conducting a Sporting Event;
  - 2. Related to the preparations Necessary for Conducting a Sporting Event;
  - 3. The Pledged Obligations to a Site Selection Organization as evidenced by a Support Contract for a Sporting Event, including bid fees and financial guarantees;
  - 4. If Approved by the Department, costs that are associated with Retrofitting a Facility Necessarily to Accommodate a Sporting Event; and
  - 5. Paid by the Applicant or an entity cohosting the event with the Applicant.



- n. End of a Sporting Event: A Sporting Event shall be deemed to end upon the conclusion of the Sporting Event; or upon the last Sporting Event if there are multiple Sporting Events being held over several days.
- o. Endorsing County: An Endorsing Municipality that is also a County.
- p. Endorsing Municipality or Municipalities: Any city, town, incorporated village, or county that contains a site selected by a Site Selection Organization for one or more Sporting Events.
- q. Event Notification Period: A period starting no more than sixty days prior to the start of a Sporting Event and ending no less than thirty days prior to the start of a Sporting Event. If the Sporting Event is a series of Sporting Events covered under a single Support Contract, then the date of the first Sporting Event shall serve as the start of all the Sporting Events under that Support Contract.
- r. Event Settlement: A document produced by the venue where the Sporting Event was held that itemizes details of costs that are incurred by the Applicant or Co-Host to hold the Sporting Event, and lists the amount due to/owed from the Applicant after expenses have been paid out on the Sporting Event.
- s. Face Value: The sales price for a Ticket that is sold for the amount printed on the face of the ticket (or disclosed in a comparable fashion in case of an online purchase), provided that the Face Value is not a De Minimis Ticket Price, is not purchased by the Applicant, and is not purchased on a secondary market.:
- t. Financial Guarantee: the amount of money an Applicant must pay to a Site Selection Committee in order to host the Sporting Event.
- u. Ineligible Expense: Any expense related to:
  - 1. Construction;
  - 2. Rehabilitation;
  - 3. A payment to a Related Party;
  - 4. Any accrued cost; or
  - 5. A direct payment to a for-profit Site Selection Organization
- v. Invoice: A descriptive list of goods and services provided, listing the sum due to be paid.
- w. Joinder Agreements: An agreement entered into by one or more Applicants, acting individually or collectively, and a Site Selection Organization setting out representations and assurances by each Applicant in connection with the selection of a site in Missouri for the location of a Sporting Event.
- x. Joinder Undertaking: An agreement entered into by one or more Applicants, acting individually or collectively, and a Site Selection Organization that each Applicant will execute a Joinder Agreement in the event that the Site Selection Organization selects a site in Missouri for a Sporting Event.

- y. Local Organizing Committee: A nonprofit corporation or its successor in interest that:
1. Has been authorized by one or more certified sponsors, endorsing municipalities, or endorsing counties, acting individually or collectively, to pursue an application and bid on its or the Applicant's behalf to a Site Selection Organization regarding a bid to host one or more Sporting Events; or
  2. With the authorization of one or more Certified Sponsors, Endorsing Municipalities, or Endorsing Counties, Acting Individually or collectively, executes an agreement with a Site Selection Organization regarding a bid to host one or more Sporting Events.
- z. NAICS Code: North American Industry Classification System. The Federal Office of Management and Budget (OMB) adopted the NAICS as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC). The NAICS is used for classifying business establishments to assist with gathering data related to measuring productivity, unit labor costs, and the capital intensity of production, employment and other information. Missouri businesses are assigned a NAICS when the company files a "Report to Determine Liability Status" with the Missouri Department of Labor and Industrial Relations, Division of Employment Security to determine Unemployment Tax Liability. Normally, a general business employer becomes liable for the tax and responsible for providing unemployment insurance for its workers when it:
1. Pays \$1,500 in wages (cash and in-kind) in a calendar quarter;
  2. Has an employee in some portion of a day in each of 20 different weeks;
  3. Becomes liable under the Federal Unemployment Tax Act (FUTA) and employs a worker in Missouri; or
  4. Acquires and continues without interruption substantially all the business of a liable employer.
- aa. Necessary for Conducting, or Necessary for the Conduct of: Costs or preparations shall be deemed necessary, only if they pass a strict but-for analysis whereby the sport played at the Sporting Event could not be played without the cost in question. This type of expense will be construed strictly.
- bb. Paid Participant Registrant: An individual who has directly paid an entry/registration fee or is part of a team's official contingent that has paid a team entry/registration fee to participate in an eligible Sporting Event. Paid Registrants include athletes, coaches, or other individuals who are part of a team's official contingent with an official capacity on the field and time of play during the Sporting Event.
- cc. Participant-based Event: An eligible Sporting Event that does not sell admission tickets but instead requires Participants to pay an entry fee or registration fee.
- dd. Pledged Obligation: All reasonable expense that must be undertaken by an Applicant, pursuant to the Support Contract, as a condition of hosting the Sporting Event.

ee. Proof of Payment: Proof of Payment must be indicated with one of the following:

1. A bank or credit card statement showing the transfer of funds to the payee;
2. A canceled check from a bank;
3. A title company statement showing the transfer of funds from the title company to the payee. Documentation must also be provided showing the transfer of funds from the Applicant to the title company;
4. Event Settlement;
5. A similar document showing the transfer of funds from the Applicant to a Payee.

ff. Rehabilitation: The repair, renovation, restoration, or reconstruction of a building.

gg. Related Party: Any party:

1. Holding any financial interest in the other party (i.e. general contractor, subcontractor, vendor);
2. Where one or more of the officers, directors, stockholders, or partners is also an officer, director, stockholder or partner of the other party;
3. Where one or more of the officers, directors, stockholders, or partners has any financial interest whatsoever in the other party or has controlling interest in the management or operation of the other party
4. Advanced funds by another party;
5. When the other party provides and pays, on behalf of the Applicant, the cost of any legal services, architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract;
6. Who takes stock or any interest in another party as part of consideration to be paid; and
7. When there exists or comes into being any side deals, agreements, contract or undertakings entered into thereby altering, amending, or canceling any of the original documents submitted to DED, except as approved by DED; and
8. Where one or more of the: 1) officers, 2) directors, 3) stockholders, or 4) partners is also a: 1) parent, 2) grandparent, 3) child, or 4) sibling of an: 1) officer, 2) director, 3) stockholder or 4) partner of another party.

hh. Site Selection Organization: the National Collegiate Athletic Association (NCAA); an NCAA member conference, university, or institution; the National Association of Intercollegiate Athletics (NAIA); the United States Olympic Committee (USOC); a national governing body (NGB) or international federation of a sport recognized by the USOC; the United States Golf Association (USGA); the United States Tennis Association (USTA); the Amateur Athletic Union (AAU); the National Christian College Athletic Association (NCCAA); the National Junior College Athletic Association (NJCAA); the United States Sports Specialty Association (USSSA); any rights holder member of the National Association of Sports Commissions (NASC); other major regional, national, and international sports associations, and amateur organizations that promote, organize, or administer sporting games or competitions; or other major regional, national, and international organizations that promote or organize Sporting Events.

- ii. Sources and Uses: A document prepared by the Applicant showing the available funds that will be used to conduct the Sporting Event, along with all projected expenses associated with the Sporting Event.
- jj. Sporting Event: An Amateur, Collegiate or Olympic Sporting Event that is competitively bid or is awarded by a Site Selection Organization, except that competitive bids shall not be required for any previously-awarded Sporting Event whose Site Selection Organization extends its contractual agreement with the Sporting Event's Certified Sponsor or for any post-season collegiate football game or other neutral-site game with at least one out-of-state team. A Sporting Event may include several Sporting Events provided those sporting events are all covered under a single Support Contract.
- kk. Support Contract: An event award notification, Joinder Undertaking, Joinder Agreement, or contract executed by an Applicant and a Site Selection Organization as submitted with the Project Proposal. All Pledged Obligations must be specifically listed within the Support Contract itself. If the Support Contract incorporates additional document by reference, those additional documents must be submitted as part of the Support Contract in order to be considered by the DED.
- ll. Tax Credit: A refundable credit issued by the Department of Economic Development against the tax otherwise due under Chapter 143 or 148, excluding withholding tax imposed under sections 143.191 to 143.265 RSMo.

Key Points:

- a. The annual program cap is \$3 Million. In any fiscal year, Sporting Events located in Jackson County, St. Louis County, and the city of St. Louis shall be limited to no more than \$2.7 Million.
- b. The DED will not award tax credits in excess of the net expected return to the State of Missouri, as determined by the DED when evaluating the Project Proposal and the Cost Certification.
- c. Tax Credits must be used or refunded within one year of the tax year in which they are issued. The credit is to be claimed against the taxes imposed pursuant to Chapter 143 RSMo and Chapter 148 RSMo, except for Sections 143.191 to 143.265 RSMo.
- d. Eligible taxpayers may refund, transfer, sell, or assign the credits.
- e. Tax credits granted to a partnership or to a limited liability company taxed as a partnership shall be passed through to the partners, members or owners respectively pro rata or according to an executed agreement among the partners, members or owners documenting an alternate distribution method. Any alternative distribution agreement must accompany the Final Application.
- f. The assignee of the tax credits may use acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed pursuant to Chapter 143 RSMo and Chapter 148 RSMo except for Sections 143.191 to 143.265 RSMo. The assignor shall perfect such transfer by notifying the Department of Revenue in the manner required by the Department of Revenue.

- g. For expenses to be considered eligible they must be paid by the Applicant or Co-Host after receipt of the Project Proposal and before the receipt of the Final Application.
- h. Certification & E-Verify: The Applicant must certify that Applicant does not employ illegal aliens (undocumented workers) and that the information contained in the application is true, correct, and complete.
- In addition to certifying that Applicant does not employ illegal aliens, all Applicants who are business entities must: 1) enroll in E-Verify, 2) check the box on the Certification confirming enrollment and participation in E-Verify, and 3) provide supporting documentation.
  - The E-Verify Program, conducted jointly by the U.S. Citizenship and Immigration Services (USCIS) Verification Division and the Social Security Administration (SSA), is designed to provide employment status information to determine the eligibility of Applicants for employment.
  - E-Verify requires that participating commercial employers use the automated Verification Information System (VIS) to check the SSA and the USCIS databases to verify the employment authorization of ALL newly hired employees.

To access the E-Verify website, go to: [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).

- i. The Program shall automatically sunset August 28, 2025. Support Contracts shall not be certified by the Department after August 28, 2025, provided that the Support Contract may be certified on or prior to August 28, 2025, for Sporting Events that will be held after such date.<sup>1</sup>
- j. No Support Contract will be certified unless the Site Selection Organization has chosen to use a location in Missouri during a Competitive Bidding Process in which at least one competitive bid came from out of state, except that competitive bids shall not be required for any previously-awarded Sporting Event whose Site Selection Organization extends its contractual agreement with the Sporting Event's Certified Sponsor or for any post-season collegiate football game or other neutral-site game with at least one out-of-state team.

<sup>1</sup> HB 1388 and SB 773 were both passed during the 2018 legislative session. A discrepancy between the two bills is the sunset date of the legislation. SB 773 states the sunset date of August 28, 2024, whereas HB 1388 states the sunset date of August 28, 2025. The correct date will be determined by action from the Reviser. If no action is taken, HB 1388 will be the guiding legislation on the matter because of the better detail in the bill.

**Appendix A:**

Template for Cost Certification

Costs Necessary for Conducting a Sporting Event, and Costs relating to Preparations Necessary for the Conduct of a Sporting Event.

Description of Expense	Method of Payment (Include Check No.)	Date Paid	Payee	Payor	Total Amount of Expense

**Appendix B:**

Template for Cost Certification

Pledged Obligations

Description of Expense	Specific Part of Support Contract Requiring this Expense	Method of Payment (Include Check No)	Date Paid	Payee	Payor	Total Amount of Expense