

By: Representatives McGee, Deweese,
Massengill

To: Ways and Means

HOUSE BILL NO. 852

1 AN ACT TO AUTHORIZE A CREDIT AGAINST INCOME, PREMIUM AND
 2 RETALIATORY TAXES FOR VOLUNTARY CASH CONTRIBUTIONS BY CERTAIN
 3 BUSINESS ENTERPRISES TO CERTAIN TAX-EXEMPT ORGANIZATIONS
 4 PURCHASING, WAREHOUSING AND DELIVERING FOOD DIRECTLY TO FOOD
 5 PANTRIES OR SOUP KITCHENS IN MORE THAN FIVE MISSISSIPPI COUNTIES
 6 ON A MONTHLY BASIS; TO AUTHORIZE A CREDIT AGAINST AD VALOREM TAXES
 7 ON REAL PROPERTY FOR SUCH CONTRIBUTIONS BY CERTAIN BUSINESS
 8 ORGANIZATIONS NOT OPERATING AS CORPORATIONS; TO LIMIT THE AMOUNT
 9 OF THE CREDIT; TO ALLOW EXCESS AMOUNTS OF THE CREDIT TO BE CARRIED
 10 FORWARD FOR FIVE CONSECUTIVE YEARS; TO PROVIDE THAT A CONTRIBUTION
 11 FOR WHICH A CREDIT IS CLAIMED UNDER THIS SECTION MAY NOT BE USED
 12 AS A DEDUCTION BY THE TAXPAYER FOR STATE INCOME TAX PURPOSES; AND
 13 FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) For the purposes of this section, the
 16 following words and phrases shall have the meanings ascribed
 17 unless the context clearly indicates otherwise:

18 (a) "Department" means the Department of Revenue.

19 (b) "Eligible charitable organization" means an
 20 organization that is exempt from federal income taxation under
 21 Section 501(c)(3) of the Internal Revenue Code and is purchasing,
 22 warehousing and delivering food directly to food pantries or soup



23 kitchens in more than five (5) Mississippi counties on a monthly
24 basis.

25 (2) (a) The tax credit authorized in this section shall be
26 available only to a taxpayer that is a business enterprise engaged
27 in commercial, industrial or professional activities and operating
28 as a corporation, limited liability company, partnership or sole
29 proprietorship. Except as otherwise provided in this section, a
30 credit is allowed against the taxes imposed by Sections 27-7-5,
31 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
32 contributions made by a taxpayer during the taxable year to an
33 eligible charitable organization. For a taxpayer that is not
34 operating as a corporation, a credit is also allowed against ad
35 valorem taxes assessed and levied on real property for voluntary
36 cash contributions made by the taxpayer during the taxable year to
37 an eligible charitable organization. The amount of credit that
38 may be utilized by a taxpayer in a taxable year shall be limited
39 to (i) an amount not to exceed fifty percent (50%) of the total
40 tax liability of the taxpayer for the taxes imposed by Sections
41 27-7-5, 27-15-103, 27-15-109 and 27-15-123, and (ii) an amount not
42 to exceed fifty percent (50%) of the total tax liability of the
43 taxpayer for ad valorem taxes assessed and levied on real
44 property. Any credit claimed under this section but not used in
45 the tax year in which it was earned may be carried forward for
46 five (5) consecutive years from the close of the tax year in which
47 it was earned.



48 (b) A contribution for which a credit is claimed under
49 this section may not be used as a deduction by the taxpayer for
50 state income tax purposes.

51 (3) A taxpayer taking a credit authorized by this section
52 shall provide the name of the eligible charitable organization and
53 the amount of the contribution to the department on forms provided
54 by the department.

55 (4) To be considered an eligible charitable organization
56 under this section, an organization shall provide the department
57 with a written certification that it meets all criteria. The
58 organization shall also notify the department of any changes that
59 may affect eligibility under this section.

60 (5) The eligible charitable organization's written
61 certification must be signed by an officer of the organization
62 under penalty of perjury. The written certification shall include
63 the following:

64 (a) Verification of the organization's status under
65 Section 501(c)(3) of the Internal Revenue Code;

66 (b) A statement that the organization will use the
67 contribution only for the purchasing of food and will deliver the
68 food to food pantries and soup kitchens in the state; and

69 (c) Any other information that the department requires
70 in order to administer this section.

71 (6) The department shall review each written certification
72 and determine whether the organization meets all the criteria to



73 be considered an eligible charitable organization and shall notify
74 the organization of its determination. The department may also
75 periodically request recertification from the organization. The
76 department shall compile and make available to the public a list
77 of eligible charitable organizations.

78 (7) Tax credits authorized by this section that are earned
79 by a partnership, limited liability company, S corporation or
80 other similar pass-through entity, shall be allocated among all
81 partners, members or shareholders, respectively, either in
82 proportion to their ownership interest in such entity or as the
83 partners, members or shareholders mutually agree as provided in an
84 executed document.

85 (8) (a) A taxpayer shall apply for credits with the
86 department on forms prescribed by the department. In the
87 application, the taxpayer shall certify to the department the
88 dollar amount of the contributions made or to be made during the
89 calendar year. Within thirty (30) days after the receipt of an
90 application, the department shall allocate credits based on the
91 dollar amount of contributions as certified in the application.
92 However, if the department cannot allocate the full amount of
93 credits certified in the application due to the limit on the
94 aggregate amount of credits that may be awarded under this section
95 in a calendar year, the department shall so notify the applicant
96 within thirty (30) days with the amount of credits, if any, that
97 may be allocated to the applicant in the calendar year. Once the



98 department has allocated credits to a taxpayer, if the
99 contribution for which a credit is allocated has not been made as
100 of the date of the allocation, then the contribution must be made
101 not later than sixty (60) days from the date of the allocation.
102 If the contribution is not made within such time period, the
103 allocation shall be cancelled and returned to the department for
104 reallocation. Upon final documentation of the contribution, if
105 the actual dollar amount of the contribution is lower than the
106 amount estimated, the department shall adjust the tax credit
107 allowed under this section.

108 (b) For the purposes of using a tax credit against ad
109 valorem taxes assessed and levied on real property, a taxpayer
110 shall present to the appropriate tax collector the tax credit
111 documentation provided to the taxpayer by the department, and the
112 tax collector shall apply the tax credit against such ad valorem
113 taxes. The tax collector shall forward the tax credit
114 documentation to the department along with the amount of the tax
115 credit applied against ad valorem taxes, and the department shall
116 disburse funds to the tax collector for the amount of the tax
117 credit applied against ad valorem taxes. Such payments by the
118 department shall be made from current tax collections.

119 (9) The aggregate amount of tax credits that may be
120 allocated by the department under this section during a calendar
121 year shall not exceed Three Million Five Hundred Thousand Dollars
122 (\$3,500,000.00).



123 **SECTION 2.** This act shall take effect and be in force from
124 and after July 1, 2023.

